

LEGISLATIVE COUNCIL

Thursday, 25 September 2014

The **PRESIDENT (Hon. R.P. Wortley)** took the chair at 14:19 and read prayers.

Ministerial Statement

SMALL BUSINESS COMMISSIONER

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:20): I table a copy of a ministerial statement relating to the appointment of the Small Business Commissioner made by the Treasurer, the Hon. Tom Koutsantonis.

MENINGOCOCCAL DISEASE

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:20): I table a copy of a ministerial statement relating to the meningococcal update made by the Hon. Jack Snelling.

Question Time

SKILLS FOR ALL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:20): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about Skills for All.

Leave granted.

The Hon. R.L. Brokenshire: Please make it brief.

The Hon. D.W. RIDGWAY: Thank you for your guidance, the Hon. Mr Brokenshire. I notice that you are leaving. I note that in the highlights of the budget there are a number of references where the government has been quite proud, or has attempted to be proud, of its performance in this particular area. The first two or three highlights are:

- Increased the number of government-funded VET students in South Australia by 22 per cent in 2013, from 123,300 in 2012 to an estimated 150,000 in 2013.
- Achieved the government's target of an additional 100,000 training places three years ahead of schedule.

It goes on to say in the highlights:

- South Australia is now the most efficient jurisdiction for training in terms of cost per hour.
- In 2013, there were 134,900 Skills for All subsidised course enrolments, a 59 per cent (or 49,600 additional enrolments) increase on the 84,300 enrolments in 2012.

My question is: can the minister explain to the chamber how the government measures the number of graduates from any of these Skills for All programs who actually find jobs?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:22): I thank the honourable member for his question. Skills for All has been a huge success in a number of ways. Introduced back in 2012, the figures I have are that in 2013 Skills for All funded 134,900 qualification enrolments, and an estimated one in seven South Australians are currently undertaking VET type training. Course enrolments increased in the following disadvantaged groups in semester 2 2013 compared with semester 2 2012:

- mature-aged people (55 years and over), a 62 per cent increase;
- Aboriginal students, a 35 per cent increase;
- female students, a 32 per cent increase;
- people with a disability, a 29 per cent increase;
- lower socioeconomic background, a 24 per cent increase; and
- young people (15 to 24 years), a 14 per cent increase.

I am also advised that 4,110 school-enrolled students were supported through Skills for All in the period 1 July 2013 to 28 February 2014, and 211 training providers are approved Skills for All providers, TAFE SA being the largest training provider. Of course, then there is Adult Community Education (ACE), which provides learning programs in very supportive community-based settings and which delivers both accredited and non-accredited type training for people.

Over 1,000 participants have undertaken accredited training through ACE. The agencies work with industry and enterprises through the Skills in the Workplace program for upskilling existing workers, and workforce development activities. They have also focused support on employers in the advanced manufacturing sector.

The Skills for Jobs in Regions delivers programs to 17 regional networks across the state which link people with skills in jobs, and the agency works with RDA boards, local governments, community organisations and local employers to improve workforce participation in regions. I have been advised that around 110,000 more persons have been employed in South Australia, in 'trend' terms, since March 2002.

So, as you can see there is an incredible track record. In terms of how the measurements are calculated, they are operational matters. I don't have those details, but I am happy to take that part of the question on notice and bring back a response.

The PRESIDENT: Supplementary question, Mr Ridgway.

SKILLS FOR ALL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:26): Is the minister saying that she has no knowledge of how you measure the number, or quantify the success of the Skills for All program by having any figure to say how many of these people who undertake courses actually get a job?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:26): I don't have those figures with me but, as I said, I am happy to take that on notice and bring back a response. The success of Skills for All is determined in a number of ways: obviously, one is enrolments in the first place; looking at completion rates is another way; and also, of course, the linking up with jobs. So I don't have those figures but, as I said, I am happy to take that on notice and bring back a response.

MODBURY VISTA SOCCER CLUB

The Hon. J.M.A. LENSINK (14:27): I seek leave to make a brief explanation before directing a question to the Minister for the Status of Women regarding women's sporting facilities.

Leave granted.

The Hon. J.M.A. LENSINK: As honourable members who read their *Messenger* may be aware, after 16 long years the Modbury Vista Soccer Club is fielding a women's side. However, due to outdated sporting facilities and time clashes with the men's teams, women from both Modbury Vista and visiting clubs are being forced to change in the club's social room which consists of a makeshift curtain in a bar. Next year the club is hoping to enter both an under-15 and under-13 side; however, this will be difficult without adequate change room facilities.

I note and commend the Office for Recreation and Sport for committing to assist the Fulham United Soccer Club in updating their facilities, which will provide women and referees with

appropriate changeroom facilities to be completed before the 2015 season kicks off. My questions to the minister are: has she had any representation on this issue; and, secondly, would she be prepared to take this issue up with her colleague, the Minister for Recreation and Sport, with a view to lobbying for funding for this particular soccer club?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:28): I am not aware of this particular sporting club's issues. To the best of my knowledge it has not approached me, or corresponded with me. But, as I said, that is to the best of my knowledge.

Obviously, I am a very big supporter in terms of ensuring that women are promoted right across all facets of society, but particularly in sport where we know that women are often not given the focus of attention and the accolades in the same way that men are. It is clearly reflected in prize moneys, for instance, which are significantly higher for male athletes and sportspeople than for females. So, I am very pleased to hear from the Hon. Michelle Lensink that this soccer club is doing some serious activity in this area for young women, and I would be very pleased to hear from them to hear more about their project and what their needs might be.

REGIONAL EMPLOYMENT

The Hon. J.S.L. DAWKINS (14:29): My question is directed to the Minister for Employment, Higher Education and Skills. Will the minister indicate whether she has been briefed on how many jobs will be lost in regional South Australia as a result of the ForestrySA job cuts, emergency services levy hikes, emergency services organisational mergers and the government's marine parks policy?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:30): I thank the honourable member for his question. This government focuses very strongly on jobs. It is one of our key priorities, particularly for our regions. One of our priorities is ensuring that all South Australians are afforded the opportunity to undertake meaningful employment, wherever they live.

We were very pleased to see that the recent employment figures improved significantly here in South Australia for the last month. In particular, the unemployment rate has fallen for regional South Australia in the last data that came out from 7 per cent to 6.6 per cent. I was also pleased to see that four regions have seen an increase in employment, compared with the previous year.

This government continues to work with businesses and industry and with local communities to attract investment and to help create regional jobs. Our jobs and skills policy sets out a strong strategy for further job creation and includes direct support for job creation and new initiatives to work more closely with industry to identify emerging job opportunities in local communities.

We have developed detailed plans for jobs and supported this through a raft of measures to help grow business: the pay-roll tax concession; reforms to WorkCover; providing help for businesses to win government work through initiatives such as the Tender Ready collaboration with Business SA; a \$10 million Jobs Accelerator Fund for the regions; a new private sector development coordination role for the chief executive of Premier and Cabinet to assist lodged projects valued at over \$3 million to help clear those bureaucratic hurdles; and the establishment of a new simpler regulation unit to help work with the industries.

It is interesting that members opposite like to dwell on all the negatives and talk down the state; we see that time and again. We do not see them standing up and talking about opportunities, for instance, the Nyrstar recent announcement to commence building its construction camp at Port Pirie, the Sundrop Farms, a great new story there for more jobs out in the regions, D'VineRipe and its new expansions, and investments and the opportunity for jobs quite near where the honourable member actually lives.

The Hon. J.S.L. Dawkins: It is in my electorate.

The Hon. G.E. GAGO: It is in all our electorates, but it is quite near to where you live. I do not see him getting up and congratulating this government for creating those jobs. No, we see them

coming into this place time and again talking down the state, dwelling on those things that offer challenges for us rather than wanting to work with or be part of the government's initiative to grow investment and business opportunities here in South Australia and grow jobs.

REGIONAL EMPLOYMENT

The Hon. J.S.L. DAWKINS (14:34): By way of supplementary question, has the minister seen any modelling or analysis that proves the government's claim that its marine parks policy will not cost jobs in regional communities?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:34): I have answered the question.

Ministerial Statement

FIREFIGHTERS COMPENSATION REVIEW

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:34): I table a copy of a ministerial statement relating to presumptive legislation made earlier today in another place by my colleague the Hon. John Rau.

Question Time

OUR WATCH

The Hon. G.A. KANDELAARS (14:35): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about a new national not-for-profit foundation, Our Watch.

Leave granted.

The Hon. G.A. KANDELAARS: VicHealth's National Community Attitudes towards Violence Against Women 2013 Survey (NCAS) of 17,500 Australians found that a significant proportion of Australians still excuse, trivialise or justify violence against women. In fact, recently I alluded to this survey in a speech I made in this house for White Ribbon. Can the minister please update the chamber on Our Watch's launch of their new branding and media campaign?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:36): I thank the honourable member for his most important question. I am extremely pleased to be able to update the chamber on a not-for-profit foundation that is being created to engage and raise awareness in the community on the prevention of violence against women and their children.

Our Watch, which was formerly the Foundation to Prevent Violence Against Women and Their Children, commenced operation in late July 2013. Our Watch, with its aim to drive a cultural and attitudinal change to prevent violence against women and their children from the ground up, will enhance South Australia's prevention efforts. Our Watch will:

- promote best practice intervention strategies based on research;
- undertake prevention and early intervention projects through communities, schools and media;
- deliver information sessions, forums and conferences; and
- run targeted social marketing and online campaigns.

Our Watch officially launched its new branding as well as its media campaign on 5 September, which was attended by the Premier, Jay Weatherill. This media campaign is aimed at making Australians aware of the effect of our attitudes to violence against women and promoting equal respect and positive treatment.

The video features many really well known and respected Australians, including comedian Charlie Pickering, former Governor-General Quentin Bryce, and author Tara Moss. The video can be watched on Our Watch's website, and I would encourage all members to have a look at the site and encourage others to have a look. It is an incredibly compelling piece of footage; a very moving piece of footage.

Utilising community engagement and advocacy to drive change, Our Watch will build community leadership and drive change across our institutions. A specific example of this is the Our Watch national media engagement project. The media can both reflect and challenge the society in which we are based and they can either reinforce or, on the other hand, undermine the attitudes and norms that contribute to violence against women. The representation of women and girls in popular culture, for instance in billboard and TV advertising, can powerfully influence the way the role of women is viewed, particularly in relation to men, but the media can also raise awareness of violence against women, its consequences and its underlying causes, and can challenge social attitudes.

Media capacity training for both future and practising journalists is an important initiative, and Our Watch will work to develop training curriculum materials for both university journalism students and also practising journalists. This two-pronged approach will embed and support a shift in newsroom cultures and practices around reporting on violence against women.

This government pledged South Australia's membership to Our Watch in August 2014, committing \$79,000 per annum, indexed over the next four years. Our membership complements many other initiatives being embarked upon by Our Watch which are innovative and new, and I look forward to being able to update the chamber on those. Becoming a member of Our Watch is just another initiative that this government has introduced as part of its overall commitment to combating domestic violence. I am pleased to be part of a government that is committed to actions and initiatives that target domestic violence at all levels.

BORDERLINE PERSONALITY DISORDER

The Hon. K.L. VINCENT (14:40): I seek leave to make a brief explanation before asking questions of the minister representing the Minister for Health regarding Chloe Valentine's death and borderline personality disorder.

Leave granted.

The Hon. K.L. VINCENT: I am sure members are as saddened and shocked as I am by the tragically premature death of little Chloe. An article in which Justice Kelly was interviewed in *The Australian* newspaper on 22 April of this year stated:

Polkinghorne, who has a borderline personality disorder, was described as manipulative and narcissistic. 'Unless you undertook psychotherapy, any child you are responsible for in the future will remain at risk,' the judge said.

I refer the Minister for Health to the borderline personality disorder report titled 'An overview of current delivery of borderline personality disorder services in the public sector across South Australia and a proposed way forward' by Dr Martha Kent and Dr Prue McEvoy which in its primary recommendation states:

That a statewide specialist borderline personality disorder service be established to provide increased specialist expertise and support for clinicians working in both the public and private sectors including primary health care sector and NGOs.

Victoria has an excellent and cost-effective model in the Spectrum borderline personality disorder service that South Australia could easily model its own unit upon, and our state government departments have previously called upon experts from Spectrum because this is an excellent service and has well-trained experts. My questions are:

1. Given that this report was finally published in June 2014, after sitting inside Health SA for redrafts for more than a year, can the minister provide an indication of when a specialist borderline personality disorder unit will be established in South Australia? We would certainly like to know a time frame, as would many of my constituents.

2. Is the minister aware of the cost-effectiveness of establishing a statewide borderline personality disorder unit?

3. Could the minister advise how many cases there have been over the last 12 months of South Australian patients with borderline personality disorder who have taken their own lives because of misdiagnosis or failure of the mental health services to address borderline personality disorder? It has been brought my attention by specialists in mental health that there have been at least five cases of this in South Australia.

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:43): I thank the member for her questions and I will refer them to the Minister for Health in another place and bring back a response.

EMPLOYMENT FIGURES

The PRESIDENT: The honourable, gallant and sometimes stoic Mr McLachlan.

The Hon. A.L. McLACHLAN (14:43): I appreciate your great interest in my 'characterisation'. I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question regarding underemployment in South Australia.

Leave granted.

The Hon. A.L. McLACHLAN: Earlier this year, the South Australian Centre for Economic Studies reported on a statistic of labour force underemployment within Australia and, in particular, South Australia. The labour force underemployment rate is a measure of unused labour in the workforce. The underemployment rate is calculated using the number of part-time workers willing or able to work more hours and the number of people employed full-time who did not work full-time hours in the week and is expressed by the Australian Bureau of Statistics as a percentage of the labour force.

The study revealed that according to the Australian Bureau of Statistics, the South Australian under-employment rate has been consistently higher than the Australian rate. My question to the minister is: will the minister provide an explanation as to why the levels of under-employment in South Australia have been consistently higher than the Australian rate; and are there any measures the government is undertaking specifically designed to address this situation?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:44): I thank the honourable member for his question. Indeed, under-employment is an issue for us. I have been particularly interested in under-employment from women's point of view. I know that it is particularly an issue for women, and there are a number of initiatives that we have been involved in to address those sorts of issues—things like trying to improve workplace flexibility, and there is work that we have been doing with a program underway in our public sector at present that is about looking at improving that workplace flexibility. That not only addresses issues for women but it is also available for men as well.

