LEGISLATIVE COUNCIL

Wednesday 4 April 2012

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:19 and read prayers.

SUMMARY OFFENCES (WEAPONS) 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) (14:20): 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.

CORRECTIONAL SERVICES (MISCELLANEOUS) 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) (14:20): I move:

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:20): I bring up the sixth report of the Legislative Review Committee.

Report received.

PAPERS

The following papers were laid on the table:

By the Minister for Industrial Relations (Hon. R.P. Wortley)—

Reports, 2010-11—
Lower North Health Advisory Council Inc
Penola and Districts Health Advisory Council
Review of Country Health Advisory Councils' Governance Arrangements—Report

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

Child Death and Serious Injury Review Committee Report, 2010-11, Errata

URBAN RENEWAL AUTHORITY

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) (14:21): I table a copy of a ministerial statement relating to the Urban Renewal Authority made earlier today in another place by my colleague the Premier, Jay Weatherill.

MINISTERIAL STAFF

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:21): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.P. WORTLEY: During question time yesterday, I answered a question from the Hon. Rob Lucas regarding staff in my ministerial office. In my answer I stated that Mr Watson's salary and position title would be published in the government *Gazette*. I also stated that this would be the case for others, including Mr Hendrik Gout. It has come to my attention that this is not the case and that only details of appointments to the minister's personal staff are published in the government *Gazette*. Mr Watson is employed in my office as a senior ministerial liaison officer.

QUESTION TIME

EYRE PENINSULA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:22): I seek leave to make a brief explanation before asking the Minister for Regional Development questions about ports on the Eyre Peninsula.

Leave granted.

The Hon. D.W. RIDGWAY: As members would be well aware, I recently met with a number of people on the fact-finding mission I undertook on Eyre Peninsula. I met with some mining company representatives and economic and industry leaders on Eyre Peninsula, and I was told that the workforce on Eyre Peninsula will increase by half as much again as companies like Australian Resources and Centrex, as well as other miners and prospectors, develop their assets. But nothing underground will get off the ground until it is all at sea—that is, unless Eyre Peninsula has a good deepwater port of sufficient size to allow the latest generation bulk ore carriers to load to capacity. The location of the proposed port will have implications for a century or more. It is vital we get it right. My questions are:

1. When did the minister last meet with representatives of Eyre Iron Pty Ltd regarding their plans to develop their tenements on Eyre Peninsula?

2. What plans does the Minister for Regional Development have to ensure the proper development of Tumby Bay?

3. What has the minister done to ensure Tumby Bay has sufficient water supply to meet this expected growth?

4. When did the minister meet with the companies promoting a new port on Eyre Peninsula, and when will the government make a decision on where the site of that new port will be?

5. Will the Minister for Regional Development guarantee that the economic growth in regional South Australia is matched by growth in social services, infrastructure and public spending on health services, schools and other facilities?

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) (14:22): I am not surprised that something is sticking in the Hon. David Ridgway's throat. I thank the honourable member for his questions. I visit Eyre Peninsula regularly and I have met with a wide cross-section of different stakeholders there. Was it Eyre Iron that you asked about?

The Hon. D.W. Ridgway: Yes.

The Hon. G.E. GAGO: I do not believe I have met with Eyre Iron. However, as I said, I have met with a wide range of different stakeholders over many years. I have been involved with the regions not only since I became a member of parliament but also with ministerial portfolios. I have always had portfolios that have involved me with the regions through the environment, local government and now regional development and primary industries. I have some very longstanding relationships in that area.

In relation to ports, water, power and roads there is a wide range of infrastructure issues that are critical to Eyre Peninsula's growth and development. They are infrastructure issues that are critical for all of our regions, not just Eyre Peninsula. They are areas that we have invested considerable amounts in, and we know that they continue to provide significant challenges for us.

South Australia is blessed as a very beautiful state covering a vast area, and we are lucky in many respects that we do not suffer from overpopulation and we do not suffer from cities that are choking in pollution. However, the downside is that, with a relatively small population to the area we have to manage in terms of infrastructure, it is very challenging—incredibly challenging.

However, as I said, we continue to rise to the occasion in terms of road infrastructure and water. I understand that quite recently a report was released that updated the water situation assessment for Eyre Peninsula. There was concern that Eyre Peninsula's water supply was going to be inadequate and reach a critical point within the foreseeable future. I notice in the report that came out recently that that has changed considerably. Not only the drought conditions but also

other changes that have been put in a place have meant that we have been relieved from that critical situation. That was very pleasing to see.

Eyre Peninsula is quite a remarkable region. It punches way above its weight. Not only is it very rich in a wide range of natural resources but also it has very successful primary industries and an internationally acclaimed aquaculture industry. All of those are important to us, and each and every one of them places challenges in front of us in relation to infrastructure. I am happy to refer the detail of the questions relating to infrastructure to the Minister for Infrastructure and the detailed question on water I am happy to refer to the Minister for Water and I will bring back responses.

ADELAIDE FRINGE

The Hon. S.G. WADE (14:28): I seek leave to make a brief explanation before asking the Minister for Disabilities a question about the Adelaide Fringe festival.

Leave granted.

The Hon. S.G. WADE: By way of preface, the No Strings Attached Theatre of Disability production *Sons and Mothers* won four Fringe awards this year, including best theatre production. I acknowledge that the Hon. Kelly Vincent is the patron of that theatre. On a less positive note, the opposition has received a complaint from a constituent regarding accessibility to the Adelaide Fringe festival. I would like to quote his correspondence which states:

> Could somebody please fix the discriminatory behaviour at the Adelaide Fringe organisers and ticketing office. Every year I attempt to see Adelaide Fringe shows and every year I am turned away at the gate because they new venue is not wheelchair accessible or mistakes with ticketing has allocated me the position that is not wheelchair accessible. This has happened every year for the past five years.

My questions are:

1. Can the minister please advise the number of venues which have held shows during the Adelaide Fringe this year and which have provided wheelchair access to their audiences?

2. What steps is the government taking to make the arts and entertainment venues accessible to people with disabilities?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:29): I thank the honourable member for his very important question about the accessibility of Fringe theatre events at the recent Fringe festival. These are issues that are very important to the government. The government has recently undertaken a program of checking the accessibility plans of our agencies and departments. We hope that, having completed that process, we will be able to encourage non-government organisations to follow our lead in that regard. With regard to the specific questions asked by the honourable member, I will refer those to the Minister for the Arts in the other place and seek a response from him.

ADELAIDE FRINGE

The Hon. K.L. VINCENT (14:31): I have a supplementary question. Do these accessibility plans include steps to make venues accessible to performers with disabilities as well?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:31): My reference to the accessibility plans relates to government departments, not non-government organisations. Our ability to command other organisations to follow our lead is somewhat less, but we do hope that, by providing a leadership role with regard to our own accessibility plans, we can encourage others in the community sector to follow our lead.

ADELAIDE FRINGE

The Hon. S.G. WADE (14:31): I have a supplementary question. I wonder whether the minister can clarify whether organisations such as the Adelaide Festival Centre, the Art Gallery and so on would be regarded as government agencies or non-government agencies for the purpose of the audit.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:32): My understanding is that they will be regarded as government agencies.

FRUIT FLY

The Hon. J.S.L. DAWKINS (14:32): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries questions in relation to random fruit fly roadblocks in the Riverland.

Leave granted.

The Hon. J.S.L. DAWKINS: I note the minister's responses to my questions last week on this subject, in which she stated in part that, out of the 103 infringements detected over the last long weekend, only three drivers received fines, with the remaining 100 drivers simply being issued warnings. She went on to say that the random roadblock set-up on the Sturt Highway near Blanchetown over the last long weekend intercepted 180 kilograms of fruit and vegetables being wrongfully transported into the Riverland quarantine zone. My questions are:

1. Can the minister advise the council what criteria are being used to determine whether an individual who has been considered to have breached the regulations relating to the carriage of fruit and vegetables through a quarantine zone will receive a fine or a warning?

2. Is the minister confident that the message about the dangers of fruit fly and contamination of quarantine zones is getting through to the public, given that, over the same long weekend on which the random fruit fly roadblock was operating, the permanent roadblock at Yamba intercepted a total of 364 kilograms of fruit and vegetables being wrongfully transported into the Riverland quarantine zone?

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): Indeed, the management of our fruit fly quarantine is quite critical to our horticultural industry. As I have spoken about in this place before, the Riverland roadblock and our other roadblocks are all a very important part of that biosecurity.

I have said in this place before that fruit fly is the world's most economically significant horticultural pest and that South Australia should be very proud of itself: it is the only Australian mainland state or territory that is acknowledged as being fruit fly free for both the Mediterranean and the Queensland fruit fly. I have said in this place before that industry sources have indicated that the fruit-fly free area for the Riverland provides that region with access to the US and Asian markets, with a net benefit of around $3 to $5 per carton of citrus fruit.

I repeat that because I think it is really important that we do understand the incredible economic value that the management of our fruit fly quarantine is to this state. It is probably, in terms of value to the industry, around $600 million. In terms of the criteria, they are operational matters. I do not have that level of detail with me, but I am happy to refer that to the agency and provide a response.

In terms of the message, I believe it is important that members of the public do not become complacent. I think they see that things are probably pretty well managed so, therefore, there is no need to be too fussed about things. So, it is easy for the public to become complacent, and it is critical that we make sure that our message is very clear and very focused: that one can never, ever become complacent about biosecurity around fruit fly—for that matter, for any of our other pests, but certainly in relation to the everyday exchange of fruit across the border, in and out of cars and planes and suchlike.

It is most important that we do keep that message up. Indeed, I have been advised that Easter will be a very busy time for our inspectors. I understand that many officers will be made available around our roadblocks to make sure that, during this festive time when families often do move around, people are made aware and checked in relation to compliance around fruit fly.

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

FRUIT FLY

The Hon. J.S.L. DAWKINS (14:37): Will the minister consider committing more resources to raising public awareness about fruit fly and more frequent random roadblocks at approaches to the Riverland, particularly at non long weekend times?

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) (14:37): We allocate resources around the management of fruit fly according to needs. I am not aware of any indication that we need to be increasing our activity. The level of activity—

The Hon. J.S.L. Dawkins: You think the message is getting through?

The Hon. G.E. GAGO: There is no indication that our fruit fly management problem is becoming any more serious. There is no indication that the problem is becoming worse or that compliance in some way is deteriorating.

The Hon. J.S.L. Dawkins: So 540 kilograms of fruit in one weekend and that is not a problem?

The Hon. G.E. GAGO: Any breach in compliance is a problem. What it is showing is that our current system is in fact working. As I said, I am not aware of any indication that the problem is becoming worse, that our management system is failing in any way or that lack of compliance is on the increase. It would seem that we are managing very well with our current system. As I said, the resources are managed on an as-needs basis.

Activity, officers and inspectors are moved around according to where the need is most at the time. In terms of numbers and hours, those assessments and judgements are made according to activity. They are operational matters, and I believe that the agency manages that extremely well. As I said, it would appear that our current management activities are working extremely well.

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

FRUIT FLY

The Hon. J.S.L. DAWKINS (14:39): Will the minister guarantee that more than 3 per cent of those infringing these laws regarding fruit fly will receive a fine rather than a warning this current weekend?

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 question. Indeed, I have requested information from the agency as to why there is such a low rate. I know that the office is very keen to have a major emphasis on information and education, and I think that is a very good strategy. However, I for one am very keen to see a clear message sent out to those people who do flout these important biosecurity measures, and a fine is something that often works very well to help change people's behaviour.

OZ COMIC-CON

The Hon. J.M. GAZZOLA (14:40): I seek leave to make a brief explanation before asking the Minister for Tourism a question about Oz Comic-Con.

Leave granted.

The Hon. J.M. GAZZOLA: I am sure honourable members noticed the media coverage over the weekend about a new event for Adelaide. Nerds and geeks from all walks of life—and I was thinking, sir, that it reminded me of the Liberal Party conference; however, that would be unparliamentary—

The PRESIDENT: Order!

The Hon. J.M. GAZZOLA: —and I am informed that Liberal Party conferences are not that entertaining. They converged in force on the inaugural Oz Comic-Con held at the Adelaide Showgrounds. Could the minister tell the chamber more about this event?

The PRESIDENT: The honourable minister might disregard some of the comments made in the question.

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) (14:41): I thank the honourable member for his question. He is leading with his chin in relation to this very important issue. I was delighted to see such wonderful coverage of this very new event over the weekend. Members may be aware that Comic-Con events have been taking place for some time around the world, but this Australian event, called Oz Comic-Con, is the first to be staged by DCA Enterprises, also known as Hub Productions. I am told that Hub Productions has previously brought Star Trek conventions to Australia, amongst other science-fiction-related events. Oz Comic-Con has also been supported by Blue Planet Public Relations, a Sydney-based PR firm.

Members may not be aware of what is involved in a Comic-Con event, so I am happy to provide some details. I know there were certainly a lot of very strange images shown on the news, as we saw all sorts of characters emerge in full costume over the weekend. A range of celebrity guests attend and are available to sign autographs. Guests often deliver speeches and hold question-and-answer sessions for attendees as well.

The Adelaide event included such stars as Jonathan Frakes from *Star Trek: the Next Generation*, Sean Astin from *The Lord of the Rings* and *The Goonies*, Jewel Staite from *Firefly* and *Stargate Atlantis*, and Disney legend Bill Farmer, the voice of Goofy. A range of other screen stars were also present and, in addition, fans were given the opportunity to meet and buy the works of a range of comic book writers and illustrators, both local and international.

I am told that the numbers attending this event were just phenomenal. They far exceeded what was planned for, and I understand there was a line of people waiting at the entrance to get in that looped right around part of the showgrounds. It was a huge and overwhelming success.

Oz Comic-Con also included a large online gaming tournament, where players could battle each other. A large costume parade and competition were also held for those punters who turned up in a range of costumes; and indeed they did, with many dressing as their favourite comic or science-fiction character. Attendees were also able to have their photos taken with a range of people who dressed up accordingly. I am told there were Klingons, Borgs and many other literary and screen legends available, and people queued for autographs. A TARDIS was also in evidence, and I understand this is a very popular subject for punter photographers.

It was also very pleasing to see a huge number of local businesses and traders out in force at the event. Sellers of board games, computer games, comic books and clothing were all out in force as well, and I am told by the organisers that all of the businesses that had retail stands at the event were absolutely run off their feet. As an example, one retailer in particular took more than one month's takings in just two days. For a small locally-based retail outfit—as many of the businesses present were—an event like this is obviously a very important initiative. It was wonderful to hear what an overwhelming success this event was.

Perhaps the best illustration of the success of this event was the number of people who attended the Comic-Con. I am told that organisers were hoping to see 8,000 people attend over Saturday and Sunday. In actual fact, I am advised that over 8,000 people had attended by midday on Saturday, and I understand that over the course of the weekend it was closer to something like 18,000 people who attended. As I said, it was a huge success.

I am absolutely delighted to note that Comic-Con will be returning to Adelaide next year, and I look forward to learning more about the 2013 event as details become available. I hope that Comic-Con will live long and prosper well into the future. I congratulate the organisers on such a wonderful success.

APY LANDS, DISABILITY SERVICES

The Hon. K.L. VINCENT (14:46): I seek leave to make a brief explanation before asking the Minister for Disability questions regarding disability services for people living on Aboriginal lands.

Leave granted.

The Hon. K.L. VINCENT: Last Friday in Sydney, I had the honour of attending the official launch of the First Peoples Disability Network, a national advisory body on issues of concern to Aboriginal Australians living with disability. Mr Damian Griffis, Executive Officer of the network, told the audience in his keynote speech that 37 per cent of Aboriginal Australians have a disability of some kind, although this is considered to be a conservative figure due to the fact that it reportedly does not include mental illness, particularly mental illness to do with the effect of colonisation and dispossession of traditional lands.

Even if this is a conservative figure, however, it is still almost double that of the non-Aboriginal population, which stands at 20 per cent. It is particularly shocking given that Indigenous Australians are less likely to be affected by age-acquired disability since, tragically, their average age of death is 16 to 17 years earlier than that of other Australians.

An honourable member interjecting:

The Hon. K.L. VINCENT: Indeed, shame. Mr Griffis also gave some very heart-wrenching real-life examples of the effect of not having access to appropriate disability services is having on

the lives of these people. These included the story of the young man who 'lives off the floor' of his family home simply because his family was not aware that they are entitled to request a wheelchair for him, and now they are unsure how to access one.

Indeed, the sentiment of many people who spoke at the launch was that Indigenous Australians living with disability 'suffer twice': one kind of discrimination due to their Aboriginality and another due to their disability. My questions to the minister are:

1. Is the minister aware of the extraordinarily high prevalence of disability in Aboriginal communities?

2. Does the minister know what the prevalence of disability is in the APY lands?

3. In his answer last week to my question nine months ago, the minister said that clinicians visit the lands regularly. What are the job titles and qualifications of these clinicians and exactly how often do they visit the APY lands?

4. What is the government doing to ensure that people living on Aboriginal lands are not only aware of their right to access the service but also actually able to access them?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:49): I thank the honourable member for her very important question. There are approximately 3,000 people who live on the Anangu Pitjantjatjara Yankunytjatjara lands. There are seven main communities and a number of homelands on the 103,000 square kilometres that make up the APY lands.

My agency delivers services to people with disability living in these communities, including assistance ranging from intensive care for high needs clients to more general social support for other clients, such as support with shopping, washing clothes and providing recreational activities. Forty people with disability living on the lands received this service in 2010-11. This service is provided by the department's APY Lands Community Programs team, which includes community support officers based in each of the major communities and four dedicated disability support workers who work across communities.

My department's Disability Services has a visiting service that works closely with the APY Lands Community Programs team to provide disability equipment and minor home modifications to Anangu clients. In 2010-11, 102 items of equipment were provided to people on the APY lands, compared to 77 items in 2009-10. As at 31 December 2011, 47 items of equipment have been provided in 2011-12.

The Disability Services team works closely with clinicians at the Alice Springs Hospital and the Alice Springs Wheelchair and Seating Clinic to share information about equipment that is suited to people living in remote areas of central Australia. A satellite store at Marla improves efficiency in supplying basic equipment, and items to enable minor home modifications to be undertaken locally have been added to the store. Equipment is well maintained by linking in with suppliers and repairers in Alice Springs and local workers on the lands.

The department's APY Lands Allied Health Service, staffed by physiotherapists, occupational therapists and speech pathologists, visits communities six times a year. The service aims to address individual needs to maintain an independent lifestyle and maintain functional independence in the person's own environment. Advice and support are also provided to aged care, disability and health workers in the communities. If there was an urgent need for an allied health worker that could not wait for a visit to be made, the allied health colleagues in the Alice Springs Health Service can often help.

I am advised that my department also funds the NPY Women's Council to provide case management to clients on the APY lands. The Disability Services (including the Allied Health team), NPY Women's Council and APY Lands Community Programs staff work closely together to ensure that the best outcomes are achieved for Anangu who have a disability.

Regarding the specific question about job titles and qualifications, I will have to take that part of the question on notice and bring back a response for the honourable member.

APY LANDS, DISABILITY SERVICES

The Hon. K.L. VINCENT (14:52): I note the minister mentioned the government providing minor home modifications for people living on the lands. Exactly what is classified as a minor

alteration and what about people who may need things that would be classified as a major alteration?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:52): I cannot give the honourable member the clear delineation of jobs between my departments of disabilities regarding minor home modifications, but I can advise that, regarding homes serviced by the Housing Trust, major home modifications are provided by Housing SA.

INTERNATIONAL WORKERS MEMORIAL DAY

The Hon. CARMEL ZOLLO (14:52): My question is to the Minister for Industrial Relations. Will the minister please advise the council about International Workers Memorial Day, which is an important occasion to commemorate those who have lost their lives at work?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:53): I thank the honourable member for her very important question. Quite rightly, International Workers Memorial Day is a very important day on the working person's calendar. International Workers Memorial Day will be commemorated across the country and around the world on 28 April. The day is an important occasion to remember and honour those who have lost their lives or were seriously injured while at work.

In South Australia, a commemorative service will be held at 10.30 am on Saturday 28 April 2012 at the Pilgrim Uniting Church, located at 12 Flinders Street, Adelaide. This service is open to anyone, regardless of their faith or beliefs, and will feature a candle-lighting ceremony, a symbolic dove release and a memorial balloon release, which all service as a powerful reminder of why safety must be the most important consideration in every workplace.

National statistics confirm the importance of raising community awareness on workplace safety, with the most recent figures from Safe Work Australia indicating that approximately 130,000 people were seriously injured at work, while more than 200 died from work-related injuries and illness in 2009-10 alone. These fatalities and injuries do not just affect the worker, but also the family, friends and loved ones left behind. Whether it is to grieve or to help with rehabilitation and the road to recovery, it is an emotional and tumultuous time for anyone close by.

We all know that any injury or death in the workplace is one too many. It is against this background of emotional trauma experienced by victims, and their families, of workplace death, that this government remains committed to reducing unnecessary workplace injury by establishing a strong legislative framework through new and improved laws and the compliance efforts of the regulator, SafeWork SA. An important community commemoration, such as South Australia's service to mark International Workers Memorial Day, cannot be undertaken without the hard work of SA Unions, SafeWork SA, Voice of Industrial Death and others who come together each year to contribute to and organise this day.

In particular, I thank Ms Janet Giles and Ms Andrea Madeley (who herself had to live through the tragedy of a workplace death) for their tireless commitment to workplace safety in South Australia. International Workers Memorial Day is an important day to remember our mates who lost their lives or who have been touched as a result of a workplace accident. I encourage all members of parliament to join me in attending a memorial service on 28 April.

INTERNATIONAL WORKERS MEMORIAL DAY

The Hon. T.A. FRANKS (14:55): By way of supplementary question, does the minister support the concerns raised by VOID that a workplace death can be declared a non-related work injury or death by SafeWork SA, with no recourse to any appeal rights by the families of that worker?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:56): I thank the honourable member for her question. SafeWork SA has a very thorough investigative branch. The member is talking about the issue down at the desalination plant. SafeWork SA investigated that very intensely—

The Hon. T.A. Franks interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: —and came to the position that it was not a workplace death.

Members interjecting:

The PRESIDENT: Order! Minister, is there not a committee looking at that that has not reported yet?

The Hon. T.A. Franks: The minister referred to something that is currently before the parliament; I did not refer to something that was before the parliament. I referred to the minister for a general opinion on whether he agreed—

Members interjecting:

The PRESIDENT: Order! Then the minister indicated that it might be to with the desal plant, and you indicated yes, which makes it the committee thing, so that is it.

The Hon. T.A. Franks: No, the minister used that in his answer.

The PRESIDENT: The Hon. Mr Darley.

The Hon. T.A. Franks: That is about as much an investigation as we had into the death.

The PRESIDENT: The Hon. Mr Darley. I am sure the committee will sort it out.

HEALTH AND COMMUNITY SERVICES ADVISORY COUNCIL

The Hon. J.A. DARLEY (14:57): I seek leave to make a brief explanation before asking the Minister for Industrial Relations, representing the Minister for Health, a question regarding the Health and Community Services Advisory Council.

Leave granted.

The Hon. J.A. DARLEY: In 2008 the government established the Health Performance Council to independently monitor the performance of the South Australian health system. In its 2010 report, which reviewed the public health system's performance from 2008 to 2010, the council stated:

> The Health Performance Council (HPC) was unable to determine how SA Health develops and implements strategies to change trends evidenced by consumer complaints. SA Health indicated that complaints to the Health and Community Services Complaints Commissioner are monitored regularly and the HPC looks forward to reviewing the systemic changes that occur in response to complaints and/or feedback received.

In 2010 ZED Business Management were commissioned by SA Health to conduct an operational review of the Health and Community Services Complaints Commissioner. The report states that:

- There appears to be a high percentage of administrative effort largely due to poor systems and labour intensive practices required to process complaints.
- The quality of data within HCSCC is poor and incomplete impacting on the HCSCC's ability to effectively report, monitor trends and make informed decisions; and
- There is no defined and agreed list of success criteria to measure and monitor the performance and outcomes of the HCSCC.

The Health and Community Services Complaints Act 2004 provides for the establishment of the Health and Community Services Advisory Council. The function of the council is to advise the minister and the Health and Community Services Complaints Commissioner on the operation of the act, on how to educate the general public, on how to make a complaint in relation to health or community services, and any issues arising from the resolution of such a complaint.

In the 2010-11 annual report of the Health and Community Services Complaints Commissioner, Stephanie Miller, the presiding member of the Health and Community Services Advisory Council, stated that the advisory council 'recognises and appreciates the breadth, depth and high quality of the HCSCC's work'. The council further states:

> the advisory council notes the HCSCC's work to ensure that complaints lead to improvements in the safety and quality of health and community services in South Australia.

The PRESIDENT: Question time is for questions. Matters of interest are after question time.

The Hon. J.A. DARLEY: My questions are:

1. Can the minister advise how the advisory council came to the view that the HCSCC's work was of high quality, especially given the comments outlined above from the Health Performance Council and the operational review?

2. Can the minister advise what the advisory council is referring to with regard to their comments on improvements in safety and quality of health and community services resulting from the HCSCC?

3. Can the minister give details of these improvements in safety and quality?

4. Can the minister advise how the improvements were recorded, given that the Health Performance Council was unable to determine how SA Health develops strategies to change trends evidenced by consumer complaints?

5. Was the advisory council aware of the operational review findings and, if so, what is its response?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:01): I thank the member for his very important questions. I will refer them to the Minister for Health in another place and get an answer as soon as I can.

MINISTERIAL STAFF

The Hon. R.I. LUCAS (15:01): I seek leave to make a brief explanation prior to directing a question to the Minister for Industrial Relations on the subject of the minister misleading the parliament and his embarrassing and humiliating backdown and apology today.

Leave granted.

The Hon. R.I. LUCAS: Members will be aware that yesterday in an explanation to a question I referred to a weekend press article headed 'Jokers in the pack' with the subheading of 'Ministers with foot-in-mouth disease', where the journalist in question said, 'However, Labor also has jokers in the pack due to inexperience, lack of preparation or just plain poor choices' and went on to list the worst offenders for foot-in-mouth disease. Without listing all of them, the two in this chamber who were mentioned were minister Wortley and minister Gago.

As you will recall, yesterday I referred to a question I had asked just over a month ago on the relatively simple issue of a staff member, Mr Jimmy Watson, being appointed into the minister's office over and above the 14 full-time staff, three part-time staff members and a ministerial chauffeur that he already has. The minister, as you will recall, indicated that he did not know the actual title or indeed how much he was paid, but went on then to aggressively indicate that this was all public information and could be ascertained on the web. Again, yesterday the minister said:

> First of all, Jimmy Watson's title is available on the net. To waste the time of this council on a question that can be easily looked up on the internet does not deserve the attention of the minister.

Later on, he said:

> The wages of Jimmy Watson will be gazetted, as is the case with many others…they will all be gazetted some time this year.

The information provided to me had indicated that Jimmy Watson had not been employed under section 71 of the Public Sector Management Act, which is the section that refers to ministerial officers. Clearly, either the minister did not know that or did not choose to reveal that to the council at the time.

The information provided to me also is that the minister was this morning provided with information to indicate that he had misled this house, not only yesterday but previously when he had given answers to the first question, and that he needed to correct the record urgently today before question time. Of course, we have heard the minister's personal explanation today. My questions to the minister are:

1. Given that I have now asked him on two separate occasions over four weeks apart, can he now today at least indicate what Jimmy Watson's job title is in his office?

2. Is Jimmy Watson employed on a fixed term contract and, if so, what is the length of that contract; what is the remuneration package that Jimmy Watson is being paid; and, if he is on a contract, with whom is that contract held; that is, is it with the minister or with some department or agency?

3. Is Jimmy Watson's office located in the minister's suite of offices or is his office in a department somewhere else?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:05): Jimmy Watson is employed as a term employee pursuant to

section 45 of the Public Service Act 2009 for a period of 12 months. Among other things, Mr Watson is tasked with liaising with employee and employer representatives to assist in the passage of legislative reform. Mr Watson's contract is held with the minister and he has an office in my ministerial office.

The Hon. R.I. Lucas: What is he paid?

The Hon. R.P. WORTLEY: Mr Watson is a public servant so I am not really prepared to divulge what he is on because he is a public—

The Hon. R.I. Lucas: The taxpayers are paying him.

The Hon. R.P. WORTLEY: Mr Watson is a public servant. All ministerial staffers are gazetted in the *Gazette*. It is much more transparent than the opposition.

MINISTERIAL STAFF

The Hon. R.I. LUCAS (15:06): I have a supplementary question arising out of the minister's attempted answer. Given the Ombudsman's recent decision, which made it quite clear that taxpayers have paid for the salaries and termination packages of either ministerial employees or public servants, why will the minister not reveal the salary package that he has negotiated with Jimmy Watson within his office?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:06): My ministerial staff have their salaries gazetted each year. As Jimmy Watson is a public servant, it is really up to him to declare that.

MINISTERIAL STAFF

The Hon. R.I. LUCAS (15:06): I have a supplementary question arising out of the minister's attempted answer. Given that the minister already has Mr Michael Irvine, ministerial liaison officer for industrial relations, is that position being terminated given that he is now taking on Jimmy Watson to do exactly the same job?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:07): Michael Irvine is my liaison with SafeWork SA. He comes from SafeWork SA. Jimmy Watson's skills and experience relate back a number of decades and he has a very good relationship with employee and employer representatives. That is where his value in my office lies.

MINISTERIAL STAFF

The Hon. R.I. LUCAS (15:07): I have a supplementary question arising out of the answer. Is the minister indicating that Mr Jimmy Watson will not be involved in issues relating to SafeWork SA and that that will be the province of Mr Irvine?

The PRESIDENT: No, I don't think he did that.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:07): I will use Mr Watson in whichever way that I believe will suit running our office efficiently and in the best interests of the taxpayer.

DISABILITY SERVICES, SELF-MANAGED FUNDING

The Hon. G.A. KANDELAARS (15:07): My question is to the Minister for Disabilities. Will the minister provide an update on the introduction of individualised and self-managed funding within Disability Services?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:08): I thank the honourable member for his very important question. As highlighted in the Governor's recent address to parliament, disability reform will be a major focus of the Weatherill government. The introduction of individualised funding is the centrepiece of this reform and will be rolled out in three stages.

I am pleased to advise the chamber that the first stage of the new system has now commenced. My department is sending letters to 2,250 current clients of Community and Home Support SA who have an existing individual allocation offering them the choice of managing their own individualised budget. Of the 2,250 clients, 130 are children less than 18 years old. I am advised that stage 2 will involve approximately 5,000 clients, those who receive currently individual

support through block funded arrangements. Stage 2 letters of offer will be sent to them in late 2012.

Stage 3 will involve approximately 2,000 clients of Disability Services or non-government organisations living in group or shared accommodation. By the end of 2013, all clients of Disability Services with high to very high support needs will have a personal budget and be given the choice of self-management. Everyone who receives more than six hours per week of support is eligible for this new system. Where there is a child or person with an intellectual disability involved, a family member or guardian can be their agent.

We know that the best person to make decisions about disability support services is the person who is receiving them. They know what services would best suit their own unique circumstances. Clients will draw up a personal support plan for how their individual budget is to be spent. This personal support plan is a guide, not a contract, on what must be purchased. Choice and control will lie with the individual person with the disability. Clients can choose when, where and how they access support. They can change arrangements at any time so long as it is consistent with their personal support plan.

Clients can choose to manage their own budgets themselves, or they can choose to have payments administered by a parent or guardian, a professional broker or an NGO or Disability Services. Clients will have the opportunity to choose their own providers. There will be, of course, safeguards in place to maintain quality of care. For instance, personal care support workers will need accreditation and police clearances, and workers will need to be paid, at minimum, award wages.

We have seen already the power of this new system when it comes to negotiating with existing service providers. One Disability Services client who began self-management only in recent weeks has already benefited from changing providers and negotiating a better financial arrangement with her new provider. This has meant that she has been able to increase her existing 50 hours of support per week to 60 hours each week without extra charge.

The difference in this woman's life is amazing. It is not overstating things to say that those extra 10 hours have allowed her to stay in the family home instead of transitioning into supported accommodation, a prospect she faced just over a month ago. Because of this self-managed funding, this client can now remain at home with her husband and family.

