# LEGISLATIVE COUNCIL

## Tuesday, 28 October 2014

**The PRESIDENT (Hon. R.P. Wortley)** took the chair at 14:18 and read prayers.

**The PRESIDENT:** We acknowledge that this land we meet on today is the traditional land of the Kaurna people and that we respect their spiritual relationship with their country. We also acknowledge the Kaurna people as the custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kaurna people today.

*Bills*

### PASTORAL LAND MANAGEMENT AND CONSERVATION (RENEWABLE ENERGY) AMENDMENT BILL

*Assent*

His Excellency the Governor assented to the bill.

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

*Assent*

His Excellency the Governor assented to the bill.

*Parliamentary Procedure*

### PAPERS

The following papers were laid on the table:

By the President—

Police Ombudsman—Report, 2013-14

By the Minister for Employment, Higher Education and Skills (Hon. G.E. Gago)—

Reports, 2013-14—
- Adelaide Cemeteries Authority
- Administration of the State Records Act 1997
- Attorney-General's Department
- Electoral Commission of South Australia
- Equal Opportunity Commission
- Guardianship Board
- Industrial Relations Advisory Committee
- Legal Services Commission of South Australia
- Mining and Quarrying Occupational Health and Safety Committee
- Police Superannuation Board
- Privacy Committee of South Australia
- Public Trustee
- Renewal SA
- SafeWork SA Advisory Council
- Senior Judge of the Industrial Relations Court and the President of the Industrial Relations Commission
- South Australian Classification Council

Regulations under the following Act—
- Public Finance and Audit Act 1987—Public Authority

Rules of Court—
- Magistrates Court—Magistrates Court Act 1991—
  - Amendment No. 51

District Council By-Laws—
Peterborough—
No. 7—Cats
Notice of Extension of Declaration of Exemption of Land pursuant to the Mining Act 1971

By the Minister for Business Services and Consumers (Hon. G.E. Gago)—

Regulations under the following Acts—
Fair Trading Act 1987—Related Acts
Liquor Licensing Act 1997—Dry Areas—Adelaide—Basham—Goolwa

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Reports, 2013-14—
Gawler Ranges National Park Advisory Committee
Lake Gairdner National Park Co-management Board
Vulkathunha-Gammon Ranges National Park Co-management Board
Witjira National Park Co-management Board
Management Plan for the South Australian Commercial Spencer Gulf Prawn Fishery
Management Plan for the South Australian Commercial Marine Scalefish Fishery

*Ministerial Statement*

**WHITLAM, HON. E.G.**

**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) (14:24):** I seek leave to make a ministerial statement.

Leave granted.

The passing of Edward Gough Whitlam, former Australian prime minister and leader—possibly one of our greatest leaders—of the Australian Labor Party, last Tuesday 21 October, marked a significant point in our nation's story. Probably our most daring political visionary in the late 1960s and early seventies, Gough Whitlam captured the national imagination in a way that we have never quite seen since.

The momentum for social change that he created broke a tsunami over the placid world of early 1970s Australia, and that unstoppable impetus and passion for reform he sparked and then led resulted in the historic 'It's Time' federal election victory on 2 December 1972. After 23 years in the political wilderness, the ALP under Gough Whitlam had great plans for reformation on a massive scale. He got stuck into the task with an energy and conviction that Canberra and the nation have never since experienced.

There is no better example of the scope and tone of that transformative ambition than the now classic opening line to his 1972 policy speech, 'Men and women of Australia'. Before that time, a political orator might have referred to 'people' or even in earlier times just 'men' but there was a deliberation to that phrase 'men and women' because in the Australia that Gough Whitlam envisaged, men and women were to be equal partners. It is a measure of how much he changed things that only four decades later this was a revolutionary idea.

One of the Whitlam government's first reforms was to reopen the national wage and equal pay cases. It may seem unimaginable to younger people today, but it was not until the 1972 equal pay case that it was established that Australian women doing work similar to that done by men should be paid an equal wage. Two years later the commission extended the adult minimum wage to include women workers for the very first time.

The Whitlam government also introduced the supporting mothers' benefit. Before 1973 only widows were entitled to pension payments, so that other women who were raising children alone often faced poverty and great hardship. The pension payment gave single mothers choices around the raising of their children. He also appointed Elizabeth Reid as a first adviser on women's affairs

to the Prime Minister, the first such appointment to any head of state in the world. Of course this was only the tip of the iceberg.

In just over 1,000 often turbulent, dramatic and exciting days the Whitlam government brought into vibrant existence our modern Australian life. The government instituted universal health care, affordable higher education, Aboriginal land rights, diplomatic relations with China, no-fault divorce, lowering the voting age from 21 to 18, introduced multiculturalism and abolished the White Australia policy, ended the death penalty, created the Australia Council and massively boosted arts funding (who could forget *Blue Poles*?), and that is not the complete list by a far stretch.

These reforms, which catapulted this country into a modern world, have now been woven into the fabric of our lives. They are part and parcel of what it is to be Australian. In three short years Gough Whitlam was able to successfully graft on to our egalitarian tradition and history a set of modern values and institutions, which made us into a confident and progressive nation. He was able to do so because he was driven by extraordinary abilities, a prodigious intellect, a ferocious and at times cutting wit, and an utterly undentable confidence.

He was grandly magnificent, and yet tragic in an almost Shakespearean sense, as the circumstances of his downfall as prime minister at the hands of Governor General John Kerr in 1975 were to prove. For all of these qualities he was loved. As Paul Kelly and Kev Carmody said in their inspiring song about Vincent Lingiarri and the Gurindji land rights claim, I think from the song 'From little things big things grow':

> Till one day a tall stranger appeared in the land
>
> And he came with lawyers and he came with great ceremony
>
> And through Vincent's fingers poured a handful of sand

Edward Gough Whitlam was that tall stranger who appeared in our land and, by the time he departed this land last week, he was no longer a stranger to us. He was and is irrevocably part of our sustaining national mythology—optimistic, generous and ambitious for what it is to be Australian and for what we could be as a nation. His actions changed the way we thought about ourselves.

It is only right that the death of Gough Whitlam prompts us to reflect on his inspired political leadership and the extraordinary legacy he left this country. At a deeper level, his legacy challenges us to make the very best of our lives and to imagine what is possible through determined political vision. Perhaps that is Gough's greatest gift to us—a sense of the possible for Australia. He dreamed of grand ideas and then made them into reality, and they live with us still. Vale Gough Whitlam.

## INDEPENDENT COMMISSIONER AGAINST CORRUPTION

**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 table a copy of a ministerial statement relating to the response to the ICAC report made earlier today in another place by my colleague the Premier.

## MENTAL HEALTH BEDS

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:30):** I table a copy of a ministerial statement relating to mental health beds made earlier today in another place by my colleague the Minister for Mental Health and Substance Abuse.

*Question Time*

## WATER INDUSTRY ACT

**The Hon. J.M.A. LENSINK (14:33):** I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question about the Water Industry Act.

Leave granted.

**The Hon. J.M.A. LENSINK:** On 27 July 2011 his predecessor, the Hon. Paul Caica, on introducing the bill stated the following in the other place:

Independent economic regulation provides a transparent means of setting service standards and prices. Ultimately this is about protecting the long-term interests of customers and encouraging efficient investment in infrastructure.

On the passage of the bill on 5 April 2012, the Hon. Paul Caica said the following in a press release:

This legislation provides an independent umpire, giving the Essential Services Commission of South Australia the power to regulate pricing and standards for water and sewerage services…The legislation also allows for the development of a third party access regime which will facilitate competition in the industry.

My questions for the minister are:

1. Does the minister stand by these remarks?

2. What policies has this government implemented in the last 2½ years to give reality to South Australia's water consumers of that act?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:35):** It is this government, and it has only been this government in this state, that has actually been consistent on its policies that deal with water. It is this government that has been dealing with the issues of the River Murray. It is this government that has been dealing with the legacy issues in terms of water supply for the people of South Australia, it is this government that introduced the regulation of SA Water by ESCOSA, and it is this government that is driving third-party access to our water industries with our draft legislation.

It is only this government, because at every turn the opposition has in the past—and I fully expect into the future—tried to frustrate this process. It has absolutely no commitment to the people of South Australia in terms of best outcomes and water policy. During the great millennium drought, what did they do when this government wanted to introduce a desalination plant that would actually produce water for the future? They criticised; they criticised us, not because they did not want a desalination plant. They certainly wanted one; they wanted half a one, just like they wanted half a road to the south, just like they have half a solution to everything.

*Members interjecting:*

**The PRESIDENT:** Order! The minister has the floor.

**The Hon. I.K. HUNTER:** We see in other states, where they did build a half-size desalination plant like the Liberals wanted, that they are now building a second one. This lot opposite has no plans for the future. They took no plans on water to the state election. They took nobody in the state into their confidence in terms of what they wanted to do with water, and we all know what their secret plans were. We all know what their secret plans were, because their federal Liberal counterparts in Canberra have told us.

The federal minister for finance, Matthias Cormann, and Mr Joe Hockey, the Treasurer, come to South Australia and tell us, 'We want you to sell SA Water assets, because that is what we planned to do when we planned for the South Australian Liberal Party to win the last state election. We are going to have a deal with them to give money to them, just like we are offering around the country, if you sell off our assets.' That is something this government will not do.

## WATER INDUSTRY ACT

**The Hon. J.M.A. LENSINK (14:37):** I have a supplementary question. Can the minister outline what consumer protections he has implemented, or his predecessor implemented, in the last 2½ years since the Water Industry Act was passed?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:37):** I guess the bigger—

*Members interjecting:*

**The PRESIDENT:** Can I just let you know how this is going to play out.

**The Hon. D.W. Ridgway:** He's going to answer the question properly.

**The PRESIDENT:** He will answer the question the way he sees fit. The crossbench would expect at least four questions today. If you are going to continually disrupt this, I will make sure they get their four questions. The honourable Mr Dawkins, you have a point of order?

**The Hon. J.S.L. DAWKINS:** I do. The chief interjector over the top of the minister then was his ministerial colleague. I hope you would actually take note of that.

*Members interjecting:*

**The PRESIDENT:** Order! My comments were to all, both the opposition and the government. The Hon. Ms Lensink.

**The Hon. J.M.A. LENSINK:** Thank you for your protection from the verballing of the Leader of the Government, Mr President.

**The Hon. I.K. HUNTER:** I believe I already had the floor to answer the supplementary of the honourable member.

**The PRESIDENT:** If you wish to, honourable minister.

**The Hon. I.K. HUNTER:** I was going to say, she asked what consumer protections have been introduced. I would say the biggest consumer protection that we have introduced is the 6.4 per cent drop in the price of water—not matched by those people opposite. All they are concerned with is privatisation, and we know what happened with ETSA. When it was privatised, the prices went up. They want to privatise SA Water, and you can see what's going to happen into the future: there will be no consumer protections whatsoever.

## WATER INDUSTRY ACT

**The Hon. J.M.A. LENSINK (14:39):** I have a supplementary question. Can the minister match his 6.8 per cent against the over 500 per cent—

**The Hon. I.K. Hunter:** It is 6.4.

**The Hon. J.M.A. LENSINK:** —6.4; I am sorry, minister—over the 500 per cent increase in the tier 1 price since Labor took office?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:39):** The reality is that consumers are faced with, in the last financial year, a 6.4 per cent reduction in the price of water and an increase of no more than the CPI in the next two years.

## KERIN, DR PAUL

**The Hon. J.M.A. LENSINK (14:39):** My question is to the Minister for Water and the River Murray about the CEO of ESCOSA's resignation.

Leave granted.

**The Hon. J.M.A. LENSINK:** The resignation letter of the former CEO of ESCOSA, Dr Paul Kerin, states in part:

> …the government and its senior bureaucrats have clearly demonstrated that they have no interest in genuine reform, nor in serving the long-term interests of consumers. Indeed, they have stymied all efforts on those fronts at every turn. Furthermore, I have been appalled by the behaviours that both Ministers and senior bureaucrats have engaged in to stymie those efforts.

Minister, who was Dr Kerin talking about?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:40):** The honourable member tries to draw me into a conversation about comments made in a letter to ESCOSA. I will not enter into those discussions. The honourable member—

**The Hon. J.M.A. Lensink:** So you're refusing to answer.

**The Hon. I.K. HUNTER:** No. Mr President, the honourable member wants to draw me into some inappropriate remarks and I am not prepared to do it.

*Members interjecting:*

**The Hon. I.K. HUNTER:** The gentleman responded in a letter to ESCOSA, which he worked for; he put in that letter his political views about the world. He is fully entitled to have those political views. I do not share them.

**KERIN, DR PAUL**

**The Hon. J.M.A. LENSINK (14:41):** I have a supplementary question. How is it not appropriate for the minister to comment on a former water regulator when he is the Minister for Water?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:41):** That is not what I said at all, Mr President.

**KERIN, DR PAUL**

**The Hon. J.M.A. LENSINK (14:41):** I have a further supplementary. When the former CEO talked about political interference, what was he referring to?

*Members interjecting:*

**The PRESIDENT:** Order! The minister has the floor.

up **The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:41):** I would have no idea what was in his mind at the time of writing that letter.

**WATER INDUSTRY REFORMS**

**The Hon. J.M.A. LENSINK (14:41):** I have a further supplementary question. Can South Australians expect any reform of the water industry in—

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Ms Lensink has the floor.

**The Hon. J.M.A. LENSINK:** Can South Australians expect any reform of the water industry in this state during the term of this government?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:42):** I thank the honourable member for her supplementary question. I have to ask: has she forgotten our last six months' worth of discussions in this place where we have talked about the future of water industry reform? Has she not gone back and looked at the *Hansard*? Go and do your own work.

**WATER INDUSTRY REFORMS**

**The Hon. J.M.A. LENSINK (14:42):** I have a supplementary question. If that is the case—and I have asked the minister where the third party access bill that they tabled months late last year was without any opportunity to discuss it before the election—where on earth is the third party access bill? If the minister wants me to, I will bring one myself; I am working on it.

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:42):** I can only encourage her. It will end up where all her other bills end up, and that is probably informing the government's legislation when it comes in, because she is very good at writing legislation, and I encourage her to give me as many excellent ideas as possible. We are always open to good ideas on this side.

We do not believe that we are the only people who can write legislation and have great ideas. If honourable members like the Hon. Michelle Lensink want to give me advice, I am always happy to take it, although I will not always agree to implement it. In terms of our third party access legislation, I understand that we are in discussions with the commonwealth on that and once we have a response

from the commonwealth and we can address any concerns they might have then I will proceed further.

*Ministerial Statement*

**CRIMINAL INVESTIGATION (COVERT OPERATIONS) ACT**

**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 would like to table a ministerial statement by the Deputy Premier, John Rau, on the Criminal Investigation Act 2009.

*Question Time*

**GROWTH THROUGH INNOVATION**

**The Hon. K.J. MAHER (14:44):** My question is to the Minister for Science and Information Economy. Will the minister inform the chamber about how the government is supporting young entrepreneurs?

**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):** In his economic priorities for South Australia released in August this year, Premier Weatherill focused on priority 6, which is growth through innovation, which goes to this very question. We need to be able to transform innovative ideas and research into products and businesses that the world wants. We need a culture and entrepreneurship that is open and welcoming to young South Australians in particular, as they are, obviously, the ones who are going to be creating our future industries.

Fortunately, the way in which ideas and innovations are brought to market has changed radically in recent years. The phenomenon of the 'start-up' (a kind of business hothouse environment initiated originally by Silicon Valley) and the use of the internet to globally and instantly exchange data has turbo-charged this process. With these trends in mind, the South Australian government has supported a number of initiatives that will create a vibrant culture of young entrepreneurship.

Venture Catalyst is a collaboration between the state government and UniSA to support students with seed funding to start businesses and turn their research knowledge into a commercial product, process or service in any field of research offered by UniSA. The concept was a recommendation of the former thinker in residence Professor Göran Roos in his report *Manufacturing into the Future*.

Venture Catalyst has a pool of $275,000 a year over three years to invest in student ventures, and $150,000 has been provided by the state government with UniSA contributing the other $125,000. The maximum amount available to each applicant is $50,000, with funds used to develop the product, service or process to enable it to be taken into the market.

The first Venture Catalyst funding round closed on 25 August 2014 and I am pleased to advise that two projects were chosen for funding. The first winner, Mr Tung Tran, pitched a software application called MyEvidence. MyEvidence allows investigators to seamlessly gather digital evidence at crime scenes, for example, and package it for consumption by relevant justice agencies.

MyEvidence uses a secure platform to capture digital forms of evidence and incorporates external hardware to capture 3D environments and panoramic photographs, enabling a new standard of investigative process and allowing investigators to build an immense electronic court brief that can be shared with prosecutors and solicitors and presented to judicial officers with maximum impact. It is envisaged investigations can be streamlined, pen and paper eliminated and court cases will flow quicker through the judiciary.

The second winners are Mr Jordan Green and Ms Emily Rich, and their company Jemsoft pitched a design for a new security module for high-risk retail stores. The system is a small integrated hardware-software unit that can analyse in real time customers approaching the store without storing any data and, as such, abolishing any privacy concerns. The system makes an evaluation on whether or not the individual approaching represents a threat and, if so, the doors are locked until the visual

cues that represent a threat are removed. The system provides a manual override of electronic doors for use by staff in case of software error.

FabLab Adelaide has been asked to produce small 3D printed trophies containing the Venture Catalyst logo as a token of recognition for the winners. This will have the added benefit of increasing exposure for FabLab, a very successful community access 3D printing and fabrication workshop based at Adelaide College of the Arts.

Venture Catalyst also complements MEGA (Mobile Enterprise Growth Alliance), a program that assists entrepreneurs to commercialise digital innovations such as new software and iPhone applications. MEGA is delivered by the Majoran Distillery with the help of a $45,000 grant from the state government and is open to all South Australians. Applications for the second round of Venture Catalyst funding will open around March 2015, I am informed.