Recent reports have shown that by improving workplace flexibility you can increase productivity significantly and reduce recruitment costs considerably as well. I cannot remember the exact figures but I was reading about a program which improved the retention rate of women by about 40 per cent, or something in that vicinity, but I was even more surprised that it increased it for men by about 20 per cent. So these things are about offering all employees that have caring responsibilities, in particular opportunities to be more flexible around the way they work.

Of course that is a very challenging area. We need to have a very close look and challenge workplace design and practices and invest a lot of work in particularly HR, but more than that it is also changing workplace culture and their attitudes to flexible workplace arrangements. I know that this government has looked at it closely in respect of our Public Service Act 2009, and we incorporated in that act really a provision or entitlement, if you like, for public sector workers here in South Australia, a commitment to enable them to access more flexible workplace arrangements. Although that provision had been in place for a while, when I actually looked at the figures, there were very few people accessing those provisions.

When we looked into it and started talking with staff, there were some HR issues around that but a lot of women were saying, 'Well, sure the provision is there but to avail yourself of it, and to be working from home and not being there late at night in the office, and all those other old fashioned measures of commitment to your job —if you avail yourself of workplace flexible arrangements it is like the kiss of death to your career because it is seen as you putting your children before your job, for instance.'

So we had to really then sit down and look at ways that we could challenge those really ingrained workplace culture attitudes as well. So that is a good example of one area where we have been working very hard to combat underemployment.

EMPLOYMENT FIGURES

The Hon. M.C. PARNELL (14:49): Supplementary.

The PRESIDENT: Supplementary, Mr Parnell.

The Hon. M.C. PARNELL: The minister may need to take this on notice, but is it correct that in South Australia the number of people who claim to be underemployed, when added to the number of people who are unemployed, is about equal to the number of people who claim to be overemployed and, in fact, are working more hours than they would like to be? An additional supplementary: are there any steps that the government can take in addition to the workplace culture measures that the minister referred to to help better allocate work in the South Australian economy?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:49): It's the world really. They are very interesting issues that the honourable members (both of them) have raised here underpinning those sorts of statistics. I have heard of similar statistics that the honourable member raises. I cannot verify that one way or the other here today but I would be very happy to take that on notice and to bring back a response.

The issues are very broad and very complex. If you look at workplaces and work cultures around overemployment, some of those cultures are just as heavily ingrained culturally and into, I guess, attitudes as those that I was referring to earlier around women. Indeed, they are complex issues and issues that leading businesses are working very hard at to try to ensure that those work practices are better balanced and work is better distributed between those who are overworked and those who are underworked.

Parliamentary Procedure

VISITORS

The PRESIDENT: I would like to welcome the year 11 and 12 students and their teachers from Mary MacKillop College. Welcome here today.

Question Time

MEDICAL TECHNOLOGY COMMERCIALISATION

The Hon. J.M. GAZZOLA (14:51): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about commercialisation of medical technology.

Leave granted.

The Hon. J.M. GAZZOLA: Far too often in the past our science and research facilities have developed brilliant ideas which have not been capitalised upon in this state. This is despite there being a substantial public investment in both the people and the educational and research infrastructure that have given birth to these ideas. Minister, will you inform the council about what action is being taken to ensure that more of our medical research is being captured locally and transformed into commercial products here in South Australia?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:52): I thank the honourable member for his most

important question. One of the central principles of South Australia's action plan for investing in science is to more closely link our wealth of science, research and ideas to industry and business, creating more valuable products and services. A great example of putting this principle into action is the Flinders University's Medical Device Partnering Program.

This program was established in 2008 to streamline the commercialisation of cutting-edge medical devices and assistive technologies, from early stage concepts right through to manufactured products. Directed by Professor Karen Reynolds, the 2012 South Australian Scientist of the Year, the program has pioneered a new model for collaboration between researchers, end users and commercial partners to develop products with an identified clinical need, a sound technical solution and a viable marketing opportunity.

Since 2008, the Medical Device Partnering Program has been approached by approximately 250 companies and inventors and has, to date, designed 24 prototype medical devices and been involved in 28 proof of concept/validation studies. In addition, 34 companies have been provided with expert technical consultation and advice; 45 companies have been provided with input from end users or market advice; and 46 introductions have been made for product commercialisation.

Coming from a very wide range of research expertise, from biomechanics and implants to health informatics and robotics, MDPP participants are provided with services and advice in business development, design and manufacture, government grants, intellectual property and regulatory matters. Projects also receive up to 250 hours of professional expertise in commercial advice, proof of concept research, prototyping and clinical evaluation. This is provided through the Department of State Development's Medical Technologies Program (MTP), a \$750,000 program under the state government's manufacturing works strategy.

The Medical Device Partnering Program has worked with some very interesting projects. The handheld magnetometer probe, developed by Associate Professor Benjamin Thierry and Aidan Cousins from the University of South Australia, is used to determine whether cancer has disseminated through the body by detecting small amounts of clinically-introduced magnetic material in lymph nodes. This was announced by minister Close in August this year.

Another example is a pillow for epileptic sufferers designed to reduce the risk of suffocation, which can sometimes occur as a result of an epileptic seizure, developed by a research team from the Repatriation General Hospital at Flinders. There is also another pillow for chronic snorers which has been road-tested under the program.

Sleep researchers from Flinders and the Adelaide Institute for Sleep Health are working with the inventor, the Adelaide-based pillow manufacturer TVS Foam Products. The TVS Snore No More pillow is specially designed to reduce the volume and frequency of snoring for chronic snorers who primarily sleep on their back. I would imagine members opposite may wish to apply a test of that last product; it has been my observation that they bring some very real expertise on sleeping to this research.

The program has also worked with Adelaide-based vision rehabilitation company Neuro Vision Technology to develop an innovative vision therapy tool that will be used to evaluate and train people with a vision deficit caused by a brain injury or dysfunction.

Our health and biosciences fields here in South Australia are rich with opportunity, and I have outlined only a very small example. One only has to recall the success of the cochlear implant, a ground-breaking Australian innovation which went on to spawn a global business. If another project with the impact of the cochlear implant is developing in the mind or laboratory of one of our research scientists, then the Medical Device Partnering Program will be here to help them take the next step. Without programs such as these we risk seeing some of our best and brightest ideas leave our shores.

FEDERAL BUDGET

The Hon. R.L. BROKENSHIRE (14:57): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills, representing the Premier, a question about the federal budget.

Leave granted.

The Hon. R.L. BROKENSHIRE: I am in receipt of a letter from Mr Leon Bignell, the state member for Mawson. It is an interesting letter because, apart from the photo change and the name change, it is basically my letterhead—blue and green. I thought it would have been red, given that he is extreme left.

My point is that in the letter the honourable member says, 'You are one of my 22,000 bosses and I am here to work hard for you.' He goes on in the letter to say that the original Southern Expressway, built by the previous Liberal government, was an example of poor planning and made South Australia the butt of so many jokes by outsiders. He forgot to say that there was a State Bank mess created by his party, and that Mr Keating, the then prime minister, would give no money towards the road. Notwithstanding that, he goes on with other misrepresentations.

He says, in the letter, that South Australia will lose funding for the equivalent of 150 hospital beds because of the federal budget, and that unless Prime Minister Tony Abbott and federal Treasurer Joe Hockey reverse the cuts 600 beds would need to close in South Australia. He said that was the equivalent of closing an entire hospital.

He goes on from there to also say that there will be cuts to South Australian hospitals equivalent to 600 beds or closing the whole Noarlunga Hospital, that there is going to be \$1,200 a student or schools may lose funding in his area. He finally says that Jay Weatherill and Leon Bignell are standing up and fighting cuts to our local schools and hospitals, and that if you want to discuss these you should call Leon's office. That is the background. My questions are:

1. Does the minister agree that this is false advertising, paid for by taxpayers, that misrepresents the truth?

2. How does the minister explain that, from investigations we have made, there are no cuts in the forward estimates of the budget from the commonwealth to the state, confirmed by the ABC's fact-checked material on its mainstream television programs and published on its website, where it absolutely and categorically say that there are no cuts? How does the minister, on behalf of the government, justify this?

3. Based on the propaganda nonsense sent at taxpayer's expense to constituents in Mawson, can the minister explain how Jay and Leon are standing up and fighting against the cuts?

The PRESIDENT: Before you get up, minister, can I say that the whole idea of question time is to ask questions about the portfolios of ministers. To ask the minister to comment on a letter written by a local MP to me is outside those boundaries, but the minister can answer the question if she wishes.

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:00): Thank you, Mr President. I thank the member for his question. Indeed, the impact of the federal budget to the state budget is profound, and I am very supportive of any of our government members or any members of the public who are prepared to draw attention to the devastating impact the federal budget cuts will have on South Australia. I congratulate them on speaking up and standing up for South Australia and South Australians.

The total impact of the state budget over the forward estimates, I have been advised, is \$898 million. In relation to health, I am advised that the cuts to health in 2017-18 alone are equivalent to nearly 600 beds (or the entire Flinders Medical Centre), at \$269 million. The \$7 GP tax, I am advised, will drive people away from GPs, putting increasing strain on emergency departments. Also, there is the removal of \$440 million across the forward estimates in health by reneging on the National Health Reform Agreement, including \$217 million in 2017-18; and the elimination of health national partnership agreements, which equates to \$162 million over the forward estimates, including \$52 million in 2017-18—

The Hon. J.S.L. Dawkins: This is an abuse of question time.

The Hon. G.E. GAGO: The Hon. Robert Brokenshire has asked the question and challenged the validity—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. Maher interjecting:

The PRESIDENT: The Hon. Mr Maher, please!

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Ridgway! I made the comment when the question—

Members interjecting:

The PRESIDENT: The Hon. Mr Ridgway and the Hon. Mr Maher, if you please, desist! The fact is that I made the comment when the question was asked that you were leading yourself into this answer, so please just cop it and let the minister answer the question as she sees fit.

The Hon. G.E. GAGO: Yes, take your punishment. In relation to education, we see the federal government abandoning the \$320 million Gonski agreement, the Better Schools funding, over 2018-19. The cuts to our education system equate to approximately \$1,200—

The Hon. J.S.L. Dawkins: This is just ridiculous.

The Hon. G.E. GAGO: You didn't interject when the Hon. Robert Brokenshire got up with all of his nonsense and mistruths—his nonsense question, and you were—

Members interjecting:

The PRESIDENT: No debating between the floor!

The Hon. G.E. GAGO: —happy to sit there and listen to that. Well, you can listen to my answer. You can listen to the trail of woe and mayhem that your federal mates are going to inflict on South Australians. At least this government is prepared to stand up—

The Hon. J.S.L. DAWKINS: Point of order.

The PRESIDENT: Point of order, the Hon. Mr Dawkins.

The Hon. J.S.L. DAWKINS: The minister is accusing you, sir, of lots of things. I think that she should direct her comments through you.

The PRESIDENT: I think that all members should direct their comments through me and have a little bit less debate between you and allow the minister to answer the question.

The Hon. G.E. GAGO: Thank you. In relation to cuts to our education system, it equates to \$1,200 per student across 2018-19, equivalent to nearly 3,000 teachers cut. They are scrapping the continuation of skills (VET): the federal government is going to scrap the national partnership after 2016-17, worth \$38 million, equivalent to 2.6 million training hours or 12,000 students. He says it is not in the forward estimates, but they have already chopped the tools allowance. They have completely got rid of that. Apprentices used to be able to receive a tools allowance, and that is gone. In a flick of the fingers, it is just gone.

Members interjecting:

The Hon. G.E. GAGO: They were very important, those tools allowances, for enabling apprentices who are pretty low-paid to be able to go out and buy good quality tools so that they could work. There is a \$38 million cut to skills, vocational education and training programs for working-aged people and a \$9 million cut from training places for single and teen parents. Can you believe that? They have cut training places for single and teen parents—the cruelty and the callousness of this federal government. In concessions, we see the abolition of the national partnership from 1 July 2014, which will remove \$27 million of funding for concessions—removing almost \$30 million from that. There are cuts to the annual local government road funding of \$17 million.

Members interjecting:

The Hon. G.E. GAGO: When from? 2014-15—our country roads. The honourable member lives out in the regions. Why isn't he jumping up and down fighting to get that money back from the federal government? It is his mates who have ripped the guts out of our roads. Where is he? Sitting

there on his backside. I support anyone who gets up and is prepared to fight for South Australians and fight for jobs here.

Members interjecting:

The PRESIDENT: There are a number of people who want to ask supplementary questions. I think they have the right to ask them in silence. The Hon. Ms Franks.

FEDERAL BUDGET

The Hon. T.A. FRANKS (15:06): Was it similarly cruel or differently cruel when the Gillard-Rudd government cut payments to single parents?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:07): I just really am gobsmacked that a solid South Australian like Tammy Franks, who gets up and I see her out and about regularly fighting for ordinary people—where is she on these issues? Where is she? She can hark back to the past, she can do that if she wants and to focus on all of these grievances from the past, but where are you now? These things are on the table now. You have an opportunity to fight for South Australia and South Australians now. Where are you? Where is your voice being heard?

FEDERAL BUDGET

The Hon. K.J. MAHER (15:07): A supplementary question arising from the answer given—

An honourable member: What answer?

The PRESIDENT: Order!

The Hon. K.J. MAHER: Is the minister aware that the Budget and Finance Select Committee has heard from many government departments confirming that there are massive cuts in the federal budget—

The Hon. T.A. FRANKS: Point of order.

The PRESIDENT: The point of order?

The Hon. T.A. FRANKS: The member is referring to a committee of this place, the Budget and Finance Committee, which I understand is unparliamentary to refer to in the debate in this chamber.

The PRESIDENT: Point taken. Supplementary.

FEDERAL BUDGET

The Hon. K.J. MAHER (15:08): Supplementary: is the minister aware that many government departments have confirmed that there are actually savage cuts to South Australia in the federal budget, contrary to the absolute nonsense the Hon. Robert Brokenshire is trying to espouse about the letter from the hardworking member for Mawson?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:08): Yes, I am aware, and I appreciate being reminded by the Hon. Kyam Maher.

