LEGISLATIVE COUNCIL

Tuesday 17 May 2011

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:18 and read prayers.

RAIL SAFETY (SAFETY COORDINATION) AMENDMENT BILL

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO—PENALTIES) BILL

His Excellency the Governor assented to the bill.

SUPPLY BILL

His Excellency the Governor assented to the bill.

PAPERS

The following papers were laid on the table:

By the Minister for Regional Development (Hon. G.E. Gago)—

Regulations under the following Acts—
- Adelaide Festival Centre Trust Act 1971—Authorised Officer
- Art Gallery Act 1939—General
- Carrick Hill Trust Act 1985—General
- Environment Protection Act 1993—Authorisation Fees
- History Trust of South Australia Act 1981—Authorised Officer
- Libraries Act 1982—General
- Public Corporations Act 1993—
  - Adelaide Film Festival
  - Australian Children's Performing Arts Company
- South Australian Museum Act 1976—General
- State Opera of South Australia Act 1976—Revocation
- State Theatre Company of South Australia Act 1972—Revocation

Rules of Court—
- Magistrates Court—Magistrates Court Act 1991—
  - Civil—Amendment No. 36
  - Practitioners Education and Admission Council—Legal Practitioners Act 1981—Amendment No. 6

Determination of the Remuneration Tribunal No. 1 of 2011—Ministers of the Crown and Officers and Members of Parliament

Determination of the Remuneration Tribunal No. 2 of 2011—Travelling and Accommodation Allowances

Determination of the Remuneration Tribunal No. 3 of 2011—Conveyance Allowance

Determination of the Remuneration Tribunal No. 4 of 2011—Members of the Judiciary, Members of the Industrial Relations Commission, the State Coroner, Commissioners of the Environment, Resources and Development Court

Road Block Authorisations made by Police pursuant to Section 74B(9) of the Summary Offences Act 1953 for the period 1 January 2011—31 March 2011

SOCIAL DEVELOPMENT COMMITTEE

The Hon. I.K. HUNTER (14:22): I bring up the report of the committee on an inquiry into same-sex parenting.

Report received and ordered to be published.

EASLING JUDGEMENT COSTS

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:23): I table a copy of a statement relating to a default judgement made today in another place by the Hon. Jennifer Rankine.

OLYMPIC DAM

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:23): I table a copy of a ministerial statement relating to BHP Billiton's supplementary EIS made today in another place by the Premier, the Hon. Mike Rann.

GOVERNMENT APPOINTMENTS

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:24): I table a copy of a ministerial statement relating to appointments made today in another place by the Premier, the Hon. Mike Rann.

QUESTION TIME

REGIONAL DEVELOPMENT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:25): I seek leave to make a brief explanation before asking the Leader of the Government, the Minister for Regional Development, a question about regional development.

Leave granted.

The Hon. D.W. RIDGWAY: In mid-2010, with great fanfare, the federal Treasurer (Hon. Wayne Swan) who is, incidentally, the Hon. Gail Gago's Labor mate in Canberra, announced the establishment of the Regional Infrastructure Fund. The fund, we were promised, would:

> ...promote development and job creation in mining communities, and in communities which support the mining sector, provide a clear benefit to Australia's economic development and to investment in Australia's resource or export capacity and address potential capacity constraints arising from export production and resource projects.

Now, less than 12 months later, we find that the Prime Minister (Julia Gillard), also a friend and a mate of the leader opposite, has announced cuts of almost 50 per cent to the Regional Infrastructure Fund and further cuts also to the Building Better Regional Cities program. Some $450 million will be cut from the regional programs.

South Australians discovered in last Tuesday's federal budget that none of the projects that are to be funded out of this fund are in South Australia. In fact, more than half of the $916 million fund will be used to upgrade the arterial road network around the Perth Airport. Mr President, I am sure you have been to Perth and you would know that it is not exactly in the regions. In fact, it is only 15 kilometres from the capital city CBD. My questions to the minister are:

1. Have the guidelines for this fund changed?

2. What regional South Australian projects—

The Hon. P. Holloway: Why don't you read Simon Crean's answer? It's been well publicised: even I've read it.

The Hon. D.W. RIDGWAY: You're not the minister any more so just sit back and take your medicine.

2. What regional South Australian projects has this minister fought for?

3. Why are there no regional projects in South Australia?

4. Can the minister give this house a guarantee that she will not sanction the money from the Regional Infrastructure Fund being used for CBD projects in Adelaide, such as the redevelopment of Victoria Square, at the expense of regional South Australia?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:27): I thank the honourable member for his important questions. Indeed, I was very pleased to see the very impressive federal budget that has recently been handed down. I commend the Australian government for its commitment to encouraging more people in jobs and better targeted investment in skill development and training.

The federal budget also brings $3 billion in investment over six years in skilling Australia's workforce. There will also be a package of reforms to ensure that more people have the opportunity to engage in the workforce. In addition, I am sure that South Australia will indeed get its share of the $101 million national mentoring program to help 40,000 apprentices finish training and better meet the needs of industry and regions. In terms of infrastructure, South Australia has received a commitment to continue work on major projects for the state, including the South Road Superway, modernising and electrifying the Gawler rail line and extending the rail line from Noarlunga to Seaford.

After Mike Rann put mental health on the national agenda—an agenda that I helped contribute to as well in my former role as minister for mental health—it has been highlighted by South Australia, and the federal government has also delivered a $2.2 billion boost to mental health. We know that mental health has been an area that has obviously been neglected for too long, and I was very pleased to see those initiatives. Obviously, those moneys will also complement the commitments already made here in South Australia to mental health.

