# LEGISLATIVE COUNCIL

## Tuesday 9 November 2010

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

### STATUTES AMENDMENT (ARTS AGENCIES GOVERNANCE AND OTHER MATTERS) BILL

His Excellency the Governor assented to the bill.

### PAPERS

The following papers were laid on the table:

By the President—

District Council Reports, 2009-10—
- Mount Barker
- Renmark Paringa
- Yankalilla

By the Minister for Mineral Resources Development (Hon. P. Holloway)—

Reports, 2009-10—
- Correctional Services Advisory Council
- Energy Consumers' Council
- Hydroponics Industry Control Act 2009
- Land Management Corporation
- Power Line Environment Committee
- Primary Industries and Resources SA
- South Australian Rail Regulation
- Tarcoola-Darwin Rail Regulation
- Technical Regulator—Electricity
- Technical Regulator—Gas

Regulations under the following Acts—
- Aquaculture Act 2001—Interpretation
- Livestock Act 1997—General

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

Regulations under the following Act—
- Workers Rehabilitation and Compensation Act 1986—Regulation 16

By the Minister Assisting the Premier in Public Sector Management (Hon. P. Holloway)—

Regulations under the following Act—
- State Records Act 1997—Exclusions

By the Minister for State/Local Government Relations (Hon. G.E. Gago)—

Reports, 2009-10—
- Balaklava Riverton Health Advisory Council Inc.
- Bordertown and District Health Advisory Council Inc.
- Carclew Youth Arts
- Ceduna Koonibba Aboriginal Health Advisory Council Inc.
- Coast Protection Board
- Controlled Substances Advisory Council
- Country Health SA Board Health Advisory Council Inc.
- Country Health SA Hospital Inc.
- Children's Services
- Department of Water, Land and Biodiversity Conservation Addendum 2008-09
- Dog and Cat Management Board
- Eastern Eyre Health Advisory Council Inc.
- Hawker Memorial District Health Advisory Council Inc.
- Hills Area Health Advisory Council Inc.
- HomeStart Finance

Kingston/Robe Health Advisory Council Inc.
Lower Eyre Health Advisory Council Inc.
Lower North Health Advisory Council Inc.
Mount Gambier and Districts Health Advisory Council Inc.
Naracoorte Area Health Advisory Council Inc.
Non-Government Schools Registration Board
Northern Yorke Peninsula Health Advisory Council Inc.
Occupational Therapy Board of South Australia
Quorn Health Services Health Advisory Council Inc.
River Murray Act 2003
Save the River Murray Fund
South Australian-Victorian Border Groundwaters Agreement Review Committee
Southern Flinders Health Advisory Council Inc.
State Theatre Company of South Australia
Upper South East Dryland Salinity and Flood Management Act 2002
Vulkathunha-Gammon Ranges National Park Co-management Board
Waikerie and Districts Health Advisory Council Inc.
Witjira National Park Co-management Board
Yorke Peninsula Health Advisory Council Inc.
Zero Waste SA

Report of actions taken by SA Health dated 31 August 2010 following Coronial Inquest into the death of Mrs Sofija Dobrijevic on 16 August 2007

By the Minister for Consumer Affairs (Hon. G.E. Gago)—

Regulations under the following Act—
Liquor Licensing Act 1997—Dry Areas—Short Term—
Spalding Area 1
Stirling Area 1
Alexandrina Council Area 2

### LEGISLATIVE REVIEW COMMITTEE

**The Hon. R.P. WORTLEY (14:27):** I bring up the report of the committee on victim impact statements.

Report received and ordered to be published.

**The Hon. R.P. WORTLEY:** I bring up the report of the committee on the postponement of regulations from expiry under the Subordinate Legislation Act 1978.

Report received and ordered to be published.

### WOOMERA PROHIBITED AREA

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:27):** I lay on the table a ministerial statement made today by the Premier in relation to the Hawke Review of the Woomera Prohibited Area.

### BAIL PROCESSES

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:30):** I table a copy of a ministerial statement relating to smarter bail procedures made earlier today in another place by my colleague the Attorney-General.

## QUESTION TIME

### DESALINATION PLANT

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:31):** I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about major projects and in particular the Adelaide Desalination Plant.

Leave granted.

**The Hon. D.W. RIDGWAY:** Australian National University Professor of Infectious Diseases and Microbiology, Peter Collignon, is on the record as saying, 'Desalination plants built close to sewage outflows risk contaminating water', with membrane technology sometimes failing to screen out the bugs. Professor Collignon's paper to the *Medical Journal of Australia* shows that water from Sydney's desalination plant at Kurnell, using the same technology as the one built under the South Australian government's major project legislation, tested positive to E. coli bacteria. Professor Collignon says that building a desalination plant close to a sewage outflow was 'one of the fundamental things you would not do'.

The Kurnell desalination plant intake is 2.5 kilometres from the Cronulla sewage outflow. At Port Stanvac, the intake is 1.4 kilometres offshore, and the Christies Beach sewage outfall is just 3 kilometres away. In light of Professor Collignon's question, and given the minister is responsible for this major project, how can the minister guarantee that E. coli will not contaminate Adelaide's drinking water? Secondly, has the government considered moving either the intake or the sewage outfall because, as the Treasurer said in another place, 'Shit happens'?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:32):** I did read some reports in the news media in relation to some comments that were made in relation to the situation in Sydney. Obviously, it is a matter for SA Water whether that research is new or brings up any previously unrecognised issues in relation to the operation of the Port Stanvac desalination plant.

I think one thing we do need to recognise is that within this state we are much better at reducing the outflow of our sewage than has obviously been the case in Sydney, where, of course, for many years raw sewage, or near raw sewage, had been pumped out; and, of course, Sydney is a much a larger city than Adelaide.

I know that some of the treated water from the effluent plant has been reused. The program was developed during the 1990s. The Hon. Mr Brokenshire might well have had something to do with it. I know that—

*The Hon. D.W. Ridgway interjecting:*

**The Hon. P. HOLLOWAY:** We are talking about not putting water out to sea. We are talking about reducing the outflow and, of course, that is one of the things that if you want to reduce—

*The Hon. D.W. Ridgway interjecting:*

**The PRESIDENT:** I want a guarantee that he stops interjecting.

**The Hon. P. HOLLOWAY:** If the water is treated and reused on shore, you obviate that need. I do not know what the volumes are in relation to any particular outflows from that plant and what is reused and so on, but I will refer that to my colleague, the Minister for Water, just to ensure that, if something new that has not been considered has come up in that particular report (I am not sure that that is the case, but if it is), I will make sure I get a report from my colleague and bring back a reply.

## DESALINATION PLANT

**The Hon. M. PARNELL (14:34):** I have a supplementary question. Why wasn't the licensing authority for those sewerage works, namely the Environment Protection Authority, consulted before the government settled on the location of Port Stanvac for the desalination plant?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:35):** The EPA was of course involved during the consideration of the environmental impact statement for the sewerage plant.

**The Hon. M. Parnell:** Before you decided the location, not afterwards.

**The PRESIDENT:** Order! The Hon. Mr Parnell will cease interjecting.

**The Hon. P. HOLLOWAY:** You actually have to sort of start somewhere. There were a couple of sites, as I understand it. It was a long time ago now since this was considered.

*The Hon. D.W. Ridgway interjecting:*

**The Hon. P. HOLLOWAY:** Well, it appears that you don't want to build it now either. My understanding was that several sites were looked at. There are not exactly a huge number of sites on which one could put an operation of this scale along the Adelaide coast. There are not that many sites available, and I am sure wherever we put it—if it had been up north on the mangroves or something up there—the Hon. Mr Parnell would have objected to that if we had used such a site.

Clearly, it makes more sense to have the desalination plant closer to the open water and near deep water. The Port Stanvac site was formerly zoned industrial. It has deep water. It was a port because it had fairly deep water relatively close to the shore which, of course, is important in relation to the operation of it.

Given that it had sufficient land available with buffers from residential areas it was, I would have thought, a pretty obvious site. I challenge anyone to suggest a better site for it in relation to its proximity to the Adelaide metropolitan area. The fact is the EPA, of course, have been involved in consideration of the environmental impact statement.

## THEBARTON URBAN FOREST

**The Hon. J.M.A. LENSINK (14:37):** I seek leave to make an explanation before directing to the Minister for the City of Adelaide a question on the subject of the Thebarton urban forest.

Leave granted.

**The Hon. J.M.A. LENSINK:** It is nearly four years, I believe, since the government made a commitment to have that particular site returned to parklands. The Public Works Committee commissioned a report, which was tabled on 17 June last year, in which it outlined that the decommissioning cost would be in the order of $4.8 million and that demolition work is expected to be completed by September 2009, with remediation completed in May 2010, to enable handover to the Adelaide City Council in November 2010. I note that the minister herself has spoken about this particular issue in this chamber. My questions for the minister are: will the November deadline to hand over the remediated site to the Adelaide City Council occur, and how much has the project cost to date?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (14:38):** I thank the honourable member for her important questions. Indeed, the Premier announced an intention to return that former SA Water depot site at Thebarton to the Parklands back in December 2006. The project will deliver a new and very contemporary woodland park, using primarily indigenous plants, based on sustainable landscape principles.

The provision for things like performances and event activity has been incorporated into the design, so that the amphitheatre can be adapted for this kind of use in the future. The project obviously fits with South Australia's Strategic Plan, sustainability target 3.5. A specialist consultant has been developing a concept proposal, design documentation and also tender specifications.

The Premier endorsed an amended design concept in January 2010 and the Adelaide City Council and Parklands Authority have both supported the design concept, with final endorsement by both bodies anticipated once the design documentation is finalised.

The neighbouring West Torrens council is also supportive of the design concept. Earthwork drawings have been completed and detailed design documentation is currently being finalised which will include landscaping plans and a species list. The project is expected to be completed and ready for public use in late 2011. The project will return 5.4 hectares of space to parklands for use by the public. As I have outlined, it involves a range of different innovative potentials for use.

Some of the features of the urban forest are expected to include things like an innovative underground water collection system to reduce water evaporation and provide reusable, onsite water harvested from local stormwater flows designed for local conditions; the use of waterwise plants; habitat specifically for local flora and fauna; low chemical use; selected pest-resistant plants and organic fertilisers; practical water consumption; a bikeway linking the western suburbs to the city and establishing a continual bikeway link to the coast; the amphitheatre that I talked about as an area for public events and activities—for instance, schools could use it; and interpretation and education is obviously being considered and incorporated throughout the landscape wherever possible. In terms of costings, I will have to take that part of the question on notice and bring back a response.

## STATE RECORDS ACT

**The Hon. S.G. WADE (14:42):** I seek leave to make a brief explanation before asking the Minister Assisting the Premier in Public Sector Management a question about state records.

Leave granted.

**The Hon. S.G. WADE:** *The Advertiser* recently reported that the South Australian government messaging service only keeps backup emails for 30 days after end-of-month reports are retrieved from the system and that this fails to meet the statutory requirements on government for records management. Section 13 of the State Records Act requires every agency to ensure that official records are maintained in good order and condition. My question is: can the minister assure the council that the government's email system archives emails in a way which meets its obligations under the Freedom of Information Act and the State Records Act, and the need for evidence in criminal and civil proceedings?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:42):** Obviously, there is a responsibility on the chief executives of departments to ensure that they meet the requirements of the State Records Act. I know that there are some technical problems in relation to how we deal, in the longer term, with recording information electronically. Of course, one of the issues is that even the technology for the storage of records electronically changes from time to time with technological development.

What was on floppy disk some years ago has moved to CDs, we have USBs and, of course, we have gone through phases of magnetic tape and all sorts of other types of storage. There are technological issues that make this a challenge. However, the honourable member has asked an important question, and I will take the advice of State Records SA in relation to the matters he has raised. I have not seen the particular article he was referring to, but I will get some advice from State Records SA as to its assessment of the situation relating to the storage of electronic records.

## WOOMERA PROHIBITED AREA

**The Hon. I.K. HUNTER (14:44):** I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the commonwealth government's review of the Woomera Prohibited Area.

Leave granted.

**The Hon. I.K. HUNTER:** Australia's defence minister, Stephen Smith, and the Minister for Resources and Energy, Martin Ferguson, last week released for public comment the interim report of the government review of the Woomera Prohibited Area. The review, led by Dr Allan Hawke, was commissioned by the commonwealth government in May in response to calls by the South Australian government, among others, for improved clarity for the mining industry seeking to invest in exploration within the WPA.

I understand that extensive stakeholder consultation, including with representatives from Defence, the South Australian government, the minerals and petroleum resources industry, Indigenous groups, pastoralists and environmental groups, has occurred. Will the minister provide details of the interim report's key findings arising from those consultations and whether there is any scope to increase the national value of the Woomera Prohibited Area and promote better management in the interest of both our national security and economic prosperity?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:45):** I thank the honourable member for his important question. It is true the South Australian government has been urging the commonwealth to provide more certainty and clarity in the rules for exploring and developing mines within the Woomera Prohibited Area so that both the defence and mining industries can better coexist in a region that makes up 13 per cent of our state, which is some 127,000 square kilometres. These discussions on a review of the coexistent arrangements followed decisions affecting Prominent Hill and Hawks Nest, a Western Plains Resources' mining project.

There were some foreign investment review issues related to that, amongst other issues. That eventually prompted the commonwealth government to establish the Hawke review. I am pleased to say that the interim report, which was released on Friday by the Minister for Defence

Stephen Smith and the Minister for Resources and Energy Martin Ferguson, supported the central argument which had been put by the South Australian government that there is substantial scope to increase the capacity for coexistence between mining and defence on the Woomera Prohibited Area.

Reaching such a conclusion was important for the South Australian government, as it is estimated that some $35 billion worth of developments, including iron ore, uranium, copper and gold, are contained within that 127,000 square kilometre area covered by the WPA. There could, of course, be much, much more. The Hawke review's interim findings provide us with greater certainty that that potential $35 billion in mining projects can be unlocked without impinging on the defence industry's ability to use the WPA for Australia's national security purposes.

The review believes that the Woomera Prohibited Area should remain a defence-controlled area as it has been since 1947 but found there is merit in making small adjustments to the south-eastern boundary to allow resource companies to explore in this area of high metallic mineral potential, similar to the Olympic Dam deposit. That south-eastern boundary is very close to Olympic Dam and the Roxby Downs township.

The importance of the Woomera Prohibited Area for developing and maintaining Australia's military capability is also recognised within that interim report, but it proposes the adoption of a timeshare arrangement between defence and non-defence users outside the core area of the defence operations that would unlock the Woomera Prohibited Area for exploration during set periods of time.

