LEGISLATIVE COUNCIL

Thursday, 30 October 2014

The PRESIDENT (Hon. R.P. Wortley) took the chair at 10:02 and read prayers.

Parliamentary Procedure

STANDING ORDERS SUSPENSION

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) (10:02): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15pm.

Motion carried.

Parliamentary Committees

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

The Hon. G.A. KANDELAARS (10:03): I move:

That the committee have leave to sit during the sitting of the council today.

Motion carried.

Bills

RETURN TO WORK BILL

Committee Stage

In committee.

(Continued from 29 October 2014.)

Clause 40.

The Hon. T.A. FRANKS: I move:

Amendment No 20 [Franks-1]—

Page 54, line 27—Delete 'section 33(21)(b)' and substitute: the regulations

We moved this at the behest of the CFMEU, so while I understand that the opposition has not had representations from the unions I would stress that the Greens have had representations from some unions in some quarters with grave concerns about this bill. We have been advised by the CFMEU that an injured worker who has incapacity for work as a result of surgery should be approved by the corporation under the regulations to have access to weekly payments, which is why we move this amendment.

The Hon. I.K. HUNTER: Mr Chairman, I understand this amendment is consequential to [Franks-1] amendment No. 19 that was seeking to remove the time banding that applies to medical expenses from non seriously-injured workers. This amendment provides for a supplementary income support to be paid for surgery approved by the corporation of the regulations rather than under section 33(21)(b) which is proposed to be deleted. For the similar reasons to opposition to [Franks-1] amendment No. 19, we also oppose this one.

The Hon. R.I. LUCAS: The Liberal Party adopts the same position on this amendment as we did to amendment No. 19. The only point I might note to the CFMEU, which is perhaps not experienced in the ways of parliamentary procedure or political practice, is that if they have a point of view that they want to put forward, and they want people to at least consider their position and argument, it might be wise to actually provide a copy of the submission to all members of parliament.

The Hon. T.A. FRANKS: Given that the CFMEU raised this issue with the government, and given the Liberal opposition have basically conceded with the government that they will not support any crossbench or non-government amendments, the CFMEU I think are very wise in the ways of political practice and procedures in this place.

Amendment negatived.

The CHAIR: Your amendments Nos 16, 17 and 18, Mr Darley, are all consequential? Are you happy with that?

The Hon. J.A. DARLEY: Yes, Mr Chairman.

Clause passed.

Clauses 41 to 47 passed.

Clause 48.

The CHAIR: Is amendment No. 19 [Darley-1] consequential?

The Hon. J.A. DARLEY: That is consequential as well.

Clause passed.

Clause 49.

The Hon. T.A. FRANKS: I move:

Amendment No 21 [Franks–1]—

Page 65, line 11—Delete 'that would have been payable if there had been no redemption' and substitute:

that fall within the scope of the redemption

Since 2008, the pendulum has swung too far when it comes to redemptions. Redemptions, of course, can be useful for both workers and employers. This has been demonstrated by the self-insurers who, in contrast to WorkCover, have made great use of redemptions to finalise claims. This also enables workers to exit the scheme with dignity.

The reason why we think it is necessary to have redemptions with a limited time period is that a redemption otherwise has an adverse impact on the worker for the rest of their working life, even though, in the case of a young worker, the amount paid on redemption bears little or no relationship to the worker's working life. It is often fundamentally unfair for a young worker to have the redemption held against them decades later.

For example, if that young worker is harassed at work and suffers psychological harm and is unfit for work for some period, they can finalise their workers compensation entitlement via redemption under WorkCover and then 10 years later, if they are working at a different workplace and suffer a physical injury, then at that point the previous redemption—the amount of weekly payments they might be getting when the first payment was made—is deemed as current compensation payments.

What this means is that that worker who has now suffered a physical injury is entitled to weekly payments, but from those payments there is a deduction by the amount of the weekly payments the worker was receiving 10 years earlier. This is fundamentally unfair. There should be a time limitation to the redemption. We have been advised that many self-insurers would not have had an issue with that approach.

The Hon. I.K. HUNTER: Clause 49 works to ensure that a worker does not receive excess weekly payments. Clause 49(1) and (2) I am advised are unchanged from provisions in the Workers Rehabilitation and Compensation Act 1986. This amendment moved by Hon. Ms Franks suggests that the protection from excess payments will be limited in time based upon the quantum of the redemption payment.

While a worker can receive up to two years income support for a claim, there is also a lump sum payment for economic loss made, and together these supports are taken to compensate the

worker for the economic impact of their injury over their lifetime. Simply because there is not ongoing support in the form of weekly payments, does not mean there is no support.

Therefore, it is appropriate that a worker who has received a redemption in the case of a subsequent claim, will be taken to still be receiving support from the scheme. The government therefore opposes this amendment and will be opposing the other amendments seeking to change the redemption arrangements that have been foreshadowed.

The Hon. R.I. LUCAS: For the reasons outlined earlier, the Liberal Party will not be supporting the amendment.

Amendment negatived; clause passed.

Clauses 50 to 52 passed.

Clause 53.

The CHAIR: The next amendment is amendment No. 22, the Hon. Ms Franks.

The Hon. T.A. FRANKS: The amendment is consequential and I will indicate that the amendments at clause 54 are also consequential.

The CHAIR: So all at 53 are consequential? The Hon. Ms Franks, your amendment No. 25 leads into another issue. Do you want to move that one? Also, the Hon. Mr Darley has an amendment.

The Hon. T.A. FRANKS: Yes, amendment No. 25 is right at the bottom of the page that I just flipped over but we actually have that as consequential.

The CHAIR: Amendment No. 26, the Hon. Ms Franks.

The Hon. T.A. FRANKS: Amendments Nos 26 and 27 are consequential.

The Hon. I.K. HUNTER: I understand the Hon. Mr Darley will probably need some indication.

The CHAIR: It is the same one as the Hon. Ms Franks.

The Hon. I.K. HUNTER: We will probably need some indication from Hon. Mr Darley about he intends to proceed with that.

The Hon. J.A. DARLEY: I will be moving my amendment.

The CHAIR: What number amendment is that?

The Hon. J.A. DARLEY: No. 20 [Darley-1]. Mine was the same as the Hon. Ms Franks.

The Hon. I.K. HUNTER: Mr Chairman, if I can assist the committee I understand we are dealing with amendment No. 20 [Darley-1]. It is if not virtually the same it is very similar to the Hon. Ms Franks' amendment, and it probably is then fully consequential but we need an indication from the Hon. Mr Darley.

The CHAIR: The Hon. Mr Darley, are you going to move your amendment No. 20?

The Hon. J.A. DARLEY: It is the same as the Hon. Tammy Franks so I will not be.

Clause passed.

Clause 54.

The Hon. T.A. FRANKS: Amendment No. 27 [Franks-1], amendment No. 28 [Franks-1] and amendment No. 29 [Franks-1] are all consequential.

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

Amendment No 21 [Darley–1]—

Page 68, lines 1 and 2—Delete subclause (2)

As already mentioned, it seeks to remove that provision which prevents seriously-injured workers from being able to seek a redemption and sue for economic loss at common law. It is the first of a series of amendments aimed at ensuring that we end up with more than a mere token recognition of common law rights because that is precisely what we have before us under the current bill.

History has taught us that abolishing common law rights is unsustainable and that those jurisdictions that have tried it have ended up introducing these rights in one form or another. If these measures are not supported then, mark my words, we will be back here in three, four or five years' time hearing about the unsustainable impacts that the government's proposals have had on injured workers and debating this issue yet again. It is not a matter of if, it is a matter of when.

The Hon. I.K. HUNTER: Redemptions for medical expenses will be available in the return-to-work scheme for non seriously-injured workers. Seriously-injured workers will receive lifetime care and support from the scheme. These redemptions must be made by an agreement between the worker and the corporation after the worker has received competent professional advice regarding the consequences and advice from a recognised health practitioner about the future medical services the worker is likely to require.

This amendment moved by the Hon. Mr Darley allows seriously-injured workers to access redemptions for medical expenses. This amendment is in conflict with the state government's obligation under the National Injury and Insurance Scheme to provide lifetime care and support rather than a lump sum for medical and like expenses to seriously-injured workers. The new scheme reflects current international thinking that the best way to support seriously-injured workers is to provide for their long-term medical support and care needs and therefore we will not be supporting this amendment.

The Hon. R.I. LUCAS: The Liberal Party will not be supporting the amendments either. We acknowledge a number of these areas, as the Hon. Mr Darley has indicated that he is putting the views of the legal fraternity. One of the key issues in relation to all of this is that the capacity to run a reasonable, fair and, in the end, appropriate workers compensation scheme will mean that in some circumstances the legal fraternity will be unhappy with aspects of, I guess, the amount of work they will be able to achieve in the future and the changes that are inherent in this legislation, including this particular provision and others.

We know from the submissions we have received from the legal fraternity and representatives of the legal fraternity that they are not supportive of some of these particular changes. So, whilst we are mindful, as always, of the views of the lawyers in society and their representatives, in the Liberal Party we do not always agree with the position that they put and for this amendment, and indeed a number of the others, we are not in a position to support the position they are putting.

Amendment negatived; clause passed.

Clause 55.

The Hon. I.K. HUNTER: I move:

Amendment No 14 [SusEnvCons–2]—

Page 68, line 35—After 'subsection (4)' insert '(but subject to subsections (6) and (6a))'

Clause 55 details the factors that are used to determine a worker's entitlement to a lump sum payment for loss of future earnings. These factors are the age factor, hours worked factor, and the prescribed sum. This amendment is a consequence of the proposed amendment to insert new subclause (6a) which will alter the application of the hours worked factor that is used in the calculation of economic loss lump sum. This change ensures that where a worker, at the time they were injured, is working part-time but has a right to return to full-time employment, the hours worked factor would be at 100 per cent. This may occur, for example, where a worker has been undertaking graduated return to work from a non work-related injury.

The Hon. R.I. LUCAS: We have received no indication of opposition from any stakeholder to the government's amendment. On that basis, and consistent with the position we put previously, we will support the amendment.

The Hon. T.A. FRANKS: The Greens also support this amendment. We certainly welcome the government's willingness to amend this bill comprehensively throughout both the debate in the other place and here; however we do raise concerns about the fact that we have amendments coming this late in the piece from the government, which clearly shows quite patent problems with this legislation. While we support this wholeheartedly, we say that we will probably be back here very soon fixing up a whole lot of other areas.

The Hon. J.A. DARLEY: I will be supporting this amendment.

Amendment carried.

The Hon. I.K. HUNTER: I move:

Amendment No 15 [SusEnvCons–2]—

Page 68, line 37—Delete 'However, if' and substitute 'If'

Amendment No 16 [SusEnvCons–2]—

Page 68, after line 40—Insert:

(6a) Furthermore, if in relation to a worker who was working part-time at the relevant date there is evidence that, at the relevant date, the worker had a legally enforceable right to return to full-time work, the hours worked factor applying in relation to the worker will be based on full-time work.

Amendment No. 15 is a minor technical amendment that is a consequence of a proposed amendment to insert new subclause (6a), which will alter the application of the hours worked factor that was used in the calculation of the economic loss lump sum. The change is to ensure that where a worker, at the time they were injured, is working part-time but they have a right to return to work in full-time employment, the hours worked factor will be 100 per cent, as I explained earlier. This is consequential on the previous amendment. Amendment No. 16 also relates to the insertion of new subclause (6a).

The Hon. R.I. LUCAS: For the reasons outlined earlier, we have had no indication from any stakeholder of opposition to this package of amendments.

Amendments carried; clause as amended passed.

Clause 56.

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

Amendment No 22 [Darley–1]—

Page 69, line 12—Delete 'physical'

I will speak on this amendment and the next amendment together, as they both relate to the same issue; namely, the distinction that has been drawn between physical injuries and psychiatric injuries. That said, and for the reasons I am about to outline, I will still move amendment No. 23, even if it is defeated. Clause 56 provides for compensation for loss of future earning capacity by way of a lump sum payment for those workers with a permanent impairment from a physical injury above 5 per cent. The amendments seek to remove the word 'physical' so that the entitlement applies equally to psychiatric injuries.

We have heard at length the reasons these amendments are necessary, and I will not repeat those explanations other than to say that these payments for economic loss are going to prove extremely important to those workers who are cut off the scheme after two years. Rather than putting more barriers in their way, the least we can do is ensure that those workers with psychiatric injuries are entitled to the same level of payment as those with physical injuries.

The Hon. I.K. HUNTER: I will speak to just this first amendment. I understand that Mr Darley has not yet moved the second amendment. I understand this amendment works with previous amendments 9 and 10, which were not supported by the committee, to remove the exclusion of workers with a psychiatric injury receiving an economic lump sum payment and allow psychiatric and physical injuries to be combined for the purposes of the whole person impairment.

As I said previously, this would be a significant risk to the new scheme. This amendment will also promote a culture of illness and a sense of entitlement which we are trying to move away from, as well as significantly increase the cost of the scheme, and therefore the government will not support the amendment.

The Hon. R.I. LUCAS: For reasons we outlined earlier, we will not support the amendment either.

The Hon. T.A. FRANKS: The Greens, of course, will be supporting this amendment, and we have a concern that a minister would use the term that this would 'promote a culture of illness' with regard to psychiatric harm. I think that that does a disservice to any talks about mental health and removing stigma around mental health. People do not choose to be mentally ill.

The Hon. I.K. HUNTER: I cannot let that pass. This is seeking to do just the opposite. It is seeking to avoid any sort of psychiatric illness which would be incurred through the processes that people need to go through under the current system. We are trying to move away from that and avoid that scenario completely.

Amendment negatived.

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

Amendment No 23 [Darley–1]—

Page 69, lines 13 to 15—Delete subclause (3)

I have already outlined the purposes of this amendment. At the risk of repeating what I have already said, I would urge honourable members to reconsider their positions and support this provision. There is no rhyme or reason to the government's position that a worker suffering from a psychiatric injury or consequential mental harm, or a worker suffering from noise-induced hearing loss, should not have access to lump sum payments for economic loss.

As I understand it—and the minister may wish to correct me—noise-induced hearing loss is not limited simply to partial hearing loss. A worker could be left completely deaf as a result of a work injury and miss out on a payment of economic loss even though their actual loss is immeasurable.

The Hon. I.K. HUNTER: The government rises to oppose this amendment. Again, it works with previous amendments that have not been supported in committee. This amendment allows an economic loss lump sum to be paid for psychiatric injuries, consequential mental harm and noise-induced hearing loss. I guess the point we need to understand is that at the moment you do not get non-economic loss lump sums for psychiatric illness under the current scheme. Consistent with previous amendments, this would have a significant cost impact on the scheme and be contrary to the benefits provided by other workers compensation schemes across the nation. For those reasons we oppose.

The Hon. R.I. LUCAS: We do not support the amendment.

The Hon. T.A. FRANKS: The Greens do support this amendment.

Amendment negatived; clause passed.

Clause 57 passed.

Clause 58.

The Hon. T.A. FRANKS: Amendment No. 33 is consequential.

The PRESIDENT: The Hon. Mr Darley, your amendment No. 25 is the same. Do you want to speak to it?

The Hon. J.A. DARLEY: No, it is consequential.

The Hon. T.A. FRANKS: Amendment No. 34 is also consequential.

The PRESIDENT: Is amendment No. 26 also consequential, Hon. Mr Darley?

The Hon. J.A. DARLEY: Yes.

Clause passed.

Clauses 59 to 70 passed.

Clause 71.

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

Amendment No 27 [Darley–1]—

Page 84, lines 25 to 30—Delete subclause (2)

This amendment is equivalent to my amendment No. 23. It is yet another example of the government's token acknowledgment of common law rights, this time in relation to psychiatric injuries. Generally speaking, common law damages claims are based on the negligence of an employer and if a worker is successful in establishing a causal link between their employment and their injury, then they would be entitled to such an award of damages.

The government has sought to introduce a higher burden for psychiatric injuries by requiring that they be primarily caused by the negligence or other tort of the worker's employer. To add insult to injury, they have also sought to ensure that such claims cannot be made by workers who suffer from consequential mental harm. This higher test does not apply to physical injuries, it applies only to psychiatric injuries. As I have said throughout this debate, there is absolutely no reason why psychiatric injuries should not be subject to more onerous tests than those that apply to other injuries and this amendment reflects that position.

The Hon. I.K. HUNTER: Clause 71 details the boundaries for which an award of damages under common law can be made. This amendment moved by the Hon. Mr Darley and the same amendment Ms Franks has tabled, applies to common law and removes the restriction and access to common law for psychiatric injuries. The new scheme is focused on strengthening the nexus between employment, the employer and the support available under the return-to-work scheme. Common law provisions proposed in these schemes strengthen that nexus. The proposed amendment, however, weakens that nexus and allows common law action for psychiatric injuries that were not primarily caused by the employer's negligence or other tort, and for that reason the government opposes the amendment.

The Hon. R.I. LUCAS: The Liberal Party opposes the amendment.

The Hon. T.A. FRANKS: It will come as no surprise that the Greens support this amendment and we have that same amendment for which we will see this as a test. As previously indicated, the Greens both support and move this amendment because as the bill currently stands it is setting a high threshold for access to common law and compensation for psychiatric injury and precludes consequential mental harm. The Greens believe that that threshold should be lowered, as does John Darley's amendment in this case.

Amendment negatived; clause passed.

Clause 72.

The CHAIR: The next amendment is No. 36 to clause 72. The Hon. Ms Franks.

The Hon. T.A. FRANKS: I will indicate that all of my amendments at clause 72 are consequential, but I am considering dividing on clause 73.

The CHAIR: The Hon. Mr Darley, you have amendment No. 28 to clause 72.

The Hon. J.A. DARLEY: It is consequential.

Clause passed.

Clause 73.

The Hon. T.A. FRANKS: This clause will be opposed by the Greens. As we have already indicated, our concern with the changes to seriously-injured workers and that terminology we believe will really be to the detriment of this new scheme and so for that reason I indicate our strongest opposition to this fundamental change, and also indicate that we will divide on this clause.

The Hon. J.A. DARLEY: This amendment is the same as I have proposed in my amendment No. 29. It removes some of the restrictions on claims for common law damages for seriously-injured workers. If seriously-injured workers are to have access to common law, then that should include all the usual heads of damages, including pain and suffering, past and future loss of earning capacity, voluntary services, care and maintenance, future medical treatment, and the like. Without this I think you seriously have to ask, 'What is the point?'

I think this is the general consensus amongst members of the legal fraternity and other stakeholder groups as well. I have heard anecdotally that it is a view shared by many union representatives, that they are not willing to stand up to the government or stick out their necks for injured workers on this occasion. Likewise—and we have already been through this—there should be no barrier to making a claim for both redemption of a liability to make weekly payments and damages for future economic loss. In its submission the Law Society states:

> The circumstances in which a worker may claim common law damages are so restrictive that in practice only a handful of workers are likely to take advantage of these provisions.

It considers the common law provisions under part 5 of the bill as illusory, not likely to be pursued by seriously-injured workers, unlikely to improve work safety and containing minimum entitlements compared with those available at common law in other jurisdictions. As I said during my contribution on this bill, at best what is being offered is Clayton's law.

It is estimated that as few as 1 or 2 per cent of injured workers will be able to meet the 30 per cent WPI threshold. Once again, we are being asked to make drastic changes that will impact on the livelihoods of injured workers without all the information. This is not good enough, and injured workers deserve better.

The Hon. I.K. HUNTER: Clause 73 sets out the provisions that apply to a seriously-injured worker who has a right of action against the employer. The reason for the limitation is primarily because, for injured workers where eligible under the National Injury Insurance Scheme who will be seriously injured, there is a requirement for the provision of lifetime care and support. As such, this cannot be the subject of damages. Lifetime care and support will be provided for all seriously-injured workers.

To remove this clause will allow all common law damages to be payable and not just economic loss. This is a significant risk for the new scheme and is likely to represent a significant additional cost to it. There is no access to common law damages for medical support and future care to ensure that the new scheme is consistent, as I said, with the state government's obligations under the National Injury Insurance Scheme. For those reasons we oppose the amendment.

The Hon. R.I. LUCAS: We oppose the amendment as well and this, as the minister has outlined, is one of a number of amendments that would make it impossible to achieve the goal of trying to reduce significantly the premiums and costs to small businesses and businesses in South Australia. The goal of this legislation reform package is actually to reduce the cost to business so that we can tackle the problem of trying to create jobs in South Australia. Our economic performance is appalling and our job creation prospects and performance are appalling, and one of the issues is the level of state government taxes and charges and in addition to that the issue of business costs, which can be influenced by government policy.

So, what is driving the reform here? Again, as we said in the second reading, the government in our view has created this mess over 12 years. The reality is that in South Australia you have small business operators who are having to pay double, sometimes more than double, the workers compensation costs that the equivalent small business operator pays in Queensland, New South Wales or Victoria, which makes it impossible for those businesses to compete in a national and international market with them, and makes it impossible for them to actually create jobs.

If we as a parliament are to be genuinely interested in trying to tackle the appalling economic performance of the state, we have to do something about reducing the costs of doing business. As we indicated in the second reading, at least there would be an argument in having a rolled gold, gold plated (whatever euphemism or phrase you want to use) workers compensation scheme if you had a scheme that was performing magnificently compared with others in terms of returning injured workers to the workplace, but we have an appalling performance in that area as well.

The scheme is a cot case whichever way you look at it, whether it is from the perspective of the businesses that are trying to employ people and create jobs, or whether it is from the viewpoint of injured workers in terms of being returned to work, whether that be with their pre-injury employer or with some other employer. In terms of trying to tackle the issue of creating jobs in South Australia for young South Australians, you have to be able to do something about reducing the costs for small business operators in terms of running their businesses, and this is one area where our costs are just completely out of whack compared with the position in virtually every other jurisdiction in Australia.

The minister has outlined other reasons, in terms of national commitments between the state and federal governments under various schemes that have been already entered into, for not being able to support this amendment. However, as we did in the second reading, I want to occasionally remind the parliament that the purpose for trying to undertake this reform is that, if we are genuinely interested in trying to create jobs for young South Australians, we have to do something for small business operators in terms of the costs of running their businesses.

Unless we are prepared to tackle that part of the problem, then we will forever consign small business operators in South Australia to the performance that we have had in the last decade or so, and we will forever consign young South Australians to a future of increasingly having to leave the state to find employment.

The Hon. R.L. BROKENSHIRE: After considerable deliberations, our party decided that we would try to get certain amendments through to make it fairer for workers and those who support workers. The party instructed me that, because of the devastation of WorkCover and the impacts that the Hon. Rob Lucas has just put forward on the economy, jobs and the problems there, whilst I was in a position to be able to make amendments that might improve things, we had to give the government a chance to try to get some better structure into a system that it ruined as a result of appointing certain people to the corporation. I put that on the record.

If this clause was to get up it would not ruin the scheme but, as a matter of principle and trying to get some balance into it, whilst we will not be stopping the overall bill and the intent of the bill (and, in any case, Liberal and Labor have got together on that so the numbers are there), based on what I have just said and the debate late last night and the situation as it stands right now, we will be opposing this clause.

The committee divided on the clause:

Ayes 15
Noes 5
Majority 10

AYES

Dawkins, J.S.L.	Finnigan, B.V.	Gago, G.E.
Gazzola, J.M.	Hunter, I.K. (teller)	Kandelaars, G.A.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I.
Maher, K.J.	McLachlan, A.L.	Ngo, T.T.
Ridgway, D.W.	Stephens, T.J.	Wade, S.G.

NOES

Brokenshire, R.L.	Darley, J.A.	Franks, T.A. (teller)
Parnell, M.C.	Vincent, K.L.	

Clause thus passed.

Clause 74 passed.

Clause 75.

The Hon. T.A. FRANKS: Mr Chair, amendment No. 45 is a consequential amendment.

The CHAIR: The Hon. Mr Darley, you had the same amendment?

The Hon. J.A. DARLEY: Yes, Mr Chairman.

The CHAIR: The next amendment is No. 46.

The Hon. T.A. FRANKS: Consequential.

The CHAIR: The Hon. Mr Darley?

The Hon. J.A. DARLEY: Consequential.

Clause passed.

Clauses 76 to 83 passed.

Clause 84.

The Hon. T.A. FRANKS: Clause 84 reads:

84—No damages for nervous shock injury to non-workers

No damages for pure mental harm may be awarded against an employer in respect of the death of or injury to a worker in a case where this Part applies if the pure mental harm arises wholly or partly from mental or nervous shock in connection with that death or injury unless the pure mental harm is in itself a work injury under this Act.

This clause will be opposed by the Greens. As stated in the Law Society's submission which was provided to all members of this place, this provides that no damages for pure mental harm may be awarded against an employer in respect of the death or injury of a worker if that 'pure mental harm' arises wholly or partly from mental or nervous shock in connection with a death or injury, unless the pure mental harm is itself a work injury under the bill.

This provision will have a really significant impact on actions which might otherwise be brought by partners, family members and children under the Civil Liability Act 1936. For example, if a crane collapses on a work site and the worker is killed or seriously injured in negligent circumstances, the partner and the children are subject to the same claims for nervous shock. These claims would not be extinguished under the Greens' amendment and I note the Hon. John Darley has a similar amendment.

The Hon. J.A. DARLEY: My amendment is the same as that of the Hon. Tammy Franks.

The Hon. I.K. HUNTER: Clause 84 prohibits the awarding of damages for pure mental harm except where pure mental harm is the work injury itself. The clause currently provides that damages for pure mental harm cannot be awarded against an employer for the death of or injury to a worker if the pure mental harm arises wholly or partly from mental shock associated with that death or injury, unless the pure mental harm is a work injury under the act. The act establishes a scheme that supports workers who suffer injuries at work.

Income support counselling services, a funeral benefit and a lump say payable upon death are provided to a deceased worker's dependants in the event of death in compensable circumstances. The act is not intended to respond to common law actions initiated by non-workers for damages and consequent losses arising from nervous shock. For those reasons, the government will oppose the amendment.

The Hon. R.I. LUCAS: Can I just clarify with the government whether claims under the current scheme are able to be taken in the circumstances that have been outlined?

The Hon. I.K. HUNTER: No.

The Hon. R.I. LUCAS: Is the government indicating that the claims and circumstances outlined cannot be taken under the current scheme and this is broadly reinforcing that position, or is there a change to the position?

The Hon. I.K. HUNTER: My advice is that this is a change. The change is being introduced because the act now opens up common law and, without this provision, I understand there could be applications under the Civil Liabilities Act.