In terms of some of the specific regional commitments, country areas have been big winners with the government committing $4.3 billion to regional hospitals, health care, universities and roads. Country health has also been boosted with South Australia receiving $87 million. There is some good news for South Australian roads, with $55 million to upgrade the Sturt Highway.

Other regional budget highlights include an additional $51.1 million over the next three years in supplementary funding for local roads—and, again, that is an area I had personally lobbied for; $80 million for continuing targeted safety upgrades along the Dukes Highway, including additional overtaking lanes and rest stops; $4.7 million to eliminate another 25 dangerous blackspots on South Australian local roads; a regional loading for universities; a continued rollout of the national broadband network; an additional $9.6 million across Australia in 2011-12 to support farmers through re-establishment assistance for primary producers; and $19.1 million over three years for 34 education, skills and job coordinators to be deployed in regional communities across the country.

These are just a few of the initiatives and, as we can see, there is a remarkable commitment to regional Australia and South Australia, particularly in light of the very strict fiscal parameters around the budget, with very difficult decisions having been made. I believe that regional Australia and South Australia have done very well out of this budget and these commitments. It is important that we look at these commitments in terms of the overall package, and we can see here that the federal government is indeed committed to regional Australia and regional South Australia. I commend the Australian government for its commitment.

REGIONAL DEVELOPMENT

The PRESIDENT: The Hon. Mr Ridgway has a supplementary question.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:32): Because she failed to answer, Mr President. Does the minister support the federal Regional Infrastructure Fund being used to upgrade Victoria Square in the middle of Adelaide's CBD?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:32): There are wide parameters around these funds. All projects need to be considered on a case-by-case basis. Our priority, of course, is the regions. Adelaide has been made an RDA under the federal regional structure, and it was invited by the federal government to include proposals in its bid for that infrastructure money and, as a region, it is entitled to do so. However, the consideration of those proposals will be made by the federal government, and I am sure that it will consider all the priorities throughout regional South Australia and Australia in a very fair and balanced way. I am very confident that the decisions made will be fair and balanced.

POLICE MINISTER, ASSAULT

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:33): I table a copy of a ministerial statement relating to court proceedings made earlier today in another place by my colleague the Hon. Kevin Foley.

EVIDENCE ACT REVIEW

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:34): I table a copy of a ministerial statement relating to suppression orders made earlier today in another place by my colleague the Hon. John Rau.

QUESTION TIME

HOME INSULATION SCHEME

The Hon. J.M.A. LENSINK (14:34): I seek leave to make an explanation before asking the Minister for Consumer Affairs a question about home insulation.

Leave granted.

The Hon. J.M.A. LENSINK: In responding to questions in this place previously on this issue, the minister stated that 'OCBA commenced a fairly significant compliance campaign in July 2009'. The minister went on to say:

> Any consumers who have any safety concerns about their insulation to contact the Office of Consumer and Business Affairs so that it can outline the steps they need to take in order to ensure their homes are safe.

A recent report in *The Advertiser* stated that over 17,000 South Australian homes had been fitted with installation under this scheme by unlicensed installers and just 686 inspections carried out. The federal government's climate change and energy efficiency department shows that just 64 calls from South Australians have been made to its safety hotline. My questions are:

1. Have all unlicensed operators who carried out that work on the 17,339 homes in South Australia been investigated?

2. How many calls has OCBA received from consumers affected by the installation scheme, and what has been the outcome?

3. Does the minister hold any concerns for the safety of South Australians who have had insulation installed under the scheme?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:35): I thank the honourable member for her questions. I have been advised that inspections are carried out by the Department of Climate Change and Energy Efficiency's (DCCEE) safety inspection program. Obviously, this is a commonwealth scheme, and guidelines for those inspections are set by them. I am advised that in South Australia approximately 2,000 safety inspections have been undertaken as at 23 December; I think it was reported as something like 680-odd, which was completely incorrect. I have been advised that it was in fact 2,000.

It should be pointed out that safety inspections of many of the unlicensed installers have not revealed significant installation safety issues. It is further advised that the DCCEE hotline has, in fact, received only 64 calls from South Australian consumers with safety concerns about unlicensed work, so there does not appear to be a lot of public concern out there. Obviously, these are matters for the DCCEE to respond to under its funded safety inspection program; it is that department's responsibility.

I have been advised that four media releases have been issued since April 2009 warning consumers about safety-related installation matters and of the need to use licensed installers. OCBA has also continued to make information about installation available on its website, including information about how to find a licensed installer. The OCBA website also has the DCCEE insulation hotline prominently displayed on the main page to highlight those safety concerns.

The scheme for inspection of the homes insulated was, as I said, conducted by the commonwealth. For homes that were insulated, it was required that the installer complete a form and hand that to the commonwealth for rebate. That data was checked against South Australian data to identify how many installations were made by unlicensed installers, and the commonwealth has made that information—for which it was responsible—available to OCBA only recently. Therefore, the information we have is still incomplete. We have requested detailed information from the commonwealth in respect of that information but, because of the incomplete nature of the

information the commonwealth has handed on to us, we do not have any further details other than what I have reported in the house today.

HOME INSULATION SCHEME

The Hon. J.M.A. LENSINK (14:39): I have a supplementary question. When does the minister expect to get that information from the commonwealth?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:39): I understand that the commonwealth has not advised when that information will be available. We have asked for it to be given to us expeditiously, and I am confident that the commonwealth government will accede to our request.

INTERNATIONAL DAY AGAINST HOMOPHOBIA

The Hon. S.G. WADE (14:39): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question relating to discrimination.

Leave granted.