The review has found that the introduction of an integrated suite of policy measures would substantially increase the capacity for coexistence within the WPA, preserve it as an effective defence capability, introduce legal protection for all users and meet the South Australian government's resource development goals and the targets of our South Australia Strategic Plan. The Hawke review also acknowledges there is scope to open up part of the previously identified, highly restricted core area of operations to resources and energy exploration to allow the underlying mineral potential there to be fully evaluated.

The growth of our defence and mineral resources industries is a key factor in driving South Australia's economic prosperity and diversifying our job creation and export potential. The government welcomes Dr Hawke's interim findings, as they clearly identify current and future resource potential of the Woomera Prohibited Area. The findings provide certainty and clarity to the more than 120 active mineral exploration licences and three successfully operating mines at Challenger, Cairn Hill and Prominent Hill within the WPA. The interim report also found:

- There is significant potential for discovery of further valuable mineral and petroleum deposits.
- Sixty-two per cent of Australia's known copper resources are estimated by Geoscience Australia to be located in that general area, as well as 78 per cent of Australia's known uranium resources.
- The development of multiple mineral deposits across the breadth of the WPA could transform the WPA into one of Australia's most significant resource provinces.
- Legislative changes are needed to facilitate introduction of an improved access regime for the WPA.
- There is also a need for a publicly available policy on access requirements, particularly for mineral explorers and resource developers; clear governance arrangements to administer access; an upgraded Woomera test range management system; and a detailed statement of principles to guide coexistence.

The Hawke Review team is seeking feedback from stakeholders and the Australian public on its interim findings, with a deadline set down for 30 November.

The government will begin work on providing that further input into the final report through its key agencies PIRSA and Defence SA. This information is expected to assist the review team in further developing and refining the coexistence model outlined in the interim report. We look forward to the final report before the end of this year and the commonwealth government's response.

## DOCK 1 REDEVELOPMENT

**The Hon. M. PARNELL (14:51):** I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question on the Dock 1 redevelopment at Port Adelaide.

Leave granted.

**The Hon. M. PARNELL:** Last Wednesday night I chaired a standing room only public meeting at Semaphore in response to community concerns about the impact on the health and safety of residents in Port Adelaide and surrounding areas from heavy industry. Although this issue has been debated for many years, the latest concerns were sparked after I obtained submissions from the EPA, SafeWork SA and the Department of Health to the Development Assessment Commission in relation to the Dock 1 redevelopment.

Those submissions raise, in particular, significant concerns about airborne pollution levels and the risk to nearby residents from an explosion or chemical fire involving the massive ammonium nitrate stockpiles located at the Incitec Pivot fertiliser plant. Members should note that SafeWork SA was only asked for its advice after the EPA recommended to the Development Assessment Commission that it be approached.

At last week's meeting, Wayne Gibbings, the Chief Executive of the Land Management Corporation, made the following statement:

> Incitec Pivot had never been raised since 2000, to the best of my knowledge, that I can find speaking to all the agencies, as a planning issue. I can't understand why that didn't happen, why that happened, but it had never been raised before until this report.

After the meeting, I was approached by members of the Port Adelaide community who expressed frustration that they had indeed tried to raise the issue of the safety of the Incitec Pivot plant with government agencies over a number of years, well before the EPA and the SafeWork SA reports.

Since then I have obtained copies of minutes of the Port Environment Forum and the Port River Expressway Road and Rail Bridges Community Liaison Group from December 2005, June 2006 and June 2007. At each of these forums at which officers from the Department for Transport, Energy and Infrastructure were present, the minutes record that the issue of the Incitec Pivot plant was raised by members of the community. My questions are:

1. Why isn't SafeWork SA as the agency responsible for the Dangerous Substances Act a referral body under the Development Act and regulations in relation to developments in close proximity to licensed premises? Will the minister now consider amendments to ensure that, in future, SafeWork SA is consulted in circumstances where housing is proposed to be located close to industry?

2. Does the minister agree that this whole issue highlights the inadequacy of both consultation and coordination between government agencies in respect of the interface between industry and residential areas in Port Adelaide, and what will the government do to redress those problems?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:54):** In relation to the latter bit, no, I do not agree. In fact, if anything, what has happened in relation to the Dock 1 application is that the planning system works. The proposal was put forward. The relevant agencies, in this case the EPA, were notified. They have raised that in turn with SafeWork SA. As a consequence, we have the reports.

The system has worked as it should do to draw attention to any potential issues. The honourable member asked whether we should have SafeWork SA as a participating authority. If there are any issues related to the storage of hazardous substances, SafeWork SA is the appropriate body to be consulted, as it ultimately was, in relation to this situation.

In relation to the history of it, most people would be aware that there are a number of fertiliser plants around the country. I would think that it has been only in relatively recent times, in perhaps the last four or five years, mainly through consideration of terrorism activities and so on, that greater attention has been focused on the capacity for ammonium nitrate to be used as an explosive. I am sure that it has been those fairly recent changes that have drawn attention to this matter. Prior to publicity being given to this nationally some three or four years ago, or thereabouts, I do not recall too much concern in the past in relation to this particular issue. Nevertheless,

whatever the issues associated with ammonium nitrate have been, it is appropriate that they should be addressed, and they have been.

As my colleague the Minister for Transport, Energy and Infrastructure announced, consideration has now been given to how to address the storage and removal of ammonium nitrate. I think the planning system does work. As to the question whether one needs every agency notified all the time, even if it may not be relevant, all that will do is add further cost and red tape. What is important is that the system works so that, if an agency needs to be involved because the matter is relative to its expertise, it should be involved.

Finally, I will make one comment generally in relation to the Development Act and the consideration of all development proposals, and that is that it is not always possible for the government to have all the information that might be necessary as to exactly what is going on within a particular area of any proposed development. I do not think there is any central government data agency that has a comprehensive database of industrial activities located on every site within the state.

Clearly, there is notification of some particularly high-risk activities with some agencies, and the EPA will have its own register of activities that might come within its purview. However, it may well be that other activities are undertaken which may from time to time get below the radar. That is, I guess, why ultimately, with any major proposals, we have a public consultation process so that, if anything does slip through the net, we can be made aware of it.

I take some comfort from the fact that, in this particular case, the systems do, in fact, work and that, when attention is drawn to these matters, we can get the expertise from the agency concerned. Of course, it is appropriate that SafeWork SA, as the appropriate body, should let us know when these important issues arise. I believe that the system, as it is operating, does work.

## DOCK 1 REDEVELOPMENT

**The Hon. M. PARNELL (14:59):** When would the public have been made aware of the SafeWork SA advice, given that there is no legal obligation under the Development Act or the Dangerous Substances Act to disclose that information?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:59):** I know that it is great politics for the Greens to raise concerns. As I said the other day, the Hon. Mark Parnell is the sort of person who would go into a crowded picture theatre and yell 'Fire!' if it was of some benefit to him.

What the government tries to do is actually resolve the issues. If there is a potential problem in relation to a plant, the government tries to resolve it. That is exactly what happened in this case: when these reports came to the government, that process immediately took place. Remember, it was nothing to do with the public meeting the honourable member had last week with residents of Birkenhead: it was about an application for the subdivision at Dock 1. It was as a result of that that this came to light, and the government acted appropriately.

Let me also say that there are plenty of other risks. If you have a fully loaded petrol tanker, or gas tanker, going past your house and it explodes, that is going to cause a lot of devastation within the area, but we live with that risk. We know that is a risk and we live with it. What we have to do is deal with the risk. It is all very well to play politics with one particular risk, even if it is low; what we have to do is deal with risk management. We have to deal with relative risks.

Society does not eliminate all risk; we live with it every day. As I said, if we did not we would probably ban petrol stations and the delivery of any dangerous material on our streets. The question is proper risk management and reducing the risk, and that is how we should operate in relation to these matters. There is significant risk in all things that we do, but what good management is about, whether it is government or any other level, is trying to keep that risk within reasonable levels, but we can never eliminate it entirely.

In relation to making that information available, it has been well known to anyone that Incitec Pivot has been producing ammonium nitrate in that plant for many years, and there are other fertiliser plants around the country. If the honourable member wants to raise havoc in other areas then, presumably, he can raise issues on that, or a whole lot of other issues, if that is his wont, but the fact is that the Incitec Pivot plant has been producing fertilisers for many years at that location.

If, as the honourable member says, people had raised concerns, then why did the Hon. Mr Parnell himself not raise this issue earlier, if that was the case and if it was such a concern to him? The fact is that the government will deal with that industry, just as we deal with the risks we face from a whole lot of other industries, whether through air pollution or other risks; we have to manage it. We have this legacy issue. Unfortunately, for better or worse, during the 1950s and 1960s, we had policies in this state to locate people (workers) close to factories. That was considered the norm at the time, and that is what we are left with.

We do not do that nowadays. We now try to locate foundries and other industrial premises of that type away from residential areas. We separate them; we try to put them in proper precincts; we try to put them where we rate the risk so that we do not have incompatible industries located too close together that might exacerbate the risk. We do that nowadays, but we have many legacy issues, and they are not just in the Lefevre Peninsula: they are in a number of areas of this state.

## SEX DISCRIMINATION

**The Hon. CARMEL ZOLLO (15:03):** I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about sex discrimination.

Leave granted.

**The Hon. CARMEL ZOLLO:** Wednesday 3 November marked the 35th anniversary of the passing of South Australia's sex discrimination act. I understand that the minister spoke at the Dunstan Foundation event, marking this momentous occasion. Will the minister tell the chamber about the event?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (15:04):** I thank the honourable member for her question. Indeed, on Wednesday 3 November, at Bonython Hall, I was very pleased to attend and speak at the Dunstan Foundation celebration marking 35 years since the first Australian sex discrimination legislation was passed. The celebration included a public keynote address from the always impressive Anne Summers, and a very lively debate entitled, 'For a woman to succeed in business she has to be a man.'

I would like to mention that my parliamentary colleague, the Hon. Michelle Lensink, the federal minister Kate Ellis and the Hon. Anne Levy also spoke at that event, and they all proved to be very insightful and thought-provoking speakers. The event celebrated the gains that have been achieved since South Australia first introduced our ground-breaking sex discrimination legislation, as well as considering the future and the reforms we need obviously to continue to work towards.

As I said, Dr Anne Summers AO, author, journalist, media presenter and feminist, provided the keynote address. As members might be aware, Anne was a political adviser to prime minister Paul Keating, is a winner of the Walkley Award for Journalism, and in 1989 became an Officer of the Order of Australia for Service to Journalism and to Women's Affairs. Her speech offered a really fascinating overview of the time before sex discrimination legislation and an analysis of where we are at now. She concluded with a ringing call to arms for young feminists to continue to fight for true equality.

Perhaps the most memorable part of the evening, however, was the debate, which included television presenter and author Dorinda Hafner and Lindy Powell QC. They were on one side and on the other were Chelsea Lewis of the YWCA and Tory Shepherd, a health reporter with *The Advertiser*. The Hon. Justice Robyn Layton adjudicated the discussion with a great deal of aplomb and humour. I was very pleased to see that it was the younger women, Chelsea and Tory, who proved victorious in arguing that women do not have to be men to succeed. I suspect that it would be hard to image any other outcome.

The sex discrimination bill was first introduced by Dr David Tonkin in 1973 as a private member's bill but was then strengthened and passed by the Dunstan government on 4 November 1975. It was the first government bill in Australia to outlaw discrimination on the basis of sex. South Australia was the very first jurisdiction for the first time anywhere in Australia in which gender-based discrimination by banks, employers and businesses was outlawed. We also were one of the leaders internationally. It seems quite difficult now to try to imagine the context under which there was a need for such legislation.

The fact that women had to resign, in many instances, from their work as a result of marrying, or that women needed their husband's written permission to get a bank loan or for them

to go guarantor, in retrospect seems quite ludicrous and amusing to those of us who have enjoyed the privileges coming from this legislation for many years. The sex discrimination bill set in train a whole series of cultural changes that continue to evolve and alter our social landscape for the better.

What I took from that particular evening was the sense that I was indeed very privileged to share a moment in history with a group of other women, many very special women, who in the past 35 years have bent the arc of history to their dreams, and very few of us can ever say we have been able to achieve that. The challenge they pass on to us as parliamentarians is to continue those great changes with the same sense of daring and purpose they did 35 years ago.

As I said on the night, we can do so by drawing upon the wisdom and experience of those women who pointed the way ahead and handed the responsibility to us. I pass on my congratulations to everyone from the Dunstan Foundation who organised that very significant event, with my particular thanks to Claire Bossley and the Hon. Anne Levy.

## PUBLIC SERVICE EMPLOYEES

**The Hon. R.L. BROKENSHIRE (15:10):** I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question regarding fair work laws.

Leave granted.

**The Hon. R.L. BROKENSHIRE:** The ACTU President, Ged Kearney, is hosting a forum today in Adelaide, and in preparation for that she told *The Australian*:

> By attacking the basic rights and entitlements of government employees and planning forced retrenchments, the South Australian government has effectively breached the principles of the Fair Work laws. For the South Australian government to pass legislation allowing it to tear up a negotiated agreement sets an uneasy precedent for other states and employers.

I note that a further protest on this issue is planned for the ALP state convention on 27 November. The situation is reminiscent of the WorkCover cuts for which the government was condemned at a previous state convention but continued with nonetheless. The Maritime Union of Australia issued a statement online today, saying:

> It is extraordinary that a Labor government would make a move like this to undermine collective bargaining and attack workers' rights—

and—

> I would hope that Mike Rann is still a long way from becoming John Howard, but these appear to be remarkably similar tactics that he is using in this instance.

My questions are:

1. When the Sustainable Budget Commission recommendations were considered, why were work entitlements cut when trade missions to Puglia were retained?

2. What enterprise agreement negotiations are currently underway?

3. Will the government commit to abiding by the terms of negotiated agreements until March 2014 and not legislate away any further worker entitlements?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:12):** We had the debate on these issues during the Statutes Amendment (Budget 2010) Bill and the Appropriation Bill, and I would have thought we had more than sufficient debate in that forum in relation to those particular issues. I do not see the need to repeat everything here.

The honourable member did ask a couple of other questions. I think one was about the Sustainable Budget Commission. The report of that commission has been released, and the government rejected many of its recommendations. Ultimately, it was up to the cabinet to determine which recommendations we would accept, and we did so on the basis of those that would have minimal impact upon the vast majority of South Australians.