The introduction of individualised funding will certainly make a real difference to the life of people living with a disability. We know this based on the international experience but also based on the feedback gathered from a recently concluded trial of self-managed funding here in South Australia. The trial enabled 56 existing clients of Community and Home Support South Australia to self-manage their individual budgets. An independent review of the trial concluded that:

> ...individualised funding and self-managed funding significantly enhances the choice, dignity, control and empowerment of people who have a disability, their families and also their carers.

The new system will be a rights-based system as opposed to the current welfare-based model. The new system will focus on early intervention, and this will mean that the government is no longer pouring money into the crisis end of the system but providing more effective support where it is needed.

National Disability Services, the peak national body representing disability service providers, wrote to the Premier in December last year congratulating the government on this major reform. NDS will be working closely with the government, along with Purple Orange and other sector leaders, to ensure that service providers are supported during this all-important transition phase.

The introduction of individualised funding also ensures that South Australia is adequately prepared for the introduction of the commonwealth's National Disability Insurance Scheme. As the federal Minister for Disability Reform acknowledges, individualised funding is at the very heart of the NDIS.

BONYTHON, MR C.W. (WARREN)

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:13): I table a copy of a ministerial statement relating to Mr Warren Bonython made in the other place by the Hon. Paul Caica.

QUESTION TIME

DISABILITY SERVICES, SELF-MANAGED FUNDING

The Hon. K.L. VINCENT (15:13): I have a supplementary question. Can the minister expand on the definition, I suppose, of 'self-managed funding' under this new rollout? I suppose what I am asking is: will this give people with disabilities and their family, where necessary, true control to spend the money on whatever they wish, or will it still need to come from a list of approved providers?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:14): I thank the honourable member for her supplementary question in regard to the definition, I suppose, of 'self-managed funding'. There are two components to self-managed funding, and one of them is an individualised budget. As I mentioned in my answer to the question, the individualised budget will be rolled out to all people with a disability of moderate to high need. The individualised budget, in consultation with the department and also probably with an independent adviser if the person wishes, will be used to draw up a plan for how those funds in the individualised budget will be spent.

That is not to say that plan will be overly prescriptive. I have outlined before in this place that there will be some minimal requirements. They will, of course, be around safeguarding and adequate training of staff and they will be around, of course, the adequate wages being award payments for those staff so that people cannot use their individualised budget to go out and undercut award wages, for example. So, they will not be able to spend their plan or their budget on whatever they wish, but they will be able to spend the money they are given on a plan that they work out with their advisers for what best suits them into the future. Whether there will be approved service providers—I am sure there will be, but that will not stop people from going to other service providers, as long as those limitations are applied.

SAME-SEX YOUTH SERVICES

The Hon. T.A. FRANKS (15:15): I seek leave to make a brief explanation before asking the Minister for Industrial Relations, representing the Minister for Health and Ageing, a question on the Inside Out and Evolve programs for same-sex attracted youth.

Leave granted.

The Hon. T.A. FRANKS: All members would be aware of the Inside Out and Evolve programs currently under the auspices of Second Story Youth Health Service. We debated this issue last year and, for over a year now, the future of those programs—the Inside Out and Evolve programs—has been the subject of some concern. They are the state's only government-funded health programs for same-sex attracted youth. As we know, the statistics for those particular young people are quite dire in terms of attempted and completed suicide rates. Also, they are subject to quite high levels of discrimination, bullying and homophobia.

Given the valuable work that this program has done for almost 22 years, it was of great concern to read in *Blaze* magazine last week that peer educators for the Evolve project are reporting that the group's previously offered same-sex attracted youth services are not scheduled for this year and no worker has replaced the sole Evolve worker who resigned last year. In fact, as potential clients contact the service, they are not being given information about what will be happening in the near future.

I reiterate my concerns and my question of May 2011: if the government will not ensure that there is a same-sex attracted youth service in this state that offers not just one-on-one counselling, further isolating that young person, but an empowering model, which has group work, peer education and drop-in, then will they hand it to the non-government sector?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:17): I thank the honourable member for her very important question. I will take it on notice and refer it to the Minister for Health in another place and get a response back as soon as possible.

MEDICAL HEATING AND COOLING CONCESSION

The Hon. J.S. LEE (15:17): I seek leave to make a brief explanation before asking the Minister for Social Housing a question about the medical heating and cooling concession.

Leave granted.

The Hon. J.S. LEE: The government introduced the medical heating and cooling concession to assist people living with specific medical conditions with their energy costs. The minister addressed a question about the scheme from the Hon. Stephen Wade as well as the Hon. John Gazzola recently. In his answers, the minister advised the house that from 9 March 2012 there were approximately 2,705 telephone inquiries and 1,622 applications.

This is a dramatic increase from the minister's initial response on 15 February, where the department had received 1,750 telephone inquiries and only 600 applications. Since the scheme became operational on 1 January, the department has only approved 134 of the 1,622 applications. That is 8 per cent successful applications in four months. My questions to the minister are:

1. Can the minister advise what the average waiting time is for applicants from making their application to having a determination made on their eligibility?

2. How many applicants are still waiting for an assessment?

3. For those who are eligible, how will the minister ensure the applications are approved in an appropriate and timely manner?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:19): I thank the honourable member for her most important three questions. As I said previously, on 20 December 2011 I launched the medical heating and cooling concession, which was announced in the state budget, where cabinet approved $1.8 million over four years to provide assistance to people on low incomes who incur high energy costs because of their medical need to use an air conditioner on a frequent and/or prolonged basis. The medical heating and cooling concession is administered by the Department for Communities and Social Inclusion and commenced in January. It provides $158 per year backdated to 1 July and will increase to $165 per year on 1 July 2012.

I have previously given those answers to the Hon. Ms Lee's questions in response to a question from the Hon. Mr Wade in regard to the number of applications received and the number of applications that have been processed. In response to the Hon. Ms Lee's questions regarding the average waiting time for an applicant, how many people are waiting for an assessment and what I would consider to be an appropriate and timely manner for those things to be approved, I will take that on notice to bring back a response at a later stage.

SOUTH AUSTRALIAN MULTICULTURAL AND ETHNIC AFFAIRS COMMISSION WOMEN'S LEADERSHIP COURSE

The Hon. CARMEL ZOLLO (15:20): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the South Australian Multicultural and Ethnic Affairs Commission Women's Leadership Course 2011-12.

Leave granted.

The Hon. CARMEL ZOLLO: The eighth SAMEAC Women's Leadership Course started on 3 November 2011 and will be completed by June 2012. At this halfway point for the 2012 course will the minister outline what is involved in the course?

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 important question; I know her own keen personal interest and commitment to multicultural affairs. The leadership course is now in its eighth year, as the member noted, and has been a very successful initiative. The course is free to participants and is jointly funded by TAFE SA, Multicultural SA and the Office for Women.

The 2012 course is now about halfway through, as the honourable member mentioned, and I have to say that the feedback has been very positive to date. Training is being delivered by TAFE SA's Workplace Education Services at the Adelaide city campus, and successful completion will result in attainment of a certificate IV in front-line management.

Culturally and linguistically diverse communities were invited to encourage women to apply for the 2011-12 Women's Leadership Course, and I am advised that 72 applications were received. Following interviews, 16 women were selected by TAFE SA in consultation with Multicultural SA. I am advised that these women came from many diverse backgrounds: Bangladesh, Greece, India,

Macedonia, China, Iran, Rwanda, Kenya, Ethiopia, Japan, the Philippines, Nigeria. Participants in the 2011-12 course were selected against a range of criteria, including:

- whether they were willing to play an active leadership role in their communities and pass on their skills and knowledge to other women as well as display a capacity to work with other communities;
- having an excellent understanding their own culture and of the implications of cultural diversity in the broader community;
- being interested in further developing their leadership skills and interested in participating on boards and committees and leadership forums such as that;
- being proficient at both oral and written English, and bilingual or bicultural; and
- being committed to completing the course, which involves approximately three hours of class attendance per week, plus assignments. I am advised that is over a number of months.

I was delighted to be advised that the 2011-12 course has had a 100 per cent attendance record, with 16 participants attending five sessions in 2011 and a further eight to date this year. Obviously the participants are finding it to be a very worthwhile course.

The first session was an induction session covering course information and expectations as well as a TAFE campus orientation. The other four sessions covered content required for things like implementing effective workplace relations, working effectively with diversity, and an introduction to making a presentation.

There have been numerous opportunities for participant contributions and the sharing of ideas and experiences. For example, a successful end-of-year shared lunch was held, which provided opportunities for interaction, which a number of participants asked to be repeated. I understand that there will be further shared lunches this year to provide additional opportunities for networking and the sharing of ideas.

The course resumed in February this year, and participants have already made one of two required presentations to the rest of the group—Multicultural SA and the Office for Women. Officers were guest observers at this presentation session, and the rest of the course will be presented by key guest speakers. The South Australian government has been running a women's leadership Program since 2002, and I am very proud that more than 200 women have now graduated from various courses in that time.

MATTERS OF INTEREST

BANGKA ISLAND MEMORIAL SERVICE

The Hon. J.M. GAZZOLA (15:26): This year marks the 70th celebration of many nation-defining events when the country confronted the realities of war. This year we have celebrated, or will celebrate, a number of events, including the bombing of Darwin on 19 February 1942; the sinking of *HMAS Yarra* and *HMAS Perth* on 28 February 1942; the invasion of Rabaul; the commencement of the battle for Kokoda; the sinking of the *SS Vyner Brooke* and the subsequent massacre of many of the survivors on the beach at Bangka Island.

It was in memory of these events in 1942, and because of them, that prompted the then Labor Prime Minister, the Hon. Bob Hawke, to state in 1988:

> It was the turning point in the making of modern Australia. In the fire of that tremendous crisis were forged all the elements which have shaped our national life and destiny to this day...Above all, 1942 was the year in which Australians first achieved a genuine sense of national identity and national unity.

One event we have celebrated is the Bangka Day Memorial Service held on 19 February at the South Australian Women's Memorial Playing Fields. The story leading to this service actually started 70 years ago with the sinking of the *SS Vyner Brooke* off the coast of Bangka Island near Sumatra and the subsequent massacre of most of the survivors, including 21 Australian nurses. It is truly an amazing but terrible story.

Just prior to the fall of Singapore on 12 February 1942, the *SS Vyner Brooke* set sail from Singapore for Batavia (now Jakarta) with about 250 people (many of them injured servicemen), including 64 Australian nurses of the 2/13 Australian General Hospital. After initially eluding

Japanese air attacks on ships and boats fleeing Singapore, the ship was bombed and sunk off the coast of Sumatra in the Bangka Strait.

Within a period of 48 hours, the Japanese sunk around 70 ships in the Bangka Strait as they fled Singapore. On board the *SS Vyner Brooke*, the nurses, under the resolute and disciplined leadership of matrons Olive Paschke and Irene Drummond, had undertaken to care for all passengers during the trip and, in the event of a sinking, had vowed to be the last off.

The study by Ian Shaw in his account *On Radji Beach*—the source of much of this matter of interest—documents the horrors that confronted the nurses and their bravery and sense of duty under fire. A total of 100 or so survivors, including 22 nurses, made it to shore on Bangka Island. The island had been occupied by the Japanese and, with no food, water or hope, the decision was made to surrender to the enemy.

On surrendering, the survivors were separated. The men were murdered in the jungle abutting the shore and the nurses were ordered to walk into the sea where they were machine-gunned. Amazingly, one nurse survived: Sister Vivian Bullwinkel, and although injured she and another male survivor surrendered to the Japanese. For the remainder of the war she was interred in a prison camp and, with the end of the war, she was finally able to tell the story of the massacre on Bangka Island.

This remarkable story of compassion, bravery, comradeship and self-sacrifice brings us to Adelaide and a ceremony of remembrance that has been celebrated since 1955. This event occurs at the South Australia Women's Memorial Playing Fields, St Marys, established in 1953 to encourage women's sport. In 1956, the playing fields were then dedicated in memory of the contribution made by women in all services during World War II, with particular focus on the Bangka Island massacre.

It takes a number of dedicated people to bring such a vision to fruition and to maintain that vision. The South Australian Women's Memorial Playing Fields Trust was established in 1967 and it overseas the memorial focus and the Bangka Day Memorial Service held at the May Mills Pavilion on the site. In closing, the ceremony and playing fields are a living memorial to those deserving women in war who paid such a tragic price in the pursuit of their duty.

TOURISM, EYRE PENINSULA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:30): There are 22 members of this chamber, each with an electorate that covers over 1 million square kilometres. All of us have offices in this building, but all of us represent 1.6 million people, who almost never, if ever, step through the doors of Parliament House. To represent the electorate we must go out into it, and in the past fortnight I have travelled nearly 3,000 kilometres to more than half-way across the Australian continent. I have listened, I have learned and I have lost hope in this government.

In 1839, Edward John Eyre set out for country to the north and west of here. In commemoration, we now have Lake Eyre, Eyre Creek, the Eyre Highway and Eyre Peninsula, that huge triangle between Spencer Gulf, the Great Australian Bight and the Gawler Ranges. The land he discovered was dry and harsh. Early explorers lost their lives to drought, starvation, fatigue and desperation. Then came railways, coastal shipping, the tapping of underground aquifers, land clearing on a massive scale and wheat fields—tens of thousands of hectares of grain and hundreds of thousands of dollars in exports.

The Eyre Peninsula's riches are not just in its fields and views, although I will come back to those, they are also below the ground, vast mineral resources waiting to be tapped. As part of the mission, I spoke with potential miners and investors, to people interested in developing ports, water resources, primary industries, including offshore ones like fishing and aquaculture, and tourism operators and planners. The picture they painted was one of government neglect.

One of the most pressing issues is a secure and affordable water supply for the region. The lack of water is holding back development on the peninsula, but this government does nothing, or the little it does is a drop in the bucket. It is a disgrace. It is not as though we have suddenly discovered there is a water shortage holding back development, it is just that the government has had its head in the sand, and in that position the part which sticks out into the atmosphere is looking very vulnerable and exposed. That is the part that needs a good kick.

Without water there will be no proper mining development, population growth or tourism development. Tourism is a $4.5 billion industry in South Australia, and I am determined that the Eyre Peninsula receive a greater share of that bonanza. Tourism is more than a holiday, it is one of

the state's largest industries, with almost unlimited potential for sustainable growth, except for the Eyre Peninsula where the lack of water is holding back its potential.

I demand a government response from the incompetent minister opposite. I demand, on behalf of my electorate and my state, a government with a sensible regional development plan for the Eyre Peninsula, and that includes developing the tourism industry. Instead, I discover firsthand that Labor has starved the visitor information centres of money and staff.

The government is slashing the number of licences for shark cage diving. I have spoken with operators, such as Calypso Star, which is a very professional operation. Adventure Bay Charters, which has a huge capital investment and has received a sustainability award, may close if the government takes its licence away. The sharks are circling, but they are white pointers of the Labor government's ineptitude.

Then there is the disgrace over the regional tourism guides. The current edition is so far out of date it still shows the horses running in the Streaky Bay Cup on 2 April of last year. I can tell you that even the last runner in that race has long passed the post. The next edition—whenever or if ever it comes out—will be just a fraction of the current guide's size and information. The Eyre Peninsula has some of Australia's most spectacular and unspoilt coastal scenery and fabulous recreational fishing. I met visitors from Queensland, Victoria and New South Wales, who were spending their money growing the economy in places like Streaky Bay, Smoky Bay and Port Lincoln.

Tourism will never be enough. For the Eyre Peninsula to prosper, for the state to prosper, we need a deepwater port capable of loading the right size ships and making us world competitive. I have investigated sites on the Eyre Peninsula, and the location will have implications for a century or more. It is vital we get that location right. On a smaller scale, but still important, is the management of our commercial fisheries. Official representatives of the sardine, tuna, abalone and oyster industries I met were appalled at the high cost of government regulation and compliance.

When the local rock lobster quota was 600 tonnes a year, the government said it would charge 600 hours for administration and compliance. Now the quota is only 300 tonnes, but the charge has not gone down by half. In effect it has doubled for every kilo of rock lobster caught. Despite government neglect, I am expecting huge economic growth throughout the region that has to come hand in hand with growth in social services, infrastructure, public spending on health services, and school facilities.

The PRESIDENT: Order! The honourable member's time has expired.

GM HOLDEN

The Hon. G.A. KANDELAARS (15:35): Today I rise to speak on the recent announcement of the federal and state governments of South Australia and Victoria to co-invest $275 million in GM Holden. South Australia's contribution to the co-investment will be $50 million. In my view this co-investment is very sound, given that GM Holden will invest over $1 billion in car manufacturing in Australia and has given a commitment to make two next generation vehicles here. These vehicles will be using the latest technology, so they will be cheaper to run and better for the environment.

The partnership between GM Holden and the federal government and state governments will see automotive manufacturing in Australia to least 2022. This is great news for South Australia and, more particularly, for those who work for GM Holden at Elizabeth. It is not only that 2,700 people who work directly for GM Holden will heave a collective sigh of relief, but also all those who are indirectly employed in South Australia as a result of the automotive manufacturing remaining in this state.

In a recent report to the South Australian Department of Manufacturing, Innovation, Trade, Resources and Energy, Associate Professor Barry Burgan, head of the Business School of the University of Adelaide, reported:

> In summary, therefore, the closure of Holden would, it has been estimated, cause the loss, relative to contribution in 2011 of between 6,000 and 16,000 jobs in the state, reduce the value of economic activity between $0.5 billion and $1.5 billion, and cause a decline in state taxation revenue of between $25 million and $83 million. Given the current economic conditions, and competitive circumstances in the manufacturing sector, it would be considered that the higher of these estimates is a distinct possibility.

As you can see, the loss of car manufacturing at GM Holden at Elizabeth would have had a serious impact not only on jobs in South Australia—as many as 16,000 could be lost—but also on

economic activity in the state. The impact of the GM Holden closure would have been felt disproportionately in the northern Adelaide suburbs, but it would not stop there.

In the Burgan report it was pointed out that suppliers to Holden would also be severely affected. Information by Holden indicates the core supplier base supporting the Elizabeth facility with parts and components in the manufacturing process is as follows:

- $528 million per annum supplied by 29 suppliers based in South Australia;
- $197 million per annum supplied by 70 suppliers based in Victoria; and
- $11.5 million per annum supplied by 16 suppliers based in New South Wales.

The report goes on to list a number of large employers in tier 1 suppliers to GM Holden, such as:

- The Tenneco Australia Group (Monroe and Walker) with 690 employees;
- Toyoda Gosei, 297 employees;
- SMR Automotive, 450 employees;
- Futuris Automotive Group, 320 employees.

Tiers 2 and 3 suppliers include:

- Intercast and Forge, 250 employees;
- Excide, 230 employees; and
- Alloy Technologies.

There are many more. In his report on manufacturing into the future, the respected thinker in residence 2010-11 Göran Roos had this to say:

> The South Australian manufacturing sector is moving into a technological environment of boundless promise and unprecedented challenge. In order to emerge as a strengthened global player making a vital contribution to the South Australian economy, it is essential that the sector be encouraged to grasp these new opportunities.

I believe the federal and state governments' decision to co-invest in GM Holden is the right decision. It is an economically sound decision, given the important role automotive manufacturing plays in the South Australian economy and for that matter the mainstream economy.

Time expired.

CITY OF ADELAIDE PLANNING

The Hon. T.J. STEPHENS (15:40): I rise to talk about the vibrancy of the Adelaide CBD and the proposals put forward in the Property Council of Australia's report 'City of lights', that were the topic of today's front page of *The Advertiser*. What the report emphasises is that Adelaide has much to learn from the city of Melbourne in terms of the regulation of development. Current government policies when it comes to land tax, stamp duty, property development, liquor licensing, event scheduling and attraction of events are harming Adelaide's ability to compete with the three eastern seaboard capitals and also with Perth.

The report outlines the policy changes that need to occur to encourage a vibrant CBD. These are real changes, changes that the Liberal Party understands and has so for years. The major change which the Liberals are perpetually committed to is a reduction to stamp duty and land tax. There is only one reason these taxes are high—this state has too much debt. The government needs to rein in its spending so that taxes can be lowered and private development and enterprise can flourish.

If the government truly wants to double the CBD population, it must firstly stop the flow to the suburbs. The city of Melbourne has done this through the encouragement of inner city living as a lifestyle choice, encouragement of the arts and a relaxation of development and licensing regulations. A relaxation in these two areas of regulation will encourage the development of laneway bars and ex-industrial residential living, but most importantly this will promote entrepreneurialism, particularly amongst younger people. If this is embraced, young people will not need to move to Melbourne, Sydney or Brisbane to follow their passions, and Adelaide will finally shake its backwater tag.

During the month of March, this city is abuzz; people come from all over Australia and all over the world to enjoy the hospitality, the art and the experience. However, increasingly over the past few years we have not looked at any other time of the year for our events. The government continues to cram more and more into this one month. This is why events need to be spread over the entire 12 months. Why can this feeling not be attached to Adelaide all year round? In particular, the Adelaide Cup needs to move from March to May.

It is not only young people who will benefit from this, but they will ensure the city and state's long-term viability and vibrancy. Local businesses, both big and small, will benefit enormously. With looser regulations, lower taxes and a fledgling mining sector, it is my hope that big business is once again attracted to Adelaide as a home for its head offices. With the right conditions, mining in this state may well become a boom sometime in the future, but unfortunately just saying it is a boom, as this government has done for 10 years, does not make it a boom.

Major development status needs to be utilised a lot more by government to override the often obstructive and unadventurous Adelaide City Council. I am not being critical of its decision-making, as I am certain it is looking after its constituency, the residents, as well as following its by-laws. Nothing less could be expected of them, but the CBD affects more than just those who live within the boundaries of the Adelaide City local government area, and many, if not most, of the developments which go ahead within the CBD have an effect on the broader South Australian community, not just those who vote in the council elections.

Taking the power to approve and reject major developments in the CBD out of the council's hands will demonstrate to the rest of Australia that we want your company's business and that the government is here to assist with that every step of the way. The sad thing about this discussion is many things being discussed were embraced by other cities a long time ago; by Melbourne in the 1980s.

Former premier, Mike Rann, always touted himself as a true successor to Don Dunstan, but what reforms did we see and what happened? The state went backwards during his 10 years, not forwards. By the late 1970s Adelaide was renowned as a vibrant city where city living, fine dining and the arts, coupled with our traditional strength as a sport-loving, friendly and multifaceted culture, made us the envy of those interstate. It annoys me to say that this title is now held by Melbourne; they are now at the helm.

I realise that, since that time, we have gone through an economic disaster with the State Bank. The Brown, Olsen and Kerin governments worked hard to get this state into a position of economic stability and ready to flourish again. Some things had to be sacrificed because of it. Since the 2002 election we have had 10 years of Labor: 10 years of waste and 10 years of mess. What has been achieved? Nothing but reckless spending and seedy political spin. It is time we changed this and made our great state and capital city the leading light of our country once again.

Time expired.

CITRUS IMPORTS

The Hon. J.A. DARLEY (15:45): I rise today to briefly speak about my recent visit to citrus growers in the Riverland, where I learnt about some of the issues which concern them and affect their livelihood. There is great concern over the impact of imported juice concentrate. The issue of overseas imports of juice concentrate is complex. For years it has been stated that Brazilian orange juice is cheap; however, the market has been manipulated for many years.

Juice processors have never been able to substantiate their pricing, and Riverland producers have always received less for their produce than what the processors pay for overseas concentrate. Currently, the price for local produce is $50 per tonne compared to $350 per tonne for imported concentrate. Processors have always said that Australian producers can only supply about 45 per cent of what the market demands, and this is how they justify their need to import concentrate.

Each year, processors predict whether producers will have a good or a bad crop. Based on this prediction, processors will place their orders for overseas concentrate. If the prediction is that local producers will have a small crop, a larger order for concentrate is placed. If this prediction is then wrong, processors find themselves with an excessive amount of concentrate.

The cost of storage for the concentrate is high, so the processors' preference is to use their excess concentrate stock (which they have already paid for) rather than buy fresh oranges from local producers. This reduces the demand for fresh produce and pushes prices down as supply is

plentiful. The juice industry is worth about $1 billion a year. It is a growing industry; however, it is growing on imports.

In the past few years, the lowest amount of concentrate imported from overseas was 450,000 tonnes. Last year, this figure grew to 600,000 tonnes. This would be good if production was showing similar growth; however, I understand South Australia used to produce 180,000 tonnes and this figure is now as low as 40,000 tonnes.

Unemployment has risen as the number of pickers, packers and production plants have declined. This has a flow-on impact to the larger community because as unemployment has risen more and more people choose to leave the area to seek out opportunities elsewhere. Whilst the towns are dying, many producers are finding themselves with unwanted fruit rotting on their trees. In South Australia alone there is approximately 20,000 tonnes of unpicked oranges.

When I visited the Riverland about three weeks ago I witnessed one producer pulling out his trees with a bulldozer as he could no longer afford to continue. Many have branded this as a publicity stunt; however, the reality is that there are many other producers who would like to do the same thing. The ironic part is that they cannot afford to pay for a bulldozer to pull out their trees because business has been so bad.

It seems to be absolute lunacy that there is fruit rotting and wasted and producers wanting to pull out their trees when processors are using concentrate imported from overseas to manufacture juice. Citrus growers are not asking for a handout. One of the strongest measures which they have been lobbying for is truth in labelling. They believe that if consumers are empowered with the knowledge of what was in their food products and where it came from the overwhelming majority would support local products.

We all know the issues with food labelling: as long as 51 per cent of the product and the packaging are made in Australia then it can be labelled as Australian. As it stands, Australian orange juice may consist of orange juice concentrate from Brazil which is diluted with Australian water. If the bottle is made in Australia then the overall product will more than pass the 51 per cent test required to be labelled as Australian.

One citrus grower I spoke to said that his dream was for food producers to have an independent body similar to a footy tribunal where disputes can be heard. This independent body would oversee arguments about pricing and other issues so that a fair outcome can be achieved. At the moment, food producers feel abandoned by their industry groups and the government, who both seem to have done nothing to protect them, their industry or the nation's food bowl. For food producers to dream of having their voices heard in an open and fair environment does not seem like too big of an ask to me. However, the new position of Small Business Commissioner should fulfil this role.

ISOLATED CHILDREN'S PARENTS' ASSOCIATION

The Hon. J.S.L. DAWKINS (15:50): Last Friday, 30 March, I attended the 2012 state conference of the Isolated Children's Parents' Association, known as Mountains and Milestones. It was held at the Wilpena Pound Homestead. I was also pleased to join at that conference, from the House of Assembly, the member for Stuart, Mr Dan van Holst Pellekaan, and the member for Flinders, Mr Peter Treloar.

The conference delegates and guests were welcomed by Mrs Tammy Crawford, the branch president of the Flinders Ranges branch, which is celebrating its 21st birthday this year. Mrs Helen Williams, the ICPA state secretary, did an introduction of all the guests who were at the conference, and that was followed by a special welcome by Mrs Anneleise Dolphin, the current state president. The delegates and guests went for a short walk away from the conference venue and witnessed an official conference opening and welcome to country by Mr Arthur Coulthard.

There was also a report from the federal council of the ICPA, from Mrs Sam Starcevich of Western Australia, and that was followed by a presentation by Mrs Pauline Smart, the Principal of School of the Air. Our federal colleague, the member for Grey, Mr Rowan Ramsey, addressed the conference, and that was followed by a speech by Ms Penny Goldsworthy, a social worker with Remote and Isolated Children's Exercise Inc., otherwise known as RICE.

I was also pleased to listen to a presentation by Mr Bill McIntosh of Blinman, representing the Outback Communities Authority. Mr McIntosh has had a very long period of service in relation to the previous outback areas community development trust and many other organisations which represent those people in South Australia who live outside of council areas. There was also a

presentation by Mr and Mrs Garry and Jeanette Coombes, who come from the organisation called REVISE, which stands for Retired Educator Volunteer's for Isolated Students Education.

The delegates came from all over the outback of South Australia and represented the following branches: Eyre, Port Augusta, Flinders Ranges, Marla/Oodnadatta, North East, North West and Far West. The bulk of the conference was in a marquee situated next to the homestead. It was great to be listening to speakers and watching emus walking past having a feed on the abundant pasture outside of the marquee.

I want to conclude with a bit of a summary of some of the motions put up at the conference which were passed. The first one, from the North West branch, was asking that the Minister for Education and Child Development provide a solution to the appalling internet platform that our remote and isolated students at School of the Air currently use. There was also another motion agreed to, and that was that the state council of the ICPA request a dedicated bandwidth for distance education students and that that bandwidth be aligned to actual internet usage.

There was also a motion from the north-west branch that the government ensure that funding remains in place to assist remote and isolated children to attend face-to-face school events. There were a number of other motions and business on the day. I congratulate the executive of the ICPA. They are a very professional body that travels long distances to represent the people that have education by distance.

Time expired.

NATURAL RESOURCES COMMITTEE: DRAFT MURRAY-DARLING BASIN PLAN

The Hon. G.A. KANDELAARS (15:56): I move:

That the 64th report of the committee, entitled Water Resource Management in the Murray-Darling Basin Volume 3, be noted.

This is the Natural Resources Committee's third report on water resource management in the Murray-Darling Basin. This report considers and makes recommendations on the draft Murray-Darling Basin plan. This report draws on evidence from 76 witnesses and 21 written submissions, together with three fact-finding trips that the committee made to South Australian river communities, including the Riverland, Chowilla, Lake Victoria, Goolwa, the Lower Lakes and Coorong, Mannum and the Lower Murray swamps.

A number of expert briefings were also received and a comprehensive literary review was undertaken. This evidence and, consequentially, this report encompass the breadth of views expressed by the South Australian community. The River Murray is the lifeblood of this state, with its health underpinning much of the state's history and ongoing prosperity. As well as supporting communities in the basin, the River Murray is also a critical source of water to Adelaide and communities as distant as Keith in the Upper South-East, and Whyalla, Kimba and Lock on the Eyre Peninsula.

South Australians have argued passionately to protect the river system in times gone by and now we must do so again. While experts like Professor Peter Cullen (sadly, now deceased) have warned us for decades of the consequences of overallocation, the recent millennium drought has shown us all the graphic and devastating results that long-term overallocation and overextraction of basin water resources have on our natural resources assets and communities.

While touring South Australian river communities, members heard from a number of residents and stakeholders. Rose Faehrmann from Riverglen Marina at Mannum said that in their town 15 tourism, retail or other businesses had disappeared during the drought and not returned, highlighting the effect on the economy in just one of South Australia's river towns.

The South Australian Murray-Darling Basin Natural Resources Board told the committee that a number of native fish species have not been seen in the river since the drought and would be unlikely to survive long term if not for captive breeding programs. Joan Pfeiffer from Long Flat showed members the now acidified groundwater on her dairy farm following prolonged drying and wetting of the Lower Murray swamp flood plains. Blanchetown pistachio grower, councillor David Peak, related to the committee the immense stress—

The Hon. J.S.L. Dawkins: Pistachio, I think, isn't it?

The Hon. G.A. KANDELAARS: Pistachio; yes, you are right—experienced by many individuals as a consequence of the drought and the dramatic damage done to the social fabric of

the majority of South Australian river communities. In a number of instances the stress and depression brought on by drought has, sadly, contributed to a number of people taking their own life. These are stories from people living and working on the river, reminding us that the consequences of not dealing with the underlying problem of overallocation and the uncertainty that causes are serious, and can be catastrophic. The Australian community needs a long-term solution to overallocation in the Murray-Darling Basin.

The Goyder Institute—whose damning expert panel assessment report was unfortunately not released until Monday this week, too late to be considered in our report—back in 2011 estimated that South Australian drought impacts exceeded $790 million between 2000 and 2009, while drought legacy impacts such as acidification, riverbank collapse, dying river red gums and black box forests, as well as a severely degraded south lagoon of the Coorong and elevated salinity in Lake Albert, are ongoing problems and unlikely to be rectified by the new regime proposed by the draft plan.

The basin plan process provides the best opportunity yet to deal with the root cause of all these problems. However, the committee believes that in its current form the basin plan fails to meet the objective of the commonwealth Water Act 2007 and does not meet the social, economic, cultural or environmental needs of South Australia and South Australians. Significant amendments are needed and key pieces of additional work are still required.