The Hon. R.I. LUCAS: Thank you for that clarification. So it is clear that under the current arrangements, actions cannot be taken, and under the reform package the same situation will continue; that is, you will not be able to take action in the circumstances that have been outlined. We think that is a sensible position and we will certainly support the government's position on this amendment.

The Hon. J.A. DARLEY: What is the impact of this clause under the Civil Liability Act?

The Hon. I.K. HUNTER: My advice is that this will work with the Civil Liability Act but that it bars any action under this section.

Clause passed.

Clauses 85 to 96 passed.

Clause 97.

The CHAIR: Amendment No. 48 [Franks-1].

The Hon. T.A. FRANKS: It is consequential, Mr Chair.

Clause passed.

Clause 98.

The Hon. I.K. HUNTER: I move:

Amendment No 1 [SusEnvCons–1]—

Page 97, after line 28—Insert:

(2) Despite section 27 of the South Australian Employment Tribunal Act 2014, the Tribunal will conduct a review of a reviewable decision as a hearing de novo.

Clause 98 confers jurisdiction on the South Australian Employment Tribunal to deal with reviewable decisions. The government amendment amends the Return to Work Bill 2014 to state that when the South Australian Employment Tribunal is conducting a review of a reviewable decision under the Return to Work Bill 2014 that initial review is to be heard as a hearing de novo. Concerns were raised that if the initial review of the reviewable decision was by way of re-hearing, the tribunal would be restricted in the submissions and information it was able to consider. The Minister for Industrial Relations agrees that the first hearing by the tribunal should be de novo and this amendment is intended to achieve this.

The CHAIR: The Hon. Mr Lucas, you have an amendment to clause 98 as well.

The Hon. R.I. LUCAS: I will not proceed with that amendment. Unless the Hon. Mr Darley has changed his position this morning, it is consequential on his most recent position as indicated by a vote last evening on the issue of SACAT and the employment tribunal. I think as I outlined last night, all of the amendments on my seven pages, with the exception of one, relate to that issue and are consequential on that vote that we had last evening.

In relation to the government's amendment to the same clause, which has been moved, the Liberal Party has had no indication from any stakeholder in opposition to the government's proposed amendment. Indeed, we have had some indication of support. So, for those reasons, we will support the government's amendment.

The Hon. T.A. FRANKS: The Greens support the government amendment to the section. The government proposes to allow the tribunal to conduct a review of a reviewable decision as a hearing de novo. Currently, the tribunal has jurisdiction to deal with the reviewable decision. A hearing de novo will allow the tribunal to rule on the evidence and matters of law without giving deference to the previous tribunal's findings and we welcome that.

Amendment carried; clause as amended passed.

Clause 99 passed.

Clause 100.

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

Amendment No 33 [Darley–1]—

Page 98, line 2—Delete '1 month' and substitute: '3 months'

This amendment relates to the time period for making application to the tribunal after the receipt of notice of a reviewable decision. The amendment seeks to extend the one-month period to three months. I have had this amendment drafted as an alternative one to my next amendment, which removes the circumstances around when an extension of time would be allowed. I should indicate at this point that if these proposals are not supported I will be supporting the changes proposed by the Hon. Tammy Franks. Those circumstances are outlined in clause 100(2), which provides that:

(2) The Tribunal must only allow an extension of time…if satisfied—

(a) that good reason exists; and

(b) that another party will not be unreasonably disadvantaged because of the delay in commencing the proceedings.

Once again, these proceedings fail to take into account completely the needs of injured workers; they are a complete denial of access to justice. As the Law Society points out in its submission, upon receiving a letter a worker may take several weeks to seek an appointment with a lawyer and they may not be able to get to see the lawyer for several weeks thereafter. By the time the worker sees the lawyer 30 days may have already passed. It might take an injured worker that long to deal with matters as a result of their injuries.

The proposed changes could also disadvantage non English-speaking workers, those suffering from poor understanding and literacy problems. The special circumstances listed in subclause (2) are also particularly harsh, and a dramatic change from the current provisions of the act, which provide a broad discretion in allowing an extension of time. As alluded to by the ALA, the Fair Work Act 1994 provides a similar test and extensions of time are rarely granted.

The feedback I have had is that the current rules are well known and interpreted fairly for all parties, including the compensating authorities. My view is 'if it ain't broke, don't fix it.' However, at the very least it is only fair that we adopt one or the other position, certainly not both. I have had these provisions drafted separately so that in the event that one is not supported, consideration may still be given to the other. That said, I think the most reasonable outcome would be to support the deletion of the subclause. With that, I urge honourable members to support either this amendment and/or the next.

The Hon. I.K. HUNTER: Clause 100 sets a time limit of one month, subject to extension, within which an application may be made to the South Australian employment tribunal after the applicant receives notice of a reviewable decision. This clause is largely unchanged from the provisions of the Workers Rehabilitation and Compensation Act 1986, apart from the fact that the tribunal must only allow an extension of time if satisfied that good reason exists and another party will not be unreasonably disadvantaged. I understand that language was changed in the other place from a proposal to have 'special reasons' to 'good reasons' to try to meet some of the concerns expressed by the Hon. Mr Darley.

The Hon. Mr Darley's amendment changes the time frame within which an application to the tribunal for review of a reviewable decision must be made from one month to three months. It is in the best interests of all parties that applications for review be resolved expeditiously. The ability to review decisions long after they have been made creates uncertainty, draws out the dispute resolution process and shifts the focus from recovery and return to work, which is where we want it to be. One month is a reasonable time frame for a scheme which is so heavily focused on early intervention and response. In addition, subclause 100(2) already provides that the tribunal may allow an extension of time if good reason exists (as I said earlier) and delay in commencing proceedings does not unreasonably disadvantage another party. For that reason the government opposes this amendment and the foreshadowed amendments.

The Hon. T.A. FRANKS: I actually listened, online, to the debate in the other place on this particular clause.

An honourable member interjecting:

The Hon. T.A. FRANKS: Indeed; hear, hear. It was quite late at night, and in fact I was lying in bed (I am sure most of the members in the other place would have preferred not to be in the parliament that night). The original clause provided that 'special reasons' exist, and, first, I would like to hear from the government why it chose those words. Then, in the debate, in the interchange between the member for Bragg and the minister, the member for Bragg asked (to my recollection; and I must say that I have not read the *Hansard*, I am going on my listening to it that night) why the words 'special reason', and what sort of legal interpretation could be made of 'special reason', why those words were chosen—and I echo those questions. The minister, in retort, said, 'Well, how about we change it to 'good reason' then?' My questions are: on what premise was the wording 'good reason' chosen, and what is a 'good reason'?

The Hon. I.K. HUNTER: The honourable member invites me to make some learned commentary on the legal status of the words 'special reason' and 'good reason', which were agitated for by the member for Bragg to the Attorney-General. I must confess that I have no such expertise and cannot give her an answer.

The Hon. T.A. FRANKS: I would assume that the minister would have briefing notes on why a 'good reason' must exist, and why, in fact, the clause does not read 'a reason exists'.

The Hon. I.K. HUNTER: I have no advice to handle this matter. If the honourable member would like I will seek some advice during the luncheon break, if I can, to bring back to her. However, as I said, I do not have any expertise so I cannot ad lib this one. I will have to go back and get a response.

The Hon. T.A. FRANKS: I would say that I echo the sentiments of the Hon. John Darley: it is not broken at the moment, so why are we seeking to remedy it with something that may make it worse by inserting the words either 'special reason' or 'good reason'? If a reason exists, surely that should be enough. I would like the legal background on why 'special reason' was chosen and then why it was changed to 'good reason', seemingly on the floor of parliament in the other place.

That raises grave concerns with me that simply it was a late night interchange in the parliament without proper reference to how it would be interpreted into the future. If those notes are not with the minister now, that actually strengthens my grave concerns, and I would seek some response on that to be contributed to this committee stage, so that when this is interpreted into the future we actually do have some understanding of what we are doing with this clause.

The Hon. R.I. LUCAS: I, along with the other speakers in this debate, am not a lawyer, but my non-lawyer's understanding of what occurred in the lower house, having not been listening to it online but having read the transcript, is that we had two lawyers with some experience in the jurisdiction talking and that it is quite possible when the official explanation comes back that there is some greater legal precedent in terms of interpreting the word 'good' as opposed to the word 'special'. Those who follow football will know that Bruce McInerney loves the word 'special' and he has his own particular definition of which particular footballers deserve the title of 'special'.

I suspect it is likely to be along the lines of it is clearer in terms of legal interpretation, and that is why the two lawyers gasbagging across the chamber late in the evening decided that maybe, rather than getting parliamentary counsel on the floor and asking why they originally drafted 'special' and the difference between 'special' and 'good'. As the minister has outlined, he will bring back an answer on that, and I suspect it is going to be perhaps along those lines, but in relation to the principal issue, for the reasons that we outlined earlier, we will be supporting the government's position on this particular clause.

The Hon. T.A. FRANKS: Mr Chair, I actually have not spoken to the amendment. I would like to ask questions on the clause.

The CHAIR: If you had stood up, I would have recognised you, the Hon. Ms Franks.

The Hon. T.A. FRANKS: If you had looked up, you would have seen me.

The CHAIR: The Hon. Ms Franks, don't waste our time. Just get to the point.

The Hon. T.A. FRANKS: If you had looked up, Mr Chair, and paid attention to the floor, you would have seen me. The Greens raised concerns with respect to this section 100. In fact, our answers have not been provided today. This was the subject of quite a contested debate in the lower house. I am very disappointed that the government has not been able to provide an answer to why the word 'special' was exchanged for the word 'good'. We are talking about excluding the rights of people to appeal within a small time frame and making that bar even higher. When you already have a system that is going to be more difficult for injured workers, surely that very entry point should not be as restrictive as you are currently doing with that. With that, we strongly support John Darley's amendments.

Amendment negatived.

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

Amendment No 34 [Darley–1]—

Page 98, lines 5 to 8—Delete subclause (2)

I have already outlined the reasoning behind this amendment. I would urge honourable members to support it.

The Hon. I.K. HUNTER: I have already outlined the reasons to oppose, and the government will not be supporting the amendment.

The Hon. T.A. FRANKS: The Greens will be supporting John Darley's amendment.

The Hon. R.I. LUCAS: We support the government's position.

Amendment negatived; clause passed.

Clauses 101 to 103 passed.

Clause 104.

The Hon. I.K. HUNTER: I move:

Amendment No 2 [SusEnvCons–1]—

Page 100, line 15—Delete 'section 43(10)' and substitute 'section 43(14)'

This technical amendment corrects the reference in clause 104 from section 43(10) of the South Australian Employment Tribunal Bill 2014 to section 43(14) of the same bill. This is as a consequence of amendments that were made to clause 43 of the South Australian Employment Tribunal Bill 2014 in the House of Assembly that affected the numbering.

The Hon. R.I. LUCAS: We adopt the government's position.

Amendment carried; clause as amended passed.

Clause 105.

The Hon. I.K. HUNTER: I move:

Amendment No 3 [SusEnvCons–1]—

Page 100, line 22—Delete 'section 49(1)(a) and (b)' and substitute 'section 51(1)(a) and (b)'

This technical amendment corrects the reference in clause 105 from section 49 of the South Australian Employment Tribunal Bill 2014 to section 51 in the same bill. This is as a consequence of amendments that were made to the South Australian Employment Tribunal Bill in the House of Assembly that affected the numbering. Sir, with your indulgence, I move amendment No. 4 as well:

Amendment No 4 [SusEnvCons–1]—

Page 100, line 26—Delete 'Section 49(1)(c)' and substitute 'Section 51(1)(c)'

Again, a technical amendment that corrects a reference in clause 105 from section 49(1)(c) of the South Australian Employment Tribunal Bill of section 51(1)(c) of the same bill. This is as a

consequence of amendments that were made to the South Australian Employment Tribunal Bill in the House of Assembly that affected the numbering.

Amendments carried; clause as amended passed.

Clause 106.

The Hon. I.K. HUNTER: I move:

Amendment No 5 [SusEnvCons–1]—

Page 101, line 2—Delete 'section 104(2)(b)' and substitute:

section 43(13) of the South Australian Employment Tribunal Act 2014

This is, again, a technical amendment that corrects a reference in clause 106 from section 104 of the Return to Work Bill 2014 to section 43(13) of the South Australian Employment Tribunal Bill 2014. This, too, is as a consequence of amendments that were made in the House of Assembly to remove provisions that were previously in the Return to Work Bill and insert them into the South Australian Employment Tribunal Bill. My second amendment No. 6 is of a similar nature and therefore I move:

Amendment No 6 [SusEnvCons–1]—

Page 101, line 28—Delete 'Section 55' and substitute: Section 57

This technical amendment corrects a reference in clause 106 from section 55 of the South Australian Employment Tribunal Bill, section 57 of the same bill, for the same reasons.

The CHAIR: Just for clarification, the Hon. Ms Franks has one amendment to clause 106 and the Hon. Mr Darley also, so we will address your amendment No. 5 now, Minister. Are you moving your amendment No. 50, Ms Franks?

The Hon. T.A. FRANKS: I am indeed, and I indicate that we support the government's amendment previously spoken to; however, I will move amendment No. 50—

The CHAIR: Let's do this one first.

The Hon. T.A. FRANKS: Yes, that is how it would normally work, but you are the one who jumped ahead.

The CHAIR: Alright, Ms Franks.

Amendment carried.

The CHAIR: Amendment No. 50, the Hon. Ms Franks.

The Hon. I.K. HUNTER: Mr Chair, I am sorry to interrupt. You have only moved amendment No 5. I moved both 5 and 6.

The CHAIR: Mainly because there is an amendment in between.

The Hon. I.K. HUNTER: I understand and I apologise.

The Hon. T.A. FRANKS: I move:

Amendment No 50 [Franks–1]—

Page 101, lines 21 to 27—Delete subclause (7)

This amendment is actually based on the Law Society's recommendations, as I previously mentioned, which all members would have received and be aware of. The Law Society opposes this section of the bill as it provides that, in cases of disputation over an amount of permanent impairment compensation, a worker must recover more than 10 per cent over what is offered by a compensating authority to settle the matter in order to be entitled to recover costs. The Law Society is generally opposed to requiring a worker to achieve an outcome more than 10 per cent over an offer made by the compensating authority in order to recover these costs.

In other jurisdictions there would be an entitlement to costs, provided an amount is achieved which is greater than the amount offered. Given that the government has previously argued that we are going for parity with other jurisdictions, there is a question there to be answered as to why we

are on a race to the bottom on this particular clause. It would be unfair to a worker if the worker were to have an assessment of a 30 per cent whole person impairment and be the subject of an offer to settle on the basis of a 29 per cent whole person impairment and then not be entitled to recover costs where the tribunal finds that the worker does not reach that critical threshold of 30 per cent whole person impairment.

The Hon. I.K. HUNTER: This amendment moved by the Hon. Ms Franks, which is identical to the one proposed by the Hon. Mr Darley, concerns a removal of costs provision relating to permanent impairment compensation. If a worker disputes the amount of permanent impairment compensation determined by the compensating authority, and the tribunal awards less than, the same as or less than 10 per cent above the amount offered by the compensating authority to settle the matter, then the worker is not entitled to costs.

Balanced against the generous cost provisions of the act's dispute resolution system, the aim of this provision is to encourage early settlement of permanent impairment compensation reviews to ensure that only 'merit worthy' reviews proceed to a hearing. Consequently we do not support the amendment.

The Hon. R.I. LUCAS: For the reasons we have outlined earlier, and confirming that we have received a copy of the Law Society's submission, we do not support the amendment.

The Hon. J.A. DARLEY: This amendment deals with the issue of costs against the relevant compensating authority. Clause 106 of the bill provides that a party is entitled, subject to some exceptions, to an award against the relevant compensating authority for the party's reasonable costs of any consideration of a decision under division 4, which deals with seriously-injured workers, and any subsequent proceedings for resolution of the matter before the tribunal.

Subclause (7) goes on to provide that, if the amount of permanent impairment compensation is disputed by a worker and the amount the tribunal awards is less than or the same as, or less than 10 per cent above an amount offered by the relevant compensating authority to settle the matter before the matter proceeds to a hearing before the tribunal, the worker is not entitled to costs.

To put it more simply: in order to recover costs a worker must recover more than 10 per cent over what is offered by the compensating authority to settle the matter. As pointed out by the Law Society, this would be particularly unfair to a worker, who has an assessment of 30 per cent of whole person impairment, who is the subject of an offer to settle on the basis of 29 per cent whole person impairment, and as a result is not entitled to recover costs where the tribunal finds that the worker does in fact reach the critical 30 per cent threshold.

The position represents a common theme throughout this bill. It is yet another example of marginalising injured workers and punishing them for pursuing entitlements for compensation. I ask honourable members to give consideration worthy of the amendment.

Amendment negatived.

The Hon. I.K. HUNTER: I have already moved this amendment, but I am happy to move it again. I move:

Amendment No 6 [SusEnvCons–1]—

Page 101, line 28—Delete 'Section 55' and substitute: Section 57

Amendment carried; clause as amended passed.

Clause 107 passed.

Clause 108.

The Hon. T.A. FRANKS: I move:

Amendment No 51 [Franks–1]—

Clause 108—This clause will be opposed.

This amendment opposes clause 108. We move this, as stated before, because it is based on one of the Law Society's recommendations on this bill. The clause is opposed because we oppose the proposed limit of recovery of costs to the scale of the representation costs. The society has noted

that the wording of this section is identical to the terms in section 88G of the current act. The operations of section 88G have not been gazetted, and it is the position of the Law Society that it has not been gazetted for good reasons. These reasons include that (a) such provisions can only operate with respect to proceedings before the tribunal and (b) regularly solicitors are representing parties to disputes before the tribunal in relation to multiple issues and frequently where some issues are before the tribunal and some are not.

There is no good reason or principle as to why a solicitor should be entitled to charge a higher rate for representation when there is no dispute, compared with representation where there is a dispute. Moreover, it would be difficult and time consuming for a solicitor who sees a client in relation to multiple topics to then create multiple files and divide the attendance to cross those various files.

The Hon. J.A. DARLEY: I will be supporting this amendment.

The Hon. I.K. HUNTER: The government opposes the striking out of this clause. The clause, as the Hon. Ms Franks has said, is mirrored in section 88G of the Workers Rehabilitation and Compensation Act 1986. To date, a scale of charges for work involved in or associated with representation has not been fixed by regulation. The government has not had the need to do so, as the charging and the recovery of representation costs have been adequately dealt with by the rules of the Workers Compensation Tribunal.

Rule 31 provides that a representative of parties shall not charge excessive costs. It provides that costs in excess of the Supreme Court scale will be regarded as excessive unless exceptional circumstances exist. If a representative of a worker wishes to charge costs greater than those payable by the compensating authority, the representative must advise the worker of rule 31 and their rights under the provisions of the Legal Practitioners Act SA 1981 relating to costs disclosure and adjudication.

A worker who believes representation costs have been incurred improperly or without reasonable cause or have been wasted by undue delay, negligence or by other misconduct or default, may advise the registrar of the tribunal of their belief. He may then refer the matter to a presiding member to deal with the matter in accordance with the costs liability of representative provisions set out in section 95A of the Workers Rehabilitation and Compensation Act.

Under those provisions, the tribunal may order that all or any of the costs between the professional representative and the worker be disallowed or repaid to the worker, the professional representative pay all or any of the costs ordered to be paid by the worker, or the professional representative pay all or any of the costs of any party other than the worker. The government considers this rule provides adequate protection to workers from overcharging and has no intention at this time to promulgate a regulation pursuant to clause 108, and we ask that the committee retain clause 108.

The Hon. R.I. LUCAS: The Liberal Party supports retention of clause 108.

Clause passed.

Clauses 109 to 121 passed.

Clause 122.

The CHAIR: The next amendment has two of the same: amendment No. 36, Mr Darley.

The Hon. J.A. DARLEY: It is a consequential amendment.

The CHAIR: The Hon. Ms Franks, is amendment No. 53 consequential?

The Hon. T.A. FRANKS: Yes, consequential.

Clause passed.

Clauses 123 to 136 passed.

Clause 137.

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

Amendment No 21 [Lucas–1]—

Page 118, after line 15—Insert:

(3) The Minister must cause a copy of a report under subsection (2) to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

This is the one remaining amendment in the seven pages of amendments that relate to a separate issue to the issue of SACAT. This simply requires the tabling of the report referred to in clause 137 within six sitting days of the minister receiving it.

The Hon. I.K. HUNTER: The government rises to support this amendment. This amendment applies to provisions around the WorkCover board setting the average premium rate. In the event the board intend to set the average premium rate above 2 per cent, clause 137 requires the board to furnish the minister with a report setting out the reasons it has not been able to achieve a rate of 2 per cent or less, including information about the rate that is to apply and the assessment of the corporation's ability to set a rate of 2 per cent or less in the next financial year. I understand this amendment will require the board's report to the minister to be tabled before both houses of parliament within six sitting days.

In relation to a question asked by the Hon. Ms Franks a little earlier, I understand and my advice is that the wording was changed from 'special reason' to 'good reason' because it was felt that 'special reason' set too high a bar. 'Good reason' is something compelling; it is not a 'the dog ate my homework' sort of reason. That is the legal advice you could only get from the highest legal man in the land, I suppose.

Amendment carried; clause as amended passed.

Clauses 138 to 178 passed.

Clause 179.

The Hon. I.K. HUNTER: I move:

Amendment No 17 [SusEnvCons–2]—

Page 143, line 20—After 'employer' (first occurring) insert '(or a representative of such an employer)'

This clause imposes an obligation on the corporation to provide a worker's employer with a copy of any report prepared by health practitioners within seven days of receiving a request from the employer. This amendment provides for the ability of an employer's representative to request a copy of a worker's medical reports.

The Hon. R.I. LUCAS: We support the amendment.

The CHAIR: Do you want to move 18 as well?

The Hon. I.K. HUNTER: I can, Mr Chairman. I move:

Amendment No 18 [SusEnvCons–2]—

Page 143, line 20—After 'employer' (second occurring) insert '(or the representative)'

I advise the committee that my amendment No. 18 provides for the corporation to provide a worker's medical reports to an employer's representative who has made a request for a copy, as per the previous amendment.

Amendments carried; clause as amended passed.

Clause 180.

The Hon. I.K. HUNTER: I move:

Amendment No 19 [SusEnvCons–2]—

Page 144, after line 40—Insert:

(11a) Section 17(1) of the Ombudsman Act 1972 does not apply in relation to a review under subsection (8).

Clause 180 sets out the nature and extent of the right of the worker to access copies of material relevant to a claim and the right of a worker to inspect all non-documentary material in the possession of the corporation, or a delegate of the corporation, subject to certain exemptions. This amendment specifies that the Return to Work Bill overrides the requirements of section 17(1) of the Ombudsman Act 1972, which would operate to prevent the State Ombudsman proceeding with investigations relevant to self-insured employers.

The Hon. J.A. DARLEY: Can I ask whether the minister sought advice from the Ombudsman on this matter and the next amendment?

The Hon. I.K. HUNTER: My advice is yes; this was requested for the sake of clarity.

The Hon. T.A. FRANKS: I had a similar question to the Hon. John Darley. It is the Greens' understanding that this amendment has been drafted by the government after their consultation and a request from the Ombudsman. We have received correspondence from the minister's office to that effect, and we accept that, although we have not been able to contact the Ombudsman directly to confirm that.

The Hon. R.I. LUCAS: We support the government's position.

Amendment carried; clause as amended passed.

Clauses 181 to 202 passed.

Clause 203.

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

Amendment No 37 [Darley–1]—

Page 156, line 15—Delete 'on the expiry of 3 years from its commencement' and substitute:

on a 3 yearly basis

Amendments Nos 37 through to 41 all deal with provisions regarding reviews, and I will speak to them as a package. That said, if the first two of these amendments are not passed I will still move the third amendment because I think this is a very important measure that is able to stand alone. Members will recall that during the 2008 WorkCover debate, the only amendment that we managed to get through this place was one I proposed for a review of the new provisions.

Those changes resulted in the Cossey review which was released in 2011. The feedback that I have received is that this review was extremely worthwhile. That said, some commentators have said that much more could be learned about the impacts of the changes to the scheme if such reviews are conducted on a continual basis. This would certainly enable us to track more effectively the outcomes of any changes proposed by the government especially in this instance where we are going to see the most dramatic changes to the WorkCover system.

I support that position and, as such, propose that reviews be conducted every three years following the commencement of this bill. Specifically I think it is important that reviews consider the extent to which the changes have provided an effective and fair scheme, whether or not the threshold for being characterised as a seriously-injured worker has been set too high, and whether or not there is further scope to alter common law rights.

These additional considerations are all contained within amendment No. 39. The benefits of these sorts of provisions speak for themselves. I urge honourable members to support this package of amendments and enable the changes that are to be implemented by the government to be properly scrutinised.

The Hon. I.K. HUNTER: This amendment moved by the Hon. Mr Darley provides for a review of the act to occur every three years, rather than one review after three years. The government considers the frequency of such reviews to be unduly burdensome and the diversion of focus from the scheme's legislative objectives and, consequently, the government will be opposing the amendments and the subsequent amendments.

The Hon. R.I. LUCAS: The Liberal Party does not have extraordinarily strong views on this particular issue other than in the end our position on balance is not to support the amendment. One

of the reasons for not being unduly concerned about whether this amendment was supported or not is that it is our view, as I think others have expressed that, given the history of workers compensation legislation, it is highly likely that there will be changes, if not before the expiry of three years from the commencement of this new reform package, once the first review is conducted.

It is highly likely that there will be some recommendations for change and, at that particular time, whoever happens to be in the parliament then can make a decision as to whether everything is as the government intends it to be, rosy in the world of workers compensation. I might just say that that is highly unlikely, but if it was well then the parliament probably would take a view that there is no particular need to be locking in three-yearly reviews.

If there are still significant issues, then they may well take a decision that they might want another review more quickly than three years—a two-year period or one year down the track. We have supported reviews on the basis of 12 months and two years in some areas previously. So for those reasons we will not be supporting this amendment. But we would certainly be open upon receipt of the first review some time after three years from the commencement of this reform package, to considering whether or not we should lock in another review after that. At this stage we are not going to be supporting a position that from now until the end of time there should be a review of the scheme every three years.