As I have said in relation to the budget debates, if one looks at what is happening with the austerity measures in the UK, the United States, Spain, Greece, France and other parts of the world, this state and this country have largely avoided the worst of the impact of the global financial crisis. Those countries are now confronted with quite severe austerity measures. We have had to

make some adjustment and we have done so in a way that we believe will have the minimum impact upon South Australian workers and their families. As I have challenged repeatedly during the budget debate, if the honourable member disagrees with the priorities, it is up to him to suggest what alternatives he might have.

In relation to enterprise agreements and the long service leave provisions that were particularly generous within the public sector—and I have made this point on a number of occasions—they were put into legislation as a result of a promise made at the time. The only way they can be altered is through changing that legislation, and that is just the reality of where those provisions exist.

In relation to enterprise agreements, there are a number of enterprise agreements under way at present. There is one with the ambulance employees. We have had one with the nurses, which I think is almost finalised if it has not been completely finalised. There are agreements in their final stages with the staff of members of parliament. We also have enterprise bargaining with police beginning shortly, and there will be a number of other enterprise agreements. In relation to those, the government, of course, will honour those particular agreements as we always have in the past.

## APY LANDS, SUBSTANCE MISUSE FACILITY

**The Hon. T.J. STEPHENS (15:15):** I seek leave to make a brief explanation before asking the Minister for Local Government Relations, representing the Minister for Aboriginal Affairs, a question about the Amata substance abuse facility.

Leave granted.

**The Hon. T.J. STEPHENS:** The opposition has previously queried how effective the substance abuse facility at Amata has actually been after reports that it is rarely used. The facility was established a couple of years ago to assist people who have an addiction to petrol sniffing as well as other substance abuse problems, including cannabis. My questions to the minister are: what investigations, if any, has the minister made regarding the lack of utilisation of the facility? What use is the minister considering to get value out of this wasted resource?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (15:16):** I will refer those questions to the Minister for Aboriginal Affairs in another place and bring back a response.

## DEEP EXPLORATION TECHNOLOGY

**The Hon. B.V. FINNIGAN (15:16):** My question is to the Leader of the Government and Minister for Mineral Resources Development. Will the minister provide an update to the council on South Australian efforts to improve the ability of mining companies to explore deep below the surface of the Earth?

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:16):** I thank the honourable member for his very important question. It was with great enthusiasm that I accepted an invitation last week to attend the opening of the Deep Exploration Technologies Cooperative Research Centre at the University of Adelaide's Mawson Laboratories. Aside from the opportunity to look at the samples collected by Sir Douglas Mawson, Reg Sprigg and others, which are now stored at the laboratory, it was also a significant day for those who worked so hard to have the Deep Exploration Technologies CRC headquartered here in Adelaide. It is a very significant and important step for our city.

Dr Tom Whiting, the chair of this new cooperative research centre, was instrumental in putting together the successful bid with the support of AMIRA, our local industry and research groups, as well as the university. The South Australian government has been proactive in establishing Adelaide as the preferred headquarters through a $1 million contribution to the research centre. It is also important that I acknowledge the funding provided by the commonwealth government and, in particular, the support given to this cooperative research centre, by the Minister for Innovation, Industry, Science and Research, Senator Kim Carr.

This CRC will deliver research programs in more successful, cheaper, safer and more environmentally friendly ways to drill, analyse and target deep mineral deposits. With $112 million of cash and in-kind funding from the Australian government and the participants—and there are

some major mining companies such as BHP Billiton and Barrick Gold, which I will mention in a moment, involved in this—the DET CRC is the world's best supported independent research initiative in mineral exploration. That is why it is very significant that it is located here in Adelaide.

The DET CRC will manage an eight-year program funded by $28 million from the commonwealth government's CRC program, $21 million cash and $12 million in kind from industry participants, and $50 million in kind from its research providers. The inaugural participants in the Deep Exploration Technologies CRC are Barrick Gold, BHP Billiton, Boart Longyear—which, of course, manufactures drills and has a plant at Mitchell Park—the CSIRO, the Curtin University of Technology, Geoscience Australia, Gold Fields, Newcrest, PIRSA, the University of Adelaide, the University of Western Australia and Vale Exploration.

The DET CRC has been established to address the most significant challenge to the future of the minerals industry, and that is the reduction in the mineral resources inventory due to high production rates and low mineral exploration success. In the Australian context, mineral resources constitute about 50 per cent of the nation's exports, and yet 80 per cent of Australia's mineral production is from mines discovered more than 30 years ago.

The CEO of the DET CRC is Professor Richard Hillis, formerly Mawson Professor of Geology and head of the Australian School of Petroleum at the University of Adelaide. The Deep Exploration Technology CRC's headquarters are currently at the University of Adelaide but, from next year, will be embedded with industry at Boart Longyear's new regional headquarters currently being constructed at Adelaide Airport. The other key research nodes for the DET CRC will be at CSIRO's Queensland Centre for Advanced Technologies in Brisbane and the Australian Resources Research Centre in Perth which houses Curtin University and CSIRO researchers.

The Deep Exploration Technology CRC brings together a unique mix of mining companies, researchers, service companies and geological surveys under the cooperative research centre scheme to achieve its ambitious goals. At the launch, Boart Longyear announced that it will make available to the CRC its latest, yet-to-be-released diamond drill rig that is the safest and most technically advanced drill available. The 4200 prototype of the soon-to-be-released production SC9 drill is capable of real-time data collection and processing, is accessible online and is very adaptable to test, validate and integrate the technologies that the DET CRC will develop.

It was pointed out during a demonstration of this real-time data that, when Olympic Dam mine was discovered in the 1970s, it took something like three or four months for that data to be processed, analysed in a laboratory and brought back. We are now talking about drilling technology that will give information in real time, so that you can see what a significant benefit that would be.

This drill will permit researchers to see the drill in action from anywhere in the world and test their results in real time. It is expected that this drill will significantly bring forward the development and application of new technologies developed by the Deep Exploration Technology CRC. The drill will be located at the DET CRC's drilling research and training facility—

### CHAMBER SECURITY

**The PRESIDENT:** Order! Will the security officer please ask that gentleman to take his bag out. I do not want people leaving bags in the chamber. Thank you.

## QUESTION TIME

### DEEP EXPLORATION TECHNOLOGY

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:22):** This drill will be located at the CRC's drilling research and training facility, a dedicated technology testing facility focused on hard rock minerals drilling. The old Brukunga site, which has the CFS training facility next to it which can provide accommodation, is an ideal location close to the city for such activities. Again, it makes Adelaide an ideal location.

Locating the CRC headquarters in Adelaide recognises the international expertise and technology that are being gathered here in South Australia within the minerals and energy sector. The choice of Adelaide for the headquarters and the selection of Professor Richard Hillis from the Australian School of Petroleum as the inaugural chief executive officer further add to the growing importance of the mineral resources and energy industries to the state's economy. Mineral exports

are now the largest single sector contributing to South Australian outbound trade, totalling $9.5 billion a year. This equates to 29 per cent of total state exports.

Another important aspect of the Deep Exploration Technology CRC is the research that will be undertaken and its relevance to exploration in South Australia. The major challenge in South Australia is the thickness of the rock sequences that overlay the highly prospective basement. This geology requires a deep exploration approach to uncover new world-class resources that can eventually be developed into mines. The vision of this cooperative research centre is safer, faster, cheaper and deeper drilling with real-time, down-hole analysis and smarter remote control technologies.

These technological advances, combined with improving deep targeting through new geoscience models, are precisely what is required to expand exploration capacity within South Australia. Facing these challenges, the state government recognises the importance of supporting and hosting the Deep Exploration Technology CRC here in Adelaide, and that is because resource discovery and development are a key to South Australia's future prosperity.

As many honourable members would be aware, several major discoveries have been made since the introduction of this government's $30 million plan for accelerating exploration (PACE). We have expanded from four major producing mines in 2002 to 12 today, with construction currently under way at Kanmantoo in the Adelaide Hills.

Behind these new projects is a pipeline of more than 20 developments, with at least half a dozen expected to complete feasibility studies and regulatory approvals within the next six months. Support for applied research programs that drive exploration and development in the minerals and energy sector is also a key element of PACE.

Our government confirmed in the latest budget that the PACE program has been extended and expanded. PACE 2020 will ensure that South Australia retains its competitive advantages and further creates opportunities for new discoveries and new mining developments. I look forward to the deep exploration technology CRC becoming a key component of the future discoveries in South Australia's minerals and energy sector.

## WATER FLUORIDATION

**The Hon. A. BRESSINGTON (15:25):** I seek leave to make a brief explanation before asking the minister representing the Minister for Health questions about water fluoridation.

Leave granted.

**The Hon. A. BRESSINGTON:** On 28 October, I asked questions of the minister concerning his statement that the fluorosilicic acid used to fluoridate South Australia's drinking water is 'highly purified'. As I detailed to the council, recent statements of analysis provided to my office through freedom of information revealed that all batches of fluorosilicic acid provided by Incitec Pivot used in South Australia over the last five years have been contaminated with numerous heavy metals such as iron, lead, copper, zinc, mercury, as well as arsenic barium, beryllium, cadmium, chromium and thallium.

Each certificate of analysis provides a breakdown of each of the elements mentioned, showing the quantities in parts per million in each batch. The latest certificate of analysis shows a uranium content as well as the other contaminants mentioned previously. Included in this freedom of information response were three statements of analysis that were not conducted by Incitec Pivot at their Geelong manufacturing plant but were instead conducted by Prayon, a Belgium-based phosphate company, and Shanghai MintChem Development Company, based in Hunan in China.

It would appear that SA Water has ceased sourcing fluorosilicic acid from Incitec Pivot and turned to international sources. It is interesting to note that the first batch after Incitec Pivot was provided by Prayon, the next by Shanghai MintChem Development company, and then back to Prayon.

These statements of analysis, unlike those accompanying fluorosilicic acid provided by Incitec Pivot, do not give the same detailed breakdown of chemical contaminants. In researching the effects of fluoride, I have come across statements from numerous international health professionals concerned with the high levels of arsenic and other contaminants found in fluoride, particularly that sourced from China.

Given that the Shanghai MintChem Development Company statement of analysis simply breaks contaminants into two categories, that of 'heavy metals' and the other being water 'insoluble

matter', it is difficult to know how their sodium fluoride compares to that previously provided by Incitec Pivot. My questions to the minister are:

1. Why did SA Water, which fluoridates on behalf of SA Heath, stop sourcing fluorosilicic acid from Incitec Pivot?

2. What is the difference in price between the fluorosilicic acid produced locally compared to that sourced internationally?

3. Were there any concerns about the sodium fluoride provided by Shanghai MintChem Development Company?

4. Has SA Water settled on a provider of fluorosilicic acid, and will a comprehensive certificate of analysis be provided from any new source of fluorosilicic acid for our water supply?

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (15:28):** I thank the honourable member for her questions and will refer them to the Minister for Health in another place and bring back a response.

## SAFEWORK SA

**The Hon. R.I. LUCAS (15:29):** I seek leave to make a brief explanation before asking the Leader of the Government a question about the issue of SafeWork SA.

Leave granted.

**The Hon. R.I. LUCAS:** On 25 October this year, SafeWork SA on their website, under the heading of 'Child Employment', outlined proposed child employment laws for South Australia. Without going through all the details of that, industry association representatives have indicated to me that there are some complex and controversial aspects of the government's proposed legislation on the Child Employment Bill, and the government website said that submissions closed by 19 November, just over three weeks from the opening of submissions.

Given that the parliament, we understand, will be rising in November (the government's intention would be not to take up the optional setting week, the last week of November, the first week of December) and will not reconvene until February, obviously there is the option for the minister to direct his agency to extend the length of consultation to allow some of the industry associations and other interested parties to make a submission to SafeWork SA on the issue.

In particular, I have been contacted by Business SA representatives indicating their view that it would be helpful if the deadline could be extended. My questions are:

1. Given that he is the minister for the agency and given the time lines I have outlined, is he prepared to consider the option of extending the time lines for receiving submissions from 19 November to something more sensible, perhaps closer to Christmas, which would still give the minister and the agency plenty of time to proceed—

**The PRESIDENT:** Order! The time having expired for question time, the minister.

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:31):** The Child Employment Bill was made available for public comment via a direct mail-out to 60 key stakeholders and invitations for public comment by the SafeWork SA website and the Youth@Work website. A draft of the bill was first presented to the Industrial Relations Advisory Committee, on which Business SA does have representatives, way back in late 2009 for comment, so we have already had some input.

The comments from employer groups emphasise the need to ensure a child's prospects of acquiring employment is not jeopardised—we understand that—and most expressed a desire for the government to provide reasonably specific detail of the areas where regulations and codes of practice will be established so that they could provide more practical input.

Considerable consultation has occurred over the last two years prior to the development of the bill, and I know unions generally are extremely supportive of the proposal to enact the legislation. The bill was amended to incorporate many of the comments that we had, and so this second draft was provided to the Industrial Relations Advisory Committee on 23 September 2010, and again Business SA and business generally have representatives there. If any of those organisations believe that they do need more time to look at it, then they only have to approach

me. In relation to significant trees, some councils approached me in relation to extending the deadline, which I was happy to do so that they would have more opportunity to make a response.

The point I am making is that the Child Employment Bill has been out for a long time and the government would like to see this come to some finalisation, given it has been several years in the making, but some groundbreaking issues need to be carefully considered. If any of those groups believe that they need more time to do it, then if they can come to me with a reasonable case, I will give it careful consideration, as I do with any request to extend deadlines.

As I said, I do it regularly if there is a good case for it. I am surprised that Business SA itself, given that it has been involved through its reps on a number of occasions, would request that. I am not aware of their directly approaching me—they may have spoken to my office—but if they can give a good case, I will consider it sympathetically.

## ANSWERS TO QUESTIONS

### WHYALLA RARE EARTHS COMPLEX

In reply to the **Hon. M. PARNELL** (28 September 2010).

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management):** I have been provided the following information:

Guidelines for the environmental assessment of the proposed Rare Earths Plant at Whyalla have not yet been considered or set by the Development Assessment Commission. I have no doubt that the management of waste residues will be an issue the Commission will require the proponent to thoroughly address.

Although the project is at the very preliminary design stage, Arafura Resources has indicated that it is currently planning to return some thorium rich process residues to the mine site for long-term secure storage, but alternative storage facilities for this material nearer to the processing plant will also be investigated. Subject to the major development assessment process, some types of inert processing residues may remain onsite in appropriate, approved storage facilities.