FEDERAL BUDGET

The Hon. R.L. BROKENSHERE (15:08): Supplementary, to get one answer following the minister's gobbledegook: is the minister actually therefore saying that the Australian Broadcasting Commission (ABC) is telling untruths when its *Fact Check* says that there are no cuts?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:08): I have just listed cuts. I have many more that I could get up and put on the record as well. I do not think the honourable member really believes what he is saying, but I can continue to outline, line by budget line, all of the federal budget cuts across all of

the portfolio areas if we want to take up another 13 minutes. Just challenge me to do it. Where is the Hon. Robert Brokenshire, where is his voice standing up for South Australians?

Members interjecting:

The PRESIDENT: There will be one or two members who will not get a question here today because of the time we are wasting on the interjections, and whatever else we have here. We also have a school present in the gallery watching the quite unruly behaviour, and I think it is appalling.

Members interjecting:

The PRESIDENT: I don't mind a little bit of banter, or a little bit of passion, but it gets to the stage where you go beyond that and you are actually quite unruly. The Hon. Mr Lucas.

EMPLOYMENT FIGURES

The Hon. R.I. LUCAS (15:09): I seek leave to make a brief explanation prior to directing a question to the Leader of the Government on the issue of the government's promise for an extra 100,000 jobs.

Leave granted.

The Hon. R.I. LUCAS: Prior to the 2010 election, the Labor government promised 100,000 new jobs in South Australia in the period between 2010 and 2016. In the confidential briefing notes leaked by someone very close to minister Gago on this particular issue, the following paragraph has been deleted:

While economic conditions at the state and national level mean it will not now be achieved in the time frame outlined in 2010, the government is no less committed to improving employment outcomes.

That was deleted from the old briefing note and replaced with the following, with the minister advised to say:

The target was intended to be aspirational and challenging, and the government remains committed to improving employment outcomes.

So no commitment to the 100,000 new jobs, but '...remains committed to improving the employment outcomes'. The minister is also advised in a separate section which says that if the minister is asked about '...whether we will make the 2010 argument'—the minister is told to say—'...the 2010 election commitment to create an additional 100,000 new jobs over six years was made in a completely different economic environment to the one South Australia now finds itself in.' My questions to the minister are as follows:

1. Does the minister now concede that this promise that she and the government made of the 100,000 new jobs will not be achieved?
2. Did the minister, or a member of the minister's staff, direct that her parliamentary briefing note delete the section which indicates that that promise will no longer be achieved in the time frame?
3. Will the minister now indicate what advice she has received as to how many jobs will be achieved in the six-year time frame if it won't be the 100,000 jobs that she and her cabinet ministers promised?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:12): Where has the Hon. Rob Lucas been? I have put on the record in quite a detailed way in the past that, although this government remains committed to that 100,000 job target, it is highly unlikely that we are in a position to achieve it. I put that on the record many months ago—I think it was in the first week or so of receiving these new portfolio responsibilities.

Where has he been? I have already put all of that on the record. I have already indicated that it is an aspirational target. The economy has changed significantly from the time that we set that target and, although that is very disappointing for us, and we continue to remain committed to it even

though it is highly unlikely we are going to achieve it, nevertheless we strive hard to create jobs here in South Australia and to have a significant program.

I am just not too sure where he has been, and I have outlined our job commitments here in this place so many times before. I have talked here today alone just on our Skills for All training programs. We have the state government's investment of \$177 million in our skills training program, which includes our jobs plan, \$63 million for our skills training, \$44 million for the resources and energy sector and \$10 million for the regional jobs accelerator fund.

We have those investments in place, and we have a jobs and skills policy which is about bringing forward local council infrastructure and partnering with local employers to identify job opportunities. We also have intensive case-managing support for hundreds and hundreds of South Australian families, priority accessing for training for people who are unemployed and support for workers in areas identified for transition.

Also, in relation to Our Jobs Plan I have spent quite a bit of time outlining in detail our response to the closure of Holden Australia and a number of initiatives we have there. I have also outlined the work we do to stimulate business. We have reduced payroll tax, we are reforming WorkCover and we have put in place a number of initiatives to help streamline large projects so that they are case managed in a way that they can be implemented more quickly. So, we remain committed to our 100,000 job target. We know, as I put on the record many months ago, that it is highly unlikely that we will achieve it. Nevertheless, we remain committed, and I have just outlined the commitments we have in place that are well under way.

EMPLOYMENT FIGURES

The Hon. R.I. LUCAS (15:16): By way of supplementary question, will the minister indicate why she refused to answer the question as to whether she or one of her ministerial staff directed that the following sentence from her parliamentary briefing note be deleted, that is, '...while economic conditions at the state and national level mean it will not now be achieved in the time frame outlined'?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:16): It is a completely nonsense question. These are my briefs. I can collect and distribute any way I like and have input from whoever I like. They are my briefs. I am not accountable to the honourable member for the way those briefs are compiled. I am accountable for the information I provide to this chamber to make sure it is honest and correct. If there is any doubt in the integrity of any of the responses I give, then the honourable member has every right to jump to his feet and accuse me of misleading this parliament, which he cannot do.

VOCATIONAL EDUCATION AND TRAINING RECRUITMENT AGENTS

The Hon. T.T. NGO (15:17): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about recruiters.

Leave granted.

The Hon. T.T. NGO: On 10 September I read with interest an article in *The Australian* about agents or recruiters who recruit students for vocational education training courses on behalf of colleges, similar to what they have done over recent years for prospective higher education students. It seems that in some instances there have been some questionable practices relating to how courses are marketed, such as advertising or marketing that there are no up-front costs for a course but not acknowledging that students may be incurring a debt for the course they are undertaking. Can the minister tell the chamber about the situation in South Australia?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:18): I thank the honourable member for his most sensible question. It appears that there has been a surge in the number of recruitment agents and brokers marketing VET courses in recent times. I am advised that at the national VET conference on 11 September the Hon. Ian Macfarlane said:

...some brokers who act unscrupulously are undermining the reputation of the training system. This must stop.

The article states that during the Australian Skills Quality Authority's year's marketing audit last year, in which they examined 400 college websites, they found that between 60 to 70 turned out to be brokerage firms rather than training providers. While on the one hand there is nothing new about recruiters or brokers—they have been involved in the international higher education sector and other training sectors for some time—it is when companies use misleading information, or act in not quite an up-front manner, that problems can occur.

As well as the example given by the honourable member in the explanation to this question, a third party, such as a broker, may be able to work around some of the contractual obligations placed on an RTO, such as not offering inducements for people to study with a particular training organisation. So, different provisions apply to RTOs than they do to brokers and we see that some are using these broker arrangements to get around the higher standards required of them in relation to their behaviour.

Since the beginning of Skills for All the department has closely monitored and taken action should there be issues regarding the practice of brokers. For example, Skills for All contracts have actually prohibited subcontracting to non-Skills for All providers. In addition, clause 30.3 of the contract states that a 'training provider must not engage in any misleading or deceitful marketing practices...'

To underpin this, the department routinely reviews print advertising websites and social media to ensure prospective students are receiving clear and correct information about Skills for All funded courses. This is measuring compliance with the Skills for All contracts, as well as requirements under Consumer Law. To date, I can advise that nine organisations who appeared to be brokers have been formally contacted regarding their marketing practices requesting that they cease from making representations regarding Skills for All.

I can advise that in one case, following on from a student's complaint, Skills SA reported a company to Consumer and Business Services on the grounds of false and misleading representation in association with Skills for All funded courses. Consequently, the Consumer Affairs Commissioner gained written assurances from the company directors that they would refrain from making false and misleading representations with respect to the process of goods and services. As part of this process these assurances were published.

I think all in the place would agree it is important that we ensure that prospective students are fully and honestly informed of all details relating to course studies, including costs. The Department of State Development will continue to monitor the behaviour of brokers and Skills for All training providers here in South Australia's training market.

I noticed recently this is an area the federal minister Ian Macfarlane has also focused national attention on. He raised this issue in his capacity as Minister for Industry and Training. I know that he and the federal government are looking at ways of tightening up provisions federally as well, because we know that these training providers do not usually operate just within a single jurisdiction. They are regularly offering their training services across borders, so it is not just a matter for state governments. I was very pleased to see the comments from a media release that came out of the Hon. Ian Macfarlane's office recently taking up this issue as well at a federal level, so I look forward to working with him in relation to this particular issue.

Bills

PARLIAMENTARY COMMITTEES (ELECTORAL LAWS AND PRACTICES COMMITTEE) AMENDMENT BILL

Committee Stage

In committee.

(Continued from 23 September 2014.)

Clause 1.

The Hon. S.G. WADE: In my comments at the committee stage on Tuesday, I highlighted to the house the fact that the honourable Leader of the Opposition in the other place, the member for Dunstan, has tabled a bill called the Commission of Inquiry on Electoral Reform Bill. In the opposition's view, that provides a circuit-breaker in the form of an independent commission of inquiry on electoral reform with a focus on electoral fairness.

The council at that stage supported the opposition's suggestion that the consideration of this bill be adjourned until the government progresses the commission bill, but I thought it might be of assistance to the committee at this stage if I could sketch in a tad more detail of the logic there. As I said in my previous committee stage contribution, the government and the opposition are actually not at variance in the conviction that there are a significant number of electoral reform matters that need to be addressed. The Attorney-General in the House of Assembly debate on this particular parliamentary committees bill said:

I do make it clear that, as far as I am concerned, the government is very, very interested in electoral reform—

He reiterated that by saying:

very interested—and we are interested in reform to the Electoral Act as well. That is why we are asking to have a committee, which is a committee of both houses of parliament, so that both houses can participate in the preparation of recommendations for us all to consider.

In saying that, the Attorney is being completely consistent. It is a point that he made a number of times last year in the context of the optional preferential voting bills and related bills.

As members would recall, we had very limited time to digest the implications of the Senate election at the last federal election before our own election. The government and the opposition were significantly at variance as to whether even short-term reform was achievable for the 2014 election, particularly in the context of the advice of the Electoral Commissioner, but let me stress that the Liberal opposition does not suggest there is not a need for reform, and many of the issues that the Attorney has highlighted as on the agenda, we do not disagree with.

We think there is a significant range of issues that should be addressed and we are interested in that. One of the things that concerns us greatly, though, is that the most acute issue of electoral reform in South Australia that needs to be looked at, in our view, is addressing the fundamental issue of fairness. A democratic system fails in its key duty if it does not deliver the people of any particular democracy the government that they vote for.

In both the consideration of the bills last year and comments in relation to this parliamentary committees bill and in relation to the leader's commission of inquiry bill in the other place, we have repeatedly indicated our interest in electoral reform and, specifically, we have indicated our interest in a parliamentary committee on electoral reform. Forgive me for not knowing the precise details of the recommendation, but I seem to recall that the committee that I was part of after the 2010 election specifically recommended a parliamentary committee on electoral reform. As the government says in its second reading speech, there are such bodies in Victoria, Queensland, the Commonwealth and so forth.

The opposition's point in seeking the Council's concurrence with the adjournment is not to say that electoral reform is not important; it is also not to say that a parliamentary committee is not a significant and useful contribution to that debate. Where we differ is on the value of an independent inquiry.

The Attorney gave us an insight into the government's thinking on the relevance of an independent inquiry in comments that he made in the second reading debate on this bill in the other place. As I understand it, he has not made a contribution to the Commission of Inquiry Bill but he took the opportunity to, shall I say, share his wisdom on this issue in the parliamentary committees speech, if I could quote him:

The opposition has a position where it is asking for an independent inquiry. Some members have been here for a little while and some have been here for longer than me, but there is something I have learned about this place in the time I have been here, and that is that anybody who thinks they are going to tell members of parliament how to run parliament from outside—in other words not a peer but some other person—has got rocks in their head. All you will be doing is wasting everybody's time. It will be the equivalent of the Catholic Church appointing an academic to

report on how it should deal with difficult and complex theological issues: (a) it would never happen, and (b) whatever the report said it would be ignored and thrown straight in the bin, and quite rightly so.

I stand here as a person with rocks in my head because, and perhaps with some precedence behind me, let me refer the Attorney-General to the 1969 UK Royal Commission on the Constitution, also referred to as the Kilbrandon commission, which was set up to investigate possible arrangements for independent governments for Scotland, Wales and Northern Ireland. The commission reported in 1973 and recommended devolved directly elected Scottish and Welsh assemblies with limited powers rather than complete independence of these countries.

In 1989 the Scottish Constitution Convention was established by several organisations. It will not surprise you that that included the Scottish National Party and, for the Attorney-General's information, it also included the Catholic Church. In 1991 the United Kingdom Labour Party National Executive established a working party into the electoral system chaired by Professor Raymond Plant. Let me stress again: these are parliamentary and electoral reform initiatives that were not within the parliament, where the parliament or political parties saw fit to engage independent experts.

In 1995 the Scottish Constitutional Convention published its blueprint for devolution, Scotland's Parliament Scotland's Right, which proposed an additional member system to elect members to a new Scottish parliament—73 members to represent single member districts and 56 elected from party lists. In 1997, and I think perhaps this is the best example, the United Kingdom government, which I presume at that stage was a Labour government, appointed an independent commission on the voting system. It sounds remarkably similar to my leader's commission of inquiry into electoral reform.

It was chaired by the Right Honourable Lord Jenkins of Hillhead and the commission was asked to reconsider the voting system looking for the best alternative vote system or combination of systems to the existing commonly-called first past the post system of election to the Westminster parliament. The reason I think that that is the best example is because they were considering fundamental reform to how the people of Britain would express their preference for the formation of government.

Now I just want to take you across the water to Canada. In 2004, a Citizen's Assembly on Electoral Reform was conducted in British Columbia, where 161 members of the public were appointed to the commission and held 50 public hearings across the province. They recommended an MMP system with multi-member districts. (I stress that the previous comment was in relation to British Columbia). In 2005, Ontario empanelled a citizen's assembly on electoral reform. One member was chosen from each Ontario constituency. It recommended an MMP system.

Again, across the water, we come to New Zealand. In 1985, New Zealand established a royal commission into the electoral system. It was established to review the electoral system after New Zealand's National Party came second to the Labor Party despite winning a majority of votes at two consecutive elections. If I can just quietly note that we can beat that. We have had not just two majority votes and still lost the election, we have managed to have three losses out of four in spite of a majority of votes.