The Hon. T.A. FRANKS: The Greens will be supporting this amendment put forward by the Hon. John Darley for not only one three-year review, but a review every three years. We believe that we are entering into a situation, as I said in my second reading speech, which illustrates the irony of the words of the Leader of the Opposition telling people to vote Labor, because this is probably the best Liberal WorkCover bill we have seen in a long time, but it is, of course, being implemented by a Labor government.

I'm sure that the Labor Party might have great confidence in being power in six years' time but I suspect the Liberal Party thinks that they are going to be on the government benches and would not want that second review to be occurring but would be quite welcoming of the first review. We are entering a situation where it has been admitted by the government that it is the budget bottom line that counts here and that we are sacrificing the standards for injured workers in this state. A review in three years and then a review in six years is hardly too much to ask for in that situation.

Amendment negatived.

The CHAIR: Amendment No. 38 is consequential, the Hon. Mr Darley.

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

Amendment No 39 [Darley–1]—

Page 156, after line 16—Insert:

(aa) the extent to which this Act has provided an effective and fair scheme to support and compensate workers who have been injured at work; and

(ab) without limiting paragraph (aa)—

(i) whether the threshold for being characterised as a seriously injured worker has been set too high; and

(ii) whether the affect of Part 5 on rights at common law should be altered or adjusted; and

As I mentioned earlier, this amendment will ensure that a review into the act considers specifically the extent to which the return-to-work scheme has provided an effective and fair scheme to support and compensate injured workers. Whether or not the threshold for being characterised as seriously injured has been set too high and whether or not common law rights need to be altered or adjusted, it is critical (moving forward) that these matters are appropriately considered and this amendment reflects that. I urge all honourable members to support this amendment.

The Hon. I.K. HUNTER: The government opposes this amendment. The amendment will provide for further specific areas for review. We believe the already existing provisions for review do not exclude the proposed items being included and therefore cannot support it.

The Hon. R.I. LUCAS: For similar reasons to the ones I have just outlined in relation to the earlier amendment from the Hon. Mr Darley, we will not be supporting this amendment.

The Hon. T.A. FRANKS: The Greens will not be supporting this amendment.

Amendment negatived.

The Hon. I.K. HUNTER: I move:

Amendment No 1 [SusEnvCons–4]—

Page 156, after line 21—Insert:

(ab) without limiting paragraph (a), whether the jurisdiction of the South Australian Employment Tribunal under this Act should be transferred to the South Australian Civil and Administrative Tribunal; and

This amendment expands the provisions requiring the minister to commence a review of the return to work act, its administration and operation, three years from its commencement. Currently, the review must include an assessment of the extent to which the return-to-work scheme and dispute resolution processes under this act and the South Australian Employment Tribunal act have achieved a reduction in the number of disputed matters and the time taken to resolve disputes. This amendment expands the scope to include an assessment of the merits of moving the jurisdiction for review of matters under the return to work act from the employment tribunal to a stream of the South Australian Civil and Administrative Tribunal. Clause 203 already requires a review to be completed within six months and for the report to be laid before both houses of parliament within 12 sitting days.

The Hon. R.I. LUCAS: This was originally, and is now I guess, the government's attempt to adopt an alternative position to the position the Liberal Party had outlined originally, which was to transfer the jurisdiction to SACAT in 2015 and then the actual amendment we moved, which was successful earlier yesterday and then was defeated late last evening, was for transfer to SACAT in July 2018. We will not oppose this amendment. Contrary to the comments from the Hon. Tammy Franks, I can assure the Hon. Tammy Franks that those of us on this side of the parliament never assume anything in relation to future election results and we have the sad results of history to demonstrate the wiseness of that particular position. So, we make no assumptions, and I certainly make no assumptions, as to who will be in government and opposition post 2018.

It is my view that if the Labor government is re-elected in 2018, that this review is simply words. The government, in particular Premier Weatherill and those who drive him, is violently in support of the employment tribunal model and this, under a Weatherill-led government, would be just a sop, that a review would be done to have a look at it. That is fine, that is the Hon. Mr Weatherill's policy and position; however, it is one that we strongly disagree with. When we get to the employment tribunal bill I will make some more detailed comments at clause 1 of the committee stage of the debate, so I will not unduly delay this particular provision.

In the case that the Liberal government is elected in 2018, then our policy position is clear and we will not need a review to confirm a policy position. Our position is clear: we think it is good policy that SACAT be used for the purposes that are being supported in the parliament. That is, to be an all-encompassing body that can do a whole variety of things, one of which should be the work of the employment tribunal. That is a policy position we have put down here, and we will campaign on it leading up to 2018. Should we be successful in 2018, we would use that wonderful phrase 'claim a mandate' to the crossbenchers and others to say, 'We have campaigned on this issue and will seek to implement that policy change for good policy reasons, in terms of why we have supported SACAT as a matter of principle.'

As I will outline in the employment tribunal debate, in our view there are other reasons why, if you want to have a sensible jurisdiction in this area and if you are trying to reduce costs in this area, the current operations of the Workers Compensation Tribunal and the proposed employment tribunal are inconsistent with that policy aim. I think the Hon. Mr Brokenshire referred, in debate last evening, to the Labor government's current policy in ensuring that many fellow travellers are appointed to the employment tribunal, or to the Workers Compensation Tribunal to be transferred over to the employment tribunal. In our view, that makes it clear that the operations of this tribunal

will be inconsistent with what is supposedly reform of workers compensation legislation; that is, in terms of trying to reduce costs as well as having a fair and efficient workers compensation system.

As I said, we will not oppose the amendment, but we do not hold our breath that, if a Labor government is re-elected, it will mean anything more than ensuring that the appropriate person, from a Labor government's viewpoint, conducts the review, and that he or she will be selected, in part, so that when this particular provision is reviewed the recommendation will be for a continuation of the employment tribunal arrangements. As I said, if the Liberal government is elected we will have a clear policy position. The legislation will require that a review be conducted, but we will have a clear policy position that indicates that we believe SACAT is the appropriate vehicle to oversight the work that will be conducted over the next three years or so by the employment tribunal.

The Hon. T.A. FRANKS: The Greens will be opposing the amendment put forward by the government. I will remain agnostic, and I will listen to what is clearly going to be, over the coming years, the arguments put for including the employment tribunal in SACAT. At this stage, this part of the debate has been raised so late in the piece that there has not been adequate ability for proper consultation; however, both the Greens and I have been approached by many in the legal community with grave concerns about moving the employment tribunal into SACAT. The Law Society has specifically said that it has really quite significant concerns, but has not had the capacity to provide a formal submission, given the timing and their resources and the way this debate has unfolded.

Certainly, it would be advantageous had these issues been raised much earlier in the piece. If the Liberal opposition, as they have just stated, plan to make this a centrepiece of their election campaigning and will be seeking a mandate on that and putting the crossbenches on notice that they may have indeed a mandate on this issue, should they come to government (although I understand that they see that as a hope rather than a certainty), then obviously those reasons and those debates will be had in the fullness of time and with all stakeholders being able to not only have an opinion but put that opinion forward for the benefit of decision-makers and the community to see those debates.

With that, we do not see that there has actually been enough information put out in a timely manner on this issue to support either the opposition or the government's intent here to look at that merging of the employment tribunal into SACAT.

The Hon. J.A. DARLEY: I will be opposing this amendment for the same reasons as outlined by the Hon. Tammy Franks.

The Hon. R.I. LUCAS: Just a couple of comments. Can I just hasten to say that nothing I have said should lead anyone to believe that this will be a centrepiece of the Liberal campaign leading to 2018.

An honourable member interjecting:

The Hon. R.I. LUCAS: Mandate ain't centrepiece, let me assure you. The centrepiece of our campaign will be on issues such as cost of living, government waste and management, and a whole variety of other issues like that. Nevertheless, our position on this issue is that it will be of some significance to a very small number of people in the community, I suspect the lawyers and those actively engaged in workers compensation and legislation. I just clarify that that is the case.

The second point I would make is that this issue has not been raised right at the end, because to be fair, the minister and others indicated right from the word go, when this was first being consulted with stakeholders, that the original intention was for it to be in SACAT. Whilst all these confidential discussions were going on, as some members will be aware, I am assuming that employers and certainly employee representatives in the very early days, key people within the government and others, were supporting the model of SACAT being the appropriate vehicle, because it just makes sense. That is why some key people in government were supporting it be SACAT.

What then happened was there was this significant lobby, which may or may not have included—I do not know—the Law Society and the ALA, but certainly did include key representatives and employer associations and certainly did include Premier Weatherill, who obviously is not without influence within the current government. So the position did move from SACAT to the notion of a continuation of the workers compensation tribunal, but just called the employment tribunal.

For the record's sake, it is important to note that the debate about whether this should be a SACAT is not something that has just happened in the last 48 hours. This has been a raging debate going on amongst those who have been involved in, firstly, the confidential discussions about the workers compensation reform package, and then over recent weeks, once it became public as to what is going to be the appropriate forum for this, I can say—and again, if I can remind the Hon. Tammy Franks if she was reclining in bed listening to the online debate of these bills in the House of Assembly—it was an issue that was top of mind from the member for Bragg and one or two others in the debate during both the Return to Work Bill and I think also the Employment Tribunal Bill, where there was a discussion.

I will stand corrected—I just cannot find it at the moment—but I am pretty sure that minister Rau during that debate many weeks ago did indicate that his major opposition, which he has repeated to me, was just that it was administratively impossible for Justice Parker and SACAT to take it on in July 2015.

Again, I stand to be corrected—the minister might have the exact words if I am wrong—but my recollection of what he said was that there may well be an argument further down the path that SACAT take it over. There was no violent implacable opposition from minister Rau in the House of Assembly debate to the argument. It was essentially that it was just not possible to do it, as the Liberal Party members were raising, by July 2015. As I said, I think he did indicate that it may well be sensible or possible over the medium term for it to occur.

I want to put on the record that this is an issue that has been debated for quite some time. It may well have some more significance to some within this debate than others, but it is not something that has been cooked up by anybody just in the last 48 hours or so.

The Hon. T.A. FRANKS: In response to that, I would say that I am certainly heartened to hear that it is not to be a centrepiece of your re-election bid, but it will probably be no surprise to you that the Greens have not been privy to that raging debate you talk of. Indeed, our briefing on this bill was given after it had already passed the lower house. What I would say is that obviously by that stage the opposition and the government had come to their arrangement that has been referred to many times in indicating the opposition's support of this bill throughout this debate.

The crossbenchers were not privy to the original discussions and certainly have come in at a point where the lobby by and large has been told to email us all, to write to us all and to communicate to us all not to support any crossbench amendments and that pretty much this piece of legislation is a done deal between opposition and government.

This issue has been, in fact, pretty much the sole point of contention between opposition and government, it would be fair to say, and in that situation we are now seeing a government amendment that has been filed and tabled in this place in the last few sitting days—not months ago, not in the original bill. So, I fail to see the argument that this raging debate and that this informed debate has actually occurred: it has been a private debate and it has been a private done deal.

The crossbenchers will speak for themselves but, as a member of the crossbench, if we are going to have this debate, let's have it in a transparent, timely and appropriately undertaken way where everybody is aware of the issues and we do not come to this place with deals already stitched up.

The Hon. R.I. LUCAS: The only point I would make again is that *Hansard* is not a private debate: *Hansard* is on the public record and it has been there for quite some time in terms of the issues the Liberal Party, the member for Bragg and others were raising. I can only repeat that we publicly raised the issue so that aspect was not a private discussion. It was there for all who were prepared to listen or read *Hansard*.

The Hon. T.A. FRANKS: Just briefly, we are now debating a government amendment that has been put up in these last few sitting days.

Amendment carried.

The CHAIR: Are amendments Nos 40 and 41 [Darley-1] consequential?

The Hon. J.A. DARLEY: Yes.

Clause as amended passed.

Schedules 1 and 2 passed.

Schedule 3.

The CHAIR: We now have amendment No. 54 [Franks-1] to schedule 3.

The Hon. T.A. FRANKS: This amendment goes to the longstanding campaign to ensure that members of the CFS were given presumptive recognition under WorkCover, similar to that which has now been accepted by the government for the MFS.

Obviously we are pleased with the government's recent announcement, and it is the first time the government in this council has actually voted for parity for the CFS, of course with the provision that a CFS firefighter have a 10-year proviso, which is a slightly less equal accordance of rights that the MFS now enjoys.

With that, I will not move these amendments standing in my name, but obviously the Greens were prepared to champion this clause in the bill. Had the government kept to the review timetable it promised at the state election, these amendments would not have been necessary, but would have been embodied in the Return to Work Bill when it entered the lower house.

The CHAIR: Is that all your amendments to schedule 3, the Hon. Ms Franks?

The Hon. T.A. FRANKS: They all lapse.

The Hon. I.K. HUNTER: I move:

Amendment No 3 [SusEnvCons–3]—

Schedule 3, clause 1, page 160, after line 9—Insert:

(1a) If—

(a) a worker suffers an injury of a kind referred to in the first column of the table in this Schedule; and

(b) the worker was a member of SACFS presumptively employed by the Crown as a firefighter—

(i) on or after 1 July 2013; and

(ii) before the injury occurred; and

(iii) for the qualifying period referred to in the second column of the table opposite the injury; and

(c) the injury occurred—

(i) on or after 1 July 2013; and

(ii) in the case of a worker who is no longer a member of SACFS presumptively employed by the Crown as a firefighter—no more than 10 years after the cessation of that presumptive employment; and

(d) during the qualifying period referred to in paragraph (b)(iii), the worker was exposed to the hazards of a fire scene (including exposure to a hazard of the fire that occurred away from the scene),

the worker's injury is presumed, in the absence of proof to the contrary, to have arisen from his or her presumptive employment by the Crown.

This amendment recasts the reverse onus of proof provisions to the South Australian Country Fire Service firefighters as related to certain types of cancers listed in schedule 3. The consequence of the new provisions is that there is no longer a requirement for a volunteer firefighter to have been exposed to the hazards of fire scene 175 times in a five-year period during the relevant employment.

The Hon. T.A. FRANKS: The Greens strongly support this amendment.

Amendment carried.

The Hon. I.K. HUNTER: I move:

Amendment No 4 [SusEnvCons–3]—

Schedule 3, clause 1, page 160, line 10—Delete 'subclause (1)' and substitute 'subclauses (1) and (1a)'

This is a minor technical amendment. It is consequential to the recasting of reverse onus of proof provisions, I am advised, for the South Australian Country Fire Service providers. This amendment ensures that clause 1(2) operates for the purposes of both subclause (1) and new subclause (1a).

Amendment carried.

The Hon. I.K. HUNTER: I move:

Amendment No 5 [SusEnvCons–3]—

Schedule 3, clause 1, page 160, lines 18 to 42 and page 161, lines 1 and 2—Delete subclauses (3) and (4)

This amendment is consequential.

Amendment carried; schedule as amended passed.

Schedule 4 passed.

Schedule 5.

The Hon. I.K. HUNTER: I move:

Amendment No 20 [SusEnvCons–2]—

Schedule 5, clause 5, page 164, after line 15—Insert:

and

(c) without limiting subclause (3), sections 17(1) and 25 of the Ombudsman Act 1972 do not apply in relation to a matter referred to the Ombudsman.

In relation to a review regarding compliance with service standards, this amendment specifies that the Return to Work Bill overrides the requirements of section 17(1) and section 25 of the Ombudsman Act 1972, which would operate to prevent the State Ombudsman proceeding with investigations relevant to self-insured employers and would impose additional reporting requirements.

Amendment carried; schedule as amended passed.

Schedule 6 passed.

Schedule 7.

The Hon. T.A. FRANKS: My amendment No. 57 is consequential.

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

Amendment No 42 [Darley–1]—

Schedule 7—Delete Schedule 7 and substitute 'Schedule 7—Prescribed sum—economic loss'

Degree of whole person impairment	Prescribed sum
5%	$5 000 (indexed)
6%	$7 785 (indexed)
7%	$12 027 (indexed)
8%	$20 296 (indexed)
9%	$30 067 (indexed)
10%	$41 342 (indexed)
11%	$48 437 (indexed)
12%	$56 105 (indexed)
13%	$63 572 (indexed)
14%	$73 512 (indexed)
15%	$86 453 (indexed)
16%	$95 574 (indexed)
17%	$106 178 (indexed)
18%	$120 643 (indexed)
19%	$135 731 (indexed)
20%	$229 944 (indexed)
21%	$253 172 (indexed)
22%	$279 428 (indexed)
23%	$306 255 (indexed)

Degree of whole person impairment	Prescribed sum
24%	$333 584 (indexed)
25%	$363 989 (indexed)
26%	$394 823 (indexed)
27%	$435 903 (indexed)
28%	$477 968 (indexed)
29%	$525 000 (indexed)

My officers spent a great deal of time trying to come up with some concessions that will make up for the harsh and unjust consequences that the provisions in this bill will have on injured workers. One of the greatest challenges was trying to address the magnitude of the difference in entitlements afforded to those workers who are at the higher end of the 30 per cent whole person impairment threshold. Take, for instance, the worker who has an assessed WPI of 29 per cent: the difference between the entitlements they receive, compared with a worker of a 30 per cent WPI, is extremely considerable: where one will benefit from lifetime payments, the other effectively will be cut off the scheme after two years.

As mentioned earlier, the Law Society states that a person, for instance a clerical officer, may suffer a significant injury that may have little impact on their ability to earn. That clerical officer could very well be assessed as having a WPI of 30 per cent. On the other hand, a firefighter, police officer or ambulance officer may suffer a chronic back injury that would prevent them from making a living in their profession, yet they would not be entitled to lifetime payments. They would, in fact, be cut off the system after two years of payments and a further year of medicals. It just does not add up.

The aim of this amendment is to some extent to provide some middle ground for those workers who do not reach the 30 per cent threshold but are assessed as having an injury between 20 per cent and 29 per cent. In those instances, the compromise that I am proposing would see those workers receive an additional 50 per cent to what the government is proposing in their lump sum payment for economic loss. It is not a perfect scenario but it is something and, at this stage, I certainly think something is better than nothing. I urge honourable members in the strongest possible terms to support this amendment.

The Hon. I.K. HUNTER: Schedule 7 sets out the prescribed sum to be applied with regard to the worker's level of whole-person impairment to determine the quantum of a lump sum for economic loss. The prescribed sum is dependent on the level of the whole-person impairment. It ranges from $5,000 indexed for 5 per cent degree of whole-person impairment to $350,000 indexed for a 29 per cent degree of whole-person impairment. The Hon. Mr Darley's amendment works to increase the amounts payable for economic loss lump sum payments and, in the 29 per cent case, as I mentioned, the current proposition is $350,000, and the Hon. Mr Darley seeks to take that up to $525,000 at a maximum level. This will increase amounts payable and will have an adverse cost impact on the scheme. It has not been modelled and has not been costed and, for those reasons, we oppose the amendment.

The Hon. T.A. FRANKS: We will be supporting the Darley amendment.

The Hon. R.I. LUCAS: For the reasons we have outlined earlier we will not be supporting the amendment.

Schedule passed.

Schedule 8 passed.

Schedule 9.

The Hon. I.K. HUNTER: I move:

Amendment No 6 [SusEnvCons–3]—

Schedule 9, new Part, page 173, after line 8—Insert:

Part 7A—Amendment of Workers Rehabilitation and Compensation Act 1986

22A—Amendment of section 31—Evidentiary provision

(1) Section 31(2b)(b), (c) and (d)—delete paragraphs (b), (c) and (d) and substitute:

(b) the worker was a member of the South Australian Country Fire Service (SACFS) presumptively employed by the Crown as a firefighter—

(i) on or after 1 July 2013; and

(ii) before the injury occurred; and

(iii) for the qualifying period referred to in the second column of Schedule 2A opposite the injury; and

(c) the injury occurred—

(i) on or after 1 July 2013; and

(ii) in the case of a worker who is no longer a member of SACFS presumptively employed by the Crown as a firefighter—no more than 10 years after the cessation of that presumptive employment; and

(d) during the qualifying period referred to in paragraph (b)(iii), the worker was exposed to the hazards of a fire scene (including exposure to a hazard of the fire that occurred away from the scene),

(2) Section 31(4a)—delete 'subsection (2a)' and substitute 'subsections (2a) and (2b)'

(3) Section 31(4b)—delete subsection (4b)

Division 11A—Review of provisions relating to firefighters

66A—Review

(1) In addition to causing a review of this Act to be conducted as required under section 203, the Minister must, as soon as possible after 1 July 2018, appoint a person to carry out a review concerning the operation and impact of—

(a) the amendments to the Workers Rehabilitation and Compensation Act 1986 made by the Workers Rehabilitation and Compensation (Firefighters) Amendment Act 2013 and Part 7A of this Schedule; and

(b) Schedule 3 of this Act.

(2) The person appointed by the Minister under subclause (1) must present to the Minister a report on the outcome of the review no later than 4 months following his or her appointment.

(3) The Minister must, within 6 sitting days after receiving the report, have copies of the report laid before both Houses of Parliament.

Amendment No 9 [SusEnvCons–3]—

Long title—

After 'WorkCover Corporation Act 1994' insert:

, the Workers Rehabilitation and Compensation Act 1986

This amendment provides for consequential amendments to the Workers Rehabilitation and Compensation Act 1986, the effect of which will recast the reverse onus of proof provisions for South Australian Country Fire Service firefighters as it relates to certain types of cancer listed in schedule 2A of that act. The consequence of the new provisions is that there is no longer a requirement for a volunteer firefighter to have been exposed to the hazards of a fire scene 175 times in any five-year period during the relevant employment.

The Hon. T.A. FRANKS: We will be supporting this amendment.

Amendment carried.

The Hon. I.K. HUNTER: I move:

Amendment No 7 [SusEnvCons–3]—

Schedule 9, clause 27, page 175, line 4—Delete subclause (4)

This is a technical amendment; it is consequential to the amendment to clause 2 which inserted a statement regarding the date of operation of clause 27 of schedule 9. As a consequence the statement regarding the date of operation of clause 27 of schedule 9 is redundant.

Amendment carried.

The CHAIR: The Hon. Ms Franks: amendment No. 58 is consequential?

The Hon. T.A. FRANKS: Yes.

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

Amendment No 43 [Darley–1]—

Schedule 9, clause 36, page 177, lines 5 to 42 and page 178, lines 1 to 8—Delete subclauses (1), (2) and (3) and substitute:

(1) In this clause—

(a) a qualifying worker, in respect of an existing injury, is a worker who, immediately before the designated day, was still entitled to receive a weekly payment during an entitlement period in respect of any incapacity for work in respect of that injury; and

(b) a reference to an entitlement period is a reference to an entitlement period under Part 4 Division 4 of the repealed Act.

(2) Subject to this Part, a qualifying worker who, in respect of an existing injury, is incapacitated for work at any time beginning on the designated day and ending 5 years from the date on which the incapacity for work first occurred, will be entitled to weekly payments in respect of that incapacity under section 39 of this Act (with any period for which weekly payments of compensation were paid under Part 4 Division 4 of the repealed Act in respect of that injury being taken to be compensation that has been paid under this Act).

(3) Subject to subclauses (4) and (5), a worker has no entitlement to weekly payments under this Act or the repealed Act in respect of an existing injury after the end of 130 weeks (whether consecutive or not) in respect of which the worker has had an incapacity for work (taking into account periods both before and after the commencement of the designated day).

This is a transitional provision regarding weekly payments for workers.

The Hon. I.K. HUNTER: Sir, what amendment number are we dealing with?

The CHAIR: Amendment No. 43 [Darley-1], schedule 9, clause 36.

The Hon. J.A. DARLEY: Mr Chairman, it is consequential.

The Hon. I.K. HUNTER: I move:

Amendment No 8 [SusEnvCons–3]—

Schedule 9, new Division, page 188, after line 23—Insert:

Division 11A—Review of provisions relating to firefighters

66A—Review

(1) In addition to causing a review of this Act to be conducted as required under section 203, the Minister must, as soon as possible after 1 July 2018, appoint a person to carry out a review concerning the operation and impact of—

(a) the amendments to the Workers Rehabilitation and Compensation Act 1986 made by the Workers Rehabilitation and Compensation (Firefighters) Amendment Act 2013 and Part 7A of this Schedule; and

(b) Schedule 3 of this Act.

(2) The person appointed by the Minister under subclause (1) must present to the Minister a report on the outcome of the review no later than 4 months following his or her appointment.

(3) The Minister must, within 6 sitting days after receiving the report, have copies of the report laid before both Houses of Parliament.

This amendment is consequential to the amendments recasting the reverse onus of proof provisions for South Australian Country Fire Service firefighters. It inserts a requirement for the minister to appoint a person to review the operation and impact of the reverse onus of proof provisions for firefighters as soon as possible after 1 July 2018. The resulting report must be tabled before both houses of parliament.

Amendment carried; schedule as amended passed.

Long title.

The Hon. I.K. HUNTER: I move:

Amendment No 9 [SusEnvCons–3]—Long title—After 'WorkCover Corporation Act 1994' insert:

, the Workers Rehabilitation and Compensation Act 1986

This technical amendment changes the long title of the bill to account for the consequential amendments that are proposed for the Workers Rehabilitation and Compensation Act 1986 as related to the volunteer firefighter provisions.

Amendment carried; title as amended passed.

Bill recommitted.

Clause 4.

The Hon. I.K. HUNTER: I move:

Amendment No 1—

Page 16, after line 30—Delete 'jurisdiction transfer date means 1 July 2018;'

Amendment No 2—

Page 19, after line 4—Delete:

SACAT means the South Australian Civil and Administrative Tribunal established under the South Australian Civil and Administrative Tribunal Act 2013;

Amendment No 3—

Page 19, after line 5—Delete:

SAET means the South Australian Employment Tribunal established under the South Australian Employment Tribunal Act 2014;

Amendment No 4—

Page 20, lines 5 and 6—Delete the new definition of 'Tribunal' and reinstate the old definition, that:

Tribunal means the South Australian Employment Tribunal established under the South Australian Employment Tribunal Act 2014;

The Hon. R.I. LUCAS: This is a natural consequence of the vote that was taken late last evening, so we accept that it is consequential on the fact that the Liberal Party position was unsuccessful.

Amendments carried; clause as amended passed.

Bill reported with amendment.

Third Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (12:10): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SOUTH AUSTRALIAN EMPLOYMENT TRIBUNAL BILL

Second Reading

Adjourned debate on second reading.

(Continued from 28 October 2014.)