The actual volumes that may be generated are yet to be determined, but one of the main reasons for declaring this project to be a major development, pursuant to section 46 of the Development Act 1993, is to enable the highest level of assessment to occur thus ensuring all aspects of the proposal are fully assessed and all standards are met.

### STATUTES AMENDMENT (BUDGET 2010) BILL

Third reading.

**The PRESIDENT:** I certify that this fair print is in accordance with the bill as agreed to in committee and recorded with amendments.

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:36):** I move:

That the bill be recommitted to a committee of the whole council in respect of clauses 2, 18 and 31.

Motion carried.

Bill recommitted.

Clause 2.

**The Hon. P. HOLLOWAY:** Before I move the amendment to clause 2, I think it is appropriate that I answer a couple of questions that were raised during the debate we had on this bill last week. First of all, the Hon. Mr Lucas asked a question concerning the number of ex gratia payments made in the last two financial years under the First Home Owner Grant provision. I have been provided with the following information. In the last two financial years, there has been only one ex gratia payment approved in respect of the First Home Owner Grant provisions.

In the case in question, the eligible transaction occurred on 17 November 2008. If the applicant had been eligible for the First Home Owner Grant, in addition to receiving the existing $7,000 First Home Owner Grant and the First Home Owner Bonus Grant of $4,000, they would

have also been eligible for an extra $7,000 made available under the Australian government's First Home Owners Boost Scheme.

The applicant in this case was technically ineligible as he had held a previous relevant interest in residential property in South Australia before 1 July 2000. However, after reviewing the extraordinary circumstances of this matter, the Treasurer decided that strong grounds existed for relief to be provided and accordingly he approved an ex gratia payment of $18,000, which was equal to the amount of the first homebuyer benefits to which the applicant would have been entitled had he been eligible in the first instance.

The Hon. Mr Parnell also asked some questions regarding the legislative provisions for EPA sustainability licences. He said:

> The government has been doing this already [issuing sustainability licences] for a year within the existing legislative provisions. What is the particular need for these changes?

The Minister for Environment and Conservation has been advised that the changes were proposed so that legislation can formally recognise the voluntary agreement under the act, which will move it forward from the successful trial phase that has been conducted to date. The Hon. Mr Parnell asked:

> What I would like the minister to clarify is the extent to which the environmental sustainability agreements will, in fact, become binding if these changes are made to the Environment Protection Act by virtue of this budget bill?

Again, the Minister for Environment and Conservation has been advised that sustainability licences are non-binding agreements that will be negotiated only with the top performing organisations, based on a well-established record of working beyond compliance. A significant aspect to their implementation is to provide a tangible recognition of beyond compliance achievements to encourage other licensees to improve their performance and realise similar goals. Finally, the Hon. Mr Parnell asked:

> So, I understand that, whilst the government is now proposing to move to sustainability licences, no change was necessary to the specific Whyalla steelworks legislation, and I ask the minister why that was not necessary in that case?

Again, the Minister for Environment and Conservation has been advised that the OneSteel sustainability licence has no bearing on the Whyalla Steelworks Act 1958. Gaining such a licence indicates OneSteel's success in engaging the local community and foreshadows the company's transition to direct EPA licensing in 2015, when the Whyalla Steelworks Act 1958 ceases. Having addressed those two matters, I now move:

> Page 5, line 7—Leave out 'Part 2' and substitute 'Parts 2 and 5A'

This matter was discussed at some length when the parliament last sat. Following a question asked by the Hon. Mr Lucas, the government became aware that the Statutes Amendment (Budget 2010) Bill had not amended the Parliament (Joint Services) Act 1985 to cover those public servants working under that act. That was an oversight, and I introduced these amendments. The council agreed that we consider those substantive amendments, and this is the last remaining clause, involving a consequential amendment stemming from the debate we had at that time.

**The Hon. R.I. LUCAS:** Just to clarify, I am assuming that all these amendments, from the government's viewpoint, are part of the same package?

**The Hon. P. HOLLOWAY:** The other clauses that we are recommitting relate to the issue of registration labels, with some clarification of that. Clause 2 is the only clause that relates to the Parliament (Joint Services) Act, and this is a consequential amendment on those matters that we have considered.

**The Hon. R.I. LUCAS:** I thank the minister for clarifying that. Can I then clarify the issue of these parts coming into operation on 11 July. Will that, as it relates to the Joint Services staff, mean that the government's restrictions will operate at the same time as the restrictions for other staff of Parliament House?

**The Hon. P. HOLLOWAY:** I believe it was always the government's intention that we would deal with the public sector universally in this matter. I have said that it was overlooked, when the various acts were considered, that the Parliament (Joint Services) Act had its own long service leave provisions, but my understanding is that it was always the government's intention that this would apply uniformly.

**The Hon. R.I. LUCAS:** I understand what the government's understanding and intentions were. I just want to clarify that, if the parliament passes this particular provision for 11 July, will that mean that all staff of Parliament House, whether they are employed under Joint Services, Legislative Council or House of Assembly, will now be treated exactly the same in terms of the time of the restrictions that the government is introducing in its legislation?

**The Hon. P. HOLLOWAY:** My advice is that the relevant public servants are under the control of the President and the Speaker. They are not public servants as such: they are employees of the parliament. So, my advice is that it is a matter for the President and the Speaker to determine the matter. We will have to talk nicely to the President.

**The Hon. R.I. LUCAS:** I do not exactly understand that. Is the minister now indicating that, if the President and the Speaker do not listen to the nice entreaties of the minister and the government, they can make arrangements in relation to their staff different from those covered by the Joint Services provisions of this legislation?

**The Hon. P. HOLLOWAY:** The amendment we are talking about now concerns the commencement date, and it seeks to leave out part 2, which is that part of the act that refers to other public servants, and to substitute parts 2 and 5A. Part 5A is the new substantive clause that changes long service leave provisions for members under the Parliament (Joint Services) Act.

The fact that they are being joined together means they will apply together. In terms of the commencement of this particular part of the act, they would obviously apply together, as they are now linked under the commencement provision. We are pointing out that those staff are actually under the control of the Speaker and the President so we need to acknowledge that but, in relation to this bill, which specifies their conditions, it will commence on the same day as it does for other members under the Public Sector Act.

**The Hon. R.I. LUCAS:** That is a different answer to the one I got to my earlier question, but I am assuming we might have arrived at the accurate description of the position, and that is that all staff of Parliament House in relation to the government's intentions will now be treated equally and that the potential for some staff of Parliament House to be treated in a different fashion to others, as was possible under the original government bill, has now been stopped by the package of amendments, some of which we passed two weeks ago, and the concluding amendment we are passing today. That is now my understanding of the position, and certainly from that viewpoint from two weeks ago, without going over the debate again, it is good industrial principle at Parliament House if everyone is in or everyone is out in relation to these changes.

A situation where some were covered by the legislation and some were not, or some were being covered at a different time than some others, was obviously not a recipe for good industrial relations here at Parliament House.

The government is now confirming that, with this amendment and the others we have passed, all staff at Parliament House, no matter who technically employs them—whether it be the House of Assembly, the Legislative Council or the Joint Services Committee—in relation to these provisions will be treated equally. On that basis on behalf of the Liberal Party we support that proposition and will therefore support this amendment as well.

**The Hon. P. HOLLOWAY:** I acknowledge the comments the Hon. Mr Lucas has made, and it would have been anomalous to have had different treatment of staff in similar situations. That is why the government has moved quickly to correct it, and we thank the opposition for its support.

Amendment carried; clause as amended passed.

Clause 18.

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

Page 14, after line 28 [clause 18(1), inserted subsection (1aa)]—Delete inserted subsection (1aa) and substitute:

(1aa) However, subsection (1) does not apply to a person who drives a motor vehicle other than a heavy vehicle, or causes such a motor vehicle to stand, if the person proves that he or she—

(a) drove the motor vehicle, or caused the motor vehicle to stand, in prescribed circumstances; and

(b) did not know that the motor vehicle was unregistered.

(1aaa) For the purposes of subsection (1aa), a person may prove a matter referred to in that subsection by furnishing to the Commissioner of Police a statutory declaration in accordance with any requirements prescribed by the regulations.

As I indicated previously, the government had some concerns about the amendment from the Hon. Mr Darley, put through and supported in this place during the last sitting week. As discussed in that debate, I stated that I had been advised that a loophole in the law was likely to be created by that amendment, although unintended. The amendment would also enable an employee who possibly did know that a vehicle was unregistered and drove it anyway to decline to give evidence in a court and thereby make it extremely difficult for police to prove the offence.

As well, the amendment, I have been advised, will cause real on-road enforcement problems for police through the creation of two classes of driver: employee and ordinary driver. The police are concerned that officers will not be able to be sure which class of driver they have or know which way to proceed in a particular situation, which could lead to expiation notices being issued that then need to be withdrawn. Mr Darley's amendment also adds a level of complexity that is not necessary, and therefore time and expense, to prosecutions.

The government tabled this amendment on Friday 29 October as a compromise that has been made necessary by the support in the council for Mr Darley's amendment, because the bill shifts the emphasis of ensuring a vehicle is registered from the driver to the owner. The government believes the driver defence as originally provided in the bill does not require any amendment. It believes that SAPOL would responsibly and appropriately take drivers' explanations and would place a greater focus on the owner offence.

The amendment, however, retains the Hon. John Darley's proposed protection for employees, but instead of making the prosecution prove that the employee knew the vehicle was uninsured, which could require that the employee go to court anyway, the amendment before the committee allows the employee to provide police with a statutory declaration that they did not know the vehicle was unregistered and that they were required to drive the vehicle in the course of their employment.

This amendment balances convenience for people required to drive vehicles in the course of their employment against the undesirable blanket exemption and ameliorates the potential loophole I have referred to. It ensures that employees would rarely be required to go to court but does require them to make a declaration as to their circumstances and state of knowledge.

If the employee provides this statement, the offence 'drive unregistered' will not apply and they will not have to go to court to defend the unregistered vehicle driving offence. If the employee gives the commissioner a statutory declaration containing information required by regulations, that will be the end of the 'drive unregistered' offence. The police cannot then choose to prosecute the employee for that particular offence.

I hasten to assure members that regulations will not require long lists of evidence that must be provided for the record and agreed in consultation with the Motor Trade Association. The regulations will only require basic information to identify those involved to show that the employee falls within the ambit proposed in 1AA. It would include: the employee's name and address; the employer's name and address; the registration number, or other identification, of the vehicle; that the employee was not the owner of the vehicle; that the employee was required by the employer to drive the vehicle in the course of their employment and that the employee drove the vehicle in the course of their employment; and that the employee did not know that the vehicle was unregistered.

If an employee provided information in a statutory declaration about a vehicle and police then investigated the owner offence relating to the same vehicle and found evidence that the information in the statutory declaration was not true, the employee could then be prosecuted for submitting a false statutory declaration under section 27 of the Oaths Act.

**The Hon. J.A. DARLEY:** Having had the opportunity to further discuss the amendments proposed by the government, and having discussed these matters with the police, the Motor Trade Association and other interested parties, I will be supporting the government's two amendments.

**The Hon. A. BRESSINGTON:** I have a question. Can the minister explain why it is the employee who fills out the statutory declaration, and not the employer, who is responsible for whether the vehicle is registered or not?

**The Hon. G.E. GAGO:** I have been advised it is the employee because the offence is driving an unregistered vehicle. The onus is then on the person who is driving the vehicle to

demonstrate either that they were not the owner of the vehicle or that the other matters I have outlined applied—that they did not know the vehicle was unregistered, etc. So, it relates to the offence, which is driving an unregistered vehicle.

**The Hon. R.I. LUCAS:** The opposition congratulates the Hon. Mr Darley for having raised the issue and persisted with it over the last 10 days. I have had a series of discussions with the Hon. Mr Darley and I know that he has been in contact with, in particular, the Motor Trade Association, which I understand from the honourable member is happy with the potential final resolution of this issue.

They may have had an issue with the matters to be covered by regulation, in terms of whether they should be in either a regulation or an act. The minister has read onto the record and outlined the sorts of issues that will be covered in the regulation. The parliament, of course, always retains the power to disallow regulation should there be concern. If there is concern by an industry association like the Motor Trade Association and it can convince enough members of parliament, then such a regulation can be disallowed at some stage in the future.

So, on that understanding, the opposition not only congratulates the Hon. Mr Darley but indicates its willingness to support what is a compromise amendment. We indicated that we agreed with the principle of the issue raised by the Hon. Mr Darley. We outlined two weeks ago that, if there was a better way of drafting the amendment to achieve the original purpose without causing any unintended consequences, then we would be prepared to consider such further amendment. That is indeed what has occurred in the last 10 days or so and, on the basis that the government has moved the amendment, the Hon. Mr Darley has indicated his support and I understand the Motor Trade Association is supporting it, we indicate that we are prepared to support it as well.

Amendment carried; clause as amended passed.

Clause 31.

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

Page 1, after line 2 [clause 31(1), inserted subsection (1aa)]—Delete inserted subsection (1aa) and substitute:

(1aa) However, subsection (1) does not apply to a person who drives a motor vehicle other than a heavy vehicle, or causes such a motor vehicle to stand, if the person proves that he or she—

(a) drove the motor vehicle, or caused the motor vehicle to stand, in prescribed circumstances; and

(b) did not know that the motor vehicle was uninsured.

(1aaa) For the purposes of subsection (1aa), a person may prove a matter referred to in that subsection by furnishing to the Commissioner of Police a statutory declaration in accordance with any requirements prescribed by the regulations.

This is consequential.

Amendment carried; clause as amended passed.

Bill reported with amendment.

Bill read a third time and passed.

## MINING (MISCELLANEOUS) AMENDMENT BILL

Consideration in committee of the House of Assembly's amendments.

**The Hon. P. HOLLOWAY:** I move:

That the House of Assembly's amendments be agreed to.

The Mining (Miscellaneous) Bill 2010 is a reflection of the government's commitment to its principles of effective and efficient regulation of our mineral resources sector through best practice management of South Australia's mineral assets.

The government recognises that the exploration and mining sectors require predictable procedures for access to land, security of exploration and/or mining tenure, and predictable regulatory processes in order to commit to higher risk for investment in mineral resource exploration, new mine development and life of mine operations.

The government also recognises that landholders and communities require clear and timely advice on their rights under the Mining Act and on the responsibilities of exploration and mining companies who are seeking to access their land.