The Hon. S.G. WADE: Today is IDAHO, the International Day Against Homophobia. The Hon. Ian Hunter reminded this council recently that a 2010 La Trobe University study of 3,134 young people found a significant jump in homophobic violence in schools since 2005. The research also found a strong link between homophobic abuse and higher levels of self-harm and suicide. While young people aged between 15 and 24 are the highest risk bracket for suicide, if they are same-sex attracted the risk increases fourfold.

In the context of a need for support for this group, the Hon. Ian Hunter advised this council of his concern that South Australia's only stand-alone support program for LGBT youth, the Inside Out project, is threatened by this government. The government has decided to cut the Inside Out project's Friday night drop-in sessions and peer education training. In a report in *blaze*, Alex Durkin writes that workers say that the moves afoot would see:

> A change in the definition of a client's vulnerability: sexuality would no longer be taken into consideration when defining someone as vulnerable.

The Chief Executive Officer of the AIDS Council of South Australia, Mr Dinnison, was quoted as saying:

> GLBTI people in South Australia are all but invisible within public health policy in South Australia. Specific programs are needed to ensure that young gay, same-sex attracted and gender diverse people get the services they need.

I would note, in this context, that the Rann Labor government has already abolished the ministerial advisory council on gay health issues. I ask the minister:

1. As the minister responsible for the anti-discrimination legislation, does she consider that it is discriminatory to provide generic services which do not take into account distinctive vulnerabilities?

2. Will the minister act to ensure that any changes to support services to gay young people take into account their particular needs?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:41): I thank the honourable member for his most important question. Indeed, the issue of homophobia is unfortunately still alive and well in our community, and it is something that does indeed have considerable devastating consequences for our community. We know that, for those people who suffer this sort of discrimination, this can affect their health and wellbeing in a very significant way. We know that it can result in anxiety and depression, self-harm and, most importantly, even suicide.

This government is very committed to providing a wide range of support services to assist in promoting anti-discrimination, and we have very strong anti-discrimination legislation that deals with these matters. In relation to the specific services the honourable member refers to, they are obviously a matter for the Attorney-General, and I am happy to refer those to the Attorney-General and bring back a response.

The Hon. I.K. Hunter: And the Minister for Health.

The Hon. G.E. GAGO: Yes, I was just going on to say that the Attorney-General is, in fact, responsible for broad aspects of the Equal Opportunity Act and, of course, the Minister for Health is responsible for health, safety and wellbeing programs, so he has responsibilities there. I will refer the relevant matters to those ministers in another place and bring back a response.

HORSERACING

The Hon. P. HOLLOWAY (14:44): I seek leave to make a brief explanation before asking the Minister for Regional Development a question.

Leave granted.

The Hon. P. HOLLOWAY: Each regional area has developed its own strengths and economic opportunities, whether because of a soil type or climate which is suited to a particular crop, or because of population size or geographical location. Communities, as well as developing around economic opportunities, are often identified and strengthened by their recreation and sporting clubs, and we would have all seen the intense interest and rivalry between neighbouring towns in football and netball competitions.

Another part of our rich history that we benefit from today is horseracing. The picnic and feature race days in some of our smaller communities are a great feature of regional South Australia and a tourism highlight, particularly for those of us, like you, Mr President, who appreciate equine activities. Horseracing is a wonderful sport, but few people are aware of the infrastructure which it needs to flourish. Will the minister advise the council how the government has helped make a new home in regional South Australia for this sport a reality?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:45): I thank the honourable member for his most important question. Indeed, horseracing is a really important part of our sporting landscape and has a long history in South Australia, with the first meetings of the turf club in South Australia being held, I have been told, in 1838. Of course, horses are an integral part of our rural and regional landscape, but horses need good training facilities to develop and hone their form and for jockeys to practise their trackwork.

During my recent visit to Murray Bridge, I took the opportunity to visit the site of the Murray Bridge Racing Club's proposed new racecourse and training centre at Brinkley Road, Murray Bridge to see for myself the work that has begun to be undertaken and also to have a look at their plans. I am pleased to announce today that I have approved a grant of $265,000 from the Regional Development Infrastructure Fund to assist the club with the costs of piping water from the Murray River for use in irrigation and to create on-site water storage facilities or holding tanks.

During my visit, I met with Mr John Buhagiar, Secretary/Manager of the Murray Bridge Racing Club, and the club's chairman, Mr Reg Nolan, to hear first hand their plans for the site. I am advised that the club's master plan is to construct a new racecourse, built to Australian best practice standards, as well as an equine training centre on the site, east of Gifford Hill and off Brinkley Road, Murray Bridge.

The planned project is set to include a 2,160-metre circumference, 30-metre wide grass racing track, a synthetic surface training track and a sand jog track, in addition to the grandstand, inclusive of corporate and hospitality facilities, members and committee facilities, a tavern, a betting ring and administrative areas. I understand that these tracks will make racing there more reliable, particularly when there have been bad weather events that might, under current circumstances, cause a race meet to be cancelled.

I am advised that the completed project will also feature a 100-hectare training estate, including stabling and specialised racehorse training facilities. I am advised that this project forms part of a longer-term strategy for Thoroughbred Racing South Australia to provide affordable facilities for trainers, in addition to attracting greater investment in racing in the local region. Indeed, this project ticks more than one box. I am advised that the development also contributes to the urban growth plan of the rural city of Murray Bridge, as well as complying with the 30-Year Plan for Greater Adelaide.

Members should be aware that increasing the prosperity and economic sustainability of regional communities through programs such as the Regional Development Infrastructure Fund is an important initiative and a commitment of this government. The RDIF supports critical regional infrastructure and allows eligible applicants to seek up to 50 per cent of a project's cost. The

purpose of the RDIF is to increase the prosperity of regional communities by facilitating infrastructure that supports sustainable economic development.