For example, the committee is recommending that the basin plan should include salinity targets for Lake Alexandrina and Lake Albert of less than 1,000 and 1,500 electrical conductivity units respectively for 95 per cent of the time, measured as a ten-year rolling average. Whilst on this subject, I must say that, when the Murray-Darling Basin Authority gave a presentation to the committee, it was quite disconcerting to hear them say, on evidence, that they felt they only needed to measure the quality of water in the Coorong to judge the quality of the environmental outcomes in Lake Alexandrina and Lake Albert. That was a very telling comment from them.

There is also a need for water height targets for below Lock 1, with the height of Lake Alexandrina to be above half a metre of the Australian height datum—equivalent to mean sea level—for 95 per cent of the time, measured as a ten-year rolling average, with water heights never again allowed to fall below mean sea level, which has proved most devastating. It is also this committee's recommendation that prior to the finalisation of the basin plan, additional hydrological modelling is needed to determine the viability of removing some of the operational constraints that we are told prevent greater environmental outcomes in South Australia and elsewhere in the basin.

I would like to sum up by quoting Tom Trevorrow, a Ngarrindjeri elder and chairman of the Ngarrindjeri Regional Authority. Mr Trevorrow, speaking on behalf of his people, the traditional custodians of the country encompassing the Lower Lakes, Coorong and Murray Mouth, told the committee:

> In our beliefs, the lands and waters are a living body. It is a living thing and not something to be looked at and to be used solely for economic purposes. We look upon it as used for survival. We need water, a right amount of water, good quality water to flow down through the river into our lakes, into our Coorong, out through the Murray Mouth to keep our lands and waters alive and to keep all our stories and our culture and the Ngarrindjeri people alive.

If we are deprived of water then we will be deprived of our culture, of our cultural rights within our lands and of water to pass on to our next generation of children. That is the way we look upon our water: it is a cultural right. It should be sufficient and good quality water coming down into the lakes and out through the mouth.

Finally, I wish to thank all those who gave their time to assist the committee in its inquiry. I commend the Presiding Member, the Hon. Steph Key MP, and members of the committee: Mr Geoff Brock MP, Mrs Robyn Geraghty MP, Mr Lee Odenwalder MP, Mr Don Pegler MP, Mr Dan van Holst Pellekaan MP, the Hon. Robert Brokenshire MLC and the Hon. John Dawkins MLC, as well as former members, the Hon. Russell Wortley MLC and the Hon. Paul Holloway MLC, for their contribution to this report. All members have worked cooperatively on this report.

I would also like to thank in particular the committee staff: Mr Patrick Dupont, Mr David Trebilcock and Mr Mark Siebentritt. Mark was seconded to the committee in the last three months and has provided invaluable assistance to it. I thank them all for their assistance in this report. I commend this report to the council.

The Hon. J.S.L. DAWKINS (16:06): I rise to support this motion and to thank the Hon. Mr Kandelaars for presenting it today. We indicated to members earlier in the week that we

actually need to move this motion and have it voted on today so that the view of parliament can be presented as a submission to this inquiry. It is important that both houses get the opportunity to vote on this before that happens. I understand that the House of Assembly did that in a time-limited manner earlier today and that further debate is going on regarding a motion that has been moved by the Premier in relation to the government's submission.

I think that sets the scene for the history of the Natural Resources Committee doing this work. I think it was in February last year that the Minister for Water, the Hon. Paul Caica, referred this matter to the committee with the view that the multipartisan group—represented by nine members, three parties and two Independent members—would present a view of the parliament that was separate to and independent from that of the government of the day.

I should also say that at the time the committee accepted that reference, it was pointed out to the minister that the committee has a significant workload. It deals with regular annual reviews of the NRM boards, their expenditure and particularly increases in their levy rates, and a range of other matters.

It was pointed out that, for us to do this work and do it properly, we would need some extra resources. I have to say that the minister was quite willing to find some extra resources from within his departmental budget to assist the committee in doing so. However, the management of the House of Assembly, which administers the Natural Resources Committee, felt that it would be better if those extra resources came from the budget of the House of Assembly, or the parliament, rather than from the government, to arm our independent report into this whole matter of the Murray-Darling Basin Authority plan. So, thank you to the Clerk and the Deputy Clerk of the House of Assembly, who insisted that those extra resources come from their budget and not from that of minister Caica.

During the course of the inquiry, the committee got out of North Terrace and went to a range of areas in South Australia within the Murray-Darling Basin. We also went across the border into New South Wales, not to any great extent, but as far as Lake Victoria. Lake Victoria, while it is in the far south-western corner of New South Wales, is a very valuable asset to South Australia. I think very few people in this state know how valuable Lake Victoria is in the way in which it allows SA Water to manage the flow of water into our state. Through the system of Frenchmans Creek, the lake itself and then Rufus River, water flows are managed to assist in the way the river is controlled as it comes down through South Australia. We are very grateful to SA Water for showing us around the Lake Victoria system on that visit.

On that same visit, we saw a number of environmental works and met with irrigators, food producers and environmentalists in several Riverland communities. Some weeks later, we met with a range of people who also have an interest in the Murray-Darling system, but in the Lower Lakes area. We also took the opportunity to travel across the barrages. It is unfortunate that many South Australians will never have the opportunity to travel across the barrages, because they are not open to the public and there is a very good reason they are not open to the public. Like Lake Victoria, the barrages are very important but unfortunately a lot of people will never get to see them in their proper operation.

Following that trip, and I have mentioned it before in this place, we ventured down to the South-East to have a look at the Upper South-East drainage program, which has recently been mentioned in this place in noting the report on that project. There is a direct relevance to the Murray-Darling Basin. The way in which we deal with additional water that comes out of the South-East into the Coorong is certainly relevant to the whole Murray-Darling Basin system, particularly that area of the Lower Lakes and Coorong.

I should also mention the visit we did to Mannum and areas around Murray Bridge, where we took evidence from a lot of people in that part of the river, particularly between Lock 1 and Wellington, and in many instances a lot of the media focus is on the Riverland and Lower Lakes, but quite often those people below Lock 1 and down to Lake Alexandrina have been forgotten. So, it was very valuable. The Hon. Mr Kandelaars has actually used some illustrations in his speech of the evidence we gained from people in that particular area.

The report is a very good report. It was unanimously supported by the nine members of the committee and was one that reflects a lot of the issues I have come across in my time as a member of parliament, particularly the first 12 years that I was here, when I was the responsible Liberal MLC for the Riverland seat of Chaffey. I worked that area very hard in the absence of a

Liberal member over that time, and I am delighted to see that it is now well represented by Mr Tim Whetstone MP.

In that 12 years, I came to know very closely many of the issues reflected in this report, and those issues relate to the amount of work South Australian food producers and irrigators have done to smarten up their act—work that has been done by the communities, irrigators and state and federal governments has contributed to that. The way in which irrigation practices differ now in South Australia from what they did when I spent many months on a small Riverland fruit block with my uncle is vast. South Australia, unfortunately, does not get enough credit for that work. When you go upstream you will see that a lot of those practices I am talking about back in the 1960s are still happening. You actually do not have to go all that far from the South Australian border—if you go not too far south of Mildura you will see open concrete drains with great big cracks in them.

Also the report reflects the fact that our irrigators and food producers in the Murray-Darling Basin in South Australia are looking for certainty and recognition that they are a food bowl, whether it be produce, beef cattle, milk or wool. A whole range of agricultural produce comes from those areas on top of, of course, the enormous wine industry in that region. The people who produce those products and those who are associated with them seek certainty. Their communities also have suffered very much from the uncertainty over many years of irrigation restrictions and threats from ill-informed people about what the future of irrigation should be. There are still some very negative impressions given to people who live in metropolitan areas about irrigation practice. As I said, with almost no exceptions, South Australia is way ahead of the pack on that.

Another issue that I think is reflected to some extent in our report and certainly was one that was brought to our attention when we visited the Mid Murray, was the mental health impacts in communities that have resulted from the issues with the river, with the drought and certainly with water restrictions. There is no doubt, from the work that I have done in the suicide prevention area, that this uncertainty, this pressure that is put on people, impacts on many long-term irrigators—second, third, even fourth generation—so they have felt that they cannot keep up their property or their farm; they have had to give it up.

Those sorts of impacts weigh heavily on people's mental health. While I am pleased to see that a Riverland chapter of CORES (Community Response to Eliminating Suicide) is being set up and raising money in its own area as we speak, it is unfortunate that that has been necessary. That is another issue that I think we need to remember when we deal with the communities that are impacted throughout the Murray-Darling Basin.

I will just make some brief comments about the recommendations that the committee has made. I will not go into the full detail. I do urge members and others to access the full report and take that in, but certainly we have recommended:

- that minister Caica lobby the Murray-Darling Basin Authority to ensure that the basin plan includes salinity targets for Lake Alexandrina and Lake Albert of less than 1,000 EC and 1,500 EC respectively, for 95 per cent of the time, measured as a rolling average over a 10-year period;
- water height targets for below Lock 1, with the height of Lake Alexandrina that remain above 0.5 metres AHD for 95 per cent of the time, measured as a rolling average over a 10-year period;
- targets that never allow water height downstream of Lock 1 to fall below mean sea level;
- targets that will see the Murray Mouth open with river flows for 100 per cent of the time;
- stronger requirements for monitoring and evaluation, including in relation to salinity and water height below Lock 1; and
- a chapter describing the adaptive management framework that will be adopted.

Regarding preliminary terms for the 2015 review, the committee strongly supports the requirement for additional hydrological modelling to be undertaken that assesses the impact of removing selected operational constraints combined with water recovery on the ability for basin plan targets to be met.

In addition to these proposed changes to the basin plan, the committee recommends that the minister should also lobby his colleagues in the Australian government to undertake an independent basin-wide audit of the cost of further water savings from infrastructure investments

(or improvements) and identify the extent to which these savings can make up the gap between the volume of water recovered to date and that still required; and review the moratorium preventing irrigation on land on which a Murray-Darling Small Block Irrigators Exit Grant Package has been received, with the aim of determining how best to avoid the creation of stranded assets and maintaining the viability of the irrigation system as a whole.

The review should be conducted with input from the Central Irrigation Trust, the Renmark Irrigation Trust and the many and varied private irrigation trusts seeking to preserve the original intent of the exit grant package. This review should also include consideration of best practice design of future similar policies.

I should add that I think that it is important that all those irrigation trusts are consulted in relation to how that is dealt with. Only last week, for the first time, I discovered a new private trust (to me) around Lock 4, where there are only four irrigators involved in that trust. We need to recognise that not only is there the Central Irrigation Trust with probably 10 or 11 incorporated smaller trusts underneath it but then you get a tiny one at Lock 4, so we need to take all of them into account. The committee is also of the view that the compliance options allowed for under the basin plan and the Water Act 2007 require further investigation.

The committee also believes that by the time of the 2015 progress review, the MDBA must ensure a comprehensive water quality and river height monitoring program is in place in the Lower Lakes and that a report on key indicators is completed by the time the review commences; that the authority must demonstrate progress in quantifying water requirements for cultural flows and to maintain Indigenous values; the MDBA must demonstrate it is facilitating this across the basin states. This is considered to be of great importance by the committee and there is a clear gap in the development of the basin plan to date.

The committee also believes that the MDBA must continue to monitor both post-drought recovery, drawing on economic, social and environmental indicators and conduct a structural adjustment assessment to ensure there is security and continuity for those who continue to farm. This will include, first, investigation of critical thresholds for maintaining the viability of irrigation districts and trusts across the state, such as the Central Irrigation Trust, the Renmark Irrigation Trust and private irrigation trusts; and, secondly, the assessment of drought recovery requirements such as the investment needed for lasering floodplains in the Lower Murray swamps and repairing cracked levee banks.

Once again, I commend the report to members of parliament. It is a pity that we have to move it and vote on it in one day but the committee has no say in that. We have to have it through the parliament today because submissions need to be in by 16 April. I would like to thank all those people who gave evidence to the committee, whether it was here in Parliament House or on location. In most cases, people gave up their time during their normal period of employment or occupation to come in to give their wisdom and experience of their own local area to the committee, and that was very valuable.

I would also like to thank all the other members of the committee. As I said before, when I was first told that I was going to be on a committee of nine people with an unreasonable, I think, imbalance between the two houses—the fact that there are only three of us from the Legislative Council and six from the House of Assembly—I wondered how it would work. However, I have to say that the committee has worked very well together.

The Hon. R.L. Brokenshire: Multipartisan.

The Hon. J.S.L. DAWKINS: A multipartisan committee, as the Hon. Mr Brokenshire says—and, in most instances, we have had most of the group involved in our visits, and I think that is a great achievement.

I also pay tribute to the chairmanship of the Hon. Steph Key. It is no accident that she works very hard making sure that all of the disparate backgrounds and views of that multipartisan group are heard. She runs a very good committee, and she is also very fair to witnesses, whatever the views of those witnesses may be.

I also pay tribute to the staff of the committee. The Hon. Mr Kandelaars has referred to the work they do for us, but I particularly make mention of Dr Mark Siebentritt, who has come on board with us over the last three months or so. His passion for the whole issue of the Murray-Darling was evident to me the first time I met him. He has provided very valuable input to the committee, and his report writing and preparation have been exemplary. I commend the report to the council.

The Hon. R.L. BROKENSHIRE (16:32): I also rise to support the 64th report of the Natural Resources Committee. I was pleased to be a member of the Natural Resources Committee involved in the deliberations regarding this report. I put on the record also my appreciation in relation to the staff and my committee colleagues. This was quite a demanding exercise. On one occasion, I think that we had a meeting every other day in one month, and it was not possible to have everyone there for every one of those meetings.

But given that it is such a large committee, there were always a significant number of members present and, on the majority of occasions, most of us were present. That was partly because of the passion for the River Murray and our knowing that it was important that we did get a report together as soon as possible. This took up a lot of our time, and it meant that we had a backlog in our other electorate and parliamentary duties.

It also meant that there were resourcing issues for the committee in relation to this. These are things we have to deal with, but I think it is important for all of those involved in looking at the resources for committees to know that, when there are special requirements for committees, it cannot be done without there being some additional input needed, both in financial resources and the hours members put in.

I also put on the public record my appreciation for all of those people who put in both written and oral submissions. There was a lot of passion, intelligence and experience with respect to the people who put in those submissions. I will not be speaking for too long on this motion, because other members need to speak. I think we will end up covering this motion in an integrated way between all the members speaking here today.

First of all I want to say that, whilst I support completely the recommendations of the committee in this report—and I trust that it will pretty much dovetail in with what the government will be putting to the Murray-Darling Basin Authority, and from what I can see and understand that is the way it will be—I think it is very important that the government and the parliament both see the issues for South Australia around the health, wellbeing and longevity of the Murray-Darling Basin system as being common issues—and I think it is fair to say that that is what we are talking about here today—so that we can have one strong voice for South Australia in putting a representation to the Murray-Darling Basin Authority.

Having said that, I think it is disappointing that this is the second draft plan that has been put forward. The first plan obviously had some enormous problems with it, not the least of which was the horrendous economic impact it would have had on our South Australian irrigators. But what we now have, I believe, is a plan that has had a lot of political influence from Canberra and, to an extent, from Eastern State governments and members of parliament.

The Wentworth Group of Concerned Scientists said way back that, for a healthy river system, we might need up to 5,000 gigalitres of water, then there were debates around 4,000 gigalitres. We note, by the way, that the Wentworth Group of Concerned Scientists withdrew their support from the commonwealth government because they were not happy with the work being done on sustainable flows for the environment. The parameters of this whole plan were—and I hope still will be—to see water flowing naturally out of the Murray Mouth 90 per cent of the time.

The second Murray-Darling Basin plan did address some of the issues with regard to irrigators, and that was important. It is interesting that the committee finished its report just a day or two before the Goyder report came out, and both our report and the Goyder report have highlighted serious concerns about the 2,750 gigalitres. I have to put on the public record that there is no evidence that I felt comfortable with which said that 2,750 gigalitres of environmental savings and flows for sustainable diversion limits is anywhere near enough. That was raised again only yesterday with respect to the final examination of submissions that was undertaken by the Murray-Darling Basin Authority here in Adelaide.

It will be a real dilemma if we discover that 2,750 gigalitres does not provide sufficient water to meet the criteria required for a healthy river system. I think the Murray-Darling Basin Authority, the Eastern States' governments and the commonwealth government need to have a look at what is common sense. A friend of mine from America told me that it is taken as a given with any legislation and management of the river systems over there that the mouth of the river system has to be healthy. If the mouth of the river system is not healthy then sooner or later, unfortunately, you are going to see a very unhealthy river.

Even with this draft plan, we seem to still be focused on the politics. I hope we are wrong but, from all the scientific evidence given, it appears that 2,750 gigalitres will not ensure a healthy

mouth of the Murray-Darling Basin system at Goolwa, and if that does not occur then we have all failed. The politics started to come into it when prime minister Howard first realised that there was a serious issue and something had to be done. Unfortunately, at that time the then premier of Victoria, Steve Bracks, decided to play politics for the then federal opposition and we did not get a sign-off. We then had a situation under prime minister Kevin Rudd where every state in Australia was a Labor state and we still did not get a plan or legislation that would ensure the sustainability of the river.

I acknowledge that we do need a plan, and this is a start. However, I would desperately call on the Murray-Darling Basin Authority to consider most rigorously the recommendations in this report. Whilst I acknowledge that there needs to be a plan and a starting point, that plan should not be so far out of kilter that it does not meet the objectives of the Water Act 2007—and in our report we noted:

> The Committee believes that in its current form, the Basin Plan does not meet the objectives of the Water Act 2007 and does not meet the social, economic, cultural and environmental needs of South Australia and South Australians. Significant amendments are needed and key pieces of additional work are still required.

Of course, we did not know what other members of parliament were going to say when the committee approved this, but it is interesting that in just the last few days we have seen Sarah Hanson-Young, Nick Xenophon, our own government through our Premier Jay Weatherill and a range of other politicians coming out and asking whether we have enough environmental flow and whether or not this plan is actually legal with respect to the objectives of the Water Act 2007.

I have a couple of finishing points that I think are very important. One of the things we noted when Dr Rhondda Dickson, the CEO of the Murray-Darling Basin Authority, gave evidence was that she said that when it came to the Lower Lakes they were actually assessing that as a whole; that is, Lake Albert and Lake Alexandrina were being measured and treated as a whole.

The Hon. G.A. Kandelaars: And the Coorong.

The Hon. R.L. BROKENSHIRE: And the Coorong. I just shook my head. There is no way known that you can assess Lake Albert, Lake Alexandrina and the Coorong as one. They are separate parts. The way nature has constructed the system is that yes, they are integrated, but they are separate. There are some real issues there. Even with all the blessed water that we have had come through in the last two years, at the moment Lake Albert is still at 5,000 EC units—yet they are not even measuring that. At the same time they are not measuring it, there is the work on looking at proper drainage of all the silt from the bund at the Narrows.

It looks nice when you go down there and see the bund removed, but if you look closely you do not have to go far under the water to see what is, I suggest, tens of thousands of tons, or more, of silt that has to be urgently removed. Then there is the debate and the science on the pipe system from the other end of Lake Albert into the northern end of the Coorong. That work needs to be sped right up, because we have a chance of making some enormous environmental differences right at the moment.

I want to finish with some points on agriculture and tourism. There is no doubt that along the whole South Australian river system we have had a lot of money spent by individual growers and farmers and from state and commonwealth governments, over the last 20 years in particular. We have not been able to get any acknowledgement from anyone in the commonwealth or the Murray-Darling Basin Authority that we should be given some offsets or compensation for that.

We also still have a cloud hanging over the head of high security irrigators. Yes, they have 100 per cent water allocation for the next 12 months, but there is still concern over whether or not they will be able to have sustainable, high security ,100 per cent allocations most years.

The tourism and agricultural benefits for the whole River Murray, through South Australia and indeed right through the Murray-Darling Basin system, are enormous, and rely on a sustainable, healthy, environmental river system. That is the challenge facing the commonwealth and the Murray-Darling Basin Authority, and I encourage them to have a close look at this report.

There is a long way to go yet but, as I said before, we do at least have a starting point. If there are some sensible amendments that focus on sustainable agricultural water availability and clearly sustainable and healthy river systems in the Murray-Darling Basin, proper environmental flows coming right through to Goolwa and the mouth of the River Murray—if those things can be corrected and if strong leadership can show in the next few months, then I believe we will achieve what we all desire.

This is a time for strong leadership, not for playing politics and copping out. I support and commend the report, but I appeal to those who are now going to take over decision-making to look at it in the long-term interests of the river and future generations not only of South Australians but of all Australians.

The Hon. M. PARNELL (16:44): The Murray-Darling Basin Plan represents a crucial opportunity to reform the basin in a manner that guarantees a healthy and productive river. To be effective the plan should detail a vision for sustainable communities and irrigation as well as sufficient protection for a delicate environment that incorporates over 30,000 wetlands and is home to more than half of Australia's native fish species. It is becoming increasingly likely, however, that the Murray-Darling Basin Plan will fail not only the river but also those people and communities that depend on it for their livelihood.

The Greens share the concerns and wishes of all South Australians in that we want a healthy and productive river. Yet the best available peer-reviewed science that would assure such an outcome and protect our environmental assets is being undermined by a government and an authority that appears determined to instead emphasise politics over evidence.

The Greens recognise—as does the South Australian community—that, as a state at the end of the line, South Australia has the most to lose from an inadequate plan. As the Natural Resources Committee report outlines, neither our environment, our economy nor our communities have fully recovered yet from the previous drought.

The future of South Australia is closely linked to the health of the River Murray and, without substantial revision, the proposed basin plan simply cannot revitalise the river system or protect its long-term viability. The future of the Murray-Darling Basin has been a top priority for the Greens and an issue that all South Australian Greens MPs have been assiduously working on.

Members might recall that last year I organised a briefing for all South Australian state and federal members of parliament. Members attending the briefing heard from Tim Stubbs of the Wentworth Group of Concerned Scientists and Professor Chris Miller. Both speakers emphasised the enormous opportunity the plan offers to reform the Murray-Darling Basin and tackle both environmental concerns and the future sustainability of the irrigation industry. Such sentiments were also included in the Greens' motion on the Murray-Darling Basin Plan late last year.

Yesterday, the Murray-Darling Basin Authority public consultation meeting was held in Adelaide, and I am pleased to say that all four South Australian Greens MPs were there. My colleague the Hon. Tammy Franks and Senators Hanson-Young and Wright were there with other members of parliament.

I want to reflect briefly on some of the comments made by the Murray-Darling Basin Authority Chairperson, Craig Knowles, when he effectively said that any plan is better than no plan. I think that is an incredibly inappropriate approach to take. We have at least $9 billion of taxpayers' funds at stake, and the Greens believe that it is absolutely crucial that we get it right. As the nation's leading scientists have repeatedly emphasised, this plan has to be dramatically changed if we are going to deliver a healthy river for all Australians.

Remarkably, no Murray-Darling Basin Authority representative was able to provide an explanation yesterday as to why a draft plan returning 4,000 gigalitres of water had not been modelled. We know from what the Wentworth Group of Concerned Scientists told us that close to 4,000 gigalitres is the minimum amount of water necessary to ensure the long-term health of the Murray-Darling Basin. A range between the high 3,000s and the low 4,000s of gigalitres has been repeatedly emphasised by Australia's eminent scientific groups. I understand that this is consistent with the work of our own Goyder Institute for Water Research. Anything less than this range will not be sufficient to protect the long-term sustainability of the communities along the river, nor will it be sufficient to secure a future for irrigation or to keep the Murray Mouth open.

The 2,750 gigalitres of water proposed in the draft basin plan is not based on the best available peer-reviewed science. It delivers few ecological benefits, with many flood plains along the river set to receive only small amounts of water or no additional water at all. It is an amount of water that risks further degradation from salinity and declining vegetation and threatens the loss of species of plants and animals. The lower reaches of the Murray in particular would remain at risk of low water levels and high salinity. Importantly, 2,750 gigalitres of water is not nearly enough to ensure that South Australia can withstand future droughts and dry periods.

While the Natural Resources Committee report outlines some admirable principles and recommendations, the stated water recovery scenario of 3,200 gigalitres is still inadequate. I note that the formal South Australian government submission is yet to be finalised and that the House of Assembly is debating that matter at present. If the Murray-Darling Basin is to be a healthy productive system for ourselves and for future generations, the plan must be based on and informed by the best available scientific evidence.

It is also important to note that the legality of the draft basin plan has been brought into question by a number of groups, including most recently by the Victorian Environmental Defenders Office. I point out for the record that I was an employee of the South Australian branch, if you like, of the Environmental Defenders Office and a life member of that organisation. The claims that have been made are that the current basin plan is inconsistent with the objectives of the Water Act of 2007. What that means is that we have a draft plan that may be illegal, and if it is legal it will still do little to protect South Australia's environmental assets. With billions of dollars of taxpayers' money at stake, we simply cannot be guided by a plan that appears to be doomed to fail on multiple grounds.

In conclusion, the Murray-Darling Basin plan is an enormous opportunity to finally get this right. If the plan is not informed by the scientific evidence we will inevitably have to return and repeat this process all over again, at great financial and environmental cost, once rainfall decreases or drought returns across the basin.

The Hon. J.A. DARLEY (16:51): I rise to support the report of the Natural Resources Committee on water resource management in the Murray-Darling Basin. I recently visited irrigators in the Riverland. This visit further reinforced my view that it is vitally important to have and maintain a healthy river system. The Murray-Darling Basin Authority's plan provides us with an opportunity to correct previous mistakes such as over-allocation and it is important that we get it right for future generations.

During my visit, I met with a number of irrigators and it was highlighted to me that South Australia has been exercising world's best practice with irrigation and water licensing. There are a number of measures which set South Australian irrigators head and shoulders above their interstate counterparts. My contribution will be predominantly outlining these practices, as I believe it is important that they are acknowledged and put on the public record.

First of all, South Australian irrigators are all metered, whereas not all interstate irrigators are. South Australian irrigators can only use what they have been allocated, whereas there is no assurance that interstate irrigators are using their allocated amount in cases where there is no meter. I am not suggesting that people are stealing water, however it is easy to imagine situations where more water may be inadvertently taken because it is not metered.

South Australia's water delivery systems are far superior when compared to the rest of the nation. Almost all South Australian irrigators have pipes, whereas many irrigators in other states have open channels, exposing them to evaporation and leakage issues.

In 1979, given the total national allocation, South Australia soon recognised the need to cap licences in order to ensure a healthy river system and to ensure the resource was not exhausted. No other state has sought to cap the number of licences they issue. Over time, New South Wales and Victoria have over-allocated their licences, and in more recent times, when South Australian irrigators were losing their crops due to the drought, Queensland continued to issue water licences, and continues to do so now.

South Australian irrigators are using world-leading technology for irrigation crop management. Using a system that was developed in the Loxton Research Centre, irrigators are able to accurately measure the amount of water required to irrigate their crops. This minimises wastage and therefore the drain on the Murray. In one example, a property went from using about 130 megalitres a year to only 50 megalitres a year as a result of using this irrigation crop management system.

These measures were all undertaken with both the needs of irrigators in mind as well as the needs of a healthy river system. It is not a matter that irrigators are being greedy and wanting more water than other states, or to the detriment of the environment, it is about having enough water to economically sustain those who have invested their lives in the area. It is important for the Murray-Darling Basin Authority to recognise and acknowledge South Australia's exemplary history with regard to water management. I hope that with the continued lobbying of the federal government a fairer outcome for South Australia will result.

The Hon. G.A. KANDELAARS (16:55): I thank the Hons John Dawkins, Robert Brokenshire, Mark Parnell and John Darley for their valuable contributions. With the Murray Darling Basin Plan, as members have been told, it is critical for this house to pass this resolution in that this will become the South Australian parliament's submission to the Murray-Darling Basin Authority. With that I commend the resolution to the house.

Motion carried.

DISABILITY SERVICES (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.L. VINCENT (16:56): obtained leave and introduced a bill for an act to amend the Disability Services Act 1993. Read a first time.

The Hon. K.L. VINCENT (16:56): I move:

That this bill be now read a second time.

Before I officially begin, I note that we have Mr John Gardner, the shadow minister for disability, with us in this chamber and I thank him for attending. Ever since I came into this parliament I have been talking about the need to move toward a consumer-driven, entitlement-based system within disability services in this state. This includes talking about the need for reform to the South Australian Disability Services Act, which moved the act away from its current 'the provider knows best' model toward one that empowers consumers and protects them by introducing genuine enforceable standards which consumers can expect when accessing disability support services, such as in-home support workers as one example.

Indeed, calling for the government to amend the South Australian Disability Services Act to enable this was one of the very first planned models the Dignity for Disability Party announced via a press conference in the weeks following my coming into this place. This is, of course, something the disability community has been calling for for many years, especially during the consultation period for the recent Strong Voices report. I am pleased to see that Monsignor David Cappo, who was at that time social inclusion commissioner and what was his social inclusion unit, have in that report recommended all the measures covered in my amendment bill, and I will touch on exactly what are those measures very shortly.

Before then, however, I inform members of a little of the history of this bill. Truth be told, I had originally had this bill drafted in mid-2011, at which point the disability community's future had been in hiatus for almost two years, hinging upon the results of this report, that is, the Strong Voices report. Around that time we also saw Monsignor David Cappo publicly announce that the original deadline for the tabling of the report would have to be set forward by a few months. This was understandably met with much anger and frustration by many in the community who had, in some cases literally, marked the original release date in their diaries as the day they would finally be able to at least start planning for their futures, and in some cases even make decisions as to whether they would pack up and leave the state or even the country, such was the power and the import of this report.

Yet, the original release date came and went and the report was eventually tabled in the government's own good time. Do not get me wrong here, Mr President, apart from this outrageous delay, I have very little issue with the report itself. As I said, the content of this very bill mimics recommendations in that report, but as I also said, it was drafted a short time before the report was released. Through meetings with Monsignor David Cappo and representatives of the social inclusion unit, as well as conversations with consumers, service providers and, of course, attending consultation sessions myself, I had begun to get a very clear picture of what was expected by those people to be in the report in terms of legislative change.

Well, Mr President, months after the release of the report and months after minister Hunter was appointed to the disability portfolio, we are yet to see even a draft of this new legislation on the government's part. I am going to be as fair as I can. Granted, a few months is not a very long time, but when we consider that these months come on top of the two-year research and consultation period undertaken by the social inclusion unit and then the four-month delay in finalising the report, not to mention the UN Convention on the Rights of Persons with Disability to which Australia has been a signatory since 2008, the National Disability Strategy Consultation Report of 2009 (also known as the Shut Out report) into the experience of people living with a disability in Australia, as well as every other piece of investigation that has been done into the sector, these months start to look like a very long time indeed.

Even knowing this, I was willing to be patient. I was willing to give minister Hunter a chance, and I must say, in many respects, I have not been disappointed. The minister does show great willingness to learn about the sector that he now represents. He seems to demonstrate genuine empathy for that sector too, but what the minister so far has failed to demonstrate is genuine understanding of the gravity of the need for this new disability services act to be drafted—and drafted now. I knew this when he stood up in this very chamber just a few short weeks ago and informed us that he intended to undertake yet another round of consultation before drafting his new act. I knew something needed to be done, so here we have my bill.

Do not misunderstand me; I am, of course, like most members in this place—if not all—a great believer in the necessity for consultation with relevant communities and professionals when drafting legislation. These are, after all, the people whom the proposed legislation is intended to serve. However, I am a believer in responsible consultation and I do not believe that asking the disability community, a sector which has been waiting to have its rights appropriately upheld on a legislative level for years already, to wait even longer is at all responsible.

Certainly, I may be of a different opinion if the Strong Voices report was, say, two, five or even 10 years old, but as we all know, this report was finalised just last year. It is in line with vast community opinion. It is a solid blueprint for that infamous human rights based disability services framework we keep bantering on about in this place. It is a step forward in making that framework real and, more than anything, this report is a mandate for us as a parliament to take action toward making that framework real and doing it now.