We believe the bill, with the amendments suggested by the House of Assembly, which have been subject to significant discussion between members and the shadow minister, the government, SACOME and I am sure other interested parties in coming to this conclusion, if they are accepted, achieve those objectives and also underpin the government's targets for growing the prosperity in this state which recognises the importance of our resources sector in growing the state's future economic prosperity through increased business investment, regional development and opportunities for employment and skilling balanced against key environmental and social objectives.

The further amendments to clause 7 of the bill seek to delete subparagraph (1) of new section 9AA Part 9 Part A that relate to waivers of exemption. Specifically, subparagraph (1) requires that where a mining operator has made application to the ERD Court for an order, the mining operator must satisfy the court that exceptional circumstances exist justifying the carrying on of mining operations on exempt land. The fundamental problem with this provision is that it does not support the key objective of this state's mining legislation which is to support triple bottom line sustainable development through the encouragement of exploration and mining.

I would like to point out that subparagraph (2) of section 9AA Part 9 Part A, which is not being amended, ensures that landowner interests are protected. It clearly provides that a mining operator must be able to satisfy the court that any adverse effects of the proposed mining operations can be appropriately addressed by the imposition of conditions on the mining operator, including the payment of compensation to the landowner. If the mining operator cannot satisfy the court then the court may refuse the application. This amendment to clause 7 ensures that the legislation supports the triple bottom line principles by ensuring it remains equitable for both the landowner and the mineral resources sector.

The further amendment to clause 40A seeks to qualify that the rights to require acquisition of land will not apply to exploration licences. As I previously pointed out to honourable members, an unintended consequence of this amendment applying to exploration licences is that it does not recognise the short-term impact and temporary nature of mineral exploration activities, together with a significantly low success rate in the discovery of an economic resource.

The intent of this provision is to provide the landowner with the option to apply to the Land and Valuation Court for the acquisition of land where an economic resource is being discovered. Clause 40A is also being amended to provide that the court may take into account any compensation or other amounts that had been paid to the owner under the other provisions of the act.

This amendment is particularly important for existing mines where the mining operator and landowner may have already negotiated relevant compensation. In these cases, it will be a relevant consideration for the court whether that compensation was fair and reasonable or whether further compensation is warranted in a particular case.

The honourable member who introduced the original amendment to clause 40A, the Hon. Mr Brokenshire, was concerned that a landowner would be restricted during the exploration period from being able to go to an independent arbiter. These further amendments do not preclude the landowner and explorer from entering into a private agreement at the exploration stage for the acquisition of land, nor does it preclude the landowner from seeking appropriate compensation from an independent arbiter.

The current compensation provisions under the Mining Act 1971 clearly state that the owner of any land shall be entitled to receive compensation for any economic loss, hardship and inconvenience. Factors to be considered include damage to land, loss of productivity or profits and any other relevant matters.

Notwithstanding that the bill further enhances the existing compensation provisions by explicitly providing that a landowner can be compensated for legal costs when negotiating such compensation, the bill's enhancement to landowner-related rights and obligations, environmental assessment, compliance and regulatory tools, increased penalties, greater transparency and red tape reduction initiatives clearly demonstrates the government's commitment to implementing best practice legislation which will encourage investment in exploration and mining but is underpinned by the principles of sustainable development. The statutory safeguards ensure the responsible

management and exploitation of the state's mineral assets to ensure the state and the people of South Australia receive an appropriate financial return for their valuable mineral assets.

As I say, the amendments in the House of Assembly, which have been subject to significant inter-house consideration and discussion, should be accepted because they do reach the right balance between the mining industry—very important to this state—and also the farm community, which is an equally important industry for South Australia.

**The Hon. D.W. RIDGWAY:** I indicate that the opposition will be supporting the amendments from the House of Assembly, and I will make a couple of comments. There was some discussion in the media following the debate in the House of Assembly, in particular that the opposition had supported certain amendments in the Legislative Council and then changed its mind and not supported them in the House of Assembly.

That is one of the luxuries for a party that has representatives in both houses, unlike Family First and the Greens, which only have representatives in the Legislative Council. Sometimes we get additional advice between the houses that comes to light and, in particular, I refer to amendment 2, clause 7, page 7, which deletes subparagraph (i):

(9) On an application, the ERD Court may—

(a) if the mining operator satisfies the Court that—

(i) exceptional circumstances exist justifying the carrying on of mining operations on the exempt land

The opposition received advice from the department that putting this condition in the bill meant that this condition could never be met and, as the minister explained, that would be at odds with the principles of the Mining Act, and so it made sense for the opposition to support that particular amendment.

Likewise, amendment No. 2, which just deletes the word 'the' adverse effects to the proposed mine in subparagraph (ii) and substitutes it with 'any', is simply consequential. I think there were amendments originally proposed by the Hon. Mark Parnell, in particular, the amendments in relation to the acquisition of land and there were a number of amendments proposed by the Hon. Robert Brokenshire. It is a shame he is absent this afternoon and cannot deal with these amendments because he was passionate in the media when this bill came back from the House of Assembly. Maybe he has lost his passion somewhat today.

This amendment inserts a couple of sentences, in particular under the right to require the acquisition of land and in particular after section 2, at the end of the first sentence, which is 'The court may on application under this section' add 'if the court considers it to be just and appropriate in the circumstances of particular case'. That is amendment No. 3 which the opposition supports. Amendment No. 4, clause 45, page 29, line 33, after 'compensation' insert:

, after taking into account (to such extent as the Court considers appropriate) any compensation or other amounts that have been paid to the owner under the other provisions of this Act.

I think the opposition sees this as being fair and just. If a landowner has already received some payment or some compensation for activities that have already occurred on his or her property, then those payments should be taken into account when calculating the final amount of compensation. I am sure the Hon. Mr Brokenshire would not think it appropriate that we should allow, if you like, a double dipping, but that fair, just and appropriate compensation be paid. The final amendment relates to clause 45, page 30, after line 2; that is, insert:

(3) This section does not apply in relation to an exploration licence.

I guess this is the one amendment where I am a little annoyed with the Hon. Robert Brokenshire, in that, when we had the debate in the Legislative Council, rather than prolong the debate, I indicated that the opposition was prepared to support it.

I indicated a number of concerns that I had that about its having unintended consequences. I did not really know about having compensation applicable during the exploration phase but indicated that we would support it and look at it between the houses. The Hon. Robert Brokenshire was in the other place for a number of years and he has been in parliament for a number of years, and I am somewhat disappointed about the focus the media put on that issue when it was our clear intention to look at it between the houses.

In relation to an exploration licence, let us take a tenement 10 kilometres by 10 kilometres. If you drill a hole every kilometre—and you might find that a property (one kilometre by one

kilometre is 100 hectares) might be 300 or 400 hectares—on 1,000 acres, you might have potentially four holes drilled on it if that is the sort of exploration that is going to be undertaken, or maybe only one.

Certainly to require a mining company to acquire that property to drill just one or two holes in the initial phase of exploration, in the opposition's view, would probably be prohibitive for mining companies. With those few words, I indicate we are happy to support the amendments proposed by the House of Assembly, but again reiterate my disappointment about some of the games that were played with the amendments by other members.

**The Hon. M. PARNELL:** The Greens do not support these amendments. If I am disappointed, I am not half as disappointed as the Farmers Federation. The Farmers Federation had hoped that the Legislative Council would maintain the position of supporting sensible amendments that redressed the current imbalance in bargaining and in power between landholders and mining companies. We know that, historically, when disputes arise, mining companies always win. What these amendments seek to do is to level the playing field. They do not guarantee that, in a dispute, the farmer would always win, but they level the playing field.

The Farmers Federation stated quite simply that, when it comes to exempt land, it just wanted the right to say no. The deletion of the exceptional circumstances clause almost guarantees that the classification of land as exempt is almost meaningless in state law.

Exempt land is a fraud: it is not exempt. What exempt land now means is that, if a mining company wants to go onto exempt land, all it has to do is try to extract an agreement and, if an agreement is not forthcoming, it goes to the Environment, Resources and Development Court and asks the court to impose the conditions it would have had to agree to anyway.

Given that the legislation, if this amendment passes, requires no more test than the imposition of conditions and the payment of some compensation, the activities will go ahead. We have to ask ourselves: why, in a piece of legislation (the Mining Act), do we have a category of land called 'exempt' which is not, in any sense, exempt from mining? What 'exempt land' now means in the Mining Act is that you have to approach the landholder and talk about compensation and conditions. However, when push comes to shove, you go to the umpire and the umpire will allow mining to go ahead, subject to compensation and conditions. There is no ability for the farmer to say no.

The minister referred to all of the consultation that has taken place between the houses. Whilst I cannot speak for other crossbench members, I certainly was not consulted, and I bet the Farmers Federation was not consulted. The Leader of the Opposition refers to the luxury they have with members in both places, the consultation between the houses was basically the mining industry leaning on the Liberals to backflip its position, and the backflip—

**The Hon. D.W. Ridgway:** That's rubbish!

**The Hon. M. PARNELL:** You say it's rubbish? I think the Farmers Federation has got it pretty right. It states in its media release of 29 October:

> The Farmer's Federation...and its members are reeling from shock and are deeply disillusioned by the lack of support from politician on two key amendments in the Mining Act that would have strengthened the rights of farmers versus mining companies' encroachment on farming land.

The Farmers Federation represents farmers in this state—if members of the Liberal Party want to suggest otherwise, let them do so—and they feel disillusioned. In the release, Mr White, President of the Farmers Federation says, 'We've been abandoned by our representatives and every South Australian must condemn this act.'

So, the category of exempt land now is getting close to meaningless. The suggestion was put that the test in the legislation of exceptional circumstances to justify the carrying out of mining is a test that could never be met. I do not accept that for one minute. Certainly, it is a test. Could it never be met? It could be met if exceptional circumstances existed.

If the value and rarity of the minerals were such that our only chance to access them was to go onto exempt land, the test would have been met and the exemption would have been overruled. What this provision now does is it forces farmers to sign waivers that they do not want to sign: it forces them to sign up. So, that is amendment No. 1.

Amendment No. 2 is consequential, and I will not speak further to that. Amendments Nos 3 and 4 are of no great consequence, and they can go through. However, amendment

No. 5 is, I think, a significant downgrading of this legislation. The amendment seeks to prevent a farmer, or landholder, from even asking that their land be purchased. It was never intended that there would be an automatic right of every landholder to insist that when a company held an exploration licence it was obliged to buy their farm; that was never the intention.

In fact, the bar would be set fairly high and it would be very difficult for a landholder to convince the Land and Valuation Division of the Supreme Court of South Australia that the inconvenience they were suffering as the result of a mineral exploration licence was so significant that their farm must be bought—it would be a very high test. This amendment legally prevents the farmer from even asking the question. Let me phrase it this way: you can ask the mining company to buy your farm but if they say no you have no right to go to the umpire to test the validity of that refusal.

The point has been made by the minister that mineral exploration is a short-term impact, and, from the Leader of the Opposition, that mineral exploration involves fairly minimal interference with land. Both of those points can be challenged. The reality of mineral exploration is that it can go on for years and years and years, and that means years and years of uncertainty for farmers.

In terms of its impact on the land, the Leader of the Opposition referred to the irregular drilling of small holes spaced far apart. Yes, that is one form of mineral exploration. The other thing you can do with a mineral exploration licence is what Marathon Resources does and bury tens of thousands of bags of waste in shallow graves. That is also an activity under a mineral exploration licence.

What I sought to do, in supporting the amendment that was put forward in this respect, is to acknowledge that farmers have a legitimate expectation of some form of certainty. They want to know whether a mining company is going to just be there for a short period, have a quick look around and then move on. In that short period, yes, there will be uncertainty and they will not know if anything will be found, but, hopefully, the mining company will have negotiated reasonable conditions and there will be no disruption to farming activities, whether it is lambing, crops, or whatever it might be.

The point is that, the longer an exploration licence goes on without the mining company committing to either mine and then probably buy the farm or move on, that uncertainty means that that landholder is unable to commit to any form of long-term investment. Forget the idea of building a new shearing shed, putting in new stockyards, buying new headers or ploughs, or whatever it is, because, whilst that mineral exploration licence goes on, they will not know whether they are ever going to recoup that investment.

That level of uncertainty is why the farmers want—in probably fairly extreme cases, I would imagine, quite rare—the ability, if they cannot reach agreement with the mining company, to go to court and see whether the court will order the mining company to buy their land. So, having removed the ability to make such a request of the court on a mineral exploration licence basically ensures that uncertainty will rule.

The uncertainty that farmers face will continue, and they now know that there is nothing that they can do about it. There is no umpire that they can go to and say, 'Surely enough is enough. Surely it is time for this mining company either to agree that they are going to mine or move on.' The mining department is not going to be cutting short their exploration licences at the request of farmers. They will keep the exploration licence going as long as they think there is a prospect that something might be found and provided that some minimum amount of exploration activity is undertaken.

I am disappointed that these sensible amendments made by the Legislative Council are not going to prevail. I would urge, at least, my colleagues on the crossbench to keep faith with the farming community of this state and to insist on sensible changes that actually level the playing field in disputes between mining companies and farmers. The Greens will be opposing these amendments.

**The Hon. D.G.E. HOOD:** I think members are aware that the intention of the Family First amendments was to create an environment for farmers, producers of food and the like giving a sense of certainty about their investments. We had quite an extensive debate a number of weeks ago about these amendments, so I will not rehash those arguments but make just a few comments. It would be no surprise to members that we oppose the changes made to these amendments—the amendments to the Family First amendments moved by the Hon. Mr Brokenshire—which essentially were aimed at empowering farmers to initiate a buy-out of the farm. These changes

water down what was an essential change to the Mining Act to protect farmers significantly impacted by mining operations, whether it be mineral exploration or otherwise.

In particular, the fifth amendment, which the Hon. Mr Ridgway has just said will be supported by the opposition, eliminates farmer-initiated buy-out when mining is at the exploration stage. As the Hon. Mr Brokenshire said and outlined in some detail in committee a number of weeks ago, the prospect for exploration can be a major impact on the farm itself and on the farmer's business, as it may be. The clause as worded was such that the exploration prospect had to be having some significant impact on farming activities—that was the intention of the amendment—so farmers could not initiate buy-out just by virtue of fact of the exploration itself: there had to be substantial justification.

It goes without saying that Family First is disappointed that parliament will not support our original amendments. It is fair to say that the opposition is worthy of credit for considering them at least, and I put that on the record. The other government amendments to the Family First clauses we can accept, particularly amendment No.4 on factoring in past compensation to a landholder when considering a pay-out sum for the purchase of the property. However, we feel that neither amendment No. 3 or No. 4 was really necessary since we expect that the court would have applied those tests in any case.