The Hon. T.A. FRANKS (12:12): I rise to indicate that the Greens will be supporting this bill. We did have some concerns about the lack of detail and some of the finer points of detail to be fleshed out but we accept in good spirit that this is a positive way forward and obviously sits as a companion to the Return to Work Bill that we have just discussed. We certainly did not having any representations opposing this employment tribunal.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (12:13): If there are no further contributions then I rise to close the debate. I would like to thank honourable members who have contributed and look forward to the speedy passage of the committee stage.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. R.I. LUCAS: To use a metaphor, a lot of water has flowed under the bridge since I last spoke at the second reading. We have had a long and extensive debate in the companion bill, the Return to Work Bill, where a number of the issues that are canvassed by this bill were comprehensively covered.

I did want to summarise our position here for the record in terms of the employment tribunal bill, even though I have made some of these comments in the Return to Work Bill; that is, that the Liberal Party believes that any fundamental reform of the workers compensation system has to include, or should have included, reform in this particular area. As I outlined earlier this morning, it has been confirmed to us that in the early discussions from the government with stakeholders on a confidential basis, the discussions were that the Workers Compensation Tribunal would not continue under the guise of the employment tribunal but would be incorporated as a part of the SACAT model.

Clearly, without having been privy to all of those discussions, whilst it was being supported by significant players within the government (if I can use that phrase), it was opposed by even more significant players in the government; that is, Premier Weatherill was a very strong opponent of it, given his own personal background. The legal fraternity were strong opponents. I did have a discussion with Morry Bailes, President of the Law Society, this morning and whilst he said he would not describe their opposition as vehement, or words along those lines, he said they nevertheless, as their original submission to us had indicated, had a firm policy position in relation to a continuation of an employment tribunal.

He was honest enough to say there were some within the Law Society who had much stronger views than others, and I guess that is entirely possible given there are some people who practice in the jurisdiction and there are others within the Law Society who do not practice in the jurisdiction and it is quite possible that those who do practice in the jurisdiction have much stronger views than those who do not. Nevertheless, the policy position, as outlined in their paper to all of us, made it quite clear.

I am assuming, not that we ever received a submission from a number of the unions, but we are assuming that the other significant opponents of a transfer into SACAT and supporters of the status quo were the unions and in particular the left-leaning unions within South Australia. So, those who were wanting to support the employment tribunal essentially amounted to the legal fraternity, those practising within the jurisdiction, many of the unions, but in particular the left-leaning unions, and Premier Weatherill, as I said earlier, whose influence cannot be underestimated in any debate within the Labor caucus.

On the other side, I think virtually every employer group that we spoke to supported a transfer to SACAT, even those who said, 'Look, we're not going to support this becoming a point of contention between the opposition and the government so that it would prevent the passage of the WorkCover reform legislation.' As I indicated last night, Business SA was one of those groups who had adopted that particular position. Nevertheless, with a blank canvas, all of the employer groups that we spoke to either supported strongly, or to lesser degrees, the position of SACAT being the appropriate agency.

As I said, as recently as a couple of weeks ago, the member for Dunstan and myself met with around about 16 or 18 of those where we confirmed the position around the table. We went around the table and each of the representatives—to be fair, with the exception of one, who did indicate that, as a new CEO, he was not aware of what the position of their employer organisation was on the issue. The employer organisations have a very strong view, and certainly some of the legal fraternity who represent the employer organisations also have a very strong view, that one of the problems at the moment is the continuation of the Workers Compensation Tribunal. As I said, there are at least some very significant players within the government who have a view that at some stage a move to SACAT would make sense.

One of the significant problems was whether or not it could be achieved within the time frame we were talking about, which was July 2015. As I indicated, I had discussions with Judge Parker (I will not go over them again) where, essentially, we were convinced that that was not possible, and we therefore moved the compromise amendments for July 2018.

The reason all the employer groups in South Australia are strongly opposed to the continuation of the status quo here is that they see this as a factor which is adding to the cost structure of workers compensation in this state. They also have the view that because the Workers Compensation Tribunal, by and large, is just continuing as the employment tribunal—it is virtually the same thing with another name—this will continue to be a factor which will serve to drive up costs through the decisions it takes in that jurisdiction.

The employer groups are strongly of the view that the Labor government, having been in power for 12 years or more, has ensured that fellow travellers—people with a like mind and some with even stronger connections to the Labor Party and Labor government—have been appointed to the Workers Compensation Tribunal. Mr Chairman, with your union background I am sure that you will be very familiar with the names I read through from the Workers Compensation Tribunal, and, for some of them, their connection with the Labor movement. To start with there is His Honour President Judge W.D. Jennings, then His Honour Deputy President Judge J.P. McCusker, His Honour Deputy President Judge B.P. Gilchrist, His Honour Deputy President Judge P.D. Hannon, Her Honour Deputy President Judge L.J. Farrell, and Deputy President S.M. Lieschke.

Mr Chairman, as you and many others would know, Deputy President S.M. Lieschke is a former legal partner of Jay Weatherill, practising in the jurisdiction. Her Honour Deputy President Judge L.J. Farrell is the sister of the godfather of the Labor right. The Hon. Tung Ngo is here, and he bowed his head as I mentioned the name Farrell.

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

The Hon. R.I. LUCAS: He bowed again, and that is appropriate. As a loyal member of the right faction it is appropriate that the Hon. Tung Ngo would bow his head whenever the name Farrell is mentioned. This is the sister of the godfather, this is Deputy President Judge L.J. (Leonie) Farrell. Of course, His Honour Deputy President Judge P.D. Hannon comes from a very prominent Labor-leaning background in terms of the legal firm he represented beforehand.

It is the prerogative of governments to appoint who they wish but in this jurisdiction and the related Industrial Relations Court and Industrial Relation Commission appointments, in some of those areas, there has been an endeavour, in legislation in the past, to try to ensure they are appointments of people from a union background and an employer background. That has been subverted, Mr Chairman. Indeed, as a former industrial relations minister yourself for a brief period you were subjected to the need to consider whether or not you were going to make an appointment in this particular jurisdiction, so you would be well familiar, both as a minister and as an industrial relations advocate for the unions beforehand, of the jurisdiction.

The union movement, the Labor left and the Labor government are very comfortable with the people who have been appointed to the Workers Compensation Tribunal, they are very comfortable with the people who are continuing in the employment tribunal. That is why the business community is so up in arms about the continuation of the Workers Compensation Tribunal under the guise of the employment tribunal. They are saying to us that if you want to have genuine reform you have to be prepared to ensure that you have a balanced group on what is going to be a key body that will make a number of decisions, which will either drive up costs or keep an appropriate lid on costs in terms of the jurisdiction, and interpret the law.

Let me put it this way: the legislation in the past in some of these areas has sought, for an obvious reason, to have people from an employer background and an employee background relatively equally balanced, and the reason that was done was to try to ensure a perception of fairness within this whole system. That is why previous parliaments and previous governments and oppositions have supported that general principle. That is a principle which I think is a reasonable principle in my view, and certainly the overwhelming number of employer associations in South Australia to whom we have spoken do not believe that the current line-up of the Workers Compensation Tribunal and the proposed line-up of the employment tribunal are going to reflect that particular perspective.

I hope it is wrong, but those who are practising in this jurisdiction are saying to me that the rumours are rife that the Weatherill Labor government is looking to appoint the Premier's former chief of staff, Simon Blewett, to a position in this jurisdiction. I hope those rumours are wrong. No-one has been able to present any evidence, obviously, because until it happens, or if it happens, it is rumour and innuendo amongst those who practise in this jurisdiction.

I understand that two names are being discussed and one is Simon Blewett. For obvious reasons, there would be a head nod, not necessarily from the Hon. Tung Ngo but from those within the Labor left faction and from Premier Weatherill in that area. The other argument is coming from the employer groups on the basis of the arguments I put before, that a person who has been very active in one of the business associations ought to be there as someone who has come from an employer background into this broader jurisdiction of the court, the commission and the Workers Compensation Tribunal.

The CHAIR: Why, Mr Lucas, if you are naming Simon Blewett through rumour and putting his name on *Hansard*, when you go into the employer you will not mention his name?

The Hon. R.I. LUCAS: Mr Chairman, I had not realised this was question time.

The CHAIR: I just think it is inappropriate that you mention someone's name in this forum in relation to a job on the employment tribunal.

The Hon. R.I. LUCAS: Mr Chairman, if you would like to participate in the debate, can I invite you to resign your position as President, take a lower salary, go on to the back bench and you can indicate whoever you wish as a potential appointment. In the absence of you doing that, I thank you for your kind invitation, but I respectfully decline. If you want to participate, there are options available to you.

The position, in summary, is that business associations are very concerned at the current operations of the tribunal and most concerned at the potential for the future operations of the tribunal. As I said, the dilemma a number of the business associations had in relation to their attitude to the employment tribunal was that the government had said to them, 'Look, if you adopt the position that the Liberal Party is talking about—that is, SACAT—there is a delicate balance in all of this, and that delicate balance is the unions and the lawyers and Premier Weatherill and other key players want to see the Workers Compensation Tribunal or the employment tribunal continuing, then you will jeopardise the workers compensation scheme reform package going through.'

We think that was a load of nonsense because Premier Weatherill and the government could not afford for this package to flounder on something as relatively insignificant, in terms of the public debate, as the issue of whether or not SACAT would take over responsibility in 3¾ years' time, but that position did influence a number of the business groups. Business SA was one of those and there were others, I suspect, as well who did have that influence and they represented those views to crossbenchers and to members of the Liberal Party as well in relation to this.

It did not ultimately divert us from what we believe was right in relation to this. Although we compromised on the date, having listened to Judge Parker, we nevertheless did maintain the position that it was appropriate to transfer the jurisdictional responsibility at some stage in 3¾ years' time. For those reasons business groups and the Liberal Party are concerned about the current operation of the Workers Compensation Tribunal and, in essence, the proposed operation of the Employment Tribunal, which we are debating here, for the reasons that we have outlined.

We accept that through the changed position of the Hon. Mr Darley he does not accept the argument that the Liberal Party and business groups by and large have put and he has accepted, as he put on the record last night, principally the advice of the Law Society and the Australian Lawyers Alliance which, as I have indicated, is the position being strongly supported by the left unions and Premier Weatherill in the Labor government. For those reasons we will not be delaying, through a detailed critique of each of the clauses, the committee stage. We have outlined our general position through my contribution at clause 1. We accept that the battle has been won and lost in relation to the SACAT employment tribunal issue and we will not unduly delay the consideration of the committee stage of the bill.

Clause passed.

Clauses 2 to 42 passed.

Clause 43.

The Hon. I.K. HUNTER: I move:

Amendment No 1 [SusEnvCons–1]—

Page 24, line 11—Delete 'special circumstances' and substitute 'good reasons'

Amendment No 2 [SusEnvCons–1]—

Page 24, line 15—Delete 'special circumstances' and substitute 'good reasons'

Amendment No 3 [SusEnvCons–1]—

Page 24, line 17—Delete 'circumstances' and substitute 'reasons'

These amendments revisit the discussion we had in a previous bill. This amendment provides that if a compulsory conciliation conference extends over the mandated six-week period, good reasons must be established to justify an extension of time rather than special circumstances. It addresses the concerns that the threshold to justify an extension of time is too high. This explanation relates to all the amendments standing in my name.

Amendments carried; clause as amended passed.

Clause 44 to 91 passed.

Clause 92.

The Hon. I.K. HUNTER: I move:

Amendment No 4 [SusEnvCons–1]—

Page 42, line 4—After 'Tribunal' insert 'after consultation with the Minister'

This amendment requires the development of the rules of the tribunal to occur in consultation with the minister.

Amendment carried; clause as amended passed.

Clause 93 passed.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (12:34): I move:

That this bill be now read a third time.

Bill read a third time and passed.

COMMISSIONER FOR KANGAROO ISLAND BILL

Second Reading

Adjourned debate on second reading.

(Continued from 16 October 2014.)

The Hon. J.A. DARLEY (12:35): I rise very briefly to speak on the Commissioner for Kangaroo Island Bill. The bill proposes to establish a commissioner who will be a statutory officer responsible for coordinating and using existing public servants and programs in existing departments, but with a regionalisation of policy formation and service delivery. Amongst other things, the commissioner will have the power to establish local advisory boards, assist with improving the local economy of Kangaroo Island and helping to create employment and other opportunities from tourism or other industry programs on the island, and to develop management plans dealing with delivery of government projects and services to Kangaroo Island.

I have to say from the outset, like the Hon. David Ridgway and other members of the opposition, I am somewhat perplexed as to why we need a commissioner to fulfil the responsibilities of existing ministers and heads of departments. What the bill highlights is that, like many regional areas, the needs of Kangaroo Island, one of our most iconic tourist attractions, and the needs its residents have for many years have been ignored by the government. I am not talking about any fanciful or far-fetched wish list but about the timely delivery of basic essential services that residents can expect to receive in any given community.

Time and again we hear the government spruiking about a whole-of-government approach, yet time and time again we are confronted with examples where government ministers, government departments and government agencies do not seem to have any idea of what the other is doing. Put simply, the right hand is not talking to the left hand. Instead of focusing on establishing commissioners, this government needs to be ensuring that its ministers and its departments are doing the jobs they are tasked with in a coordinated approach. It is not rocket science!

Instead of spending more money on creating a new body, it would also have seemed more plausible to ask the question of whether some of these responsibilities could have been referred to the newly-appointed state Coordinator-General for action. I do not know whether any consideration was given to this, but I would ask that the minister provide some feedback on this question.

It would take quite a bit of convincing to get me to support this bill, not because I do not believe that Kangaroo Island does not warrant attention (or even extra attention), but because the government should already be ensuring that it is receiving the attention it deserves, much like our other regional districts. I have considered the opposition's amendments and I support the alternative measures that are being proposed.

The Hon. K.L. VINCENT (12:38): I speak today on behalf of Dignity for Disability against the second reading of this bill. Dignity for Disability does so after very careful consideration, and with appreciation of the support that the majority of Kangaroo Island residents in particular have expressed for this bill. I would like to thank the persons of Kangaroo Island for expressing those opinions, either to my office or publicly, and I certainly understand their perspective and that they want the very best for their island and for everyone who calls KI home.

I would particularly like to thank the mayor of Kangaroo Island, Ms Jayne Bates, for making the time to come and meet with me here at Parliament House, and also to Matt Kandelaars from the Deputy Premier's office for arranging a briefing with my office, and Kristina Roberts, the General Manager of the Kangaroo Island Futures Authority. However, in spite of these briefings and

impassioned pleas to support this bill, and acknowledging once again that there are the numbers on this floor today to pass the bill regardless of Dignity for Disability's opposition, we cannot support the establishment of a Kangaroo Island commissioner.

Let me elaborate as to why. We cannot, on principle, support it at a cost to taxpayers of around $1 million, when the same government will not support the establishment of a disability services commissioner, nor enshrine in legislation a community visitor scheme for people with disability, nor pass other pieces of legislation to protect some of the most vulnerable members of our community living with disability.

The argument that Kangaroo Islanders have significant problems in integrating local, state and commonwealth government services may well be a very valid one, but I can assure you that the disability community has its own share of economic, social and systematic issues, and I would argue that they are far more serious. Given that one in five of us live with disability, I would argue that these issues affect more of us.

Kangaroo Island and its 4,600 residents (or thereabouts) are important members of the South Australian community—and I want to make that very clear—but they are not more important than the 300,000 South Australians with disabilities that range from mild to profound. According to the briefing my office received, 47 per cent of the 4,600 islanders currently live on the mainland. While poverty, illiteracy and the transport mobility challenges associated with living on an island are important, the fact that half of the islanders commute between the island and the mainland demonstrates, I believe, a reasonable level of wealth.

I am sure that people who are stuck on the island and those with disabilities, those with low literacy levels and those with limited job prospects need support but I do not know that a commissioner for Kangaroo Island is going to solve this, at least not alone. I think a management plan to thread the 1,000 plus services available could be established without a commissioner. I think relevant government services, whether it is the National Disability Insurance Agency (NDIA) at commonwealth level, or the health department at a state level, or the Kangaroo Island Council for rubbish removal, for example, should provide relevant services in a relevant and collaborative manner.

I also note that I find this Kangaroo Island commissioner move particularly interesting, given that when I queried my colleague in this place, the Hon. Ian Hunter, the Minister for Aboriginal Affairs and Reconciliation, about disability services or health services or education services for people in the APY lands, I am told that it is the Minister for Disability, say, not the Minister for Aboriginal Affairs who is in charge of providing services. It seems that the Minister for Aboriginal Affairs is not responsible for ensuring that services provided to APY lands residents are done in an integrated fashion. Why then is it an appropriate answer for Kangaroo Island? Why isn't the Minister for Social Housing responsible for ensuring that KI housing is relevant to islander needs? Why isn't the disability minister charged with ensuring high standards of disability services are being provided on the island?

I call on members to also remember that some 45 per cent of people with disability currently live at or below the poverty line Australia-wide and that this same community is between four and seven times more likely to be sexually or physically abused in their lifetime than non-disabled peers. Kangaroo Islanders, as a whole, face no such shocking statistic, as far as I am aware. We need protections and commissioners in the disability community long before we establish a commissioner for one region of South Australia.

I think the potential vulnerability and social disadvantage of people with disability (in the Indigenous communities in particular) far outweighs the challenges that Kangaroo Island faces at this time and, for this reason, on behalf of Dignity for Disability, I cannot support this bill. I understand that this may be disappointing to some members here in the chamber today and to some members of the public, and I understand that I have a broad role as a member of parliament to represent, as best I can, the needs of all communities whom I do my best to represent. However, on certain issues, I believe that it is right for me to stand up and protect and attempt to enshrine the rights of my core constituency—that is, people with disabilities—and I do so today.

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) (12:45): I believe that there are no further contributions to the second reading and I thank honourable members for their contributions. We know that Kangaroo Island has been assessed as having an untapped potential as an internationally recognised tourism asset and also a premium agriculture producer.

We are well aware in this place, and it has been well documented, of the significant challenges that the island faces in terms of its population, access to transportation and infrastructure issues. They are serious challenges, and serious efforts need to be made to assist the island's sustainability. It has been proposed to establish a commissioner for Kangaroo Island. There are many examples of governance structures that could afford a whole-of-government approach to coordinating efforts on Kangaroo Island; however, in relation to timely delivery of government services, we have chosen this commissioner for Kangaroo Island model.

The commissioner will be a statutory officer responsible for coordinating and using existing public servants and programs in existing departments but with the regionalisation of policy formation and service delivery in accordance with set statutory functions. As outlined, the commissioner's principal administrative responsibility will be to develop management plans dealing with the delivery of government projects and services to the island, of course subject to extensive consultation with both government and the local community.

Again, I thank members for their second reading contributions and look forward to expediting this through the committee stage.

Bill read a second time.

Committee Stage

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. D.W. RIDGWAY: I move:

Amendment No 1 [Ridgway–1]—

Page 3, lines 16 to 18 [clause 3, definition of responsible Minister, (c)]—Delete paragraph (c)

I have three groups of amendments to move. This is a test clause for a number of amendments relating to the role of council in the Commissioner for Kangaroo Island Bill. The other two amendments are in relation to consultation with the local member and also a sunset clause, but I will deal with this one first.

It seems strange, Mr Chair, to the opposition that we have a democratically elected body on Kangaroo Island, that is, the local council—I know you have some property interests there and are good friends with a number of the local councillors—and that you would effectively allow this commissioner to override the council and take away that democratic right.

In a sense, it may have been better to do away with the council and have a commissioner and not have both. There seems to be duplication and, if you are going to have duplication, it is the opposition's view that council should not be able to be overridden by the Kangaroo Island commissioner. They have been democratically elected.

We are right in the middle of council elections and, as a matter of fact, I was looking at the percentages of votes cast across the state, and I think Kangaroo Island is doing as well as anywhere, if not a little bit better than some of the other areas, so the community is certainly interested in their local community and interested in having a voice.

Given that we are approaching 1 o'clock, I will not delay things any longer by speaking any more, other than to ask members to consider supporting this amendment because it will certainly allow the democratically-elected councillors to have a more significant role than if the bill is passed in its current form.

The Hon. R.L. BROKENSHIRE: Family First has considered this amendment as part of the quite involved and in-depth consideration we had on the whole bill, and I advise the house that we cannot support this amendment because—

The Hon. D.W. Ridgway: Democracy; you are stepping over it, crushing it.

The CHAIR: Order, the Hon. Mr Ridgway!

The Hon. R.L. BROKENSHIRE: We cannot support this amendment and we will be voting with the government on this, and the reason is that the council has taken a lead role in supporting the whole concept of a KI commissioner. I have worked with a very broad range of people on Kangaroo Island on a very broad range of issues and no-one has come to me and said that they have any concern that local government is going to be undermined as a result of this bill.

In fact, the council, as I understand it—and I have had written and verbal correspondence with them—are strongly supportive. They are not at all fearful of the commissioner taking over. They want to work cooperatively and collaboratively with the commissioner and, because of the complexities and dynamics of Kangaroo Island, the fact remains that this council, as a small council with pretty significant demands on it, wants the support of the commissioner.

I would have to say that having worked with mayor Jayne Bates for years, she has been actively out there consulting with the community and working with her council—both with her councillors and the paid staff. I have confidence in the advice I have received from mayor Jayne Bates, and I believe that they are very satisfied with this clause as it stands.

The Hon. B.V. FINNIGAN: I oppose the amendment. I think the Liberal Party's approach to this whole bill seems to be, 'It's our seat and we'll cry if we want to and that it's is not for the government to do something on Kangaroo Island because that is Liberal territory.' I cannot see any other rationale for the approach they are taking. We have here an amendment, we have the honourable Leader of the Opposition saying, 'You should not be creating a commissioner for Kangaroo Island,' and then in the same breath saying, 'But, if you are, you may as well get rid of the council too.'

This bill does not create an administrator for Kangaroo Island, it is not becoming a separate territory; it is simply a mechanism to assist in ensuring the best delivery of government services but, particularly, to ensure that Kangaroo Island's tourist industry thrives.

The Hon. J.A. DARLEY: As I indicated in my second reading speech, I will be supporting all the opposition's amendments.

The Hon. G.E. GAGO: The government opposes these amendments for the reasons outlined by the Hon. Bernie Finnigan. As I indicated, the island has been identified as having enormous potential. It is facing significant challenges that affect its ability to be able to thrive in a sustainable way. If it is to have a future it needs a much more coordinated across-government approach. The model that we are proposing, we believe, is balanced and the best model to deliver that level of coordination. Considerable consultation has occurred with this. It is well supported by people on the island and it has been identified as being the best model for these sets of circumstances. So, I would be urging members to give Kangaroo Island a go and to support the government's bill as it stands.

Amendment negatived; clause passed.

Clauses 4 and 5 passed.

Clause 6.

The Hon. D.W. RIDGWAY: I move:

Amendment No 5 [Ridgway–1]—

Page 4, line 15 [clause 6(3)]—After 'Kangaroo Island Council' insert:

the member of the House of Assembly whose electoral district includes Kangaroo Island

This amendment is to give the effect that the minister, when appointing a commissioner, must consult with the local member on that appointment. I note that the bill provides:

The Minister must undertake consultation (in such manner as the Minister thinks fit) with the Kangaroo Island Council and the people of Kangaroo Island in relation to any proposed appointment under this section.

It would seem to make sense that if we are looking to spend $1 million a year to support Kangaroo Island, and there will always be a locally elected member of the House of Assembly, it would make sense that that person be at least consulted on the appointment of a commissioner. I could not see why anybody would not want to at least consult on it. It does say, 'The Minister must undertake consultation (in such manner as the Minister thinks fit),' so there is a reasonable amount of latitude there. It certainly seems that it will be important to have this commissioner working closely and, if you like, collaboratively with the local member. So, to have that level of consultation, we think, is a very important amendment.

The Hon. R.L. BROKENSHIRE: I advise, after deliberating the amendment, that Family First will not be supporting this amendment. It is consistent with what we have always said, including the ICAC appointment, where, at the end of the day, on these sorts of appointments I believe the government of the day—and it does say it here quite clearly that, 'The Minister must undertake consultation (in such manner as the Minister thinks fit) with the Kangaroo Island Council and the people of Kangaroo Island,' so there is flexibility there—

The Hon. D.W. Ridgway interjecting:

The Hon. R.L. BROKENSHIRE: No; this is my point: number one, the local member is absolutely opposed to the whole concept.

The Hon. D.W. Ridgway interjecting:

The Hon. R.L. BROKENSHIRE: Let us put it on the public record: the local member is absolutely opposed to this concept. I know this for a fact because I have seen documentation and I have talked to the people on Kangaroo Island. So, I do not understand, if you are opposed to a concept, why you would want, in any way, to have an involvement in the appointment process.

The second thing I always say is that if you give the government the responsibility of the appointment and that appointment is no good then you can go out and attack the government for putting the wrong person in the position. But I do not think you can have a bob each way. I do not think you can say on the one hand, 'I don't like this. This is a crock and it's a waste,' and so on and so forth, and then say, 'But hang on a minute, I actually want to have some input into the appointment process.'

As a matter of principle, on these appointment processes, irrespective of whether the local member does or does not agree with what is happening, that is for the local member to decide and the community makes its decision as well. The reality is that we do not believe in the process of individual MPs, or parties, or whatever, being involved in these sorts of appointment processes. Rather, you become the watchdog and if the government makes a mistake then you actually blame and point out that mistake to the government, the media and whoever else you want. So, we cannot support this amendment.

The Hon. G.E. GAGO: The government opposes this amendment. The opposition is just seeking to undermine this legislation; it is obvious that they do not support it and now they are trying to amend it in a way that will make the thing cumbersome and unworkable. As the Hon. Robert Brokenshire has pointed out, the appointment process is outlined in the legislation. It is quite clear. The minister must undertake consultation in a manner that the minister thinks fit with Kangaroo Island Council and the people of Kangaroo Island in relation to any proposed appointment under this section. There is a clear definition there. This position is about the coordination of government services, and it is appropriate that an appointment be done in this way. The opposition is just seeking to unpick this as best they can to make it as unworkable as possible.

The Hon. M.C. PARNELL: The Greens will not be supporting this amendment either. The Hon. Rob Brokenshire named it, in relation to the current member of the House of Assembly whose electoral district includes Kangaroo Island. He did want it and railed against it, and now there is this last ditch attempt to try to put him in the legislation as a compulsory consultee.