To further ratify this need, I would like to read a short passage from the Shut Out report which I mentioned earlier:

> Persons with disability are subject to multiple and aggravated forms of human rights violations, including the neglect of their most basic survival related needs. These human rights violations do not only occur in far off places that lack enlightened legislation and policies, or the resources needed to meet basic needs. They occur every day, in every region, of every state and territory in Australia. Virtually every Australian with disability encounters human rights violations at some points in their lives, and very many experience it every day of their lives.
>
> In 2009, in one of the most enlightened and wealthiest nations in the world, it is possible for persons with disability to die of starvation in specialist disability services, to have life-sustaining medical treatments denied or withdrawn in health services, to be raped or assaulted without any reasonable prospect of these crimes being detected, investigated or prosecuted by the legal system, and to have their children removed by child protection authorities on the prejudiced assumption that disability simply equates with incompetent parenting.

I think that everyone in this chamber knows that the things I have just listed in that quote are just some of the human rights violations to which people with disabilities can be particularly susceptible. I also think that it is no secret that here, in 2012, when it comes to addressing these issues, nothing much has changed since the Shut Out report was tabled.

My bill proposes three separate yet interrelated matters to help lessen the frequency and severity of such human rights abuses against people with disabilities. The first of these measures is outlined in Part 3 of this bill; namely, the appointment of a disability services commissioner, which is already written into legislation in Western Australia, the ACT and Victoria; with Victoria being the state upon which much of this bill is based.

The commissioner's role is to set and oversee compliance to standards and guidelines for disability services provision. The commissioner may do this by carrying out the prescribed functions as detailed in the bill. I will read them out, because I think they are important to have on the record. They are as follows:

(a) To receive, assess, investigate and resolve complaints relating to disability services.

(b) If appropriate, to conciliate where a complaint has been made in relation to a disability services provider.

(c) To make recommendations for providing disability services and preserving and increasing the rights of people who use those services.

(d) To review and identify the causes of complaints and to recommend ways to remove, resolve or minimise these causes.

(e) To provide information, education and advice in relation to disability service rights and responsibilities and procedures for resolving complaints and other matters, if any, determined to be appropriate by the commissioner.

(f) To encourage and assist disability services users to resolve complaints directly with disability services providers.

(g) To assist disability service providers to develop and improve training and procedures to deal with and resolve their own complaints.

(h) Maintain a record of all complaints received by the commissioner.

(i) To inquire into and report on any matter relating to disability services on the commissioner's own motion or at the request of the minister.

(j) To advise and report to the minister on any matter relating to disability services or the administration or operation of this act.

(k) To provide information, advice and reports to registration authorities and to work with registration authorities to develop or improve procedures relating to the assessment and investigation of complaints and grievances.

(l) To maintain links with disability service providers, organisations that have an interest in the provision of disability services and to consult and cooperate with these agencies and authorities which are involved in protecting the interests and rights of members of the community in the area of the provision of disability services, including the public advocate, the state Ombudsman, the Australian Human Rights Commission, and to perform the functions conferred on the commissioner by or under this or any other act.

As you can see, Mr President, by maintaining working relationships with consumers and the advocacy bodies that I have just mentioned, as well as others, the disability services commissioner would be adequately connected and informed to perform their primary function of making recommendations regarding disability services.

That function, I think, is really the axis of this whole bill. You see, it is all very well and good for this government to stand here in this chamber and talk endlessly about the need for a new human rights based framework for the disability sector—I think we can all agree on that need—but the fact is that without someone whose specific role it is to aid the government in implementing genuine standards which the disability community has a right to expect, and the adequate resources and networks to aid and inform this work, I simply do not see how this can be successfully done.

This brings me to some other proposed functions of the commissioner of which I would like to make specific mention: first, to receive, assess, investigate and resolve complaints relating to disability services; and, if appropriate, to conciliate where a complaint has been made in relation to those services. This function of the proposed commissioner is so vital simply because I know from the sheer volume of correspondence which my office receives from constituents concerned about a disability-related service which they or a loved one is receiving that people are currently confused about where to go to make such a complaint and they are unsure of their rights should they choose to make one. Many report that they are afraid that their services will be cut if they do complain.

I ask you this, Mr President: how can we create a system that is truly based on human rights when those very humans for whom the system was created to serve are afraid to speak up when they are unhappy? How is it that South Australia has got to the point where consumers really seem to believe that they are living under some kind of dictatorship, rather than being assisted by a system that works alongside them and can flex to suit their life? Not only that, how have governments allowed this mentality to reign for so long? I think it is vital to note that I believe that this function of the commissioner is particularly important, given the defunding we have seen in recent times of disability advocacy bodies, as well as the government's lingering silence on whether or not it will appoint a new Health and Community Complaints Commissioner to replace the outgoing one, Leena Sudano.

On that note, it would be remiss of me not to mention that there are measures within this bill to ensure the independence and objectivity of the commissioner in carrying out his or her work. Clause 14 of the bill provides:

1. In performing and exercising his or her functions and powers under the Act, the Commissioner must act independently, impartially and in the public interest.

2. Subject to this Act, the Minister cannot control how the Commissioner is to exercise the Commissioner's statutory functions and powers.

Since it is this very government that has delivered the South Australian disability sector to its current situation of inadequate funding and service delivery to meet people's most basic needs, it is vital that anyone appointed to the roles proposed under this bill has the power to act in such a way that allows them to do more than gain the government's approval. We need people who are not afraid to speak out against governments and to show them the real problems in their own systems.

This is why each of the facets of this bill—the disability services commissioner, the senior practitioner and the community visitors—are all covered by this independence clause.

Another function of the commissioner is particularly relevant here: to assist disability service providers to develop or improve training and procedures to deal with and resolve complaints. With the appropriate education and supports from the commissioner, agencies will be more able to handle complaints directly. Therefore, we are likely to see the commissioner taking on the role of resolving complaints less and less over time, freeing them to take up the more core functions of instating guidelines and standards for disability service delivery.

That being said, even as service providers handle more complaints independently, the commissioner will still be able to act as a safety net, if you like, to assist agencies and consumers in resolving complaints where appropriate. Vitally, this will also assist the commissioner in carrying out their duty to 'review and identify the causes and complaints and to recommend ways to remove, resolve or minimise those causes'.

Of course, under a new disability services system that is truly based on human rights, we cannot simply go about appeasing individuals and addressing individual problems. A human rights-based framework must look at individual issues as being symbolic of greater underlying systematic failures and work to mitigate those failures holistically until every human receiving services under that system has the right to equal access to that system. It is little good solving individual issues if the individuals experiencing them are ultimately only going to be pumped back into the same old broken system, where the same old problems are likely to arise again over time.

By having a commissioner identify the patterns in the system and discover the links between the varied barriers in the sector, we can come up with holistic solutions to those issues, mitigating the effect of those issues on individual consumers, as well as lessening the likelihood of having those issues arise again. Part 6 of the bill further explains the role of the commissioner in this sense by outlining the ground on which a complaint may be made to that commissioner.

These include that a service provider has not provided or has inappropriately discontinued provided services; that a service or part of a service was not necessary or was inappropriate; that a disability service provider failed to act with appropriate skill, failed to respect the privacy and dignity of a client, or otherwise acted in an inappropriate manner; and so on. Part 6 also outlines the grounds on which people are eligible to lodge such a complaint, including outlining the appropriate actions to take in assisting someone to lodge a complaint where they may be a minor, deceased or otherwise unable to lodge it on their own behalf.

Part 6 of the bill also states the time frame in which a complaint regarding a particular service may be received by the commissioner. According to the bill, this would normally be up to six months after the incident being complained about had arisen. However, as members can see, the commissioner does have the power to, at their own discretion, take complaints which fall outside of that time frame should the commissioner see doing so as sufficiently beneficial.

Critically, to aid the commissioner in functioning effectively, the bill also makes it an offence for a disability service provider not to provide the commissioner with information requested as part of an inquiry by the commissioner. This carries a maximum penalty of $10,000. The Disability Services Commissioner would, of course, be obligated to make reports to the minister on their professional findings and recommendations. The bill provides:

> (1) The Commissioner may, at any time, prepare a report to the Minister on any matter arising out of the exercise of the Commissioner's functions under this Act.
>
> (2) Subject to subsection (3), the Minister must, within 2 weeks after receiving such a report under this section, have copies of the report laid before both Houses of Parliament.
>
> (3) If the Minister cannot comply with subsection (2) because Parliament is not sitting, the Minister must deliver copies of the report to the President and the Speaker, and the President and the Speaker must then—
>
> (a) immediately cause the report to be published; and
>
> (b) lay the report before their respective Houses at the earliest opportunity.

The roles of the commissioner proposed under this bill are obviously numerous, and I feel that many of them are relatively self-explicable. I am very happy to discuss them further with individual members if need be, so I will move on now to explaining the other sections of this bill.

Part 4 of this bill states that there should be a senior practitioner for the disability sector, whose role it is to oversee and make guidelines regarding the use of restrictive practices—in this bill named 'restrictive interventions'—on people with disabilities. Broadly speaking, 'restrictive intervention' is a term given to the use of devices, including the use of mechanisms to physically restrain a person, or even the use of medications to chemically restrain them, that is, to use some device to lessen the severity of a person's behaviour or, indeed, to inhibit them from exhibiting such behaviours at all.

Of course, there are occasions on which things which technically could be labelled as restrictive are necessary. A person may require medication to assist them in managing the effects of a psychiatric illness, for example, or someone whose disability means that they have very poor posture and balance might require a special belt or harness for car travel. These devices when used correctly are not necessarily objectionable.

The label 'restrictive practices' applies only, to the best of my knowledge, once the mechanism is used to restrict a person's movement or behaviour in a way that causes harm or distress or violates their rights in some way. To give you some examples of real-life restrictive interventions at work, I have recently been collaborating with a GP who does not wish to be identified. Many of his patients have disabilities; intellectual disabilities in particular. He says that it is not uncommon for his patients with an intellectual disability to be accompanied to appointments by a support worker who requests an increase in the dosage of medication the patient is currently taking, because the patient has begun to exhibit aggressive behaviours.

Of course, aggression and violence need to be addressed, and in some cases of mental illness and so on appropriate medication can be one device for doing so. However, this doctor informed me that on several occasions he has undertaken a physical examination of the patient before agreeing to up the dosage, only to discover that the cause of the behaviour is the frustration the patient feels at not being able to tell their support worker that they are experiencing a lingering toothache or some other simple, physical symptom that could easily be addressed without medication.

This means that, potentially, there are people suffering genuine ill-health who are being doped up to the eyeballs, and suffering all the mental anguish that comes with that, including potential personality changes for example, just because no-one thought to undertake a more complete examination of the patient. I believe this to be a massive human rights violation, and I do not think any members in this chamber would disagree with me—especially when we consider that a holistic examination is something that most of us enjoy the ability to request and expect when paying a visit to our medical practitioner.

To give another example of chemical restraint being used as a form of restrictive intervention, just a few days ago I met with a constituent who has a 42-year-old son with an intellectual disability who lives in a supported residential facility in South Australia. She reported to me and my staff that her son needs help to go to the bathroom and, being non-verbal, the only way he can let support staff know when he needs to go is to bang on the table. His mother says that the staff often do not get him to the bathroom in time, so he wets himself. Like most of us, this man finds this experience very distressing, so he has been known to 'grab the staff' when they get to him. Disturbingly, instead of implementing a strategy which ensures that this man gets to the toilet on time, his mother alleges that the staff have instead chosen to give him Valium—occasionally more than one dose in a single day—to stop him showing such signs of distress.

I have another example, this time of physical restrictive practice. I once spoke on a panel of field experts on disability rights abuse issues. One of my fellow panel members was an interstate expert on the use of restrictive interventions. She told us that she had been to visit a supported residential facility housing people with disabilities in which she saw residents restrained using a type of soft glove with two open ends. The resident would happily stick their hands into them, taking the glove for some kind of toy, only to discover they could not get their hands out again. It was also mentioned that residents with lower than average personal mobility were at times placed in very deep armchairs, which they were unable to get out of independently, and left there.

As I said, there are, of course, times and situations when it is likely that some form of temporary restraint will need to be applied to a person—in instances where the person exhibits sudden or extreme violence, for example. However, I think we can all see from the examples I have just given that restrictive interventions are nothing more than an ill-considered, lazy approach to mitigating behaviours for a short time rather than holistic and longer term approaches focused on

the underlying causes of the behaviour. This obviously results in huge denials of civil liberties and should not, must not be tolerated.

My bill proposes to mitigate this enormous problem with the appointment of a senior practitioner to set and oversee compliance with standards for the use of such restrictive interventions. To give an idea of the role of a senior practitioner, and the kind of person I would consider suitable for the position, I would like to tell you just a little bit about Queensland's current Senior Practitioner Dr Jeffrey Chan. Dr Chan is nationally, and indeed internationally, recognised for his high level of expertise in the areas of forensics and restrictive interventions and people with disabilities.

He began his role as senior practitioner in the state of Victoria in 2006, following an amendment to that state's disability act, on top of its human rights and responsibilities charter. He has apparently been so successful in that particular role that he has since moved to take on the same work in the state of Queensland.

To outline the roles and functions of this practitioner, I would like to read out a brief quote from a communiqué from the South Australian Council on Intellectual Disability (SACID), an organisation which, like the Dignity for Disability Party, has been calling for an amendment to the South Australian Disability Services Act like that which is proposed in this bill for quite some time. In the communiqué, the senior practitioner role is summarised as follows:

> It is commonly accepted that challenging behaviour does not occur in a vacuum, it occurs in the context of relationships, the environment and a complex interplay of biological, sociological and physiological factors. Jeffrey—

That is Dr Chan—

> encourages service providers to look at their own practice and question whether or not they continue to engage in restrictive practices because that is what they have historically always done. There is extensive evidence of both the significant risks to staff and people living with disability when restraint is applied and also the benefit to the lives of people living with disability and those who support them when strategies which support the reduction and elimination of restraint are effectively implemented and governed.
>
> Evidence, research, practice and experience in Victoria have demonstrated the effectiveness of a senior practitioner who has significant legislative powers in the implementation of key strategies targeting: advancing disability support and practice; building partnerships and local capacity; and creating leaders. Ongoing data collection and timely reporting of this information and its meaning back to departments is an essential ingredient to inform the process and make change.

By having a senior practitioner in place to collect the data and recognise the patterns and underlying causes of the inappropriate uses of restrictive interventions can prevent the serious abuse of liberties, injuries and even death that may unfortunately occur and has been known to occur. However, in my opinion, we not only need to look at mitigating restrictive interventions from a human rights perspective but we also need to look at this as being a good thing from a cost-benefit perspective.

Documentation was passed on to my office from Dr Jeffrey Chan's office, entitled Dollars and Sense of Restraint and Seclusion which suggests that restrictive intervention is financially a very costly measure to implement because of staff resources and the time directed towards it. The report states:

> Restraint and seclusion use also contributes to violence in the workplace, increased workforce-related costs, a reduced quality and effectiveness of care, and imposes unquantifiable personal cost on people and workers alike.

In fact, the report shows that a study in the United Kingdom calculated the costs of conflict and containment in 136 adult acute psychiatric units and found that a single episode of manual restraint cost £145 (which is roughly $204.70AUD) because of the staff time and resources dedicated to it. This is why one of the major functions of the senior practitioner interstate is to assist staff in supported resident facilities to implement behaviour support plans for residents who exhibit what might be called challenging behaviours.

As I understand it, these plans help the support staff to implement strategies to lessen the severity of residents' behavioural challenges by identifying what actually causes them, as well as instating more positive alternatives to the punitive measures of restrictive interventions which are likely to only result in exacerbations of the behaviour later.

Having a senior practitioner who can assess the use of restrictive interventions from both a forensic and a human rights perspective to assist disability support agencies to implement these

behaviour support plans for their clients is positive for the long-term health and welfare of these clients.

It would also foster a cultural shift within the support workers, by getting them to truly think about their clients as people whose needs are just as varied and complex as those of any of us here in this chamber. It will encourage workers to take a real person-centred approach to their work and to think about the most effective ways to address the needs and abilities of both their clients and themselves in both the short and longer term.

It is vital that members remain ever mindful of the fact that the bill does not specifically ban or outlaw the use of restrictive practices per se. Part 8, section 75 of the bill states that a disability service provider may indeed make an application to the responsible minister to be allowed to use a practice which could be labelled as restrictive intervention. The minister, in cooperation with the senior practitioner, may approve or decline such an application, and this section of the bill makes clear the information required to do so. The minister also has the power to revoke an approval.

The bill clearly outlines the grounds on which the use of restrictive intervention may be deemed appropriate and consequently approved; namely, and I will read them out as I think they are important to have on the record:

Unless section 86 applies—

that is, the section which deals with the use of restraint in emergency situations—

restraint, seclusion or segregation can only be used—

(a) if the use of restraint or seclusion is necessary—

(i) to prevent the person from causing physical harm to themselves or any other person; or

(ii) to prevent the person from destroying property where to do so could involve the risk of harm to themselves or another person; and

(b) if the use and form of restraint, seclusion or segregation is the option which is the least restrictive of the person as is possible in the circumstances; and

(c) if the use and form of restraint, seclusion or segregation—

(i) is included in the person's behaviour support plan; and

(ii) is in accordance with the person's behaviour support plan; and

(iii) is only applied for the period of time that has been authorised by the Authorised Program Officer; and

(d) if seclusion is to be used—

(i) the person is supplied with bedding and clothing which is appropriate in the circumstances; and

(ii) the person has access to adequate heating or cooling as is appropriate in the circumstances; and

(iii) the person is provided with food and drink at the appropriate times; and

(iv) the person is provided with adequate toilet arrangements; and

(e) if any other requirements imposed by the Senior Practitioner are complied with.

Critically, this bill mandates that the details of each approved measure of restrictive practice must be written into the behaviour support plan of the individual clients or residents for whom they are approved for use, and no other method other than that which is written into the plan will be permissible.

Consequently, part 8, section 74 makes it an offence to use restrictive interventions on a disability service client without express approval to do so from a minister, and this offence carries a maximum penalty of $10,000. Additionally, a disability service provider who applies restraint or seclusion to a client outside of the parameters of sections 80 or 86 of the bill is guilty of a separate offence, this one carrying a maximum penalty of $35,000.

In addition, the senior practitioner would, much like the Disability Services Commissioner, be obligated to table an annual report on their work to the relevant minister, who is, in turn, obligated to table that report to both houses of parliament within six sitting days of receiving it. Like the commissioner, the senior practitioner also has the authority to present reports to the minister at any time, in which case the minister is given a little more time to table such a report.

As I said, I have documentation from the Office of the Senior Practitioner which strongly supports the case for instating the position in South Australia, and I am happy to share that information with members as they require it. For now, however, I will move on to discussing the final proposed function of this bill, that is, the establishment of a community visitors scheme for the disability sector. As members are no doubt aware, there is in fact a community visitors scheme or CVS already in operation in South Australia, which is specifically for people in government-funded accommodation who are in receipt of services under the mental health system. This came to be after an amendment to South Australia's Mental Health Act in recent years.

Briefly speaking, this scheme operates by appointing community visitors who are trained and then given the job of randomly visiting residential facilities housing people with mental illness. While there the visitors can peruse the premises in any way which allows them to make objective detailed judgements on the standard of care and service being delivered. They are given the authority to interview both residents and staff in private—with the consent of these people of course—so that they can get a realistic and holistic idea of the real life experience of the people living and working in these facilities.

The visitors are therefore able to make assessments and reports of any witnessed abuse or neglect, or suspected abuse or neglect, of the residents, and indeed make recommendations to the responsible minister to any changes that could be made to the service delivery to improve the situation for these residents. This is important, I think, for a very obvious reason. The government simply cannot know the real extent of the problems, both on an individual and a more systematic level, which exist within disability-funded group accommodation, and know how to work towards correcting those problems if we do not have regular objective check-ins and reports on the real life status of the quality of service being delivered.

By expanding the CVS out into the broader disability community, where people with disability are in receipt of accommodation services, we can indeed advance the human rights of those people living in these facilities by giving them a platform through which their health and safety is monitored objectively, genuinely and regularly, and they are freely able to lodge a complaint about the service they are receiving within that facility—any complaint which they may have.

By having a team of trained community visitors we will also inherit a growing task force, if you like, of people who are knowledgeable on disability rights and protection issues, as well as knowing how to appropriately report concerns and suggested strategies for change in a way that will adequately inform and empower the relevant minister and departments to instigate appropriate long-term and short-term change.

Now, having explained the general concept and reason for being of the proposed CVS, I would like to move to mentioning just a few of the intricacies of this particular scheme proposed under this bill. Obviously this particular part of the bill only gives community visitors the authority to visit premises at which disability service providers, whether government or NGO, are providing accommodation services to people with disabilities—group homes like those provided at Minda, for example. This scheme would not apply therefore to South Australians living in their own private home.

The community visitors therefore are themselves appointed to the position by the Governor in collaboration with the public advocate. This will ensure both objectivity and appropriate discussion (that is, not just one person choosing based on their own opinion) around who is appointed to become a community visitor. Under clause 37 of the bill, community visitors are represented, supervised and trained by the community visitors board, which consists of the Public Advocate and two community visitors. This board may also refer a matter reported by a community visitor to whichever of the following organisations the board deems appropriate to deal with the matter. They are: the minister, the commissioner, the senior practitioner or the Ombudsman.

Each community visitor is appointed for an original term of three years. However, they are indeed eligible for re-appointment following this, providing, of course, that they wish to carry on in this position and there is no other reason that could result in their dismissal. This is important because again, it gives the opportunity for objectivity and fresh thinking if new visitors are appointed often, and yet it does not force the scheme to lose people who do make a valuable contribution to it just because their three years is up.

This is again important for getting that task force of disability awareness which I was touching on just before. Under this bill, community visitors are entitled to reimbursements for fees,

travel costs and any other cost incurred as part of their duties, as deemed appropriate by the Governor. However, this bill does not specifically entitle visitors to a salary. Additionally, of great importance is the fact that there are quite stringent rules in this bill which outline who is eligible to be a community visitor.

Whilst holding office, a visitor is excluded completely from work in the Public Service. A person may not be appointed as a community visitor if they currently hold any appointment or employment within the department, meaning whichever administrative department it is eventually decided should be responsible for this bill should it pass into law. Nor can a person gain this position if they have any financial interest in any contract to which that department is party. Of course, this bill encourages the Governor to ensure to the fullest extent possible that both genders are equally represented in this position.

Under this bill, each community visitor has the power to visit the residential facilities to which this group applies and make assessments as to the standard of the premises themselves, as well as making judgement on whether or not the residents are getting enough information to enable them to make informed choices about their accommodation and the services they receive therein.

Where and how we live are choices many of us take for granted, and I think it is high time to afford people with disability this same luxury. The visitors also assess the level of inclusion and interaction with the community offered to these residents. Of course, the level of inclusion that a person has with their community should ultimately be up to them as individuals, but we need this monitoring to ensure that people living in supported residential facilities are at least being offered enough choices.

Community visitors also have the power, and indeed the mandate, to make reports on any incidences of abuse and neglect that they witness whilst on official visits to premises. A visitor is obligated to report any complaint about aspects of residential service made to them by a resident, a guardian, a medical agent, relative, carer or friend of a resident, or any other person providing support to that resident. Community visitors must act as advocates for the rights of residents living in the premises in which they carry out official visits.

They must do this by promoting proper resolution of issues raised and they must refer matters of concern relating to the organisation or delivery of disability services in South Australia to the public advocate, the senior practitioner, the commissioner, or any other appropriate person or body. In order to carry out this duty, under this bill visitors are afforded the authority to visit premises to which this bill applies without prior notice, at any time that they as an official community visitor think fit. This is vital if the government is going to see, finally, the true nature of its own facilities.

The minister may also instruct the visitors to carry out visits at times that the minister deems appropriate and, whilst a visitor is carrying out an official visit, this bill mandates that the disability service provider and any member of the staff or management of that residential service must provide the community visitor with such reasonable assistance as the community visitor requires to perform their duty effectively and give full and true answers, to the best of that person's knowledge, to any questions asked by a visitor in the performance or exercise of that power. Failing to do so would be an offence carrying a maximum penalty of $5,000.

As I said before, a community visitor would have the power to conduct interviews with anyone wishing to speak with them in their official capacity regarding any complaint. A resident or a guardian—again, a medical agent, relative, carer or friend of a resident or any person providing support to that person—may make a request to see a community visitor and, where that request is not made directly to the visitor themself but, instead, to a manager of or a person in a position of authority at premises to which this part applies, that person must advise the community visitor of that request within two days of receipt of that request.

Of course, after making visits and collecting the relevant information, community visitors are obligated to make reports about their findings. Under clause 36 of this bill, a community visitor must, at least twice a year, submit a report to the community visitors board on all visits made since the last report. Additionally, a community visitor may, at any time, submit a report to the community visitors board containing any recommendations that the visitor considers should be considered by the board.

In closing, I think it is obvious how each of the proposed functions of this bill, while independent from each other, are each important pieces of the picture, parts of a new rights-based system by which consumers are given a voice, not silenced by red tape and a lack of support to

have their voices heard. I believe that each of the functions of this bill are equally vital and must be instated to ensure a better, realistic and equitable future for South Australians with disability and for their support networks. After all, we cannot solve the current problems with the same thinking that created them.

I know that the government is planning to introduce its own disability services amendment bill to bring the act in line with the Strong Voices report eventually. I have already outlined in no uncertain terms why the Dignity for Disability Party believes that this cannot wait. If we wait for a convenient time to reform disability services in South Australia in a way that is line with both other states and the mindset behind the National Disability Insurance Scheme, it is likely that we will be waiting a long time. I believe the government can have no reason to reject this bill other than its desire to do one of its own and get those brownie points.

The government can accuse me of stealing its thunder, the government can accuse me of grandstanding but none of that matters. I believe, Dignity for Disability believes and the disability community at large knows that it is time to stand up and make a real change for the good of South Australia for its future. We have had the consultations, we have had the forums, we have had the reports and the blueprints. We have made the in-theory commitments and now, more than ever, it is time to make it real. I commend the bill to the house.

Debate adjourned on motion of Hon. G.A. Kandelaars.

FOOD (LABELLING OF FREE-RANGE EGGS) AMENDMENT BILL

The Hon. T.A. FRANKS (17:50): Obtained leave and introduced a bill for an act to amend the Food Act 2001. Read a first time.

The Hon. T.A. FRANKS (17:50): I move:

That this bill be now read a second time.

This bill will insert a new section into the Food Act to prevent the sale, promotion, advertising, packaging or labelling of free-range eggs, unless the eggs are produced in accordance with the following requirements: (a) the number of birds kept or housed per hectare must not exceed 1,500, and (b) any other requirements prescribed by the regulations.

I advise members that this bill is identical to that introduced by the Liberal member for Finniss, Michael Pengilly MP, in the lower house. Part of the catalyst for this bill is the recent announcement of the ACCC's prosecution of an egg producer here in South Australia, which the ACCC alleges has been misleadingly selling eggs which have come from caged hens but are packaged as free range.

Currently, there is no legal definition of what constitutes 'free range' and what standards should apply to birds raised under free-range conditions. Consumers can, of course, be confused by the plethora of alternative egg labelling systems, which include free range, cage, barn laid, environmental, eco, farm fresh, vegetarian or organic, all with little or no clarity about what these terms actually mean for that consumer. There is no doubt that Australian consumers have upped the ante when it comes to ethical consumerism, fair trade and animal welfare standards as they pertain to livestock, and the tremendous outpouring of community angst over the live export trade is just one example of that.

According to statistics provided by the Hon. John Kaye MLC in the New South Wales parliament, the volume of the free-range egg trade has expanded significantly. From occupying a market niche at farmers markets and health food stores a dozen or so years ago, free-range eggs are now displacing caged eggs on the shelves of the biggest supermarkets as well as the smallest. In 2009 to 2010, they reached 27 per cent of the market volume and 37 per cent of the market value. Other sources confirm that the free-range industry itself has massively increased across Australia by 64 per cent in recent years. That is big business no matter how you look at it. Where there is money to be made, there are often unscrupulous people looking to take advantage and to exploit others.

Sadly, we have seen cases of egg substitution occur, including the recent announcement of a high profile prosecution currently underway by the ACCC against a larger producer who, it is alleged, has sold to over 115 clients eggs deceptively labelled as free range when they were not. That case is before the courts, and I will not talk further of it. But suffice to note, these actions undermine consumer confidence and harm our state's reputation and, by association, cast a pall over genuine primary producers who do the right thing.

Scandalous rip-offs have characterised the industry in New South Wales in recent years as well, and it does not take too much imagination to understand why when all a shonky producer has to do is change the packaging to say 'free range' and they can charge a premium on their product, from 30 per cent to even 100 per cent or more. In terms of the temptation to make a profit, you can see why some producers would do this. Whilst this is deceptive and, I believe, clearly fraudulent in some cases, with no legislative definition of what constitutes free range, the parliament is unfortunately and unwittingly facilitating this behaviour.

Whilst the impact on consumers is certainly a major concern for the Greens, there is also a significant impact on small businesses and small farmers. Genuine free-range producers who put the welfare of the animals first and foremost just can't compete with the intensive industrialised operations that seek to house 20,000 birds per hectare and yet still claim to be free range.

Whilst my colleague the member for Finniss has pointed out that he has no problem with operations doing that provided they do not try to pretend to be free range, I would flag that the Greens do have ongoing concerns about the welfare of these birds under such conditions. I advise members that we will not be exploring that with this bill, but we may revisit that in the future in terms of the welfare standards for those animals in those industrialised factory farms. I would also note that the Greens have led the way across Australia on this issue and we are still the only party in this parliament with the animal welfare portfolio. I hope that that will change in the near future.

This bill I am introducing today, however, is identical to that introduced by the member for Finniss. I note—and I am sure that he would acknowledge—that our bills are underpinned by the excellent work done by my interstate colleagues, the Hon. John Kaye in New South Wales and the Hon. Caroline Le Couteur and her colleagues from the ACT Greens in their local assembly. It also follows on the heels of concerns previously expressed in this place by the Hon. Ian Hunter and other members. I acknowledge those contributions, and the member for Finniss and I look forward to the support across parties on this issue.

We have consulted with some of the leading experts in Australia on animal welfare that pertains to farm animals including: Lee McCosker who runs Humane Choice, a free-range egg accreditation program on behalf of the Humane Society International; as well as the local producer Mr Tom Fryar of Kangaroo Island Free Range Eggs, which of course is in the electorate of Finniss. Mr Fryar informs us that, of the 16 free-range egg producers that he is in contact with in this state, three-quarters or more of them are in strong support of this bill to define and limit stocking densities.

These often small scale family farms are still sizeable operations. Mr Fryar, for instance, employs 18 or so people and runs over 50,000 birds, but he does it in a way that guarantees high standards of animal welfare. What is more, he does it in a way that allows him to produce eggs humanely, in accordance with standards that consumers of free-range eggs have come to expect—and in fact demand—from suppliers.

Unfortunately, the bigger end of town is not necessarily so concerned with animal welfare. With around 12 million layer hens in Australia at any one time, there is no doubt that eggs are big business. I am sure the member for Finniss is staying away from animal jokes, but we know that this bill is going to ruffle feathers, particularly amongst the big end of town, given their desire for large industrial-scale producers to have a stocking density of 20,000 birds per hectare. That works out to two birds per square metre. It is very clear to me that, while this level of crowding may suit large producers' interests, it is not in the birds' best interests. Nor is it in the best interests of consumers who believe that they are supporting and buying a free-range egg.

We have heard it alleged that consumers will not or do not care. I beg to differ. They are prepared to pay a premium price. In fact, South Australia is looking to make a name for itself as a clean, green food bowl. We were told this in the Address in Reply. The dark satanic mills that some of these industrial caged egg production systems have been likened to, with chickens dead, dying and maimed, and in some cases chemically burned by their own manure, are not what the average consumer envisages when they see the marketing on the cartons of eggs, which is more reminiscent of an idyllic Old McDonald's farm with a few hens meandering about the farmyard next to old Bessie the horse and a few sheep thrown into the picture for good measure.

Unfortunately, one of the opponents to this bill looks like it will be the Australian Egg Corporation, who I think it is fair to say do represent the big end of town. They represent large producers and caged-egg producers, not the genuine, small and often family farm producing free-

range eggs, who are doing their products in a way that is more humane and has a higher priority given to the welfare of the birds.