Overall, we are disappointed that our amendments on food security and special recognition of groundwater issues and fairer treatment of farmers do not stand in their own right. We think they were a reasonable attempt to satisfy the needs of farmers and the mining industry. Family First, it can be said, is a friend of both those industries; certainly we have never made any moves in this parliament that would be unfavourable to either of them, and I assure members that we certainly have no intention to do so. We will continue to fight for food security and seek a balance that allows mining companies to operate well and relatively unencumbered as well.

Motion carried.

## STATUTES AMENDMENT AND REPEAL (AUSTRALIAN CONSUMER LAW) BILL

Adjourned debate on second reading.

(Continued from 29 October 2010.)

**The Hon. J.M.A. LENSINK (16:29):** I speak in support of this legislation, which has had quite a long gestation, but I think for good reason. The initiator of the review of our consumer laws was the Hon. Peter Costello as Treasurer, who sought a review by the Productivity Commission, which then fed into the Ministerial Council on Consumer Affairs and COAG agreements, which have been signed off. The Productivity Commission occurred in the time period of 2007-08, and in the ensuing years the MCCA and COAG have, as I stated, signed various agreements and come up with a package of amendments to all our jurisdictions which will see us adopt the commonwealth's Australian Consumer Law Act into our legislation.

We have been served well through our range of consumer laws over the years, but I think that it is fair to say that, when there are multiple jurisdictions that have similar laws, it is difficult for consumers to understand what their rights are in each jurisdiction, and particularly for business costs, where businesses that operate across various states and territories need to be aware of what all the different nuances of each legislation may be.

The Australian Consumer Law was passed through the federal parliament this year, and I note that the second bill was referred to a Senate committee, the Senate's Economic Legislation Committee and the comments at the time were that that particular bill may have been rushed.

So, I commend the Senate committee for its work; the report that it has provided is quite extensive. It was tabled in May of this year, and it outlines a large number of submissions that were provided by organisations that we would expect to hear from in South Australia, such as the Motor Trade Association, various consumer groups, retailers and the like, as well as Choice Australia, to enable it to inform itself about what amendments may have been required to the bill.

Particularly through the work of some of the coalition senators, some amendments or recommendations were incorporated into the final bill. The first is that the definition of consumer should allow for a class of consumers that would encompass small business, which is effectively a continuing exemption for transactions of less than $40,000.

Secondly, the existing exemption from the Trade Practices Act for the professions of architects and engineers is being retained. Thirdly, there was an issue in relation to a risk-based

safety system rather than an incident-based safety system being adopted. That recommendation was not accepted in its entirety. The fourth is to provide a means for specific industries such as the automobile industry to be exempt from incident reporting, because they already have their own regimes.

Fifthly, the definition of an unsolicited consumer agreement should be expanded to include circumstances where consumers are contacted through indirect means. That provides some of the background to that bill. I would also like to refer to some of the speeches as the bill passed through the federal parliament. Indeed, I think the ministerial council may also be required to further examine some areas for future reforms.

In particular, Mr Bruce Billson MP, the member for Dunkley, mentioned that he thought it was very unfair that the unfair contracts provision did not apply to small business. He also talked about new technologies and in particular the impact of some of these laws on an organisation like eBay, where I think the laws may need to try and catch up with future technology.

The amendments to what will become our regime in South Australia include covering unfair contract terms in standard form contracts. The new laws will guarantee consumer rights when buying goods and services, replacing existing laws on conditions and warranties. There is a great deal of simplification of language and processes for remedies.

There are amendments to product safety law and enforcement systems which will become much more rapid and effective and I think that is to be highly commended. There are national laws for unsolicited consumer agreements for door-to-door sales and other direct marketing, simpler rules for lay-by agreements, which is the completely new part of these provisions, enforcement penalty powers and consumer redress options which are based on the Trade Practices Act.

So, with those brief comments, I note that I did not read every clause of the federal act as it is very, very extensive and would be a cure for insomnia, I think, but I did come across an excellent publication produced by the commonwealth Attorney-General's office called *Australian Consumer Law*, which is dated July 2010 and is easy to download. It provides a very good summary of the new provisions.

Indeed, we joked with some of our esteemed colleagues in the House of Assembly that it had some pictures in it which would enable them to be able to understand the legislation a little more easily. With those comments, I commend the bill to the house and look forward to further reforms in the future as they may be required and encourage other members to support the bill.

**The Hon. S.G. WADE (16:36):** I rise briefly, not at all to demur from the policy considerations that have been brought to the attention of the house by the Hon. Michelle Lensink, but to draw the house's attention to the fact that this is another bill that proposes that a national law be imposed. The house will remember that earlier this year, in the context of the health practitioner legislation, we considered national law and how it might be appropriately applied in relation to the health area. We are now being asked to consider a bill which poses the question: is a national law, and the way it is being applied in this bill, appropriate?

In the context of the health legislation, the opposition highlighted that we believe that we need to be diligent legislators and look at each case on its merits. We did not say that any particular model should be uniformly applied to national law cases. I just wanted to, if you like, keep on the council's radar the need for us as legislators to consider each case on its merits.

Obviously, there are a range of factors that need to be considered, for example, which jurisdictions have constitutional authority and accountability, whether it is an appropriate balance of commonwealth and state powers, whether the bill makes the law accessible to the community and whether there is an appropriate balance between the executive and the parliament.

I am sure there are a range of other factors. These sorts of considerations do not lend themselves to a formulaic approach. The opposition is not suggesting that but we are committed to considering each national law proposal on its merits. Having considered this consumer law and having had the benefit of parliamentary counsel's advice specifically on this matter, I believe that the method of a national law application in this context is appropriate, so we support not only the policy but also the mode.

**The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for the City of Adelaide) (16:38):** I thank honourable members for their second reading contributions and their support for this important piece of legislation. This bill gives effect to one of

the most significant national reforms of Australia's consumer protection laws. In passing this bill, South Australia will join with other states and territories in providing consumers the benefit of a nationally consistent consumer protection framework.

The Australian Consumer Law will also add significant new consumer protections as well, including provisions drawn from best practice and from provisions drawn from existing state and territory jurisdictions, in looking at their protection and fair trading laws.

This bill, if successful, will be a real win-win for both businesses and consumers. In terms of businesses it allows us to move more closely towards a seamless national economy and, obviously, it goes towards reducing regulation and complexity; it improves efficiencies for consumers and it will provide a new set of consistent national rights wherever goods or services are purchased or provided throughout the nation. I commend this bill to the house and look forward to the committee stage.

Bill read a second time.

In committee.

Clauses 1 to 25 passed.

Clause 26.

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

Page 19, line 24 [Clause 26, inserted section 86A]—After 'This Division' insert:

(other than section 91).

This is quite a simple technical amendment, with the effect of ensuring that Division 4 of Part 2 of the FTA does not apply to ACL matters. This is necessary because, otherwise, we would have the FTA and the ACL provisions doing the same thing in different ways. For example, section 87 of the FTA, which is in Division 4, sets out the time limit within which a prosecution must take place under the FTA. The ACL itself already includes specific provision about time limits for prosecutions because we want the ACL time limits to apply in South Australia. The bill makes sure that section 87 and the rest of division 4 do not apply to ACL matters.

Unfortunately, section 91 in division 4 should not have been included in this carve-out clause. Section 91 includes provisions that specifically relate to taking legal action and procedures relating to evidence. For example, section 91(6) provides:

A copy of a book or document that was taken by an authorised officer in investigating a breach of the act, that is certified by the Commissioner to be a true copy of the original, can be taken to be a true copy of the original.

This is a technical provision that simplifies the tendering of evidence in a prosecution; rather than having to tender the original, a certified copy must be tendered. Other provisions in section 91 operate along similar lines, making the process of tendering evidence in any given case much easier to deal with.

The equivalent of section 91 has existed in the FTA in much the same form since the FTA was passed in 1987. It has operated without controversy through that time and will continue to apply to prosecutions that occur outside the scope of the ACL, that is, to related act controls over second-hand vehicle dealers, plumbers, etc. The same provisions should apply to ACL offences to ensure we do not have to go through a different process compared with other FTA offences for taking ACL matters to court. For this reason I seek the support of members of the council in making this very minor, technical amendment.

**The Hon. D.G.E. HOOD:** We have no record of this amendment at all; it is certainly not in my folder.

**The Hon. G.E. GAGO:** I have just been advised that it was tabled last Thursday, which is not a sitting week, so it could not possibly have been tabled, because we were not sitting. I have only just been given that information; I am sorry. Given that, if members need time to read it and think about it, I am more than happy to report progress and come back to it. It is only a very minor technical amendment, but it is difficult to explain the technicalities in a simple way, so I am happy to report progress.

**The Hon. D.G.E. HOOD:** It does seem like a very simple amendment to me, so we would not have strong objections to proceeding, but if the opposition wants to go to the party room we would support that.

**The Hon. J.M.A. LENSINK:** From my reading of it—and I am not a legal expert—I assume it relates to the gathering of evidence and conflict between different acts. The amendment is only four words, so I do not have any problem, and I certainly do not think this needs to go back to the party room for a decision on our part. I am happy to support continuing debate on the bill.

**The Hon. T.A. FRANKS:** The Greens are also happy to continue the debate.

Amendment carried; clause as amended passed.

Remaining clauses (27 to 36) and title passed.

Bill reported with amendment.

Bill read a third time and passed.

## SITTINGS AND BUSINESS

Adjourned debate on motion of Hon. P. Holloway:

That, during the present session and unless otherwise ordered, if the council has not adjourned at 10pm on Tuesdays and Wednesdays, a minister shall move the motion 'That the council do now adjourn.'

(Continued from 28 September 2010.)

**The Hon. M. PARNELL (16:51):** I rise to say that the Greens will be supporting this motion provided it is amended, and I will move an amendment shortly. The motion as it reads is that, with no exception, if the council has not adjourned at 10pm on Tuesdays and Wednesdays, a minister shall move the motion that this house do now adjourn.

The purpose of this motion, quite clearly, is to move the Legislative Council (albeit very slowly) towards a changed regime that many people, including the Greens, support when it is described as 'family-friendly sitting hours', but it is not as simple as simply knocking off and drawing a line under the business of this council at that time on those two days without our considering what that means for the longstanding traditions of this chamber in relation to private members' business in particular. I move:

At the end of the motion add the following words—

'If the Council is adjourned on a Wednesday before Private Members' Business is concluded, any outstanding Private Members' Business shall take precedence over Government Business on a Thursday.'

The purpose of this amendment will be very clear; that is, to maintain what I think has been an important tradition in this chamber, as I understand it over many years, that private business takes precedence over government business on a Wednesday, and it is consistent therefore that if the private business is not concluded on a Wednesday, that we keep it going on a Thursday.

The amendment, if passed, would still give effect to the desire that most of us have here, which is to adjourn at a reasonable hour, and it with probably enshrine Thursday morning sittings, and I think that is not a bad thing. We have been sitting on Thursday mornings fairly regularly, but often we never know until the Wednesday night when we receive a note from the minister that Thursday morning sitting will take place.

I think this amendment does take us some way towards getting towards family-friendly sitting hours in this chamber that do not impinge on the important right that two-thirds of the members of this chamber have; that is, two-thirds of non-government members of this council to have one day—and it is only one day—where our business takes priority.

I might add that, whilst this motion was put forward very early on in the piece (in fact, I think the second substantive day of sitting of this chamber), there are other ways in which the council could work to achieve reform to its processes. I for one, on behalf of the Greens, would like to see a cooperative arrangement—a round-table conference, if you like, of members of all parties and Independents—to come up with a different and better regime which allows us to work at an hour of the day when we are more productive but which does not undermine the ability of private members to ensure that our business gets some coverage.

I make that offer on behalf of the Greens. We are happy to sit down with the government and other parties to come up with a package of suggestions that go to sitting hours and other parliamentary reforms. Given that the matter before us is a fairly simple one, I have proposed a fairly simple amendment and that is, yes, let's keep the option of going home at 10 o'clock on a Wednesday but, if we have not finished private members' business, let's come back on a Thursday morning and complete it.

Debate adjourned on motion of Hon. I.K. Hunter.

**MARINE PARKS (PARLIAMENTARY SCRUTINY) AMENDMENT BILL**

Adjourned debate on second reading.

(Continued from 26 October 2010.)

**The Hon. M. PARNELL (16:58):** I want to say at the outset that the Greens strongly support the creation of a network of marine parks for South Australia. We agree with the bumper sticker produced by the Wilderness Society, and that is that marine parks are great for our state.

Marine parks have been controversial in most jurisdictions, yet I think there is now a growing awareness in the general community that a system of marine protected areas is absolutely essential for the long-term viability of our commercial fishing industry and our recreational fishing industry and also vital for the preservation of marine biodiversity.

When we debated the Marine Parks (Parliamentary Scrutiny) Amendment Bill in this place not that long ago, I noted, as did other members, that what we were doing was putting in place a framework for the creation of marine parks but that the real test would be whether the government was prepared to put in place a management regime (or, in this case, management plans) that would not just enshrine business as usual in the sea but provide genuine protection for marine biodiversity and for the important habitat (in particular, nursery habitat) for both commercially and recreationally fished species.

In fact, if all our marine parks did was to enshrine business as usual, we would be better off without them; they would be a waste of paper. My fear is that, unless the marine parks—and, in particular, the proposed sanctuary zones within those marine parks—are sufficiently large and well managed, the system of marine protected areas will fail to protect marine life in South Australia in the long run. I put on the record my appreciation to minister Caica for the briefing provided by his officers. I want to come to the fairly simple but important changes that are made in this amending bill to the regime for the creation of management plans under the act.

In a nutshell, what the bill proposes is that amendments to management plans are now to be subject to a direct parliamentary disallowance whether or not a parliamentary committee has made such a recommendation. Under the existing act the only trigger for disallowance was if the Environment, Resources and Development Committee recommended disallowance. Under this amending bill, the Environment, Resources and Development Committee is now out of the picture, and it has been replaced with the Legislative Review Committee.

Members might, no doubt, be thinking that is not at all a logical outcome. The Environment, Resources and Development Committee is the committee responsible for looking at a whole range of planning processes, whether they be plans for the use of land (development plans under the Development Act), plans for the management of aquaculture under the Aquaculture Act, plans for the management of national parks under the National Parks and Wildlife Act, or wilderness areas under the Wilderness Protection Act, and even plans and policy documents under the Environment Protection Act.