That commission was made up of five non-party expert commissioners. They were asked to look at parliamentary terms, the number of members, the voting system, redistribution provisions and funding and disclosure provisions. The most important of the royal commission's recommendations was to establish a multi-member proportional system. In 2012, the New Zealand Electoral Commission conducted a review of the operation of the MMP system and my understanding is that the New Zealand electorate went to a referendum and endorsed the operation of that system.

So, I may have rocks in my head but I am not alone. There are plenty of examples where parliament has seen fit to engage independent external experts in the development of parliament and electoral reform. In that context, we believe it is particularly relevant, and perhaps the relevance might be clearer if I sketch briefly for members what the bill foreshadows. The bill that my leader has tabled in the other place foreshadows establishing an independent inquiry which will provide an appointment process for the membership of the inquiry which will ensure its independence.

The inquiry would have a narrow focus on an open question, a narrow focus in the sense that it only has one issue to address: what does it take to make sure that the majority will is reflected

in the formation of government? It is narrow but it is also open. It does not have any predetermined preferences. It does not put up any options that the commission is asked to go through. You have an appointed committee of the parliament which includes every political group, even the Greens get a guernsey, as part of the appointment process for the commissioners to try to guarantee the independence of the commissioners and then the commissioners have an open question: what would it take to give us a fair system?

Let me stress that the Liberal Party is not doing that naively. We know that that is not without risks. We will not have control of the process. We are not insisting on a preferred model. We are not even hinting at a pre-determined model. We think it is important for the commission to complete its work in a timely way so that any reform can be achieved before the 2018 election. I also expect that there will be other reforms that come forward through parliamentary committees or by whatever means.

So, the Liberal Party has formed that view. We have demonstrated that by tabling a bill in the other place called the Commission of Inquiry on Electoral Reform Bill. When the Parliamentary Committees (Electoral Laws and Practices Committee) Amendment Bill was heading our way (when I say 'our way' I mean had been passed by the House of Assembly and was due to be considered by the Legislative Council) we saw the opportunity to reiterate our view that the most important issue to be addressed is the issue of fairness in the formation of government and to do that by, if you like, inserting the commission of inquiry bill into the Parliamentary Committees (Electoral Laws and Practices Committee) Amendment Bill that is being considered this afternoon.

The wise advice of the Clerk is that that would be beyond the bill's reference and so therefore would not be in order. However, I do not think it hurts members to see, in transparent terms, what we are proposing. Amendment Nos 1 and 2 of the set filed for this bill are the amendments that relate to the commission of inquiry. I understand the Clerk has no objection to Amendment Nos 3 to 5, and they will be considered later in the committee stage.

Having moved the bill in the House of Assembly and having also tabled amendments that reflect our commitment in the Legislative Council, I humbly submit to this council that as the government has committed to a non-partisan process—it is very interested in electoral reform—we believe this is a conversation in which every party participates on an equal basis. No party owns electoral reform, so we think it is very important that the parliament consider all the options before it and are keen that our commission of inquiry proposal is given due consideration by both houses.

With those few remarks I seek the council's concurrence. I ask the council to maintain the support it offered me earlier this week by adjourning consideration of clause 1 of this bill for another day. I do not know whether or not any other members want to make a contribution today; if they do not I intend to move to report progress.

Progress reported; committee to sit again.

COMMISSIONER FOR KANGAROO ISLAND BILL

Second Reading

Adjourned debate on second reading.

(Continued from 23 September 2014.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:42): I rise on behalf of the opposition to make opening remarks in relation to the Commissioner for Kangaroo Island Bill 2014. Kangaroo Island, as you know, Mr President (I think you may have a holiday property there that you get to quite regularly, and I know you enjoy it very much), is a unique, iconic and beautiful part of our state, and in my current portfolios I have developed a greater familiarisation and appreciation for it. It is interesting that Kangaroo Island is one of those places I had been to only a couple of times prior to becoming a member of parliament, but I have been there a number of times now and it is a very unique part of South Australia. It is so important that we get things right on this island, not just for the 4,600 people or the many businesses, particularly in the food and agriculture sectors, but also for the tourists who visit from all over the world.

As is the case in other regions of South Australia, the elected Kangaroo Island Council is the peak governing body for the island. It works with a host of elected boards, committees and community councils, associations and organisations. As with any council area, funding comes from state and federal government contributions and, obviously, from its own rate base as well. The government has proposed that we now install a commissioner, to be paid for by the state government, at a cost of some \$5.6 million in the forward estimates. As I understand it, that includes the completion of KIFA, the Kangaroo Island Futures Authority.

The commissioner's role would be to prepare management plans focusing on the coordination and delivery of infrastructure and services provided to Kangaroo Island by government, with the objective, of course, to improve the local economy. The minister is of the view that state agencies have failed to focus on Kangaroo Island, and we would agree that they have failed to focus not only on Kangaroo Island but also on most of regional South Australia. He wants decisions made in Adelaide to be in the best interests of the island. I am told that at one stage he suggested heads of departments could be responsible for complying with the Kangaroo Island plans developed by the Kangaroo Island Futures Authority. Apparently, the idea was met with universal horror.

Essentially, this is the problem we have and the main argument being made by the opposition in the debate on this bill. We have a cabinet of ministers and their respective departments, and the role of those people is to ensure that, as far as practical, cross-agency decisions are made which are of maximum benefit for all regions of South Australia. An efficient dialogue between local and state government, industry bodies, individual operators and the public are supposed to exist for this very purpose.

South Australia does not have a commissioner for any other geographical area, and no Australian island has one. If the commissioner is set up, it will have to pass the KI management plans through cabinet and, if there is a conflicting position between two separate agencies in relation to a plan, the commissioner will make the final recommendation to the minister and to cabinet. The opposition has been told that development of the management plans would assist Kangaroo Island in receiving government funding. This type of loose undertaking is not something which will compel the opposition to support this legislation. We have seen the government make similar commitments in the past, and we have learnt that these plans do not necessarily translate to affirmative action, especially where financial investment is concerned.

My colleague and the local member, Mr Michael Pengilly, made a valid point. What the island needs is infrastructure, it needs an airport upgrade, it needs a reliable electricity supply and it needs more competitive freight and transport access costs, but this bill does not deliver those things at all. It is probably designed to give the impression that these issues will be addressed but, at the end of the day, these are still primarily funding issues. Of course, we have seen 12½ years now of Labor government in this state, and funding issues for the whole state are particularly big issues and big concerns, and areas such as Kangaroo Island will suffer under the mismanagement of this government.

As mentioned by my colleague Vickie Chapman, the member for Bragg, the Kangaroo Island Futures Authority, which came out of a recommendation of the State Economic Development Board, has done some reasonably valuable work. It has outlined priorities for Kangaroo Island in terms of infrastructure planning and services, and from there KIFA (as it is known) promoted a number of reforms, but their work still did not tackle the core infrastructure issues for the island.

It is my understanding that the chair of KIFA made some representations to the Premier in relation to the implementation of the government's marine parks, in particular the bill which was defeated last week. It passed in this chamber a couple of months ago but was then voted on last week in the House of Assembly and was defeated by the government. My understanding is that the chair of KIFA made some representations to the Premier in relation to the damage that would be done to the Kangaroo Island community and economy by the implementation of these marine parks.

It is interesting that we are now seeing that the government wants to have a Kangaroo Island commissioner yet, when someone who is well respected and is involved with the Economic Development Board makes a representation to the Premier about their concerns about the damage the marine parks will do to the Kangaroo Island economy, they are ignored.

One of the concerns I have is that a Kangaroo Island commissioner could easily form that view, make a representation to government and be ignored. The Kangaroo Island Council also is not in a good financial position, and it is fair to say that it has not been helped by the state government. Some examples given in the other place of hindrance created by the state government are as follows:

- They have failed to provide or subsidise vital infrastructure.
- They have brought up more land on the island, thus reducing the council's revenue base.
- They have capitalised on their own assets with the instalment of boardwalks and walking trails. These are great news for visitors but do not do anything for the locals.
- They have created regulations, compliance with which is costly for islanders.
- They have sponsored planning reform with a new DPA carving out the coastline to further advantage themselves in control and income but depleting the council's future role.
- They have increased levies, taxes and charges.
- They have reduced education and health facilities.

So, you can see, Mr President, that Kangaroo Island is in a difficult situation, as you would know from your regular visits there, and having a commissioner, in the opposition's view, is not going to solve those problems.

It is interesting to note that the Kangaroo Island Council is supporting the bill, probably because it is desperate for any change which (however unlikely) could potentially improve its situation. Whilst the LGA supports the bill, it seems possible that they have not considered the practical consequences of the legislation, such as the imposition of any disputes with the commissioner as well as the cost of compliance.

The minister actually has the power under section 57 of the Development Act to enter into land management agreements with owners of land in relation to development, management, preservation and conservation. The minister legally has to have regard to the KI development plan. This bill actually circumvents that, so ultimately the council's power is significantly downgraded. As the shadow minister for tourism, and given the value of tourism to Kangaroo Island's economy, I would like to touch specifically on that area. In minister Rau's second reading speech on the bill, he referred to two targets in South Australia's Strategic Plan. They were:

Target 4: Tourism industry

Increase visitor expenditure in South Australia's total tourism industry to \$8 billion and on Kangaroo Island to \$180 million by 2020.

It is interesting that we have noticed that the tourism minister and the cabinet have recommended abolishing the Tourism Commission Board—

The Hon. R.L. Brokenshire: Bad, bad idea that.

The Hon. D.W. RIDGWAY: —and I am yet to be convinced that that is in the best interests of tourism and particularly in the best interests of tourism on Kangaroo Island. I know it is out of order, but I will acknowledge that my colleague the Hon. Robert Brokenshire thinks it is a very bad decision indeed to abolish the Tourism Commission Board. It then states:

Target 40: Food industry

Grow the contribution made by the South Australian food industry to \$20 billion by 2020—

including 'clean green food as our competitive edge'. As the shadow minister for food and tourism, there is nothing more I would rather see than South Australia and Kangaroo Island reach their respective targets. However, for Kangaroo Island to reach this target, it needs the necessary infrastructure in place, not additional bureaucracy—not another layer of government interference and another layer of cost.

It seems that one of the things we see with this current government is that they are always excited and able to look at where they can spend money. As we saw today, they cannot even measure the number of people from their Skills for All program who actually get jobs. What we should

be about is trying to grow the economy and actually make money and not look at ways we can keep spending money and put in additional bureaucracy.

Kangaroo Island is one of South Australia's premier tourism assets. The island offers unspoilt nature, abundant wildlife and a rural experience that is unique throughout South Australia, given its island setting. Tourists travel to Kangaroo Island expecting to see native wildlife in natural habitats, spectacular coastlines and bush landscapes. The region also boasts a diverse primary industries sector which includes, obviously, cropping, grazing, horticulture, forestry, fishing and aquaculture. In addition, it is known for the quality of its value-added products such as wine, cheese, marron, olive oil and honey. For all these reasons, we need to harness and facilitate the promotion of Kangaroo Island as one of South Australia's leading tourism regions.

At present, it has been well documented that the cost of accessing Kangaroo Island is a barrier to the growth of the island's tourism industry and more broadly to the island's economy. At present, the tourism industry accounts for some 15 per cent of direct employment on the island, more than any of the other South Australian regions. Therefore, it is critical that we support this industry for the betterment of Kangaroo Island's struggling economy. Currently tourism on Kangaroo Island is underperforming and, as a result, Kangaroo Island's economy is struggling. This is placing greater financial pressure on the local council and on local residents and businesses alike.

In fact, statistics published by the South Australian Tourism Commission show that, to the year ending June 2014, the number of overnight visitors to Kangaroo Island decreased by some 6,000 nights, from 123,000 to 117,000. It is interesting that that is after the Kangaroo Island ad was produced, which I think we all thought was a very good ad. It is interesting to note that some of the stats now are not showing any increase in visitor nights. The total number of all visitor nights on the island has significantly decreased, from 528,000 to 505,000 nights, a decrease of some 23,000 nights.

Overnight intrastate travel—that is South Australians trying to visit Kangaroo Island, a tourism region within their own state—decreased by some 7,000 nights, from 53,000 to 47,000. In fact, between 2010 and 2013, intrastate visitation as a percentage of total visitors to the island decreased by some 6 per cent, so even South Australians are becoming less and less willing to spend money to visit an island in their own backyard. I can assure you that is not the case in all South Australian tourism regions. There are many other regions throughout South Australia which are benefiting from increased intrastate travel.

These substantial decreases in the number of tourists visiting the island can be attributed to a number of factors; however, none are more concerning than the sheer cost of getting on and off the island. With the tourism industry set to be a key economic driver, not only for Kangaroo Island but for South Australia going forward, the responsibility rests on the shoulders of the government to facilitate this industry as best it can. In this instance, we are looking for infrastructure to be in place to access one of South Australia's greatest tourism assets, Kangaroo Island.

The government needs to spend money on South Australia's regions. This bill does not do this. The comment was made by my colleague in the other place, the member for Goyder, that the proposed bill is considered by some 'as a strategy making it appear as if the government is taking action to boost the local economy without necessarily delivering upon those things.' By throwing money at a commissioner the government is simply wasting more money and red tape on bureaucracy.

As I have mentioned previously—and this fact has been well documented by my colleagues in another place in the second reading of this bill—the local government is struggling to raise money. It does not need an extra hurdle to jump over, or another body to report to. What is needed is investment in the island, and this investment needs to kickstart Kangaroo Island's economy. The expenditure of millions of dollars on an unnecessary commissioner will do no such thing. In summary, we will not be supporting this bill for the following reasons:

- it undermines the elected council as the people's voice;
- it does not help the council with its financial problems;
- it dilutes the council's principal role in planning;

- it adds an expensive level of bureaucracy;
- it does not bind the government to do anything about infrastructure and other challenges faced by the island; and
- it wastes valuable time to consult and prepare more plans when the council's strategic plan, the RDA reports, and the countless management plans have already identified the priorities. In fact, KIFA has already identified a number of these priorities.

In the event that the opposition does lose its vote on this bill and that the bill is supported by the crossbenches we will be moving some amendments requiring the minister to consult with the local member on who he appoints as the commissioner. We also expect to have a four-year sunset clause in the act and, importantly, our amendments will also remove references to the Kangaroo Island Council so that the commissioner cannot trump a democratically elected body.