We know that the AEC in the past defended producers' claims to be free range where the operation had 150,000 birds on five hectares, with access to only one paltry 30 metre by 10 metre outdoor range. This is equivalent to 30,000 birds per hectare. At densities above 1,500 birds per hectare, the birds are much more likely to not be able to engage in natural behaviours, be subject to aggression and attacks, even if de-beaked, which is a virtual necessity at the 20,000 birds per hectare levels espoused by the Egg Corporation.

To give members an indication, by the Egg Corporation's own admission, this would be equivalent to cramming 15,500 birds onto one soccer pitch, compared to 1,155 birds onto that same soccer pitch under the proposal in this bill. One level of stocking density is compatible with animal welfare standards and the ethos consumers want and expect from free-range products; the other is not. Higher densities often mean that although there may technically be provisions to leave the climate-controlled shed—complete with its artificial lighting and rank, foetid atmosphere—few birds from the often tens of thousands crammed into these spaces do actually venture outside.

The science is in; we know that hens, like us, are social animals and they need their space. Like us, when overcrowded they get stressed and, when under extreme crowding, suffer from defeathering, higher mortality rates and, in the worst cases, cannibalism. I was appalled to learn that, at higher densities, unless birds' beaks are modified—which means burning them off with a hot wire in the first days of their life—they can quite literally henpeck each other to death.

The European Union, from 1 January this year, banned the battery cage for hens, although they have kept the so-called enriched cages, complete with perches and nesting boxes. Members will note that the sky has not fallen in in Europe. They also have strict definitions of what constitutes free range, and again I alert members to the fact that life as we know it did not collapse when these provisions were introduced into the European Union.

EU farmers and egg producers are going about their business producing eggs, and consumers are busily and happy buying them, breaking them, making omelettes and getting on with their day-to-day lives, but secure in the knowledge that they have not come from an inhumane caged system.

It is clear that self-regulation in the egg industry in Australia is failing. In 2010 the AEC itself changed the stocking density permissible under its own definitions by a massive 1,233 per cent—from the 1,500 birds per hectare considered by the RSPCA (as one example) to be acceptable and appropriate free range stocking density—up to this 20,000 birds per hectare level, which is unacceptable.

By contrast, the Free Range Egg and Poultry Association of Australia nominates a figure of 750 birds per hectare—clearly less than the prescribed level in this bill. The absence of any clear, universally accepted and enforceable definition for free range being agreed on in this state is hampering the industry, harming the animals and leading to a loss of consumer confidence. All these issues can and will be addressed by this bill.

I will conclude by stating that this bill is not about telling farmers how to farm. If farmers want to produce eggs at a density of 20,000 or more birds per hectare this bill would not preclude them from doing so. What this bill does is clearly allow consumers to differentiate between eggs produced under those conditions and genuine free range eggs produced at a level compatible with standards that prioritise animal welfare. When they choose from their 30 different options at the local supermarket they will actually have the information that, as consumers, they deserve, and that the animals also deserve. I commend the bill to the council.

Debate adjourned on motion of Hon. J.S. Lee.

[Sitting suspended from 18:03 to 19:49]

CAPRIL

The Hon. T.A. FRANKS (19:49): I move:

That this council—

1. Commends the endeavours of Capril in raising awareness of depression through their campaign encouraging members of the community to wear a cape in the month of April as a sign of 'cape-ability' and

2. Notes that the funds raised will go to *beyondblue's* national depression initiative.

This motion commends the endeavours of Capril in raising awareness of depression through its annual campaign in the month of April, encouraging members of the community—and I would hope members of this parliament—to wear a cape during that month as a sign of cape-ability, support, awareness and fundraising to counter depression, with all funds going to *beyondblue's* national depression initiative.

At first glance it seems a little unusual that people would cape up for the month of April to highlight depression, but it has particular significance for South Australians. This is done in April of each year in honour of Richard Marsland, who took his own life some years ago after a long battle with depression, which had at one stage seen him attempt suicide. However, he sought counselling, assistance and support and lived a very wonderful and productive life in the arts, comedy and entertainment. He also contributed to the *Sunday Mail* as a writer, and he certainly brought joy to those around him. So, in honour of Richard, those around him, particularly those who were involved in *Get This,* have taken up that mantle—not to make a cape joke, but I am sure that there are many to come.

Originally, Capril was a collaboration between listeners and the three hosts of the Triple M radio show that Richard Marsland was involved in, *Get This*. The hosts were Tony Martin, Ed Kavalee and Richard Marsland, of course. Listeners, guests and hosts were encouraged to wear capes during their everyday activities throughout April and send in their photographs to Triple M as proof. After the axing of the radio program and, of course, since the passing of the beloved Richard Marsland, who passed away due to severe depression, Capril has taken on a much more significant role. In honour of his memory, his fans, loved ones, colleagues and (I do hope) members of this parliament will come together each year to remember him in this special way.

Capril, of course, has a life of its own and has a wider ambition to raise awareness of depression in our society. Of course, capes are often associated with super hero efforts and sometimes simply getting on, getting up and moving on each day with your life can be a superhuman effort for those who suffer from the scourge of depression.

I invite all members of the parliament to take part in Capril this month. All you have to do is wear a cape while going about your ordinary parliamentary or non-parliamentary duties. I am happy to inform members that I will supply capes, and you simply have to contact my office should you need a cape for a particular day. When you do and people ask you why you are wearing a cape that day, we will also provide you with the information about both Capril and, of course, the wonderful work that Beyond Blue does.

Beyond Blue has been the beneficiary, through Capril, of a link that I have set up called South Australian Politicians on the Everyday Hero website. If you visit the Capril site at www.capril.org, you can log in and support the SA Politicians site and donate yourselves and also get those who you talk to in the month of April to donate. With that, I commend this motion to the council. I intend to bring this to a vote in early May and I would love to hear stories. I will certainly pass on stories from the members in the other place, but I would love to hear members' contributions to this Capril month. I commend the motion to the council.

Debate adjourned on motion of Hon. G.A. Kandelaars.

CRIMINAL LAW (SENTENCING) (MANDATORY IMPRISONMENT OF CHILD SEX OFFENDERS) AMENDMENT BILL

The Hon. A. BRESSINGTON (19:54): Obtained leave and introduced a bill for an act to amend the Criminal Law (Sentencing) Act 1988. Read a first time.

The Hon. A. BRESSINGTON (19:55): I move:

That this bill be now read a second time.

This is a bill to introduce mandatory minimum sentencing for child sex offenders. I did introduce a similar bill in 2010, but on reflection and with input from the Law Society I have made some amendments to this legislation. This bill is therefore largely the same as that detailed in my previous introductory speech except for the following amendments. In addition to section 63, 'Production or dissemination of child pornography', the bill now includes section 63A, 'Possession

of child pornography' in the list of offences to which minimum sentencing will apply. Mandatory imprisonment will only apply if the material is of a child under or apparently under the age of 14. It will attract a minimum sentence for the first offence of one year and eight months or two years and four months if aggravated, and for subsequent offences two years and four months or three years and four months if aggravated.

The bill no longer provides the court with the discretion conferred under section 18A of the Criminal Law (Sentencing) Act, which allows the court to impose one penalty across a number of offences. This will be now cumulative sentences for a number of offences. The bill now makes clear that mandatory imprisonment will not apply to a person under the age of 18, and this is in response to the Law Society's submission which I solicited. The bill also rewords proposed section 20E(1)—formerly section 20D(1)—to address the Law Society's concern that section 20D(1) refers to a prescribed sexual offence with which a person is charged as the offence which engages the mandatory sentence of imprisonment. This will in many cases not be the offence that is the subject of a sentence. An offender cannot be sentenced for an offence for which they have not been found guilty.

The reasoning for this legislation has not changed since the last time I introduced it. People in the community have an expectation that people who prey on our children and do them harm and who have intention to distribute images of young children have no place in our community and have no place in our society. As I said in my last speech, people who are child predators are almost impossible to rehabilitate, and there are numerous studies to show that.

I think that the community has an expectation that, when someone has been convicted of an offence against children, they will be removed so they actually pose no further threat to either the children they have offended against or children who would be their likely targets in the future. I would like to remind the house of one case last year when a demonstration was held and media was done on one Mark Trevor Marshall.

Mark Trevor Marshall was a convicted paedophile and he had, indeed, a black history. He had a long history of sex offending. It was detailed in the 2009 judgement of the Hon. Justice Nyland in R v Marshall. On 15 June 1987, Mr Marshall was sentenced for 13 counts of indecent assault, all of which involved children, to a three-month suspended sentence. In just over two years Mr Marshall was back before the courts for seven further counts of indecent assault against girls between the ages of five and seven, for which he received a 16-month nonparole period on 4 April 1990.

He was again convicted of three counts of indecent assault against a girl aged 11 and a boy aged six in 1992, and again in 1996 to one count of indecent assault and one charge of procuring a child to expose her body, for which he received nonparole periods of four years. If this bill were to pass, Mr Marshall would have been convicted for a minimum of 10 years in 1987, preventing the subsequent offence and suspension from ever occurring. While this will understandably come at a great cost, if it saves just one child from being molested or raped, then it is money well spent.

I have no compassion for child sex offenders and, while I have no desire for them to be harmed, neither do I wish to see them set free to reoffend. I believe the community supports that view. It was interesting that Mr Marshall was sentenced then to indefinite detention because, as Justice Nyland put it, he was unable or unwilling to control his sexual urges towards children. Just late last year Justice Nyland lifted that detention order, which would have seen Mark Trevor Marshall released and free to walk the streets.

We know for a fact that Mr Marshall was consorting with other paedophiles in prison. One particular caller on FIVEaa, who had just come out of prison, raised the point that, while he was in prison, in the yard you would hear child sex offenders fantasising about what they were going to do with children when they got out of prison. They would share stories, and that is how they got their jollies. This person believed that every child sex offender should be incarcerated for the rest of their life because no rehabilitation was happening and they saw absolutely nothing wrong with the offences they had committed against children.

Mark Trevor Marshall was lined up—Justice Nyland lifted the indefinite detention order—and he was going to be free to walk. We had many people contact us who had been his victims—both the children and their families—and they were panicking. Some of the children are now as old as 20 or 25 years and have children of their own, and they were not going to allow their children out

to play or allow them out without parental supervision anywhere because of the fear that he would go back to his own stomping ground out north.

I wrote to Mr Pallaras, the public prosecutor, and asked him to consider appealing against Justice Nyland's decision to suspend the indefinite detention order. I thought that, given that Mr Pallaras has the reputation of Elliott Ness and has no tolerance for any of this kind of behaviour, we would at least be able to get together and discuss the possibility of his opposing or appealing Justice Nyland's decision. But, instead, I got this letter from him:

> I refer to your letter dated 29 September 2011 in which you seek clarification about the indeterminate detention of Mr Marshall.
>
> When Her Honour granted this application for Mr Marshall to be released on very strict conditions of licence in July 2011 she did so on the advice of experts from Forensic Mental Health, Correctional Services Rehabilitation Services, Owenia House and Mr Marshall's treating psychiatrist. Based on that same advice this Office did not oppose the order being made.
>
> Mr Marshall's treating psychiatrist was of the view that if steps were not made to reintroduce Mr Marshall into the community that task would become increasingly difficult. Given his relatively young age there is a clear need to try and rehabilitate him if possible and if the community can be protected should he be released. At the time Her Honour Justice Nyland made the order for release Mr Marshall had already been in custody for nine years for his offending; some seven years longer than his head sentence.
>
> During the traditional period which had been set in place to carefully reintroduce Mr Marshall into the community the authorities became concerned about his ability to manage his transition.

Poor Mr Marshall!

> As a consequence this Office applied to the Court for an interim stay of the order for release to enable Mr Marshall to be re-evaluated by the experts. Once this re-evaluation has occurred the Court will then consider whether to convert the interim stay to a permanent stay or to proceed with the licence release. I share your concerns in relation to the protection of the community. However if it possible to allow Mr Marshall—

This is after five or six attempts to re-integrate him into the community, and to let him out of gaol to roam free, where he has offended time and time again—

> to continue with his rehabilitation in the community while ensuring to the best of our ability that children are protected, then this would seem consistent with the values we hold dear. I would hope that imprisonment without release remains a very exceptional sentence in our society. Having said that I agree with you that there are times when this is the only option available.
>
> Yours Sincerely
>
> [Signed]
>
> Stephen Pallaras QC
>
> Director of Public Prosecutions

I find it absolutely unbelievable that Mr Pallaras would take the view that the rights of a repeat paedophile to reintegrate into the community is more important than protecting the children that he would most probably have offended against had he been released.

Mr Pallaras said that children would be protected to the best of their ability. Let me just make this point to members here: he was not going to be on home detention; he was not going to be wearing a bracelet; he was going to be released into the community, and we all know that the level of supervision he would require would be 24/7, and I doubt very seriously that Corrections, or even the mental health service, has the staff to be able to provide him with 24/7 supervision. However, his right to be reintegrated into the community and possibly rehabilitated outweigh the risk at which we were placing these children should he be released.

Ironically, just two weeks before he was due to be released, Mark Trevor Marshall was found with child pornography in his cell, and Justice Nyland then revoked his release. But, if that had not happened, he would have been out and, within a couple of weeks—which is in line with his pattern of behaviour—he would have already sexually assaulted at least three more children, because there was no rehabilitation. There was no change of behaviour. Mr Marshall never admitted that he saw any thing wrong with what he had done to children; he loves children. He loves children, and that is his way of expressing his love.

I have to admit that people with this kind of attitude must have had a pretty screwed up childhood. People do not just turn out like this; they themselves have been traumatised and, according to statistics, it is most likely that they have been sexually abused. But, there comes a

point when all of that needs to be set aside and, if they are unable to be rehabilitated, then they must be taken out of circulation.

We are not satisfied with the sentence that people are getting from the courts in relation to this. Mr Fox, who is a convicted sex offender, should have gone to prison at the end of last year. What did he get? He got a slap on the wrist because, as the magistrate put it, he was depressed and prison would not do his mental health any good. Well who cares, actually; who cares? There is a list of child sex offenders who have had similar compensations made, they have had suspended sentences and have, basically, been sent out into the community.

On 21 January 2007, Mr Simon Boxall, a former youth leader in a small Baptist church, was sentenced to a 12 month nonparole period after pleading guilty to two counts of inciting or procuring the commission of an indecent act, one count of indecent assault and one count of gross indecency against a young girl aged only six years old. Despite describing his offending as a gross breach of trust, the judge suspended Mr Boxall's sentence on the condition that he enter into a $500 good behaviour bond, reportedly due to his rehabilitation prospects.

The mother of the victim was later quoted in *The Advertiser* as saying, 'It's too light. He's gotten away with it', and adding, 'It's like my child's innocence was only worth a $500 bond but not payable unless he stuffs up again.' She was also quoted as saying that her daughter 'has panic attacks, she wets the bed, she picks at herself, but hopefully the counselling starts to help.'

Another example is that of David Mills, also known as Mr Bubbles after his character when performing his busking act, who was sentenced in 2001 to 10 months imprisonment for the indecent assault of a nine year old girl. Again, the sentenced was suspended on the condition that he be of good behaviour, do community service and participate in a rehabilitation program. Mr Mills absconded to the Northern Territory, where he again performed his busking act until he was extradited in 2005 to serve his sentence.

Between 2004 and 2005, Neil Thomas Spurr repeatedly abused two young boys after befriending their parents, resulting in his conviction for eight counts of indecent assault. Despite having prior convictions for similar offences in 1991, for which he received a suspended sentence on the condition that he enter into a bond, showing no contrition and Justice White stating that he could not extend him any leniency, Mr Spurr was sentenced to a head sentence of six years with a nonparole period of only three years.

Mark Marshall—not the same person as Mark Trevor Marshall—who is presently indefinitely incarcerated under section 23 of the Criminal Law Consolidation Act, is another. In 1996, he received a three month suspended sentence for 13 counts of indecent assault. This was the start of over a decade of offending by Mr Marshall, which he promptly resumed after his sentence.

We cannot be here in this council debating legislation for serious and organised crime and other offences under that act and believe that bikies are more of a threat to our community than paedophiles are, than child sex offenders are. We cannot possibly not draw a straight line and say that the harm they do to our future generations is not as great as the harm that bikies are doing to our society right now.

I am pleading with members of this council and the government to understand that, if we are changing legislation on every front to deal with the changing times and trends in our society, we now know how prolific child sex offending is. We now know that it knows no boundaries across class, race or career, and that there is the potential for us to be sitting amongst a child sex offender right now. If we cannot change these laws to send the message that we take this seriously and that we want action taken out of the hands of the courts—because the community is screaming out to feel safe and secure. Children are no longer free to roam the streets and play in the parks because parents do not feel safe enough to allow that to happen.

So, if we are dealing with serious and organised crime, I would put it that, as this gentleman said from prison, the paedophiles are indeed serious and organised because they plot and plan while they are in prison for the next offence they are going to commit when they get out, and they talk about it prolifically in there.

I seek leave to have a statistical table inserted in *Hansard* of what the crime would be and what the head sentences would be.

Leave granted.

Section of the Criminal Law Consolidation Act 1953	Offence	Minimum Penalty
48	Rape	10 years
48A	Compelled sexual manipulation	5 years
49	Unlawful sexual intercourse	3 years and 4 months
50	Persistent sexual exploitation of a child	10 years
56	Indecent assault	10 years
58	Acts of gross indecency	1 year for first offence and 1 year and 8 months for a subsequent offence
59	Abduction of a male or female person	6 years
60	Procuring sexual intercourse	3 years and 4 months
63	Production or dissemination of child pornography	4 years
63A	Possession of child pornography	1 year and 8 months or 2 years and 4 months if aggravated for a first offence, and 2 years and 4 months or 3 years and 4 months if aggravated for subsequent offences
63B	Procuring a child to commit an indecent act	4 years
66(1)	Compelling a child to provide commercial sexual services	10 years
66(2)	Unduly influencing a child to provide commercial sexual services	10 years
67	Deceptive recruiting for commercial sexual services	4 years
68(1)	Use of a child in commercial sexual services	10 years
68(2)	Asking a child to commit commercial sexual services	3 years
68(3)	Profiting from a child's commercial sexual services	1 year and 8 months
72	Incest	3 years and 4 months

The Hon. A. BRESSINGTON: I will talk about a couple of these. Section 48 of the Criminal Law Consolidation Act 1953—Rape, minimum penalty 10 years. That is rape of a child, and a child is anybody under the age of 13. Section 48A—Compelled sexual manipulation, five years. Section 49—Unlawful sexual intercourse, three years and four months. Section 50—Persistent sexual exploitation of a child, 10 years. Section 56—Indecent assault, 10 years.

I was going to have this legislation so that it could be tailored down to the most serious offence—plea bargaining, if you like—and the minimum must be administered by the courts. However, I have changed my mind. I have decided that if they have seven different counts for serious sex offending against children, then that should be a cumulative time.

The Hon. S.G. Wade: That's what they're doing with the serious and organised crime bill.

The Hon. A. BRESSINGTON: Yes, exactly. The Hon. Stephen Wade makes the point that that is what the government is doing in the serious and organised crime bill (cumulative sentences), so does that not equate to the same for the safety of our children? I say it again: those in the fields of science, medicine, psychology and psychiatry say that child sex offenders are the most difficult offenders to rehabilitate, and no-one can ever guarantee that they are rehabilitated. We do not have any mechanism in place to be able to track them, to be able to know when they are out if they are offending again.

Just to show you how sly these people are, Mark Trevor Marshall was released from gaol and part of his parole requirements were that he said he wanted to attend a TAFE course. He was granted that and the corrections supervisor would drop him off at TAFE at 9 o'clock in the morning and pick him up at 3 o'clock in the afternoon. He just happened to pick a TAFE that was within walking distance of the children he had been terrorising previously. He used to catch a bus to Saint Mary Magdalene's school from the Elizabeth TAFE and he would go into the school, take the little girl (who was then five) out of the school to an empty allotment over the road from the school into the bushes and sexually assault her, and then he would return her to school.

He would go back to TAFE in time for the officer to pick him up. What he was telling his tutor at the time was that he was in the library studying. It was only a 10 minute bus ride to the school that he was going to and a 10 minute ride back. He did that consistently for months to this little girl. Then, when he was starting to feel quite comfortable, he sexually abused her little brother as well. This cannot be allowed to happen anymore and, if people do this and they get caught, then their punishment should befit their crime. That is all I have to say on this. I commend this bill to the house. I ask the government to please consider this. Marry it up with serious and organised crime.

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

SOUTH SUDAN

Adjourned debate on motion of Hon. J.S.L. Dawkins:

That this council congratulates HURIDOSS (Human Rights Development Organisation South Sudan), Australian Chapter, on its launch and wishes it success in promoting awareness and protection of human rights in the Republic of South Sudan through community education, advocacy, research and consultation in order to advance important policy and legislative reforms in this new nation.

(Continued from 14 March 2012.)

The Hon. T.A. FRANKS (20:20): I rise on behalf of the Greens to support this motion brought to us by the Hon. John Dawkins and join in those words, that we congratulate the Human Rights Development Organisation of South Sudan, Australian Chapter on its launch, and we wish it every success in promoting awareness and protection of human rights in the Republic of South Sudan through community education, advocacy, research and consultation in order to advance important policy and legislative reforms in this new nation.

As we saw, Australia has recently recognised the Republic of South Sudan, joining with many across the world. I certainly congratulate that nation on starting a new chapter in what has been a very tragic history. As we know, many from South Sudan seek refuge and asylum in Australia. Many have suffered horrific human rights violations, which in fact is why they seek to come to our country and make a life here. We must also remember that those who have lived in war-torn nations do need extra supports. They will go on, as all Australians do, as all new Australians have, to build and diversify and strengthen the cultural fabric that is what Australia is and that makes Australia so great.

I will not take up too much of the council's time, but I certainly wanted to note that I think that the arts will play a great role in healing, as they often do. A song for South Sudan has been proposed, and the lyrics for this new national song have been gained by turning to the artists and poets of that nation. I understand that the themes of it are the history, the land, the struggle, the sacrifice and destiny.

This is something that is a truism for all citizens and must be embraced in terms of any discussion of human rights. With that, I would point to our own national anthem in that 'beneath our radiant Southern Cross we've boundless plains to share', and we welcome sharing those with the people formerly of South Sudan as South Australians. With that, I commend this motion to the council.

The Hon. CARMEL ZOLLO (20:22): The state government strongly supports this motion moved by the Hon. John Dawkins. The protection of human rights is vital to the advancement and prosperity of the African nation of South Sudan. We also support the motion because South Australia is home to about 2,000 people from South Sudan, who are anxious to see that true peace comes to their homeland.

The new entity mentioned in the motion, the Human Rights Development Organisation of South Sudan (HURIDOSS), is an outstanding initiative, and it is heartening that the Australian chapter of the group was launched here in Adelaide in January. We trust it can foster an environment in South Sudan, indeed a mentality, in which all citizens of the new nation are

respected, treated fairly, and able to fulfil their potential. As the Hon. Jing Lee suggested in this place on 14 March, it is critically important that the rights of women are safeguarded.

When South Sudan declared its independence on 9 July last year, there was jubilation in the nation's capital and celebrations around the world. It was a moment of both optimism and poignancy. A country was being born while its citizens were continuing to recover from a 22-year-long civil war in Sudan that brought terrible bloodshed. It is estimated that about two million people died in that conflict and that a further two million were internally displaced or exiled. Although the new nation is still finding its feet and although there continue to be reports of fighting and food shortages, we hope life in South Sudan will improve soon. Just like Australia, South Sudan is a culturally, religiously and linguistically diverse country and we hope this diversity will be embraced and celebrated.

As I suggested earlier, our state is today home to a large and thriving South Sudanese community, and its members are making a positive contribution to society in many different ways. They have formed a large number of cultural, sporting, social, women's, youth and welfare organisations. The community is not just practising its cultural traditions but also generously sharing them with their fellow South Australians. Indeed, some of my parliamentary colleagues have taken part in recent celebrations around town.

I understand that the then minister for multicultural affairs (the Hon. Grace Portolesi MP) attended a joyous and historic event in July last year. On the very day that South Sudan officially became a nation she joined hundreds of people at a party in Woodville that went late into the night. I am also told that my colleague the Hon. Gerry Kandelaars represented the Minister for Multicultural Affairs (the Hon. Jennifer Rankine) at a more recent independence function.

The Hon. G.A. Kandelaars: At the Sicilian Club.

The Hon. CARMEL ZOLLO: At the Sicilian Club; how multicultural can we be? I know the Sicilian Club really well. A few weeks ago the Minister for Multicultural Affairs herself attended and spoke at the African Festival held in Hindmarsh Square. The minister was joined by Senator the Hon. Kate Lundy, who is now the federal Minister for Multicultural Affairs.

During my matters of interest contribution last week I had the opportunity to acknowledge the work of the African Communities Council of South Australia and to talk about the African Festival this year. In addition to myself, many other members of parliament as well as the two ministers were present, together with the Lieutenant Governor of South Australia, Hieu Van Le, and the Lord Mayor, Stephen Yarwood.

On 26 November last year the Premier and the minister attended an African Communities Council of South Australia commemorative dinner at the Crowne Plaza. We in the state government are determined to do everything in our means to help the local South Sudanese community. Ministers and parliamentarians have regular contact with the community, and of course the door of the South Australian Multicultural and Ethnic Affairs Commission is always open.

The government is also keen to continue to provide financial support to South Sudanese organisations through its Multicultural Grants Scheme. That program does an excellent job of helping ethnic community groups to, among other things, hold cultural festivals across the state. It also helps to offset the cost of buying items such as office equipment which ultimately improve the way in which such groups serve their communities.

On behalf of the Minister for Multicultural Affairs (the Hon. Jennifer Rankine) I congratulate the Australian chapter of the Human Rights Development Organisation of South Sudan on its recent launch. Nothing is more important than protecting and promoting human rights. I am sure all members in this chamber support South Sudan in its efforts to bring about a new dawn and a bright future for its people, and I commend the Hon. John Dawkins for bringing this motion before the Legislative Council.

The Hon. J.S.L. DAWKINS (20:29): I will be brief in my summary, but first I would like to thank the Hon. Jing Lee, the Hon. Carmel Zollo and the Hon. Tammy Franks for their contributions to this motion. I would like to thank other members of the chamber who have indicated their support for the motion without actually contributing to the debate in the chamber. I would also like to thank all members of the Legislative Council for facilitating this debate at a somewhat earlier hour of the night.

Today I have been given a copy of the *South Sudan Community of Australia* magazine. That was given to me by Mr Mabok Deng Mabok Marial, the patron of HURIDOSS and Mr Bosco

Opi, who is the Director for International Relations with HURIDOSS. In that magazine there is an excerpt that I would like to read which encapsulates the reason that HURIDOSS exists in this country and in South Sudan. It states:

> HURIDOSS Aims at Doing the Following:
>
> - Provide training to military and police officers to uphold human rights law and humanitarian law.
> - Train law enforcement agencies to apply international standards on policing matters.
> - Review of South Sudan customary law which fuels the culture of impunity in the administration of justice.
> - Advocate for civilian oversight of all security and law enforcement agencies.
> - Assist the South Sudan government to work towards the ratification of UN human right covenants, conventions which will be utilised in a systematic way as program and policy benchmarks.

Also in the excerpt:

> 2. Legislative developments in South Sudan
>
> Since becoming an autonomous nation, South Sudan achieved a number of milestones in meeting its human rights obligations. It passed key legislations to protect and safeguard the human rights of its citizens on important issues.

Then this article goes on to say that those four pieces of legislation include the Child Act 2008, the South Sudan Human Rights Act 2009, and then further details of other pieces of legislation which I will not go into now—another one was a Land Act 2009.

I am also grateful to both Mr Mabok and Mr Opi for providing me with a snapshot of the development of democracy in their new country; a country that has only existed since July last year; a country that has 10 states as well as a central government. I think those of us who have grown up with democracy, we take it for granted but these people have fought for many years and the new country is still enduring some armed warfare from the country to the north, the country that remains as Sudan.

Disputes over the border largely revolve around the location of oil deposits and we sympathise with the new nation as it has to deal with that. However, great credit goes to that country for the way in which it is developing its democracy. I am proud tonight to say that this house of the parliament has given that community great support in its efforts in that regard.

In closing, once again I thank everybody for the support that they have given to me and to those representatives of the South Sudanese community. As I said on 29 February, there is no doubt that Australian citizens one and all need to keep a strong focus on assisting human rights in the new nation of South Sudan. I look forward, as I believe all in this chamber do, to hearing more about the development and progress of the Australian chapter of HURIDOSS in the future, and I commend the motion to the council.

Motion carried.

CHILDREN'S PROTECTION (LONG-TERM REMOVAL REVIEW PANEL) AMENDMENT BILL

The Hon. A. BRESSINGTON (20:34): Obtained leave and introduced a bill for an act to amend the Children's Protection Act 1993. Read a first time.

The Hon. A. BRESSINGTON (20:35): I move:

That this bill be now read a second time.

Members, no doubt, would recall that I have introduced many bills in relation to child protection, and I have no doubt that, in my time in this place, there will be many more to come. Hopefully, one of these days or years, at least one of them will be seen by the government to be worthwhile and our children will be seen by this government to be worthwhile enough to protect.

This bill is titled 'Children's Protection (Long-Term Removal Panel) Amendment Bill. This bill establishes a long-term removal review panel, whose function will be to review all applications for a Youth Court for guardianship until the age of 18 prior to the application being lodged in the Youth Court. The bill provides that the panel will consist of:

(a) two members who must be child psychologists; and

(b) one member must have expertise, knowledge or experience in relation to family preservation models; and

(c) one member must be a legal practitioner of at least five years standing; and

(d) one member must be a person who is regularly appointed to act as a child's advocate at family care meetings.

The panel members would be appointed by the minister for terms not exceeding three years, although they can be reappointed once, and their position can be terminated for the usual reasons: breach of condition of appointment, misconduct, failure to carry out official duties, or ceases to hold the relevant qualifications.

The minister appoints a member of the panel to be a presiding member and may issue directions to the panel as to the procedures to adopt, otherwise it determines its own procedures. The panel is to be provided with the full case file, not just the information Families SA is relying on in court. To assist in assessing the application, the panel will have the power to:

(a) inform itself as to any matter under consideration by the panel in such manner as the Panel thinks fit; and

(b) invite interested persons to make written or oral submissions in relation to any matter under consideration by the Panel; and

(c) by notice in writing signed by a member of the Panel—

(i) request any person who may be in a position to do so to produce documents, to allow access to documents or other information, or to provide information (in writing) that may be relevant to a matter under consideration by the Panel; or

(ii) request any person to attend at a specified time and place before the Panel to answer questions relevant to a matter under consideration by the Panel.

Professionals can give information without fear of breaching confidentiality. Failure to comply with a request by the panel is an offence, carrying a maximum penalty of $10,000. The bill provides:

(a) a person commits no offence by refusing to comply with a request under subsection (1)(c), or to answer a question, if the information sought would tend to incriminate the person of an offence and the person refuses to comply with the request or to answer the question on that ground; and

(b) a person commits no offence by refusing to comply with a request under subsection (1)(c), or to answer a question, if the document or other information to which the request or question relates is protected by legal professional privilege and the person refuses to comply with the request or to answer the question on that ground; and

(c) a request cannot be validly made of a person to disclose or allow access to information that is subject to the operation of Part 7 or 8 of the *Health Care Act 2008*.

This panel is an oversight panel. I have told numerous stories in this place about cases which parents for years have claimed to be wrongful removal cases, and children have been put under 18-year orders. I have heard stories about children on 18-year orders who are basically out roaming the streets and have less supervision under the guardianship of the minister than they would have in the worst home possible.

Their life prospects are often very poor long term, and a lot of these kids get mixed up with drugs and alcohol, join gangs and do whatever because they have no sense of belonging. They have been taken away from their family. Quite often, children are told that their parents do not want to see them any more—that is when access is interrupted and court orders are not followed. I know members in the government have had exactly the same stories told to them that have, and I know members of the opposition have as well, that children's relationships with their families are deliberately broken and then they are put into dubious care facilities and sometimes foster care families who go on to abuse these children sexually.

When we are seeking an 18-year order and removal from a family, we have to make sure that every step is taken to ensure that that is justified. We also have to make sure that the allegations made against parents are provable, that they can be tested and that they can stand up to the test. What we have at the moment is a system where parents have no legal recourse and no right of appeal. If parents want to pursue any kind of criminal action against a social worker who they can prove has made false allegations and defamed them, they have to go through the District Court. There is no legal aid available for that, so they have to come up with tens of thousands of dollars to pay a lawyer to plead that out in the District Court. Many just do not have the financial ability to do that.