## LOW EMISSION VEHICLE STRATEGY

**The Hon. M.C. PARNELL (14:48):** I seek leave to make a brief explanation before asking a question of the Minister for Sustainability, Environment and Conservation on the subject of South Australia's low emission vehicle strategy.

Leave granted.

**The Hon. M.C. PARNELL:** In June 2012, the government announced South Australia's first low emission vehicle strategy. The then minister for environment (Hon. Paul Caica) said at the time that the purpose was to capture the opportunities offered by new vehicle technologies. The low emission vehicle strategy itself is a short document with the aim to help transition South Australia to a large-scale shift to new technology by 2016.

It uses a rather crude traffic light measurement scale to indicate whether the government's key performance indicators are being met or otherwise, and specifically focuses on the uptake of hybrid and non-conventionally fuelled vehicles both within the total South Australian vehicle landscape and the fleet operated by the government through Fleet SA. Since 2010 the numbers of hybrid vehicles in Fleet SA has actually decreased both in absolute and percentage terms, and we are still waiting on the interim strategy report which was due in June this year. My questions are:

1. Has the government abandoned or reduced the purchase of hybrid vehicles for the state fleet; if so, why?

2. Will the government now revise its targets and strategies for low emission vehicles consistent with its recent decision to revise the state's Renewable Energy Target?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:50):** I thank the honourable member for his most important question. I will have to consult with my colleague in the other place and bring back a response in terms of an across government policy. In terms of an interim strategy report, I was not aware that was due to be published this year. I will have to check that with my department and bring that back to the house as well.

## TEEN BODY IMAGE

**The Hon. S.G. WADE (14:51):** I seek leave to make a brief explanation before asking the Minister for the Status of Women a question on the subject of teen body image.

Leave granted.

**The Hon. S.G. WADE:** On 14 October that the minister advised the council, in an answer to a question without notice, that:

> The state government is inviting teenage girls to join creative workshops aimed at exploring ways to boost self-esteem and develop positive body image. Their ideas will culminate in an online campaign to be launched next April.

Later in the answer the minister said:

> While girls aged 13 to 18 will help develop the campaign, the target audience will be even younger. Messages received when a girl is between seven and 12 are, I understand, also very important to the development of a very

positive body image as she becomes a teenager. Utilising teenage girls will help us to create relevant messages, because we will be asking the older girls to help create messages that they wish they had heard when they were younger. We will then ask parents and older sisters to share this campaign with younger girls.

Further on the minister said:

This is designed to be an organic, creative process with the girls deciding the best methods to share their message.

I am advised that, while encouraging young women to develop a case against negative body image messages has been shown to reduce their body dissatisfaction, I am aware that passive messaging to younger children can, in practice, be counter-productive. I ask the minister:

1. What evidence base supports the value of older teens developing mobile apps, music videos, slideshows or any other form of communication to educate and inform younger teens on body image?

2. Is the Office for Women collaborating with relevant expertise as they develop the teen body image project?

**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 question. Indeed, body image, particularly for young girls and women, is extremely important. We know that poor body image can lead to all sorts of illnesses, distress and anxiety, in young women in particular. We know that this is also an issue for young men, but it is been found to be particularly evident in young girls and women.

With the program I outlined previously, which is about building self-image in young women, some funding has been made available to involve workshops that include a group of young women from the age of, I think, 13 to 18 (as the honourable member outlined) to work with a group of girls aged somewhere between seven and 12 to create messages that are relevant to their particular demographic. We have based this study on a similar project in the United States that was found to be extremely successful and very popular amongst young women.

It is important that we are able to communicate these messages in ways that resonate with young people, and I have to say that it is extremely difficult for older, more mature people to craft messages that fit in with modern day popular culture and modern terminology and that appeal to young people.

So, the advice that we received was to use workshops involving, obviously, the supervision of older people but mainly involving younger people to help craft relevant messages. As I said, we have based it on a project in the US that was found to be extremely successful, and we will certainly be evaluating this project to see the extent of the positive outcomes and looking to see whether this is worthwhile for future programs as well.

## TEEN BODY IMAGE

**The Hon. S.G. WADE (14:55):** Supplementary question: I would ask the minister three questions. Could she give us the details, possibly on notice, in relation to the US study? I ask: who provided the advice to use that strategy and who will be undertaking the evaluation?

**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) (14:55):** I don't have that level of detail. I am happy to take that on notice and bring back a response.

## WANKANGURRU/YARLUYANDI NATIVE TITLE CLAIM

**The Hon. G.A. KANDELAARS (14:55):** My question is to the Minister for Aboriginal Affairs and Reconciliation. Will the minister inform the house about the recent consent determination of the Wankangurru/Yarluyandi native title claim?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation)**

**(14:56):** I thank the honourable member for his most important question. On Friday 3 October, I had the pleasure of witnessing the historic determination of the Wankangurru/Yarluyandi native title claim at Birdsville. I joined with elders and members of the community and the Federal Court Chief Justice, the Hon. Justice Mansfield AM, for a specially convened Federal Court hearing on land in Birdsville.

It is a real honour when you have the chance to be involved in such Federal Court proceedings. From my perspective, they give me pause to reflect and acknowledge a very important part of our nation's history, which we haven't always acknowledged in this country. This consent determination is recognition in Australian law of the traditional owners' relationship, rights and interest over that land as the holders of native title for that area. The land plays an important role in their customs and knowledge that are passed down from generation to generation and retained by people today.

The determination area for the native title rights of the Wankangurru/Yarluyandi extends over (I think) 60,600 square kilometres. It includes the Simpson Desert Conservation Park and the Simpson Desert Regional Reserve in the far north of our state and extends into Queensland. This land is rich in Aboriginal history and covers a vast and environmentally significant area. The Simpson Desert Regional Reserve—

*The Hon. R.L. Brokenshire interjecting:*

**The Hon. I.K. HUNTER:** Mr President, I am tempted to say if the honourable member was listening to my first paragraph, but I won't go there. The land is rich in Aboriginal history—

*Members interjecting:*

**The PRESIDENT:** Order! The minister has the floor.

**The Hon. I.K. HUNTER:** —and covers a vast and significant area. The Simpson Desert Regional Reserve features a wide variety of desert wildlife, extensive playa lakes, spinifex grasslands and acacia woodlands and is home to one of the world's best examples of parallel dunal deserts. The state government is committed to working with the native title holders to preserve and enhance the natural environment, while at the same time recognising and protecting areas of cultural significance.

I was particularly pleased to have signed two significant agreements with the Wankangurru/Yarluyandi people on behalf of our government and our state: a settlement Indigenous land use agreement and a parks Indigenous land use agreement. These agreements, together, recognise the rights of traditional owners over land, including the parks within our state which are part of the claim area. The consent determination includes six pastoral Indigenous land use agreements, which establish how the native title holders and the pastoralists will exercise and respect the respective rights and interests.

These agreements put in place a clear process for engagement between the native title holders and the state in relation to future state activities on native title land. The consent determination is a significant step towards reconciliation and strengthening mutual respect and understanding, in particular because this is another example of a native title claim being resolved through negotiation and consent. South Australia has a long history of resolving claims in this way.

I understand this is our 22nd native title claim to be settled by agreement rather than through litigation and it is the 10th South Australian claim to be comprehensively resolved, meaning all other issues, including compensation, will be finally settled at the same time that native title is recognised. Completing the settlement of this native title claim has taken an enormous amount of work and effort on behalf of many, many people. I thank and congratulate them all for the work they have done and the cooperation they have chosen to achieve this fantastic result for our state and for that community.

*Ministerial Statement*

## SOUTH EASTERN FREEWAY

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:59):** I table a copy of a ministerial statement relating to South Eastern Freeway made in the other place by the Minister for Transport and Infrastructure.

*Question Time*

**COMORBIDITY**

**The Hon. K.L. VINCENT (15:00):** I seek leave to make a brief explanation before asking the minister representing the Minister for Health and Mental Health questions regarding the physical health of people with mental illness.

Leave granted.

**The Hon. K.L. VINCENT:** A month ago, a member of my staff attended a Life Without Barriers breakfast about one of their innovative programs. This project is called the Physical Needs Project and acknowledges that evidence and everyday experience show that people with mental illness have poorer physical health outcomes than those without mental illness.

I note that yesterday *InDaily* carried the story of Pat Sutton and the struggle she has had for some 20 years. She has repeatedly been let down by the health system as she has tried to improve the health outcomes of her two sons. Ms Sutton explains in the story how the existence of cognitive disability from a violent assault on her son, combined with schizophrenia, means that he cannot recognise his physical and mental illnesses. It is therefore incredibly challenging to get him to go to the doctor, dentist or other health services.

It is exactly these sorts of stories that led me to establish a Social Development Committee inquiry into comorbidity. The inquiry is now underway and is investigating services and challenges where dual diagnosis of intellectual disability and/or acquired brain injury exists alongside a mental illness or chronic substance abuse. My questions to the minister are:

1. What training is provided to SA Health medical staff, such as doctors, dentists, nurses and other specialist medical staff regarding a dual diagnosis?

2. What research and information are available to individuals and their families, disability services providers and support workers, regarding dual diagnosis?

3. What SA Health supports are in place to assist individuals and their family carers to manage dual diagnosis?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:02):** I thank the honourable member for her most important questions, and I commend her for her ongoing advocacy in these very important issues. I undertake to take those questions to the minister in the other place and bring back a response on her behalf.

**LOWER LAKES WATER CYCLING PROGRAM**

**The Hon. J.S. LEE (15:02):** I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question about the lakes water cycling program.

Leave granted.

**The Hon. J.S. LEE:** In minister Hunter's media release on 3 September, he claimed that the year-long scoping study which investigated reducing the salinity of Lake Albert has found that raising and lowering the lake levels is the best management option. Last week, during Senate estimates, it was reported that the salinity level in the lake is at 2,300 EC, which is above the historic average of 1,500 EC, and completely unusable. However, the state government has stated that they will require additional environmental water to undertake the program.

Over the past week, the Commonwealth Environmental Water Holder has advised the state government that no more water will be allocated to address these environmental challenges. This was also supported by the federal government, which announced that the Murray-Darling Basin will not be allocated any more water for environmental purposes. My questions to the minister are:

1. With the federal government and the Commonwealth Environmental Water Holder not allocating extra water, has the state government undertaken any further investigations regarding alternative measures?

2. What consultations has the minister had with stakeholders and the federal government to ensure that the best solution is provided to the Lower Lakes?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:05):** What an excellent question from the honourable member. She never fails. She actually could show some of the frontbenchers opposite how they can improve their question time effort.

*An honourable member interjecting:*

**The Hon. I.K. HUNTER:** She does. She does her own work and she is not shy of doing a bit of work and I commend her for that.

**The Hon. J.S.L. Dawkins:** That's why you gave her a one sentence answer last week.

**The Hon. I.K. HUNTER:** It was concise.

**The Hon. J.S.L. Dawkins:** That's what you did; you're in *Hansard*.

**The PRESIDENT:** Order! The minister has the floor.

**The Hon. I.K. HUNTER:** Thank you Mr President. There is some virtue in having a concise answer sometimes when we can give it. This is complicated topic, though, so I won't be quite so concise. I need to explain to the council some of the issues that are involved. It is worth noting that the honourable member says that the EC limits were 2,300, and I should add, and dropping, compared to historical levels of EC at 1,500, and so the improvements are happening but they will take some time.

I have said before in this place that the Lake Albert Scoping Study was tasked to look at some potential solutions to Lake Albert's salinity levels. It has been released. The study was carried out after extensive community engagement and involved the investigation of up to five options. Of these five options the study had recommended—and I have told this place before about that—the preferred practice of lake cycling. Despite all of the scientific and environmental modelling that went into this work, as well as the extensive community engagement and consultation that was undertaken, some members of this chamber and some members of federal parliament wish to ignore those scientific facts that were taken into account in that presentation.

For the benefit of members here who may be confused by some of these issues, let me take them through the processes that we undertook for this study. The effective long-term management of the Coorong, Lower Lakes and Murray Mouth remains a priority for the government, as it does for the Murray-Darling Basin Authority, and I will come to that issue in a moment, but we had a very good result in Brisbane a little while ago in terms of getting some funding for the Murray Mouth.

Whilst the salinity levels are declining, as I said, in Lake Albert, and they are above the historic average, I am advised that as of 5 September 2014, the salinity in the lake was approximately 2,270 EC. It is worth remembering also that at the height of the drought we were facing salinity levels of about 20,000 EC. In November 2012, funding up to about $740,000 was approved for a study for the long-term management of water quality issues in Lake Albert and the Narrows at Narrung. As of 30 June, we have spent about $650,000 of that on the study.

This funding came from the Coorong and Lower Lakes and Murray Mouth Recovery Project. The Lake Albert study commenced in January of 2013 with the aim of identifying potential management actions, as I have outlined. So they considered the base case which was to do nothing, the dredging of the Narrows, removal and modification of the causeway, a permanent water regulating structure in the Narrows, a Coorong connector or lake cycling.

These considerations included those suggested by the Meningie and Narrung Lakes Irrigators Association in its five-point plan for the management of Lake Albert. The project included a literature review, community requirement study, legislative review, qualitative engineering investigation, modelling studies, on-ground investigations, engineering feasibility and a cost-benefit analysis. The Hon. Ms Lensink and I have had debates in this place before about cost-benefit analysis and she now understands the depth of the problem with a Coorong connector approach.

The options paper included extensive consultation, as I said, including the development of a community requirement study undertaken by an independent market research company to have a look at the community opinion around these issues on potential management options. Cultural considerations of the proposed management actions were also taken into account. A number of discussion forums were held with the Ngarrindjeri and the formation of a position paper.

In recommending lake cycling as the most feasible option for managing Lake Albert's salinity, the options paper does not support a Coorong connector, as I advised the chamber previously, due to the cost and the time frame required to deliver benefits, when compared to the lake cycling option. Other engineering solutions were also discounted due to these options being either cost prohibitive or not technically feasible.

The local and interstate irrigation community has often raised the construction of a Coorong connector as a preferred option and I can understand why they might see it that way but, at the end of the day, it is going to cost about $19 million to put this in place. It would take a considerable amount of time in terms of engineering feasibility studies and community consultations and an environmental impact statement, and I am advised that by the time that it is all completed, lake cycling would have done the job.

## LOWER LAKES WATER CYCLING PROGRAM

**The Hon. J.M.A. LENSINK (15:09):** By way of a supplementary question, can the minister confirm that one episode of lake cycling is in the order of 240 gigalitres and upwards of $25 million?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:09):** The answer is that it all depends on what else is happening at—

**The Hon. J.M.A. Lensink:** Oh, yes.

**The Hon. I.K. HUNTER:** Well, the honourable member asks a question and is not interested in the answer. It is a complicated situation.

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

**The PRESIDENT:** The minister has the floor.

**The Hon. I.K. HUNTER:** You have to take into account environmental conditions, what other waters—

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

**The Hon. I.K. HUNTER:** The Hon. Ms Lensink says 'blah, blah, blah'. Clearly she is not interested in the answer. Clearly she does not care about the science. Clearly she is not after a real answer for the community.

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

**The PRESIDENT:** Honourable members, the minister has the floor.

**The Hon. I.K. HUNTER:** It is a difficult question that needs to take into account the whole context of the river, the environment at the point of time we are talking about, how much water is coming down the river system currently, how much is coming across the border, what is being used for environmental watering upstream—the honourable member has no clue.

## LOWER LAKES WATER CYCLING PROGRAM

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:10):** By way of a supplementary question, what is the minimum amount of water required for a lake cycling episode, given reasonable flows, and what is the maximum amount of water required, given poor environmental flows?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:10):** As I said, it is complicated and the results will be different, depending on the season and the conditions we face in the local environment. So, there is no minimum and maximum that I can

give of one figure for each; it is conditional on the environmental conditions of the river and the season.

**LOWER LAKES WATER CYCLING PROGRAM**

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:10):** By way of a supplementary question, will the minister provide a copy of the advice he has received from the department on the amount of water required for a lake cycling event?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:11):** I will go back and look at any advice I might have and see what I might bring to the chamber in response.

**LOWER LAKES WATER CYCLING PROGRAM**

**The Hon. J.M.A. LENSINK (15:11):** By way of a further supplementary question, given that the minister was asked in this place about this issue several weeks ago, why has he not brought back an answer on this very issue?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:11):** The answer will come in the fullness of time.

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Mr Darley has the floor.

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**

**The Hon. J.A. DARLEY (15:11):** My question is to the Minister for Employment, Higher Education and Skills, representing the Attorney-General. Will the Attorney advise:

1. When was the last time that staffing resources for the Office of the DPP were properly assessed and what was the result of that assessment?

2. Did the assessment result in a recommended increase or decrease in the resources required?

3. What changes, if any, occurred as a result of the staffing resource assessment?

**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):** I thank the honourable member for his important questions and will refer them to the Attorney-General in another place and bring back a response.

**PASTORAL BOARD**

**The Hon. R.L. BROKENSHIRE (15:12):** I seek leave to make a brief explanation before asking the illustrious Minister for Sustainability, Environment and Conservation questions about the axing of the Pastoral Board.

Leave granted.

**The Hon. R.L. BROKENSHIRE:** The Pastoral Board was established to administer the Pastoral Land Management and Conservation Act 1989, which included managing the pastoral lease system, implementing property plans to prevent land degradation and for collecting and recording annual stock returns. They are also responsible for assisting the Valuer-General in determining pastoral rents (or ripping off pastoralists, in my opinion). The board was made up of people who had an extensive knowledge of the issues facing regional South Australians. I will be the first to say that the board was not perfect and that it had its flaws, its faults, yet even flawed it was able to speak on behalf of those affected by the decisions of the government and by the decisions of bureaucrats.

Unfortunately, since the announced axing of the board, community consultation with pastoral leaseholders has been lacking. As such, pastoralists are at a loss as to how they are expected to proceed with issues that were once handled by the board. They are also concerned that they will be

lumped with a replacement model that does not represent their best interests and which will give bureaucrats, who probably know nothing about pastoral agriculture, too much of a say in their business affairs. The questions I would like answers on now from the minister are:

1. The government has suggested—

*The Hon. K.J. Maher interjecting:*

**The Hon. R.L. BROKENSHIRE:** I always used to answer questions when I was a minister. My questions are:

1. The government has suggested that the Pastoral Board could be replaced with an alternative engagement model. Could you explain, minister, what this model is, how it would work and whether pastoralists will be consulted in any shaping of a new model?