These all fit within the statutory responsibilities of the Environment, Resources and Development Committee. So, it is odd that these important plans, these plans for marine parks, are now no longer the responsibility of that committee. Instead, the government has made a compromise with, as I understand it, representatives of the fishing industry that these plans should be subject to the same disallowance mechanism as subordinate legislation such as regulations under the Subordinate Legislation Act. In other words, the changes brought about by this bill will make it easier to disallow changes to marine park management plans.

The Greens' position is that we can live with this change and so we will be supporting the second reading of the legislation, but we do have some misgivings about the transfer of responsibility from a committee with some expertise in environmental matters to a committee that may well have less. The proposed regime under this bill is that amendments to marine park management plans will be tabled in both houses of parliament, and they can be disallowed in the same way as regulations.

Simultaneously, the plans will be sent to the Legislative Review Committee, under the capable leadership of the Hon. Russell Wortley, as I understand it, and his committee will look at them. That committee will have the ability to hear from witnesses and to ask questions, and it will have the ability to recommend disallowance as well. In a nutshell, the key change that is being

made here is the ability for direct disallowance by either house of parliament, even in the absence of any recommendation of a standing committee of this parliament.

When it comes to zoning the sea, the government is now making it easier for parliament to disallow any changes that are made to these management plans. When it comes to zoning the land, the only mechanism for parliament to disallow a rezoning, is for the matter to first be referred to the Environment, Resources and Development Committee and, of course, as members would know, that committee has never resulted in a terrestrial rezoning being disallowed. There are a very small number of cases where the committee has resolved to recommend disallowance, but not once in 16 years has that resolve translated into a motion, as I understand it, let alone a decision of either house of parliament.

My take on all of this is that, if the government was serious in its new found commitment to parliamentary democracy—if it was serious, as it appears to now be with marine parks, it would move to allow either house of parliament to amend terrestrial rezonings in exactly the same way that this bill proposes to provide for disallowance of marine park rezoning.

My strong suspicion is that the government will go nowhere near such an amendment and the government's relationship with elements of the property development industry will be at the heart of its refusal to act consistently in relation to terrestrial and marine rezoning.

The bottom line in relation to this legislation is that we have to make sure that the initial management plans for marine parks are absolutely the best and strongest we can possibly get. The reason I say that is because we cannot bank on these management plans being improved over time simply because we are now making it easier for them to be disallowed. In other words, if we do not get the strongest plan but get a weak plan as an initial plan, that will be a legacy that haunts us for many years, because any subsequent attempt by a government to strengthen the plan in response, for example, to changes wrought by climate change, sea temperature changes, and so on, will be very difficult because it will have to run the gamut of both houses of parliament. I make the point, as one constituent wrote to me on this issue saying:

> It is a great shame that the political system is not able to cope with adaptive management as that would ultimately be the best outcome for marine life in South Australia, making our oceans more resilient and able to cope with shocks from climate change, disease, overfishing, etc.

I agree that we do not have a robust system for adaptive management. The reason why, without becoming overly philosophical, is that it cuts against the desire we also have for certainty. In some ways, adaptive management is almost the enemy of certainty because it requires that, as circumstances change, we can readily and rapidly change our management practices to accommodate changed circumstances. Adaptive management needs us to be able to recognise that circumstances have changed and respond quickly. I think with this bill that will become more difficult.

I do not want to be pessimistic and assume that any changes to management plans will necessarily trigger a disallowance motion, but given how hard fought negotiations are currently around these initial marine park management plans, my fear is that, as climate change progresses, if the government of the day, the environment department, realises that we will have to increase the size of sanctuary areas if we are interested in protecting the fish stocks that the Hon. John Gazzola and others are so keen to take advantage of, if we have to change the size of sanctuary zones to protect the nursery, the habitat and the species in the long term, it could well be difficult.

I believe the fishing industry is slowly coming to realise that marine parks are in their best interests.

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

**The Hon. M. PARNELL:** The Hon. Michelle Lensink tells me that the fishing industry has always supported marine parks. I hope the Hon. Michelle Lensink's optimism is well founded. As I said at the outset, it is one thing to support the concept but another to support the lines on the map that create the no-take zones that are so important for species to be able to flourish.

I conclude by saying that I look forward to seeing the initial management plans that are shortly to go out to public consultation. I understand they should be in place by the middle of 2012, which is still some way off but it provides for a lengthy period of consultation. I hope those plans are strong and robust, and I hope they do not require amendment any time soon because, with this legislation, we will make it more difficult to amend them.

Debate adjourned on motion of Hon. I.K. Hunter.

## GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 October 2010.)

**The Hon. R.I. LUCAS (17:10):** I rise to speak to the second reading of this bill and indicate at the outset that I intend to seek leave to conclude my remarks. I will outline the reasons for that later on in my contribution.

It is a sad fact of life that, having been in this chamber for the duration of the debate since 1992ish, I have spoken many times on gaming machines, and every aspect of this particular debate has been canvassed in one form or another, I suspect, previously. Certainly, when the honourable Mr Xenophon was here, many of the issues were canvassed by him in innumerable private members' motions or bills that he moved in this chamber.

I want to say at the outset that I outline my general position regarding gaming machines as I did on one previous occasion, I think six or seven years ago, when we debated the 3,000 cut in the number of gaming machines trumpeted by the still Premier—for the moment anyway—Mr Rann. I said then, and I say it again today, that in 1992 I supported the introduction of gaming machines in South Australia, and I indicate again that I support the option of gaming machines in this state. If the vote was to be had again today in relation to whether or not they should be introduced, my vote would be exactly the same now as it was in 1992.

My view has been that I acknowledge very strongly, as I think everyone does, that a small number of people in South Australia—1 or 2 per cent is the estimate—are problem gamblers, and not just problem gamblers in relation to poker machines: they are problem gamblers in relation to either this form of gambling or indeed some other form. However, 98 or 99 per cent of people who use gaming machines do so happily without any damage to themselves, their families, their friends or their acquaintances. They enjoy the recreation of investing their money in gaming machines.

I know that the forelock tuggers, the politically correct, take the view that no-one should stand up and defend the industry, gaming machines or the option of those who want to gamble to be able to gamble, or indeed be seen in any way to have the same view as the view of those the Premier would refer to as the 'pokie barons' in South Australia. I do note that he himself supported the introduction of gaming machines in South Australia. So, I do not remove myself or cringe at the notion that I supported gaming machines in South Australia and continue to do so.

Those 98 or 99 per cent who do invest their money in gaming machines without being problem gamblers are making conscious decisions to spend their money in the way that they so choose. In exactly the same way that I might choose to spend $50 or $100, or whatever it is, to go to a restaurant, or someone spends $50 or $100 dollars to take themselves and their family to the Crows to see a football game, or to go and see the Sixers play basketball, or whatever it might be, it is a conscious decision by them. There are those in the community who spend $170 to go to the Big Day Out as a form of recreation, particularly many of our young in the community.

They are the conscious decisions of young people, or others, to spend their dollars in the way that they so choose which gives them pleasure and enjoyment. In my view, there is nothing wrong with that. If somebody chooses to spend their money, whether it be on a gaming machine or on sports betting, which I will speak to in a moment, or on any other form of gambling, that is a decision for them. The concern is for the 1 or 2 per cent who are problem gamblers, who create problems not only for themselves but their families, friends and acquaintances as a result of not being able to manage their gambling problem.

The media, of course, feed on this, together with the views of some members of parliament. Every few months, we see massive losses on gaming machines being incurred by individuals or those in the community. It is indeed correct to say that they are losses but, in the same way, as I said, if someone who is not having a problem with gambling decides to spend $50 of their money on a gambling pursuit such as a gaming machine, equally that person, if they do not have an addiction, can spend that same $50 on going to the football or cricket, or going to a concert or whatever it might happen to be.

In the end, they still do not have the $50. In the end, they have had a recreational pursuit for a number of hours. In the end, they have enjoyed it, but it is their decision as to how they spend their money, in my humble view. But, of course, we do not portray the millions that are spent on concerts, or going to the football, cricket or whatever else it might happen to be, as losses. It therefore does not translate into headlines in newspapers and, of course, with politicians and

others, particularly from the self-titled concerned sector—that is now the jargon that is being used by many within the industry.

I must note a leading spokesperson from the hotel industry on one occasion referred jokingly to this notion that the welfare sector had labelled themselves as the concerned sector, and said that what we have in South Australia is the concerned sector and the very bloody concerned sector, referring to the hotel industry and the impact of some of the proposed changes from those in the so-called concerned sector on the hotel, tourism and hospitality industries.

So, I do not subscribe to the view that the only people concerned about this issue are those self-titled in the welfare sector who take upon themselves the title of the concerned sector in some way, so that we have the goodies in one corner, which are the concerned sector, and the baddies in the other corner, labelled by the Premier and others as pokie barons, wearing the black hat, as opposed to those in the welfare sector who are wearing the white hat.

There are people of good intentions on both sides of this particular debate and argument, and I think it would be sensible to listen to sensible people on both sides of the argument. Certainly, on this issue, it is important not just to accept one side of the argument on all occasions.

Later on in my contribution I will refer to the fact that, whilst I am an open supporter of gaming machines in South Australia, I do not always agree with the positions of the hotel industry. One example I will refer to later is the fearful lobby we had back in 2004 to support putting a $50,000 cap on the value of gaming machines. That was strongly supported by the AHA and other industry advocates at the time. As I will refer to later, that was enough to convince some people to support what I believed and argued at the time was very bad policy and I strongly opposed it.

I only give that as an example for those who might say that, because I take the view that gaming machines are a valid option and one which should be supported by those prepared not to be amongst the politically correct in this community and to stand up and speak out, on occasions we will be labelled as being in the pockets of the hotel industry.

As I will outline later on, whilst on most occasions I probably have agreed with the hotel industry on some key issues such as, in particular, the $50,000 cap on the value of gaming machines—which is now one of the reasons why we have this legislation before us—I strongly opposed the views of the hotel industry at that particular time. As I said, I will talk about that later on in my contribution.

I wanted to make those introductory remarks in relation to this because I think this has, for too long, been a one-sided debate. It is just so easy for everyone to line up to belt hell out of those in the industry who have provided options through gaming machines. There is very little ever talked about in relation to the massive increase in investment that has occurred within the hotel and hospitality industry in South Australia in the last almost 20 years as a result of a decision that was taken back in 1992.

Whilst I accept and continue to accept that there needs to be ongoing debate about how we tackle the 1 to 2 per cent of people who are problem gamblers in South Australia, too often in the past—and, again, I think we see it in this particular legislation—we see tokenism from the government and from the parliament in relation to being seen to be doing something about problem gamblers. In many cases the decisions that have been taken will have no impact on problem gamblers at all.

The next issue I want to address at the outset is that of the ability of members to vote according to their conscience on gambling issues. It would appear that Liberal members and minor party and Independent members in both houses of parliament will have a conscience vote on these issues. However, as I understand it, the government has, on this occasion, decided that there will be no conscience vote for its members.

One of the problems with the Premier and the government is that they think that people have very short memories and cannot remember as far back as just six years ago and February 2004. A press release issued by the Hon. Mr Rann and the Hon. Mr Weatherill of 16 February 2004 stated:

> Rann calls for reduction of poker machines by 3,000. Premier Mike Rann has today taken the challenge up to every MP to support legislation to be introduced into parliament that will result in 3,000 poker machines being taken out of pubs and clubs across the state.

I will return to the release later on, but in that case he states:

It is on that basis that I am supporting this legislation; it will be a conscience vote of the parliament.

The Premier was pursued by the media on this issue of a conscience vote. An article by Leanne Craig in *The Advertiser* on 17 February, under the heading '3,000 pokies to be axed', states:

Mr Rann said the existing freeze on poker machine numbers, due to expire on May 31, would be extended to cover the transition period before changes were made. 'I'm extending the freeze and then I'm going to rip out 3,000 machines out of the system and I'm confident of getting support on that from members of parliament,' Mr Rann said.

He said poker machines had been a conscience issue 'for time immemorial' and making it a vote along party lines would have necessitated changes to Labor Party rules. 'I'll be speaking individually to every MP—Labor, Liberal and Independent—urging them to support my position,' Mr Rann said.

This is the Premier, in 2004, saying that poker machines for the Labor Party 'for time immemorial' had been a conscience issue and that making it a vote along party lines 'would have necessitated changes to Labor Party rules'.

My question to the minister handling the bill in this place is that, given the Premier's statement that this is a conscience issue for time immemorial—the issue of poker machines—and that, for it to be a party vote, there would have to be changes to Labor Party rules, what has actually occurred between 2004 and 2010? My sources within the Labor Party indicate that they are unaware of any changes to Labor Party rules.

It is fair to say that there are not too many sources within the Labor Party these days who are openly or privately supportive of the current Premier and who are happily preparing for a transition to—

**The PRESIDENT:** The Hon. Mr Lucas should stick to the bill.

**The Hon. R.I. LUCAS:** I am, Mr President, and I am asking this question whether or not this is a conscience vote for Labor members. Indeed, Mr President, as one of the senior statespersons of the Labor Party and someone who, for example, would have an interest in this issue, you may be well aware of the situation, but we on this side of the chamber would be interested to know what, if anything, has actually changed in the last six years. Or, Mr President, did the Premier not tell the truth in 2004 in relation to the issue of conscience votes for Labor Party members on gaming machines or pokies legislation?

There are certainly widely differing views within the Labor Party on the issue of gaming machines and the appropriate way of tackling problem gambling; yet, if it is a party vote, those wildly differing views will not be able to be expressed in the parliament, whereas in the Liberal Party you will see wildly differing views on gaming machines from those expressed by people like myself, supporting gaming machines, to those expressed by others who have an opposite view.

*Members interjecting:*

**The Hon. R.I. LUCAS:** I will not take up the challenge being thrown to me by my colleagues. We have wildly differing views and we are prepared to acknowledge those views and respect the differing positions that members might put, and we can argue the case as best we see it. I think that is an important issue as we countenance whether or not we are going to get sensible legislation on gaming machine matters.

The next point I address again comes back to this issue of problem gamblers and gaming machines; that is, in relation to problem gamblers, the entire focus seems to be on the issues of gaming machines, the pokie barons and attacking gaming machines, yet there seems to be some blissful ignorance from many in the community as to what is going on in the real world in relation to gambling issues at the moment. I turn to the issue of sports betting at the moment. One of the reasons for seeking leave to conclude is that I am still trying to get some further information on the massive growth in sports betting not only in South Australia but in Australia as well, and not just sports betting but gambling options such as online poker, for example.