We do need to look at it beyond just the current member; he will not be the current member forever. However, I still think, even removing the personalities from it, that it does not make sense to

mandate it in this way. Personally, I would be surprised if there was not a broad consultation, but I do not think it is necessary in legislation to mandate that local member. As we all know, all of us represent Kangaroo Island, everyone of us here; our electorate includes Kangaroo Island. Are they going to consult all of us? I think it is a bit of a slippery slope to start nominating particular members of parliament when, in fact, all of us here in this chamber represent that area. If we are going to go down that path we would need to add 22 other names to list of people who must be consulted.

The Hon. G.E. GAGO: I have already spoken, but I will take this opportunity to respond to the question the Hon. Mr Darley raised in terms of consideration of using the Coordinator-General's role. We did have a look at that, we looked at a whole range of different governance models to work out the most suitable for this case, and it was decided that the Coordinator-General's role is quite a different role. It is responsible for the coordination of just infrastructure projects over $3 million, and obviously the role of the commissioner is much broader than just considering infrastructure. Of course, it is designed in a way to have that very close and special relationship with the local community, which we believe is needed in relation to regional response. It is for that reason we chose this model, and the model has been supported by the Kangaroo Island Council. It is deemed to be the most appropriate.

Amendment negatived.

Progress reported; committee to sit again.

Sitting suspended from 13:04 to 14:15.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

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

Reports, 2013-14—
- Capital City Committee
- Government Boards and Committee Information
- Operations of the Auditor-General's Department
- South Australian Community Visitor Scheme
- Witness Protection Act 1996

Final Report: Boards and Committees

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

Reports, 2013-14—
- Adelaide Convention Centre
- Adelaide Entertainment Centre
- Board of the Botanic Gardens and State Herbarium
- Dog and Cat Management Board
- Far North Health Advisory Council
- Food Act 2001
- Office of the Guardian for Children and Young People
- Pastoral Board
- Port Augusta, Roxby Downs and Woomera Health Advisory Council
- Primary Industries and Regions SA
- Quorn Health Services Health Advisory Council
- Safe Drinking Water Act
- South Australian Heritage Council
- South Australian Motor Sport Board
- South Australian Tourism Commission
- The Whyalla Hospital and Health Services Health Advisory Council

By the Minister for Water and the River Murray (Hon. I.K. Hunter)—

River Murray Act 2003—Report, 2013-14

Question Time

WATER QUALITY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:18): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question about water quality.

Leave granted.

An honourable member interjecting:

The Hon. D.W. RIDGWAY: Water quality—unlike the quality of your hearing. Yesterday, the honourable minister spoke in response to a question I asked on water pricing, in particular in the Clare Valley, but he came back and said:

> In relation to the question asked by the honourable member, whether you live in Clare or Adelaide or McLaren Vale or, indeed, the Riverland, everyone pays the same price per kilolitre for water that SA Water supplies, regardless of the cost of supplying that water.

I have been contacted by some SA Water customers on the Far West Coast, who do indeed pay the same price as everybody else for their water. Their particular concern is the quality of the water that is provided to their properties and that there is a high level of calcium and other minerals in that water. In fact, I have been contacted by one farmer who has 11 kilometres of piping on his own property—to supply his troughs for drinking water for his stock—that, after ten years, now all has to be renewed, it is so clogged up with the calcium and mineral deposits in the water. My questions to the minister are:

1. Why charge the same price across all of the state when, clearly, the quality of the water is so poor? I am sure you wouldn't be able to get away with people in Adelaide having to replace all the piping in their domestic properties.

2. For these farmers, whose own infrastructure has been damaged because of SA Water's poor quality water, is there any opportunity for them to claim some of the expenses back from SA Water for replacement of those pipes?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:21): I thank the honourable member for his most important question. He undoubtedly understands that, in fact, water supplied to the regions and remote areas is heavily subsidised. We have talked about that in this place previously. So, whilst indeed everybody pays the same price for water, the cost of delivering water to remote areas in this state is vastly increased over the cost of delivering water to the urban areas.

It just makes sense because of the kilometres of the pipeline that is required to take water out to the remote areas and the fewer customers there are to actually ameliorate the costs of delivering water over those areas compared to the smaller size of delivery area in Adelaide and the number of customers that those costs can be spread over. But this government thinks that it is fair to make sure that people in remote areas of the state pay the same price for water as you would do in urban areas.

We continue to support that position, unlike the Leader of the Opposition in the other place, who was on the radio this week somehow suggesting that reports coming out of ESCOSA, for example, about the economic efficiency of the system should be adopted and looked at when those reports actually set up a situation where the vast majority of SA Water customers, somewhere near 75 per cent of them, would be worse off.

That is the policy the Liberal leader seems to be proposing. That is the policy that they are putting about. They want to go for a hard economic policy that does not take into consideration any social issues whatsoever; none at all; they do not care. They do not care about community service obligations. They want to go for hardline economic water policy that will see most people getting

water from SA Water paying more. SA Water, under this government, will continue to make sure that people in remote areas get water at the same prices that people in Adelaide pay for it.

WATER QUALITY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): Supplementary: will the minister explain why they do not get the same quality water? If they are going to have the same price across the state, why can't they have the same quality?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:23): The leader knows full well that there is not one pool of water that is circulated across the state. Different zones across the state have access to different sources of water. Even inside the metropolitan area that has been the case for a long time. So we are still subsidising people in rural and regional areas at cost to the people in the urban area because we think that is fair, but clearly those opposite do not. They want to see more people paying more for water. That is their policy and, by the way, they want to privatise SA Water at the same time.

WATER QUALITY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): A supplementary question. How do you propose the landowner pay for the replacement of his pipes that has to happen every 10 years because of your poor quality? I would suggest to the minister that he should have a good answer, because he is going to Ceduna for a community cabinet shortly and he will get the same questions there.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:24): As the honourable member should know and would reasonably be expected to know, pipes laid on your own property are your own responsibility.

WATER INDUSTRY REFORMS

The Hon. J.M.A. LENSINK (14:24): Can the minister advise when the last time was that this government adopted any of ESCOSA's recommendations and what were they?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:24): I think the last recommendation was the reduction in the price of water of 6.4 per cent, and we adopted it.

WATER INDUSTRY REFORMS

The Hon. S.G. WADE (14:24): By way of supplementary question, how does the minister justify his statement—

Members interjecting:

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

The Hon. S.G. WADE: Thank you, Mr President. How does the minister justify his statement that pipes on one's own property are one's own responsibility when SA Water paid maintenance costs for water consumers on Kangaroo Island as a result of the impact of the Penneshaw desalination plant?

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): All I can do is advise the honourable member to stick to matters of the law and matters of health, which are his purview. He clearly has no understanding of water issues.

WATER PRICING

The Hon. J.M.A. LENSINK (14:25): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question about water pricing.

Leave granted.

The Hon. J.M.A. LENSINK: On 28 October, two days ago, the Treasurer was on FIVEaa and made the following comments:

I want to point out to you something you said earlier saying South Australia had the highest prices in the country. There is a table that I've got here in front of me, which unfortunately you don't have, so you're at a disadvantage, so I apologise for that.

He goes on to say that, in effect, South Australia does not have the highest water prices. The most recent report from ESCOSA, dated 9 April 2014, which is headed, 'SA Water—Water Retail Service Performance Outcomes', a six-page document, shows in figure 2 SA Water typical residential water bills, and shows SA Water Adelaide for the most recent financial year at the highest level, equivalent to the maximum of large utilities and well above the average. I quote from the documents as follows:

Figure 2 details how SA Water's typical residential water bill (for Adelaide customers) has changed against comparable water utilities over the last 7 years. This data was also collected by the NWC for its National Performance Reports.

Figure 2 highlights that SA Water's typical residential water bill was the highest of all comparable Australian water utilities…SA Water's typical residential water bill of $873 in 2012/13 was 30.6% higher than in 2011/12. The rise was due to a 25% increase in the water tariffs set by SA Water...The NWC has noted that the typical residential bill remains the best indicator of the impact of pricing on a utility's customers.

My questions to the minister are:

1. Is ESCOSA right or is the Treasurer correct?

2. If he says that the Treasurer is correct, will he table the table that the Treasurer was referring to in his radio interview?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:28): I thank the honourable member for her most important question, as usual.

The Hon. D.W. Ridgway: You've got a phone fetish—you look at it every time you stand up.

The Hon. I.K. HUNTER: Yes, well, it is rather important to me that I take messages at this point in time. Unlike privately-owned utilities (and we will come to those privately-owned utilities perhaps in a minute), there are frameworks and pricing regimes put in place by the government preventing the generation of excessive profits and distribution by SA Water.

The Hon. J.M.A. Lensink: I didn't ask for that.

The Hon. I.K. HUNTER: Well, this is information I am providing to the chamber. This government introduced—

The Hon. G.E. Gago: I want to know about it—I'm interested.

The Hon. I.K. HUNTER: Indeed, you will. This government introduced the economic regulation of SA Water by the Essential Services Commission of South Australia for this very reason. We have introduced transparency and accountability to prevent the earning of monopoly profits and excessive returns. ESCOSA now sets a cap on the amount of revenue that can be earned by SA Water.

SA Water's first determination undertaken by ESCOSA was announced in May 2013 and covers the three-year period 2013-14 to 2015-16. Based on this determination the government is able to announce a decrease in prices of 6.4 per cent in 2013-14. They do not like hearing about this. They don't like hearing about the successes of our policy to drive down water prices.

Members interjecting:

The PRESIDENT: Order! The minister has the call. I am having difficulty hearing him as it is, so please allow him to give his answer.

The Hon. I.K. HUNTER: As I said, based on this determination the government was able to announce a decrease in prices of 6.4 per cent in 2013-14. As promised for 2014-15, water and sewerage prices increases have been limited to inflation in line with ESCOSA's determination. This

government recognises the impact of cost-of-living pressures—of course we do—and we support those South Australians who are doing it tough. We provide concessions of 30 per cent for 2014 with a minimum of $185 and a maximum of $295 for those who meet the eligibility requirements.

The state government has also committed to introducing a single concession payment to simplify family budgeting by providing all concession payments for the year in one single payment. Specifically, the water supply charges increased from $274.80 to $282.80 per annum and the first tier usage charge for residential customers increased from $2.26 a kilolitre to $2.32 per kilolitre. That is, the usage charge paid by all residential customers is now 0.23 cents per litre and, if you are interested—and, indeed, I am—for sewerage charges for country customers—

An honourable member interjecting:

The Hon. I.K. HUNTER: Indeed. The minimum sewerage charges increased by inflation 2.9 per cent from $341.04 to $351.04 per annum. The sewerage rates will continue to be based on property values—

The Hon. K.L. VINCENT: I have a point of order.

The PRESIDENT: Point of order, the Hon. Ms Vincent.

The Hon. K.L. VINCENT: Just yesterday in this place we had a motion talking about the lacking number of questions that crossbenchers receive, and the more interjections we have between the two old parties, the less likely it is that we will get those questions, so I think we need a bit more order in this place.

The PRESIDENT: The honourable minister.

The Hon. I.K. HUNTER: I fully support the honourable member's point of order; it was entirely appropriate. I have said before that the significant price increases in recent years have contributed to critical investment in South Australia's water security, including the 100-gigalitre Adelaide desalination plant and north-south interconnection system project.

It is important to understand that, to a point, this was a bipartisan proposal. The costs that have been borne out of the desalination plant were the same as would have been borne out of the desalination plant from the Liberal Party, except that we were forward thinking enough to actually double the size of the desalination plant.

How much extra did that cost the average water customer per year? Thirty dollars. It was $30 extra for a doubling of our ability to take water from the sea and turn it into potable water. It was $30, on average, for the average customer per year; less than $1 a week. Yet we now have that water security built into our system for 2050 so that Adelaide will never again face what we faced in the millennium drought, with the very real possibility of having to provide bottled water to some of our communities around the state.

All states and territories are required to set prices for water services in line with national water initiative pricing principles. This was agreed by the Council of Australian Governments in 2004 as part of a national blueprint for water reform. Consistent with the COAG agreement the South Australian Treasurer's pricing audit directs ESCOSA to conduct its regulatory determination of SA Water's water and sewerage services in line with NWI pricing principles. As a result, SA Water is required to set its drinking water and sewerage prices in line with those pricing principles, and the maximum allowable revenue is determined by ESCOSA.

ESCOSA must review and approve these prices on an annual basis prior to the effective date of those prices, and ESCOSA also expressly requires SA Water to comply with NWI pricing principles in its formal determination document SA Water's Water and Sewerage Retail Services 2013-14, 2015-16 when setting prices for recycled water services and excluded services.

As I said, this government has made significant investment to guarantee South Australia's water security. This is particularly important for our state, and we all know the reason that the investment was made necessary was because of the recent drought and overallocation of the Murray-Darling Basin's water by the upstream states. It shows that we can no longer rely on our traditional sources of water to meet our future water needs.

There would be serious consequences from significantly cutting water prices. Of course, we know that too, because South Australia's smaller population also means the cost of water security measures is spread over fewer customers. Lower prices would not reflect the true cost of providing water to South Australians, and it would encourage overuse of this precious resource. In the long run, this could potentially undermine future water security, despite the substantial investments that are now in place.

The latest available data that compares water prices across states is provided in the national performance report that was released in April 2014; however, this report is based on data from the 2012-13 financial year. The report shows that, based on a comparison of water and sewerage bills, SA Water is ranked fourth-highest against comparable interstate utilities based on a water consumption bill of 200 kilolitres. The criterion for this analysis is greater than 100,000 connected properties.

It is important to point out that the gap between SA Water prices and prices of other water utilities and providers has been reduced over recent years, and more current data is needed as SA Water has also undertaken an internal comparison based on the 2014 financial year prices. This comparison compared the total water and sewerage bill for customers using 190 kilolitres of water per annum in 2014-15, which reflects the estimated average residential metropolitan use in Adelaide.

This assessment shows that all of the Queensland service providers, including Urban Utilities, which supplies Brisbane, are more expensive than SA Water. For example, the average SA Water customer was charged $1,306 in 2014-15, compared to $1,743 by Unitywater Moreton Bay, $1,659 by Gold Coast Water, $1,559 by Scenic Rim, $1,540 by Ipswich, $1,463 by Somerset, $1,389 by Unitywater Sunshine Coast, $1,387 by Power and Water NT, $1,328 by Lockyer Valley Queensland—

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

The Hon. I.K. HUNTER: —and $1,319 by Brisbane Water.

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

The Hon. I.K. Hunter: You don't want the answer.

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

The Hon. J.S.L. DAWKINS: Mr President, I remind you and the chamber that the minister has been on his feet for eight minutes and has not gone anywhere close to answering the questions asked by the shadow minister.

Members interjecting:

The Hon. J.S.L. DAWKINS: Eight minutes!

The PRESIDENT: Minister, can you get down to answering the question?

Members interjecting:

The PRESIDENT: Order! The minister has the floor.

The Hon. I.K. HUNTER: Mr President, they only get up and take a point of order about relevance and other issues when they hear an answer they don't like.

Members interjecting:

The Hon. I.K. HUNTER: They hear an answer they don't like, which contradicts their premise of their question, and that is when they try to pull on these tactics that the minister should no longer be heard because he is speaking too long. This is important information, Mr President, and they don't want to hear it.

Members interjecting:

The PRESIDENT: Let's get down to answering the questions.

The Hon. I.K. HUNTER: Sir, the analysis—

Members interjecting:

The Hon. I.K. HUNTER: Let me repeat, Mr President: the assessment shows that all of the Queensland service providers, including Urban Utilities, which supplies Brisbane, are more expensive than SA Water. For example, the average SA Water customer was charged $1,306 in 2014-15, compared to—and here is the list—$1,743 by Unitywater Moreton Bay, $1,659 by Gold Coast Water, $1,559 by Scenic Rim, $1,540 by Ipswich, $1,463 by Somerset, $1,389 by Unitywater Sunshine Coast, $1,387 by Power and Water NT, $1,328 by Lockyer Valley Queensland, and $1,319 by Brisbane Water.

The analysis also takes into account the $100 rebate that is currently being offered to Victorian metropolitan water customers. Without this rebate, Yarra Valley would be more expensive than SA Water. They don't take that into account when they ask the questions or go on the radio, do they, Mr President? They don't even bother to find out.

South Australia's water prices are directly related to this state's investment in water security, as South Australia now recognises that we can no longer rely upon the other states to ensure our water security from the River Murray and that it continues to flow. Only this Labor government will stand up for this state and our water security; that lot over there will never help the state out in that regard.

ESSENTIAL SERVICES COMMISSION

The Hon. R.L. BROKENSHIRE (14:39): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question about the Essential Services Commission of South Australia.

Leave granted.

The Hon. R.L. BROKENSHIRE: On Tuesday *The Advertiser* reported on the reasons behind the resignation of former ESCOSA head, Dr Paul Kerin, which took place just after Labor was returned to government earlier this year. The story included revelations outlined in Mr Kerin's resignation letter that the state government is gouging water and sewerage prices knowingly and intentionally, and without concern for struggling families, businesses or primary producers in this wonderful state. We could take the view that this was just one man's opinion—a very well respected economist, however, but still just one man—then the following day Dr Kerin's revelations were backed up by two other former ESCOSA commissioners, very respected economist, Prof. Richard Blandy—

An honourable member interjecting:

The Hon. R.L. BROKENSHIRE: —he is a respected economist, very respected—and energy market expert Ms Barbara Rajkowska. Mr Blandy and Ms Rajkowska accused this government of using its political power to take monopoly profits from households, thereby ripping off the people the government is supposed to represent. So instead of one expert, we now have three senior members of ESCOSA claiming that this government has deliberately blocked proposed reforms to set consumer water costs at a rate closer to the expense that SA Water incurs and, thereby, at a cost which would ease the burden of households which are now paying the dearest water prices in the nation.

Anyone who is in touch with the people of this state would know that farmers are also facing huge water bills for watering stock, in excess, in some cases, of $100,000/year, and struggling families are allowing their yards to fall into disrepair because they cannot afford to water the garden or keep their small patch of lawn alive and pay the various and increasing amount of subsequent taxes that this government is heaping upon them. After that factual overview, my questions to the minister are:

1. Does this government admit that it is hurting people, undermining farmers and keeping businesses away from this state by setting water and sewerage prices at unreasonable levels? I'd like an answer to that question.

2. Will this government and the honourable minister admit that price gouging is unacceptable behaviour?

3. Isn't it about time that this government decided to do what it expects the public to do—live within its means?

4. Will this government commit to reform the state's water industry?

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 his most important question. The honourable member is very consistent in his approach to these matters. I commend him for that consistency, and I refrain from—

The Hon. G.E. Gago: Consistently wrong.

The Hon. I.K. HUNTER: I was going to refrain from using the Oscar Wilde defence for consistency. I will let the honourable member look that up for himself. The South Australian government has taken significant steps in the reform of our water industry—of course we have. South Australia's water industry, in comparison with other industries such as the energy industry, is in the very early stages of its development. With this in mind, the government has put in place a number of sensible and appropriate initiatives to encourage growth of the sector and allow a level playing field.

The introduction of the economic regulation of the water and energy sectors by the Essential Services Commission of South Australia is one example of the reforms introduced by this government. ESCOSA is now responsible for the economic regulation of South Australian water and now caps the amount of water that SA Water can collect, delivering greater transparency and accountability in respect to water pricing. As a result, as I have said a couple of times now this week, water prices have dropped by 6.4 per cent in 2013-14 and price increases for the two subsequent financial years have been limited to CPI.

This government is committed to the sensible reform of the water industry—and that answers the honourable member's fourth question—but as this government has made very clear we will not blindly embrace economic reform which would have devastating impacts on the majority of South Australian SA Water customers. We made that very clear after the release of the ESCOSA draft inquiry into pricing reform, and I make that very clear again for the honourable member's benefit.

This pricing inquiry drew upon a purely economic framework to explore potential pricing reforms. The water pricing reforms suggested by ESCOSA are estimated to provide economic benefits of about $30 to $40 million per annum to the state—not to be sniffed at. But then you could understand that this represents only about 0.04 per cent of gross state product and, weighed up against the impacts on the majority of South Australians, residential and business users, the government has ruled out adopting these reforms. As I said today, it was very surprising to hear the opposition leader, the member for Dunstan from the other place, on radio this week seemingly backing these reforms from this report, reforms which would have seen massive increases in the share of the water costs born by the state's most disadvantaged.

Some of the recommendations of the report include setting the price of water use at 62¢ per kilolitre but setting a water supply charge of $843 per annum and a sewerage charge of $507 per annum. This would have seen an overall benefit for only the largest water consumers, with the burden falling on those vulnerable South Australians. Indeed, ESCOSA has acknowledged that 75 per cent of residential customers would be worse off under these proposals. Furthermore, if the recommendations of the report were implemented, over 50 per cent of residential customers would experience a total bill increase of over $300.

Is that what you want to take as your policy to the by-elections that are coming up? By backing these reforms, you are going to increase the price of water and the price of sewerage to the majority of households in Adelaide and this state. That's what you want. Any changes to the way water and sewerage prices are set remain a government policy decision, and long may it be so.

Governments must take into account a number of different elements before any pricing reform is implemented, including the broader socioeconomic factors. Economic regulation is not the only reform that this government has made to South Australia's water industry, and we are committed to continuing to reform this industry. We amended the Water Industry Act to create a level playing

field for water retailers in this state. We have also progressed a scheme to allow for third party access to water infrastructure, with a draft bill tabled on third party access to infrastructure, the Water Industry (Third Party Access) Amendment Bill 2013.

There is now a requirement for external reporting and monitoring of SA Water's performance and compliance, as well as a requirement for audited regulatory accounts for SA Water. We have increased transparency on non-commercial activities through a direction from the minister to SA Water. As well as these reforms, the water industry now has an independent technical regulation through the transfer of responsibility for technical regulation away from SA Water to the Office of the Technical Regulator.

The government is committed to providing assistance to SA Water customers, especially those who face difficulties in paying their water bills. We expanded the Energy and Water Ombudsman of South Australia to independently assess SA Water customer complaints. As well as this, we have formalised SA Water's customer service standards through the SA Water customer charter and the standard customer contract and have introduced a new hardship policy. Through the regulatory approach we now have a long-term price path (three to four years), ensuring customers can plan for any changes in price, which is vitally important to our business customers.

These reforms have led to the introduction of a formal customer consultation requirement for SA Water's future revenue determinations, resulting in SA Water's biggest ever customer engagement process. The government is pleased that the ESCOSA board, under the leadership of its chair, Dr Pat Walsh, will work with the government on further reform of the sector. I am very pleased to say that we work very cooperatively together. I am also pleased to note that ESCOSA is committed to independent economic regulation of this essential service throughout our state.

The PRESIDENT: The Hon. Mr Lucas.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas has the floor.

MINISTERIAL STAFF

The Hon. R.I. LUCAS (14:48): My question is to the Leader of the Government. Has the minister received any advice that any of her ministerial staff have used private email accounts to transact official government business?

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) (14:48): I thank the honourable member for his question. I think the Hon. Ian Hunter addressed this issue yesterday, so the government has already made statements about this matter and it is being considered by the Attorney-General. On 14 October, in a ministerial statement, the Attorney-General was clear that it is his intention to provide advice to the Premier for him to communicate with ministerial staff reminding them of their obligations under the State Records and FOI acts. The Attorney-General is currently considering these matters and it certainly would not be appropriate and nor do I intend to make any further comments in relation to this matter.

MINISTERIAL STAFF

The Hon. R.I. LUCAS (14:49): A supplementary question. Why is the minister refusing to answer a question in relation to whether she has received advice about her staff? There is nothing inappropriate about that.

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:49): I am not refusing to answer the question. I have answered the question and I have outlined why it is inappropriate for me to make any further comment.

MINISTERIAL STAFF

The Hon. R.I. LUCAS (14:49): A further supplementary question. Can the minister outline why she believes it is inappropriate to answer the question I put to her?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:49): I have already outlined my reasons, and I have nothing further to add.

MINISTERIAL STAFF

The Hon. R.I. LUCAS (14:50): Another supplementary, sir. The minister did not outline a reason. She just said that it was inappropriate.

The Hon. G.E. Gago: I cannot help it if you don't listen.

The Hon. R.I. LUCAS: I did listen. You did not—

The Hon. G.E. Gago: I did outline the reasons—

The Hon. R.I. LUCAS: My question to the minister is: can the minister indicate—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas has the floor.

The Hon. R.I. LUCAS: Can the minister indicate what the reason is that it is inappropriate to answer the question I put to the minister?

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) (14:50): I have already outlined the reasons I am not making any further comments in relation to this matter. It is not appropriate, for the reasons I outlined.

STEM SKILLS

The Hon. T.T. NGO (14:50): Thank you, Mr President—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Ngo has the floor.

The Hon. T.T. NGO: I seek leave to make a brief explanation before asking the Minister for Science and Information Economy a question about science, technology, engineering and mathematics (STEM) subjects amongst young people in South Australia.

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:51): I thank the honourable member for his most important question.

The Hon. T.T. Ngo interjecting:

The Hon. G.E. GAGO: I beg your pardon; there is more.

Leave granted.

The Hon. T.T. NGO: We got distracted. There has been widespread concern that insufficient numbers of young Australians are choosing careers in STEM. It is widely recognised that strong capacity in these fields is vital for South Australia to create a vibrant and knowledge-based economy that maximises the economic use of our opportunities and vast resources. Can the minister tell the chamber of recent developments in developing South Australia's STEM skills?

The Hon. G.E. GAGO: I apologise for my overenthusiastic eagerness to talk about this most important issue. There is no doubt that South Australia's future prosperity depends on developing a skilled workforce who will make optimum use of opportunities in our emerging industries. Defence, mining, bioscience, clean tech, food and other industries in South Australia will all need people with

STEM skills. To this end, our STEM strategy focuses heavily on boosting the numbers and qualifications of people with skills in the fields of physical and mathematical sciences, ICT and engineering.

Addressing this long-term demand requires concerted and focused action by educators at all levels, government, industries and training organisations, and our STEM strategy recognises seven key building blocks to change the proportion of South Australians with skills. It looks at the right policy and standards framework, boosting our teaching workforce, high quality learning resources, contemporary education infrastructure, partnerships and pathways, STEM workforce development and broader community scientific awareness.

However, these building blocks all rest on a critical human element, and that is that young people must be interested in STEM subjects in the first place, so it was very gratifying that overnight the winner of a national award, the 2014 Prime Minister's Prize for Excellence in Science Teaching in Primary Schools, was Mr Brian Schiller, a teacher at Seacliff Primary School in Adelaide's southern suburbs. In speaking about his teaching Mr Schiller said:

> A good primary science class develops maths skills, language, problem solving and critical thinking skills. The children and their learning are the focus of the classroom, and they inspire each other to such a great extent.