The Murray Bridge Racing Club project is part of a long-term strategy of thoroughbred racing, and it is obviously a very important investment in racing in terms of the local community. In this instance, the funding is for water infrastructure, which is needed to irrigate the racecourse and surrounds. The new facility is, I am advised, set to give a boost for racing in the area, and I understand that the Chairman of Thoroughbred Racing SA has forecast that the Murray Bridge Racing Club will host up to 26 race meetings each year and aims to attract over 30,000 people to its race days.

I congratulate the Murray Bridge Racing Club on its careful preparation and collaboration with The Rural City of Murray Bridge and Regional Development Australia, Murraylands and Riverland regional bodies, which have enabled this project to occur. I look forward to visiting the facility in the near future and watching its progress.

HORSERACING

The Hon. T.J. STEPHENS (14:50): Can the minister brief the house on whether there are any facilities for both training and racing regarding jumps racing, and would she give her views on jumps racing and its importance to regional racecourses in South Australia?

The PRESIDENT: You are asking the minister for an opinion. The minister will disregard that, but she can answer the rest of the question.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:51): I am not too sure exactly what the nub of the question was; it was a bit rambling.

An honourable member interjecting:

The Hon. G.E. GAGO: Yes, as most of his questions are. The Rann government has always maintained that jumps racing is an important facet of racing in South Australia. South Australia and Victoria are the only two jurisdictions which still conduct jumps racing, and both jurisdictions work very closely with each other to ensure the best possible safety outcomes are provided, not just for horses but also for jockeys.

I remind the council that the Liberal government corporatised the SA racing industry back in 2001. The effect of that was to remove any government interference in the day-to-day administration of the racing industry, including the programming of flat and jumps racing events. So, it was, in fact, a decision made by the previous Liberal government which means that the government of the day is not able to interfere in those specific decisions.

Thoroughbred Racing SA has a very clear responsibility to ensure that the environment is as safe as possible for both horses and jockeys. Any future decision about jumps racing in South Australia rests with Thoroughbred Racing South Australia, because, as I said, the former Liberal government made changes which ensured that the government of the day was not able to interfere in these matters.

HORSERACING

The Hon. T.J. STEPHENS (14:53): The minister said that she went to the course. I asked a very simple question: is there provision for jumps racing at that course for either racing or training? The minister went there, surely, given the topical—

The PRESIDENT: Order! No explanation. If you want to ask a separate question, that is fine.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:53): No, I am not aware of any jumps facilities at that particular racecourse. It was not discussed with me on the day. There was no reference to jumps racing and I saw no provision for jumps racing at that course.

HORSERACING

The Hon. T.A. FRANKS (14:53): I have a supplementary question. What level of safety does the government think is appropriate for deaths per starters in jumps racing in South Australia at these tracks?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:53): As I said, these are matters for Thoroughbred Racing SA. Any decision about the safety and future of jumps in South Australia is a matter for that sector. As I have said, the Liberal government corporatised the SA racing industry back in 2001, and the effect of that was to remove the government's ability to intervene in these matters and to affect the day-to-day administration of jumps racing, or racing, including the programming of flat and jumps racing events. This government has always maintained that the safety measures for both jockeys and horses should be the main priority of these events and, as I said, it is a matter for Thoroughbred Racing SA.

HORSERACING

The Hon. M. PARNELL (14:55): A further supplementary arising from the original answer: did the minister mean to tell this house that the government has no power to determine what types of races are appropriate, including no power under the animal welfare legislation?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:55): I am happy to refer these questions. They are matters for the Minister for Recreation, Sport and Racing. I have given a general outline. They are matters for the minister responsible for this—the Minister for Recreation, Sport and Racing. I am pleased to refer those detailed questions to that minister. There are animal welfare provisions that pertain to animal welfare and safety. They are the responsibility of the Minister for Environment and Conservation, and I am happy to refer those elements of the question to that minister.

INTERNATIONAL DAY AGAINST HOMOPHOBIA

The Hon. T.A. FRANKS (14:56): I seek leave to make a brief explanation before asking the minister representing the Minister for Health a question about the future of the Inside Out and Evolve programs.

Leave granted.

The Hon. T.A. FRANKS: Today is IDAHO, a day when we hope to raise awareness that homophobia still exists in this country and across the world but also to encourage people to be accepting and to eradicate homophobia. Yet, doubt exists over the future of the Inside Out program and the Evolve program, the state's only government-funded health programs for same-sex attracted youth. As we know, the statistics for same-sex attracted youth, in terms of attempted and completed suicide rates and discrimination that comes as a result of the stigma and homophobia of potentially being gay, are enormous.

Given the valuable work this program has done for some 21 years, will the government commit that, if it is unable to provide this service with peer education, group work, drop-ins and an empowering model that is not a mainstream, isolated counselling-only model, it will in fact hand this program over to the non-government sector?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:58): I will refer those questions to the Minister for Health in another place and bring back a response.

SERVICE SA

The Hon. CARMEL ZOLLO (14:57): I seek leave to make a brief explanation before asking the Minister for Government Enterprises a question about recent initiatives by Service SA.

Leave granted.

The Hon. CARMEL ZOLLO: As honourable members would know, Service SA is the state government's one-stop contact point for government information and services. Service SA offers choice and flexibility to its customers and provides access to government and related

services, information, products and financial transactions through an integrated network of phone, face-to-face and online delivery channels. Will the minister advise the chamber how Service SA has responded to the increased use of information and technology by Service SA consumers?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:59): I thank the honourable member for her important question. Service SA is indeed becoming renowned for its innovative and cost-effective developments in the field of customer service. As members may be aware, Service SA is actively working towards expanding the range of government services and information available online following the success of its EzyReg website.