What I am proposing is that this particular panel sits in between the department of Families SA and the minister and, if a parent contests an 18-year order that is being sought, before social workers can go to that court and apply for an 18-year order, that parents have access to this panel. I propose that this panel has the ability to investigate where allegations are made that social

workers have fabricated information, that people have falsely accused them of harming, neglecting or abusing their children, that the panel can see that there have been medical examinations done of these children, that they can recommend psychological evaluations and that they can read the evidence in the files.

We heard from Freda Briggs in the inquiry into Families SA that it is not uncommon at all for case notes to go missing that do not fit the intention of the social worker to remove these children. I have heard from psychologists myself—so it is not third-hand information. At least three psychologists have told me that they have been required by Families SA to rewrite reports until those reports fit what those social workers want to present to the Youth Court to secure an 18-year order. They have been told by these social workers that, if they do not rewrite the report, they will never be given any work from Families SA again.

As I said in my previous speech on minimum mandatory sentencing, we are putting all these steps in place to ensure that we get the bad guys (the bikies) and put them behind bars, and we are using all sorts of tools to do that: criminal intelligence, confiscation of assets, whatever we can think up to immobilise these people, to break that cone of silence, when we have our own cone of silence operating very well within this department, and members of this government and members of this house allow that to happen. If we are going to break the bikie code of silence, let's start now breaking government department codes of silence. Let's start now identifying serious and organised criminal conduct of child stealing by this state, because it is happening, and it has been happening for a very long time.

It is time now. When this serious and organised crime legislation goes through, and all those bills attached to it, we will have raised the bar. We have moved; we have shifted what was accepted as normal legal precedents and foundations. This government has set a precedent to up the ante, and it cannot apply only to bikies, it cannot apply only to criminals out there in the corporate world and it cannot apply only to people who suit this government. It now also has to apply to the government's own employees.

We have to have that independent review process, just like we have criminal intelligence for serious and organised crime. We now have to have independent oversight of these workers where allegation after allegation after allegation is made, where excuses are then made by every minister for Families SA since I have been in here. We do not have wrongful removals, just like we do not have wrongful convictions in our courts.

We have to start getting real about this. The government wants to get out there and get the bad guys: let's get all of them, and let's apply the same rules across the board to all this serious and organised conduct that is going on. Break codes of silence? Let's break them all, let's expose it all, let's clean up and let's do the right thing.

This panel will give parents a right of appeal. It will give them access to an appeal process and it will give them the opportunity to present evidence that is left out of those files and left out of those notes that are presented to the Youth Court when the magistrates grant an order to remove children from their parents for 18 years. We have a responsibility here. If we cannot do this and we cannot do the previous legislation for minimum mandatory sentencing for child sex offenders, we in this place have no right to claim that we can be responsible enough to enforce serious and organised crime measures across this state.

We are not responsible enough, because we are not taking every crime that is being committed against families and children in this state as seriously as we are taking crimes that this government considers to be heinous: bikies, shootings in Gouger Street, the shooting off Vince Focarelli, the murder of his son. How can the murder of Vince Focarelli's son be any more serious than the destruction of the lives of these children, who are removed from their families, who are then isolated from their families, and who do not know their origin?

Members might say that I hear this second-hand: no, I do not. I have had seven children, from the age of 12 to the age of 14, abscond from care facilities and who, for some reason, have come and sought asylum in my office. They all told the same story. They are all being abused—sexually, physically, emotionally. None of them had a clue about a relative they could ring to come and spend some time with them.

A 12 year old girl, going on 25; already sexually active, already smoking in the presence of her carers at 12—I thought it was illegal to do that—is claiming sexual abuse by her carers in a care facility. How can we allow this to continue? Another young boy, aged 14, is being bashed by workers, being abused by workers, being assaulted by other residents in the care facility. Another

young lad, at the age of 13, had his teeth smashed and a chair broken across his back and was seen by the police roaming around the street at midnight. These are children under the care of the minister; some of them (not the last one) on 18 year orders.

If we are going to do this, if we are going to continue to put our children in the care of the minister until they are 18, then we have a responsibility to ensure that they grow up with every opportunity to start a new life for themselves, to be able to have a career, to be able to have a family if that is what they want to do and to be able to be functional, but not to be the next generation that is the meat market for the sickos on the street or the next generation of criminal offenders that we are breeding.

We are literally breeding this because of the way the system is, and this government has not taken one single step to make a positive change to any of this dysfunction that has been brought to their attention by me for the past six years, by other members for far longer and even by their own members, who are having to go to the minister and go to the department and take years. The Hon. Ian Hunter shared a story with me about children he reported who were being sexually abused by their foster carers. It took him, I think, three years to get those children returned to their grandparents. That is a member of your own government who has to come up across this department and fight for the rights of these children to be safe.

It is not good enough anymore and, as I said, if we are going to do serious and organised crime, let us get serious and organised and put our children first. I would much rather see five bikies walking up the street than five kids who have been deserted by the department, removed from their family and left to fend for themselves. I am asking members in here to start taking this issue of child protection seriously. There are things we can do.

Of course, the lobbyists within Families SA behind the scenes—the ones who drive this—are not going to like it, but if we are going to stand up to the bikies we can stand up to them too, I am sure. I am sure we can manage to do that as a parliament, and I am sure that if they intimidate or make any sort of threats towards the minister that can be exposed publicly as well, because we have actually made allowance for that in serious and organised crime.

We have required that people inform on the hierarchy that they serve to run drugs. As a matter of fact, if they do not do that, we are going to bankrupt them. The prescribed drug offenders confiscation bill provides that if a person does not dob in the person at the next level of a drug cartel or whoever they are working for to run their drugs, they lose their house. They are bankrupt and their family is put on the street. Why can these rules not now apply within our own government departments? Why can we not force people to inform on these people who insist that this child protection department remains almost a criminal organisation itself?

I will clarify that there are some very good workers. There are some very dedicated, very good social workers within Families SA who care about the children. Do not get me wrong: they are not all like this, but there are quite a few and, as I have said, I keep a file in my office and the same names pop up from Salisbury and from various offices all around the state, and what are we seeing? We are seeing exactly what we claim criminals do.

We move them from one office to the other. When they really step over the line, they are actually promoted to be ministerial advisers. I have seen that on three occasions. They are rewarded for their bad behaviour. What are we going to do to real criminals out there? Are we going to reward them? No. We are going to take everything they have got. We are going to put their family out on the street because how dare they not tell on the people who are providing them with their money and their livelihood?

I urge members to draw the parallel between what we are doing with serious and organised crime and what we are not doing with our child protection system. This parliament should demand the equality and the severity of the punishment befitting the crime for government workers who dare to flex their muscle. The sad part about this is that not only is bad behaviour rewarded and not only are people promoted for doing the lousiest possible job they could, for fabricating cases against parents, for perjuring themselves, if there was such a thing in the Youth Court, but the people who do want to come forward are threatened and intimidated. Sound familiar?

Do we not have to have all of these safeguards of criminal intelligence, secret court hearings and all of this sort of stuff to protect informants against bikies? It sounds like a criminal organisation to me. Unless we get rid of this stinking element that has plagued this department for 40 years, we cannot claim again to be responsible enough to be administering serious and organised crime legislation in this state.

I leave this with members to think about and I swear to God, if the government comes back with any sort of lame excuse that this is just going to cost too much, that this is just going to be all too hard, I will be out on the airwaves, screaming from the rooftops that your priority as a government is to catch bikies and you do not give a stuff about the kids that are being abused by your own department. I swear to God.

There are enough people out there now who know the facts about this. There are enough families out there now who have been negatively impacted by this and they talk. They talk to people and people do not believe their stories until they see it happening but, you know what, we are reaching critical mass where people are starting to believe that this crap happens.

It used to be, when I first got in here, and people would hear some of these stories, that they would say, 'They must have done something wrong. They must have been bad parents.' But you know what, I do not get that anymore. I get, 'Oh, you're talking about Families SA again. I have heard about this person and this person and this person that this has happened to.' Word is spreading, understanding is spreading, knowledge is spreading and people are starting to see this for what it is. It is not about all of these parents being bad parents—it is not about that at all.

I told that story about my next door neighbours. I have watched for six years while those kids have been abused and neglected. They went all winter last year without electricity. They did not have a hot bath or a hot meal all winter. It was reported. Dad is growing 50 dope plants in the backyard. What happens to him? He gets a slap on the wrist through the courts and these kids are removed for about nine weeks and then they are returned. The parents have not had to do one single parenting course—nothing.

The little boy sees me in the corner of the yard, because I used to talk to him, and I said, 'You need to ring the police about what is going on.' He did. Their own son, aged 10, rang the police. I saw him in the front yard after they had been returned and he looked at me with tears in his eyes and he said, 'Thanks for nothing.' He was forced to go back home. What did the parents get? They got a house full of new furniture and all new whitegoods. All the kids got all new toys, all new bikes—everything is fine. They have a once a week visit—and all dad had to do was mow the lawn and paint the house. That was their commitment to their rehabilitation as negligent parents.

We have children who should be removed who are not and we have children who are not removed who should be and that is the confusion of this system. If we cannot sort that out, then we should not be sitting in these seats. I commend the bill to the house.

Debate adjourned on motion of Hon. G.A. Kandelaars.

WORKERS REHABILITATION AND COMPENSATION (RETIREMENT AGE) AMENDMENT BILL

The Hon. T.A. FRANKS (21:00): Obtained leave and introduced a bill for an act to amend the Workers Rehabilitation and Compensation Act 1986. Read a first time.

The Hon. T.A. FRANKS (21:00): I move:

That this bill be now read a second time.

This bill amends the Workers Rehabilitation and Compensation Act 1986. The Greens' Workers Rehabilitation and Compensation (Retirement Age) Amendment Bill 2012 simply seeks to increase the maximum age of eligibility for WorkCover so that it in fact reflects the incoming federal pension age increases. As it currently stands, workers who continue to work up to the new pension age of 67 will not be covered for workers compensation beyond the age of 65. Fixing this anomaly is the first step in the Greens' ongoing plans to overhaul WorkCover, ensuring both better and fairer outcomes for injured workers.

I would like to acknowledge the work of the Hon. Susan Ryan, former age discrimination commissioner of the Australian Human Rights Commission and, of course, former minister in the Hawke government. Ms Ryan has highlighted the need for senior workers, 65 and over, to be included in the workers compensation scheme. I know that members across from me would be well aware and proud of the work of the Hon. Susan Ryan.

As members of this place are aware, workers compensation is part of our modern and advanced working society. Financial support to cover medical costs and access to tailored and injury-specific rehabilitation and training needs to be warranted for every injured worker. Workers compensation must also be extended to include senior South Australian workers, those who are specifically 65 years of age and beyond.

There are currently 11 workers compensation systems across Australia. Every state and territory has developed and administered its own workers compensation schemes. Apart from Western Australia and Queensland, the state and territory workers compensation schemes include an age limit, which means that if a worker (in this case, 65 years of age and above) is injured, they do not receive workers compensation.

I would like to make the point that, although the WA and Queensland workers compensation schemes do not discriminate on the basis of age, both those states have limits on their weekly payments. Generally, in South Australia the situation is somewhat different. Weekly payments are limited for workers at 65 years of age. SafeWork Australia states that currently in SA, Workers Compensation arrangements mean that the workers compensation can be received at the age of 65, unless the worker is within two years of retirement age, or above retirement age, in which case weekly payments are payable for a period of incapacity falling within two years after the commencement of the incapacity.

The Greens would also like to build on this existing arrangement. This Greens' bill is designed to provide progressive reform to take into account the ageing workforce and foreshadowed increases to pension age, which, of course, will continue to increase as the federal changes kick in. It is important that we have these provisions to support our senior injured workers. The Greens' bill will have an impact on a very small number of the South Australian workforce and on a very small number of injured senior workers, but, of course, it is vital that they have that protection afforded to them.

The Australian Bureau of Statistics' work-related injuries statistics indicate that people of 65 years and above have, in fact, the lowest rate of work-related injury. This report also suggests that the highest rate of work-related injuries occur in the age group between 45 and 50. Consequently, there will not be substantial costs as a result of this bill, should it be passed; in fact, the cost would be phased in over time. When the age limitation was removed from the WA workers compensation legislation, the minister for finance there welcomed the changes, stating, 'The changes will have a positive economic and social impact for WA.'

This bill reflects the Greens' ongoing commitment to reforming WorkCover. While the Greens recognise that the current WorkCover system is deeply flawed and needs a comprehensive overhaul, this is just one very small, very practical, but very significant change that could be made quite urgently to safeguard older South Australian workers.

It is foreseen that the WorkCover system needs to be updated to increase the maximum age of eligibility to reflect the increases scheduled to occur in the pension age over this next coming decade. I hope that this bill will be welcomed by members of the government and, indeed, all sides of parliament. With that I commend this bill to the council.

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

MOUNT BARKER DEVELOPMENT

Adjourned debate on motion of Hon. M. Parnell:

That this council, pursuant to section 16(1)(a) of the Parliamentary Committees Act 1991, refers the following matters to the Environment, Resources and Development Committee for inquiry and report—

1. The processes followed by the Department of Planning and Local Government and the Minister for Urban Development and Planning in relation to development at Mount Barker and surrounding areas including—

   (a) the Planning Strategy for the Outer Metropolitan Adelaide Region published in August 2006;

   (b) the 2010 Planning Strategy (incorporating the 30-Year Plan for Greater Adelaide); and

   (c) the ministerial Mount Barker Urban Growth Development Plan amendment approved by the minister on 16 December 2010.

2. Whether any issues of conflict of interest involving the minister, the department, landowners, property developers, planning consultants or any other parties were identified in relation to future urban development at Mount Barker and surrounding areas and, if so, how such conflicts were avoided minimised or managed;

3. The adequacy of infrastructure planning and funding to support urban expansion at Mount Barker and surrounding areas; and

4. Any other matters the committee considers relevant.

(Continued from 14 March 2012.)

The Hon. T.A. FRANKS (21:04): I move:

Leave out all words in the first three lines and insert the following in lieu thereof:

1. That a select committee of the Legislative Council be appointed to inquire and report upon—

Renumber existing Paragraphs 1, 2, 3 and 4 to (a), (b), (c) and (d), and renumber existing subparagraphs (a), (b) and (c) to (i), (ii) and (iii).

Insert the following paragraphs—

2. Standing Order No. 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

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

4. Standing Order No. 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

Clearly there have been indications from the opposition that it did not support the motion in its original form, criticising the Greens for referring this issue to the ERD committee, which is a standing committee of this parliament, and pointing to the fact that the government had the numbers on that committee.

The amendments as moved enable the creation of a select committee to look at these most important matters of planning, strategy and decision processes around Mount Barker and its surrounds. That committee, of course, would be reflective of this council; that is, the opposition and the crossbenchers would indeed have the majority. With that, I indicate that the opposition and the crossbenchers should be supporting this motion before us.

The Hon. CARMEL ZOLLO (21:07): I obviously rise on behalf of the government to respond to the motion of the Hon. Mark Parnell. New developments in Adelaide, such as Mount Barker, are crucial to growing our city, pursuing housing diversity and affordability and providing lifestyle choices.

Mount Barker has been progressively expanding over many years and has experienced some of the highest rates of growth in the greater Adelaide region, a good indicator of community housing preferences and lifestyle choices.

In relation to the provision of growth areas at Mount Barker, it reinforces the town's prominence as a regional centre for services provision and provides an ability to build on the range of social services available locally, consistent with the principles of self-containment. It has a strong transport connection with metropolitan Adelaide and it redirects growth pressures away from other smaller historic and character towns in the Adelaide Hills.

This development brings substantial investment to the Mount Barker community. I am advised that local, state and federal governments, together with developers, will invest over $500 million in the region. Property developers have indicated that they are prepared to provide a percentage of the profits towards the provision of community infrastructure. Without a certain level of population growth, Mount Barker will not receive this type of infrastructure spend.

I had the opportunity to mention last week during another motion of the Hon. Mark Parnell that the government has met with representatives of the Mount Barker council, and council has expressed its desire to progress a structure-planning exercise for an area covering Mount Barker, Littlehampton and Nairne.

I am informed that such structure planning work will assist in the delivery of a cohesive urban settlement and provide a basis for the timely provision of local services and infrastructure. Again, the changes to the Mount Barker development plan cannot be suspended, because the rezoning process is already complete. Any change to the current zoning would need a new development plan amendment (DPA) process, which would result in massive uncertainty, expose the government and taxpayer to potential legal action and deprive the Mount Barker community of the massive proposed infrastructure investment.

Again, as I mentioned, council is currently working on a structure planning exercise to provide a long-term vision for all of Mount Barker, Littlehampton and Nairne, not just the new

growth areas. Once this plan is formally endorsed by the council, the Department of Planning, Transport and Infrastructure will facilitate its consideration and feedback from other government agencies, particularly on the issues of utility and community infrastructure.

The government is happy to be already collaborating with the council on this structure planning exercise and sees no purpose in duplicating this process by starting all over again. So, let us be clear that the planning strategy—the plan that incorporated the new growth area at Mount Barker—went through extensive community consultation—arguably, the most extensive consultation of any previous planning strategy. The public consultation leading up to the plan's release was thorough and extensive.

A statutory consultation process was carried out over 13 weeks, and over 500 submissions were received from individuals, organisations, community groups and representatives of local government. In addition to this formal process, 21 workshops were carried out with local government to help develop the draft plan. Regional briefing sessions and focus group meetings were also held with key industry, professional and community groups throughout the consultation period and before the launch of the final plan. Council has provided the details of over 150 interest groups invited to attend these briefings.

The final plan reflected many of the comments received through this extensive consultation and briefing process. When the Minister for Planning (Hon. John Rau MP) took on the planning portfolio, he met with representatives from the Mount Barker council to discuss the rezoning. The minister accepted that the rezoning was needed to assist in accommodating our state's growing population. However, the minister advocated that the infrastructure to support the growing community must be put in place. The final deed to ensure appropriate infrastructure is, as we speak, about to be put in place.

Finally, on the issue of the honourable member wishing to refer matters concerning the inclusion of growth around Mount Barker in the planning strategy and the statutory processes undertaken for the Mount Barker Urban Growth DPA to the Environment, Resources and Development Committee, I understand this afternoon he filed an amendment choosing to do something else. Clearly, I am not aware of that but, as I was speaking, it might have been courteous for him to let me know, but he chose not to.

I will place on record, seeing that the honourable member was considering sending it to the ERD Committee, that, of course, that committee (of which I am a member, as is the Hon. Mark Parnell) had previously considered the matter and resolved that it did not object. Of course, it is tasked with that legislative responsibility and it did not object to the amendment under the statutory procedures established within the Development Act 1993. For the very obvious reason that this plan has already been approved and the committee did not object, the government opposes this motion, and I would urge other members to do the same.

I understand that the Hon. Mark Parnell has sought the support of the opposition in this chamber, so he will have the numbers again to establish another select committee—well, maybe he will not. We will have to test the waters, but, given the smile on the Hon. David Ridgway's face, I suspect that they have done a deal, so we will see 12 select committees now in this chamber.

The Hon. J.M. Gazzola interjecting:

The Hon. CARMEL ZOLLO: That's enough? Okay. Perhaps he has not made up his mind yet. Again, the government opposes the motion and urges other members to do the same.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (21:15): I rise on behalf of the opposition to speak to the Hon. Mr Parnell's motion to refer the matters which we have discussed. He wished initially to refer it to the Environment, Resources and Development Committee. I was out of the chamber, but I think that his colleague the Hon. Tammy Franks moved an amendment to establish a select committee. It is an interesting one. The Mount Barker issue, we shall call it, from day one has created a deal of concern, certainly with the people in Mount Barker. The Hon. Mr Parnell, the Greens, its supporters and, indeed, the Liberal Party have been concerned at the magnitude and the size of the proposed expansion.

I was interested initially when the Hon. Mark Parnell wished to refer it to the Environment, Resources and Development Committee given that that committee is dominated by the Labor Party, chaired by a Labor member and I think rarely meets or, if it does, does not meet anywhere near as often as it did when Ivan Venning chaired it when the Liberal government was in office. In fact, Ivan Venning tells me, and I think that the Hon. John Dawkins —

Members interjecting:

The Hon. D.W. RIDGWAY: Ivan was the Chair, thank you very much.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Forty meetings a year.

The Hon. D.W. RIDGWAY: And the Hon. John Dawkins, who is the Acting President at the moment, interjects from the Chair—and I know that is absolutely out of order—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Out of order, terribly out of order!

The Hon. D.W. RIDGWAY: —to say that, on average, 40 meetings a year. I am sad to say that that is not the case; and, in fact, when I was on the ERD Committee the Hon. Lyn Breuer the member for Giles was Chair and she made a statement early in the piece that she came from Whyalla and that we would be sitting only when she was in Adelaide and not in non-sitting weeks.

I think that the ERD Committee has been somewhat dumbed down and silenced. I know that the Hon. Mark Parnell expressed his frustrations after the last election when, of course, the government members had a majority. So I was somewhat surprised that was his first—

The Hon. J.M. Gazzola: He's on it.

The Hon. D.W. RIDGWAY: I know that he is on it, but he does not have the numbers. Prior to the 2010 election, there were occasions when the government did not have the numbers. However, since the 2010 election the government has the numbers. So I was surprised that he referred it to the ERD Committee for the reasons, as the Hon. Carmel Zollo gave, that the ERD Committee looked at the DPA and did not object to it. I know that certainly some members of the committee did but, in the end, the committee numbers prevailed, and—

The Hon. Carmel Zollo: It's called democracy.

The Hon. D.W. RIDGWAY: And the Hon. Carmel Zollo interjects to say that it is called democracy, and I guess you could call it some form of democracy. I was a bit concerned because my view of that committee was that there would be an opportunity possibly to call the witnesses in, although my colleague the Hon. Michelle Lensink has informed me with respect to the population inquiry that the Chair, Gay Thompson, basically refused to invite anyone to make some oral submissions. They were able to make written submissions, but the population inquiry was somewhat dumbed down by the process.

The types of hearings and witnesses you would normally expect to have in were not allowed to come in. So I was surprised the Hon. Mark Parnell chose that avenue, and why I moved last week to refer the issues of the probity checks, which I think are at the core of the issue here as we have a firm of property consultants working for the developers and, on the other hand, working for the government. I think they declared their conflict. That seems to be at the root of this whole issue.

The Hon. Mark Parnell said that he has had a conga line of people within the development industry saying, 'This is not right.' I would not say that I have had a conga line—depends how long your conga is, I suppose—

The Hon. J.M. Gazzola: How long's a conga?

The Hon. D.W. RIDGWAY: Exactly—who knows? How long is a piece of string?

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I believe we should get back—

The Hon. D.W. RIDGWAY: I know we should get back to the topic. I have had a number of people say to me that this really has not been well handled by the government. I was recently in Western Australia talking to some officials in the planning sector there and they said it just would not happen in WA, that you would have a firm of consultants working for the developers and that same firm being employed by the government, irrespective of whether they were the only ones in town or the best placed people. It simply would not happen.

That is why the opposition thought that the best way to deal with this was to refer it to the Ombudsman. We met with the Ombudsman, as I indicated last week when I spoke to the motion to refer it to the Ombudsman, and he has clear guidelines to look into the main issue in contention. There are a whole lot of other issues that float around the side as to land use, infrastructure and all those issues that have been covered by other speakers (and I certainly covered it last week when I spoke against the Hon. Mark Parnell's motion to call on the government to reverse the rezoning).

I know the Hon. Mark Parnell, with regard to our having legal advice, says 'So what!' In his view it would not cost anything; in our view it will. It is the government's view that it would if you overturned or reversed the rezoning, so we are not prepared to even entertain that, because our state is almost on the brink of bankruptcy.

I heard the senior economist from Westpac, Mr Bill Evans, at a breakfast last Friday and he said, 'We are definitely in recession and jobs growth is at a 20-year low, at zero.' So, when you start looking at some of those statistics, this state cannot afford any more kicks in the guts or hiccups in its economy, and certainly to reverse a rezoning potentially exposes our state to maybe as much as $500 million in compensation—simply something we could not afford. We did not agree with that, so our view was that the best place to deal with this was with the Ombudsman. We indicated via press release in more ways than one that we would not support this. He has now amended it to a select committee.

The Hon. M. Parnell: But now you can support it.

The Hon. D.W. RIDGWAY: And you did say to me a few weeks ago, 'I could have gone to a select committee, but I think I'll stay with you.'

The Hon. J.M. Gazzola interjecting:

The Hon. D.W. RIDGWAY: The Hon. John Gazzola's right in that normally these things should be tabled and we should take time to consider them. You are rolling your eyes in your head, and you did email us last week and we will deal with it.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I remind the honourable member that I am not rolling my eyes in my head.

The Hon. D.W. RIDGWAY: No, but he was. We are now faced with the prospect of a select committee. The Hon. Gerry Kandelaars and I are on the forestry select committee, which only met two days ago. The Hon. John Gazzola and the Hon. Jing Lee could not make it because it conflicted with Social Development. The Hon. Carmel Zollo made the comment that we now have 11 select committees, some of which rarely meet. I am reminded of one—I think it is the Lefevre Peninsula one which the Hon. Mark Parnell moved: it was on the *Notice Paper* for 12 months before he called it to a vote. It is important because Port Adelaide is the redevelopment of the port. We have met twice since it was established in late November/December. I would have liked to have met much more regularly during the lead-up to the by-election to try to expose some of the issues in Port Adelaide, but sadly we could not do that.

Members interjecting:

The Hon. D.W. RIDGWAY: The Hon. Mark Parnell and the Hon. John Gazzola talk about being independent: I would be absolutely independent because we did not have an interest in it. Now that you have reminded me of by-election candidates and preferences, I will come back to that in a minute, but what we see is a select committee that I supported. I took it to our party room and our caucus early in the piece and said, 'I think that the Lefevre Peninsula is an important part of the state, and it would be good to have a look at that particular issue.' Of course, the simple problem is that we have 11 committees. This would be No. 12, and I think the Hon. Robert Brokenshire has one on the *Notice Paper* that he wants to move, so it could be 13.

We simply do not have the resources. We have the hardworking table staff as secretaries but we cannot get researchers, we cannot get quorums, and we are just overloading ourselves with select committees. I reiterate: I think the best place for this inquiry—the narrow part of the inquiry that we think is important—is to be referred to the Ombudsman. Let us take all the politics out of it; the Ombudsman's office is well resourced, so let us have the Ombudsman look into the issue.

I was reminded by the interjections of the Hon. Mark Parnell and the Hon. John Gazzola about by-elections, candidates and preferences, and I would to rebut the comments made by the Hon. Mark Parnell last week. I commented on the Greens' preferences to the Labor Party, and the Hon. Mr Parnell raised the issue that we did not run a candidate in Port Adelaide, so we are just sooks. Mr Parnell also stated that, in Victoria, the Liberal Party preferenced Labor, and—

The Hon. M. Parnell: 88 seats.

The Hon. D.W. RIDGWAY: He says it was 88 seats, but he misses the point: they did not preference Labor to get them elected. I know they did a deal to stop your friends in Victoria winning seats, and I can understand why you are upset and disappointed with that, but the Liberal Party did

not preference Labor to put them into government. The difference in this state is that your party made the choice to preference the Labor Party in Bright, Hartley, Mawson, Mitchell and Newland.

You made the conscious decision that, if you were to preference the Labor Party in those seats, they would win the seats—you hoped they would win the seats, and they would form government. Whereas, the Victorian Liberal Party made a decision—and I know you are disappointed, and from the Greens'—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The honourable member should direct his comments through the chair.

The Hon. D.W. RIDGWAY: I am sorry, Mr Acting President. I know the Greens are disappointed, and they probably have every right to be disappointed, but at the end of the day, that preference decision by the Liberal Party was not made to elect the Labor Party. The decision by the Greens to preference Susan Close in Port Adelaide was made to guarantee her election. They did not have to run a candidate; there was no Legislative Council election, they were never going to win the seat, so a decision was made to run purely to benefit somebody.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I think we ought to return to the essence of the motion.

The Hon. D.W. RIDGWAY: We could return, Mr Acting President. I just make the point that, in the end, we the opposition, with the support, I hope, of the crossbenchers, will refer this to the Ombudsman, because it takes the politics out of it. The Greens are going to say that we are sooks and that we should not be whingeing about losing the election; we are going to continue to say they should not have preferenced Labor, that they knew what they were going to get and what would happen, because it was clearly spelled out before the election.

The Mount Barker DPA was not in place at the time but we would have changed it. We wanted modest growth within the existing town boundaries, and we would consult and work with the community. The government had another plan. A decision was made by the Greens to preference Labor to guarantee their election. In addition, the Greens preferenced the Hon. Paul Holloway, the Hon. Bernard Finnigan, the Hon. Gail Gago and the Hon. John Gazzola in the Legislative Council. The then minister for urban planning (Hon. Paul Holloway) was the very minister the Hon. Mark Parnell takes issue with, and yet he was the member his party chose to preference.

If we are not careful, this will be a continuous political arm wrestle. If it goes to the ERD Committee, it will be dealt with by the numbers there. I also make the point that, if it goes to a select committee, I am yet to see, in the 10 years that I have been a member in this parliament, any select committee recommendation that was negative towards the government be adopted by the government. We table them here, we speak to them and, at the end of the day, they go nowhere.

I know the Hon. Mark Parnell will say that this is about changing and improving the planning system. About 12 months ago, Mr Acting President, I released a discussion paper on reforms for planning. I did it broadly and it was well-covered in the media.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! There is too much conversation in the chamber.

The Hon. D.W. RIDGWAY: I saw the Hon Mark Parnell the next day and, in fact, we had sequential press conferences about the planning discussion paper. Amid the banter in the corridor afterwards, I asked, 'Why don't you put in a submission? There is a fair chance that either the Labor Party or Liberal Party will be the next party to form government—it is unlikely to be the Greens—so here is your chance; you have a shadow minister saying we want to engage the community and have a discussion about how we can improve the system.' Submissions have closed but I would probably still be quite happy to receive a submission from the Greens if they felt so inclined as to participate in a policy development of an opposition party.

We have been quite open and transparent. We would like to change the system. We think it is broken. We would like the Ombudsman to have a look at if the system was broken in relation to the probity checks and balances. The Ombudsman would report to parliament and that would be tabled in parliament, and there is a fair expectation that if the Ombudsman came up with recommendations (not far off the election) then I suspect that if the government was not prepared to adopt those recommendations you would see an opposition—

The Hon. A. Bressington: He will bury it.

The Hon. D.W. RIDGWAY: The Hon. Ann Bressington says he will bury it. I hope he does not bury it. He did not tell me today that he would bury it; he seemed quite interested in an inquiry. In the end, we think an inquiry by the Ombudsman is a better way to do it, it takes the politics out of it, and then hopefully his office would come back with a final report, table it, and there would be some recommendations for the government, the opposition and all minor parties and Independents to consider. We think that is a far better process. Given that we already have 11 select committees, so this would be 12, we cannot—

The Hon. A. Bressington interjecting:

The Hon. D.W. RIDGWAY: Exactly. I was talking to the messenger and I said, 'Maybe we should cap it at 10. Maybe we should say that we can't establish any more, 10 is the maximum we can handle and until we finish and discharge one we won't have any more.' I think that might put a bit of a discipline on all of us on a select committee to think: 'Actually, we have a great issue. We still have 10 on the books, so we have to discharge one so we can get the next inquiry out.' That may be a positive that comes out of all of this. I am not sure whether the Hon. Mark Parnell has received a letter from the Mount Baker council, but I have a letter from the mayor of the Mount Barker council which arrived just today. It states:

Dear David

I am writing to advise that the District Council of Mount Barker passed the following resolution unanimously at its council meeting held Monday 3 April 2012:

Moved Councillor Bettcher that Council support the notice of motion by the Leader of the Opposition in the Upper House and the Mayor write, as soon as possible, on behalf of all Elected Members, a letter to all members of State Parliament to obtain support for the Hon David Ridgway's move to have the Ombudsman commence a well resourced non-political probe into the selection of Connor Holmes for the Growth Investigations Report and other related aspects as stated in the suggested terms of reference.