The recognition of Mr Schiller, for his inspiring work of awakening young minds to the value of using their imaginations to ask 'what if' or 'why does', is most timely. Many successful scientists will later in their working lives credit a particular teacher for opening the possibilities of a science career to them. We need to frequently and publicly acknowledge the role of those teachers and lecturers, from early primary right through to postgraduate tertiary teaching, inspiring our future STEM professionals.

Mr Schiller is not alone in being a dynamic and exciting science teacher. Every year the South Australian Science Excellence Awards recognise excellence in both school and tertiary teaching. The passion and dedication of those teachers is always evident in how they talk about their profession and in the appreciation their students show for them.

It is with great pleasure that I extend my congratulations to Mr Brian Schiller for the national Prize for Excellence in Science Teaching in Primary Schools, and I wish him very well. In doing so, I also express my appreciation for all our science and STEM teachers and the vital part they play in our long-term STEM strategy.

MARTINDALE HALL

The Hon. T.J. STEPHENS (14:55): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question regarding Martindale Hall.

Leave granted.

The Hon. T.J. STEPHENS: At a community meeting in Mintaro last night, department officials indicated that the government would take over the property in early December. The current occupants have been asked to leave, one of whom has been involved for more than a decade. This smells of a sale to me. Will the minister confirm that Martindale Hall will not be sold? What is the government's long-term plan for Martindale Hall?

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 excellent question. He has, unfortunately, attempted to gazump an announcement that we might be making at some future stage, but yes, I understand that the current lease holders of the business at Martindale Hall will no longer be continuing in that position. That is my understanding. I have asked the department to investigate future options for either the business continuing or otherwise. Once I have that information back, I will be making a determination.

MARTINDALE HALL

The Hon. T.J. STEPHENS (14:56): Minister, in your answer you mention the word 'otherwise'. Does 'otherwise' include the possible sale of the property?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:57): 'Otherwise' includes all possibilities.

RENEWABLE ENERGY TARGET

The Hon. K.J. MAHER (14:57): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister update the chamber on the potential impact of proposed federal government changes to the renewable energy target on the South Australian economy environment? Is the minister aware if any South Australian Liberals are standing up for our state, our regions and local jobs in this area?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:57): What an excellent question from the Hon. Mr Maher, on point of course, as ever, with the political debate that is happening around this nation and very alive to what has just happened over in Canberra with Clive Palmer's group and the federal government. Several weeks ago I reported on the federal government's review of the renewable energy target and the uncertainty this review is creating in the renewable energy sector in South Australia. Since then a clearer picture has emerged about the likely impact of the proposed changes, and I believe that it is vital that we are all informed of this.

This is in light of recent speculation over whether the federal government's Direct Action Plan is about to get the votes it needs to become federal climate change policy. I saw some pictures last night of a desperate federal minister Greg Hunt trying madly to clutch Clive Palmer's hand as they walked down the corridor together. Clive eventually proffered it, but he did not seem to be particularly enthusiastic about it and they quickly dropped hands.

The Hon. J.M.A. Lensink: Is that really necessary?

The Hon. I.K. HUNTER: I want to see it as a reflection on the colour and life of politics in Canberra at the moment. The Hon. Michelle Lensink is not interested in that; well, I will move on.

The Hon. J.S.L. Dawkins: Your mob were lauding them earlier.

The Hon. J.M.A. Lensink: I just think you can behave like a statesman every now and again and surprise us.

The PRESIDENT: The Hon. Mr Dawkins, I think the entire question time you have interjected. As the Whip, you should know better and you do know better.

The Hon. K.J. Maher: Kick him out; he's been here long enough.

The PRESIDENT: The Hon. Mr Maher, I don't need you to interfere while I am talking. The honourable minister has the floor. Let him answer his question.

The Hon. I.K. HUNTER: Let me be clear, sir, and I will act as a statesman, as the Hon. Michelle Lensink often observes that I do. The federal Abbott government has no interest in taking real action on climate change. Instead, Prime Minister Abbott and his colleagues of climate change deniers are only interested in giving handouts and incentives to the big polluters. The Direct Action Plan—I think it has been described in an eminent Queensland newspaper as being the biggest political con ever perpetrated in Canberra—takes the unorthodox approach of rewarding big polluters for cutting emissions rather than the approach of setting targets and penalties for not reaching them. This approach is mirrored in the federal government's approach to the Renewable Energy Target scheme creating significant financial and legal implications for renewable energy investors.

In October of this year, the Clean Energy Council released a report titled 'Financing impacts of amendments to the Renewable Energy Target.' The analysis was conducted by law firm Baker & McKenzie, whom we have not heard of. It examines the risks that are likely to arise should the Abbott government's proposal to cut the RET be implemented, and it analyses what impact such a change would have on the financial and contractual arrangements for existing and future large-scale renewable energy targets.

This report raises a number of very serious issues about the financial implications of the government's plans to slash the RET. The Abbott Liberal government has said its preferred position on the RET is for a reduction from 41,000 gigawatt hours to about 26,000 gigawatt hours by 2020. That is about a 40 per cent reduction. The analysis in the report compiled by Baker & McKenzie for the Clean Energy Council shows that reducing the RET by this 40 per cent may lead to legal challenges, businesses defaulting on loans, and future projects being unviable.

The report also examines the issues and the complexity associated with designing and implementing any compensation scheme for existing renewable energy projects. It is important to note that, while the federal Liberal government insists that any changes to the RET would not affect existing schemes and investments, this report highlights some very serious dangers. For example, it has found that any substantial reduction of the RET will significantly alter the basis of the modelling used for current projects. Renewable energy certificate prices, for instance, would be substantially lower than the original modelled prices.

The reduction in the RET would also trigger a review of existing funding arrangements by lenders and the cost of capital for equity is likely to be higher, reflecting the higher costs. In addition, the vast majority of existing projects would be up for refinancing over the period of 2016-18, I am advised. Existing projects might not be able to meet the minimum financing requirements based on the revised set of risk assumptions and parameters. The report also highlights a very serious problem of potential compensation claim, stating that:

> Slashing the Renewable Energy Target (RET) as proposed by the Federal Government would smash the value of projects that are already operating and potentially expose the government to massive compensation claims.

If this were the case, the overall effectiveness and efficiency of a reduced RET would be completely undermined, because any compensation and transitional assistance regime would need to be designed for the specific financial arrangements of each and every renewable energy project. In addition, the report finds there are likely to be legal challenges to any legislative change made to the RET which results in adverse financial impacts on renewable energy operators and developers.

A reduced RET would be bad for the environment, bad for Australia's reputation as a safe place to invest, and bad for South Australia. It would lead to massive asset devaluation, job losses and business closures. As well as this report, we have the real-life example of what is happening right now. I understand that, for the first time since the introduction of the RET, there has been no new investment in renewable energy in Australia. There is no fudging of the numbers here. There has been no new investment in this area.

Instead, reputable companies are stalling on prospective businesses. They are waiting to see what the federal government does with the RET. Companies like Pacific Hydro, Senvion, Neoen, and Infigen have already been granted development approval, but they are taking a wait-and-see approach too. This is not a good way to do business in this country. What would this mean for South Australia and its growing renewable energy sector? What would happen to the state's existing 15 wind farms that have provided ongoing employment to 842 people and a further 2,500 during various construction phases? What would happen to the $5.5 billion invested in the renewable energy sector that has flowed into our state, and the additional investment target of $10 billion in low carbon generation that we have set ourselves by 2025? It is all in jeopardy.

We have already seen energy developers, like Trustpower, say they will delay plans for future investment until there is clarity over the future of the RET. The Renewable Energy Target and the future viability of existing renewable energy projects is highly dependent on a strong bipartisan policy that will continue into the future. Business needs that security for their investment.

The South Australian Labor government will continue to fight against any change to the RET by the Abbott government because we refuse to be part of an arrangement that cuts jobs and closes businesses in this state, and I would like to know once and for all where the state Liberal Party stands on this matter. I have not heard a single thing from a state Liberal Party frontbencher on the radio or on the television. I have not seen a single piece of agitation with the federal Liberal government. Where are the articles in *The Australian*, where are the articles appearing in *The Advertiser*, where are they on the radio and television taking it up to the federal Liberal government?

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

The PRESIDENT: Ms Lensink, there is only one person on their feet.

The Hon. I.K. HUNTER: As usual, the Liberal opposition in this state refuses to stand up for South Australia against the federal Liberal government. That is a disgrace. When South Australia needs a united policy to take to the federal government, they are nowhere to be seen, and I think that is shocking. They will turn their backs on South Australians, turn on their backs on South Australian jobs and turn their backs on the renewable energy sector.

RENEWABLE ENERGY TARGET

The Hon. J.M.A. LENSINK (15:05): Given the minister's clear opposition to the direct action policy, is he going to say that his government will not participate in direct action, the 20 million trees or the green army projects?

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 a ridiculous proposition! Even with a flawed program, when the federal government is offering funding we will help them out by giving them a good project to spend the money on.

RENEWABLE ENERGY TARGET

The Hon. J.M.A. LENSINK (15:05): By way of further supplementary, so the minister is quite happy to criticise the program but take the money, thank you very much?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:06): I will not resile from that whatsoever, but we will give them a program that actually works, unlike what they are proposing.

HOUSING SA

The Hon. M.C. PARNELL (15:06): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation, representing the Minister for Social Housing, a question regarding vacant and contaminated public housing stock.

Leave granted.

The Hon. M.C. PARNELL: Freedom of information requests to the Department for Communities and Social Inclusion reveal that in July 2013 the number of untenanted public houses was 1,364. Whilst there will always be a proportion of houses vacant due to redevelopment projects or significant maintenance work, this indicates a very large number of vacant homes. My office regularly receives queries from tenants of Housing SA properties concerned with the availability and quality of state housing.

Among these are concerns about the quantity of asbestos in the roof and walls of public housing. As houses deteriorate over time, many people are worried about whether they are at risk from exposure to asbestos fibres. These concerns are particularly topical at the moment, with the ACT government grappling with the repercussions of the Mr Fluffy asbestos roof insulation saga in Canberra and the looming bill for hundreds of millions of dollars for the demolition of those homes. My questions to the minister are:

1. How many Housing SA properties contain asbestos?

2. What proportion of the 1,364 vacant homes is vacant due to the presence of asbestos and the need for that asbestos to be removed?

3. What arrangements are in place for the ongoing monitoring of asbestos in Housing SA properties?

4. What plans are in place to ensure that Housing SA homes that contain asbestos can be evacuated in the case of an emergency exposure, and that families can be quickly rehoused?

5. Is information about the presence of asbestos notified to prospective tenants or purchasers when Housing SA properties are leased or sold?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:08): I thank the honourable member for his most important and interesting question. I do, of course, have some understanding of the issue, having been a former minister for social housing myself. I would say that his premise that this is an unusually high number of houses to be vacant probably is not quite accurate. Given that the housing stock is somewhere around 40,000 houses, given turnover between tenants, the need for the redevelopment of suburbs and maintenance and updating of houses, it is probably about right. However, there are other issues he raised in his question, and I will take them to the minister in another place and seek a response on his behalf.

SELF-HARM INDICATORS

The Hon. J.S.L. DAWKINS (15:08): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation, representing the Minister for Mental Health and Substance Abuse, a question regarding self-harm indicators.

Leave granted.

The Hon. J.S.L. DAWKINS: When I recently visited the United Kingdom I had the privilege of meeting with the senior staff of the University of Manchester's Centre for Mental Health and Risk, which conducts the Manchester self-harm project, otherwise known as MaSH. This longstanding project helps to inform the United Kingdom's national indicator for self-harm but also particularly focuses on specific facets of the Manchester population which has a 33 per cent non-Anglo background and incorporates a significant lesbian, gay, bisexual, transgender and intersex community. My questions are:

1. Will the minister outline what, if any, actions his department has taken to identify the levels of self-harm in different demographic and geographic communities and to inform indicators across the whole state?

2. What efforts are being taken by the government to support community groups established to assist people who experience self-harm and/or attempted suicide such as Anglicare's A Cry For Help?

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): I thank the honourable member for his most important questions. Again, he comes in here with some very important information, obviously derived from his extensive contacts around the world and this country in the area of suicide prevention and harm prevention. They are important, particularly as they do relate to a community that I am very close to, the LGBTIQ community, where we know, for example, that particularly with young people and particularly young people in rural and regional areas, where they do not have an ability to get support through their own community, they do sometimes seek to harm themselves. I am always very impressed with the honourable member's questions on these matters and I will take them to the minister in the other place and seek a response on his behalf with alacrity.

DISABILITY INFORMATION AND RESOURCE CENTRE

The Hon. K.L. VINCENT (15:11): I seek leave to make a brief explanation before asking questions of the minister representing the Minister for Arts about the Disability Information and Resource Centre.

Leave granted.

The Hon. K.L. VINCENT: The Disability Information and Resource Centre (DIRC) has been servicing the disability community of South Australia for more than three decades now. As the DIRC website explains, 'DIRC provides a friendly and professional information referral service to the people of South Australia.' I would like to list a few of the services that DIRC provides: a library which contains in excess of 3,700 resources suitable for the general community, covering information on physical, neurological, developmental, sensory, intellectual and psychiatric disabilities and related issues; the Disability Information Directory of SA, which underpins the provision of the information and referral service with 950 South Australian disability service providers, organisations and

businesses listed; Case Management: a guide to disability services; and professional and accessible meeting and function rooms for hire.

DIRC is also a sometime polling booth during elections, which is an important consideration given, as I have already explained in this place, that there is a lack of accessible polling booths in this state. Now, in October, we have learnt that DIRC is about to shut its doors. It will no longer provide an information and library service to South Australians with a disability, for family carers nor for people who work in the disability sector. The shoestring funding to run DIRC, provided by Arts SA as I understand, is about to cease. My questions to the minister are:

1. What future does the minister envisage for DIRC, and is it correct that the Restless Dance Theatre may set up a headquarters there?

2. What facility does the minister intend to fund to provide accessible IT resources, library resources and accessible meeting rooms to South Australians with disabilities?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:13): I thank the honourable member for her most important question about DIRC and its future and possibilities for future use, as she outlined in her questions. I will take those questions to the minister in the other place and seek a response on her behalf.

RECLAIM THE NIGHT

The Hon. J.M. GAZZOLA (15:13): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about Reclaim the Night.

Leave granted.

The Hon. J.M. GAZZOLA: Australian women are more likely than men to experience physical and sexual violence in their homes at the hands of a current or ex-partner: 36 per cent of women have experienced physical or sexual violence from someone they knew. Will the minister update the chamber on how the government is supporting women to reclaim the night?

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) (15:14): I thank the honourable member for his most important question and his ongoing interest in this particular policy area and commitment to eliminating violence. This coming Friday, 31 October, we will be very pleased to participate in the tradition of the Reclaim the Night march here in Adelaide. As the name suggests, Reclaim the Night aims to recognise the fundamental right of women to be safe. Women are invited to march for the right of women and children to be free of the fear and reality of violence in their homes, on the streets and at work.

Violence against women can have a devastating impact on our community. It can destroy families. Children who are exposed to domestic violence experience serious long-term harm. The economic impact is estimated to be $13.6 billion across Australia in 2013—that is $13.6 billion. Domestic violence affects workplace productivity and results in increased demand on health, welfare, social housing, crisis care and a wide range of different services and support. The worst statistic of them all is that in Australia, nearly one woman every week is killed by a current or former partner—a devastating statistic.

I am sure that all members are familiar with the case of Zahra Abrahimzadeh, a woman who was repeatedly stabbed by her estranged husband at a cultural event held at the Convention Centre in March 2010. Following her coronial inquest, the State Coroner published a series of recommendations, which he has directed to the Premier. Earlier this month, members will be aware that the Premier released 'Taking a Stand: Responding to Domestic Violence'. This is in addition to a separate response by the police, which outlined the police measures that they have already been put in place or are going to put in place to improve the way they interact and deal with those affected by domestic violence. The government response includes a number of initiatives; some directly relating to the Coroner's concerns, and others more broad measures to help eliminate domestic violence. These include:

- a women's domestic violence court assistance service—a confidential and free service that will be provided to assist women who attend court for domestic violence and family violence, to enable them to successfully deal with the court system and to obtain justice;
- an early warning system—a government systems response which will increase accountability, particularly in instances where a response by a government agency compromises safety; and
- the largest employer in South Australia, the state government, will obtain White Ribbon workplace accreditation for all of its departments.

I will outline some of what that means in a minute. There is acknowledgement from the Premier and many others that men must act to change ingrained attitudes which disrespect and devalue women. The need for cultural change is reflected in the government's pledge as a member of OurWatch, an independent not-for-profit organisation which aims to change social and cultural attitudes, behaviours and social norms that underpin the reasons that violence against women is perpetrated. It acts as, if you like, a Petri dish for violence to grow in and thrive in.

I encourage all those members who are willing and able to join me this Friday to 'reclaim the night' and demonstrate their commitment and support to ensuring women and children live free from the threat of violence. This is another way that women and men can help address the attitudinal change that we need to ensure that women are respected in our society. The march will start outside Victoria Square and proceed down King William and Hindley streets to the West Bar at UniSA, for those that are interested.

In relation to White Ribbon accreditation, the White Ribbon Workplace Accreditation Program recognises workplaces that have taken steps to prevent and respond to violence against women by accrediting them as a White Ribbon Workplace. We already have a large number of White Ribbon Ambassadors in this chamber: the Hon. John Gazzola is an ambassador; so too are the Hon. John Dawkins, the Hon. Stephen Wade, the Hon. Mark Parnell and the Hon. Gerry Kandelaars. There are many members here in this chamber. If I have failed to recognise someone I apologise. That demonstrates a real commitment by men in this place.

Through this program organisations become accredited to do things like prevent men's violence against women, drive social change and refine support offered to employees who are victims of violence. The work done in achieving accreditation could include things like strengthening our policies, and I know I have already spoken in this place of the fact, for instance, that each of the agencies now has a domestic violence policy in place. This will urge each agency in turn to go back and look at that policy, and looks at ways they might be able to strengthen that, to promote gender equity in the workplace.

We can always improve on that. We know that, for instance, although we have done a lot to improve the proportion of women in senior executive positions and other leadership positions in government, we can still do better in that place. So this will help encourage agencies to look at things like that, as part of influencing the social and cultural attitudes underpinning violence again women. As I said, it is those values that underpin and create the conditions that violence can thrive in, so those cultural attitudes are very important.

Bills

CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) AMENDMENT BILL

Committee Stage

In committee.

(Continued from 28 October 2014.)

Clause 7 passed.

Clause 8 passed.

Clause 9.

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

Amendment No 5 [Darley–1]—

Page 5, line 35 [clause 9, inserted subparagraph (ia)(B)]—Delete 'would not' and substitute 'could not'

This is a consequential amendment.

The Hon. S.G. WADE: We agree this is a consequential amendment but it is consequential on the fact that both the government and the opposition opposed it, so we will continue to oppose it.

Amendment negatived.

The CHAIR: Is it the same with the next one, amendment No. 6?

The Hon. J.A. DARLEY: Consequential, Mr Chair.

Clause passed.

Clauses 10 to 19 passed.

Clause 20.

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

Amendment No 1 [Wade–1]—

Clause 20—This clause will be opposed

This is a relatively simple clause but if the committee is agreeable I would suggest it be a test clause for the related amendments in relation to the issue of whether or not the funds from the confiscation of assets under this act should go to the Victims of Crime Fund or to the new Justice Resources Fund. By virtue of this amendment and related amendments, the money would go to the proposed Justice Resources Fund. We see that as primarily a government response to its own budget woes. It has been a common feature of the earlier versions of this bill.

I would underscore to members too that it is not just, if you like, diversion of the new assets confiscated, but our understanding of the impact of the legislation would be that in relation to an offender who is liable to have assets confiscated under this legislation not only would those assets, if you like the non-crime-related assets, be disposed of to the benefit of the Justice Resources Fund but also the assets that would have otherwise gone to the Victims of Crime Fund; in other words, assets which are either the instruments of crime or the proceeds of crime.

We have continually found it impossible to get information from the government as to that second element, but in any event we do not believe that there is any justification for taking money away from the victims of crime to prop up this government's budget problems. We are attracted to the proposal by the Hon. John Darley in relation to drug rehabilitation because that is a clear strategy to reduce future victims, but to let Treasury get a hold of the money without any relationship to reducing crime, which is the current rationale behind this regime, not just in this jurisdiction but, on my understanding, at the commonwealth level as well, we see no justification to change the established practice of the act.

The Hon. G.E. GAGO: The government opposes this amendment, and we are happy to treat this as a test for clauses 20 and 22. We also intend to oppose those clauses, and to amend clause 21 to remove the justice resources fund proposed by the government because of what we see as some misguided belief that victims will lose out. As noted in my second reading reply, the Attorney-General made it clear in another place that victims will not lose from these funds because they simply never had them. This bill will raise new money that never went into the Victims of Crime Fund, and that can be used to fund a number of really worthy initiatives in the justice reform area, such as the provision of courts infrastructure, services, programs and facilities for dealing with things like drug and alcohol related crime.

These are things that did not exist before, and it is money that we did not have access to before. This money should not be limited to just providing funding for drug rehabilitation programs, as proposed by the honourable member. It will be invested in the justice reform area, which will mean greater support to victims of crime and greater access to justice. Therefore, and as I said, the government opposes this amendment and related amendments proposed by the honourable member.

The Hon. S.G. WADE: I am going to focus on questions, because I appreciate that other members might want to express their view on the policy before the minister and I have any further discussion on that. If I understood the minister's comments correctly, she was suggesting that this was new money. Does that suggest that the government is of the view that proceeds of crime and instruments of crime proceeds of people who are caught by this legislation would continue to go to the Victims of Crime Fund, and only the non-instruments of crime, non-proceeds of crime element would go to the justice resource fund? To me that is the only way the minister's statement could be accurate.

The Hon. G.E. GAGO: We are happy to take other points of view on this, while we are waiting on advice. It will help move things along a bit.

The Hon. M.C. PARNELL: I will just take this opportunity to put the Greens' position on the record. The first thing I will say is that the list of initiatives in the government's proposed justice resources fund are all noble initiatives, they are all projects and causes and areas of expenditure that are meritorious and worthy; however, whilst spending money on drug and alcohol related services, on fixing up the courts infrastructure, are all worthy causes, the Greens cannot accept that matters that should be funded out of general revenue are now going to be funded by effectively stealing the honestly-gained property of people who have committed certain offences.

I will just put it on the record again: the Greens support the confiscation of the proceeds of crime, we even support taking it where you cannot necessarily prove that it was property gained by criminal activity but it is unexplained wealth, we support taking that as well. However, we cannot support the tenet of this bill, which is to take people's honestly and legitimately acquired property. Having said that, the argument being raised at the moment, I guess, is about where this money should be spent. We are inclined to support the Liberal model regarding where the money is to go, but, as I said, whilst we are supporting the amendment we will be voting against the entire bill.

The Hon. G.E. GAGO: I have been advised that if the moneys are not separated out then it is true to say that that money that might have been proceeds of crime will go into the justice resources fund rather than Victims of Crime. However, it will raise new money, because we are able to confiscate more assets.

The Hon. S.G. WADE: I understand that that answer means that practically the money will all go into the justice resources fund. In terms of the minister's other comment, which was, I think, a reference to the Attorney-General's comments in the second reading in another place, that victims will benefit from the justice resources fund through the provision of facilities and so forth, I ask the minister, is there anything in this bill that means that a project needs to benefit victims? Is there any requirement for there to be a nexus? I cannot see anything. I am expecting to see it in proposed section 209A(5), which is in clause 22.

The Hon. G.E. GAGO: Section 209A(5).

The Hon. S.G. WADE: Yes, (5)(a)(b)(c). It does not mention victims, though, does it? If you are referring me to (5)(a), there is no nexus to victims. There is nothing to say that anything from the justice resources fund would create any benefit for victims. I certainly appreciate that there is a lot of, shall we say, courts infrastructure expenditure, for example, victim witness suites and so forth, that would be of huge benefit to victims, but there is nothing in this bill that says that it is going to go anywhere near victims.

The Hon. G.E. GAGO: I do not want to labour the point, but it is related through the funding for justice reforms initiatives. It stands to reason that if you are upgrading court facilities and such like victims are going to benefit from that.

The Hon. S.G. WADE: I am not going to labour the point either. I will just make a point and I will go no further. Justice reform initiatives, for example, can be completely civil. They might have no benefit to victims. I just stress that I do not believe that there is any nexus between the justice resources funds and victims. This is clearly a transfer of assets away from victims.

The council divided on the clause:

Ayes.....6

Noes..... 12
Majority..... 6

AYES

Finnigan, B.V.	Gago, G.E. (teller)	Gazzola, J.M.
Hunter, I.K.	Kandelaars, G.A.	Ngo, T.T.

NOES

Brokenshire, R.L.	Darley, J.A.	Dawkins, J.S.L.
Franks, T.A.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I.	McLachlan, A.L.	Parnell, M.C.
Ridgway, D.W.	Stephens, T.J.	Wade, S.G. (teller)

PAIRS

Maher, K.J.	Hood, D.G.E.

Clause thus negatived.

Clause 21.

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

Amendment No 1 [Darley–2]—

Page 9, lines 29 to 31—Delete clause 21 and substitute:

21—Amendment of section 209—Credits to the Victims of Crime Fund

(1) Section 209(1)—after 'Subject to' insert 'subsection (1a) and'

(2) Section 209—after subsection (1) insert:

(1a) The Attorney-General must ensure that in each financial year an amount equal to 50% of the proceeds of confiscated assets of prescribed drug offenders for the preceding financial year is, instead of being paid into the Victims of Crime Fund under subsection (1), applied as additional government funding for drug rehabilitation programs (and such money may be applied without further appropriation than this subsection).

This amendment requires that the Attorney-General ensure that a minimum of 50 per cent of the proceeds of confiscated assets of prescribed drug offenders be directed towards drug rehabilitation programs, with the remaining 50 per cent going into the Victims of Crime Fund, as opposed to the proposed justice resource fund.