With those comments, I indicate that the opposition will not be supporting the bill. We see for a number of reasons that it is not the right mechanism to bring about a change in the Kangaroo Island economy, but I have consulted with some of the crossbenches and I see it is likely that it will be supported at the second reading. As I have indicated, if it is supported at that stage we will move some amendments to try to make what we think is the wrong solution a little bit more accountable.

The Hon. T.T. NGO (15:56): I also rise to speak about a place and a plan that are very significant. The place is Kangaroo Island, and the plan is to improve its economy and enhance the delivery of services by the government to islanders and visitors by way of creation of the office of the commissioner for Kangaroo Island.

The place is special and the plan is significant for the islanders, their visitors, all South Australians, our country and beyond. The place and the plan are significant for me, personally, because following my arrival in Adelaide at the age of 10, a visit to Kangaroo Island was my first real experience of what I imagined to be the 'bush'. I was astonished at all the flora and fauna that were unique to the island—especially kangaroos—and amazed at the island's size and varied terrain.

Let me tell the house a bit about how I was given the opportunity to go to the island. When I arrived here I went to Hindmarsh Primary School. I was in year 6 then, and I did not speak a word of English. One day the school offered me the opportunity to go on a YMCA camp trip to the island for four days. I was the only student out of the whole school of a couple of hundred kids being offered the trip.

As a new migrant, my sister—who was looking after me at that stage—had no idea why the school offered me a free trip to the island and told the school I could not go because we had just arrived here by boat. She did not want to send me off on another boat trip!

The school principal and teacher came to my house and explained that attending the camp with other kids would be a great opportunity for me to understand the Australian culture. From the school's perspective it had nothing to do with me being naughty and their wanting to send me away for good. In the end, my sister agreed and let me go. I do not know how; most of us here have kids, and I would be very nervous if the school came and asked my 10-year-old child to be sent away on a camping trip by himself or herself. As a parent I would be worried too.

I take this opportunity to thank the school for giving me a lifetime opportunity to visit and experience such a beautiful place. In particular I thank my home class teacher, Mrs Myatt, who organised a sleeping bag, a pillow and whatever I needed to go on the camping trip. She even got her husband to pick me up and drop me off at the bus station in the city. So, it was an incredible kindness and dedication in how the school went out of its way to get me there.

The Hon. R.L. Brokenshire: A good teacher.

The Hon. T.T. NGO: A very good teacher. In light of the journey that had brought me to South Australia, that experience has stayed with me ever since and has informed my views of the island in all its natural beauty. Obviously it is a lot better than the refugee camp on the island where I came from. The island is situated just a short 13 kilometres off our South-East coast. Kangaroo Island covers about 4,300 square kilometres, an area that surprises many visitors and in fact makes it Australia's third largest island after Tasmania and Melville Island.

It is part of the island in closest proximity to the mainland that is most developed by settlement and farming. Obviously that is why about a third of the area as a whole comes under the protection of national parks and conservation parks. We all know its wild surf beaches, its sun-browned paddocks, its quiet stands of various Indigenous flora, its penguins, fur seals and sea loins, wallabies, black cockatoos, reptiles and celebrated bees.

The Hon. R.L. Brokenshire: And koalas.

The Hon. T.T. NGO: And koalas too, thank you. We know the sense of community that gives the islanders pride and coherence as a group, but also enables them to embrace difference. We know the glorious produce that comes from the pristine island environment: wine and beer, honey and bee products, sheep's milk yoghurt and cheese, eucalyptus oil, eggs and chickens, condiments, lobster, marron and fish of many varieties.

We know that tourists, conservationists, artists and scientists draw inspiration from residing on or visiting the island, but we know that state government services could be more coherently delivered. We know, too, that the residents' population is small, about 4,000. This means that local government struggles financially to provide the required services. We know that new farming techniques are changing the face of island agriculture and impacting for good or ill on native flora and fauna.

We know that infrastructure, particularly roads—the vast majority of which are unsealed—and power, needs improvement. We know that operating and transport costs for businesses are high, that residents can struggle to meet the cost of living because of those very factors, and that the island's special remoteness presents its own particular challenges, as well as advantages as I have discussed. What can be done to help Kangaroo Island realise its extraordinary potential while also safeguarding its unique character and personality? To answer that question we need to go back to first principles.

We know that South Australia has so much to offer both in terms of resident lifestyle and as a destination for visitors from all around the world, that our Strategic Plan targets tourism as an income producing strategy for the state, that we intend to increase visitor expenditure on Kangaroo Island to \$180 million by 2020, and that we intend to grow the contribution made by the various components in our food sector to \$20 billion in the same period, because clean green food is a commodity we can be confident will give us a competitive advantage, both locally in Australian markets and, of course, globally.

All these elements have specific application to Kangaroo Island which, while it punches well above its weight in terms of international recognition (it is up there with the Opera House, Barrier Reef and Uluru), would so clearly benefit in so many ways from a coordinated strategic plan for its sustainable developments into the future. As all present would be well aware, the Kangaroo Island Futures Authority (KIFA) was established in 2011. In consultation with a range of stakeholders, the KIFA board examined a number of issues impacting on the island and devised eight strategic priorities. Key objectives were set to lift tourism and farm gate income each by 50 per cent on 2012 levels by 2022.

The government has acknowledged the views expressed by KIFA and others that, while many of our departments and authorities, including education and further education, environment and natural resources, local government relations, health, police, SA Water, transport, fisheries and primary industry, regional development, tourism, native vegetation and national parks, provide services to the island, those services need to form a more coherent and more productive whole.

That is why the government is proposing a Kangaroo Island authority. It is proposed that this entity will overarch and coordinate all of the state bodies charged with delivery of services to the island and that it will be accountable to the minister with special responsibility for the island. This does not mean that the role of local government will be decreased. On the contrary, the two will operate together and, of course, Kangaroo Island Council will continue to represent the residents, provide the required services and manage commonwealth grants.

The government is also proposing a commissioner for Kangaroo Island whose primary role will be to assist in all possible ways—and, needless to say, in consultation—in developing the island's

economy. The commissioner will coordinate existing departmental and other programs and officers, but in doing so will ensure an improved island-specific policy focus in service delivery methodology.

He or she will devise, in accordance with statutory principles and based on broad consultation with islanders, local government, relevant departments and any other body or person, management plans that put local interests, service provision and economic development on Kangaroo Island front and centre. The bill provides that the functions of the commissioner will be as follows:

- (a) to improve the management, coordination and delivery of infrastructure and 35 services provided by government agencies on Kangaroo Island;
- (b) to assist with improving the local economy on Kangaroo Island, which may include, for example, assisting with the marketing of the island or products from the island and helping to create employment and other opportunities from tourism or other industry development programs on the island;
- (c) to prepare, and keep under review, management plans consistent with the functions of the commissioner; and
- (d) any other functions conferred on the commissioner by or under this or any other act or by the minister.

And of course the commissioner will be obliged to report to parliament annually. As well, the ERD Committee, which I am currently on, will inquire into and report on the act's operation after two years and every four years thereafter. I understand that this bill had a fairly torrid time in the other place. There will always be those who resist change and who say that it is too expensive, that it will not work, that it will fail and we will look stupid. I say to them, 'Why not take a positive view, an optimistic view?' We have here a tiny, isolated part of South Australia that has an enormous amount to offer and needs a fair go. We want to help.

As the Hon. Mr Ridgway has just outlined in his speech, the Kangaroo Island Council is emphatically onside. It has passed a motion unanimously supporting the bill as amended in the other place, and I stress that those amendments were primarily concerned with mandating consultation with the council on particular matters. I cannot remember the last time a country council passed a motion unanimously supporting a government on a policy. I do not know if the Hon. Mr Brokenshire can remember when was the last time a council—

The Hon. R.L. Brokenshire: 1874.

The Hon. T.T. NGO: 1874—that was the last time a country council moved a motion supporting what the government was doing. Islanders are themselves onside. The government is obviously onside, and remembering that initial exposure to Kangaroo Island all those years ago, I am onside, too. I commend the bill and hope for its speedy passage. I look forward to seeing the results of this initiative.

The PRESIDENT: The Hon. Mr Brokenshire, before you start, you might want to put 1874 to the ABC's *Fact Check* and see what they make of that.

The Hon. R.L. BROKENSHERE (16:13): Thank you for your advice, sir. I rise to advise that, after careful consideration, lots of discussion, consultation and representation from a broad cross-section of the Kangaroo Island community, Family First will be supporting the principles of this bill.

We do not do that lightly, but I have to say also on the public record that I have had lots of representation from people I work closely with on Kangaroo Island as well as on the mainland and people I highly respect for their wisdom, guidance and commitment to the island—generational farmers and generational businesspeople. One even visited me at home a few weeks after I had my hip replacement operation to tell me why they believe that, on this occasion, the government was right in putting this commissioner proposal to the parliament.

I know there are concerns about it from the local member but, as I explained in a letter I wrote to the editor of *The Islander*, I believe that you do not look a gift horse in the mouth and that if

there is an opportunity to capitalise proactively for a region, particularly a region like Kangaroo Island, then we should give this bill a go.

Family First would consider an amendment by the opposition, perhaps with a sunset clause in it, or a clause that said it had to be deliberated on by the parliament, ultimately after consideration through the ERD standing committee, perhaps. If the opposition put up something like that, we would look at it because it is always good to reassess something like that.

As Kangaroo Island is, in one sense, the most remote region in this state, any assistance that it can get to fully coordinate, cooperatively and collaboratively across government as a whole-of-government focus with a commissioner, I think, is a model that we should be giving a go. The proviso for that from our point of view is that we want to see this commissioner given real teeth and strength when it comes to their role and that, through the direction of the legislation and the support of the cabinet, the commissioner knows that if he or she, in their role as commissioner for Kangaroo Island, can capitalise on opportunities, the government will treat that as a priority.

Sometimes I am not in a position where I can support or agree with the Deputy Premier, the Hon. John Rau, but I have to say that, from what I have seen and heard in discussions with him personally, he is genuinely committed to ensuring that this commissioner proposal works, and to me that is a good thing.

The council is not opposed. In fact, as my colleague said in a very good speech preceding my comments now, the fact of the matter is that the council strongly lobbied Family First to support this, and not only the council but the Southern Hills Local Government Association, an area that takes in my own home region, Kangaroo Island and the Adelaide Hills. They wanted this to be supported by the parliament. From memory, we also got a letter from the Local Government Association as a whole wanting this supported.

Kangaroo Island is used sometimes frustratingly by federal and state governments as an icon, as a tool and an opportunity to encourage people to come and visit Australia, but so much more could occur on Kangaroo Island if there were some real effort put into improving its infrastructure and opportunities.

Someone for whom I had a lot of time was Mr Duncan MacGillivray, who sadly, tragically passed away on a holiday in Bali. I was with him in the dining room here with an Indonesian delegation only a few weeks before he passed away. He was a great South Australian, who was very committed to Kangaroo Island. He led the charge on Kangaroo Island Pure Grain. When you look at what Kangaroo Island Pure Grain is doing and the way they are positioning opportunities for value-added agriculture from Kangaroo Island to export across the world, it just reinforces the opportunities for Kangaroo Island.

Successive governments of all colours, ever since they did away with the Troubridge and Island Seaway, have not done Kangaroo Island a favour when it comes to the water gap issues. In fact, we did some analysis on that and, if you look at the millions of dollars a year that used to go into water gap subsidisation to assist Kangaroo Island, that no longer exists.

One of the big problems still is the cost of freight and tourism, its passenger transport and its freight transport, and I will give you an example of where it is a problem. First of all, with the freight, if you want to export canola from Kangaroo Island to Japan, which they do, the cost in freight to get the canola to Port Adelaide is higher than the cost of then taking that canola from Port Adelaide to Japan. That is the sort of problem that they face. Then you have situations with prime lambs and things like that, where they have such high freight costs.

If you have a look at tourism, people would love to go to Kangaroo Island. My colleague, who had the opportunity of going there at age 10, really reinforced a key point to me; that is, that he was fortunate but that was his first look at the bush at 10 years of age. He was privileged, in a sense, because very few 10 year olds get to see Kangaroo Island. In fact, just before my mother passed away, at 85 or 86, when I told her I was going over to Kangaroo Island (because I go over there regularly meeting constituents) she said that she had never been to Kangaroo Island. I thought she had been, but she never got to Kangaroo Island. I did a bit of research into that and the reality is that only one in seven South Australians ever visit Kangaroo Island, and yet we have such an iconic, pristine, magnificent island that is so important in marketing the whole of Australia.

What I am saying there is that I want money put behind this commissioner because it is no good the commissioner having a role, and there is going to be around \$1 million or even above \$1 million allocated for this position, not only does the commissioner have to be listened to and initiatives expedited but there needs to be infrastructure spend, and I am talking—and I do not mean this tongue-in-cheek—more than \$200,000 on a toilet block for tourists when they are going to see the seals, or something like that.

I am talking about serious money being spent on upgrading the airport and runway and serious money being spent on ensuring that they can get the passenger liners into Kingscote. Also, money needs to be spent urgently on upgrading their power supply because the power cable under the Backstairs Passage is at the end of its viable life.

If the cup is half full in your eyes then this is an opportunity, and the cup is half full in my eyes. I want to see this work. It is worth supporting. It is worth giving this position a go. I do not understand why some people are negative about the concept, but I guess the only positive thing to come out of that is that it actually puts more pressure on the commissioner and the government, if this bill is passed, to make it work.

Family First will watch this very closely. It may well be that if this model does work, and I do not believe that it is about more red tape and bureaucracy, in fact I would expect that the powers of the commissioner would be to streamline, work through and break down that red tape and bureaucracy and get things happening a lot quicker. If it does work, if it is a good model, then perhaps it could also go into outback South Australia to the pastoral areas and to support the APY lands because that is another very remote and important region that needs support.

So, let us be proactive. Let us be positive on this. Let us give this a go. As I said, if there is a clause that comes in amending the bill to have a sunset clause or a full review clause where the parliament at that point in time, after due and proper consultation, makes a decision on whether it then continues then Family First will look at supporting that amendment.