2. Between the axing of the board and the beginning of any replacement model, what department or person is responsible for the day-to-day issues previously handled by the board? For example, where can a pastoralist submit proposed applications when developing leases, or who will take over the Pastoral Board's role of advising and issuing pastoral rent notices? This was done on behalf of the minister in conjunction with the Valuer-General's office, and they are due very soon.

3. Many pastoralists would like to see any new unit placed under PIRSA and become more industry focused. Is this something the government is considering?

4. Are there any plans to abolish or amend the Pastoral Lands Management and Conservation Act?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:15):** I thank the honourable member for his very important questions, and I would like to acknowledge his ongoing representation of the farming community in this place, which he does in an illustrious way. When the honourable member rose to his feet and asked the question of the 'illustrious', I thought he was referring to my leader, who can truly be referred to as being illustrious in her role. We all look up to her. In fact, Mr President, when she was not here on the last Thursday of sitting, you may have noticed as I did that the whole tone of the place was a little hangdog. We had no leadership here. The opposition was missing the leader and—

*An honourable member interjecting:*

**The Hon. I.K. HUNTER:** They were lost, and I have to say, as indeed was I—

*Members interjecting:*

**The PRESIDENT:** Order! The minister has the floor.

**The Hon. I.K. HUNTER:** —looking forlornly to my leader who was not here, but of course the opposition were having a bad time. It was like the end of term. They could hardly drag themselves in to ask a question of me.

**The Hon. D.W. RIDGWAY:** Point of order, Mr President. This is a disgraceful waste of question time. You yourself, Mr President, said you wanted to make sure the crossbenchers got four questions today, and we have had this rubbish for more than a minute. Please direct him to answer the question.

**The PRESIDENT:** Minister, just sit down for a sec. From both sides it is getting a little bit unwieldy in this chamber at the moment. The minister has the floor. He is the only person, I think, who should be speaking while he is trying to answer the question.

**The Hon. I.K. HUNTER:** Mr President, thank you for your protection. I was just trying to pass a few compliments around the chamber, as is my usual manner. As I am sure honourable members are aware, the government has recently undertaken a review of boards and committees. The review was implemented in order to find new and innovative ways to ensure that advice to government on policy issues flows more directly from citizens and businesses alike straight to government.

The review is also aimed at improving the community's access to government decision-making and reducing red tape. As part of this review it has become clear that a more effective way of engaging with community on pastoral issues might be desirable. I have been exploring these options with the member for Stuart in the other place, who brought a delegation of pastoralists to see me in recent times, and I look forward to working closely with members of parliament in this place and the other house in moving this initiative forward to ensure we can provide the community with more open and transparent communication on pastoral issues, because that is what this government does.

**PASTORAL BOARD**

**The Hon. R.L. BROKENSHIRE (15:17):** A supplementary: I appreciate all of that, but I was just wondering if the minister could actually advise whether or not there will be amendments to the Pastoral Lands Management and Conservation Act as a result of getting rid of the Pastoral Board.

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:18):** I have nothing further to say at this point in time.

**PASTORAL BOARD**

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:18):** A supplementary: is the minister saying that they have made the announcement to abolish these boards without any plan as to how they will interact with the industry or how industry will connect with government?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:18):** No.

**PASTORAL BOARD**

**The Hon. J.S.L. DAWKINS (15:18):** A supplementary: will the minister indicate in the absence of Pastoral Board employees which personnel will actually inspect pastoral properties in relation to stocking rates and rent renewals?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:18):** These things are still to be determined in terms of discussions.

*Members interjecting:*

**The Hon. I.K. HUNTER:** Well, on one hand they come in here and criticise—members of the opposition chiefly—about us making decisions without consultation and now they want to criticise us because we want to consult on a better process.

**The Hon. K.J. Maher:** They can't make up their minds.

**The Hon. I.K. HUNTER:** The Hon. Mr Maher is quite right: they can't make up their minds. They probably have no idea about these issues. I am more than happy to work with the Hon. Mr Brokenshire and the member for Stuart in the other place if these people opposite have no clue.

**PASTORAL BOARD**

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:19):** A supplementary.

*Members interjecting:*

**The Hon. D.W. RIDGWAY:** I am trying to ask a supplementary.

**The PRESIDENT:** The Hon. Mr Ridgway has the floor with a supplementary.

**The Hon. D.W. RIDGWAY:** Will the government expect this chamber to pass their omnibus legislation in relation to these changes to the government boards before they have arrived at a suitable plan that industry is happy with?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:19):** These concerns are in the hands of the house.

## MURRAY-DARLING BASIN PLAN

**The Hon. J.M. GAZZOLA (15:19):** My question is to the Minister for Sustainability, Environment and Conservation. Minister, will you update the house on the recently launched regional adaptation plan for the South Australian Murray-Darling Basin and how this plan will better prepare the region to adapt to the challenges of a changing climate?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:20):** I thank the honourable member for his excellent question.

**The Hon. J.S.L. Dawkins:** Perhaps you can tell us if they did invite the district council of The Rural City of Murray Bridge, given you were going there. They got left off, didn't they?

**The Hon. I.K. HUNTER:** I have no idea what the honourable member is saying, but let's—

**The Hon. J.S.L. Dawkins:** No. Ask your department.

**The Hon. I.K. HUNTER:** I'm sure on reflection he'll work out that he has no idea what he is saying either. Mr President, recently—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I.K. HUNTER:** —in the climate summit in New York the UN Secretary-General, Mr Ban Ki-moon, warned that humanity has never faced a greater challenge than climate change. He also said: 'To ride this storm we need all hands on deck.' I am pleased that in South Australia we are well on the way to getting all hands on deck. I had the great pleasure of joining locals in Murray Bridge on Friday 10 October to officially launch the Murray-Darling Basin regional adaptation plan.

This is one of 12 regional adaptation plans that we have finalised for each of our geographical regions by 2016 as a result of strategic plan targets that this government has set for itself. These plans reflect the regionally driven approach that government has adopted and the significant commitment of local leaders across sectors. These plans are innovative and effective, and have received international acclaim and awards. It makes me very proud indeed to report that our regional adaptation plans were one of only two policy initiatives to be highlighted in the Climate Group's 'States and Regions Report' published during Climate Week in New York.

The report states that, while national governments seem to be stuck in entrenched debates, regions are implementing innovative policies that are motivated by local needs, aimed at overcoming specific barriers and designed to do more with less government spending. Not only do these plans involve the entire local community, local authorities and sectors in establishing the plan, they are also tailored to the specific geographical, social, economic and environmental needs of the particular region.

The South Australian government has consistently led the way in taking real and decisive action on climate change, and we have demonstrated that we are not afraid to set ourselves ambitious targets. The regional adaptation plans are another example of our commitment. The many sectors and groups involved in drawing up the South Australian Murray-Darling Basin adaptation plan have to be commended for their great leadership. It is the culmination of two years of hard work and consultation, involving information and knowledge from a multitude of sectors, across local government, Indigenous groups, emergency services groups, health, regional development, the business community and the citizens of the area.

Importantly, this plan is not only designed to make the region more resilient to the effects of climate change, it also sets out a course for the region to take advantage of the opportunities that will arise through the process of adapting. This is particularly important, because while the scientists and the experts are unequivocal about the potentially devastating effects of climate change, they are

equally unequivocal about the fact that we can do something about it. As the chair of the intergovernmental panel on climate change, Dr Rajendra Pachauri, stated during his recent address to the UN climate summit in New York:

> I'm not sure if I could stand before you if the threats of climate change had no solutions, but they do. We already have the means to build a better, more sustainable world.

Here in South Australia, we have seen firsthand the enormous economic opportunities that exist in the areas of renewable energy and sustainable industries. Locally, this could mean new varieties of agricultural produce, dryland farming and irrigated horticulture. It could also involve creating jobs through new services to cope with the effects of climate change or adapting essential services. Of course, water is a very important part of this particular region, so it is not surprising that one of the proposals includes improving water use efficiency, which is essential for the long-term viability of the irrigation sector.

The Murray-Darling Basin adaptation plan is the result of a concerted effort, and I would like to take this opportunity to thank everyone involved for their contribution. In particular, I wish to acknowledge the leadership of the South Australian Murray-Darling Basin Natural Resources Management Board and all the participants in the steering group, including Regional Development Australia (Murraylands and Riverland), Country Health SA, Emergency Management, the Ngarrindjeri community, the DEWNR climate change unit and the Murray Mallee Local Government Association.

This collaborative approach demonstrates how diverse sectors can come together to work towards building a resilient region today and for our future generations. This plan gives me great hope in our ability to tackle the challenges ahead and create sustainable and resilient regions for generations to come. If we grasp the opportunities, they actually set up our state and our regions to become innovative employers in new green technologies.

## ABORIGINAL HERITAGE ACT

**The Hon. T.J. STEPHENS (15:25):** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation questions about the review of the Aboriginal Heritage Act 1988.

Leave granted.

**The Hon. T.J. STEPHENS:** Back in 2008 the now Premier announced the review of the Aboriginal Heritage Act 1988 to address the anachronisms related to native title and land management. The government undertook an extensive public consultation process, which was completed by the end of April 2009. It is my understanding that very recently the minister had an amendment bill drafted and it is ready to be introduced into this place. My questions to the minister are:

1. Why has this legislation not yet been introduced?

2. Why has it taken the government five years to have legislation drafted addressing the recommendations of the report?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:25):** I thank the honourable member for his most important question. I would also like to commend him for his ongoing advocacy in the area of Aboriginal affairs. He is an inspiring example to the Liberal front bench and I am surprised he is not there, but space is always made, the Hon. Mr Stephens—in fact, there is one there right now!

I am aware that a review of the Aboriginal Heritage Act 1988 has been ongoing since 2008. A scoping paper was released and extensive public consultation was conducted in 2009-10. A staged consultation process commenced with the draft bill first tested with key Aboriginal representative bodies and peak industry, mining and legal organisations in targeted consultation sessions held in the latter part of 2013.

Numerous meetings, I am advised, were held and considerable feedback was received, including written submissions which continued to be received until earlier this year. I understand the

proposed reforms were received with a great deal of interest from many parties. While many of the key concepts in the draft bill were welcomed as positive developments and making life easier for what were usually antagonists but hopefully will now be protagonists, the responses of the key stakeholders to the detail of the proposed scheme have been varied and quite complicated.

As a result, I am considering the implications and options very carefully. I need to take further advice on the next steps, which involve some real consultation with stakeholders. I can inform the chamber that the bill will not be proceeding to parliament without first going through this broader consultation phase. Relevantly, the state government has also committed to introduce new legislation that will assist Aboriginal communities to take greater control over their future.

It is our intention that all Aboriginal communities will benefit from this ground-breaking legislation to be developed over the next 12 months. It is legislation that will be developed in the spirit of both recognition and reconciliation and will set the benchmark for a new relationship between government and Aboriginal communities in South Australia. The new legislation will recognise the self-determining governance structures of Aboriginal communities and their unique cultural identity. It will also set out guiding principles for consultation and cooperation between the state government and Aboriginal communities.

It will be the first of its kind in Australia and demonstrates the state government's genuine desire to support Aboriginal cultural authority. I anticipate that, as part of that process, there will be opportunities for Aboriginal communities to self-assess how they interact with legislation such as the Aboriginal Heritage Act 1988 or the Aboriginal Lands Trust Act 2013. In bringing that legislation forward I need to work out how that will interact with the draft Aboriginal Heritage Act and do further stakeholder consultation about that process, as well.

## INTERNATIONAL STUDENTS

**The Hon. T.A. FRANKS (15:28):** I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about international student graduate employment.

Leave granted.

**The Hon. T.A. FRANKS:** The minister would no doubt be aware of the Deakin University report conducted over the past three years on Australian international graduates and the transition to employment which has concluded that international students without permanent visas are unlikely to find work in their discipline area in Australia and that this particularly impacts those where we have identified skill shortages and, despite being promised that they will be able to find employment, they are finding that that is much more difficult than has been assumed.

As the minister would no doubt be aware, this is a $15 billion annual revenue industry. International education is a hallmark of the Weatherill Labor government's direction, and I am now asking the minister:

1. Is the minister concerned that this report has found that most of those international student graduates in our identified skill shortage areas are unable to get work?

2. Is the minister working with the business community and Universities Australia to ensure, for example, permanent residency status is not a barrier to employment?

3. What is the government planning to do in response to this report?

**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) (15:30):** I thank the honourable member for her most important questions. Indeed, international students are a very important part of South Australia's economy, and we have plans to continue to grow that sector as well.

The benefits of international students are vast. Not only do students coming to study and live here provide strong economic stimulus through those areas, but many members of their family and friends from overseas also come to visit while they are studying here, so it has a significant tourism benefit as well. Of course, thirdly, having international students here, not just in the CBD, certainly

has transformed the culture of Adelaide, helping to bring a very vibrant and dynamic aspect to our CBD, which generates a lot of activity, energy and excitement. Also, in terms of our multicultural policy, it helps build better understanding and tolerance and helps build relationships that are in everyone's interests.

In relation to a number of the issues that the Hon. Tammy Franks has raised in relation to permanent visas and residency status, these are important issues to us. They are mainly driven by the federal government and we are in discussions with the federal government around that, so there are issues around visas and access to permanent residency that we take on board. In relation to industry, that is also an area that we work very hard on.

I have just returned from China, and the visit reinforced even further that students, and particularly students' parents, are looking for business relationships. They are looking to have their children experience firsthand industry employment and they are looking for those relationships and business networks when those students return. That is very good for our business as well.

We know that here in South Australia we probably do it better than most other jurisdictions in terms of offering student placements and internships, and we also have provisions for postgraduates to work here for a certain period of time. We work very hard, particularly through Education Adelaide, but also through the student associations, to work with industry and employers and encourage them to form relationships with the universities so that we can provide even more access to work placements and work experience.

It is an area that we see has great potential here in South Australia as a competitive advantage of this state. We are already fairly well developed and I guess, because we tend to be a smaller capital city, it is easier for us to have relationships with industry and employment associations to be able to forge those important relationships. So it is an area that I am particularly mindful of, and I know that Education Adelaide is as well. I know that universities are also focusing attention on that space, and it is an area that we will continue to work on and develop.

## WOMEN IN THE WORKFORCE

**The Hon. A.L. McLACHLAN (15:34):** I seek leave to make a brief explanation before asking the Minister for the Status of Women a question regarding the migration of South Australia's young women.

Leave granted.

**The Hon. A.L. McLACHLAN:** On 14 October it was reported in *The Advertiser* that women in their early 20s are leaving South Australia in order to pursue career and lifestyle opportunities elsewhere. The article cited data that revealed the rate of women aged 20 to 24 who are leaving South Australia has outstripped men every year over the past decade, and this pattern is repeated in the 25 to 29-year-old age group. Liz Forsyth, Chief Executive of Adelaide YMCA, has suggested that the lack of women in leadership roles, coupled with growth in the gender pay gap in South Australia, could be contributing to the exodus of young women. My questions are:

1. Are there any measures currently in place specifically designed to address this alarming trend?

2. Has the Premier's Council for Women been asked to investigate this issue? If so, what advice has it provided?

**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) (15:35):** I thank the honourable member for his most important question. Indeed, it is of great concern that any South Australian has to leave South Australia to work in other states. Although there are, obviously, benefits if people leave, gain experience and then return, it is something we need to continue to work very hard on, and we have an employment plan and a strategy to transition our economy that will, hopefully, help us to do that.

The state government is investing substantially in opportunities for all South Australians, particularly women. It also needs industry and employers to step up and provide more opportunities for the development and promotion of women, more flexible family-friendly workplaces (I have

spoken on that in this place before), equal pay and, of course, to recognise the value of women in leadership roles. South Australia is also making a transition from an economy based on traditional models of manufacturing and agriculture into a knowledge-based economy; however, this takes time and a concerted effort by all.

The participation of women in employment and leadership roles continues to be a priority of this government. In October 2014 I noted that 48.44 per cent of positions on state government boards and committees were held by women, the highest percentage of women members achieved to date; higher than when the former Liberals were in government, it significantly outdoes that. It is also recognised that women are underrepresented in science, technology, engineering and maths, and I have talked at length in this place about our STEM initiative—particularly STEM focused on women—so I will not go into that again.

Of course, the Office for Women continues to work with the Department of State Development, the Department for Education and Child Development, universities and industry groups on initiatives to encourage women to undertake training and pathways to employment in high demand, non-traditional industries such as mining, resources, defence and construction. I think I have addressed most of the other issues previously in this place.

*Bills*

## STATUTES AMENDMENT (SUPERANNUATION) BILL

*Introduction and First Reading*

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

## RETURN TO WORK BILL

*Committee Stage*

In committee.

**The Hon. I.K. HUNTER:** I want to remind the chamber that in my closing remarks on this bill, I indicated there were a number of members who could not make a contribution at that stage. We would seek the indulgence of the chamber for them to do so now. Now is an appropriate time and I think we have agreement to do that.

**The Hon. K.L. VINCENT:** I thank the chamber for its indulgence. I will speak briefly today, giving Dignity for Disability's very reserved and trepidatious support for the Return to Work Bill 2014. I say very reserved support for a number of reasons. Dignity for Disability supports the premise of this bill, a WorkCover improvement project which I believe started in 2012, knowing that our current WorkCover system is certainly not working. Prior to my entering this place, this government's attempt at reform in this space has been an abject failure.

In the 2012-13 year, I understand that the cost of WorkCover was some $1.34 billion. The premium rate being charged to employers was 2.7 per cent, yet the real cost in terms of liability was more like 3.4 per cent, but this extraordinary cost to businesses, employers, taxpayers and many not-for-profits, as we saw on the front cover of yesterday's *The Advertiser*, has not resulted in injured workers receiving a good deal. So, Dignity for Disability does agree that we need significant reform of our WorkCover scheme.