So, the Mount Barker council, being concerned with what the government has imposed on it, has, at its latest meeting on Monday night, resolved to write to all members of parliament to obtain support for what we are trying to do: refer it to the Ombudsman. With those few words, I indicate that the opposition will not be supporting the Hon. Mark Parnell's motion.

The Hon. M. PARNELL (21:33): I would like to thank my colleague the Hon. Tammy Franks for her contribution and for the very sensible amendment she moved to this motion. I thank the Hon. Carmel Zollo and the Hon. David Ridgway. The first thing I would say about the Hon. Carmel Zollo's contribution is that, clearly, she believes the Liberal Party are far smarter than they are. She envisaged that a deal had been struck and was a little bit down in the dumps in her contribution, but the Liberal Party never fail to surprise even the Hon. Carmel Zollo. It was no surprise that the Labor Party did not support this motion. It was never going to support this motion, whether it was a select committee or a parliamentary committee, and I look forward to it not supporting an inquiry by the Ombudsman as well. It is just par for the course.

In response to the Hon. David Ridgway's contribution, I have a few observations about the attempts that the Greens have made to try to get as much support as possible from all in this place to a genuine inquiry.

The first thing that I did was put it to the Environment, Resources and Development Committee at its second to last meeting that we call in relevant government officials to ask them about these issues, in particular the conflict of interest issues that were identified in the freedom of information documents that I obtained. As would surprise no-one, the government majority on that committee declined to hear from the government.

I could have just left it at that and said that the Hon. David Ridgway seems to be satisfied that that is a democratic process. If the Labor majority members on that committee say they do not want to hear any witnesses, I could have just left it at that. I thought, no. I gave the committee the opportunity voluntarily to have a very brief inquiry—it probably would only have been one day—but they declined that opportunity. So I thought I would offer the Legislative Council the opportunity to refer the matter.

The reason I originally chose the ERD Committee was because that is the committee with statutory responsibility for planning. It has looked at this issue previously, but only in relation to the merits of the rezoning. It did not look at the process because that is not part of its statutory role when a development plan amendment is referred to it. Clearly, despite the numbers being evenly

split, opposing the Mount Barker rezoning, the government used the casting vote of the chair to make sure that the rezoning was not rejected.

I should say that that would surprise no-one because since 1994 when this system came into operation (18 years), this parliament has never rejected a rezoning at the instigation of the Environment, Resources and Development Committee. It has never happened. The Hon. David Ridgway often refers to things like false hope. The biggest false hope I think that is held out to the people of South Australia is the provision of the Development Act under the heading 'Parliamentary scrutiny' which has people thinking that a bad rezoning will in fact be thrown out by parliament.

Members have been interjecting, which was most unruly, to suggest that we have come close a few times. Yes, it has come close. We almost got the rezoning at Glenside Hospital thrown out. One of the members of the committee had a change of heart at the last minute, but I stand by what I said: since 1994 when this system came in, I am not aware of any rezoning thrown out using that parliamentary scrutiny process. I would love to be corrected because I have been saying it for a few years and no-one has given me an example yet.

Members interjecting:

The PRESIDENT: Order!

The Hon. M. PARNELL: Members on both my right and left are interjecting with technicalities. I will stand by my point that the parliament has never thrown out a rezoning. Anyway, the Hon. David Ridgway then came out on that last Wednesday of sitting with a media release under the heading 'Libs call in Ombudsman over Mt Barker.' The Hon. David Ridgway said in parliament that it was in response to my motion calling for an ERD inquiry. In his release, the Hon. David Ridgway says:

> I hope that South Australians will now get a proper, well-resourced, non-political probe into selecting Connor Holmes to prepare the Growth Investigation Areas Report. South Australians want answers. The Greens, in contrast, want the issue to go to a Labor-dominated parliamentary committee, and we've all seen how Labor gets the results it wants when it has the numbers on parliamentary committees.

So, the main objection the Liberals have was that it was a Labor-dominated committee. My main concern is that the people of Mount Barker—and I think they deserve answers to the legitimate questions they have been asking. If I cannot get the Liberals on side referring it to the standing committee of this parliament with statutory responsibility for planning, then the next option is to go for a select committee.

As the Hon. David Ridgway said, it was not my first option. I am aware that there is a number of select committees and people here do not want to work harder than the work provided by 11 committees. Having moved it to try to satisfy the Liberals' concerns that it was a Labor-dominated committee, I said let's put it to a select committee and we can make sure that the Labor Party will not control this select committee. We will make sure that it is not a government dominated committee. This is the Liberal Party. When you respond to their concerns in a spirit of cooperation they find another lame excuse to deny the people of Mount Barker the scrutiny that this project deserves.

I might just reflect briefly on the proposed Ombudsman's inquiry, and I will tell the Hon. David Ridgway that I will support that. I will support the Ombudsman's narrow inquiry into the very narrow term of reference that the Hon. David Ridgway put forward, which is simply to do with the procurement process followed in one particular contract let to one particular contractor. Yes, let's do that, but when you look at the Ombudsman's legislation and you see how the Ombudsman operates, it is only an inquiry in relation to administrative acts. The Ombudsman inquires in private, and in fact if we look at the Ombudsman Act section 18, subsection (2), 'every investigation under this act must be conducted in private'.

So the first problem we have with the Ombudsman having been the sole investigation is that the opportunity for people, members of the community, to actually hear firsthand from the government how they explain the process they went through has gone in this process. The Ombudsman, under the terms of reference proffered by the leader of the opposition, will not look at the most fundamental question in this whole sorry exercise, which is why it is appropriate for the government to outsource to private contractors who have conflicts of interest with their private clients the most important task facing the planning system, that is the long-term strategic planning of our cities, our towns, our countrysides and our suburbs. Why on earth are they doing that?

The Ombudsman will look at whether proper procurement policies were followed. Were boxes ticked, were forms filled out properly? The Ombudsman will not investigate that fundamental question about whether this is the proper way to proceed with the long-term planning of our state. Whilst we can support, when it comes to a vote eventually, the Ombudsman having a look at that narrow part of this equation, if you look at the terms of reference that I have put forward they are far broader than simply the contract for the growth investigation areas report. The terms of reference for the inquiry that the Greens are putting forward include issues such as the adequacy of infrastructure planning and funding. There is a whole range of issues much broader than simply that one contract.

That is why I think it is consistent. We will support that narrow inquiry by the ombudsman, but I also expect this parliament to see the bigger picture and to see that a proper inquiry is warranted into Mount Barker. The Hon. David Ridgway says that he wants to take the politics out of it. Well, to a certain extent he has already taken the politics out of it, because his party has abandoned the people of Mount Barker. They are already out of it; they are already out of Mount Barker. He took the politics out of it when they refused to stand up for the people of Mount Barker in a timeframe when it was possible to do something about it.

The later it gets, the harder it is to do anything about it. We have been trying as hard as we can on the part of the Greens over the last several years to try to deal with this. The Hon. David Ridgway is embarrassed, his party is embarrassed, he wants the whole thing to go away. He certainly does not want members of parliament to have to directly grill bureaucrats or directly grill the people involved. He would much rather it be a very simple exercise. He has washed his hands of it; send it to the Ombudsman.

We may or may not get an inquiry. If the report does come back to us it is very likely to say that bureaucratic boxes were ticked, but it will not have addressed the most important issue, which is why the government proceeded as it did to undermine its own decision of 2005-06, outsource the job of planning to private consultants, and ride roughshod over the local community, the people of Mount Barker. It is a shameful exercise and I think it is equally shameful that the opposition is not prepared to bat for their constituents, who voted for them in the House of Assembly.

I am a realist—I can see the numbers in the chamber tonight. I can see that this important inquiry is not going to get up, and the reason it will not get up is because the Liberal Party has squibbed it again on Mount Barker.

Amendments negatived.

Motion negatived.

CRIMINAL LAW CONSOLIDATION (LOOTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 March 2012.)

The Hon. G.A. KANDELAARS (21:46): I will rise briefly to indicate that the government supports this bill. I understand that the Deputy Premier spoke on this matter in the other place and I have nothing further to add.

The Hon. S.G. WADE (21:46): I would like to thank the Hon. Gerry Kandelaars for his contribution, and indeed the contribution of the Attorney-General on 24 November cannot be bettered by being added to, so I commend the bill to the house.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. S.G. WADE (21:48): I move:

That this bill be now read a third time.

Bill read a third time and passed.

REGISTRATION OF POLITICAL PARTIES

Adjourned debate on motion of Hon. Mr S.G. Wade:

That the regulations made under the Electoral Act 1985 concerning registration of political parties, made on 29 September 2011 and laid on the table of this council on 18 October 2011, be disallowed.

(Continued from 14 March 2012.)

The Hon. G.A. KANDELAARS (21:49): It will be no surprise that the government opposes this motion. This motion seeks to remove the current regulations surrounding registration of political parties. These regulations improve the political process in this state by minimising the potential disingenuousness of so-called political parties seeking registration immediately prior to an election. As mentioned, for continuing eligibility, political parties are now required to furnish an annual return in addition to the following documents prescribed by regulation 5B(2)(a), which states:

(i) a document setting out the names and addresses of 200 electors who are members of the party and

(ii) declarations of membership of the party to be in a form determined by the Electoral Commissioner, completed and signed within the period to which the annual return relates.

The government does not agree with the motion moved, nor the assertion made. The changes referred to were made to the Electoral Act 1995 in response to concerns raised in relation to the registration of these disingenuous political parties. Registered political parties are able to access sensitive and personal information contained on the electoral roll. Ensuring political parties are able to meet their ongoing eligibility requirements for registration ensures the correct use of such information.

In considering amendments to the act, the government consulted with the Electoral Commission of South Australia throughout the legislative process, and the amendments in the motion were approved. The government does not agree that the requirements imposed are an onerous administrative burden.

In relation to online/electronic membership, I draw honourable members' attention to section 9 of the Electronic Transactions Act 2000 which provides for circumstances in which the requirements of a signature are said to have been met in relation to electronic communications. Further, regulation 5B(1)(ii) provides that the declaration of membership be provided in the form determined by the commissioner allowing flexibility in relation to information provided electronically.

We further argue that in ensuring the protection of voters, in addition to the integrity of the party system, the requirements imposed by the regulations are very reasonable. I note that the number of members required for registration is synonymous with the requirements imposed on political parties in other jurisdictions where, in the Northern Territory, eligibility of a political party also requires a membership of 200 electors, whilst other states (including Queensland and Victoria) require names and addresses of at least 500 electors.

I agree with the honourable member that small parties are an important part of a pluralist democracy. However, I remind him that their integrity is compromised by the existence of political parties that have no genuine interest in contributing to the political process.

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

FORESTRY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 March 2012.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (21:53): I indicated when I last spoke on this bill that I would give notice or foreshadow that I would refer this to the select committee. I move:

To leave out the words after 'That' and to insert 'the bill be withdrawn and referred to the Select Committee on the Harvesting Rights in ForestrySA Plantation Estates.'

I think we are hoping to wrap up this inquiry in the near future, because we have 11 select committees—we are very burdened with them—but I suspect it is becoming more and more apparent (and I accept that I should not pre-empt the findings of the committee) that some legislative recommendations may well come from some of the discussions the select committee has been having. If we are going to go down that path, and this is a bill before the parliament that the Hon. Robert Brokenshire has moved, I think it would be wise for the committee to have a quick look at that so that we are a bit better versed in what he is proposing. With those few words, I conclude my remarks.

Motion carried.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (21:55): I move:

That this order of the day be discharged.

Motion carried; bill withdrawn.

CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) AMENDMENT BILL

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

STATUTES AMENDMENT (COMMUNITY AND STRATA TITLES) BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

MENTAL HEALTH (INPATIENT) AMENDMENT BILL

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

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (21:59): 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 *Mental Health (Inpatient) Amendment Bill 2012* makes a subtle but important amendment to the *Mental Health Act 2009* through a change in terminology from detention and treatment order to inpatient treatment order to more accurately reflect the way in which contemporary involuntary mental health treatment is delivered and to remove the negative connotation of the term 'detention' which is often associated with criminality and used in a punitive sense.

Some people with mental illness are our most vulnerable community members and are in need of proper care and treatment—not stigma, labels and judgement by others who may never have experienced what these people can experience on a day-to-day basis.

The introduction of the amendment Bill coincides with a mental health destigmatisation campaign, launched by SA Health in February and running in March and again in May 2012.

The title for detention and treatment orders in the current *Mental Health Act 2009* sends too strong a message about the nature of the orders and leads readers to have a picture of all mental health patients subject to detention and treatment orders being locked up and physically prevented from leaving a treatment centre. This is not an accurate portrayal of our progressive mental health system.

The current *Mental Health Act 2009* provides for two categories of orders, a community treatment order and a detention and treatment order.

A community treatment order requires mandatory treatment of a person living in the community. A detention and treatment order requires mandatory treatment of a person admitted to a treatment centre as an involuntary inpatient.

A common public perception is that those subject to detention and treatment orders are all managed in secure environments, when in reality, contemporary mental health care provides for an involuntary inpatient to be under supervision in non-secure environments, in accordance with the objects and guiding principles of the Act. These principles provide that people with mental illness retain their human rights and dignity as is consistent with their protection, the protection of the public and the proper delivery of the services, and requires patients to be treated in the least restrictive manner possible.

This common perception of persons subject to detention and treatment orders being 'locked up' contributes to negative stigmatisation at a time in their lives when compassion and support is required.

The Bill alters the title of a detention and treatment order in order to better describe that the order is for a person to receive treatment as an involuntary inpatient.

The change in terminology does not in any way change the functions of the orders or the limitations on their duration. It is merely a cosmetic amendment to remove potentially misleading terminology and substitute more accurate terminology. Neither does it change the ability to revoke the orders at any stage to ensure people are not treated involuntarily any longer than is clinically necessary.

Patients who cannot be adequately treated in the community, either voluntarily or under a community treatment order, are best treated subject to an order to receive treatment in an acute mental health inpatient unit. The reality is that not all persons subject to such orders are kept in secured areas. There are only a small number of patients who are clinically assessed as bearing a significant risk of harm necessitating being treated within a secure environment.

There is an ability to forcibly return patients to the inpatient setting if the patient leaves without leave of absence. The parameters under which the powers for returning absconding patients can be used are clarified in this Bill to ensure that people experiencing mental illness who are vulnerable to poor judgment are kept safe and protected from harm. After all, the way in which we look after our vulnerable people, is a measure of a civilised society.

The requirement to obtain a leave of absence and to comply with any conditions of a leave of absence is made express, as is the fact that confinement may be required along with other powers to ensure that necessary treatment may be provided and to maintain order and security at treatment centres. The focus of these provisions is on the ability to provide necessary treatment.

Although it has only been about two years since the *Mental Health Act 2009* came into operation, it has become increasingly evident that not making this change to the terminology at that stage was an oversight, and consequently continued a way of thinking which does not accurately reflect practice. It is time to now move on from outdated and inaccurate views about the treatment of persons suffering mental illness.

A targeted consultation process with consumers, carers, clinicians and other key stakeholders, which sought feedback, including the suggestion to replace the word 'detention' in the Act was undertaken during the drafting stage of the amendment Bill.

There is no intention to open the Act up for any further amendment at this stage, given the requirement that it be reviewed within four years from the date of its commencement.

It is important with any legislation that it is expressed in clear terms and not in a way that is misleading. This Bill seeks to more accurately describe the nature of treatment orders and reflects contemporary attitudes and approaches to acceptance and treatment of mental illness. Importantly also, it ensures that terminology used in the Mental Health legislation does not contribute to negative stigmatisation and consequent marginalisation of people suffering mental illness, counter to principles of that very legislation.

I commend the Bill to honourable Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal. The Act is to commence on proclamation so that forms can be adjusted in readiness for implementation.

Part 2—Amendment of *Mental Health Act 2009*

4—Amendment of section 3—Interpretation

A detention and treatment order is to become an inpatient treatment order, that is, an order for the treatment of a person who has a mental illness as an inpatient in a treatment centre.

The expressions involuntary inpatient and voluntary inpatient are introduced to distinguish between inpatients who are subject to inpatient treatment orders and those who are not.

This clause amends the interpretation section accordingly.

5—Substitution of section 34

Current section 34, which provides treatment centre staff with necessary powers, is expanded into 2 new sections. Instead of the Act providing expressly for an order for detention, new section 34 provides that an involuntary inpatient in a treatment centre is not permitted to leave the centre or the care and control of treatment centre staff without a leave of absence and new section 34A makes explicit that measures may be taken for the confinement of an involuntary inpatient in a treatment centre, as well as other measures necessary for carrying out the order and maintaining order and security at the centre. Under existing provisions of the Act a patient at large, that is, a patient who has left the centre or such care and control without such leave or who has contravened conditions of leave, may be apprehended and brought back to the treatment centre. The clause recognises that exercise of the powers of confinement etc must be guided, in particular, by the principles set out in section 7 of the Act.

6—Amendment of section 42—ECT

These amendments are not intended to make any substantive change to the law, they simply explain the requirements for consent to ECT using a different approach.

7—Amendment of section 101—Errors in orders etc

This amendment is designed to ensure that a person confirming or varying an order etc may correct minor errors.

Schedule 1—Further amendments of *Mental Health Act 2009*

The change in terminology causes extensive minor amendments of the Act and these are set out in this Schedule.

Schedule 2—Transitional provisions

This Schedule converts current orders to the new names and provides that if, after implementation, an order of the old name is inadvertently made it will be regarded as an order of the new name.

Debate adjourned on motion of Hon. D.W. Ridgway.

MINING (EXPLORATION AUTHORITIES) AMENDMENT BILL

Second reading.

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) (22:01): 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 Mining (Miscellaneous) Amendment Act 2010, which came into operation on 1 July 2011, made various amendments to the *Mining Act 1971*. Amendments included the removal of the concept of a miner's right from the Act. Section 20 of the Act was thus amended to establish a general right to prospect over mineral land in this State. A consequential amendment to remove a reference to a miner's rights from the definition of *exploration authority* in section 6(1) of the Act was also made.

Under section 63F of the *Mining Act 1971* an exploration authority does not confer a right to carry out mining operations that would affect native title rights and interests other than where they are properly authorised in accordance with that section. This ensures that the grant of these exploration authorities comply with the provisions of the *Native Title Act 1993 (Cth*).

The *Native Title Act 1993 (Cth)* requires that any legislative changes conferring a right to mine that affect native title must comply with the processes set out by the Commonwealth Act.

The amendments to section 20 purported to create a general right to mine which was not restricted by section 63F and may have included a right to undertake activities which could affect native title rights. This would not have complied with the requirements of the *Native Title Act 1993 (Cth)*.

Accordingly, the amendment to the definition of exploration authority by the Bill makes it clear that an exploration authority includes a right to prospect for minerals under section 20 of the Act. This will redress the unintended consequence of the amendments made by the 2010 Act to section 20 thus ensuring that section 63F of the Act applies.

The Bill will be taken to have come into operation on 1 July 2011 which was the date on which the 2010 amendments came into operation to take account of rights to prospect that have come into existence from that date.

This will ensure that activities that relied on section 20 and had no affect on native title rights and interests can be regarded as having been authorised under the Act from the time of the 2010 amendments.

An audit has been made of all current mineral claims that may have been pegged from the date of the 2010 amendments to assess whether the pegging of any of these claims relied upon the operation of section 20. I am informed that there are none.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides that the Act will be taken to have come into operation on 1 July 2011.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Mining Act 1971*

4—Amendment of section 6—Interpretation

This clause amends section 6 by inserting a new paragraph into the definition of *exploration authority* to ensure that the definition includes a right to prospect for minerals under section 20.

Debate adjourned on motion of Hon. D.W. Ridgway.

RAIL SAFETY NATIONAL LAW (SOUTH AUSTRALIA) 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) (22:01): 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.

I am pleased to introduce the *Rail Safety National Law (South Australia) Bill 2012*.

South Australia has the privilege to lead the way in this national reform process that will transform the way the rail industry is regulated in Australia. Australia has had a long history with railways being developed on a State and Territory basis with no contemplation of what occurs over the border.

By Federation in 1901, all States except Western Australia were linked by rail and more than 20,000 km of track had been laid. Sadly, those who envisaged a nation had not contemplated a national rail network. Three different gauges had been used. In 1917, a person wanting to travel from Perth to Brisbane on an east-west crossing of the continent had to change trains six times. It was not until June 1995 that trains could travel between Brisbane and Perth, via Sydney, Melbourne and Adelaide on a standard gauge track.

Rail regulation has had a similar history—with every State and Territory regulating its railways differently. Despite attempts to adopt a common approach inconsistencies between rail safety legislation exist. Over the last decade, there has been a significant attempt to establish consistency and uniformity across rail regulation, including a move in 2006 to create model rail safety law that each State and Territory was to adopt to ensure a consistent co-regulatory approach to rail regulation across Australia. Unfortunately, not all States faithfully delivered this law. South Australia's legislation was among the most consistent with the model law.

It has been the Council of Australian Governments' vision to improve this situation. Similar reforms are also currently underway for heavy vehicles and in commercial marine safety.

The introduction of this Bill will lead the way to nationally uniform regulation of rail transport operators. The aim for rail is to have one single national rail safety regulator who will provide the rail industry with a consistent and reliable co-regulatory approach which will cut red tape and enable those operators who work in multiple jurisdictions to have one certificate of accreditation, and only have to respond to one regulator rather than up to seven different regulators.

It is truly a reflection of the positive light within which South Australia is held by industry that it has been chosen as the host jurisdiction and home for the Office of the National Rail Safety Regulator, which will be created with the passage of this Bill. The National Rail Regulator Project Office has consulted extensively with all relevant stakeholders in all jurisdictions to ensure this Bill will be a workable national approach to rail safety regulation. This is no small task.

Like other recent national reforms such as the National Health Practitioners and the National Occupational Licensing Schemes, this Law is an applied law scheme. This approach is used where referral of power to the Commonwealth is not a desirable option. It requires a host jurisdiction to pass the national Law as a law of that State (generally included as a schedule to the Bill) and then for the other States and Territories to pass legislation applying the schedule in the host jurisdiction's law as their own law.

The Rail Safety National Law clearly expresses the intention, that despite many jurisdictions passing the law, only one single national entity is created. The Law provides for the establishment of the Office of the National Rail Safety Regulator, which comprises of the National Rail Safety Regulator and 2 non-executive members, all appointed by the South Australian Minister upon the unanimous recommendation of all the transport ministers and can include the Commonwealth Minister (the 'responsible ministers'). The Office will be a single body corporate that operates, and can engage staff, on a national basis.

The Law is similar to the existing South Australian *Rail Safety Act 2007*, which it repeals. The Law sets out the functions and powers of the National Rail Safety Regulator, and includes objectives of providing for the effective management of safety risks associated with railway operations and to promote public confidence in the safety of transport of persons or freight by rail. It covers accreditation; registration of rail infrastructure managers of private sidings; safety management; provision of information about rail safety; investigation and reporting by rail transport operators; drug and alcohol testing by the Regulator and enforcement officers; train safety recordings; auditing of railway operations by the Regulator; compliance and enforcement measures; exemptions; review of decisions; and general liability and evidentiary provisions.

There will be a common approach to the prescription of drug and alcohol requirements and fatigue management provisions. The majority of the Bill (apart from the Schedule which contains the Law) deals with testing procedures for drugs and alcohol because jurisdictions have decided to apply their own testing procedures. The procedures in the Bill are those currently used under the *Rail Safety Act 2007*, which in turn mirror those used for other modes of transport—that is, under the *Road Traffic Act 1961* and the *Harbors and Navigation Act 1993*.

The application provisions of the Bill provide that a regulation made under the legislation may be disallowed if a majority of jurisdictions vote against it. This approach has been recommended by the Parliamentary Counsel's

Committee and is supported by industry as providing the greatest certainty that regulations will remain the same in all jurisdictions. If a regulation were to be disallowed in one jurisdiction there would be inconsistent rules for industry and the National Regulator would have to administer several slightly differing administrative schemes. This would undermine the efficiencies and economies the reform is aimed to deliver.

The Council of Australian Governments anticipates that the National Regulator will commence operations by 1 January 2013. I hope the Bill will receive the support of all Members so that it may pass in a timely manner to give as much time to other State and Territory parliaments to pass their application laws by that time.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause provides that the short title of this measure is the *Rail Safety National Law (South Australia) Act 2012*. South Australia is the host jurisdiction for this national scheme for rail safety and so is the first of the participating jurisdictions to introduce the legislation for consideration. The provisions of this measure, other than the provisions set out in the schedule to this measure, may, from time to time, in this explanation be referred to as the *application provisions*.

2—Commencement

This clause provides that the measure will come into operation on a day to be fixed by proclamation and that section 7(5) of the *Acts Interpretation Act 1915* does not apply to this measure.

3—Interpretation

This clause contains definitions for the purposes of this measure. It also provides that a term used in the local application provisions of this measure (that is, the provisions other than the *Rail Safety National Law* (the *RSNL*) set out in the schedule to this measure) and also in the RSNL have the same meanings in those provisions as they have in the RSNL (to the extent that the context or subject matter does not otherwise indicate or require).

Part 2—Application of Rail Safety National Law

4—Application of Rail Safety National Law

This clause provides that the RSNL, as amended from time to time, and as set out in the schedule to this measure—

- applies as a law of this jurisdiction; and
- as so applying may be referred to as the *Rail Safety National Law (South Australia)*; and
- as so applying is part of this measure

5—Interpretation of certain expressions

This clause defines certain terms used in the RSNL in order to give them a particular meaning in this jurisdiction. Among the terms defined for South Australia's purposes are the following: court, emergency services, Gazette, magistrate, medical practitioner, Minister and police officer.

This clause further provides that, for the purposes of this measure and the *Rail Safety National Law (South Australia)* and any other Act or law—

- the Office of the National Rail Safety Regulator—
  - is not a State entity (and therefore not a South Australian entity); and
  - is not an agency or instrumentality of the South Australian Crown; and
- an employee of the Office of the National Rail Safety Regulator is not a public sector employee employed by a public sector agency.

However, the Office of the National Rail Safety Regulator may still be taken to act on behalf of the Crown in right of South Australia and each other participating jurisdiction (see clause 12(3) of the RSNL).

6—No double jeopardy

This clause provides that if an act or omission is an offence against the *Rail Safety National Law (South Australia)* and is also an offence against a law of another participating jurisdiction and the offender has been punished for the offence under the law of the other jurisdiction, the offender is not liable to be punished for the offence against the *Rail Safety National Law (South Australia)*.

7—Exclusion of legislation of this jurisdiction

This clause provides that the *Acts Interpretation Act 1915* does not apply to the *Rail Safety National Law (South Australia)* or to instruments made under that Law.

Subject to subclause (3), the following Acts of this jurisdiction do not apply to this measure and the *Rail Safety National Law (South Australia)* or to instruments made under that Law (except as applied under the Law):

- the Freedom of Information Act 1991;
- the Ombudsman Act 1972;
- the Public Finance and Audit Act 1987;
- the Public Sector Act 2009;
- the Public Sector (Honesty and Accountability) Act 1995;
- the State Procurement Act 2004;
- the State Records Act 1997.

The Acts referred to in the previous subclause apply to a State entity or an employee of a State entity exercising a function under the *Rail Safety National Law (South Australia)*.

Part 3—National regulations

8—National regulations

Under Part 10 Division 9 of the RSNL, the Governor of South Australia, acting with the advice and consent of the Executive Council of South Australia, is nominated as the designated authority to make the national regulations, on the unanimous recommendation of the responsible Ministers for each of the participating jurisdictions.

This clause provides that the *Subordinate Legislation Act 1978* (other than sections 10, 10A and 11) does not apply to the national regulations.

However, if a regulation made by the Governor for the purposes of the RSNL is disallowed in this jurisdiction, the regulation does not cease to have effect in this jurisdiction unless the regulation is disallowed in a majority of the participating jurisdictions (and, in such a case, the regulation will cease to have effect on the date of its disallowance in the last of the jurisdictions forming the majority).

Part 4—Provisions relating to drug and alcohol testing

This Part makes provision for the carrying out of drug and alcohol testing by the National Rail Safety Regulator under the RSNL in South Australia. While the head of power enabling the Regulator to test rail safety workers for the presence of a drug or alcohol is set out in Part 3 Division 9 of the RSNL, the details as to the procedures to be followed are to be included in the application provisions of each of the participating jurisdictions so to allow for local variation. In this State, the scheme, as provided under this Part, is to remain consistent with the scheme that has been operating here for some time (see Schedule 2 of the *Rail Safety Act 2007*).

Part 5—Repeal and transitional provisions and related amendments

This Part makes provision for the repeal of the *Rail Safety Act 2007*, for transitional arrangements and for related amendments to a number of Acts.

Schedule 1—Rail Safety National Law

Part 1—Preliminary

1—Short title

Provides that this Law may be referred to as the Rail Safety National Law (the RSNL).

2—Commencement

The RSNL will commence as provided by the application Act.

3—Purpose, objects and guiding principles of Law

Sets out the purpose, objects and guiding principles of the RSNL.

4—Interpretation

Sets out the definitions used in the RSNL.

5—Interpretation generally

Schedule 2 of the RSNL sets out the interpretation provisions that apply to the RSNL.

6—Declaration of substance to be drug

Provides for the declaration of substances as drugs for the purposes of the RSNL.

7—Railways to which this Law does not apply

Sets out railways that are not covered by the RSNL.

8—Meaning of rail safety work

Sets out the meaning of rail safety work.

9—Single national entity

Provides that the intention of Parliament is for the RSNL applied by this jurisdiction, together with other jurisdictions, to create 1 single national entity.

10—Extraterritorial operation of Law

Provides for the extraterritorial operation of the RSNL to the extent allowable.

11—Crown to be bound

Provides that the RSNL binds the Crown.

Part 2—Office of the National Rail Safety Regulator

Division 1—Establishment, functions, objectives, etc

12—Establishment

Establishes the Office of the National Rail Safety Regulator (ONRSR) as a body corporate. ONRSR would represent the Crown of each participating jurisdiction, but would not thereby become a Crown agency or instrumentality as such.

13—Functions and objectives

Sets out the functions and objectives of the ONRSR.

14—Independence of ONRSR

Provides that except as otherwise provided, the ONRSR is not subject to Ministerial direction in the exercise of its functions or powers.

15—Powers

Sets out the powers of the ONRSR.

Division 2—Office of the National Rail Safety Regulator

Subdivision 1—Constitution of ONRSR

16—Constitution of ONRSR

Sets out the membership of the ONRSR.

Subdivision 2—National Rail Safety Regulator

17—Appointment of Regulator

Provides for the appointment of the National Rail Safety Regulator (the Regulator).

18—Acting National Rail Safety Regulator

Provides for the appointment of an acting National Rail Safety Regulator.

19—Functions of Regulator

Sets out the functions of the Regulator

20—Power of Regulator to obtain information

Gives the Regulator the power to obtain information that will assist in monitoring or enforcing compliance with the RSNL.

Subdivision 3—Non-executive members

21—Appointment of non-executive members

Provides for the appointment of non-executive members of the ONRSR.

Subdivision 4—Miscellaneous provisions relating to membership

22—Vacancy in or removal from office

Sets out when the office of a member of the ONRSR becomes vacant or may be removed.

23—Member to give responsible Ministers notice of certain events

Sets out that a member of the ONRSR must notify the Minister of the member's bankruptcy or conviction of an offence.

24—Extension of term of office during vacancy in membership

Provides that a member's term of office may be extended until a vacancy is filled.

25—Members to act in public interest

Provides that members of the ONRSR must act in the public interest.

26—Disclosure of conflict of interest

Provides that members of ONRSR must give notice of any conflict of interest.

Division 3—Procedures

27—Times and places of meetings

Provides that meetings are to be held in order to conduct the business of the ONRSR.

28—Conduct of meetings

Sets out the requirements for the conduct of ONRSR meetings.

29—Defects in appointment of members

Provides that ONRSR business is not affected by irregularity in the appointment of a member.

30—Decisions without meetings

Provides for decisions of ONRSR without a meeting.

31—Common seal and execution of documents

Sets out provisions for the use of the common seal of the ONRSR.

Division 4—Finance

32—Establishment of Fund

Establishes the National Rail Safety Regulator Fund (the Fund).