I want to outline some of the options and the ease of those options for people in the community as opposed to the massive controls and the focus that we have on gaming machines in certain specified establishments. Members in this chamber who have an iPhone can download an application from any number of gambling providers such as Sportsbet, and using their iPhone and that app they can join or register with an online gambling provider, and as they sit here in this chamber they can happily online bet on any number of sports betting options whether it be football, cricket or tennis. For instance, the options that we have seen in relation to one-day cricket scandals

overseas of whether or not a Pakistani bowler is going to bowl a no ball on the sixth ball of a particular over.

Extraordinary options in terms of betting are currently available and all of them available from your iPhone as you sit in this chamber, your office or in the privacy of your home. All those massive betting and gambling options are currently available and are growing at a massive rate.

Of course, the focus of the concerned sector, politicians, the media and others is on the pokie barons, the people who are acting under the legislation passed by this parliament (or previous versions of this parliament) in distinct locations and being governed by rules and regulations that apply to those particular establishments. At the same time, we have this massive explosion in gambling opportunities going on around us. As I said, I think many people are just blissfully unaware.

You can certainly sit at home and do it through your computer. You can have it transferred through your wide-screen at home in terms of racing and various other options, or, as I said, you can do it through your iPhone app in the privacy of where you happen to be at any time. At the same time through your iPhone, you can sign up to any number of online poker games throughout Australia or around the world. On your iPhone, you can just sign up to any online poker game and play the game around the world with anyone you want.

With these options, certainly with the online poker games that are available and others—and certainly a number of the gambling sites as well, I understand—you can bet not only the money that you put into your account but you can transfer money from a credit card into your gambling account with the betting agency, the online poker school or whatever it happens to be, and, at the same time, you can bet using your savings account equivalent or your credit account equivalent as well. That is the real world.

In outlining just some of those options, I do not do so on the basis of saying that therefore we should not do anything about poker machines or gaming machines. What I am trying to argue in this place is that, for once, let's get a bit of balance into this whole debate. As I have said, and I will return to this again in a moment, in relation to some of the tokenism we have seen on some of the supposed changes which are supposed to assist problem gamblers in hotels, clubs and the casino in South Australia as it relates to gaming machines, it is just that: tokenism.

What we have to do is tackle the problem of the 1 or 2 per cent who are problem gamblers. If we are going to have problem gamblers as a result of online poker, gaming machines, sports betting, the races or the dogs, or whatever it is, we need to be providing more and more counselling and more and more targeted assistance for those people, however we can identify them.

To have this focus almost completely on the pokie barons and the gaming machine establishments, I think misses the reality of what is going on in gambling in South Australia. As we know, more and more young people of school age are playing online poker. With ESPN and various other pay TV-provided options, the popularity of poker in terms of the ratings of those shows is just enormous. The interest of many, many young people is not in the traditional forms of gambling, such as pokie machines, the horses and the races, but in the newer forms of gambling, such as online poker and sports betting (exotic sports betting, in particular) through their iPhone apps and others. That is where all of this has headed—it is happening now—in relation to the issues.

So, whatever the form of gambling addiction, the target has to be to somehow provide more assistance to the 1 or 2 per cent and leave alone the 98 per cent who have made a conscious decision to invest their hard-earned money in whatever recreational pursuit it is they have chosen to follow.

We are going to see not only this debate now but also, as a result of the federal government having to do deals with gambling-oriented Independents at the national level, the impact of some of those potential changes in South Australia—commitments the Prime Minister has given various Independents at the national level to use federal powers to impose their views on gambling on the states because they do not mirror the deals that have been done with the Independents at the national level, and threats to apply the corporations powers at the state level.

If they choose to do that, there are a number of innovative ways in which business proprietors in the state are already looking at to prepare themselves to ensure they are beyond the purview of corporations powers, and it will still be an issue for state legislators such as us.

In relation to the issue of the tokenism of some of the changes that have been made, if we go back to one of the reasons we have this legislation before us, we see that it was the chest thumping and tub thumping by premier Rann on 16 February 2004 and afterwards about the government being seen to be doing something about cutting gaming machine numbers in South Australia and there was a commitment to cut by 3,000 the number of gaming machines in South Australia from approximately 15,000 to 12,000.

As I argued at the time, and I repeat the argument today, there was precious little evidence given by premier Rann or the supporters that the 3,000 cut would do anything in relation to reducing problem gambling in South Australia. At the time, I spoke against the second reading and said that I opposed the bill; I believed it to be political tokenism, and I still think that is the case.

At that time, we quoted the Treasury estimates in 2004 of future gaming machine revenue. The parliamentary debates in 2004 show that Treasury was predicting that gaming machine revenue would continue to increase even with the passage of the legislation to cut gaming machine numbers by 3,000, and that the only significant decline would potentially occur in 2007-08 when the impact of the smoking bans was felt in hotels and clubs in South Australia.

When I next speak on the bill I hope to have the actual gaming machine collections compared with the estimates that were done in 2004-05 to incorporate in *Hansard* to indicate what the practical impact was. What I have been provided with in the interim, and I seek to leave to have this inserted in *Hansard* without my reading it, is a purely statistical table on monthly gaming machine net gambling revenue in millions of dollars.

Leave granted.

Monthly Gaming Machine NGR in $millions

| | July | Aug | Sept | Oct | Nov | Dec | Jan | Feb | Mar | April | May | June |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2002-03 | 54.73 | 58.42 | 53.91 | 57.83 | 54.91 | 55.71 | 54.79 | 50.69 | 56.2 | 56.3 | 60.2 | 55.39 |
| 2003-04 | 59.67 | 61.88 | 58.13 | 63.56 | 57.97 | 60.42 | 60.32 | 55.36 | 60.8 | 60.64 | 61.82 | 63.03 |
| 2004-05 | 66.81 | 65.32 | 65.4 | 65.35 | 61.72 | 63.17 | 60.23 | 59.21 | 60.87 | 60.85 | 61.71 | 61.61 |
| 2005-06 | 63.5 | 65.93 | 64.39 | 65.14 | 61.5 | 63.96 | 59.83 | 56.25 | 63.53 | 61.28 | 62.82 | 62.9 |
| 2006-07 | 67.28 | 70.78 | 67 | 66.61 | 65.6 | 66.73 | 63.9 | 58.606 | 69.141 | 63.794 | 67.626 | 67.767 |
| 2007-08 | 71.81 | 76.21 | 70.6 | 72.1 | 59.7 | 60.1 | 58.3 | 56.5 | 57.43 | 59.52 | 61.37 | 59.56 |
| 2008-09 | 66.24 | 67.72 | 60.85 | 64.86 | 60.94 | 68.5 | 60.7 | 54.5 | 63.3 | 61.82 | 64.31 | 60.78 |
| 2009-10 | 67.08 | 66.1 | 61.51 | 64.55 | 57.71 | 60.28 | 58.91 | 53.94 | 60.33 | 59.57 | 60.52 | 58.85 |
| 2010-11 | 67.91 | 68.5 | 65.32 | | | | | | | | | |

post smoking ban

source: OLGC/IGC

**The Hon. R.I. LUCAS:** *Hansard* will not show up the highlights in colour, but it shows, on a monthly basis since 2002-03, gaming machine net gambling revenue in millions of dollars. The first month post the smoking ban is November 2007. If one looks at the month of July from 2004-05, which was just before the passage of this legislation, the monthly gaming revenue shows $66.8 million, $63.5 million in 2005-06, $67.2 million in 2006-07, and $71.8 million in 2007-08. For the months of July, August, September and October, they all show the maintenance of NGR or, indeed, the increase of NGR.

It was only when the smoking bans came in in November 2007 that, from October, it dropped from $72.1 million down to $59.7 million and then stabilised in the 50s and 60s for the rest of that particular year. The table will show that the monthly NGRs have slowly increased again but are now still a little below the level existing before the introduction of the smoking ban.

The table shows that the passage of the cut in the number of gaming machines, as it turned out, at around 2,200, or not quite the 3,000, had virtually no impact at all on NGR, or gaming machine revenue, being collected by the state of South Australia, as many of us highlighted at the time. For example, in the hotels with 40 machines that ended up with 32 machines, those machines were generating as much revenue as the 40 were generating originally.

Only in very few establishments with 40 machines will all those machines be used, and the 32 machines were generating the same revenue as, or more than, the 40 machines. The Premier knew that, and those who were supporting the cut knew that, because that was the professional advice given at the time from Treasury and others.

However, political tokenism meant that they had to be seen to be doing something. It guaranteed a headline for the Premier and government before the 2006 election, and those who doubted whether it would work would not be proved correct until years later, certainly after the 2006 election, and of course that was all that worried the Premier and those who were supporting him.

So we had this massive over-promising and massive under-deliverance of the objectives of the legislation by the Premier and the government. A significant part of that whole debate was this issue of whether or not there should be a cap on the value of the gaming machines in terms of their sale. The then minister handling the bill, the Hon. Mr Wright, back in 2004 said that the initial discussions and proposals for the operation of the gaming machine entitlement trading market focused on an open market option approach. Then he indicated that the government had changed its position, so it introduced a bill with an open market trading option in it.

Then it introduced amendments to its own legislation because the AHA and others convinced the government that there should be a $50,000 cap or fixed price put on the trading of gaming machines. The government said (and Mr Wright was representing the government) that this new process with the $50,000 cap was a sensible way to go, would provide greater equity, would make the trading process simpler, and was a sensible way to approach the trading market. A very strong case had been made by the Hotels Association and the welfare sector supported this. Then he said, 'So I think members can be confident that this will work.' He went on to say:

> It makes it simpler and it is a good thing. Members can be confident that it will provide not only certainty but also incentive, which is important for those thinking of trading out, so that we can get fewer venues. I recommend this to members with some confidence.

That was the Rann government's position in relation to the $50,000 cap.

As some will remember, I argued in this chamber that that was an absurdity. It made no sense at all. Anyone who understands the operations of the private sector realised at that time that, if you own a gaming machine licence which in other states was selling for $100,000 or $150,000—in some rare cases up to $200,000—why would you sell a gaming machine entitlement for $50,000? It made no sense at all. That was indeed what happened, and for the last six years we have had a situation where the government, the Premier, has been unable to deliver on his 3,000 cut commitment because the reality of the private sector, the industry, was that no one was prepared to sell at the $50,000 limit.

In 2004 in this chamber I moved an amendment in committee to, in essence, get rid of the $50,000 cap and return it to the original intention, namely, to get rid of the $50,000 cap and have an open market trade for gaming machines and their value. The *Hansard* shows that that amendment was defeated 12 to seven. I note that it is probably not a good sign that of the eight members (with the pair) who voted for that bill, there is only one member still left in this chamber, and that is me.

The other seven members who voted for the legislation have all either been defeated or retired, or have left this chamber for a variety of reasons. It was one rare occasion, which I think horrified the Hon. Mr Xenophon; when he voted with me on a gaming machine matter and supported me on this issue, because he recognised the reality that the $50,000 cap was not going to work and would not achieve the 3,000 cut in gaming machine entitlements.

I note that, whilst I am the only member of the eight left in this chamber, the survival rate for those who opposed my amendment was much better: nine out of 13. Nine out of 13 still remain in this chamber today, so there is obviously a lesson there, that supporting me and my amendments is not good for your political survival. Opposing my amendment was obviously good for political survival.

There was a long debate on that particular occasion and, as I said, the numbers were relatively close, a vote of 13 to nine. It would only have required three members to change their position on it to have defeated that provision in 2004. But, of course, the legislation that we have now, finally, after six years and two elections, recognises the absurdity of the proposition that was being put, recognises the reality of the situation and gets rid of the $50,000 cap. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

## CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (EXEMPTIONS AND APPROVALS) AMENDMENT BILL

Adjourned debate on second reading.

**The Hon. S.G. WADE (17:52):** I rise to speak on behalf of the opposition in relation to the classification bill. On 15 September the Attorney-General introduced a bill in the other place to amend the Classification (Publications, Films and Computer Games) Act 1995. The National Classification Scheme is a joint commonwealth, state and territory legislative and administrative scheme, under which publications, films and computer games are classified and their advertising, sale, demonstration and exhibition regulated.

Unlike other jurisdictions, South Australia maintains a separate classification regime that can, if triggered, classify publications, films and computer games independently of the commonwealth classification and Classification Review Board. That separate regime was a source of pride for the former attorney-general, Mr Atkinson.

In South Australia the power to grant exemptions and approve organisations is conferred on the minister. All other states and territories except Queensland confer the power to grant exemptions and approve organisations on the director of the classification board, either alone or concurrently with the minister.

Queensland has amended its legislation to confer the power on the director and the minister concurrently, but I understand these amendments are yet to commence. The government argues that there are several advantages in having the director of the classification board make exemption and approval decisions. The government argues that the director has the relevant expertise and resources to properly assess films, publications and computer games, and those organisations seeking approval. The government also argues that the decisions will be more consistent.

This bill amends the South Australian act to confer the power to grant exemptions and approve organisations on the national director. The minister, it is proposed, will retain the power to grant exemptions and approve organisations.

New section 79B makes clear that the minister may refer an application to the director for consideration, and new section 79C provides that a decision made or approval given by the national director may either on application or on the minister's own initiative be revoked by the minister if the minister considers that it is not appropriate that the direction be made or the approval given. The measure provides for the requirements of an application made to the minister under the section.

This is not a simple expansion of options. It also places significant obstacles in the path of applicants who choose to approach the minister. The bill is clearly structured not only to provide for the national director to exercise powers under the state act but in fact to encourage people to go to the national director rather than to the minister.

Applications to the minister would need to be lodged 60 days in advance, whereas there is no time limit with the national director. Applications to the minister would need to be in writing and accompanied by specified information, whereas there is no requirement with the national director. Applications to the minister will be subject to fees and there are no fees in relation to an application to the national director.

The opposition accepts the government's argument to allow South Australians to engage the national director but we note that the government is not seeking to remove the minister from the process. The government proposes to maintain that concurrent power. The opposition amendments filed in my name, and foreshadowed in the other place, insist that if the power is to be concurrent in name it should be concurrent in practice also. South Australians should be able to access the processes through the minister on the same basis as through the national director. The opposition amendments seek to restore level pathways—the pathway to the minister and the pathway to the national director.

If the minister wants to withdraw from the process, let the government put such a bill before this place and we can discuss that option, but to do it by stealth is not appropriate. The opposition will be moving amendments and seeks the support of the council to provide South Australians with more options, without barriers to taking up those options.

Debate adjourned on motion of Hon. Carmel Zollo.

At 17:57 the council adjourned until Wednesday 10 November 2010 at 11:00.