I can think of no-one, whether it is an injured or unwell worker, a union, a doctor, a physiotherapist or other healthcare professional or other employers, for that matter, who has a happy tale to tell about their experience with WorkCover. For this reason, I think Return to Work is a good title and a worthy aim for this bill, this legislation, and we certainly want to see that aim become reality. My support for this bill is very reserved because I cannot agree with many of the features in it. I do not think the capping of the scheme is fair, as it currently stands.

I am also concerned that a number of features of our health and welfare sectors have not been dealt with at the same time as these reforms. For example, a number of people in the most difficult to manage WorkCover cases experience chronic pain. Chronic pain, of course, is a difficult health complaint to manage. There is an 18-month waiting period to see a chronic pain specialist in South Australia, and many people with chronic pain need access to Schedule 8 medications.

No-one can tell exactly how many people with chronic pain require access to Schedule 8 medications, and no-one can tell me how many people with chronic pain, also often caused by workplace accidents, will be impacted by the changes brought about through this potential legislation. This creates reservations for Dignity for Disability—very serious reservations at that.

I also agree with a number of the issues and questions the Hon. Ms Tammy Franks has raised in this place in her second reading, and I look forward to those matters being addressed by the minister in his or her remarks. I would also like to draw attention to the speech given by the Hon. Steph Key in the other place—a long-time and passionate advocate for workers—and some of the concerns that she has echoed. If she is worried, then Dignity for Disability again believe that we have reason to be as well. She has immense experience in this area.

I believe that some of the errors being made by the government with the CTP legislation are being made again here, sadly, denying claimants their rights. I reserve further judgment until some questions are answered. I am yet to have time to analyse the government amendments, and also the amendments filed today by my colleagues the Hon. Ms Tammy Franks and the Hon. Mr John Darley, so I do not believe that we can proceed further with this bill today, and I understand that that is the opinion of some of my parliamentary colleagues as well.

This bill, and its partner bill, the South Australian Employment Tribunal Bill, are lengthy complex pieces of legislation aiming to fix a very broken system. This chamber needs to be given time to consider very seriously and comprehensively the amendments and improvements needed to do this, so I would ask the government to allow the chamber of the council, crossbenchers in particular, some time and due process to analyse and assess the impacts of amendments.

**The Hon. J.A. DARLEY:** I rise to speak on the Return to Work Bill 2014, and I appreciate the chamber's indulgence in enabling me to do this during the committee stage of the debate. The bill seeks to repeal the existing scheme established by the Workers Rehabilitation and Compensation Act 1986 and replace it with a new scheme, the return-to-work scheme, aimed at supporting workers and employers where there is an injury.

Some of the key features of the new scheme include the following: 'injuries' covered by the scheme will be those that result in a physical injury arising out of or in the course of employment where the employment itself amounts to a significant contributing cause of the injury. For psychiatric injury claims, the employment must be the significant contributing cause and it cannot arise from any one or more exclusionary factors listed in the legislation.

There will also be a distinction between seriously-injured and non seriously-injured workers. Seriously-injured workers will be those with an assessed whole person impairment of 30 per cent or more and non seriously-injured workers will be those with an impairment between five per cent and 29 per cent. Only one assessment of a worker's whole person impairment will be able to be made in respect of impairment resulting from one or more injuries arising from the same trauma.

Seriously-injured workers will be able to pursue one of three options: they can choose to be supported with income maintenance payments until retirement age and receive lifetime care and support; they can choose to take a redemption in lieu of weekly payments until retirement; or they can choose to pursue common law damages for economic loss where their employer's negligence caused or contributed to the injury in addition to rights of action against third parties and also receive lifetime care and support.

If they are unsuccessful with a common law claim for negligence against their employer, they will still be entitled to income maintenance payments. Non seriously-injured workers, on the other hand, will receive income maintenance support for up to two years on a step-down basis, and medical expenses for a further year after their income support ceases.

Income maintenance will be provided at a notional rate of 100 per cent during the first year and at a reduced notional rate of 80 per cent during the second year. They will also be entitled to a lump sum payment for permanent impairment and an additional lump sum payment for economic loss, provided that in the first instance the injury is not associated with noise-induced hearing loss, and in both instances the whole person impairment is not less than 5 per cent and the injury is not associated with a psychiatric injury.

The restrictions that currently apply to redemptions will be removed, and where there is agreement between workers and employers redemptions will be able to be paid in place of weekly payments. That said, it is envisaged that redemptions will only be used in exceptional circumstances when recovery and return-to-work options have been exhausted. As already alluded to, if a seriously-injured worker elects to receive a redemption, he or she will be precluded from accessing common law damages.

The South Australian Employment Tribunal will be solely responsible for resolving disputes that arise under the new scheme, and the only matters that will be the subject of appeal to the Supreme Court will be those that involve questions of law. On the face of it, the changes seem fair and reasonable, but as we all know the devil is always in the detail. Make no mistake about it, in this instance the detail could have devastating implications for injured workers and their families.

For example, the government says it has conceded to calls to bring back entitlements to claims for common law damages, yet the provisions around common law claims are so restrictive as to render them futile. As some commentators have put it, it is Clayton's common law, nothing more, nothing less. The bill provides that, in assessing whether the 30 per cent threshold has been met, impairment resulting from physical injury is to be assessed separately from impairment resulting from psychiatric injury, and in assessing impairment resulting from physical or psychiatric injury no regard is to be had to impairment that results from consequential mental harm.

In assessing the degree of impairment resulting from physical injury, no regard is to be had to impairment that results from psychiatric injury or consequential mental harm, and the 30 per cent threshold is not met unless the degree of permanent impairment resulting from physical injury is at least 30 per cent, or the degree of a permanent impairment resulting from psychiatric injury is at least 30 per cent.

An injured worker is precluded from an entitlement to both a redemption and damages for future economic loss. The usual heads of damages for common law claims have also been restricted, so an injured worker will not be able to claim, for instance, for pain and suffering, past and future loss of earning capacity, voluntary services, care and maintenance, future medical treatment, gratuitous services and loss of superannuation.

I have always advocated for the return of common law rights, but this bill will not deliver. The bar has been set so high that it is going to be virtually impossible for injured workers to attain it. According to the Australian Lawyers Alliance, it is anticipated that the number of injured workers who would qualify would be as low as 1 or 2 per cent. There will be a number of injured workers who are currently on the WorkCover scheme who will be transitioned to the new scheme. Many of those workers will not meet the new 30 per cent impairment threshold that will apply to seriously-injured workers. As such, they will only be eligible for payments for a further two years; after that their entitlements will cease.

Rightly or wrongly, some of these workers have been left to rely on these payments and have probably structured their lives around them. It will come as very little surprise to me if we are left with a number of injured workers unable to meet their financial commitments as a result of the changes.

Moving on now to the feedback I have received on the bill. It stands to reason that the Law Society of South Australia and many members of the legal profession generally are opposed to the key elements. Specifically, concerns have been raised about compensability and restrictions around entry into the scheme, the unfairness of the 30 per cent whole person impairment, uncertainty in determining the start date of incapacity and the two-year cut-off for non seriously-injured workers, costs and the recovery costs for representation, the assessment method for permanent impairment, and issues involving medical expenses.

The Law Society is also critical of the one-month time limit that applies to reviewable decisions under clause 100 as this prevents access to justice, and the 30 per cent threshold for common law damages is also considered to be too high for there to be any sort of meaningful entitlement to damages.

Lastly, it is a concern that significant provisions in relation to the bill are dependent upon the contents of regulations which are yet to be provided. Many of these concerns have also been echoed by the Australian Lawyers Alliance. In particular, it is concerned that the changes to the test for compensability will significantly reduce the number of injured workers entitled to compensation and that the new changes to the test for compensability of medical expenses will have a double limiting effect on the ability to claim and is inconsistent with one of the overarching objectives of the act, namely to ensure that workers who suffer injuries at work receive high-quality service and are treated with dignity and supported financially.

With respect to the termination of medical expenses after 12 months, the ALA considers that the proposed changes are problematic and the current test should be retained and lifetime medical expenses with ability to redeem should also be retained. In terms of permanent impairments, the ALA also considers the requirement that only one claim may be made fails to recognise the medical reality that there are conditions that may worsen and there is no concession for this. The government's failure to provide the impairment assessment guidelines has also made it difficult to provide appropriate feedback. The ALA considers that the restriction on combining physical and psychological injuries only serves to continue the current discrimination against psychological injuries.

Although the guidelines have not been published, the ALA states that it is not inconceivable that in many instances the physical and psychological injury would not reach the 30 per cent threshold and that there would be many examples of, say, emergency workers who deal with trauma who would fall into this category. Overall the ALA says that the application of the strict threshold will have unfair, harsh and unjust consequences on injured workers who would be regarded as seriously injured but who do not meet the threshold and that the WPI is a blunt tool for an assessment of the worker's incapacity for work and treatment needs.

With respect to weekly payments, the ALA recommends that injured workers should be entitled to weekly payments of up to two years but if it is determined that a boundary should be placed around these payments, then it would be appropriate for the entitlement to have been taken within a five-year time frame from the date of incapacity.

Whilst the ALA supports the concept of lump sum payments, it also believes that the formula for these payments requires adjustment with respect to the worked hour, as the current proposal will discriminate against those workers such as parents raising children or school students who are engaged in part-time work but intend to work full-time in the future.

As alluded to earlier, in terms of common law claims, the ALA considers that the 30 per cent WPI results in restrictions are such that only 1 or 2 per cent of injured workers will be eligible to claim for common law damages. Its position is that if the government is genuine in its desire to reintroduce common law, then that threshold should be set at 10 per cent.

Lastly, there are also concerns over the introduction of additional restrictions to seek an extension of time on applications to review decisions, especially given that those more stringent requirements will disadvantage those of non-English speaking backgrounds, those suffering from poor understanding, literacy problems and those who are having difficulty dealing with matters as a result of their injuries.

Generally, the feedback appears to be that the legal profession will not be adversely impacted by this bill, so suggestions that personal injury lawyers, the ALA and the Law Society are speaking out against it purely out of self-interest seemed to be rather unwarranted and baseless. The fact that the Australian Medical Association has also highlighted a number of similar issues certainly supports this position.

Very briefly, these issues include concerns that the 30 per cent whole person impairment is an imperfect measure for major injuries, which will result in the need for further recognition of exceptional conditions. The 104-week prescribed period post injury is not long enough for some conditions, especially because some psychiatric injuries may not be fully exposed or stabilised within the two-year limitation requirement, and the absence of any payments of economic loss for hearing and psychiatric injury in relation to redemptions.

The AMA is also concerned about the corporation being able to determine who will be a recognised health practitioner, the insertion of additional tests in consideration for the payment of medical expenses and the scale of charges intended to be used. Above all, I think it is fair to say the AMA is particularly concerned about what it calls the continuation of the current discriminatory approach towards workers suffering psychiatric injury, which is further exacerbated by some of the new provisions being proposed under the bill. Following on from personal discussions that I have had, it would seem that these concerns are also shared by the Royal Australian and New Zealand College of Psychiatrists.

There have, of course, been those organisations that have contacted me in support of the bill. Most acknowledge that there are pitfalls in what is being proposed but support making compromises in the hope that it will result in a better outcome than what we have at present. I respect those views and accept that for some organisations it has become an issue of something has got to give to get our WorkCover system back on track and, importantly, to reduce the associated costs for employers. I think it is fair to say that Aged and Community Services and Leading Age Services Australia fall within the category of respondents.

One thing that has stood out like a sore thumb throughout this debate—and some of my colleagues in this place, including the Hon. Robert Brokenshire and the Hon. Tammy Franks, have highlighted the same point during their contributions—is the deafening silence of the unions. Given their conduct during the election, it would have been a fair assessment for me to think that I was the only one who had missed out on the usual barrage of requests for meetings that we receive when debating WorkCover legislation, but it seems that is not the case this time around.

I am glad it is not just me that finds their absence in this debate to be absolutely remarkable, especially given the magnitude of the changes that are being proposed for the workers they represent. In fact, it is extremely disappointing that union representatives appear to have been hushed into submission by the government. I acknowledge that there is no easy fix to this problem, and I am acutely aware that businesses can no longer afford to bear the brunt of a broken system. That said, I cannot accept that injured workers should become the scapegoats for a problem that was created by this government.

Most of us were here in 2008, urging the government in the strongest possible terms to implement real reform. Those pleas were ignored, and so we sat and watched the government move ahead with yet another failed approach at fixing a broken system. Last year, the Attorney came out and told us the system was buggered and he was going to fix it. With all due respect to the Attorney, fixing a broken system by adopting the measures in this bill is like trying to piece together a broken glass with a glue stick—it just does not gel.

Like the opposition, I am firmly of the view that instead of establishing a new tribunal we should also be trying to ensure that the return-to-work scheme move into the jurisdiction of the SACAT. I would ask the minister to provide an explanation as to why this cannot be achieved in the given time frame, and whether any changes to that time frame would make this a plausible outcome.

In closing, I foreshadow that I will be moving a series of amendments aimed at addressing some of those concerns that have been raised with me. From what I understand there will be some overlap with the amendments that are being proposed by the Hon. Tammy Franks, and I certainly commend her for taking on board the concerns of injured workers and pursuing this further. I hope that, despite what is anticipated this week in terms of the speedy passage of this bill, this chamber will lend itself to a considered and constructive debate.

**The Hon. T.T. NGO:** I rise to support this bill, and I thank honourable members for allowing me to speak to the second reading on clause 1. I do so not in ignorance of the repercussions that it will have for some South Australian families. Why do we need this reform? The Attorney-General has said that the WorkCover system is buggered.

The scheme is more expensive than any other state's; the return-to-work outcome for injured workers is worse than any other state's as well; the unfunded liability has ballooned out to $1.13 billion and the scheme is unsustainable; and, most importantly, both employers and injured workers are not very happy with the current system. The minister and the government should be congratulated for recognising that the current system is not working.

**The Hon. R.I. Lucas:** Twelve years!

**The Hon. T.T. NGO:** Twelve years—it is not very often that politicians accept that their policies have not worked. For so long, different ministers have tried to fix WorkCover by tinkering around the edges hoping that it would fix the problem. We all know the result of that: one of the worst schemes in the nation, as I outlined earlier. During the second reading the Hon. Tammy Franks used the example of a buggered knee and a buggered elbow to express her views on this bill. I would like to use one of my best friends (who also had a buggered knee) as a way to demonstrate why we need this reform.

My friend Young Yin injured his knee playing soccer five years ago. He needed a minor knee reconstruction to fix it up. However, he thought that going to the physio and rest would fix his knee so he rested for three years before taking on indoor soccer. In his very first game back my friend Young lasted 30 seconds. The knee buckled under the real game pressure. Because he ran a small Thai restaurant by himself—and I must say it was one of the best Thai restaurants in South Australia—

**The Hon. R.I. Lucas:** Where is it?

**The Hon. T.T. NGO:** It is closed now. He decided to rest his knee and, like last time, give it a rest and hopefully it would be fixed. A few months ago he felt such an incredible pain in that knee that he was unable to stand. The doctor told him that because he had kept deferring his knee reconstruction the injury got to the point where it was no longer able to carry his body weight and, instead of a minor knee operation, he required a full knee reconstruction immediately.

Obviously, it will take him a year to rehabilitate and all sorts of other things. He had no choice but to shut down his restaurant so that he could take at least a year off for rehab after the operation. He ran the restaurant by himself and his wife came home at night, after full-time work, to assist him. Because he was the main chef there and he had a buggered knee he was no longer able to do that. I am told that recently he had a successful knee reconstruction and walks about. He told me he regretted not making a tough decision a lot earlier.

Minister Rau ought to be congratulated for making a tough decision to start the scheme from scratch. By starting from scratch, we can focus resources and make the scheme solely focus on getting the injured workers back to work as soon as possible. If the injured workers are permanently injured, then they ought to be looked after for the rest of their life. That should be the number one focus. Obviously, the current WorkCover system does not seem to be doing that.

I must use this opportunity to congratulate the Leader of the Opposition (the member for Dunstan, Mr Steven Marshall), for his leadership in working with the government to have this bill passed and expedited in the other house. Obviously, the Leader of the Opposition and the Liberal Party recognise the benefits to both injured workers and their employers of having this Return to Work Bill pass and having it in operation as soon as possible.

This house should also thank the Hon. Rob Lucas for his part. I am told the Hon. Rob Lucas has the lead on this bill for the opposition in this house. Last week, when the ALP had its caucus gathering in Clare, I was sitting next to minister Rau at the dinner table and I was told the Hon. Rob Lucas has been fair, genuine and constructive in working with the government in support of this bill. The Hon. Rob Lucas should be congratulated for wanting to see the system working.

As honourable members are aware, in the Hon. Rob Lucas's second reading speech on this bill he gloated about how he raised his concerns in this house over many years regarding elements of the WorkCover system that are not working. I would not go as far as calling him a messiah, but maybe a grandfather who has a lot of life experience, and time has proven that the Hon. Rob Lucas was right about some of the issues that he spoke about over those years. We must praise him for his genuine leadership in wanting to fix the scheme.

We now have both the government and opposition working in a bipartisan way, for once, to have both injured workers and employers in a position to make the scheme work. I have every confidence that this proposed system, once up and running, will be better for many injured workers and employers. We are already seeing some signs that it has gone in the right direction, as shown

by WorkCover's latest annual report. Since the system has put an emphasis on early intervention, it has delivered financial returns and more people have returned to work.

During the second reading debate, the Hons Rob Lucas, Tammy Franks, Rob Brokenshire and John Darley made some remarks about the lack of commentary by the union movement on this debate. I am by no means a spokesperson for the union movement nor am I a spokesperson for the SDA on this matter. However, I will say this: I do believe the SDA has a good track record in dealing with the business community and being open to reforms by promoting collaboration rather than antagonism. The results achieved by Mr Malinauskas and Business SA on the issue of penalty rates are a good example of this.