At the outset I thank the Hon. Stephen Wade, on behalf of the opposition, for his party's support for this very important amendment, and I commend the opposition for its very strong stance on the rights of victims with respect to this bill. Like the opposition, I believe it is most appropriate that the proceeds of assets seized go towards victims of crime, and as such I do not support the government's proposal to establish a new fund. Likewise, I also believe that more money needs to be directed towards drug rehabilitation programs, and this amendment really brings me to my second concern regarding this bill, namely, the lack of adequate funding directed towards such programs.

Members may recall that in the lead up to the last election one of the policies that my team focused on was the need to adopt the Swedish mandatory rehabilitation program and a zero tolerance approach to illicit drugs, which has slashed drug use in that country, as well as the need to give third parties, especially parents of drug-addicted children, the right to seek intervention in terms of that treatment.

For those members not familiar with it, the Swedish approach focused very much on zero tolerance, prevention, treatment and control. Sweden's overarching goal, and the basis of that

country's drug policy, is a society free from illegal drugs. One of the key measures of Sweden's drug policy is the courts' powers to divert users into detoxification and rehabilitation. The mere suspicion of drug use by police is enough to warrant a urine test and a subsequent referral to rehabilitation.

The country has a very small number of syringe exchange programs, and its users are required by law to enter into detoxification and rehabilitation programs. If you are caught with drugs you will face prosecution, no ifs or buts about it. The aim is to reduce both the supply of and demand for illegal drugs. It is widely acknowledged that in order to be effective in combating supply of drugs it is crucial to focus on demand.

This vision is not unique to Sweden alone; it is also shared by many neighbouring Nordic countries. Obviously having a drug free society is a very tall order for any country, but there is no question that Sweden has taken a very strong stance on the issue of drugs, and when you compare its drug abuse figures with those of other countries, particularly Australia, there is no question that it has paid off considerably.

Sweden's success is attributable in large part to a relatively high level of government expenditure and policy focus. In 2007, the United Nations Office on Drugs and Crime published a report entitled Sweden's Successful Drug Policy: a review of the evidence. According to that report, Sweden's drug-related expenditure accounts for 0.47 per cent of its gross domestic product. Australian drug budget results show that Australia spends 0.13 per cent of its GDP on illicit drugs and drug-related policies.

In 2003, Sweden's lifetime prevalence of drug use among 15 to 16 year olds was 8 per cent, compared to 22 per cent in Europe. By 2006 Sweden's teenage drug use had fallen to 6 per cent. Between 2002 and 2004, the monthly prevalence of cannabis use among 15 to 24 year olds was 3 per cent in Sweden, compared to 11 per cent in Europe and 17 per cent in the UK. For other drugs, Sweden sat at 1 per cent compared to 3 per cent in Europe and 8 per cent in the UK.

For 15 to 64 year olds the annual prevalence of drug use in Sweden was 2.2 per cent for cannabis, compared to 7.4 per cent for West and Central Europe; 0.2 per cent for amphetamines, compared to 0.7 per cent; 0.2 per cent for cocaine, compared to 1.1 per cent; 0.4 per cent for ecstasy, compared to 0.9 per cent; and 0.1 per cent for other opiates, compared to 0.5 per cent.

While other European countries' illicit drug use continues to increase, Sweden's continues to decrease. Like Australia, Sweden has a significant number of amphetamine users among its problem drug use population, yet their prevalence rates are still a fraction of ours. We rank third in the world in terms of our amphetamine use. According to the UN report, a review of fluctuations in abuse rates also shows that in Sweden periods of low drug use abuse were associated with times when the drug problem was regarded as a priority, and changes in the number of heavy drug abusers over the past decades coincides with budget changes. For instance, between 1992 and 2001, at a time when funding cuts hampered access to treatment facilities, heavy drug abuse increased.

David Perrin, Executive Officer of the Drug Advisory Council of Australia, and national President of the Australian Family Association, recently wrote an opinion piece which was published in the *News Weekly* on the findings of the report. He states this about Sweden:

> Sweden targets its drug policies at teenagers to stop them trying drugs and, if they get hooked, to get them off drugs quickly and permanently. Sweden's experience is that if a young person has not taken an illicit drug by age 20, he or she is highly unlikely to use illicit drugs later in life. Australia has high levels of illicit drug use, similar to most of Europe. We have adopted permissive 'harm minimisation' policies which have led to high levels of demand for illicit drugs, with new drugs such as ice—methamphetamines, coming on the scene.
>
> Sweden has succeeded in its drug policy because it has reduced the number of drug-users, and hence the demand for illicit drugs. This is a lesson Australia has yet to learn.
>
> Sweden is not on a known drug route, so drug crime syndicates avoid trafficking to Sweden because of the difficulty involved. High prices, few outlets and strong drug policies deter the supply of drugs.
>
> Like Sweden, Australia is not on a known drug supply route; but we have weak policies, low drug prices and a permissive culture that accepts the use of drugs.
>
> None of the strong policies of Sweden, as outlined here, are present in Australia, so like Europe, we continue to suffer high drug usage.

These are quite telling statements from someone in the know, and they support the argument that the Swedish example demonstrates that when drug use is tackled head-on with strong, decisive and targeted policies, it can make a huge difference.

Turning back to my amendment: at the very least, we have to ensure that a decent proportion of the money that is generated from those assets that are seized from prescribed drug offenders goes towards targeted funding for drug rehabilitation programs. As outlined in my second reading contribution, Australia now has the highest proportion of recreational drug users in the world. According to the United Nations' 2014 World Drug Report, Australia ranks first in the world in the use of ecstasy, third in methamphetamines, fourth in cocaine and seventh in cannabis.

Drug-related deaths are increasing at an alarming rate, so much so that the rise in drug use is being matched by an increase in the number of deaths attributed to overdose: more than three a day. Just this week, *60 Minutes* aired a program on Silk Road, an underworld online hub where you can buy any drug conceivable. Australia ranks third behind the UK and America in terms of the drug deals being made from that website, drug deals that equate to more than $1.2 billion, drug deals that are being delivered via the post.

These are alarming figures, and it is absolutely extraordinary that this is happening right under our noses. Just as alarming, however, is the fact that the message about the dangers of drugs and the ramifications of drug supply and use is simply not getting through, especially to young people.

We need to ensure that we are doing our level best to tackle the issue of the demand for drugs. We need to be doing more to educate our kids and ensure they do not turn to drugs in the first instance. We need to be doing more to get drug addicts clean and keep them out of gaol, and we need to be doing more to help the families of those affected by drugs. This is not about being soft on drugs; it is about a holistic and targeted approach backed by good policy.

Yes, the Mr Bigs of our community need to know that the supply of illicit drugs will not be tolerated, and hefty penalties will hopefully go some way towards achieving that goal. One of my other amendments, which requires there to be a review of the provisions of the bill after three years, is aimed at determining that question. But, as I said during my second reading contribution, there is no point in locking up those who peddle their drugs for a year or two hoping that they will be released back into the community reformed persons. That is not going to happen. For one, our prison systems do not have the resources to provide that level of rehabilitation.

I am not asking for mandatory drug rehabilitation, even through I do believe there are merits to that sort of treatment that are worthy of further exploration. What I am asking for is that we do more to break the cycle of illicit drugs, which is almost always inevitably linked to other crimes.

There is no question that Sweden's drug policy is harsh; it is the most widely debated and examined policy in the whole of Europe. Critics argue that the policy is unrealistic and impractical, but the proof is in the pudding. In Sweden, the zero-tolerance approach to drugs, combined with mandatory rehabilitation or the threat thereof , has virtually eliminated what could otherwise have been a major social problem. Let us take a look at that country's model and try to learn what we can do better, and do it.

I want to put on the record some figures that I came cross in a very recent report of the University of New South Wales Drug and Alcohol Research Centre, entitled, 'Government drug policy and expenditure in Australia—2009-10'. The report forms part of the Drug Policy Modelling Program, the aim of which is to create valuable new drug policy insights, ideas and interventions that will allow Australia to respond with alacrity and success to illicit drug use. It actually provides a lot of valuable information, for those who are interested.

According to the report, in 2009-10, approximately 2,827 out of a total of 14,409 adjudicated defendants across Australia's higher courts had illicit drugs as the principal offence. This amounts to a proportion of 19.6 per cent of defendants having an illicit drug-related offence. In 2008-09 the total net expenditure of those courts was $289.5 million. This includes court administration, salary and non-salary items relating to court accommodation, support for the judiciary, court and probate registries, and sheriff's and bailiffs' offices.

In terms of matters heard by the magistrates and children's courts, in 2009-10 there were 32,468 defendants in magistrates courts of 545,658 defendants whose principal offence related to illicit drugs. Based on this proportion, some 6 per cent of magistrates courts activity was deemed to be illicit-drug specific. In the same period there were 821 adjudicated cases in the children's courts, out of 33,469 cases, or 2.5 per cent. Based on cases, the average proportion of illicit drug-related activity in these courts was 5.74 per cent.

The magistrates' courts expenditure that could be regarded as illicit drug specific was calculated to be $21.7 million out of a total of $358.6 million in expenditure. Those figures do not take into account the fact that many of the other offences that are adjudicated are indirectly linked to illicit drugs. I think it would be interesting to see what the difference in those figures would be if those factors were taken into account.

The report also provided estimated drug expenditure figures for all jurisdictions. According to the figures provided, law enforcement and interdiction accounted for 60 per cent of total drug expenditure; prevention accounted for 9 per cent; treatment accounted for 21 per cent; harm reduction accounted for 2 per cent; and then there was a further 1 per cent that accounted for other related expenditure.

What is overwhelmingly clear from these figures is that most of the money put aside by both the state and federal governments for drugs actually gets used for law enforcement. There is no question that law enforcement plays a critical role in this area, and our police and customs officers in particular provide an invaluable service in that regard. What strikes me, though, is that prevention and treatment only account for about one-third of the total drug expenditure. It is this area that I think warrants further attention. With that, I urge all honourable members to support this amendment.

The Hon. S.G. WADE: On behalf of the opposition I indicate that we will be supporting this amendment. I certainly thank the Hon. John Darley for putting on the record a lot of information about drug rehabilitation programs, and in supporting the amendment we notice that it is broad and that it does not prescribe the form of programs that would be involved. Some of them may be the ones that the Hon. John Darley referred to but some of the programs that could be funded under this amendment may be of other forms.

The Hon. G.E. GAGO: The government rises to oppose this amendment and I outlined my reasons for that in relation to the previous amendment.

The Hon. M.C. PARNELL: The Greens will be supporting the amendment for the reasons that we outlined earlier.

Amendment carried; clause as amendment passed.

Clause 22.

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

Amendment No 3 [Wade–1]—

Clause 22—This clause will be opposed

I move the amendment standing in my name, which is basically opposing the clause.

The Hon. G.E. GAGO: The government opposes this amendment for the reasons already outlined.

The Hon. S.G. WADE: Perhaps I should have clarified, I see this as consequential to the earlier series and I presume the government does also.

Clause negatived.

Clause 23 passed.

New clause 24.

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

Amendment No 4 [Wade–1]—

Page 11, after line 4—After clause 23 insert:

24—Insertion of section 225A

After section 225 insert:

225A—Reviews relating to prescribed drug offender assets

(1) If the DPP decides to apply for a restraining order or a confiscation order in relation to property that is owned by or subject to the effective control of—

(a) a prescribed drug offender; or

(b) a person who has been charged with, or is suspected on reasonable grounds of having committed, an offence that will, if he or she is convicted of the offence, result in him or her becoming a prescribed drug offender,

a person who claims an interest in the property may apply to the Tribunal under section 34 of the South Australian Civil and Administrative Tribunal Act 2013 for review of the decision to make the application.

(2) Subject to subsection (3), an application must be made within 1 month of the person being given notice of the application or, if no such notice was given, within 1 month of the DPP making the application.

(3) If the reasons of the DPP are not given in writing at the time of making the decision and the applicant (within the period referred to in subsection (2)) requires the DPP to state the reasons in writing, the time for commencing proceedings before the Tribunal runs from the time at which the applicant receives the written statement of those reasons.

(4) On a review, the Tribunal must vary or set aside the decision of the DPP if satisfied that it is in the interests of justice to do so.

(5) In this section—

Tribunal means the South Australian Civil and Administrative Tribunal established under the South Australian Civil and Administrative Tribunal Act 2013.

25—Insertion of sections 229A and 229B

After section 229 insert:

229A—Confiscation guidelines relating to prescribed drug offenders

Property may not be the subject of an application under this Act on the basis that the property is owned by or subject to the effective control of—

(a) a prescribed drug offender; or

(b) a person who has been charged with, or is suspected on reasonable grounds of having committed, an offence that will, if he or she is convicted of the offence, result in him or her becoming a prescribed drug offender,

unless the DPP has published in the Gazette guidelines setting out policies applied by the DPP in relation to the making of such applications.

229B—Annual report relating to prescribed drug offenders

(1) The Attorney-General must, on or before 30 September in each year, lay before both Houses of Parliament a report on the operation of this Act during the financial year ending on the preceding 30 June in relation to property owned by or subject to the effective control of—

(a) prescribed drug offenders; and

(b) persons who have been charged with, or are suspected on reasonable grounds of having committed, an offence that will, if the person is convicted of the offence, result in him or her becoming a prescribed drug offender.

(2) A report required under this section may be incorporated into any other report required to be laid before both Houses of Parliament by the Attorney-General.

The committee would have noticed that the government has not supported any amendments thus far. I have had earlier indications that the government is not intending to support any amendments, so I presume they will not be supporting these either. At clause 1, I indicated that the Liberal Party has decided to support this bill. The Legislative Council has agreed to a set of amendments which,

in its collective view, improved the bill, some of them put by the Hon. John Darley and some put by myself on behalf of the Liberal Party.

I am disappointed the government has not seen fit to support any of the amendments up to this stage, but I appreciate that it is unusual for the government to accept all opposition amendments at the Legislative Council committee stage. The government's first response is often to say no and to leave negotiations to between-the-house discussions.

I reiterate that in moving the amendments I have and the amendments I am about to move, the opposition would want to have discussions with the government between the houses to explore opportunities for mutual agreeable amendments to the bill. That is a process that is already underway on the SACAT bill. In that case the government opposed Liberal amendments to the SACAT bill but we have already had very constructive discussions with the government and I fully expect that on those amendments we can find common ground.

The opposition indicates its willingness to do the same on this bill. We look forward to discussions with the government before the House of Assembly considers the Legislative Council amendments so that we can explore common ground. So, I move amendment No. 4 [Wade-1] standing in my name. It has three elements, and I will refer to each of them. The first is a proposed section 225A, which relates to reviews relating to prescribed drug offender assets.

There has been substantial concern that one of the impacts of this new genre of asset confiscation legislation is that innocent third parties might be adversely affected. We submit to the committee and to the government that this clause is a sensible way of ameliorating that risk. In our view it also reflects the 2014 ALP policy, which talks about extending the scope of the confiscation power and making it subject to judicial review. The Liberal amendment is, in that sense, consistent with Labor policy.

The second element is that we propose a new section 229A, which asks the DPP to publish confiscation guidelines. In that we are envisaging something similar to the prosecutorial guidelines or polices that the DPP publishes. We think it is appropriate for a set of guidelines to be published, so that where the DPP is confiscating an asset which may have been illegally acquired people understand the processes that are being gone through.

The third element is a new proposed section 229B, which suggests an annual report in relation to these new provisions. As is an increasing tendency in this council, we look for both an increase in review of the effect of the legislation that we pass through this place and also more regular reporting. So we have proposed a new section 229B in that context. Those are the three elements of the amendment I have moved.

The Hon. M.C. PARNELL: I jumped up before the minister just to ask a question of the mover. In relation to the proposed insertion of the new section 225A, which is the review clause, the amendment the honourable member proposes is that to be able to go to the tribunal and ask them to set aside or vary the decision of the DPP you have to be 'a person who claims an interest in the property'.

My question is whether that would include the spouse of a person in relation to a property that may have been held only in the name of the offender, the children of the offender, who do not appear on the title, or maybe the aged parent of the offender, who might be living in the house. So my question is: what category of people does the honourable member think will be covered by this, and is he referring to (and it is a long time since I did trust law) some form of trust where a person may, for example, have an interest in property that is not recorded or noted anywhere, their interest being that they live in house that the DPP wants to confiscate?

The Hon. S.G. WADE: The answer is that I would be giving only a lay opinion, and I do not think that is the standard required. I seek the indulgence of the house: I did not think that parliamentary counsel was with us but they are, so I will just consult with them.

As always, I am indebted to the advice of parliamentary counsel. It may well be that an innocent third party, such as a spouse, may not come within that term, but a person who comes within that term—for example, the husband of the spouse who is going to suffer—would come within that term. It may well be that an affected spouse would need to rely on, if you like, the person with

the primary interest, to initiate the action, but my understanding is that once the action is initiated under subsection 1, then matters that could be considered by the tribunal under subsection (4), that is the interests of justice, could include justice in terms of the impact on innocent third parties such as a wife.

Let's hasten to add, so I am not seen as being sexist, wives are not always innocent. It may be that in the interests of justice the court says, 'I am sorry, you are part of the scheme.' That is my understanding of the impact of the amendment as proposed. Again, it may well be an issue that could be explored with the government in terms of alternative amendments in the other place.

The Hon. G.E. GAGO: The government rises to oppose this amendment, which inserts two new clauses into the bill. New clause 24 proposes to insert a new section into the act providing for reviews related to prescribed drug offender assets. This provision is unnecessary and serves no useful purpose. There is already a statutory right of appeal against any order for confiscation made by the court. The court hearing any application also, as the High Court made clear in a recent appeal from the Northern Territory, has ample power to prevent any abuse of its process.

There is nothing to suggest the DPP is at present misusing its powers to seek confiscation. Not only does this new provision undermine the practical effectiveness of the bill, but it has a more fundamental objection. The DPP is an independent statutory office holder. It is an issue entirely for the DPP of the day how he or she chooses to exercise his or her discretion. It is a fundamental longstanding premise of constitutional administrative law that the courts will not stray into or interfere with the exercise of prosecutorial discretion.

There are strong reasons of policy and practice for this proposition. Indeed, the High Court of Australia has repeatedly held that decisions of the DPP in the exercise of prosecutorial discretion are immune from judicial review. This is set out by the High Court in a leading case called Maxwell v R (1996) 184 CLR 501. As Justices Gummo and Gaudron observed:

> It ought now to be accepted, in our view, that certain decisions involved in the prosecution process are of their nature insusceptible of judicial review. The integrity of the judicial process, particularly its independence and impartiality and the public perception thereof, would be compromised if the courts were to decide or were to be in any way concerned with decisions as to who is to be prosecuted and for what.

In brief, prosecutors prosecute and judges judge. It is part of the separation of powers. The DPP seemingly cannot be compelled to provide reasons for prosecutorial decision. You cannot simply import notions of administrative law as this amendment seeks to do into somewhere it plainly does not belong. This amendment is ill-conceived and frankly unworkable and will involve the South Australian Civil and Administrative Tribunal trespassing on issues better left, by strong reasons of policy and practice, to the DPP.

Clause 25 proposes to insert two new sections into the act relating to the publication of confiscation guidelines by the DPP and the preparation of an annual report by the Attorney-General with respect to prescribed drug offenders. I will deal with each of those in turn. The new section 229A is ill-conceived and an inappropriate amendment. The bill already sets out the powers of the DPP and the underlying principles. It is unnecessary for the DPP to have to publish written guidelines as to how it exercises its powers. This amendment again highlights an ignorance of constitutional operations and the working of the DPP. It is for the DPP—and the DPP alone—as to how it wishes to exercise its powers and discretions.

You cannot frustrate the exercise of prosecutorial discretion by importing notions of administrative law into the workings and operation of the DPP. The proposed new section 229B requires the Attorney-General to report to the parliament annually on the operation of the act in relation to property owned by or subject to the effective control of prescribed drug offenders and persons who will, if convicted, become prescribed drug offenders.

I would urge the council to oppose this amendment. Such a report is unnecessary and, indeed, I wonder if the Hon. Stephen Wade realises how much work this amendment would require. In the government's view the minimal value offered by such a report does not justify the considerable amount of work and the vast resources that would invariably be required to investigate and identify all of the property held by these offenders and report on it to parliament.

Furthermore, it would require the government to assess and then publish in parliament the assets of people who are yet to be convicted of an offence and against whom an application for forfeiture may never be brought. The opposition should stop hiding behind these excuses to oppose this bill. If they are soft on crime, which they are, they should just say so and they should say that they oppose the bill because it is too tough on drug traffickers.

The Hon. S.G. WADE: On the last point, I am sorry the minister was not able to listen to my earlier comments because I have repeatedly said that the opposition is wanting to support this legislation.

In terms of the first clause proposed, 225A, I differ from the minister in the way she characterises the DPP's power in this case. I do not see it as the normal prosecution function of the DPP. These are more like civil confiscation orders.

In any event, in relation to the second matter of the confiscation guidelines, to suggest that it is somehow offensive to constitutional law that the DPP would be operating in accord with guidelines raises the issue of what the minister thinks the DPP is doing when he publishes and acts in accordance with his prosecution policy which is even more fundamental to his or her constitutional role.

In terms of the animated rejection of the annual report, the opposition is more than happy to look at ways of focusing relevant information that the parliament and the community might need, and I just reiterate my earlier comments that the opposition is happy to work with the government.

Also, I was disappointed the minister was trying to personalise this as my ideas. Let's be clear. I am no longer the shadow Attorney-General, I am the shadow minister for health. These proposals are put by me as the shadow minister representing the shadow Attorney-General in this place and they are the decisions of the Liberal Party party room.

The Hon. G.E. GAGO: I have been advised that at paragraph 63, 64 and 67, six judges of the High Court in Emmerson accepted the arguments of the Northern Territory and South Australian Solicitors-General that the DPP's role to confiscate was similar to other prosecutorial functions of the DPP and to be discharged by the DPP with the traditional fairness of the DPP role. It is wrong and misconceived to import notions of administrative law into the traditional and independent exercise by the DPP of his or her statutory discretion. There is already an express power of appeal against any confiscation order in section 226 of the Criminal Assets Confiscation Act.

The Hon. Mr Stephen Wade raises the position of innocent third parties in relation to that issue. The Criminal Assets Confiscation Act already has protections and powers of appeal for third parties whose interests are offended under the act.

The Hon. M.C. PARNELL: Just for the record, the Greens will support the Liberal amendments on the grounds that they make an awful piece of legislation marginally less awful.

The Hon. J.A. DARLEY: I indicate my support for the opposition's amendments.

The Hon. S.G. WADE: In terms of where the council might go from here, I suggest that the government has two options: we can either report progress and the opposition can consider the comments the government has made in terms of criticisms of our amendments with regard to the High Court judgement in Emmerson. I am not the shadow Attorney-General, and these are not decisions for me alone. Alternatively, we can progress and discuss these issues between the houses, and the alternative amendments that the government may choose to offer in the House of Assembly can address these issues.

The Hon. G.E. GAGO: I have received further advice. It would be wise at this point to report progress so that the government can further consider the comments the Hon. Steve Wade has made. We hope to constructively resolve some of these differences and move forward. At this point I suggest that we report progress.

Progress reported; committee to sit again.

COMMISSIONER FOR KANGAROO ISLAND BILL

Committee Stage

In committee (resumed on motion).

Clause 6 as amended passed.

Clauses 7 to 21 passed.

Clause 22.

The Hon. D.W. RIDGWAY: My amendments are all consequential, other than my amendment No. 11. I move:

Amendment No 11 [Ridgway–1]—

Page 10, after line 20—After clause 21 insert:

22—Expiry of Act

This Act will expire 4 years after the day on which it comes into operation.

This will have the effect of a sunset clause, if you like, on this bill in that the act will expire four years after the day on which it comes into operation. I think there has been strong support over the years for a whole range of pieces of legislation to have some sunset clauses, not to throw it out but to make sure that the government of the day goes back and reassesses the legislation—in this case that a Kangaroo Island commissioner will deliver the outcomes and the benefits that the government says it will. I think it is a sensible one and it will give those of us who are still here in four years' time a chance to have a look at the legislation and review it. With those few words, I urge members to support my amendment.

The Hon. G.E. GAGO: The government rises to oppose this amendment. It is unacceptable to the government that this action expires four years after it commences operation. I think the opposition is desperately clutching at straws to try to undermine this bill. They have not successfully been able to get rid of it, so now they want to plant little timepieces in there that considerably undermine the long-term effectiveness of this bill. This is a long-term strategy to deliver improvements for the people of Kangaroo Island. This would be greatly hampered and undermined by the looming deadline suggested by this amendment. There are, as I have indicated in this place, some serious challenges—

Members interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): Order! The conversation is not helpful, so the minister has the call.

The Hon. G.E. GAGO: As I have already alluded to—and I know members are well aware of it—there are some significant long-term challenges for Kangaroo Island. We have talked about its population numbers, its distance and the fact that it is an island and the problems around its infrastructure and transportation. They are significant problems that require a long-term strategy to rectify. There is opportunity for the people of Kangaroo Island and other affected parties to write to the minister responsible for the act with suggestions for improvements or to raise any concerns right throughout this bill. We have talked about the need for the commissioner to consult.

Members interjecting:

The Hon. G.E. GAGO: He will be required to consult. He will consult with the local community, so if he is a member of the local community then he is likely to be included in that consultation.

An honourable member: Or a she.

The Hon. G.E. GAGO: Or a she, but it happens to be a him at the moment. We know that the Liberal Party is not friendly to women; it has very few candidates.

Members interjecting:

The Hon. G.E. GAGO: We can say that because the statistics show it quite clearly. The statistics underline, quite clearly, how poor the Liberal Party is at supporting women.

Members interjecting:

The Hon. G.E. GAGO: But, back to the point at hand—the KI commissioner—

Members interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): Order! The Hon. Mr Ridgway is out of order.

The Hon. G.E. GAGO: Back to the real issue at hand, which is the Kangaroo Island commissioner. As I said, right throughout the legislation, the commissioner must consult. So, they will be receiving input and feedback constantly, and any adjustments that need to be made, the commissioner will be able to make them. Alternatively, members of parliament may seek to amend legislation themselves should they be sufficiently concerned with the manner in which it is operating. The Hon. David Ridgway is at liberty to come back into this place any time he so chooses and seek amendments to that legislation if he can demonstrate that it is not working and that he has got a better way to move forward.

The Hon. R.L. BROKENSHIRE: No surprise to my colleagues on the other side, I actually was contemplating supporting this—

Honourable members: Hear, hear!