I am advised that the migration of services to the online channel not only reduces the cost of delivery but also reduces things like queue waiting time in relation to face-to-face and call centre interactions. I am advised that the SA government agencies have achieved significant cost savings by migrating or shifting services from the face-to-face services to online services for some services at least. The incremental cost of transacting online is obviously significantly lower than the traditional over-the-counter service or through a call centre.

In addition, the community can access these online services from any location 24 hours a day, seven days a week, and even from the comfort of our own homes. Service SA is focused on making it easier for citizens and businesses to access services and transact with government through the South Australian government internet site—the sa.gov.au site. I am advised that 3 per cent of all visits to the EzyReg website are made from mobile devices. These include smartphones and tablets such as iPads.

Statistical data gathered from the EzyReg website indicates that iPhones currently represent 66 per cent of all mobile phone payments. Service SA has worked closely with an external vendor to produce an exciting new application that has increased the functionality and is specific for iPhones and it will work well, I am advised, with the EzyReg function available on mobile phones, also known as smartphones.

I am also advised that the iPhone 3 and 4 have the ability to scan the barcode on the invitation to renew that people receive. It is an invitation to renew your registration, and you can now scan the barcode using the camera function. I have been advised that the earlier versions of the iPhone 1 and 2 currently do not have that function. This will make paying bills much easier and less time consuming for customers and staff.

Customers who utilise the new iPhone application will be able to inquire on the current registration status of their vehicle through manually entering their payment number. They can obviously make online payments to renew vehicle registrations. The application also has the ability for customers to create a reminder appointment for future payments of vehicle registration renewals. I commend Service SA on this fabulous new initiative. Service SA has proved to be a real leader in promoting online services to South Australian licence holders and vehicle and boat owners.

TRAMLINES

The Hon. D.G.E. HOOD (15:02): I seek leave to make a brief explanation before asking the minister representing the Minister for Transport a question regarding power supply issues on our tramlines.

Leave granted.

The Hon. D.G.E. HOOD: Yesterday tram services were restored after 36 hours of interruption due to power supply issues. The event was understandably very annoying and disruptive for commuters. In July 2008 I asked two questions on notice regarding tram power supply issues. The first question asked whether there were any reports of power supply problems on the tramline at the time and whether any trams were required to slow down due to power supply issues. That question is still yet to be answered.

However, I continue to have a number of concerns regarding power supply raised with me from engineers involved in the construction of the tramline extension. I therefore asked a further question on notice in September 2008 regarding power supply issues, and this time I received a response, which was, 'There are no systemic power supply problems.' A further response then noted:

All electric rail systems (tram or train) have an upper limit of vehicles that can be operated. When that limit is reached the system is augmented. With this government's unprecedented commitment to expansion of our public transport system augmentation will be necessary in the future for very high frequency services.

The second answer appears to admit that power supply along the tramline would have to be augmented to ensure continued reliable operation, as I suspected. My questions to the minister are:

1. Does the department now admit that engineers involved in the construction of the tramline have been raising power supply concerns for a number of years?

2. Were the foreshadowed and required improvements to the power system ever actually made?

3. Will the minister assure commuters that power supply problems on the tramline are now resolved and are unlikely, if not impossible, to occur again?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:04): I thank the honourable member for his questions and will refer them to the Minister for Transport in another place and bring back a response. I remind the chamber that, in terms of the extension of the tram track or facilities, we were told by the opposition that the extension was something that no-one wanted and no-one would use and it was a complete and utter waste of our resources. Now we find that it is widely used and very popular, yet we were told it was a service that no-one wanted and no-one would use.

GAMBLING SECTOR REFORM

The Hon. T.J. STEPHENS (15:05): Mr President, before I start, can I congratulate you, sir, on your unswerving loyalty to what is obviously a very lost cause—and I am not talking about the Labor Party: I am talking about Port Power and that disgraceful tie that you are wearing today.

The PRESIDENT: Order!

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Gambling questions about voluntary precommitment for poker machines.

Leave granted.

The Hon. T.J. STEPHENS: The minister may be aware that the federal government is planning to introduce a mandatory precommitment system for poker machines Australia-wide. Any implementation of such measures would lead to significant management and implementation issues for the state, not to mention completely destroying the viability of many clubs and hotels throughout South Australia.

As the minister's predecessor (the Hon. Bernard Finnigan, whom I have not seen for some time) hedged his bets on the issue, and the former gambling minister (the member for West Torrens from another place) has previously stated that he supports voluntary, but not compulsory, precommitment, this surely shows that the government's policy is non-existent and cabinet is split on this issue. My questions to the Minister for Gambling are:

1. Can the minister state unequivocally the government's position on precommitment for poker machines?

2. What advice has the government received in relation to the commonwealth's proposal for mandatory precommitment, particularly on the constitutionality of the commonwealth implementing such a system?

3. Does the minister agree that such a measure would significantly harm the hotel and club industry?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:06): I thank the honourable member for his important questions. Indeed, as we are aware, arising from an agreement between the Gillard government and Mr Andrew Wilkie, discussions are currently underway between the commonwealth government and state governments on a number of proposed reforms to the gambling sector. Of course, one of those very controversial reforms is precommitment.

In fact, at the last select council meeting on 25 February, South Australia led a presentation on papers to do with precommitment and outlined the very valuable lessons learned from two voluntary precommitment trials that are being conducted here in South Australia. I am told that members discussed and noted those papers, which related to gaming machine dynamic warning messages, cost-to-play displays and also ATM withdrawal limits.