In my very first speech to this house, I said that during my time at the SDA I had never seen the SDA go out on strike. Very often, the SDA would work with employers to sort out issues behind the scenes. In my opinion, under the current WorkCover scheme workers are not being looked after. You only have to listen to talkback radio to hear criticism of the scheme from injured workers, how unfairly they have been treated and the lack of respect with which they have been treated.

When I was at the SDA I noticed that the WorkCover unit was the busiest area. The WorkCover officers would spend most of their time fixing problems for injured workers that they would not have had to do if the scheme were working. The SDA would be constantly taking employers to the commission to get things resolved; likewise, the employers would be doing the same.

I believe the unions have also realised that the current scheme is not helping their members, and that could be one of the reasons they have not objected to the proposed changes as furiously as previously. I know that minister Rau has consulted with them intensively, and they have put forward many amendments to this bill. The unions have shown their willingness for a system that would give their injured members every opportunity to return to work.

I know, from my previous job as an organiser at the SDA, that I would not like a system that is working well. A system that runs well would be less of an issue in the workplace and would make it really hard to recruit new members into the union. Some people do not want to join a union if they are happy in their workplace, and that would make recruiting for the union a lot harder. Therefore, the unions are putting their own interests aside to work with the government, employers and the opposition to, hopefully, improve the life of many working South Australians.

On the specific issue of advocating for workers rights within this bill that is being proposed, I say this: there is no point pretending that everything will be rosy for every single worker with this proposed legislation. Indeed, the minister has acknowledged this. I am well aware that changes to the scheme will hurt some workers, and of course that is of concern to me, but there is no silver bullet here. This parliament needs to move to ensure that we have a WorkCover scheme that will be sustainable for all workers for many years to come. Before I get into specific discussions on the bill, this is really the heart of the matter. We are here to make tough decisions and supporting this bill is one of them.

The current WorkCover system has been plagued with a number of issues and has let down our workers and employers. Employers have endured high premiums, as I said, while workers, many of whom want to return to work, have not received enough support to do so. This bill will introduce a new scheme that aims to strike a balance between workers, employers and the corporation. It focuses on workers returning to work rather than on what a worker cannot do. It will provide support, including retraining if necessary, for the worker to enter suitable employment.

Under the current system South Australia has a low threshold for an injury to be classified as a work injury, one of the lowest in Australia. It requires only that the injury be sustained during the course of employment. This bill will increase the threshold. For a physical injury to fall within the scheme not only must it be sustained during the course of employment, but the employment must be a significant cause of the injury. This threshold is the same as New South Wales, which has been interpreted by the Supreme Court to require a link between employment and the injury that is 'real and of substance'.

For a psychiatric entry to fall within the scheme it must arise out of employment and employment must be the significant cause. It also provides the same exception as the current

legislation: that the injury does not arise wholly or predominantly from the reasonable actions of the employer, for example, not giving a promotion on reasonable grounds.

Currently, there is a distinction between primary injuries and secondary injuries for premiums. If an injury is classified as a secondary injury (for example, a worker's employment aggravates an existing injury from previous employment), then WorkCover bears the responsibility with no impact on the current employer's premium. This encourages employers to classify injuries as secondary to avoid their premiums being increased. In turn, the cost of secondary injuries is passed onto all businesses insured by WorkCover.

This bill seeks to eliminate that distinction. Employers will be responsible for the injury to the extent that the worker's employment by them was a significant cause of the injury. This will encourage employers to focus on safe working practices. It will put an end to all businesses footing the bill for the behaviour of some.

Return-to-work plans will be required earlier than before: within four weeks as opposed to 12 weeks (previously). These plans outline the steps that the worker and the employer will undertake to get the worker back to work as early as possible. There are also more clear obligations on employers to offer suitable employment to their injured workers. This requirement is also fair to employers, as they are required to appropriately pay the employee for the job they are performing and not what they were doing prior to the injury.

Changes to income maintenance also focus on workers returning to work. Income maintenance will now stop two years after the injury is sustained, unless the worker is seriously injured. It is here where I am completely aware that the scheme may not improve the outcomes for all workers but it is designed to ensure the sustainability of the scheme far into the future.

Workers who are seriously injured will no longer be expected to return to work. However, if they wish to they will receive support to do so. They will no longer have to undergo assessments every two years to continue to receive income maintenance. They will receive weekly income maintenance until retirement age (like some of our members of parliament here), unless they opt to receive a lump sum redemption or, if eligible, pursue common law damages. A medical practitioner who is accredited by the minister will assess whether a worker is seriously injured. The accreditation scheme will ensure that suitable medical practitioners receive accreditation.

Finally, I want to return to the issue of premiums. With the introduction of this new return-to-work scheme, the majority of small businesses should be paying lower premiums. It will aim to achieve an average premium of 2 per cent. Currently, the average premium is around 2.75 per cent. By removing the 7.5 per cent premium cap, businesses in low-risk industries will no longer subsidise businesses in high-risk industries. It will allow the industry premium base rate to accurately reflect the risk associated with each industry. It is estimated that these reforms will save $180 million per year, which will be passed onto businesses insured by the scheme.

I notice that in today's paper the opposition and the government are working through some of these points to maybe defer some of the high-risk industries for a few more years to, hopefully, give them some time to adapt.

As I said previously in my other speech, the government is willing to listen and negotiate with the opposition and, hopefully, we will get this scheme up and running very soon. Let me take this opportunity to also acknowledge the input that all members have made to this debate, and we can all be proud that we have made a contribution in rectifying this area of important public policy. I commend the bill to the house.

**The Hon. I.K. HUNTER:** I would like to put on the record some responses to questions that were asked during the second reading stages on the last day but have not yet been addressed. I note that a number of amendments have been tabled today, a couple in my name, a set in the name of the Hon. Mr Lucas, a set in the name of the Hon. Mr Darley, and a set in the name of the Hon. Ms Franks. I understand that there is no desire to proceed with this debate past clause 1 today, but I also understand that some further questions are to be put on the record, so perhaps we could do that at least when I have completed my answers.

The Hon. Tammy Franks spoke about a number of scenarios where workers will be denied access to surgery because the surgery would be required after their entitlement to medical expenses ceases. However, workers can apply to the corporation before their entitlement to medical expenses ceases for the cost of surgery undertaken at a future date to be covered.

The scenario the honourable member spoke about where a worker may have a work-related knee injury and foreseeably require knee reconstruction into the future is a good example of where these provisions will be used to enable the cost of the surgery to be met by the scheme. Additionally, workers are able to receive up to an additional 13 weeks supplementary income support if they are incapacitated because of this surgery to support their recovery at that time.

The Hon. Ms Franks also raised a concern about the provisions for a single assessment of a worker's degree of whole person impairment. In the scenario described by the honourable member, where a worker suffers a disc bulge as a result of a workplace injury, and then subsequently suffers a second disc bulge which is connected to the original trauma, the second disc bulge would be compensable if the worker's employment was a substantial contributing cause of the subsequent injury also. In such a case, the worker would be eligible for an assessment of whole person impairment for the second disc bulge, I am advised.

The Hon. Tammy Franks further questioned the requirement for an assessment of whole person impairment to be undertaken 'at a time determined by the corporation'. I can draw the honourable member's attention to the fact that this provision was the subject of a government amendment in the House of Assembly and has in fact been removed. The Hon. Ms Franks referred to comments made by the Law Society that the requirement that the tribunal only allow an extension of time if satisfied that good reason exists is potentially harsh.

I draw the honourable member's attention to the provision in the bill before the council which was the subject of a government amendment in the House of Assembly. This amendment was in response to comments made by the Law Society. Part of their concern was with a requirement for the tribunal to be satisfied that 'special circumstances exist'. It was for this reason that the test was amended to be that 'good reason exists' as this was considered to be a more reasonable test. In the context of aiming for a more expeditious dispute resolution system, it is appropriate that the tribunal have some parameters for when to accept or reject an application for an expedited decision.

The Hon. Tammy Franks indicated her intention to move amendments to ensure the reverse onus of proof provisions that apply to firefighters are equally available to CFS volunteers. The government has since announced its intention to reconcile this issue and will be moving amendments to the Return to Work Bill that include consequential amendments to the Workers Rehabilitation and Compensation Act 1986 such that our Country Fire Service firefighters can enjoy the same access to compensation as career firefighters. I know everyone in this place is keen to see this change and understands its importance.

The Hon. Mr Finnigan mentioned his concern that this bill creates 'two classes of injured workers', to use his words, those who are seriously injured and receive ongoing support and those who are not seriously injured. A fundamental change with the return-to-work scheme compared with the scheme we currently have is that it no longer pretends a one-size-fits-all approach is appropriate. The return-to-work scheme recognises that workers who are seriously injured need more support, financial assistance and case management than less seriously-injured workers who have the ability to recover their work capacity and return to work, and this should be seen as a positive change.

With regard to ensuring employers are afforded protection from any sudden premium increase as a result of some of the premium changes included in this bill, I would like to confirm that the WorkCover board chair, Ms Jane Yuile, has written to the Deputy Premier on 27 October and provided the following statement:

> At its board meeting today the WorkCover Board resolved to provide for a five-year transitional period in respect of premium changes that could otherwise result in large and sudden increases in employers' premiums as a result of the removal of the industry cap or inclusion of secondary injuries within the workers compensation scheme, as proposed by the Return to Work Bill 2014 scheme, or as a result of any non-legislative improvements to the premium system.

With regard to consultation, I am advised that WorkCover will establish a stakeholder group, which will include key people in organisations that advocate on behalf of injured workers, and WorkCover will consult with this group on an ongoing basis. I invite other members of the chamber who wish to place further questions on the record for me to respond to early tomorrow or the following day to do so now.

**The Hon. T.A. FRANKS:** I place on notice for response a few questions, but also I reiterate my strong interest in seeing the actuarial report, the Finity report on the CFS cancer compensation presumptive laws issue. Having had such a debate before, where we have had to wait in this place for the previous Taylor Fry actuarial report on that very issue, I eagerly await seeing the most recent Finity report. My further questions are:

1. How many injured workers were retrenched from their pre-injury employment from 2011 to 2014?

2. How many applications were received from employers to terminate the employment of injured workers?

3. How many applications were approved by WorkCover?

4. How many applications were withdrawn following interventions by WorkCover or its claims agents?

5. How many applications were later rescinded where there was an improvement in the worker's capacity for employment or the employer's ability to provide suitable duties?

I look forward to the continuation and speedy response and the tabling of that actuarial report tomorrow.

**The Hon. R.I. LUCAS:** I rise to indicate from the Liberal Party's viewpoint our proposed course of action for debate on this bill this week. We accept the position from the minor parties and Independent members of the chamber that, with the final tabling of amendments this morning from all and sundry, proceeding with detailed discussion on those particular amendments today will not be possible. We note, as the Hon. Mr Darley indicated, that his amendments are significantly similar to the Hon. Ms Franks' amendments. The Hon. Mr Brokenshire's amendments have been on file for a while now and relate to a specific issue.

We acknowledge that it is probably the first time members would have seen the actual drafting of the amendments for the CFS cancer compensation from the government, although it had announced the details of the scheme, and I will address some comments to that in a moment.

From our viewpoint, we have indicated to the government that on behalf of Liberal members, and within the parameters the member for Dunstan has outlined right from the debate in the House of Assembly, we are broadly supportive of the reform to WorkCover. I outlined our position during the second reading, that we think this is a mess of the government's creating over 12 years. We have been cynical of the attempts that have been made in the past.

We hope this one is more successful, but only time will tell. Some of us have other views on what could or should have been done, but we do not intend to delay the committee stages with exploring those views. We are prepared to work with the government on their proposed changes and, as I said, we can only hope that this endeavour to fix the WorkCover scheme will be more successful than any of the others the government has attempted over the 12 years.

We have outlined to the minister and the government that from our viewpoint we are prepared to sit tomorrow morning, as we have just been advised, and tomorrow evening to pursue the detailed discussion of the amendments that have been tabled. We are also prepared to sit on Thursday morning and through Thursday in a genuine endeavour to see significant progress made or potentially even the passage of the bill through the Legislative Council.

We have not, as has been demonstrated by the *Hansard* record, engaged in delay or filibuster during this debate. I think that whilst I made an extensive contribution on behalf of all my colleagues, there has been precious little additional time taken up during the second reading. During the committee stage of the debate we will ask questions of the minister and the government in a

number of particular areas, some of which have been canvassed already with the government, but we will not be seeking to delay.

We will be ready to go from 11 o'clock in the morning. Well, frankly, we are ready to go now but we understand the position of the minor parties and the Independents. I am anticipating that the government's position will be to oppose each and every one of the amendments moved by the Greens and the Hon. Mr Darley, but to be fair to the government and its advisers they would have only received the amendments from the Hon. Mr Darley and the Greens—

**The Hon. T.A. Franks:** Some of them made copies, so I imagine they might.

**The Hon. R.I. LUCAS:** I beg your pardon?

**The Hon. T.A. Franks:** Some of them have copies themselves.

**The Hon. R.I. LUCAS:** Well, then they will probably agree with those. We will be interested to receive them, and we have asked the minister and his advisers to indicate whether they will be supporting any of the amendments that have been tabled by the Hon. Mr Darley and the Greens. We have today circulated copies of those amendments to stakeholders seeking urgent responses from stakeholders before that continuation of debate at 11 o'clock tomorrow. We have had a quick response from a couple of employer groups but a number of others have not yet responded, and that is understandable in terms of the short turnaround time. For all those reasons, it makes sense to proceed as has been outlined by the minister and by other members as well.

I want to address some general comments at clause 1 because, whilst we will not be debating particular amendments, I think there are some issues that we can explore at clause 1 which will expedite passage of the bill during the actual clauses that are addressed. Some of these issues I have already raised with the government and its advisers. I seek when the minister responds tomorrow to be able to put formally on the record some of the information that has been provided to me as a result of questions I have asked since the last sitting of the parliament. One or two of the questions are actually new questions as well.

The first couple of points I want to make are in response to the minister's response to the second reading—and also I think to some comments made generally and reinforced by the Hon. Tung Ngo in his contribution at clause 1—and that is in relation to the lack of engagement from the union movement in South Australia. I addressed some comments during the second reading and I will not repeat those.

The only point I would make in response to what the Hon. Mr Ngo has put on the record is that if, as he indicates and the government has indicated, the unions are either happy with or prepared to support the position of the government in the interests of compromise and reform of WorkCover, it is entirely possible for the union representatives to actually express that view to members of parliament as well. They do not actually have to come in and say, 'Hey, we are opposing the bill. It is the worst thing that the Labor government has ever done.'

If they are actually adopting the position that is suggested by the government and some of its advisers that there are elements of the bill that have led to them to believe that they are prepared to support the legislation, then there would have been nothing wrong, in our view anyway, in them responding to the requests for comment from those of us who asked them for comment by saying, 'It ain't the best thing in the world, but we are prepared to accept it for these particular reasons.' It appears that all of us, or most of us, have been ignored from that viewpoint. We have requested comment and have received virtually nothing from unions. That is, I think, the point to be made in relation to the lack of engagement of unions on behalf of workers in South Australia.

The second point I make is in response to one of the issues that mainly the Hon. Mr Brokenshire raised, and about which I made some comments, in the second reading. It is an issue that I have addressed for four or five years and relates to former board member Sandra De Poi and the access of her companies to a significant degree of contracts over a long period of time with WorkCover. This is an issue that I have pursued for a number of years, I think going back to the Statutory Authorities Review Committee inquiry into WorkCover in about 2007, an issue that had been raised by many people in the rehab industry, the union movement and a number of other stakeholder groups as well.

I do not intend to go back over all the detail of that, other than to quickly record the extent of the contracts that Ms De Poi's companies enjoyed from WorkCover during that period, as recorded by the Auditor-General's Report: in 2007-08, total contracts to the value of $2.7 million; in 2008-09, total contracts of $3.1 million; in 2009-10, $5.9 million; in 2010-11, $8.4 million; in 2011-12, $8.6 million; and in 2012-13, $4.3 million; so a total over those years of around about $33 million worth of contracts.

The minister and the government's position all along—and the minister repeated it again, so I make no specific criticism there—says that the Auditor-General has recorded in a number of reports in the following terms; that is, WorkCover Corporation found that the terms and conditions of Ms De Poi's contracts were 'no more favourable than those available, or which might reasonably be expected to be available, on similar transactions to non-board member related entities on an arm's length basis'.

The point that I have made previously and I make again today is that that begs the real question, which is that the particular allegations that were being made were not that the details of the contract Ms De Poi was receiving were different but that it was through personal contacts and arrangements through the then claims manager or senior people in EML management that contracts were being awarded to Ms De Poi's companies to a much more significant degree than other providers, and that that was on the basis of connections that Ms De Poi's companies had with a senior manager within EML at that particular time.

The oft quoting of the Auditor-General's reports, as if that resolves all the issues, misses the significant point that those who complained about the arrangements at the time continue to complain about the arrangements made in relation to those particular contracts. I do not intend to pursue that issue now, but I just wanted to respond quickly to the indication on the public record that there was to be no further correspondence entered into in relation to that issue of Ms De Poi's access to a significant degree of contracts.

On other issues, the minister, on behalf of the government, has just read onto the public record two particular statements. The first one is on behalf of the WorkCover board, and that relates to the very significant issue of the removal of the industry caps. This has been raised in public debate, it has been raised in the second reading debate. The current bill proposes the removal of industry caps. As drafted, this bill would mean that a small number of employers in industries like the racing industry, meat processing industry, and some of the heavy metal industries as well, from 15 July next year would see a very significant increase in WorkCover premiums as a result of the instant removal of the industry cap.

Some of those increases, we are told, would be so significant that a number of employers may well have their future existence threatened; that is, they may well go out of business in a short space of time, given the significant size of the WorkCover premium increase. Credit goes to a whole range of people, particularly a number of the employer organisations (Business SA, the Australian Industry Group, and a whole range of others as well), which have engaged in fruitful discussions with the government and WorkCover on this issue. We raised the issue in the second reading and indicated that we were contemplating amending the bill to provide for a compulsory transition period of five years, or up to five years, for the removal of the industry cap unless the government could indicate, together with and on behalf of the WorkCover Corporation, the implementation of such a policy.