The Hon. R.L. BROKENSHIRE: —was contemplating supporting—so, I get you slightly excited for a moment late on a Thursday afternoon. However—

The Hon. J.M.A. Lensink: What deals have you done?

The ACTING CHAIR (Hon. J.S.L. Dawkins): Order!

The Hon. R.L. BROKENSHIRE: No, I do not do deals—I do know that the Liberal Party does support women, as do I, and I put that on the public record. But, to come back to this point: at first I thought there was some merit in this, but I went and did quite a lot of work after indicating that I may consider this one, because often we do support these sunset clauses. However, we also did some research as to the amount of money that has not been provided to Kangaroo Island, going right back to when the *Troubridge* and the *Island Seaway* were actually pulled from service.

The reality is that tens of millions of dollars have been removed from Kangaroo Island over the years when it comes to both freight subsidies and tourism water gap subsidies. We have now got an opportunity to start making amends there. I said in my second reading speech that we are supporting this because we do expect—and we will be watching what the government do—money to go into infrastructure and additional projects, as well as the fact that they have appropriated or are about to appropriate $1 million or more for the position.

It is not totally unprecedented, by the way. Some of the most successful committees that I worked on when I was in government were where you had ministers that were actually across an issue and sat with formally recognised non-cabinet and non-political people to work through issues. One such issue was domestic violence, as an example, and it worked pretty well. So, I think this model has got to be given a chance.

I contacted some people on the island and I talked to Mayor Jayne Bates, whom I happen to strongly respect for her genuine commitment to the island over a long period of time. She has actually convinced me that this clause is too short, and I agree with her; the reason being that one thing that the island does need now is—

The Hon. D.W. Ridgway: A good government.

The Hon. R.L. BROKENSHIRE: Well, it needs a good government, but that is for you guys to work on. The fact of the matter is that, given the government they have got, they have to play the best hand of cards that they can. If this was to only be for four years, the problem is that that then sends a message to the people of Kangaroo Island that this is only temporary, and this is only another short-term bandaid measure. I do not think that is what the island needs right now; I think the island

needs absolute confidence that it has, for a foreseeable period of time, a chance to have a commissioner really make a difference.

As I said, it is not only for Kangaroo Island, it is for the whole state, and indeed for the nation. We need more than photographs for Kangaroo Island in federal publications; we need people going to Kangaroo Island and spending their money.

Therefore I leave it this way: I will be supporting the government as it stands and if there is a change of government in four years, and if I am in this place and the Liberals become the government and come to me and say, 'We don't think this is working. We told you Brokenshire that it wouldn't work. You went with the then government and we are now going to withdraw this and we are going to rescind the bill,' then obviously we would have to look at supporting that. But notwithstanding that, at this point in time, I think we need to send a message to the Kangaroo Islanders that this is there for a longer period with the right intent and opportunity to capitalise growth opportunities for the island. So we will be supporting the government.

The Hon. M.C. PARNELL: I guess my reaction to the Hon. David Ridgway's amendment is nice try but no cigar. In fact, not only no cigar, no Kangaroo Island haloumi, or no Ligurian bee honey. I do not believe it is a genuine attempt to make the best deal of this legislation. We know that the community of Kangaroo Island are overwhelmingly in favour of this new role of the commissioner. People are still scratching their heads as to why the member for Finniss has got his undergarments twisted in relation to this.

Putting a clause in here which says the act will automatically come to an end in four years' time is really unnecessary. Yes, in four years' time there will be some experience to guide the future. How well has it worked? What changes might need making, and that is an opportunity for the next parliament to have a think about what to do. If it is working fine then what a waste of parliamentary time to have to reintroduce exactly the same bill to re-establish it. This is not a review clause; this is a sunset clause and this brings it to an end.

I do not think that it adds anything to the legislation. I think the message that the parliament needs to be giving the community of Kangaroo Island is that we are committed to putting in place measures that give them the best possible chance to do as well as they can as a community. The Liberals are giving the impression in this place that if they were to win the next election they would tow Kangaroo Island further out into the Southern Ocean and sink it, and I do not think that that is the message that islanders want to hear, and so, as with the other amendments proposed by the Liberal Party, the Greens will be opposing this one as well.

New clause negatived.

Title passed.

Bill reported 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) (16:43): I move:

That this bill be now read a third time.

The council divided on the third reading:

Ayes 9
Noes..... 8
Majority..... 1

AYES

Brokenshire, R.L.	Finnigan, B.V.	Franks, T.A.
Gago, G.E. (teller)	Gazzola, J.M.	Hunter, I.K.
Maher, K.J.	Ngo, T.T.	Parnell, M.C.

NOES

Darley, J.A.	Dawkins, J.S.L.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I.	McLachlan, A.L.
Ridgway, D.W. (teller)	Vincent, K.L.	

PAIRS

Hood, D.G.E.	Wade, S.G.	Kandelaars, G.A.
Stephens, T.J.		

Third reading thus carried.

Motions

EVANS, HON. I.F.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:48): I seek leave to move a motion without notice concerning the retirement of the Hon. Iain Evans MP.

Leave granted.

The Hon. D.W. RIDGWAY: I move:

That this council acknowledge the service to the parliament of the Hon. Iain Evans, minister of the Crown from December 1997 until March 2002, and a member of the House of Assembly for the seat of Davenport since 1993.

Today I rise to acknowledge a good friend and colleague and a credit to the South Australian parliament, the Hon. Iain Evans. Iain grew up and still lives in the Adelaide Hills. He was educated at one of the Hills' most excellent public schools and pursued his studies in the building industry before starting a family business.

The Evans family is a political dynasty, from Iain's various relatives in local government, to his father, and at the retirement of Iain the family has served a career spanning approximately a fifth of the entire history of the South Australian parliament. Iain obviously grew up in the Hills, and he had a keen interest in his local community. He was a very keen cricketer, a good cricketer—

An honourable member interjecting:

The Hon. D.W. RIDGWAY: I have not got to his football yet; although this is not really a condolence motion, so I do not want to go through his entire life. However, he was certainly a very keen cricketer and was still playing cricket until very recently. He is an excellent footballer, and played reserves football, I think, for Sturt Football Club; so he played football at almost the highest possible state level. He was also a very strong member of the local Apex Club, and I think he became state and perhaps even national president of Apex.

There was something I learnt early in the piece about Iain that I thought was a little strange, although it shows his dedication and interest in politics. His father was the local member, and in those days *Hansard* was posted up to the member's house; Iain used to read it at night when he was about 12 years old, in bed with a torch so that he did not get caught. That shows a fair dedication and commitment to a life in politics, when a 12-year-old is reading *Hansard* in bed.

The Hon. R.L. Brokenshire interjecting:

The Hon. D.W. RIDGWAY: I think the Hon. Robert Brokenshire would have been reading something much more interesting than *Hansard* with a torch when he was in bed. Iain was very keen to serve his community and, as he said on a few occasions, he saw parliament as the highest form of community service. His father Stan's retirement in 1993 presented an opportunity for him to realise this aspiration and, with a 9.4 per cent swing and 72 per cent of the two-party preferred vote, in December 1993 Iain began his tireless service to the community. It is fair to say that the seat of Davenport, which a few years earlier had engulfed much of the old seat of Fisher, was a reasonably safe Liberal seat.

One thing about Iain is that he was a tireless campaigner and, from the beginning of his career right up until our most recent election, he never, ever let his constituents down and never, ever took one of them for granted. The Hon. Terry Stephens is not in the chamber at the moment, but when he mentioned the name of a good friend of his to Iain, Iain said 'Oh yeah, he lives at Trevor Street'—I think—'up in Blackwood'. He had actually doorknocked the house, and knew nearly everybody—

The Hon. R.L. Brokenshire interjecting:

The Hon. D.W. RIDGWAY: He did know the number, but it is probably inappropriate for me to mention the number here. However, he actually did know nearly every constituent in his electorate. He never took them for granted. As soon as the polls closed he was straight back out on the pavement, walking up and down the streets, making sure that the message was delivered personally to those he represented. He made sure he did this at least a couple of times every election cycle.

He also had this very familiar doorknocking uniform, a pair of khaki or taupe trousers and a blue shirt, and that is something he has passed on to a number of candidates since then; that you need to be seen and recognised, and you need to be well trusted in your community—and he has been. The community grew to like him and to trust him, and it is fair to say that Iain continued and built on his father's passions for grassroots campaigning.

As I said, politics and hard work was ingrained in the Evans family, and Iain and his lovely wife Fiona, who herself became a good family friend of my wife and I over the years, were under no illusions as to how demanding a political career could be. At the time of Iain's initial campaign, or at least in the early years of his parliamentary service, he and Fiona had four young children. Any of you who are parents in this place would know that we rely heavily on our partners to do a fair degree of the parenting on their own. So for the four children—Staten, Alexander, Fraser and Alison—their great success, both academically and in sport, is testament not only to the wonderful framework and home life that was laid down by Iain but also testament to Fiona's hard work behind the scenes during his decorated parliamentary career.

I think we often fail to recognise the support of our partners behind the scenes, when we are out in the community and doing the work that we do as members of parliament. I think that often goes unnoticed, so with these few words I am very keen to make sure that we recognise Fiona's support, because over 21 years in parliament it has been a big team effort from the Evans family.

As we all know, the Liberals won government in 1993 and, from the beginning, Iain was no wallflower in this parliament. He spoke passionately on a host of issues affecting his electorate, not least of which were the development of Craigburn Farm, a police presence in the Hills, and traffic and road infrastructure. After the successful 1997 election Iain was deservedly elevated to cabinet under John Olsen's leadership. Then began a period which Iain himself described as the most rewarding and exciting five years of his life.

Iain made real and tangible changes to the state, and I would like to recognise some of them. He was appointed as the first minister for volunteers in Australia and introduced volunteer protection and good Samaritan legislation. He led the ban on mining in the Gammon Ranges National Park. He led the selection for the site of the new state aquatic facility at Marion. He undertook tax reform by introducing the emergency services levy and abolishing the fire service levy that existed on insurance policies.

He won parliamentary support for over 400 families who were victims of the Growdens investment collapse, returning some $13.5 million dollars to the victims. Paying particular attention to that last achievement, Iain did identify this in his press conference as possibly the most rewarding moment in his career. I am not sure that any person in this parliament can claim that they have had such a real and life-changing impact on the people of the South Australian community—from opposition, I might point out, too.

Earlier, when I bought the property I have now in Adelaide, a guy came and did a bit of part-time gardening. He stopped me one day and asked me to support this legislation because he was one of the people who had been wrapped up in that collapse. He was almost on the point of tears because virtually his life savings were at risk. I saw firsthand where Iain's passion and commitment to actually follow through on an issue were going to deliver some benefits to the community.

I said it was from opposition. It was after Iain's ministerial career. He still managed to effectively save the livelihoods of hundreds of South Australians without even having the influence of being in government. It is no surprise then that as I have come to know Iain he has demonstrated an appetite and a motivation to return to government which can only be reasonably expected from someone who has experienced the pleasure of effecting real and positive change for our state.

Unfortunately enough, the Liberals' return to opposition coincided with my election in 2002. From being a cabinet minister, Iain had developed an insatiable appetite again to serve the community at that level. It is that which has driven him through a decade in opposition, during which he held over 20 shadow portfolios. I will not itemise the numerous projects he has undertaken from opposition, but I would like to highlight Iain's exceptional work as our shadow treasurer through one four-year period.

I believe Iain effectively exposed the state Labor government's pathetic economic credentials, our ever-increasing state debt, interest bills, savings blowouts, the onerous cost of living—something he is very passionate about is the impact of government decisions and policy on the people in the street and the people he was elected to represent—our massive failure to meet our employment targets, and a list of other problems that the state Labor government has dealt to South Australia over the last decade.

He was relentless in exposing Labor's economic failures. Since my election in 2002, Iain has not only been a friend and colleague, but an important mentor. Iain is as loyal as they come. I have learned that if Iain gives his word in terms of supporting a particular position, whether that be internal or external to politics, he is true to the letter; he is a man of his word. Loyalty is not always an advantageous trait, especially in politics, in terms of personal gain or career progression. However, in the long term it builds credibility, which is far longer lasting.

Iain has credibility. He has it with the community of Davenport and with his parliamentary colleagues on both sides of politics. In our current state political climate, I believe that real loyalty and credibility are increasingly rare. Iain has kept his feet on the ground and his values intact. They are values which will serve him well as he embarks on the next chapter outside parliament. Iain Evans has so much to offer this state and still has some of his best years to do so.

I greatly respect his decision to seek opportunities outside of this parliament. We are all here for a common purpose of serving the people of the state, but it is no secret that the power to make significant impact comes from within government. I very much hope that I am given the opportunity in the future to make such an impact and hope I can do so with some of the determination and vigour that Iain has shown. I commend Iain on his many and far-reaching achievements from within this parliament and with great anticipation I wait to see what he will achieve outside these walls. I wish him and his wife, Fiona, and their children all the very best for the future.

The Hon. R.L. BROKENSHIRE (16:59): I will be brief, but I certainly will not be brief in my thoughts of input to what I am about to say in a *Hansard* valedictory to Iain Evans and his family.

While as relatively young people Iain and I were both members of the Liberal Party, we had other interests outside of the Liberal Party. We actually worked together quite diligently when the Hon. Susan Lenehan was the Minister for Environment because, back in the late 80s and early 90s, she and the then Bannon government decided that they would prevent farmers and landowners from building homes on existing titles in the Fleurieu Peninsula and the Adelaide Hills. Iain and I got together and with some others formed a Hills and Fleurieu landowners action group.

From there we got a real taste—Iain already had it because it was in his blood—for trying to get into parliament in 1993 to make a difference. One of our goals was to be able to give people the democratic right to be able to put a home on separate allotments or titles, which was done very quickly once the Liberals got into office. I was also in the class of 1993 with Iain, and we spent our first year or two sharing an office because at that point in time the offices were all being upgraded and space around here was pretty tight, so Iain and I again came together and shared an office as well.

I want to commend Iain Evans for his efforts. The whole Evans family is an amazing family when it comes to their energy and commitment to community, and it was no surprise to me that Iain

followed on in Stan's footsteps and became an incredibly respected member of parliament in his own electorate of Davenport. In fact, whilst Davenport was never a marginal seat, once Iain got hold of it he treated it like a marginal seat. He worked it like a marginal seat and just continued to build up his support and strength to turn it into one of the very strong seats for the Liberal Party.

That was done with a huge effort with things like the Christmas pageant through Blackwood which Iain organised and chaired and which became so much of a benefit to all people, but particularly young people in his electorate, and the fact that he was always available for constituents. He basically worked seven days a week for his electorate, which is to be commended. If anyone wants to see how you really do run a marginal seat, just have a look at Iain Evans and his track record; it is second to none.

Mandy and I had the pleasure of spending time with both Iain and Fiona from time to time. Fiona needs to be commended for her incredible support of Iain throughout the years from 1993 until 2014, because she is just an amazing person in her own right. I also want to acknowledge Iain's children, now adults, who supported Iain in his career.

It was also good to work with Iain as a minister, and one of the disappointing things to me was that I felt 2002-06 was going to be a really dynamic time for the state and for the government and once we had learnt and were mentored by some of the more senior ministers, such as the Hon. Rob Lucas, John Olsen and others, I felt that Iain Evans, some of my other colleagues at that time and myself, to be honest, would have been able to really work very closely together for the common good of the state.

Unfortunately, one person decided that was not going to be the case and the state is worse off for Iain Evans not being able to be part of a cabinet team for that four-year period. The state was definitely worse off for that four-year period when Iain Evans and the rest of us were not able to work in the cabinet. The experience, the youth and the vitality were certainly there. After that, of course, Iain went on to still do everything he could for Davenport. Davenport was not very far away from my own electorate so I knew exactly his ongoing commitment to those people and they could see his genuine desire, whether in government or out of government.

The Hon. David Ridgway has already highlighted many of Iain's achievements. One that I feel should be highlighted is his role as Leader of the Opposition. I believe he did a really good job and from what I am told, not having been there myself, it is the most difficult job that you could ever get. I commend Iain for taking on that challenge as he worked with colleagues to rebuild and strengthen the party.

I was surprised that Iain was finishing his career in here at this point in time. I actually thought that I would probably finish before Iain—maybe he has made a better call than I have—but he can leave the parliament with a lot of pride because he has been a strong contributor. He can be proud of the electorate that he represented for all those years because the electorate is in better shape as a result of his time and a member of parliament. From the point of view of Fiona and the family, they will now be able to get some time with Iain that they richly deserve, and I wish them every success with that. With the experience that Iain has, with his business background, and I am sure with the plans that he has set out for the future, he will still be a strong contributor to South Australia.

As a friend and a colleague, I wish the Hon. Iain Evans, his wife Fiona and their family every success, good health and a long and enjoyable future in the Adelaide Hills with the next part of his career.

The Hon. M.C. PARNELL (17:05): I will just be very brief, and I will speak because I think I am the only member of this chamber who lives in Iain Evans' electorate and have done so for nearly 20 years. As my local member, certainly our paths have crossed on many occasions, both before and after my parliamentary time.

Iain has been a very active local member in the community. The story goes that he once knocked on a certain door in Eden Hills and when a young man answered it who bears a passing resemblance to me, Iain said, 'This must be Mark Parnell's house and you must be his son.' So, he has got a handle on the electorate; he knows where people are. If he was to see my son now, he looks even more like me, except his beard is darker in colour and longer in length; but that's that.

With Iain and his father having represented the people of Davenport and the Blackwood area for so many years, it is going to be interesting when the by-election comes along. The Greens are certainly looking forward to contesting that. We have preselected a young mother, Jody Moate, who is going to be our candidate, and we look forward to that by-election, whenever it is to be. We had thought it should probably be on 6 December—it certainly made sense to us, but that is not to be.

So I just want to rise to thank Iain for his long service to the parliament, thank him for being my local member for 19½ years, and to wish him and Fiona all the best in what is to come.

The Hon. R.I. LUCAS (17:07): I rise to make some brief comments today and then I will seek leave to conclude my remarks at a later stage. There are a number of members of this chamber who cannot be with us at the moment who do want to speak on this motion. I think the agreement has been that we will adjourn it to another day and those members can speak at that particular time.

When the Hon. David Ridgway indicated that he was going to move this motion, I racked my brain to try and work out when I first crossed paths with Iain, and, to be honest, I can't remember, and I do not even know whether Iain does either. Certainly, I suspect my path would have crossed with his father Stan and mother Barb in the early 1970s when I was working in the Liberal Party and Stan was the local member.

The inevitable functions raising funds for local electorates would have meant that probably sometime through that period we may well have crossed paths. It certainly would have been through the 1980s, as I entered parliament and as Iain, through his community service, prepared himself for his own parliamentary career, which started in 1993.

I have great respect for Iain's capacity for hard work, as a number of members in the House of Assembly have attested to today, and as the Hon. David Ridgway and the Hon. Robert Brokenshire have alluded to as well. It is a work ethic that I am sure he has inherited from his family. His father looked after the electorate extraordinarily well. Iain learned all of those lessons and then added his own, in terms of community and electorate work. The Hon. Robert Brokenshire has referred to the way he built up the local Christmas pageant.

Others have referred to his work, community service with Apex and other community organisations and his sporting career in the Hills. I have to say that I never saw Iain's sporting career at its peak. I saw him as he was coming off the peak in terms of parliamentary cricket performance, and there is no doubting that, if one looks at the cycle, his skills were still pretty good as he represented the parliamentary cricket team as one of its stars for a number of years. I have to say that he disappointed me on the last couple of occasions, when he kept complaining that his knees were no good and that he was not able to bend over and do anything.

The Hon. J.S.L. Dawkins: He didn't like the captain.

The Hon. R.I. LUCAS: I said to him, 'Even if you can't bend over, you're still going to be a lot better than most of the other people who represent the parliamentary team,' such as yourself, Mr President, on occasions. I would have to say that you were not the worst person to have represented the parliament in the cricket: that distinction did go to your former premier, Mike Rann. I think that, together with our former deputy leader and deputy premier, Stephen Baker, you were vying for the title of worst performer.

The Hon. J.S.L. Dawkins: Marty's bowling—

The Hon. R.I. LUCAS: Yes, there are a few who have rivalled. That was at one end; at the other end clearly Iain Evans had had a considerable career. I remember the first cricket game we played, and it was not a parliamentary one—it must have been a Liberal Party one at one of the small ovals in his electorate. It must have been a fundraiser—I do not know whether it was state versus federal members, or something—and Iain, a bit younger then, was effortlessly depositing a number of balls over the mid-wicket boundary, which seemed to be his natural arc, for six on a good number of occasions. Sweet timing!

You would have thought that he would be a pretty good golfer, but I have been to his Davenport golf days. When he connects and they go straight, they are very good—that is not often. Certainly as he leaves parliament he may well have more time to perfect that particular aspect of his

game. We will certainly miss the February Davenport golfing fundraisers, although we hope that Sam Duluk, who we hope will be the new member, will continue that tradition as a regular February 9-hole fundraiser for the electorate.

In terms of collaboration, a number of members have referred to Iain's time in government. I noticed in recent TV coverage over the emergency services levy that the Hon. Mr Brokenshire was pinching the glory for the introduction of the emergency services levy from the Hon. Iain Evans. ABC TV referred to Mr Brokenshire as, in essence, the father of the emergency services levy and had some wonderful old footage of the Hon. Mr Brokenshire responding to questions. As it worked out, all the heavy work and hard work was done by the Hon. Mr Evans, and once all the trouble started he handed over to the Hon. Mr Brokenshire, and it was then his responsibility to manage it. I do not think ABC TV caught up with that.

Iain got himself involved in a whole variety of interesting issues, including prostitution reform. Again it might have been something he started and the Hon. Mr Brokenshire ended up introducing 215 different bills into parliament to basically say, 'Choose your various option on prostitution reform.' I do not know who's idea it was; it must have been the Hon. Mr Brokenshire's—the Hon. Mr Evans is probably much too sensible for that. But, anyway, whoever it was came up with the idea that we introduce three or four bills, and choose whichever option you wanted for prostitution, and it led to one of the most edifying spectacles of my time in terms of parliamentary process.

Iain got himself involved, as he inevitably had to, with thorny issues like EB and negotiations with the Police Association. They were interesting times in particular through that period. His time as the minister for the environment: I know he has publicly said that his fight in relation to the Gammon Ranges in latter days in opposition has continued in a number of unusual alliances with various people in terms of arguing particular environmental issues in the north of the state. Also his passion for the leafy sea dragon and the second generation Parklands, I think, was an idea that Iain pursued at some particular stage. Even during the most recent campaign, when we were having a discussion about various options he said, 'By the way, there is still this idea of the second generation Parklands that we discussed a number of elections ago that's worth having another look at from an environment policy viewpoint.'

Another thing I have admired most about Iain is not just his community and other work but that once he has teeth into an issue he is like a dog with a bloody bone and he never lets it go. He has been very successful with a number of those issues. I think the Hon. Mr Brokenshire (or someone else) has referred to the battle in relation to Growdens and, in more recent times, the Easling issue—an issue that those who have served with him in our parliamentary party room will know of—I do not know for how many years now, as I have not had a chance to go back and look at it. Maybe when I seek leave to conclude I will be able to find that out. However, for many years, using all sorts of devices, opportunities, motions, ideas, policy options and whatever, he has continued to try to pursue justice on that particular issue—and there have been others like that.

Iain and I have shared confidences over the years, more so I would have to say in recent times. I do not, upon recollection, believe that we were especially close during times in government. Inevitably, he was a new member; I was an upper house member and he was a lower house member. We were colleagues, but the necessity of working together in opposition, particularly as your numbers get smaller and particularly through the period of the last number of years when he took over responsibility for Treasury and for a period of that time I was undertaking finance responsibilities, we worked closely together.

Even when we did not, we worked closely together on a range of issues in terms of campaigning strategy and policy work, as well. I have always respected that Iain has kept the confidences, as I am sure he has understood that I have respected the confidences that he has shared with me over the period of time. We also had some pretty shared views on things like campaigning. I do not think he will mind me saying that we had a very strongly shared view on the effectiveness of negative advertising in recent years.

It is not necessarily a view that has been shared by everyone within our political party but, nevertheless, I am sure Iain will not mind if I put on the public record that some might see it as 'old school'. Everyone says they do not like negative advertising, but I think the Labor Party has

demonstrated over a long period of time the effectiveness of negative advertising, and certainly it is a view that Iain and I have shared.

I will conclude my remarks today—and, as I said, I will seek leave to conclude by saying two things. I guess the first thing I should do is to thank Iain for his service to the party, to the parliament and to his community. I also thank him for bequeathing to me half of his electorate office files, I suspect. I hope it is almost finished, although, as I understand it, he still has access (even though he finishes today) to clean out his files.

On a regular basis, for the last X months since his announcement, I keep getting envelopes and things in my parliamentary letterbox or on my desk in the office which is another freedom of information request which he has got back and which he will not be able to pursue, or a file on a particular issue that he thinks I might be interested in, or the policy costings from the last election—a variety of things like that. For those who know my already messy office, I can now blame Iain Evans for it, because it is all his fault that it is a wreck as we speak.

In concluding today, I thank Iain for his service and his friendship. I want to publicly acknowledge Fiona. As other members in the House of Assembly and today in our contributions here have acknowledged, the partners of members of parliament are long suffering. It is the members of parliament if there is ever any glory—trust me; if you are in opposition for 12 or 13 years there is not much glory, but if there is ever any glory—the members of parliament get it.

The partners are partly responsible for that but they are also the ones having to do all the hard work in terms of looking after family and the home, defending their partner when their partner is being criticised in the community or publicly or whatever it happens to be, and being a consoling partner through difficult times, as inevitably occurs. I know without exception that everyone that I have spoken to in the Liberal Party acknowledges that Fiona has been a huge part of everything that Iain has achieved over his 20-odd years and I would like to place on the public record an acknowledgment of her contribution, and the family's contribution to Iain's career and to his success.

I wish Iain well, whatever the challenge; he did tell us that he is moving seamlessly into a new position as from tomorrow, as we understand it. We will all be excited to hear more about that particular career opportunity. We all know that with his capacities and strengths he will make a success of that career as he has of this particular career. We wish him well in the career and we also wish him good health and happiness for not only himself but also for his family. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Bills

RETURN TO WORK BILL

Final Stages

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

SOUTH AUSTRALIAN EMPLOYMENT TRIBUNAL BILL

Final Stages

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

At 17:22 the council adjourned until Tuesday 11 November 2014 at 14:15pm.