The next select council meeting, which I plan to attend, is planned for 27 May. The terms of reference for that select council require it to consider the recommendations of the Productivity Commission and to advise on the implementation of the national approach to those particular recommendations. The former minister for gambling established a responsible gambling working party right back in November 2006 to consider measures to assist players with precommitment, so it is something that South Australia has given a great deal of thought and consideration to.

Following extensive consultation, the working party identified three focus areas; these included informed decision-making, money management and player tracking and precommitment systems. South Australia recently completed two voluntary precommitment trials, a technology-based system and a non technology-based approach for small venues, and a third technology-based trial, I understand, is underway.

We have learned a number of lessons from those trials, which we have reported at that federal forum. These include that the overall players in the technology trial who set a limit reduced their spend. The reduction was the greatest for problem gamblers and moderate risk gamblers. The trial also found that recreational gamblers were not impacted and that they only slightly reduced their spend.

During the trial a subtle message warning system was also tested on a group of patrons who had not set limits, and based on those results a subtle messaging system appeared to be effective. So, overall, patrons who received that subtle message at three turnover points were found to decrease their spend. The trial also found that the venue staff and patron engagement were very important to the success of pre-commitment.

Staff can obviously help pre-commitment to work by advising patrons about limits that they set and also by attending a machine personally when a person has reached their limit. It was found that that was better than just a message on its own. The trial also found that where this occurred patrons were likely to play for less time, where a staff member attended a machine as opposed to where a staff member did not respond. The critical finding is that pre-commitment will work for patrons who want to set a budget. The system can be of benefit, obviously, to all patrons and should not be seen as a program only for problem gamblers.

They are some of the very important findings of the trials that we have conducted here. The South Australian government is committed to undertaking an evidence-based approach to developing a pre-commitment policy. On the evidence available we have learnt that pre-commitment works when people want to use it and are prepared to set limits suitable to their budget. South Australia, along with Queensland, is leading the nation in this important policy area, and the South Australian government is of the view that we can work with the commonwealth and other states to develop a consensus approach to implementing important reforms in this area.

AUSTRALIAN CONSUMER LAW

The Hon. R.P. WORTLEY (15:12): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about the new Australian Consumer Law.

Leave granted.

The Hon. R.P. WORTLEY: Under the new Australia Consumer Law which came into effect earlier this year, the Office of Consumer and Business Affairs may issue expiation notices for breaches of the law on lower level conduct matters or first time offenders. My question to the minister is: how has the Office of Consumer and Business Affairs acted to enforce new conditions under the Australian Consumer Law?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (13:12): I thank the honourable member for his important question. As members may be aware, the Office of Consumer and Business Affairs undertakes statewide trader monitoring every year. Last year a monitoring program was undertaken which targeted retailers in the Adelaide metropolitan and regional areas. The main

focus of the program was to educate traders regarding consumer refund rights and warranties under the new Australian Consumer Law.

The Australian Consumer Law came into effect on 1 January 2011. The ACL includes national product safety laws and sets out the responsibilities of the commonwealth, state and territory governments and also suppliers. The ACL aims to protect consumers from unsafe goods and unsafe products and also related services. The ACL enhances consumer protection, as businesses now have the same obligations and responsibilities right across Australia, and the commonwealth, state and territory regulators are applying and enforcing uniform laws now right across Australia.

I am very pleased that, in line with the ongoing responsibility to consumers, OCBA officers visited a total of 265 metropolitan and 169 regional retail stores with the aim of monitoring traders' refund signage and practices with respect to refund rights and warranties. Of the 434 traders visited, I am very pleased to say that 362 were found to be fully compliant during the audit, but 72 were found to have incorrect refund signs or statements on dockets deemed to mislead consumers about their statutory warranty and refund rights. The incorrect signs were removed, and traders were given the option of using the OCBA refund rights sign template. Traders were also given relevant advice and information brochures. First-time offenders were issued a warning.

In recent months, OCBA officers conducted 44 follow-up visits to traders who failed to take adequate action in response to OCBA's written warning, and I am advised that 11 of the traders revisited were found to have signs or receipts that did not appear to comply with legislation. That is always disappointing, particularly when they were given the chance to do the right thing. After further investigation, OCBA issued expiation notices to five traders for infringement under the ACL and as a consequence of warranty and refund statements that were considered to be misleading.

Under the ACL, OCBA can seek penalties of up to $1.1 million for companies and $220,000 for individuals who make false and misleading statements. Expiation notices may also be issued for lower-level conduct matters or first breaches. The new laws are designed to strengthen consumer protection, and OCBA will continue to monitor businesses and ensure that consumers are not misled about their warranty and refund rights. In addition, OCBA continues to focus on educating South Australians about their rights and responsibilities through trader and consumer education campaigns.

ANTI-POVERTY SERVICES

The Hon. A. BRESSINGTON (15:16): I seek leave to make a brief explanation before asking the minister representing the Minister for Families and Communities questions about the transfer of financial services currently offered by the Anti-Poverty Services unit to the non-government sector.

Leave granted.

The Hon. A. BRESSINGTON: As you may recall, on 26 October 2010 I detailed in this place my concerns about the government's proposal to disband the Families SA Anti-Poverty Services unit and transfer the provision of emergency financial assistance payments it offered to the non-government sector. Specifically, I questioned the minister on whether non-government organisations would be provided with additional funding to deliver Families SA emergency financial assistance programs, or whether they would be expected to do so out of their existing budget.