What we have heard this afternoon from the minister in this chamber is the announcement of a policy decision from the WorkCover Corporation, which will mean that the minister for WorkCover will not have to issue a ministerial direction to the board, which, I think, if push came to shove, he may well have been prepared to contemplate, but would have preferred not to. The board has made a sensible decision. I do not have the exact words—I heard what the minister was reading out, but I will have a look at it overnight—but my recollection of the words is to, in essence, implement a five-year transition period for the removal of the industry cap, which will mean that those industries over a period of time will have to prepare themselves for the eventuality that they will have to significantly reform their work performance and their activities or else they are going to have to financially prepare themselves for a very significantly increased WorkCover premium rate, potentially, over that five-year period.

Given that a significant number of these employers would appear to be, potentially, in regional areas as well (meat processing is certainly likely to be concentrated in regional areas, the racing industry will obviously be both regional and metropolitan), it will be important for those industry sectors and employers in those industry sectors—and we have been told the estimate is about 99 employers who might be impacted—to begin to prepare for change over that five-year period. The Liberal Party, on the basis of that undertaking from the WorkCover Corporation, will not be moving amendments in that particular area.

The next area that I want to address is the issue of SACAT and the employment tribunal. I will address some comments to this in the Employment Tribunal Bill, as well. In summary, as we outlined in the second reading stage, the Liberal Party parliamentary party room had a very strong view, and some significant people within the parliamentary party room had a very strong view that we could not and should not support the transfer of the jurisdiction from the Workers Compensation Tribunal to the employment tribunal; and that particularly in a climate where the government was getting rid of 100 plus boards and committees, why would the government be not taking the opportunity to transfer the jurisdiction to SACAT?

It is fair to say that the government's position has been to strongly oppose that. We have had amendments drafted along those lines. We had further consultation and we also met with Judge Parker from SACAT in relation to the issue of the practicality of a start-up date from July of next year. Without, at this stage, placing on the record all of the details of those discussions—because they can come perhaps in the detailed section of the clauses in the Employment Tribunal Bill as well—the Liberal Party room has adopted what we believe is a compromise position in relation to this transfer, recognising the argument that the minister has put publicly, that it was just impossible to achieve this by July 2015; that it might have been possible in the medium term to transfer responsibility; and that is broadly the same position that Judge Parker put on behalf of SACAT, whilst recognising ultimately that it is up to the parliament to decide what it wishes to do. However, when asked for advice that was the general nature of the advice that he provided.

On that basis, we have tabled amendments today which we ask the crossbenchers and other members in this chamber, including the government, to consider as a genuine endeavour to compromise from our original position of an immediate transfer. This will be a transfer recognising that it cannot occur straightaway but not until July 2018, a period of 3¾ years almost from today—a transfer period. That is generally the time frame that Judge Parker and a number of others, who are familiar with the jurisdiction, have indicated would be a reasonable period to allow SACAT to do all the other things that it is being asked to do, and then be ready to accept responsibility for this particular part of this particular bill.

We will debate that and we have tabled those particular amendments. I think there are seven or eight pages of amendments, but just for the benefit of crossbench members, all of the amendments, with the exception of one, relate to that simple policy issue—that is, transferring responsibility 3½ or 3¾ years down the track to SACAT.

The only other policy issue that we canvass in our amendments is a simple one, I think in relation to clause 137 of the bill or around about there, where the current bill requires the WorkCover board, if it cannot meet the 2 per cent average premium target in any particular year—if the GFC has just descended again on the world economy or whatever and the WorkCover board makes a decision that it cannot meet a target of 2 per cent average premium or less, in those circumstances it has to provide a report to the minister indicating why it has not been able to meet that legislated target, and also to indicate how it sees the potential for meeting the target in the following year.

Our simple amendment is that that particular report from the WorkCover board to the minister should be tabled in parliament within six sitting days. In my discussions with the minister he has indicated that it is likely that the government would be prepared to support that particular amendment so it may well be that it is not an issue of dispute between the government and the Liberal Party on that amendment. For the benefit of crossbench members, they are the only two policy issues at this stage that the Liberal Party has canvassed by way of amendment.

I indicated earlier that we had canvassed the possibility of an amendment in relation to a transition period for the removal of industry caps. The other area where we had been consulting

about potential amendments but have decided not to proceed is in relation to a particular lobby that group training organisations, through Group Training Australia, had raised through my hardworking colleague the member for Unley, as the shadow minister responsible for this area. The Liberal Party had amendments drafted. We consulted on those with a significant number of employer groups and, suffice to say, in the end, there were a number of reasons why employer groups argued against the Liberal Party proceeding with these amendments.

The more significant arguments that were put to the Liberal Party were, first, to address what Group Training Australia argued was the issue where host employers are not really the employers of the apprentice or the trainee: the group training organisation is. If an apprentice is injured working with a host employer, the apprentice can sue the host employer for negligence and, whilst the injured apprentice might have received, say, $50,000 in medical expenses and income maintenance from WorkCover, if the injured apprentice is then successful in legal action in suing the host employer and gets a payment of $200,000, under the current act WorkCover recovers its $50,000 from the payment and the injured apprentice gets the $150,000 difference.

Group training organisations were arguing that this was impacting on host employers—their access to public liability insurance and the premiums that they might have to pay for that, and there were a lot of related issues that I will not go into that they raised with the member for Unley and the Liberal Party.

As I said, we explored those issues in great detail but virtually all of the other employer groups came back and said, 'If you are going to make changes to the benefit of group training organisations here in relation to the particular legal position of having host employers, you will have to do exactly the same thing with other industry sectors such as the labour hire industry and the construction industry.'

For those reasons, we certainly did not propose to go down that particular path. We have given an overall commitment not to move amendments or make changes to the bill which will make it harder to achieve the 2 per cent or less average premium target and to remove the $1.1 billion unfunded liability; and these particular amendments, if we were to pursue them, and their flow-on implications, potentially might have impacted in that particular area.

The government and WorkCover also—and we thank them for the detail that they provided us—did indicate that the scheme already provides significant financial subsidies and support to group training organisations to encourage them to employ apprentices and trainees, and did indicate that the equivalent to WorkCover in virtually all other jurisdictions did have the power to recover costs in the sort of circumstances that were being canvassed. For those reasons, and for others, whilst we have consulted with the business groups, and some members might become aware that draft amendments had been circulated, the Liberal Party has decided that it will not be proceeding with those amendments.

**The Hon. R.L. Brokenshire:** You will or you won't?

**The Hon. R.I. LUCAS:** We will not be proceeding. So, for the benefit of the Hon. Mr Brokenshire, we are addressing only two policy issues in our amendments (and I think I have indicated that in an email to the Hon. Mr Brokenshire): the issue of SACAT and the issue of the tabling of reports—

*The Hon. R.L. Brokenshire interjecting:*

**The Hon. R.I. LUCAS:** On a delayed basis to July 2018. I am happy to speak to the Hon. Mr Brokenshire on that issue after my contribution.

**The Hon. R.L. Brokenshire:** That's a long way away.

**The Hon. R.I. LUCAS:** It is indeed, but it is for the reasons I have already outlined (I will not repeat them). However, I am happy to have a discussion with the Hon. Mr Brokenshire after my contribution. The other area I should address is that the minister made another statement on behalf of the government and WorkCover today. I will perhaps leave the detailed discussion on this issue to the amendments the Hon. Mr Brokenshire has moved, but in the second reading explanation I did raise the issue of groups that worked on behalf of supporting injured workers.

I also raised the issue that what used to occur, back a number of years ago, was a regular stakeholder forum where groups like that—and others, union representatives and others—were able to meet on a regular basis with WorkCover management to raise issues or concerns they might have about the general operations of WorkCover. It also provided the opportunity for WorkCover management to outline to those groups—unions, and those who advocate on behalf of injured workers—major changes, policy directional changes, that WorkCover might be implementing or particular issues that were confronting WorkCover at any particular point in time.

In our discussions with the government and WorkCover we sought some commitment from the government to, in essence, reinstitute that. Whilst I do not have conveniently in front of me the precise form of that, the minister has today put on the public record a commitment to the reinstitution of a stakeholder forum which will incorporate those who advocate on behalf of injured workers and allow them an opportunity to put a point of view. When we get to the debate on that particular issue I know the value of that will become apparent.

I know a number of letters have just recently been sent to minister Rau from one of those groups, letters dated on 12 and 13 October sent from Work Injured Resource Connection Incorporated, raising a series of questions about this bill and the new scheme, and the impact on injured workers. The letter of 12 October, for example, talks about seeking clarification in regard to the transition of injured workers from the current scheme to the new process. It states:

> My reason for writing is the large number of injured workers who have been contacting me in regard to what they are being told by the claims agent in that as of midnight June 30th 2015 if the injured worker is over 130 weeks their compensable claim will cease. There is a massive amount of confusion in regard to what the process will be.

Clearly, when there is major change there is concern, particularly among groups of injured workers, their families and friends, and I think these sorts of issues can be handled through a forum like this where, on a regular basis, issues can be raised.

It might mean that the minister of the day does not get quite as many letters from people advocating on behalf of injured workers if management at WorkCover, on a regular basis, is meeting with those who do have questions. They can raise issues and, hopefully, management can raise with these groups (unions and those who advocate on behalf of injured workers) and say, 'Okay, this is the change we're implementing. We're going to have a new rating system,' or, 'We're going to be paying rehab providers under a new contract,' or whatever it might happen to be.

That forum will give the opportunity for both information and education to be provided to some in these particular stakeholder groups and equally, as I said, for them to be able to raise questions and hopefully head off some of the misinformation that eddies around any major change that goes on. We can address the detail of that in the particular amendment the Hon. Mr Brokenshire is moving. I did indicate that we were seeking a commitment along those lines and we welcome the announcement from the government today.

I need to place on the record now that the Liberal Party in the House of Assembly did indicate that it would not oppose the three new sets of government amendments moved to the original bill on the basis that we had not had an opportunity to consult with industry and we would reserve our position in the Legislative Council. I place on the record now that we have advised the government that industry groups have indicated their support for those original three sets of amendments which are incorporated in the bill we have before us now, and we will be supporting those aspects of the bill that are currently before us.

In relation to the three new sets of amendments the government is now tabling, I think since the introduction of the bill in the House of Assembly there have been six separate sets of amendments moved by the government to its own legislation. In relation to the three most recent sets of amendments, thus far the response we have had from employer groups is—and if I can separate out the CFS cancer compensation for the moment; the other two sets—to support them. So, the Liberal Party's position is to support them.

We have had no opposition from unions or anyone else to those particular amendments either; we have had no opposition from anyone to those amendments at this stage. Subject to not receiving any strong opposition from any groups before we can recommence the debate at 11am

tomorrow, our intention will be to support those two further sets of amendments the government has made to the bill in the Legislative Council.

The sixth and final set of amendments are the CFS cancer compensation amendments, which have been tabled as well. My colleague, Dr Duncan McFetridge, has contacted the CFS volunteers in relation to these amendments. They have indicated to him, and to the Liberal Party, that they support the government amendments and would like the Liberal Party to support their inclusion into the bill. There was an alternative that the government could have introduced separate legislation, which would mean a slightly longer delay before that could have been introduced and passed through both houses of parliament. The Liberal Party's position, on the basis of the advice we have received from the CFS volunteers, is to support the CFS cancer compensation clauses.

I do put a question to the government, however, and it is similar to questions the Hon. Tammy Franks has put; that is, that the costs of this particular package are significantly less than what the claimed costs of the package were to be that the Liberal Party and others canvassed prior to the state election. We are interested in seeing on the public record a response from the government to the actuarial advice it has received as to what particular aspects of the scheme have resulted in the significant reductions in the estimated total annual cost of the CFS cancer compensation. So I flag, together with the Hon. Tammy Franks, our wish to explore that during those particular clauses, and we would hope the government would be ready when we debate that tomorrow potentially to answer questions in relation to specifically what aspects of the new arrangements have led to the significant reduction in the estimated cost of the scheme.

An issue I have raised privately with the government, and I wish the response to be placed on the public record, is the removal of the position of the WorkCover Ombudsman. My questions to the minister and to the government are: given the removal of this position, what was the current contractual arrangement with the WorkCover Ombudsman; that is, was he on a five-year contract and, if he was, how much of that period was left to run, and what are the termination arrangements in relation to the current incumbent for the position if this bill passes?

My understanding from the discussions with the government is that if the bill passes, the only payment the WorkCover Ombudsman will receive will be any accrued long service leave and untaken recreation leave, but I want to see on the public record the government's response to that particular question. I also ask whether, given if the bill is passed that position disappears, has any alternative offer been made to the current incumbent? Does he have a long-term position within the state public sector within any government department or agency once this position is abolished and, if he does not have a long-term position to return to, has the government made any offer to him of alternative employment with any government department or agency once the bill has passed?

The other issue that I want to place on the public record, and I will seek some answers, is in relation to the issue of claims management contracts. This is an issue that has had a long history as well. The Liberal Party's position dating back to 2006-07 when the government installed a monopoly claims manager, was to oppose that particular position and support a position of competition in terms of claims management. We were critical at the time of the very big increase—and I think I made comment in the second reading so I will not repeat it—in claims management costs which jumped from $25 million in 2007 to $48.9 million in 2009.

The Auditor-General's figures, as I read them since that big jump to $48.9 million in 2009, have shown that in the following year, 2010, it was $44 million and then in 2011 it dropped to $31 million. In 2012 it jumped to $42 million; in 2013 it jumped to $44 million; and in 2014, the most recent year, it actually jumped to $65 million in claims management fees being paid to EML and Gallagher Bassett. So the total claims management fees in the space of seven years have jumped from $25 million to $65 million. That is a very significant increase, and I seek a response from the government and from WorkCover as to the reasons for the $21 million increase in claims management fees from one year to the next, from 2013 to 2014.

That is an increase of almost 50 per cent in one year in the claims management fees. Under the new scheme it would appear that there should be a significant reduction in claims management fees, because under the new arrangements there will be much less required of claims managers. I

seek a response from the government and from WorkCover as to what they believe will happen to claims management fees should this bill pass.

I guess the first issue I ask is: what is the estimate for claims management fees for this year, 2014-15, because that will all occur under the current legislation? It will not be until 2015-16 that we will see the impact of the new legislation. Are the government and WorkCover anticipating total claims management fees in 2014-15 around the $65 million that was paid in 2013-14 and, if so, why is that the case? I then assume that the government and WorkCover will be seeing, potentially, a significant reduction in claims management fees under the new scheme. Each year the Auditor-General will report on this, so we will have a chance to monitor it.

I also ask whether WorkCover has commenced discussions or negotiations with claims managers about the arrangements to be entered into for 2015-16. My understanding is that they have commenced. I also understand from discussions I have had thus far with WorkCover representatives that there will be some things that WorkCover will not be able to put on the public record as a result of commercial confidentiality. I recognise that that is the case, but I think that the parliament should be able to ask these questions and we should be able to receive some general information from the government and from WorkCover about the expectations for claims management and whether or not there are discussions about claims managers taking on other roles in relation to workers compensation management.

I put those questions to the government and minister today and would like to explore them during the appropriate stages later in committee. That is a general indication of the Liberal Party's approach to the committee stages of the debate. By raising a number of those issues at clause 1, given that we are about to report progress, I assume, from our viewpoint that will mean that in a number of those cases we will not need to address them in any great detail on the specific clauses later in the debate, and we hope that will help expedite the committee stages of the debate tomorrow and Thursday.

**The Hon. I.K. HUNTER:** I thank honourable members for their contributions and cooperation during the debate. Given that we will address this issue again tomorrow, I suggest that we report progress.

Progress reported; committee to sit again.

## SOUTH AUSTRALIAN EMPLOYMENT TRIBUNAL BILL

*Second Reading*

Adjourned debate on second reading.

(Continued from 16 October 2014.)

**The Hon. R.I. LUCAS (17:19):** I rise to speak only briefly to the Employment Tribunal Bill because personally I have treated the debate in the Return to Work Bill as a cognate debate—although I know it is not technically that—and we have addressed our comments on behalf of the Liberal Party during debate on the Return to Work Bill. In speaking briefly to this bill, we indicate that our general position is as we have outlined in the Return to Work Bill, that reluctantly we have adopted a position where we will see a role for the employment tribunal for a period of three years through until July 2018, but we have drafted amendments and circulated amendments so that the work of the employment tribunal would conclude in July 2018, and it will be transferred to the SACAT in July 2018.

I outlined the reasons for that in clause 1 of the committee stage of the debate, and I will not repeat them again here for the moment, but for those who just read this particular debate I indicate again that our preferred position was to transfer this to SACAT from July 2015. For a variety of reasons as I have outlined in the Return to Work Bill debate, we have accepted the advice to us that it will be more sensible not to do it in July 2015 but to delay it to July 2018 and we will adopt a consistent position obviously in this bill as we have outlined in the Return to Work Bill.

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

## STATUTES AMENDMENT (SACAT) BILL

*Committee Stage*

In committee.

(Continued from 14 October 2014.)

Clause 98.

**The Hon. J.A. DARLEY:** I move:

Amendment No 1 [Darley–1]—

Page 36, line 16—After '(and' insert:, 'subject to subsection (11),'

This amendment is a test clause for all six amendments which deal with the same issue. As such, I will speak on the package of amendments as one. The first amendment is very straightforward. Clause 98 of the bill sets out the transitional provisions. Subclause (9) provides that the Guardianship Board is dissolved by force of this subsection. Subclause (10) goes on to provide that a member of the Guardianship Board, holding office when subsection (1) comes into operation, will cease to hold office at that time and any contract of employment, agreement or arrangement relating to the office held by that member is terminated by force of this subsection at the same time and no right of action will arise against a minister or the state on account of that termination.

Amendment Nos 3 to 6 afford the same protection to members of the Residential Tenancies Tribunal and members of the Housing Appeal Panel respectively. In all three instances the aim of the amendments is to preserve a member's right to take action for compensation on account of the early termination of their contract.