33—Payments into Fund

Provides for payments into the Fund.

34—Payments out of Fund

Provides for payments out of the Fund.

35—Investment of money in Fund

Allows for investment of funds and requires records to be kept.

36—Financial management duties of ONRSR

Sets out the duties of the ONRSR in relation to its financial management.

Division 5—Staff

37—Chief executive

Provides that the Regulator is the chief executive of the ONRSR.

38—Staff

Provides for the employment of staff by the ONRSR.

39—Secondments to ONRSR

Provides for the secondment of staff to the ONRSR from government agencies.

40—Consultants and contractors

Provides that the ONRSR may engage contractors and consultants.

Division 6—Miscellaneous

41—Regulator may be directed to investigate rail safety matter

Provides that the Minister may direct the Regulator to investigate or provide information or advice about a rail safety matter.

42—National Rail Safety Register

Provides that the Regulator must establish and maintain the National Rail Safety Register and sets out what is to be included in the Register.

43—Annual report

Requires the Regulator to provide an annual report to the responsible Ministers and sets out the requirements for the report.

44—Other reporting requirements

Provides that the national regulations may stipulate other reporting requirements.

45—Delegation

Provides the ONRSR with the power to delegate its functions or powers.

Part 3—Regulation of rail safety

Division 1—Interpretation

46—Management of risks

Provides that safety duties imposed by the RSNL are to eliminate or minimise risks to safety so far as reasonably practicable.

47—Meaning of reasonably practicable

Sets out the meaning of 'reasonably practicable' in relation to duties of safety.

Division 2—Occupational health and safety and railway operations

48—Relationship between this Law and OHS legislation

Sets out the relationship between this Law and occupational health and safety legislation.

49—No double jeopardy

Provides that there is no double jeopardy in relation to offences under the RSNL or occupational health and safety legislation.

Division 3—Rail safety duties

Subdivision 1—Principles

50—Principles of shared responsibility, accountability, integrated risk management, etc

Provides that rail safety is the responsibility of rail transport operators, rail safety workers and others who work on, with or supply rolling stock or rail infrastructure.

51—Principles applying to rail safety duties

Sets out the principles that apply to duties under the RSNL.

Subdivision 2—Duties

52—Duties of rail transport operators

Sets out the rail safety duties of rail transport operators.

53—Duties of designers, manufacturers, suppliers etc

Sets out the rail safety duties of designers, manufacturers and suppliers and others involved in things used as or in connection with rail infrastructure or rolling stock.

54—Duties of persons loading or unloading freight

Sets out the rail safety duties of persons loading or unloading freight from rolling stock.

55—Duty of officers to exercise due diligence

Provides that officers of a person who has a duty or obligation under the RSNL must exercise due diligence to ensure the person complies with that duty or obligation and sets out the meaning of 'due diligence'.

56—Duties of rail safety workers

Sets out the duties of rail safety workers carrying out rail safety work.

Subdivision 3—Offences and penalties

57—Meaning of *safety duty*

Sets out the meaning of safety duty for the purposes of the subdivision.

58—Failure to comply with safety duty—reckless conduct—Category 1

Sets out what is a 'category 1' offence in relation to a breach of a safety duty.

59—Failure to comply with safety duty—Category 2

Sets out what is a 'category 2' offence in relation to a breach of a safety duty.

60—Failure to comply with safety duty—Category 3

Sets out what is a 'category 3' offence in relation to a breach of a safety duty.

Division 4—Accreditation

Subdivision 1—Purpose and requirement for accreditation

61—Purpose of accreditation

Sets out the purpose for accreditation.

62—Accreditation required for railway operations

Sets out the accreditation requirements for a person carrying out railway operations.

63—Purposes for which accreditation may be granted

Sets out the purposes for which a rail transport operator may be granted accreditation.

Subdivision 2—Procedures for granting accreditation

64—Application for accreditation

Sets out the application process and requirements for accreditation.

65—What applicant must demonstrate

Sets out what an applicant for accreditation must show.

66—Regulator may direct applicants to coordinate applications

Provides that applicants may have to coordinate the preparation of applications for accreditation for rail safety reasons.

67—Determination of application

Sets out the process for granting accreditation and for imposing restrictions and conditions on accreditation.

Subdivision 3—Variation of accreditation

68—Application for variation of accreditation

Provides for an accredited person to apply for the variation of the accreditation.

69—Determination of application for variation

Provides for the determination of an application for variation of accreditation.

70—Prescribed conditions and restrictions

Provides that a varied accreditation is subject to any conditions and restrictions prescribed by the national regulations.

71—Variation of conditions and restrictions

Provides that an accredited person may apply to the Regulator to vary or revoke any conditions or restrictions on the accreditation.

72—Regulator may make changes to conditions or restrictions

Gives the Regulator the power to vary or revoke a condition of accreditation at any time and sets out the process for so doing.

Subdivision 4—Revocation, suspension or surrender of accreditation

73—Revocation or suspension of accreditation

Provides that the Regulator may revoke or suspend a person's accreditation in particular circumstances.

74—Immediate suspension of accreditation

In the case of an immediate and serous risk to safety the Regulator may suspend an accreditation immediately.

75—Surrender of accreditation

Sets out the manner in which a person may surrender his or her accreditation.

Subdivision 5—Miscellaneous

76—Annual fees

Provides for the payment of accreditation fees.

77—Waiver of fees

Gives the Regulator the power to waive or refund fees.

78—Penalty for breach of condition or restriction

Provides that it is an offence to breach a condition or restriction of accreditation that applies under Part 3.

79—Accreditation cannot be transferred or assigned

Provides that it is not possible to transfer or assign an accreditation.

80—Sale or transfer of railway operations by accredited person

Provides for the waiver by the Regulator of compliance with certain requirements of Part 3 in relation to the application for accreditation by a person proposing to purchase railway operations of an accredited person.

81—Keeping and making available records for public inspection

Requires that current notices of accreditation or exemptions or other prescribed documents must be available for inspection.

Division 5—Registration of rail infrastructure managers of private sidings

Subdivision 1—Exemptions relating to certain private sidings

82—Exemption from accreditation in respect of certain private sidings

Provides for the exemption from accreditation for railway operations carried out by a rail infrastructure manager in a private siding.

83—Requirement for managers of certain private sidings to be registered

Provides that a rail infrastructure manager of a private siding that is connected with, or has access to, the railway of an accredited person or another private siding, must be registered in relation to that private siding.

Subdivision 2—Procedures for granting registration

84—Application for registration

Sets out the application process for the registration of a rail infrastructure manager in relation to a private siding.

85—What applicant must demonstrate

Sets out what the Regulator must be satisfied of before granting registration to an applicant.

86—Determination of application

Sets out the process for the determination of an application for registration and the imposition of conditions and restrictions

Subdivision 3—Variation of registration

87—Application for variation of registration

Provides that a registered person may apply to the Regulator for the variation of registration at any time, and sets out the process required.

88—Determination of application for variation

Sets out the process for determining an application for the variation of registration.

89—Prescribed conditions and restrictions

Provides that registration as varied is subject to any conditions or restrictions prescribed by the national regulations.

90—Variation of conditions and restrictions

Provides for the application by a registered person for the variation or revocation of conditions or restrictions of registration.

91—Regulator may make changes to conditions or restrictions

Provides that the Regulator may vary, revoke or impose new conditions or restrictions on the registration of a registered person.

Subdivision 4—Revocation, suspension or surrender of registration

92—Revocation or suspension of registration

Provides that the Regulator may suspend or revoke registration of a registered person in certain circumstances.

93—Immediate suspension of registration

Provides that registration may be suspended immediately by the Regulator if there is an immediate and serous risk to safety.

94—Surrender of registration

Provides that a person may surrender his or her registration and sets out the process required.

Subdivision 5—Miscellaneous

95—Annual fees

Provides for fees prescribed by the national regulations to be paid by a registered person.

96—Waiver of fees

Provides that the Regulator may waive or refund fees.

97—Registration cannot be transferred or assigned

Provides that it is not possible to transfer or assign registration.

98—Offences relating to registration

Sets out the offences in relation to registration including breach of a condition or restriction of registration.

Division 6—Safety management

Subdivision 1—Safety management systems

99—Safety management system

Requires a rail transport operator to have a safety management system in relation to the railway operations for which he or she is required to be accredited. Sets out the requirements for that safety management system.

100—Conduct of assessments for identified risks

Sets out the manner in which a rail transport operator must make an assessment of risks for the purposes of the safety management system.

101—Compliance with safety management system

It is an offence for a rail transport operator to fail to comply with the operator's safety management system.

102—Review of safety management system

A rail transport operator must review the safety management system in accordance with the national regulations.

103—Safety performance reports

Requires a rail transport operator to give the Regulator a safety performance report in relation to the operator's railway operations.

104—Regulator may direct amendment of safety management system

Provides that the Regulator may direct a person to amend the person's safety management system.

Subdivision 2—Interface agreements

105—Requirements for and scope of interface agreements

Sets out the requirements for an interface agreement between 2 or more rail transport operators or a rail transport operator and 1 or more road managers to manage risks to safety.

106—Interface coordination—rail transport operators

Requires a rail transport operator to identify and assess risks to safety arising from the operator's railway operations due to the operations of any other rail transport operator. Provides for entering into an interface agreement in order to manage those risks.

107—Interface coordination—rail infrastructure and public roads

Requires a rail infrastructure manger to identify and assess risks to safety arising from railway operations carried out on the manager's rail infrastructure in relation to a public road or any rail or road crossing that is part of a public road. Provides for entering into an interface agreement with a road manager in order to manage those risks.

108—Interface coordination—rail infrastructure and private roads

Requires a rail infrastructure manger to identify and assess risks to safety arising from railway operations carried out on the manager's rail infrastructure due to the existence of any rail or road crossing that is part of the road infrastructure of a private road. Provides for entering into an interface agreement with the road manager in order to manage those risks.

109—Identification and assessment of risks

Provides for the manner of identification and assessment of risks by rail transport operators, rail infrastructure managers or road managers.

110—Regulator may give directions

Provides for the Regulator to give directions in certain circumstances in relation to the entering into of an interface agreement by various parties. The Regulator may, in the absence of an interface agreement, determine the arrangements that are to apply in relation to the management of identified risks to safety.

111—Register of interface agreements

Provides that a rail transport operator or road manager must keep a register of any interface agreements to which it is a party, or any arrangements determined by the Regulator to apply under clause 110.

Subdivision 3—Other safety plans and programs

112—Security management plan

Requires a rail transport operator to have a security management plan in relation to the operator's railway operations and sets out the requirements for that plan.

113—Emergency management plan

Requires a rail transport operator to have an emergency management plan in relation to the operator's railway operations and sets out the requirements for that plan.

114—Health and fitness management program

Requires a rail transport operator to prepare and implement a health and fitness program for rail safety workers who carry out rail safety work in relation to the operator's railway operations. The program to comply with requirements prescribed by the national regulations.

115—Drug and alcohol management program

Requires a rail transport operator to prepare and implement a drug and alcohol management program for rail safety workers who carry out rail safety work in relation to the operator's railway operations. The program to comply with requirements prescribed by the national regulations.

116—Fatigue risk management program

Requires a rail transport operator to prepare and implement a program for the management of fatigue of rail safety workers who carry out rail safety work in relation to the operator's railway operations. The program to comply with requirements prescribed by the national regulations.

Subdivision 4—Provisions relating to rail safety workers

117—Assessment of competence

Requires a rail transport operator to ensure that a rail safety worker carrying rail safety work is competent to do so. Sets out the process for assessing that competence.

118—Identification of rail safety workers

Requires a rail safety worker to carry identification that allows for the checking of training or competence by a rail safety officer.

Subdivision 5—Other persons to comply with safety management system

119—Other persons to comply with safety management system

Requires persons other than employees carrying out railway operations in relation to rail infrastructure or rolling stock of a rail transport operator, to comply with the operator's safety management system.

Division 7—Information about rail safety etc

120—Power of Regulator to obtain information from rail transport operators

Gives the Regulator the power to obtain certain information from rail transport operators.

Division 8—Investigating and reporting by rail transport operators

121—Notification of certain occurrences

Requires a rail transport operator to provide information about a notifiable occurrence that happens on or in relation to the operator's railway premises or operations.

122—Investigation of notifiable occurrences

Regulator may require an operator to investigate a notifiable occurrence or other occurrences that have endangered safety.

Division 9—Drug and alcohol testing by Regulator

123—Testing for presence of drugs or alcohol

Provides that a rail safety worker may be tested for the presence of drugs and alcohol in accordance with the RSNL and the application Act.

124—Appointment of authorised persons

Provides that the Regulator may appoint authorised persons in relation to drug and alcohol testing.

125—Identity cards

Requires authorised persons to have identity cards.

126—Authorised person may require preliminary breath test or breath analysis

Provides for an authorised person to require a rail safety worker to submit to breath testing.

127—Authorised person may require drug screening test, oral fluid analysis and blood test

Provides for an authorised person to require a rail safety worker to submit to a drug screening test, oral fluid analysis or blood test.

128—Offence relating to prescribed concentration of alcohol or prescribed drug

Sets out the offences for a rail safety worker in relation to undertaking rail safety work while there is the prescribed concentration of alcohol present in his or her blood, or a prescribed drug present in his or her oral fluid or blood or is under the influence of drugs or alcohol.

129—Oral fluid or blood sample or results of analysis etc not to be used for other purposes

Restricts the use of samples of oral fluid or blood or other forensic material collected for drug and alcohol testing for the purposes of the RSNL.

Division 10—Train safety recordings

130—Interpretation

Defines the meaning of '*train safety recording*'.

131—Disclosure of train safety recordings

Provides for restrictions on the disclosure of rail safety recordings .

132—Admissibility of evidence of train safety recordings in civil proceedings

Restricts the use of train safety recordings in civil proceedings.

Division 11—Audit of railway operations by Regulator

133—Audit of railway operations by Regulator

Provides for the audit of the railway operations of a rail transport operator by the Regulator.

Part 4—Securing compliance

Division 1—Guiding principle

134—Guiding principle

Sets out the guiding principles in relation to the enforcement of the RSNL.

Division 2—Rail safety officers

135—Appointment

Provides for the appointment of rail safety officers by the Regulator.

136—Identity cards

Requires rail safety officers to have identity cards.

137—Accountability of rail safety officers

Sets out requirements for the accountability of rail safety officers.

138—Suspension and ending of appointment of rail safety officers

Provides that the Regulator may suspend or terminate the appointment of a rail safety officer.

Division 3—Regulator has functions and powers of rail safety officers

139—Regulator has functions and powers of rail safety officers

Provides that the Regulator has the functions and powers of a rail safety officer under the RSNL, and a reference to a rail safety officer includes a reference to the Regulator.

Division 4—Functions and powers of rail safety officers

140—Functions and powers

Sets out the functions and powers of rail safety officers.

141—Conditions on rail safety officers' powers

The powers of a rail safety officer are subject to any conditions set out in his or her instrument of appointment.

142—Rail safety officers subject to Regulator's directions

Provides that the Regulator may give directions to a rail safety officer in the exercise of his or her powers.

Division 5—Powers relating to entry

Subdivision 1—General powers of entry

143—Powers of entry

Sets out a rail safety officer's powers of entry.

144—Notification of entry

Provides that notification of entry by a rail safety officer may not be required.

145—General powers on entry

Sets out the general powers of a rail safety officer on entry to a place.

146—Persons assisting rail safety officers

Persons assisting a rail safety officer may accompany the officer on entering a place.

147—Use of electronic equipment

Provides that equipment present at a place of entry may be used by a rail safety officer in order to access information found.

148—Use of equipment to examine or process things

Provides that a rail safety officer may bring equipment to a place in order to examine or process things found at the place entered in order to determine if they may be seized.

149—Securing a site

Sets out the powers of an authorised officer (rail safety officer or police officer) to secure a site to protect evidence.

Subdivision 2—Search warrants

150—Search warrants

Sets out procedures and requirements for search warrants.

151—Announcement before entry on warrant

Provides that an announcement is required before entering a place on a warrant.

152—Copy of warrant to be given to person with control or management of place

Requires a copy of a warrant to be given to the person in charge of a place.

Subdivision 3—Limitation on entry powers

153—Places used for residential purposes

Sets out limitations on the power of entry in relation to residential premises.

Subdivision 4—Specific powers on entry

154—Power to require production of documents and answers to questions

Provides that a rail safety officer may require a person to produce documents or answer questions on entry to a place.

155—Abrogation of privilege against self-incrimination

Provides that a person cannot refuse to answer a question or give information on the grounds of self-incrimination. However, such answers or information cannot be used against them in civil or criminal proceedings other than those for providing false or misleading information.

156—Warning to be given

Provides that a rail safety officer must give a person certain warnings before requiring a person to answer a question or provide information.

157—Power to copy and retain documents

Gives a rail safety officer the power to copy and retain documents.

Subdivision 5—Powers to support seizure

158—Power to seize evidence etc

Gives a rail safety officer the power to seize anything that he or she reasonably believes may be evidence of an offence against the RSNL.

159—Directions relating to seizure

Provides that, in order to seize something, a rail safety officer may give certain directions to a person who has control of it.

160—Rail safety officer may direct a thing's return

Provides that a rail safety officer may also give directions in relation to the return of something.

161—Receipt for seized things

Provides that a receipt is to be provided for anything seized.

162—Forfeiture of seized things

Provides for the forfeiture of things seized in certain circumstances.

163—Return of seized things

Provides that a person may apply to the Regulator for the return of a thing that has been seized.

164—Access to seized thing

Provides that a person may be given access by a rail safety officer to something that has been seized.

Division 6—Damage and compensation

165—Damage etc to be minimised

Provides that in the exercise of a power under the RSNL, a rail safety officer must take reasonable steps to cause as little damage, detriment and inconvenience as is practicable.

166—Rail safety officer to give notice of damage

Provides for a rail safety officer to give notice of any damage to a thing in exercising a power under the RSNL.

167—Compensation

Provides that a person may apply for compensation from the Regulator for any loss or expense incurred due to the exercise of a power under Part 4 Division 5 of the RSNL.

Division 7—Other matters

168—Power to require name and address

Provides that a rail safety officer may require a person to give his or her name and address in certain circumstances.

169—Rail safety officer may take affidavits

Gives rail safety officers the authority to take an affidavit.

170—Attendance of rail safety officer at inquiries

Provides that a rail safety officer may participate in an inquiry in relation to an incident involving rail safety.

171—Directions may be given under more than 1 provision

Provides for a rail safety officer to be able to give one or more directions in relation to an exercise of power.

Division 8—Offences in relation to rail safety officers

172—Offence to hinder or obstruct rail safety officer

Provides that it is an offence to hinder or obstruct a rail safety officer in the performance of his or her duties.

173—Offence to impersonate rail safety officer

Provides that a person must not impersonate a rail safety officer.

174—Offence to assault, threaten or intimidate rail safety officer

Provides that it is an offence to assault, threaten or intimidate a rail safety officer.

Part 5—Enforcement measures

Division 1—Improvement notices

175—Issue of improvement notices

Provides for the issue of improvement notices by a rail safety officer in certain circumstances.

176—Contents of improvement notices

Sets out the required contents of an improvement notice.

177—Compliance with improvement notice

Requires a person issued with an improvement notice to comply with it.

178—Extension of time for compliance with improvement notices

Allows for an extension of time in order to comply with an improvement notice.

Division 2—Prohibition notices

179—Issue of prohibition notice

Provides for the issue of a prohibition notice by a rail safety officer in certain circumstances which involve an immediate risk to safety.

180—Contents of prohibition notice

Sets out the required contents of the prohibition notice.

181—Compliance with prohibition notice

Requires a person to comply with a prohibition notice or direction under this Division.

Division 3—Non-disturbance notices

182—Issue of non-disturbance notice

Provides that a rail safety officer may issue a non-disturbance notice to a person with the control or management of a railway premises in order to facilitate the exercise of his or her powers under the RSNL.

183—Contents of non-disturbance notice

Sets out the required contents of a non-disturbance notice.

184—Compliance with non-disturbance notice

Provides that a person must comply with a non-disturbance notice unless they have a reasonable excuse.

185—Issue of subsequent notices

Provides that further notices may be issued if a rail safety officer considers it necessary.

Division 4—General requirements applying to notices

186—Application of Division

Provides that this Division applies to an improvement notice, prohibition notice or non-disturbance notice.

187—Notice to be in writing

Provides that a notice must be in writing and if given orally must be reduced to writing as soon as practicable.

188—Directions in notices

Provides that directions contained in a notice may refer to an approved code of practice or offer a person a choice of ways in which to remedy a contravention.

189—Recommendations in notice

Provides that an improvement notice or a prohibition notice may include recommendations.

190—Variation or cancellation of notice by rail safety officer

Provides that a rail safety officer may make minor changes to a notice.

191—Formal irregularities or defects in notice

Provides that irregularities in a notice will not invalidate the notice.

192—Serving notices

Sets out provisions for the service of notices.

Division 5—Remedial action

193—When Regulator may carry out action

Provides that the Regulator may take remedial action to make a situation or premises safe where a person fails to take reasonable steps to comply with a prohibition notice.

194—Power of Regulator to take other remedial action

Provides that the Regulator may take remedial action where the person with the control or management of premises cannot be found and thus no prohibition order could be issued.

195—Costs of remedial or other action

Provides that reasonable costs of remedial action may be recovered by the Regulator.

Division 6—Injunctions

196—Application of Division

Provides that this Division applies to an improvement notice, a prohibition notice or a non-disturbance notice.

197—Injunctions for non-compliance with notices

Provides that the Regulator may apply to the court for an injunction in relation to a notice.

Division 7—Miscellaneous

198—Response to certain reports

Provides that in response to certain reports, the Regulator may give directions in a notice to a rail transport operator to install safety or protective systems, devices, equipment or appliances in relation to rail infrastructure or rolling stock, as specified in the notice. Sets out the requirements for such a direction.

199—Power to require works to stop

Sets out provisions to ensure the safety or operational integrity of a railway in relation to works being carried out near a railway.

200—Temporary closing of railway crossings, bridges etc

Provides that an authorised officer may close temporarily a railway crossing, bridge, subway or other structure for crossing over or under a railway, if there is an immediate threat to safety.

201—Use of force

Provides that in exercising a power to enter railway premises or do anything in or on railway premises, a rail safety officer must not use more force than is reasonably necessary.

202—Power to use force against persons to be exercised only by police officers

Provides that force against a person must not be used by a person who is not a police officer.

Part 6—Exemptions

Division 1—Ministerial exemptions

203—Ministerial exemptions

Provides for exemptions from the RSNL granted by the Minister, after consultation with the Regulator.

Division 2—Exemptions granted by Regulator

Subdivision 1—Interpretation

204—Interpretation

Provides that this Division applies to specified provisions of the RSNL.

Subdivision 2—Procedures for conferring exemptions

205—Application for exemption

Provides for a rail transport operator to apply to the Regulator for an exemption from a particular provision of the RSNL .

206—What applicant must demonstrate

Sets out what an applicant for an exemption must demonstrate before an exemption may be granted by the Regulator.

207—Determination of application

Sets out the provisions for the determination of an application for an exemption by the Regulator.

Subdivision 3—Variation of an exemption

208—Application for variation of an exemption

Provides that a rail transport operator may apply to the Regulator for a variation of an exemption.

209—Determination of application for variation

Provides for the determination of an application for the variation of an exemption by the Regulator.

210—Prescribed conditions and restrictions

Provides that an exemption granted by the Regulator that is varied is subject to any conditions or restrictions prescribed by the national regulations.

211—Variation of conditions and restrictions

Provides that a rail transport operator who has been granted an exemption may apply to the Regulator for the variation of a condition or restriction imposed on the exemption.

212—Regulator may make changes to conditions or restrictions

Provides that the Regulator may at any time vary or revoke a condition or restriction imposed on an exemption, or impose a new condition or restriction.

Subdivision 4—Revocation or suspension of an exemption

213—Revocation or suspension of an exemption

Gives the Regulator the power to suspend or revoke an exemption in certain circumstances.

Subdivision 5—Penalty for breach of condition or restriction

214—Penalty for breach of condition or restriction

It is an offence for a rail transport operator to contravene a condition or restriction of an exemption granted by the Regulator.

Part 7—Review of decisions

215—Reviewable decisions

Sets out the decisions made under the RSNL that are reviewable (a reviewable decision) and who is eligible to apply for a review.

216—Review by Regulator

Sets out the process that applies in respect of a reviewable decision made by the Regulator.

217—Appeals

Provides for an appeal to the court in respect of certain decisions.

Part 8—General liability and evidentiary provisions

Division 1—Legal proceedings

Subdivision 1—General matters

218—Period within which proceedings for offences may be commenced

Sets out the period in which proceedings for an offence may be commenced.

219—Multiple contraventions of rail safety duty provision

Provides that 2 or more contraventions of a rail safety duty arising out of the same factual circumstances may be charged as a single offence or as separate offences.

220—Authority to take proceedings

Provides that certain legal proceedings will first require the approval of the Minister or the Regulator.

Subdivision 2—Imputing conduct to bodies corporate

221—Imputing conduct to bodies corporate

Provides for certain conduct to be imputed to bodies corporate.

Subdivision 3—Records and evidence

222—Records and evidence from records

Provides that the Regulator may sign a certificate that certifies as to matters required to be recorded in the National Safety Register for the purposes of legal proceedings.

223—Certificate evidence

Provides for the Regulator, a rail safety officer or a police officer to provide a certificate as to any matter that appears in certain records, that is admissible as evidence in court proceedings.

224—Proof of appointments and signatures unnecessary

Provides that it is not necessary to prove appointments or signatures.

Division 2—Discrimination against employees

225—Dismissal or other victimisation of employee

Provides that it is an offence for an employer to victimise an employee who has assisted or made a complaint in relation to a breach or alleged breach of an Australian rail safety law.

Division 3—Offences

226—Offence to give false or misleading information

Provides that it is an offence to give false or misleading information or documents.

227—Not to interfere with train, tram etc

Provides that it is an offence to interfere with rolling stock, rail infrastructure or equipment of a rail transport operator.

228—Applying brake or emergency device

Provides that it is an offence to apply a brake or emergency device on a train or tram or on railway premises without a reasonable excuse.

229—Stopping a train or tram

Provides that it is an offence to stop a tram or train without reasonable excuse.

Division 4—Court-based sanctions

230—Commercial benefits order

Provides for a court to make a commercial benefits order on the application of the prosecutor or the Regulator if a person is found guilty of an offence.

231—Supervisory intervention order

Provides for a court to make a supervisory intervention order on the application of the prosecutor or the Regulator if a person is found guilty of an offence and the court considers the person to be a systematic and persistent offender against the rail safety laws.

232—Exclusion orders

Provides for a court to make an exclusion order on the application of the prosecutor or the Regulator if a person is found guilty of an offence and the court considers the person to be a systematic and persistent offender against the rail safety laws.

Part 9—Infringement notices

233—Meaning of infringement penalty provision

Sets out the meaning of an '*infringement penalty provision*'.

234—Power to serve notice

Provides the Regulator with the power to serve an infringement notice on a person who has breached an infringement penalty provision.

235—Form of notice

Sets out the requirements for an infringement notice.

236—Regulator cannot institute proceedings while infringement notice on foot

Provides that the Regulator must not institute proceedings in relation to a breach for which an infringement notice has been served and is current.

237—Late payment of penalty

Provides for payment of an infringement penalty after the time for payment has expired.

238—Withdrawal of notice

Provides that the Regulator may withdraw an infringement notice at any time.

239—Refund of infringement penalty

Provides that if an infringement notice is withdrawn by the Regulator, any infringement penalty paid must be refunded.

240—Payment expiates breach of infringement penalty provision

Provides that if an infringement penalty is paid and a notice has not been withdrawn, then no proceedings can be taken in respect of the alleged breach.

241—Payment not to have certain consequences

Provides that payment of an infringement penalty is not to be taken to be an admission of liability for the purpose of any proceedings instituted in respect of the breach.

242—Conduct in breach of more than 1 infringement penalty provision

Provides that if a person's conduct constitutes a breach of 2 or more infringement penalty provisions, an infringement notice may be served in relation to the breach of any 1 or more of those provisions. However, a person is liable to pay no more than one infringement penalty in respect of the same conduct.

Part 10—General

Division 1—Delegation by Minister

243—Delegation by Minister

Provides that the Minister may delegate a function or power of the Minister under the RSNL.

Division 2—Confidentiality of information

244—Confidentiality of information

Provides for the protection of confidential information.

Division 3—Law does not affect legal professional privilege

245—Law does not affect legal professional privilege

Provides that information or documents that are subject to legal professional privilege are protected.

Division 4—Civil liability

246—Civil liability not affected by Part 3 Division 3 or Division 6

Provides that nothing in Part 3 Division 3 (*Rail safety duties*) or Division 6 (*Safety management*) affects civil proceedings.

247—Protection from personal liability for persons exercising functions

Provides that certain persons exercising a function under the RSNL are protected from personal liability for things done or omitted in good faith. Any liability attaches instead to the ONRSR.

248—Immunity for reporting unfit rail safety worker

Provides certain health professionals with immunity for providing information that discloses a rail safety worker as unfit to carry out rail safety work.

Division 5—Codes of practice

249—Approved codes of practice

Provides that responsible Ministers may approve a code of practice for the purposes of the RSNL.

250—Use of codes of practice in proceedings

Provides that an approved code of practice may be used in proceedings for an offence against the RSNL as evidence of whether or not a duty or obligation has been complied with.

Division 6—Enforceable voluntary undertakings

251—Enforceable voluntary undertaking

Provides that the Regulator may accept a written rail safety undertaking in relation to a contravention or alleged contravention of the RSNL (other than for a Category 1 offence).

252—Notice of decisions and reasons for decision

Provides that the Regulator must give notice and reasons of the Regulator's decision to accept or reject an undertaking and must publish a notice of the decision to accept a rail safety undertaking and the reasons for doing so.

253—When a rail safety undertaking is enforceable

Provides that a rail safety undertaking accepted by the Regulator is enforceable.

254—Compliance with rail safety undertaking

Provides that it is an offence for a person to fail to comply with a rail safety undertaking made by that person.

255—Contravention of rail safety undertaking

Provides that the Regulator may apply to the court for enforcement of an rail safety undertaking.

256—Withdrawal or variation of rail safety undertaking

Provides that a person who has made a rail safety undertaking may, with the written agreement of the Regulator, withdraw or vary the undertaking.

257—Proceedings for alleged contravention

Provides that no proceedings for a contravention or alleged contravention of the RSNL may be brought against a person if there is a rail safety undertaking in effect in relation to that contravention. A rail safety undertaking may be accepted by the Regulator in relation to proceedings that have not been finalised, in which case the proceedings are to be discontinued.

Division 7—Other matters

258—Service of documents

Sets out the procedures for service.

259—Recovery of certain costs

Provides for the recovery by the Regulator from a rail transport operator of the reasonable costs of inspection of railway infrastructure, rolling stock or railway premises (other than an inspection under Part 3 Division 11).

260—Recovery of amounts due

Provides that fees, charges and other amounts payable under the RSNL may be recovered a debt due to the Regulator.

261—Compliance with conditions of accreditation or registration

Provides that a person who complies with a condition or restriction of accreditation or registration, will be taken to have complied with the RSNL.

262—Contracting out prohibited

Prohibits the ability for a contract or agreement to exclude, limit or modify the operation of the RSNL or any duty under the RSNL.

Division 8—Application of certain South Australian Acts to this Law

263—Application of certain South Australian Acts to this Law

Sets out the application of certain South Australian Acts to the RSNL and provides that the national regulations may modify these Acts for the purposes of the RSNL.

Division 9—National regulations

264—National regulations

Sets out provisions in relation to the making of the national regulations.

265—Publication of national regulations

Provides that the national regulations are to be published on the NSW legislation website.

Schedule 1—National regulations

This Schedule sets out the matters in relation to which the national regulations may be made.

Schedule 2—Miscellaneous provisions relating to interpretation

This Schedule sets out provisions governing the interpretation of the RSNL. These provisions are necessary due to the disapplication of the *Acts Interpretation Act 1915*.

Debate adjourned on motion of Hon. D.W. Ridgway.

At 22:02 the council adjourned until Thursday 5 April 2012 at 11:00.