The response I received from the minister on 9 March this year typically failed to answer the question, and instead spoke in generic terms of community consultation, identifying partner organisations' implementation issues and working with the non-government sector to build capacity.

Recently, several non-government organisations—including the peak body, SACOSS—have likewise expressed their concern that the financial services, particularly financial counselling, previously offered by the Anti-Poverty Services unit will no longer be available to vulnerable South Australians experiencing financial hardship if such funding is not made available. SACOSS has specifically called for 30 financial counselling positions to be funded to replace the 44 lost at Families SA.

In addition to delivering emergency payments, the 44 financial counsellors assisted clients to assess debt legally owed, to take control of their finances through budgeting and as mediators with debtors. This was a valuable free social service offered by Families SA and, given that

vulnerable South Australians already have disproportionately limited access to financial counsellors in the non-government sector compared with their interstate counterparts, it was a necessity.

However, the minister seemingly believed that the delivery of the emergency payments was the sole value of these financial counsellors. Responding to SACOSS Executive Director Ross Womersley's concerns at the loss of 44 positions at Families SA and calls for the funding of 30 financial counsellors, the minister insisted that the government was simply transferring the provision of the emergency financial assistance payments to the non-government sector and that, as such, South Australians would not be disadvantaged. According to SACOSS, 7,000 people will now be limited or excluded from access to the financial counselling services because of these cuts. My questions to the minister are:

1. Does the minister concede that, if the non-government sector is not funded to provide a corresponding number of financial counsellors, then vulnerable South Australians will indeed be disadvantaged by the loss of Families SA's 44 financial counsellors?

2. Does the minister confirm that Families SA financial counsellors, in addition to assisting clients to take control of their finances have been, until now, responsible for the provision of emergency financial assistance payments?

3. If so, does the minister have the same expectation that the non-government sector will deliver emergency financial assistance payments through financial counsellors?

4. If so, does the minister expect non-government organisations to deliver this service without additional funding?

5. If not, will the minister commit to funding 30 additional financial counsellors in the non-government community sector to deliver the emergency financial systems payments previously provided by Families SA, as called for by SACOSS?

6. Did the minister, at any time, attempt to identify the impact these changes will have on both the non-government sector and recipients of financial counselling services in this state?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:21): I thank the honourable member for her most important questions and will refer those to the Minister for Families and Communities in another place and bring back a response.

Just in very general terms, I have been advised that Families and Communities will continue to provide financial counselling services to their own clients and that they are entering into negotiations with the NGOs in relation to those financial counselling services that are needed by them to meet their needs, and to provide those very important services to people who are in need.

I have been advised that the intent of this was to, in fact, attempt to reduce the duplication, replication and overlap that existed between Families SA and NGOs and an attempt to streamline and make more efficient and effective services. That is the very general advice that I have received. As I said, the minister is committed to ensuring that these valuable services do continue to be provided to those in need, but for detailed answers I will need to refer those questions to the minister in another place and bring back a response.

The PRESIDENT: The Hon. Ms Bressington has a supplementary.

ANTI-POVERTY SERVICES

The Hon. A. BRESSINGTON (15:23): Can the minister please explain to the council why her advice and the advice to SACOSS are completely different?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:23): Mr President, I can only detail the very general advice that I have received, and I have given that information in this place.

MOUSE PLAGUE

The Hon. J.S. LEE (15:23): I seek to make a brief explanation before asking the Minister for Regional Development about South Australia's mouse plague.

Leave granted.

The Hon. J.S. LEE: A report in *The Advertiser* on 5 May 2011 stated:

Farmers facing the worse mouse plague for nearly two decades are struggling to combat it because of a shortage of chemicals...South Australian Farmers Federation President, Mr Peter White, said, 'The Mice Taskforce came up with a recommendation to allow farmers to buy zinc sulphide so they could mix their own bait. [However:]

'That process is being delayed and it won't happen in time for seeding this year,' he said.

Since that report, ABC Rural Radio stated that the state government has been:

...working with the Australian Pesticides and Veterinary Medicines Authority (APVMA) on an emergency permit to speed up the process of importing the key ingredient, zinc phosphide.

Biosecurity SA Executive Director stated on ABC Rural Radio on 13 May that:

The reality would then be, 'are we going to look at on-farm mixing, or are we looking at regional mixing stations, possibly through the NRM boards?'...There is a huge issue here in terms of requiring the trained NRM staff, but we don't have an occupational health and safety process registered at the moment for mixing this chemical.

My questions are:

1. How will the state government's mice working party address the concerns of the occupational health and safety process required to mix the chemical?

2. With farmers in mice-affected areas last year reporting average yield losses of 30 per cent in the worst-affected paddocks and farmers now facing up to $40,000 for mice bait and a delay in receiving the pesticides, what other assistance will the government offer to prevent extreme damage in farming regions in South Australia?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:26): I thank the honourable member for her most important questions. Indeed, the current mouse plague has the potential to have a quite devastating impact on those regions that are affected. I know that a great deal has been done by this government to try to develop strategies to approach this problem and particularly to attempt to make sure that the appropriate chemicals for baits are made readily available to farmers. I will need to refer those detailed questions to the relevant ministers in another place, particularly the minister for primary industries, and I am happy to bring back a response.

ANSWERS TO QUESTIONS

APY LANDS, ELECTRICITY SUPPLY

In reply to the **Hon. T.J. STEPHENS** (22 February 2011).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling): The Minister for Aboriginal Affairs and Reconciliation has provided the following information:

1. The distribution of power to homelands serviced by the Umuwa to Ernabella homelands power line is provided by ETSA under contract to the Minister for Aboriginal Affairs.