It is important to note that these provisions would only apply to those members who have not accepted positions with the newly established SACAT and who, but for the provisions of this bill, would still have an unexpired contract of employment. In my view, the relevant provisions of the bill as presently drafted are fundamentally unfair, as they result in the loss of any entitlements that a member of the Guardianship Board, the Residential Tenancies Tribunal or the Housing Appeal Panel would otherwise have been entitled to under a contract of employment.

They are akin to the government's amendments to the Education Act, whereby it sought to retrospectively remove entitlements for temporary teaching staff. Just because the government has chosen to restructure does not mean that public servants, some of whom have dedicated years of their time to their job, should miss out on what they would otherwise be rightly entitled to, especially given that there is no cause for their termination. With that, I urge honourable members to support this package of amendments.

**The Hon. G.E. GAGO:** The government rises to oppose this amendment. The government made the decision not to roll over existing members into SACAT, instead calling for applications for membership. All existing members are invited to apply for positions within SACAT. Whether the members applied was obviously a matter for them. The president of the Guardianship Board and the presiding member of the Residential Tenancies Tribunal are statutory appointments, as opposed to executive SACE appointments.

The government has received crown advice that the existing president of the Guardianship Board or the presiding member of the Residential Tenancies Tribunal would not be entitled to any financial compensation in the event that their appointments end following the commencement of SACAT and the abolition of the relevant tribunal. The measure in the bill removing entitlements was included out of caution, so as to remove any room for argument.

Preliminary advice indicates that mere delegation of that provision may not overcome the usual principle that when a statutory office is abolished by statute the appointment comes to an end without the incumbent having any entitlement to compensation. The end result might be that the statutory removal of the entitlement is simply deleted from the bill. There may be room for argument as to what are the incumbent's entitlements, therefore the drafting approach in the bill has attempted to put this matter beyond doubt. For those reasons we oppose this amendment.

**The Hon. R.L. BROKENSHIRE:** I ask the minister, and in asking the minister I make these few remarks. I find the hypocrisy of the government absolutely amazing on these sorts of issues. We have a Mr Worrall, whom the new Premier did not want to have anywhere near him, who goes to the university to do something that none of us can really work out, and he is looked after and accommodated like you would not believe so that he does not cause a problem for the government. He is still on $300,000 a year.

Loyal, committed people who are dedicated and do an exceptionally good job in an area like guardianship, which is so complex, do not cause any problems for the government, but when the government realises that it has caused its own problems and inefficiencies for such a long period of time, it decides that it needs the money from the Guardianship Board to fund what it is about to put before the parliament.

The board acts in the interests of those vulnerable people, some just over 18 years of age, who have been physically, mentally and sexually abused, and are cared for and looked after in a democratic process. There are others who, sadly, have mental health issues, Alzheimer's and the list goes on. That is where the care and management was out there and because they are actually genuine and passionate about what they are doing and stand up to the government and put a point of view forward to say that they do not believe the Guardianship Board should be put into SACAT, they are done over by the government.

I put those words on the public record, and I ask the minister to precisely advise the house whether or not there were any clauses within contracts particularly for people like the only one who is in a permanent position, that is the presiding officer, to advise whether or not there was any clause in there that if the termination was to occur early there would be adequate remuneration and/or compensation for that. Otherwise, I see it as a disgusting situation. I also say that, again, a government that purports to look after the worker, proper industrial relations and fairness speaks one way and acts another.

**The Hon. G.E. GAGO:** I am advised that the president does not have a contract. It is a statutory appointment, and the terms of appointment for the president are set out in the Supreme Court Act, as they are for all judicial appointments to the Supreme Court.

**The Hon. S.G. WADE:** In that context, has the minister seen the document called 'Contract of Employment as an Executive—Statutory Appointment, Guardianship and Administration Act 1993', which purports to be a contract between the Hon. John Rau, Attorney-General of the state of South Australia and the president of the Guardianship Board, dated March 2013?

**The Hon. G.E. GAGO:** I will need to take that on notice. At the moment, we are waiting for an officer who can provide some information about that. At present, we do not have advice.

**The Hon. M.C. PARNELL:** I will make my brief contribution now. I guess the minister, on a very rare occasion, is at a disadvantage, because everyone else in the room has that contract. Just to help her understand it, clause 15 of the contract is one of those standard type of clauses for positions of this nature, and it is headed 'Removal from or vacation of office'.

It makes it clear that there are only very limited circumstances in which a person's tenure can be ended, and they include things like mental or physical incapacity, neglect of duty, dishonourable conduct or death. If a person completes their term of office and they are not reappointed they have no rights. They can resign but there is no other procedure, to my understanding, whereby the government can unilaterally end a fixed-term contract of employment.

I noticed the Hon. Stephen Wade said the heading is Contract of Employment as an Executive—Statutory Appointment. The wording of the Hon. Mr Darley's amendment uses the words 'the termination of a contact of employment'. My way of thinking is that the Hon. John Darley's amendment refers to this particular contract and perhaps others, as he has alluded to.

I would like to put some remarks on the record in relation to the merits of the issue. It is unfortunate that we should primarily be talking about positions rather than individuals, but the starting point is the government's decision some time ago to bring in a new broom and to make a clean sweep of all the positions, and that is something that it was entitled to do. Normally the government cannot do something like that in the Public Service without wearing the consequences of it. If it is not

going to honour people's contracts of employment it needs to provide some redundancy or some entitlements.

At its most basic level I think what this bill that we are dealing with does is to seek to get the government off the hook in relation to the industrial obligations that it would have in any other situation. It has said that by the passage of the SACAT Bill the Guardianship Board is abolished and that therefore all the people who had tenure under that board, their tenure is abolished at the same time. So, effectively, what the government is doing is asking the parliament to do something that it, as an executive, could not do itself. From an industrial point of view, I think that is an appalling way to behave.

The minister acknowledged in her opening remarks that the advice that she has from crown law is that the consequence of the bill we are debating is that there will be no entitlements for those people who are losing their jobs. The Hon. John Darley's amendment does not specify what those entitlements might be but certainly says that they have the right to seek some redress for the untimely cancellation of their contracts.

I think it is important to get some sort of perspective as to what the nature of this employment is, because these positions, being statutory appointments (effectively ministerial appointments) are an interesting hybrid between a member of the judiciary and a member of the Public Service. In fact, I describe them as quasi-judicial positions. My evidence for that is that the remuneration paid to the presiding member of the Guardianship Board is linked to that of a stipendiary magistrate. It is clearly the government's intention that this person be regarded as of that same rank. When the stipendiary magistrates get a pay rise, the person holding the position of the presiding member of the Guardianship Board gets a pay rise.

They are also similar to public servants, for example, in relation to annual leave—so recreation leave, personal leave, long service leave. The contract stipulates that the president is entitled to that leave 'on the same basis as persons employed as executives in the Public Service', with the only exception being (as I can see it) that the president is not entitled to a leave loading. However, in all other respects they are, effectively, public servants.

There are conditions of the contract that preclude the presiding member of the Guardianship Board from engaging in legal practice; they are to devote themselves full-time and with due diligence to the office of the position. I think that it is unreasonable for the parliament to effectively do the executive's dirty work and see positions such as this ended with no entitlement to any redundancy or, in fact, any entitlement at all.

I would also point out that, on the information I have, the current president of the Guardianship Board was appointed on the 25th day of March 2013 for a five-year term. My search of the *Hansard* and media records shows that it is approximately six months later that the Attorney-General is first talking about abolishing the Guardianship Board and transferring it to SACAT. The minister will not be able to answer the question so maybe I will just put it as a hypothetical.

In the interview process with Mr Moore being reappointed for a second five-year term—obviously, they were satisfied with his first five-year term and appointing him for a second five-year term—if they had said to him, 'We are signing you up for five years but do you know we are going to abolish the position?', maybe he would say, 'Maybe I'll go back to my legal practice.' But I bet you that in that interview situation they did not say, 'In six months time we are going to be talking about abolishing your position.'

I also do not believe, just because I have managed to find the first reference on the public record, that public servants and people in the minister's office did not know prior to 25 March 2013 that this was on the cards. It may be that that is vehemently denied but it seems to me that projects such as this take a long time to bring to fruition. It may be just coincidence but I have trouble believing that. I think it is unfair in the extreme to allow someone to believe that they are being signed into a five-year term and then six months later start talking about abolishing their position through legislation with no compensation.

Unless there is some new information that the government can provide, such as the fact that Mr Moore, for example, was fully apprised at the time he reapplied for the position of the fact that his job was not going to last five years, that might put a different slant on it, but there has been no

information of that sort brought forward, so it seems to me that, from an industrial point of view in terms of natural justice, the Hon. John Darley's amendments go a fair way towards redressing an unfortunate wrong that is perpetrated in this bill.

**The Hon. G.E. GAGO:** I have some advice in relation to the question that the Hon. Robert Brokenshire asked. I have been advised that Mr Jeremy Moore was appointed as President to the Guardianship Board by the Governor in Executive Council. Whether the contract of employment was attached to that cabinet submission in 2013 is uncertain, so that confirmation will need to be taken on notice.

In relation to the question that the Hon. Mark Parnell has just asked, I am also advised that we are bound by statute to appoint Mr Jeremy Moore for five years, but in relation to other details about what was discussed I do not have that. I would have to take that on notice as well.

**The Hon. S.G. WADE:** On the answer the minister has just given, I accept the point the government makes that it may be bound by statute to appoint for five years, but it is not required to also do a parallel contract. There is certainly no statutory requirement that a parallel contract be for five years. The Hon. Mark Parnell has made the point that was signed on 25 March 2013, six months before the matter was raised in the parliament, as I understand it. I can almost recall that being raised in the parliament

**The Hon. M.C. Parnell:** It might have even been in estimates.

**The Hon. S.G. WADE:** Yes, it may well have been, which would have been June whereas this is March. But let us put it this way: the Attorney-General had indicated for some years that he had been thinking about a SACAT so I do not think it is beyond the realms of possibility that when the contract was signed the government did not think it was a reasonable prospect that they would be looking to roll this body into SACAT.

Having made that comment about the minister's response and Mr Parnell's comment, I might take the opportunity to indicate the Liberal Party's position. The Liberal Party will be supporting the amendment of the Hon. John Darley. We are not willing to aid and abet the government in using the force of law to extinguish the legal rights of individuals which the government does not think the person has but just cannot be bothered taking the risk of having that person pursue those legal rights in the courts of law.

The government is asking this parliament to use its legislative power to override existing contractual agreements. In that context I bring the attention of the committee to a letter from Mr David Meyer, a barrister and solicitor. The letter was to the Hon. Jay Weatherill, and I understand it was written on behalf of Mr Moore. It is in relation to this bill, and it says:

> The government's bill to terminate the contract of the President without compensation is a stunning example of 'sovereign risk'—something that you may expect from a third world dictatorship, but not from an Australian state legislature that purports to govern in accordance with long-term conventions and respect for the rule of law. Why would good candidates put themselves forward for government contract positions, if the government demonstrates that it will terminate such contracts at its pleasure, without compensation?

I appreciate that the law in relation to statutory officers may well be another matter, but the government is expecting the parliament to cooperate with its unilateral withdrawal from the commercial arrangements, and the Liberal Party is not willing to be party to that.

**The Hon. B.V. FINNIGAN:** I support this suite of amendments. It is an unusual situation because, normally speaking, my approach to a statutory appointment would be 'as Her Majesty giveth so may she take away', but there is this element where it has been characterised formally as an employment contract. Given the nature of the appointment, I think it is justified that these amendments be passed. While the president of the Guardianship Board and other officers are not judicial officers (because that would put them in a different category) they are quasi-judicial, and you have been asking them to make very serious decisions which affect people's lives in a most profound way.

To allow parliament to say, 'Because we have changed the structure of how these matters are administered, your appointment is terminated and there is to be no compensation in respect of the term you would have otherwise served,' would, I think, be a very dangerous precedent. You would

not want to get into a situation where a government might say, 'We're really not happy with the decision that such and such board is making; let's roll that into another administrative body and that way we'll be rid of those pesky current appointments.'

I am not suggesting for a moment that that is what has occurred on this occasion. I make no reflection at all on that, but, in principle, while normally a statutory appointment may be revoked by the Governor in the same fashion as the appointment was made, I think this is in a different category because of its quasi-judicial nature, because of the characterisation given to the president and others as a contract of employment.

I do not know if it was first contemplated that SACAT would handle the current responsibilities of the Guardianship Board, but I certainly know that SACAT has been in gestation since about 2010. So while the decision to include the Guardianship Board's responsibilities and abolish it may be relatively recent, I agree with other honourable members that it would certainly seem odd that a contract would be entered into in 2013 for five years without some inkling that a very major change to the structure—that is, abolition—was contemplated.

Whether or not that was contemplated at that time I do not know, but it is not beyond the realm of possibility and reasonableness that that sort of communication would have been made at the time, that, 'While this is a five-year appointment, we are seriously contemplating the rolling of your responsibilities into a new administrative body.' I support the amendments.

**The Hon. R.L. BROKENSHIRE:** I have a couple of points I would like to put on the public record. As the Hon. Mr Finnigan said, this is not strictly a straight statutory appointment. I have deliberated on this for some long time. I was waiting to hear what the government had to say. I think it is appalling that a person's situation for fairness and democracy has to be sorted out by the chamber, but that is the only way it is going to be sorted out, as I can see. Why the parliament has to micromanage basic issues is beyond me, but it appears that we have to in this case, for justice.

I wonder where justice is going in this state when it comes to the government's attitude to employment. We saw the Public Sector Management Act the then minister (now Premier) brought in, which was very draconian against workers, and now we see a situation like this. I know for a fact, having talked to the presiding officer, not initially over this matter but over the matter of whether or not there was any discussion with the Guardianship Board with respect to SACAT, that the answer was no, there was no discussion. They were kept out of the loop, as I understand and recall my conversation when I started to check to see who was involved in consultation. Clearly, we had other members concerned because my colleague the Hon. Mark Parnell actually raised the issue of consultation, as I recall, and it was delayed for some period of time.

Can I say and put on the public record that one thing I definitely do know is that somebody who is not only a qualified lawyer but an experienced lawyer who takes on the role of the president of the Guardianship Board would have actually checked to see what the situation was when they had an extension for five years and would have known that they had a contract. I find this a deplorable and very poor situation and badly advised by whoever was advising the Attorney-General in this case. It is not the problem of the Leader of Government Business here, but it is a problem for the government.

I say to the chamber that Family First will be supporting the Hon. Mr Darley's amendment. Whilst we have made a commitment thus far to support the third reading, I would put it to the chamber that Family First would have to reconsider, if this matter is not sorted out between the houses, whether we would support the third reading of the bill.

**The Hon. S.G. WADE:** I thought the way the Hon. Robert Brokenshire put it then, highlights the invidious position this parliament has been put in. If I recall the words the Hon. Robert Brokenshire used, he said, basically, the parliament has to step in and adjudicate and provide justice in this situation. To me, that is chilling. We are a parliament. We are separate from the judiciary. It is not, within the context of the separation of powers, for this government to say, 'We don't think this person has got legal rights, but you as a parliament have to extinguish them just in case.' It puts us in a position of having to adjudicate on the justice of that claim and that puts us in the position of the courts and it is an affront to the separation of powers. I think the Hon. Robert Brokenshire makes a strong case for why the Hon. John Darley's amendments must be supported.

Amendment carried.

**The Hon. J.A. DARLEY:** I move:

Amendment No 2 [Darley–1]—

Page 36, after line 17—Insert:

(11) The termination of a contract of employment under subsection (10) does not affect any right of action that a person employed under the contract may have against a Minister or the State on account of that termination, being a right that relates to the payment of compensation on account of the early termination of the contract.

(12) Subsection (11) does not apply in relation to a person who, on the commencement of this subsection, has been appointed as a member of the Tribunal.

Amendment carried; clause as amended passed.

Clause 181.

**The Hon. J.A. DARLEY:** I move:

Amendment No 3 [Darley–1]—

Page 57, line 17—After '(and' insert: ', subject to subsection (8a),'

Amendment No 4 [Darley–1]—

Page 57, after line 18—Insert:

(8a) The termination of a contract of employment under subsection (8) does not affect any right of action that a person employed under the contract may have against a Minister or the State on account of that termination, being a right that relates to the payment of compensation on account of the early termination of the contract.

(8b) Subsection (8a) does not apply in relation to a person who, on the commencement of this subsection, has been appointed as a member of the South Australian Civil and Administrative Tribunal.

Amendments carried; clause as amended passed.

Clause 203.

**The Hon. J.A. DARLEY:** I move:

Amendment No 5 [Darley–1]—

Page 65, line 37—After '(and' insert:, 'subject to subsection (8),'

Amendment No 6 [Darley–1]—

Page 65, after line 38—Insert:

(8) The termination of a contract of employment under subsection (7) does not affect any right of action that a person employed under the contract may have against a Minister or the State on account of that termination, being a right that relates to the payment of compensation on account of the early termination of the contract.

(9) Subsection (8) does not apply in relation to a person who, on the commencement of this subsection, has been appointed as a member of the Tribunal.

Amendments carried; clause as amended passed.

Long Title.

**The Hon. G.E. GAGO:** I move:

Amendment No 5 [EmpHESkills–1]—

Long title—After 'the *Intervention Orders (Prevention of Abuse) Act 2009*;' insert:

the *Local Government Act 1999*;

Amendment No 6 [EmpHESkills–1]—

Long title—Delete 'and the *South Australian Housing Trust Act 1995*' and substitute:

; the *South Australian Housing Trust Act 1995* and the *Valuation of Land Act 1971*

These amendments are consequential to Amendment No. 3.

Amendments carried; long title as amended passed.

Bill reported with amendment.

*Third 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) (17:56):** I move:

That this bill be now read a third time.