I will also put on the public record now, so that I do not have to spend too much time debating it in the committee stage—I still have to consult with my colleague about this, but given that it has been flagged—that as to the matter of the local member having input into the commissioner role, we will have to think very carefully about that before we would consider supporting that amendment. That would then be consistent with what we have done with things like the ICAC situation and the appointment of the commissioner there.

With those few words, I again thank the people of Kangaroo Island who have put so much energy into lobbying Family First to support the bill. I hope the bill will be passed. On this occasion, I congratulate the government because I think it has a genuine intent here. I hope there are positive outcomes that will see not only Kangaroo Island flourish, grow and build its economy, but I would hope that this will actually help with job creation and strengthening the economy throughout the state and in my own region, the Fleurieu Peninsula.

One of the other things with Kangaroo Island is that we miss out on certain international travellers coming to the Fleurieu peninsula to enjoy our beautiful dairy, wine and coastal opportunities. They just bypass us because they see Kangaroo Island, which they would like to visit, as too expensive a destination to access. With those words, we support the bill.

The Hon. K.J. MAHER (16:25): I rise today to support the Commissioner for Kangaroo Island Bill. With some reluctance, I must say, I find myself in great agreement with nearly everything the Hon. Robert Brokenshire has said, which is very strange after the complete nonsense he talked in question time. However, his contributions today on this bill have been very worthwhile.

The Hon. J.S.L. Dawkins: He might put you forward as the commissioner.

The Hon. K.J. MAHER: Someone like Robert might be a good commissioner, who knows?

The Hon. R.L. Brokenshire: I would make a wonderful commissioner.

The Hon. K.J. MAHER: Robert thinks he would make a wonderful commissioner. This bill is a positive move for Kangaroo Island and for South Australia. Kangaroo Island is one of Australia's most recognised international tourism assets, and the island has incredible potential as a sought

after travel destination. The Southern Ocean Lodge is widely regarded as one of the best resort hotels in the world, and there are many other premium experiences available to local and international tourists.

The isolation and relative wilderness of the island also provide great opportunities as a producer of premium quality produce, and the Hon. Robert Brokenshire has talked about KI Pure Grain and other Kangaroo Island Pure brands that are attracting massive premiums for their products. Food and wine tourism are just two of the great opportunities that Kangaroo Island has to make a strong contribution to the South Australian economy.

Many people know about the great things Kangaroo Island offers, but the opportunities have often gone unrealised or it has taken massive efforts on the part of entrepreneurs to overcome obstacles that are far too often, and often by well-meaning people, placed in the way without proper coordination.

In many ways the strengths that provide the island with its distinctive identity have a flip side, challenges that make things far more difficult than they need to be or than they are in other regions. It might seem like pointing out the obvious, but the fact that we are talking about an island, isolated from the rest of the state by Backstairs Passage, means that this region faces challenges that are different to any other region in the state. However, with challenges come opportunities, and that is why this bill is before us for consideration.

The government has recognised the opportunities on the island and the desire from the local islanders to see it reach its potential. This bill is a direct outcome of the work of the Kangaroo Island Futures Authority that was established to try to build a better future for the island. The Kangaroo Island Futures Authority advisory board combines the business sense of the chair of the state's Economic Development Board Raymond Spencer and local entrepreneurs Craig Wickham and Justin Harman, with the local mayor Jayne Bates, and the tourism expertise of Jane Jeffries.

The Kangaroo Island Futures Authority has worked hard over the past few years to implement strategies to support local government, local businesses and the overarching branding of and strategy for the island. While the Kangaroo Island Future Authority's work has been able to help many individuals, projects and businesses, there needs to be structural change to help overcome some of the challenges the island faces. By appointing a commissioner for Kangaroo Island it can be better seen as a single entity, and can have government services and strategies—

The PRESIDENT: Hon. Mr Maher, can you keep the volume down so that you do not interfere with the conversation between the Hon. Mr Ridgway and the Hon. Mr Brokenshire?

The Hon. K.J. MAHER: I apologise to the honourable members for thinking that when I was on my feet I might take precedence.

The PRESIDENT: Your apology is accepted.

The Hon. K.J. MAHER: Obviously they do not wish to consider taking their conversation outside; it is much more convenient for them in here. By appointing a commissioner for Kangaroo Island—

An honourable member interjecting:

The Hon. K.J. MAHER: Would you like me to start again, Mr President?

The PRESIDENT: If you must. I have missed half of it.

The Hon. K.J. MAHER: By appointing a commissioner for Kangaroo Island it can be better seen as a single entity, and can have government services and strategies coordinated and streamlined. All too often the Kangaroo Island Futures Authority has found that government decisions made from Adelaide appear well-intentioned but fail to align with efforts on the island.

As the minister noted in his second reading speech, the delivery of state government services suffers from three interrelated major problems from a Kangaroo Island perspective. Firstly, there is a lack of critical mass in any of these agencies that can be devoted to Kangaroo Island issues;

secondly, the delivery of services tends to be Adelaide or mainland focused; and thirdly, there is a lack of any one or more networks joining up services with a Kangaroo Island focus.

The situation is exacerbated by the fact that there is a small population of about 4,000, meaning that local government struggles financially to deliver the necessary services, and there is a tenuous critical infrastructure provision, notably electricity and sea transport. These challenges are best addressed by creating a Kangaroo Island commissioner focused on the best interests of the island. The local council recognises the benefits that a commissioner can bring to the island and supports this bill.

The Hon. D.W. Ridgway interjecting:

The Hon. K.J. MAHER: I note the Hon. David Ridgway further interjecting and the hypocrisy with which he interjects. Often when bills are before this chamber, the opposition rely on the advice of a community group or a local council as a reason to be against the bill, but when the local council is unanimously and fully in support of the bill, they are still against it. They have it both ways and the hypocrisy is outstanding. If the Hon. David Ridgway, as a former shadow minister for local government, continues to want to alienate—

The Hon. D.W. RIDGWAY: Point of order, Mr President: I have never been the shadow minister for local government. I ask the honourable member to get his facts right and to withdraw it.

The PRESIDENT: Check with the ABC *Fact Check*.

The Hon. K.J. MAHER: I will check with the highly paid people at the ABC and their *Fact Check* program. Despite support from local government, despite the opposition refusing to listen to the will of local government, refusing to listen to what people want in regional areas, this bill as introduced has been formulated through consultation. With this being the case, it is perhaps of little surprise that the local council supports this bill, despite the opposition wanting to go against the wishes of the local council, and that is something they will have to answer for at coming elections.

Some who have spoken on this bill, particularly in the other place, have said that this bill should not be supported because it is a threat to local government on the island. Additionally, there is a debate in the other place where the point has been made that the support of the council should not be considered because the council is dysfunctional.

The opposition thinks that the council may be dysfunctional, and that is the reason they do want to support it, despite the council supporting this bill. It is an interesting line of argument because, if you accept the premise of the argument, the council is dysfunctional but you should not put someone in there to help them. It is an absolutely nonsensical argument, as we often get from the opposition.

The council recognises that the appointment of a commissioner should not be seen as a threat to their authority but that it will be another champion for the island who can work with the council to bring best outcomes for Kangaroo Island, outcomes that support the local economy of the island.

The government is working to double tourism income within a decade and to double farm gate income within a decade. These goals cannot be met by additional effort alone; a new approach is needed. The approach will be led by the commissioner, who I note from the minister's second reading will have the following the principal administrative responsibility of development management plans dealing with the delivery of government projects and services to Kangaroo Island.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Maher has the floor.

The Hon. K.J. MAHER: Thank you, Mr President. The Hon. David Ridgway continues to interject with 'We was robbed' commentary again and again, but I will continue. These management plans must be the subject of detailed consultation with affected departments; must accord with the legislated set of statutory functions; will be informed by local input, perhaps by local advisory boards; and will be instruments approved by the Governor in Council and published in the *Government Gazette*.

The commissioner will be required to consult with the relevant government departmental heads, and the minister will be responsible for solving any impasse. By giving a minister the responsibility for solving impasses, by granting the role of champion for Kangaroo Island to an independent commissioner, the island gets the best of both worlds.

That this bill is before our parliament is a good thing. Kangaroo Island is one of the jewels in South Australia's crown. It faces special challenges, and it needs help such as this to help it realise its potential. This bill is supported by the local council, it is supported by local people, and it would be a pity of the Liberal Party, through lack of consultation and lack of understanding, stood in the way of this bill, which will be good for the people of Kangaroo Island. I commend the bill to the house.

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

AUSTRALIAN CRIME COMMISSION (SOUTH AUSTRALIA) (EXAMINATIONS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 23 September 2014.)

The Hon. A.L. McLACHLAN (16:35): I rise to speak to the Australian Crime Commission (South Australia) (Examinations) Amendment Bill. The examination provisions of the Australian Crime Commission Act permit that:

counsel assisting the examiner...[or] any person authorised by the examiner...[or] any legal practitioner representing a person at the examination...may...examine or cross-examine any witness on any matter that the examiner considers relevant to the [Australian Crime Commission]...investigation.

The examination provisions contained in schedule 2 of the Independent Commissioner Against Corruption Act were adopted and mirror the examination provisions contained in the Australian Crime Commission Act. However, the words 'or any other investigation' were added at the end to increase the permissible scope as to what an ICAC examiner may ask questions about. It was suggested that this same provision should also be incorporated into the Australian Crime Commission Act, and so schedule 3 part 2 of the Independent Commissioner Against Corruption Act added a similar provision to section 18 subsection (6) of the Australian Crime Commission (South Australia) Act.

In November 2013, however, the Australian Crime Commissioner wrote to the government to request that this amendment be removed because it is not consistent with the commonwealth or other states' acts. Therefore, the passing of this bill is necessary in order to give effect to the request made by the Crime Commission and to ensure that the Australian Crime Commission (South Australia) Act remains consistent with its commonwealth and state counterparts. Therefore, the Liberal Party supports this amendment, having regard to the matters I have raised.

Whilst I am on my feet, I will take the opportunity to briefly reflect on the ICAC and its operations in our state. The creation of the ICAC necessitated the removal from our citizens of certain basic rights. This was balanced against a need for a body that would assist in restraining the influence of organised crime and one that tackles systematic corruption. All of us in this chamber should take a keen interest in the work of the commission, for it can be argued that we in this chamber are the last line of defence for the rights of the individual.

The balancing between individual rights and an effective organisation that can tackle serious criminality should not be seen as a once-off decision by this parliament. Rather, we have a duty to our citizens to constantly question whether we have the balance right and whether we continue to need such an organisation.

I take comfort from the constitution of the Crime and Public Integrity Policy Committee to oversee the work of the commission. I consider it to be one of the most important committees in this parliament. Its deliberations are essential to ensure that the work of the commission justifies the removal of individual liberties.

I will follow with interest the work of the committee and, as the people of South Australia would expect of me, continue to question and debate the role of the ICAC in a liberal democracy. I hope that in this process of ongoing monitoring and review we will continue to keep faith with our

citizens' expectations of us to not only ensure their safety but also protect their liberty. The Liberal Party supports the amendment and commends the bill to the council.

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

SOUTH AUSTRALIAN EMPLOYMENT TRIBUNAL BILL

Introduction and First Reading

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

Second Reading

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (16:39): 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.

Today I am introducing a Bill to establish the South Australian Employment Tribunal, with jurisdiction to review certain decisions arising from the Return to Work scheme planned to commence on 1 July 2015.

The South Australian Employment Tribunal ('the Tribunal') will have similar functions, powers and operating approach as the newly established South Australian Civil and Administrative Tribunal.

It will provide efficient and cost effective processes for all parties involved, act with as little formality and technicality as possible and be flexible in the way in which it conducts its business. The Tribunal will also be transparent and accountable, headed by a President who will hold concurrent office as Senior Judge of the Industrial Relations Court.

Currently, the Workers Compensation Tribunal deals with disputes about claims for workers compensation under the *Workers Rehabilitation and Compensation Act 1986*.

The establishment of a new Return to Work scheme requires a fresh approach to the resolution of disputes arising under the new scheme. The new scheme is designed with less moving parts and will provide injured workers and their employers with greater certainty regarding their entitlements and obligations under the legislation. We therefore anticipate that the rate of disputation should decrease significantly, and those disputes that do arise and cannot be resolved through reconsideration by the Corporation, will be dealt with by the proposed Employment Tribunal.

The Bill has been introduced concurrently with the Return to Work Bill 2014.

Turning now to the main features of the Bill.

Members of the Tribunal

The Bill proposes that the Tribunal be led by a President, supported by 1 or more Deputy Presidents, Magistrates and conciliators.

The President will be the person holding office as the Senior Judge of the Industrial Court.

The President, aside from participating as a member of the Tribunal, has primary responsibility for its administration and will not be subject to the direction or control of a Minister in the performance of his or her functions. The President's functions are expressly prescribed in the Bill to include both administrative and managerial responsibility, which are as follows:

- managing the business of the Tribunal, which includes ensuring it operates efficiently and effectively;
- providing leadership and guidance to the Tribunal and ensuring a collective cohesiveness amongst the members and staff;
- giving directions about practices and procedures to be followed by the Tribunal;
- developing and implementing performance standards and benchmarks;
- being responsible for promoting the training, education and professional development of members;
- overseeing the proper use of resources; and
- providing advice about the membership and operation of the Tribunal.

A Judge, other than the Senior Judge of the Industrial Relations Court, will be a Deputy President of the Tribunal. Other Deputy Presidents, may, if eligible for appointment as a Judge of the Industrial Relations Court, be appointed by the Governor, on the nomination of the Minister.

Aside from participating as a member of the Tribunal, a Deputy President, will assist the President in the management of business and members of the Tribunal.

Conciliation officers

The Bill proposes that the Tribunal will be comprised of conciliation officers who may be legally qualified, but may also be experts from different fields or vocations. Legally qualified conciliation officers must be legal practitioners of not less than five years standing and other members must have, in the Minister's opinion, extensive knowledge, expertise or experience relating to a class of matter for which functions may be exercised by the Tribunal.

The Bill will allow for the Minister to appoint a panel of persons who will, after consultation with the President, recommend the selection criteria for the conciliation officers of the Tribunal. This same panel of persons will also be responsible for assessing a candidate or candidates for appointment as a conciliation officer and provide advice to the Minister about this.

All members should be assessed by a panel against selection criteria and appointed by the Governor, after consultation with the President and the Minister, for a term of office, of up to five years. A conciliation officer will be eligible for reappointment at the expiration of a term of office. Conciliation officers will be appointed on conditions specified in the instrument of appointment.

The Bill proposes mechanisms for removal and suspension of a Presidential member or conciliation officer of the Tribunal, in addition to specifying the grounds upon which a member ceases to be a member of the Tribunal.

In order to manage unforeseen spikes in workloads, the Bill provides a mechanism to temporarily appoint conciliation officers for a particular matter or for a specified period, either at the request or with the agreement of the President of the Tribunal.

Constitution of Tribunal and its decision-making processes

Subject to the provisions in the Bill, the President may determine, in relation to particular matters, or particular classes of matters, which member or members of the Tribunal will constitute the Tribunal. Unless the conferring Act states otherwise, the Tribunal is not to be constituted by more than three members.

The Bill also clarifies which member in particular circumstances will be considered the presiding member in the hearing of matters and the order of precedence generally, amongst all members of the Tribunal. A Full Bench of the Tribunal consists of three Presidential members.

Clarification is also provided about how the Tribunal resolves cases that come before it. For questions that do not amount to a determination of a question of law, the opinion of the majority will apply. Where there is no majority, the opinion of the presiding member prevails. By contrast, a question of law will be decided by a Full Bench of the Tribunal.

There is also a mechanism for a Full Bench to refer a question of law to the Full Court of the Supreme Court.

A range of other matters related to the constitution of the Tribunal are set out to assist the day to day operations of the Tribunal, these include:

- permitting the listing of matters into various streams that reflect the areas of jurisdiction;
- validating the acts of the Tribunal;
- setting out requirements of Tribunal members to disclose interests (pecuniary or otherwise);
- authorising of the President of the Tribunal to delegate a function or power under the Bill.

General nature of proceedings

Matters that come before the Tribunal, as per a conferring Act, will be dealt with as a review of the original decision. The Tribunal will examine the decision of the original decision-maker by way of re-hearing.

In order to assist the Tribunal in exercising its review jurisdiction, the Bill imposes obligations upon the original decision-maker for the purposes of assisting the Tribunal so that it can make its decision on a review. The Bill also confirms the effect of the review proceeding on the decision being reviewed.

The Bill also allows for the Tribunal, at any stage of a proceeding for a review of a reviewable decision, to invite the decision-maker to reconsider the decision. Upon being invited to do so by the Tribunal, the original decision-maker may affirm, vary or set aside the decision and substitute a new decision.

Principles, powers and procedures

Principles

The Bill sets out the principles that are to guide the Tribunal in the hearing of any proceeding for which it has jurisdiction. In summary, these principles include: minimising any formality, dispensing with rules of evidence and adopting an inquisitorial approach and finally, acting according to equity and good conscience, without regard to legal technicalities.

Evidentiary Powers

To discharge its various functions as an administrative tribunal, the Tribunal will need powers to establish processes, obtain evidence, control parties and make adequate and appropriate determinations. Certain powers are proposed for inclusion in the Bill, whereas others will be located in the Regulations or Rules.

First, the Tribunal will be equipped with the power to require the production of evidentiary material or to require an individual to give evidence, which may be exercised by the Tribunal upon the application of a party or on its own initiative. This power will be exercised by the issuing of a summons. Failure to comply with this provision of the Bill amount to an offence, which will attract a maximum penalty of a \$25,000 fine or imprisonment for 1 year.

Second, a member of the Tribunal will have the power to enter any land or building and carry out any inspection that the Tribunal considers relevant to a proceeding before a Tribunal. Obstruction of a member of the Tribunal, or a person authorised by the Tribunal who is exercising this power, will be guilty of an offence, attracting a maximum penalty of \$10,000 or 6 months imprisonment.

Finally, there is a power for the Tribunal to refer any question arising in any proceedings for investigation and report by an expert in the relevant field. However before doing so, the Tribunal must seek submissions from the parties to the proceedings, prior to making such a reference.

Practice and procedures

The Bill outlines a number of obligations upon the Tribunal in terms of practices and procedures generally, and regarding the conduct of proceedings and interaction of parties to proceedings. More specifically, it confirms the Tribunal's ability to give directions, consolidate proceedings, split proceedings, move a proceeding to a more appropriate forum and finally to dismiss or strike out a proceeding that is frivolous, vexatious or an abuse of process. There is also a mechanism for the Tribunal to manage proceedings being conducted to cause disadvantage to a party, either by the application of a party or on its own initiative.

Conferences, mediation and settlement

An important emphasis is placed on the role of alternative dispute resolution in proceedings before the Tribunal. The Bill provides the Tribunal with the scope, at an initial directions hearing or at any other time, to require the parties to attend a compulsory conciliation conference, or refer the matter, or any aspect of the matter, for mediation by a person specified as a mediator by the Tribunal. The Bill also sets out the procedures for both conciliation conferences and mediation. The Tribunal itself may also endeavour to achieve a negotiated settlement of a matter before the Tribunal.

Parties and representation

The Bill defines who is considered a 'party' for the purposes of a proceeding before the Tribunal, confirms who may be joined as a party, and who can intervene in a proceeding before the Tribunal and on what grounds. The matter of representation before the Tribunal is also addressed.

Other procedural and related provisions

The Bill addresses a range of other miscellaneous, procedural and related provisions, which are summarised as follows:

- the time and location of Tribunal sittings;
- the requirement for hearings to be heard in public, unless the Tribunal is satisfied that it is desirable to either hear all or part of a hearing in private or there is a need for example to prohibit/restrict publication of the name and addresses of persons appearing before the Tribunal and/or evidence given at the Tribunal;
- the power to make any order that may be necessary to preserve the subject matter of proceedings or interests of a party;
- security as to costs;
- the power to make interlocutory orders;
- the power to make declaratory judgments;
- the power to make conditional and alternative orders;
- the power to refer questions arising in a proceeding to a special referee;

- the power to provide relief from time limits for doing anything in connection with a proceeding or the commencement of any proceeding;
- equipping the Tribunal with the capacity to undertake electronic hearings and proceedings without hearings (on the basis of documents);
- other claims of privilege.

Reviews and appeals

The Bill provides for review, by a Presidential member of the Tribunal, of a decision of the Tribunal constituted by a conciliation officer, a magistrate or two or three members (other than a Presidential member). An appeal on a question of law can be made to a Full Bench of the Tribunal. Furthermore, a decision of a Full Bench may be the subject of an appeal on a question of law to the Full Court of the Supreme Court (with the permission of the Court).

The Bill then sets out what orders can be made by the Industrial Relations Court on appeal. Under the *Fair Work Act 1994*, a decision of the Full Court of the Industrial Relations Court can be appealed to the Supreme Court.

Staff of the Tribunal

It is proposed that the Tribunal have one principal registrar, supported by one or more other registrars (to be known as 'Deputy Registrars').

The functions of the Registrar will be:

- to assist the President of the Tribunal in the administration of the Tribunal;
- to be responsible for the registry and records of the Tribunal;
- to undertake responsibility for the day-to-day case management of the Tribunal;
- to constitute the Tribunal to the extent specified under this Act; and
- to fulfil other functions assigned to the Registrar by the President or under the rules of the Tribunal.

The Bill also confirms that there will be other staff of the Tribunal, consisting of persons employed in a public sector agency and made available to act as members of the staff of the Tribunal.

Miscellaneous

Finally, the Bill contains a number of miscellaneous measures relating to the operation and functions of the Tribunal and a regulation making power.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause contains definitions of words and phrases used in the Bill, including applicant, decision-maker, evidentiary material, legally qualified member and Tribunal.

4—Relevant Acts prevail

A 'relevant Act' is defined in clause 3 to mean 'an Act which confers jurisdiction on the Tribunal'. There will be numerous relevant Acts that confer jurisdiction on the Tribunal. In the event of an inconsistency between a relevant Act and the proposed Act, the relevant Act prevails.

Part 2—South Australian Employment Tribunal

Division 1—Establishment of Tribunal

5—Establishment of Tribunal

This Bill establishes a new tribunal called the South Australian Employment Tribunal ('the Tribunal').

6—Jurisdiction of Tribunal

This clause provides that the Tribunal's jurisdiction is as conferred by statute.

7—Tribunal to operate throughout State

This clause provides that the Tribunal is to facilitate access to its services throughout South Australia and may sit at any place. The President, after consultation with the Minister, will determine where Registries of the Tribunal will be located.

Division 2—Main objectives of Tribunal

8—Main objectives of Tribunal

This clause sets out the Tribunal's primary objectives. These will enable the Tribunal to be an accessible 'one-stop shop' that can resolve disputes quickly, with minimal formality and costs and utilise Tribunal members who have the appropriate experience and expertise.

The objects of the Tribunal are—

- to promote the best principles of decision-making;
- to be accessible and be responsive to parties, especially people with special needs;
- to ensure that applications are processed and resolved as quickly as possible while achieving a just outcome;
- resolving disputes through high-quality processes and the use of mediation and other alternative dispute resolution procedures where appropriate;
- to keep costs to parties involved in proceedings before the Tribunal to a minimum;
- to use straight forward language and procedures;
- to act with as little formality and technicality as possible;
- to be flexible in the way in which the Tribunal conducts its business.

Division 3—Members of Tribunal

Subdivision 1—The members

9—The members

The proposed section provides for membership of the Tribunal. This clause specifies that members of the Tribunal are the President, the Deputy Presidents, magistrates who are designated as members, and conciliation officers.

Subdivision 2—The President

10—Appointment of President

This clause provides that the Senior Judge of the Industrial Relations Court is the President of the Tribunal.

11—President's functions generally

This clause outlines the functions of the President of the Tribunal.

12—Acting President

This clause provides for the appointment of a Deputy President as Acting President of the Tribunal if there is a vacancy in the office of President or the President is absent or unable to perform the functions of office.

Subdivision 3—The Deputy Presidents

13—Appointment of Deputy Presidents

This clause provides that a Judge of the Industrial Relations Court is a Deputy President of the Tribunal. The clause also provides for appointment of a person as a Deputy President of the Tribunal if the person is eligible for appointment as a Judge of the Industrial Relations Court.

14—Deputy President's functions generally

This clause outlines the functions of a Deputy President of the Tribunal.

Subdivision 4—Magistrates

15—Magistrates

Under this clause, magistrates may be designated by the Governor by proclamation as members of the Tribunal. Before the Governor makes such a proclamation, the Attorney-General must consult with the President of the Tribunal and the Chief Magistrate. Appointment as a magistrate of the Tribunal does not affect that person's tenure, status, rights or privileges as a magistrate.

Subdivision 5—Conciliation officers

16—Appointment of conciliation officers

The proposed section provides for the appointment of conciliation officers to the Tribunal. The Minister may appoint a panel of persons from time to time who will, at the Minister's request, recommend the selection criteria for conciliation officers. This panel may also, at the request of the Minister, assess candidates for appointment as conciliation officers. A person is eligible for appointment as a conciliation officer if he or she is a legal practitioner of at least 5 years standing or has extensive knowledge, expertise or experience relating to a class of matter for which functions may be exercised by the Tribunal. The Minister is required to consult with the President of the Tribunal before he or she makes a recommendation for the appointment of a conciliation officer. A conciliation officer will be appointed for a term of office not exceeding 5 years.

17—Conciliation officer ceasing to hold office and suspension

This clause contains standard provisions regarding the removal or suspension of conciliation officers of the Tribunal. A conciliation officer may be removed from office by the Governor (on the recommendation of the Minister) for misconduct, neglect of duty, incompetence or incapacity to carry out duties satisfactorily.

18—Supplementary conciliation officers

This clause allows the Minister, after consultation with the President of the Tribunal, to temporarily appoint a person to act as a supplementary conciliation officer in relation to particular matters or for a specified period.

Division 4—Constitution of Tribunal and its decision-making processes

19—Constitution of Tribunal

This clause provides for the constitution of the Tribunal. Generally, the composition of the Tribunal is to be determined by the President. Under the proposed section, the Tribunal is to be constituted by not more than 3 members and a Full Bench of the Tribunal consists of 3 Presidential members. Under the measure, the President of the Tribunal will have discretion to organise the Tribunal's business and regulate proceedings before the Tribunal.

20—Who presides at proceedings of Tribunal

This clause makes provision for who will preside over proceedings in the Tribunal where the Tribunal is constituted by 2 or more members.

21—Decision if 2 or more members constitute Tribunal

If the Tribunal is constituted by 2 or more members to resolve a question, it is resolved according to the majority opinion. If the opinion on how to resolve a question is split between members, it is resolved according to the opinion of the presiding member.

22—Determination of questions of law

This clause provides for referral of questions of law to the Full Bench of the Tribunal. A question of law referred to the Full Bench may be referred by the Bench to the Full Court of the Supreme Court.

Division 5—Related matters

23—Streams

Under the measure, the President of the Tribunal will be able to establish various streams or lists that reflect the areas of jurisdiction of the Tribunal.

24—Validity of acts of Tribunal

Acts or proceedings of the Tribunal are not invalidated by reason of a vacancy or defect in appointment.

25—Disclosure of interest by members of Tribunal

The proposed section provides procedures for disclosure where a member has a pecuniary interest or conflict of interest in proceedings before the Tribunal.

26—Delegation

This clause provides for delegations by the President of the Tribunal.

Part 3—Exercise of jurisdiction

27—General nature of proceedings

A matter that comes before the Tribunal will be dealt with as a review of the decision that constitutes the matter. The Tribunal will examine the decision of the decision-maker by way of rehearing in accordance with the proposed Act and the relevant Act. On a rehearing the Tribunal must reach the correct or preferable decision, but in doing so, must have regard to the decision of the original decision-maker. A rehearing will include an examination of the evidence or material before the decision-maker and any further evidence or material that the Tribunal decides to admit.

28—Decision-maker must assist Tribunal

In review proceedings, the decision-maker for the reviewable decision must use his or her best endeavours to help the Tribunal so that it can make its decision on the review.

29—Effect of review proceedings on decision being reviewed

This clause provides that the commencement of a review does not affect the operation of the original decision unless provided for by the relevant Act, or the Tribunal or decision-maker makes an order for a stay of the decision.