I will use this opportunity to briefly clarify an answer that was given to the Hon. Stephen Wade in response to a question about the amendments of the Valuation of Land Act and the Local Government Act that were considered and passed in this place on the last occasion of debate on this bill. The honourable member asked whether the amendments would mean that the appeals under the Emergency Services Funding Act 1998 would also be able to access SACAT.

I should clarify that the appeals or the reviews themselves are against the valuation of land, including for the purposes of calculating the emergency services levy. As such, the appeals are under the acts amended and not the Emergency Services Funding Act. It is, however, the Emergency Services Funding Act that requires an over or under payment to be refunded or recovered if a review under the Valuation of Land Act or Local Government Act changes the land value and hence requires a readjustment to the levy.

**The Hon. S.G. WADE (17:58):** I express my extreme displeasure that this information has been provided to us at the third reading. This information should have been provided to us as soon as we came back into committee so that I could consider the implications of the material provided and consider whether I felt that the minister's answer required any response. The minister could have done me the courtesy of providing the information to me earlier in the day. I indicate that this is another example of a government that wants to ram through bills without cooperating with other members in the chamber.

**The PRESIDENT:** I understand that the minister tried to actually give the explanation prior, but was given advice that it was not appropriate because we had to recommit the clauses, so the minister did not do it deliberately to keep information from you.

**The Hon. S.G. WADE:** There must be a way for the house to be properly informed.

Bill read a third time and passed.

## LOCAL GOVERNMENT (GOVERNANCE) AMENDMENT BILL

*Second Reading*

Adjourned debate on second reading.

(Continued from 15 October 2014.)

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (18:01):** I rise on behalf of the opposition to make some relatively brief comments about the Local Government (Governance) Amendment Bill 2014. It is a relatively simple and quite small bill that makes two amendments to the current requirements for elected members of local government, specifically requirements under sections 60 and 80A of the Local Government Act. These amendments will enhance the magnitude of the elected members' declaration on taking office and introduce mandatory training and development for elected members.

My understanding is that, of course, we need to pass this before the local government elections are completed (which we are right in the midst of at the moment) so that the government can draft the required regulations, and that all newly-elected council members, as of 7 or 8 November, I think, when the elections are completed in a couple of weeks' time, can undertake that training. The opposition supports it.

I think it is interesting to note some of the comments made by the ICAC commissioner, Bruce Lander, on 3 September, that councils were over-represented in corruption complaints. While the LGA refutes this claim, I am sure that it is not actually about corruption, it is just about some elected members not being fully aware of their responsibilities and requirements under the act. So the opposition certainly supports some sort of mandatory training and, of course, the declaration on taking office.

While this bill does not deal with it, I did hear on radio (it may have even been early yesterday morning) the Speaker from the House of Assembly, Hon. Michael Atkinson, talking about political parties being involved in local government elections. I think it is probably time we had a much more robust declaration and disclosure prior to an election of where people fit, their allegiances, their party memberships and funding.

Members would know that I have made comments in here about a couple of candidates who have taken donations from unions in the past. There is nothing wrong with that, it is not illegal and I have certainly never said it is illegal, but I think the community has a right to know who the puppets are and who the puppet masters are of some of these particular local government elected representatives. Coming back to this bill—I am being distracted away from this bill—I will repeat something that the President of the LGA, Mr David O'Loughlin, said:

> …the LGA is seeking to have the proposed change to section 60 and the proposed change to section 80A enacted without delay. These changes are, respectively, a change to enable a more meaningful and comprehensive undertaking to be prescribed for Council Members to make when they first take office and a change to enable the introduction to mandatory training for Council Members. Both these changes are fully supported by the Local Government sector and the LGA board.

I know that the LGA has raised some concerns and they wish to seek to have some input into the drafting of the regulations. I would ask the minister just to acknowledge that—and I am sure it has been done in the other place—and to keep an eye on any possible financial impact on councils as a consequence of mandatory training and development. Of course, we have seen continual increases to cost of living for South Australians under this government. We do not want to see any more burden placed on them, so we hope that it is not too expensive.

The LGA also raised a concern about any attempt to make the regulations too prescriptive. My view of this, because the LGA has raised that, is that the regulations should be drafted in such a way that it not only covers the declarations adequately but also the mandatory training, and thus it should not be concerned about being too prescriptive. These people are elected members of their community. Some are paid not a huge amount of money, but they draw an allowance for that work, and the community needs to have some confidence that they are well equipped to do their work. With those few comments, I indicate that the opposition will be supporting the bill.

**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) (18:05):** I do not believe that there are any further second reading contributions indicated. I thank the opposition for their support. These amendments seek to enhance council members' understanding of their roles and responsibilities in representing their local communities. In relation to the mandatory training requirement in particular, the intention is to ensure council members can develop and maintain the skills and knowledge necessary for them to fulfil their roles with effectiveness, efficiency and transparency.

These amendments were recommended by the Ombudsman, and the bill has been brought before parliament at this time at the urging of the Local Government Association, which requested that the new arrangements be in place in readiness for council members following the November 2014 local council elections. The feedback from the local government sector has been supportive for making these changes but, understandably, keen interest will focus on the drafting of the associated regulations. The Minister for Local Government will work closely with local government in developing the regulations and has also undertaken to keep the shadow minister briefed.

Bill read a second time.

*Committee Stage*

Bill taken through committee without amendment.

*Third 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) (18:08):** I move:

That this bill be now read a third time.

Bill read a third time and passed.

## CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) AMENDMENT BILL

*Committee Stage*

In committee.

Clause 1.

**The Hon. S.G. WADE:** The Liberal Party has consistently promoted and supported legislation to confiscate assets where they are the proceeds or instruments of crime, even if they were lawfully acquired or where they represent unexplained wealth. The Liberal Party led the moves in this parliament to move against unexplained wealth. This bill is distinctively different from those previous bills in that it proposes to authorise the seizure of assets unrelated to a particular crime, disconnected from any other penalty that the offender may receive, even when a person can prove that the assets have been legally acquired.

In second reading speeches of the government on earlier versions of this bill the government admitted that there were doubts as to the constitutional validity of the measures. These fears were borne out in the Emerson case; the Supreme Court of the Northern Territory struck down a similar bill on constitutional grounds. In April this year the High Court considered the constitutional issues on appeal and upheld the bill. As a result the Liberal Party in this parliament has looked afresh at the bill. The constitutional validity of the bill was fundamental and it has been affirmed.

Our other concerns can be, in our view, ameliorated by amendments, and we have filed amendments to that end. The Liberal Party supported the passage of the bill through the House of Assembly. We supported the House of Assembly on 18 June 2014 and the Hon. Kyam Maher acknowledged that fact when the bill was considered in this place on 3 July. The shadow Attorney-General, Vickie Chapman, the member for Bragg, publicly stated our position five weeks ago in *The Advertiser* on 26 September, as follows:

> Opposition justice spokeswoman Vicki Chapman said the Liberals would propose some amendments, including guidelines for the Director of Public Prosecutions when enabling confiscation orders and a provision for appeals.

Then there is a quote from Ms Chapman as follows:

> We want to ensure the proceeds from confiscated assets are directed to the Victims of Crime Fund and drug rehabilitation programs rather than general revenue.

Yet, the Attorney-General was on radio during the last sitting week playing politics yet again with the Legislative Council by suggesting Liberal opposition to the bill. There was no acknowledgment of the House of Assembly vote or the Liberal Party's public statements on this bill.

In terms of improving the bill, we have three proposals: first, we seek to provide for a review of confiscation decisions in the interests of justice. This reflects the 2014 ALP election policy, which talked about extending the scope of the confiscation power and making it subject to judicial oversight. The Liberal amendment is consistent with that promise. Secondly, I will be putting forward amendments that propose the publication of confiscation guidelines by the DPP and, thirdly, for an annual report. I look forward to further explaining the amendments in committee and considering amendments proposed by other members.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

**The Hon. J.A. DARLEY:** I move:

Amendment No 1 [Darley–1]—

Clause 5, page 3, line 30 [clause 5(5), inserted paragraph (d)]—

Delete 'would' and substitute 'could'.

This is the first of a series of amendments, the aim of which is to provide the courts with discretionary powers when considering whether or not a person is to be declared a prescribed drug offender in instances where the conviction in question involves cannabis oil and the offending was committed for the purpose of treating a medical condition.

Given that they are all related, I am going to use this amendment as a bit of a test clause for Amendment Nos 1 through 6 and speak to them all at this stage. Amendment No. 1 simply changes the definition that applies to 'tainted property' to reflect this discretion by swapping the word 'would' for 'could'. The second amendment is consequential upon Amendment No. 3 which provides the court with its discretionary powers when dealing with convictions relating to cannabis oil. It is really a qualifying provision.

Clause 6A(1) of the bill provides that for the purposes of this act, a person is a prescribed drug offender if the person is convicted of a serious drug offence, the conviction offence, committed after the commencement of this section and (a) the conviction is a commercial drug offence or (b) the person has at least two other convictions for prescribed drug offences and those offences and the conviction offence were all committed on separate occasions within a period of 10 years, not including any period during which the person was in government custody.

Amendment No. 3, the key amendment to this series, goes on to provide the circumstances in which a court can opt to exercise its discretion.

*Members interjecting:*

**The CHAIR:** Order! The Hon. Mr Darley has the floor.

**The Hon. J.A. DARLEY:** It provides that a court may, on convicting a person of the offence, declare that the person is not to be a prescribed drug offender for the purposes of this act if (a) the person requests the making of the declaration and (b) the conviction offence involved cannabis oil (and not any other controlled drug) and (c) the court is satisfied that the offence was committed for the purposes of treating or alleviating the symptoms of a medical condition suffered by any other person, and it is in the interests of justice to make the declaration.

This is an extremely important provision because, as currently framed, the bill would not only cover those who supply cannabis oil, it would also cover parents or caregivers who administer it to their sick children. Let's cast our minds back to the stories that were aired on this issue on *60 Minutes* and *Today Tonight* some weeks ago and consider what position parents like Sally White, mum to baby Zahlia who has Aicardi syndrome, or Jaylene Siery and Peter Rule, mum and dad to two year old Larisa who has cerebral palsy, three forms of epilepsy, partial blindness and partial deafness, would find themselves in if this bill passed in its current form. The consequences could be absolutely devastating.

Section 33F of the Controlled Substances Act 1984 provides that a person who sells, supplies or administers a controlled drug to a child or has possession of a controlled drug intending to sell, supply or administer the drug to a child, is guilty of an offence punishable by $1 million or imprisonment for life or both. Because it involves children, it is an aggravated offence and the defendant does not have the benefit of the rebuttable presumption that applies to similar offences involving adults. In ordinary circumstances, nobody would question the severity of the punishment. However, in this case, it is important to note that the definition of a controlled drug includes cannabis oil.

Not only would parents run the risk of prosecution, under this bill they would also risk losing all of their assets if convicted of administering cannabis oil to their child. Some of you may argue that this would only apply in instances where the parents had in their possession vast amounts of

cannabis oil. That, too, is not the case. The Controlled Substances Regulations provide that a trafficable amount of cannabis oil equates to 25 grams, a commercial amount of pure cannabis oil equates to 1 kilo, and a large commercial amount of pure cannabis oil equates to 2 kilos.

Given how difficult it appears to be to get your hands on cannabis oil, it is not inconceivable that parents would be buying it in these sorts of large quantities if the opportunity presented itself. We need to bear in mind also that for commercial quantities there only needs to be one conviction offence for this bill to kick into operation. If a parent is convicted on three separate occasions of possessing as little as 25 grams of cannabis oil, they would be in the exact same position. It is a huge risk that parents face but, as I said during the second reading debate, there are parents who are living this impossible dilemma.

They are risking prosecution to ensure that their child receives the only form of treatment that appears to help. The jury may still be out on whether this form of treatment is appropriate, and our legislation certainly indicates that it is not appropriate, but for these parents there are no other options. They are willing to sacrifice just about anything to ensure that their children do not suffer agonising pain.

Turning now to the question of those who supply the cannabis oil to the parents in the first place, the question we have to consider is whether they too should have the benefit of the exercise of discretionary powers by the court. The amendments will enable a court to take into account all of the circumstances surrounding the nature of the supply and the conviction itself and make a decision accordingly.

It is important to bear in mind that, in the case of suppliers and parents alike, if the court is not satisfied that the cannabis oil was being supplied or administered on genuine medical grounds, it can refuse to exercise its discretion. The courts are best placed to make these determinations, and we should give them the flexibility to do so.

I am all for a zero tolerance approach towards the Mr Bigs of this world for their part in the manufacturing and supply of drugs that wreak havoc on our communities. These amendments do not detract from that, and the parents of sick kids, who are at their wits end, or ill patients who are crippled with pain, are not the drug peddlers that we need to be making an example of. With that, I urge all honourable members to support this amendment.

**The Hon. G.E. GAGO:** The government rises to oppose this particular amendment. It is a bit of a test clause really for further amendments. Basically, this amendment simply wants to delete the word 'would' and substitute it with 'could'. Given that we oppose the further amendments relating to the ability to be able to exempt cannabis oil, of course our position is that we do not believe cannabis oil should be exempted; therefore, if we accept the substitution word 'could', that would give the discretionary power for future exemption. On those grounds, we oppose this particular amendment.

Generally, in terms of the issue of the exemption of cannabis oil, I might as well put on the record now that we are obviously mindful that public debate is occurring around medicinal cannabis. However, it is the government's position that such debate should occur through the front door, not the backdoor. Any debate regarding the use or possession of medicinal cannabis should be had in the context of whether it should be legalised, and amendments to this bill are not the place to further that particular debate.

**The Hon. M.C. PARNELL:** The Greens will be supporting the Hon. John Darley's amendment, and we congratulate him for attempting to make what is a very bad bill slightly more palatable. Certainly, the stories that the honourable member talked about need to evoke compassion in us in terms of the suffering that people are going through, and to impose additional criminal sanctions on these parents is abhorrent.

We will certainly be supporting the amendment, and we will be supporting a range of other amendments as we go through the debate, but I just want to put clearly on the record now that, whilst we might be supporting amendments to make a bad bill better, we will be opposing the entire bill even if all the amendments pass, because we think, on the whole, the bill is irredeemable and is based on a false premise. I acknowledge the work of the Hon. John Darley. He has made an effort to improve the bill, and we will be supporting the amendment.

**The Hon. R.L. BROKENSHIRE:** I will just put Family First's position to the committee; that is, whilst I can understand what the Hon. Mr Darley is trying to do, Family First strongly supports the government's intent here. I think the minister has highlighted exactly the reasons why we would need to stay with the government on this particular amendment.

**The Hon. S.G. WADE:** The state Liberals would want the use of cannabis oil dealt with as part of a broader review of the use of cannabis for medicinal purposes so, for that reason, we will not be supporting Mr Darley's amendment. We agree with Mr Darley and the government that this should be treated as a test clause for related amendments, and we will also not be supporting those.

Amendment negatived; clause passed.

Clause 6.

**The Hon. R.L. BROKENSHIRE:** I move:

Amendment No 1 [Hood–1]—

Page 4, lines 10 to 12 [clause 6, inserted section 6A(1)(b)]—Delete:

'within a period of 10 years, not including any period during which the person was in government custody'

This is an amendment that was discussed in detail with the Hon. Dennis Hood. The government's bill allows the confiscation of assets for offenders who have been convicted of three prescribed drug offences within a 10-year period. The amendment that we are putting up removes the 10-year period, effectively meaning that a person convicted of a serious drug offence three times or more over any time period would qualify as a prescribed drug offender and therefore could have their assets confiscated.

We recognise the significant impact that drugs and drug offences have on our society, and I would say that we are on a slippery slope when it comes to the amount of illicit drugs already in the community. Statistics on drug crimes such as those intended to be covered by this bill have increased in the last five years. We commend the government for trying to come down tough on this, for obvious reasons, but there is every likelihood that high-end drug offenders making a living out of this trade have significant accumulated wealth, not only from the offences for which they are being convicted, but also from other offences that have not been detected.

Additionally, any legal income, or so-called legal income, would become mixed with that of the illegal enterprise, making it next to impossible to determine which assets have been purchased by legitimate and legal means and which have not. Accordingly, we believe that anyone who repeatedly offends should be subject to these measures and the money put into drug rehabilitation. I commend the amendment to the house.

**The Hon. G.E. GAGO:** The government rises to oppose this amendment. These are linked with some other amendments under the Hon. Mr Hood's name. I suspect all of them are together, and we are obviously not prepared to support any of them. The Hon. Mr Hood's amendment has the effect of removing the idea that a person becomes a prescribed drug offender if he or she has multiple convictions of the specific kind within 10 years, not counting any period spent in custody. Instead, the person falls into a class if they have multiple convictions in any space or period of time.

This is even tougher than the government's proposal. For that reason we are not supporting that proposal. The government is trying to strike a balance here. Obviously, Family First thinks that we are not tough enough, whereas many think that we are being way too tough. We believe our position is fairly in the middle and we think it is about right, so for those reasons we are not supporting the amendment.

**The Hon. M.C. PARNELL:** The Greens will certainly be opposing this amendment. It makes a bad bill worse. Let's just think through what the implications of the honourable member's amendment is. Deleting the time period, but also deleting the reference to periods during which a person was in government custody, has the effect that you could have a person, let us say it is dad, who is convicted of serious drug offences and is in gaol. His kids are living, perhaps by themselves, in the family home. We know the gaols are full of drugs. He is found guilty of more drug offences in

gaol, so the kids get a knock on the door saying, 'Your dad has been a naughty boy in gaol. We are now taking the house.'

What an outrageous situation. The government's bill is outrageous to start with, but this makes it even worse. I know there is a bit of a race to the bottom of who can be the toughest on crime, but I think that the direction we are heading in with this legislation is absolutely appalling. It trashes every legal sentencing principle involving the punishment fitting the crime and proportionality, so the Greens will not be supporting this amendment.

Amendment negatived.

**The CHAIR:** The Hon. Mr Darley will not be moving any amendments to clause 6; nor will Mr Hood move his further amendments.

Clause passed.

Progress reported; committee to sit again.

At 18:32 the council adjourned until Wednesday 29 October 2014 at 11:00.