30—Decision on review

The Tribunal may on a review of a decision affirm, vary, or set aside the decision of the original decision-maker. If the Tribunal sets-aside the decision it may substitute its own decision or send the matter back to the original decision-maker for reconsideration. Any decision made on reconsideration is open to review by the Tribunal. Once the Tribunal has decided to affirm, vary or substitute the original decision then this reviewed decision is to be regarded as, and given effect as, a decision of the original decision-maker. The reviewed decision has effect from the time of the original decision, unless the relevant Act allows or the Tribunal orders otherwise.

31—Tribunal may invite decision-maker to reconsider decision

At any stage the Tribunal may invite the original decision-maker to reconsider the decision the subject of review. On reconsideration, the decision-maker may affirm, vary, or set aside his or her decision and substitute a new decision.

Part 4—Principles, powers and procedures

Division 1—Principles governing hearings

32—Principles governing hearings

This clause provides the general principles that the Tribunal will uphold in the performance of its functions. The main principles are that the Tribunal—

- will act subject to the relevant Act;
- will conduct itself with minimal formality;
- is not bound by the rules of evidence;
- will act according to equity, good conscience and the substantial merits of the case;
- will act without regard to legal technicalities and forms.

Further, this clause makes clear that nothing in this measure affects any rule or principle of law relating to legal professional privilege, 'without prejudice' privilege or public interest immunity.

Division 2—Evidentiary powers

33—Power to require person to give evidence or to provide evidentiary material

The proposed section provides powers for the Tribunal to order persons to appear before the Tribunal or to produce to the Tribunal documents or materials relevant to the Tribunal's proceedings. In addition it contains provisions relating to the giving of evidence on oath or affirmation. The clause also creates an offence relating to refusal to comply with the requirements of the proposed section, the maximum penalty being \$25 000 or imprisonment for 1 year.

34—Entry and inspection of property

Under this clause, a member of the Tribunal may enter any land or building, or authorise an officer of the Tribunal to enter any land or building, that the member considers relevant to a proceeding before the Tribunal. In addition, the clause creates an offence of obstructing a member or authorised officer of the Tribunal while exercising powers under the proposed section.

35—Expert reports

The proposed section enables the Tribunal to appoint experts to assist the Tribunal and to require the parties to proceedings to contribute to the costs of engaging such persons.

Division 3—Procedures

36—Practice and procedure generally

The Tribunal is to assist the parties by, for example, explaining procedures and enabling them the opportunity to be heard or otherwise have their submissions received. The Tribunal must ensure that all relevant material is available to it and may require documents to be served outside of the State. To the extent that the practice or procedure of the Tribunal is not prescribed under the proposed Act or a relevant Act, it is to be as determined by the Tribunal.

37—Directions for conduct of proceedings

This clause enables the Tribunal to give directions and do other things to enable the proceedings to be fair and expeditious. These directions can require the production of a document or material or provision of information.

38—Consolidating and splitting proceedings

The Tribunal may consolidate proceedings into one proceeding or require proceedings to be heard together. The Tribunal may also direct that proceedings commenced by 2 or more persons jointly be split into separate proceedings or that any aspect of proceedings be heard and determined separately.

39—More appropriate forum

This proposed section enables the Tribunal to strike out a proceeding or part of a proceeding if another tribunal, court or person can more appropriately deal with the matter.

40—Dismissing proceedings on withdrawal or for want of prosecution

This clause sets out provisions relating to the ability of a party to withdraw proceedings. The Tribunal will also have power to dismiss or strike out proceedings for want of jurisdiction.

41—Fivolous, vexatious or improper proceedings

This clause allows the Tribunal to make an order that a proceeding is dismissed or struck out, if the Tribunal considers that the proceeding is frivolous, vexatious, misconceived or lacking in substance, or involves a trivial matter or amount, or is being used for an improper purpose. If a proceeding is dismissed or struck out under the proposed section, another proceeding of the same kind in relation to the same matter cannot be commenced before the Tribunal without the leave of a Presidential member.

42—Proceedings being conducted to cause disadvantage

This clause enables the Tribunal to dismiss or strike out proceedings if a party is conducting proceedings in a way which unnecessarily disadvantages another party to the proceedings. A list of examples of such conduct is provided. This can be done on the Tribunal's own initiative or following an application by a party to the proceedings.

Division 4—Conferences, mediation and settlement

Subdivision 1—Conferences

43—Compulsory conciliation conferences

This proposed section empowers the Tribunal to hold compulsory conciliation conferences to identify, clarify and narrow the issues and promote settlement of disputes.

44—Referral of matters for hearing and determination

This clause requires the member of the Tribunal presiding at a compulsory conciliation conference to refer the matter for hearing and determination if the conference does not result in an agreed settlement.

45—Pre-hearing conferences

This clause imposes a requirement for a Presidential member of the Tribunal to hold a pre-hearing conference before the Tribunal may proceed with the hearing of a matter.

Subdivision 2—Mediation

46—Mediation

This clause enables the Tribunal to refer a matter, with or without the parties' consent, for private mediation by a person approved by the President to resolve the matters in dispute.

Subdivision 3—Settling proceedings

47—Settling proceedings

The proposed section allows the Tribunal to make an order giving effect to a written agreement between the parties to a dispute to settle proceedings where the Tribunal would otherwise have power to make a decision in accordance with that settlement. A settlement under the proposed section must not be inconsistent with a relevant Act.

Division 5—Parties

48—Parties

This clause outlines that parties to the Tribunal's proceedings include the applicant; decision-makers in review proceedings; persons joined as a party by order of the Tribunal; intervener and other persons specified in legislation. The decision-maker is to be described by his or her official description, not his or her personal name.

49—Person may be joined as party

The proposed section enables the Tribunal, in specified circumstances, to join persons as parties to proceedings. The Tribunal may make an order under the proposed section on the application of any person.

50—Intervening

The clause indicates that the Attorney-General may intervene at any time in the Tribunal's proceedings. In addition, any other person may be given leave to intervene if the Tribunal thinks fit.

Division 6—Representation

51—Representation

The proposed section enables parties to the Tribunal's proceedings to appear in person and represent themselves or be represented by a lawyer. With leave of the Tribunal, parties may be represented by persons who are not lawyers. Unless specified by the Tribunal, a party appearing may be assisted by another person as a friend. The clause also makes it clear that a legal practitioner who has been suspended, struck off or would be acting contrary to disciplinary proceedings is not permitted to act as a representative in proceedings before the Tribunal.

Division 7—Costs

52—Costs

This clause makes provision for costs liability between parties to the proceedings in the Tribunal. In general, parties are to bear their own costs, unless there are reasons for the Tribunal to order otherwise.

53—Costs—related matters

This clause provides that the power of the Tribunal to make an order for the payment by a party of the costs of another party may include the power to make an order for the payment of an amount to compensate the other party for any expenses or loss resulting from the proceedings. The rules of the Tribunal may deal with the effect of certain offers to settle (and any response to such an offer) on an order for the payment of the costs of another party.

Division 8—Other procedural and related provisions

54—Sittings

The Tribunal will sit at such times and places as the President of the Tribunal may direct.

55—Hearings in public

This clause provides that hearings are to be public unless the Tribunal specifies (for reasons outlined in the proposed Act) that the hearing or part of the hearing is to be private. In exercising its powers, the Tribunal can also place restrictions on the publication of all or any part of proceedings where the Tribunal considers it is necessary to do so.

56—Preserving subject matter of proceedings

Under this clause, the Tribunal may make orders it considers necessary to preserve the subject matter of proceedings.

57—Security as to costs etc

This clause allows the Tribunal to order a party to proceedings to give security for costs or an undertaking in relation to payment of costs. An order under the proposed section may be made by a legally qualified member or a non-legally qualified member with the concurrence of a legally qualified member.

58—Interlocutory orders

This proposed section gives the Tribunal the power to make interlocutory orders.

59—Conditional, alternative and ancillary orders and directions

The Tribunal may make orders and give directions on conditions the Tribunal considers appropriate. The Tribunal will, by ancillary order, be able to provide that a decision of the Tribunal is to be implemented by a third party.

60—Special referees

The proposed section enables the Tribunal to refer questions to a special referee for the referee's decision or opinion and to require parties to contribute to the costs.

61—Relief from time limits

The rules may provide for the Tribunal to extend or abridge a time limit for doing anything in connection with a proceeding.

62—Electronic hearings and proceedings without hearings

This clause enables the Tribunal to have proceedings using telephones, video links or other communication systems. It also allows the Tribunal to conduct proceedings solely on the basis of documents without need for a hearing.

63—Completion of part-heard matters

Under the proposed section, persons who no longer hold office as members of the Tribunal may continue to act in the relevant office for the purposes of completing part-heard proceedings (other than where the member has had his or her appointment revoked or has been removed from office).

64—Other claims of privilege

A person may not be compelled to answer a question or produce a document or other material in proceedings before the Tribunal if the person could not be compelled to do so if the proceedings were before the Supreme Court.

65—Power to enlarge scope

This clause enables the Tribunal to enlarge the scope of the proceedings, with the consent of all parties, to include questions that are not presently at issue in the proceedings.

Part 5—Review and appeals

Division 1—Review and appeals

66—Review of decision of conciliation officer or magistrate

Under the proposed section, a decision of the Tribunal constituted of a conciliation officer, a magistrate or 2 or 3 members (but not including a Presidential member), may be reviewed by a Presidential member of the Tribunal. The Presidential member may, on a review, affirm, vary or set aside the decision.

67—Appeal on question of law—single Presidential members

This clause sets out the mechanism for an appeal on a question of law against a decision of the Tribunal to the Full Bench of the Tribunal.

68—Final appeal to Supreme Court

This clause sets out the mechanism for an appeal on a question of law against a decision of the Full Bench of the Tribunal to the Full Bench of the Supreme Court.

Division 2—Related matters

69—Effect of appeal on decision

The proposed section enables the Tribunal or a court to stay the operation of a Tribunal decision while the Tribunal or court decides whether to grant permission to review or appeal and, if so, while it decides the review or appeal. If the Tribunal or court does not make such an order, the review or appeal does not affect the Tribunal's decision or prevent implementation of that decision.

70—Reservation of questions of law

This clause enables a Full Bench of the Tribunal to refer any question of law arising in proceedings for determination by the Full Court of the Supreme Court.

Part 6—Staff

Division 1—Registrars

71—Registrars

The proposed section provides that there will be a principal registrar of the Tribunal (to be known as the Registrar), as well as 1 or more Deputy Registrars.

72—Functions of registrars

This clause outlines the functions of the Registrar and Deputy Registrars of the Tribunal.

73—Delegation

This clause provides for delegations by the Registrar of the Tribunal.

Division 2—Other staff of Tribunal

74—Other staff of Tribunal

This clause makes provision for the Tribunal to use persons employed in a public sector agency who are made available to act as staff of the Tribunal.

Division 3—Use of services or staff

75—Use of services or staff

This clause allows the Tribunal to use the services, facilities or staff of a government department, agency or instrumentality, the Courts Administration Council or another tribunal or court.

Part 7—Miscellaneous

76—Immunities

This clause provides for the protection of members of the Tribunal, and other persons, who must perform functions under the proposed Act or who are parties, legal representatives or witnesses.

77—Protection from liability for torts

A member of the Tribunal, or a member of the staff or an officer of the Tribunal, will be protected from liability in tort for anything done in the performance, or purported performance, of a function under the proposed Act or a relevant Act.

78—Protection from compliance with Act

No liability will attach to a person for compliance, or purported compliance, in good faith, with a requirement under the proposed Act.

79—Alternative orders and relief

This clause empowers the Tribunal to grant any form of relief that it considers appropriate, despite the fact that another form of relief may be sought by an applicant.

80—Power to cure irregularities

The Tribunal may, under this clause, cure an irregularity by making an order for a requirement of the Act to be dispensed with to the extent necessary for the purpose.

81—Correcting mistakes

This clause allows the Tribunal to correct a decision or statement of reasons so as to rectify, for example, clerical mistakes or defects of form.

82—Tribunal may review its decision if person was absent

Under the proposed section, if the Tribunal makes a decision in respect of a person who did not appear and was not represented at a relevant hearing before the Tribunal, the person may apply to the Tribunal for a review of the decision. The Tribunal must be satisfied that the applicant for the review had a reasonable excuse for not attending or being represented at the relevant hearing. The Tribunal may, on such a review, revoke or vary its decision. As far as is practicable, the Tribunal should be constituted by the same members who made the original decision.

83—Tribunal may authorise person to take evidence

The Tribunal will be able to authorise a person (whether or not a member of the Tribunal) to take evidence on behalf of the Tribunal. The Tribunal may authorise evidence to be taken under this clause outside the State.

84—Miscellaneous provisions relating to legal process and service

This clause is a standard provision setting out how notices and documents may be served.

85—Proof of decisions and orders of Tribunal

Generally, an apparently genuine document purporting to be a copy of a decision or order of the Tribunal and certified as such by a registrar will be accepted in any legal proceedings as a true copy of a decision or order of the Tribunal.

86—Enforcement of decisions and orders of Tribunal

If the Tribunal makes a monetary order, the amount specified may be recovered in an appropriate court by a person recognised by the regulations as if it were a debt. If a person contravenes or fails to comply with some other order of the Tribunal, the person is guilty of an offence.

87—Accessibility of evidence

This clause outlines the procedures that will apply if a member of the public seeks to inspect or obtain documentary material.

88—Costs of proceedings

The Tribunal will be able, in limited circumstances, to order that a party pay for all or a part of proceedings before the Tribunal.

89—Annual report

The President of the Tribunal will prepare an annual report, which will be tabled in both Houses of the Parliament.

90—Additional reports

The Minister will also be able to request the President of the Tribunal to provide a report on a matter relevant to the administration of the Tribunal.

91—Disrupting proceedings of Tribunal

A person will be guilty of an offence if, at a place where Tribunal proceedings are being conducted, he or she wilfully interrupts Tribunal proceedings, behaves in an offensive or disorderly manner or uses offensive language.

92—Rules

The proposed section enables the President and a Deputy President of the Tribunal to make rules for the Tribunal.

93—Regulations

This clause makes provision for the Governor to make regulations for the purposes of the measure.

Debate adjourned on motion of Hon. A.L. McLachlan.

BUDGET MEASURES BILL 2014

Final Stages

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

At 16:40 the council adjourned until Tuesday 14 October 2014 at 14:15.