The power line is susceptible to outages primarily caused by electrical storms damaging ceramic insulators on the line.

The Minister for Aboriginal Affairs and Reconciliation has asked for her Department to work with the Department for Transport, Energy and Infrastructure to address these issues.

DISABILITY PENSION

In reply to the **Hon. D.G.E. HOOD** (9 March 2011).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling): The Minister for Disability is advised:

The rules guiding Centrelink in working out appropriate benefits for a married couple are firmly established in legislation. Married couples living in Supported Residential Facilities are eligible for benefits at the standard married disability pension rate, plus rent assistance.

Once alerted to this matter the Department for Families and Communities contacted the facility and as a result their residential fees have been adjusted, from $627.10 to $362.34 a fortnight each. This has been back dated to 18 September 2010.

Sunnydale Rest Home is a licensed facility operating in the private sector. Receipt of board and care funding, valued at $4,708 per resident annually, is conditional on fees not exceeding 79 per cent of the combined pension and rent assistance.

All 30 of the 'pension only' Supported Residential Facilities in this State contracted with the Government to receive Board and Care funding, designed to assist with facilities' operating costs and enhance viability and standards of service.

I appreciate the Honourable Member bringing this matter to my attention.

GRANDPARENTS FOR GRANDCHILDREN

In reply to the **Hon. J.A. DARLEY** (10 March 2011).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling): The Minister for Families and Communities is advised:

The South Australian Government is committed to supporting grandparent carers in South Australia.

Grandparents for Grandchildren have received significant support from the South Australian Government including the following financial assistance provided by the Department for Families and Communities (DFC):

- $19,500 from Community Benefit SA (CBSA), in June 2006;
- $20,000 from CBSA, in December 2006;
- $25,000 from CBSA, in June 2008;
- $5,000 from Community Connect, for training from the Community Business Bureau to develop strategic and operational skills and capabilities, 2008;
- Financial support to assist in the establishment of an office in the Torrens Building, Adelaide, including removalist costs, office equipment and furniture towards the accommodation;
- $5,000 from the Chief Executive's Discretionary Fund (CEDF) for the refurbishment of the current premises in Wright St, Adelaide, in April 2009 (paid directly to the University City Project); and
- $6,000 contribution to the rent of the current premises, in May 2009, for the period 25 May 2009 to 31 May 2010 (not yet acquitted).

In February 2010, $10,000 was provided to Grandparents for Grandchildren from the Chief Executive's Discretionary Fund.

A further offer of funding will be made to Centacare to provide a support role for Grandparents for Grandchildren. This will be for a period of 12 months to enable the arrangement to be trialled.

ELECTRICITY PRICES, COOBER PEDY

In reply to the **Hon. T.J. STEPHENS** (22 March 2011).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling): The Minister for Energy has advised:

1. The Government advised the three Independent Operators under the Remote Areas Energy Supplies (RAES) scheme the tariff increase on 18 February 2011 for implementation from 7 March 2011, with a staged roll out in line with the Independent Operators' normal meter reading cycles.

2. A press release was issued to regional media outlets on the same day that Independent Operators were advised of the revised tariffs. Information, including a suggested letter to customers, was provided to the Independent Operators for them to use in communicating with their customers regarding the tariff changes.

3. The impacts on customers in the 13 remote area towns under the RAES scheme, including both households and businesses in Coober Pedy, were carefully considered prior to the decision to implement new tariffs that reflected the increased cost of service provision under the scheme.

4. The South Australian Government will continue to make a significant funding contribution towards the RAES scheme with around $5.5 million per annum contributed toward the provision of safe and reliable electricity supplies to 2,600 customers across 13 remote area communities.

The Department for Transport, Energy and Infrastructure (DTEI) is currently finalising new agreements covering future subsidies to the Independent Operators, including the Coober Pedy Council. These agreements, based on regulatory principles used by the Essential Services Commission of SA to regulate on-grid electricity businesses, should provide a solid basis for future energy supplies.

Consistent with the long standing RAES policy, small to medium domestic customers will continue to pay no more than 10 percent above the on-grid regulated standing contract tariff for reasonable levels of consumption. In fact, even with the recent tariff increases, small to medium domestic customers will be charged on average about 4 percent higher than equivalent on-grid customers.

Larger domestic and General Supply customers will move toward tariffs reflecting the full cost of supply at high levels of consumption. A significant subsidy is still being provided for all General Supply customers. For large customers this subsidy is being provided for the first 160,000 kWh of their annual consumption. Above this level they will pay the full cost of supply to encourage appropriate business decisions based on the true cost of supply.

5. Businesses have been offered energy audits and subsidies for changes to their infrastructure to improve energy efficiency and thus reduce their energy consumption via the Commonwealth Government funded Renewable Remote Power Generation program administered by DTEI.

The State Government will undertake a review of the RAES scheme to determine what opportunities there are for connecting towns to the national electricity grid while also considering incentives to lower energy use and the potential for alternative and renewable energy.

Energy Division within DTEI has worked closely with Department of Premier and Cabinet and the Coober Pedy Council in the past to investigate investment in solar photovoltaic (PV) systems in Coober Pedy. Consideration was given to both large scale and domestic PV systems seeking to utilise incentives available from both the Federal and State Governments at the time. Unfortunately no projects have proved viable to date.

The South Australian Government provides a range of concessions for eligible domestic customers. Low income households who meet the criteria can receive a concession payment of up to $210 annually on their water rates and up to $150 annually on their energy bills through the Department for Families and Communities.

MOTOR VEHICLES (THIRD PARTY INSURANCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 March 2011.)

The Hon. R.I. LUCAS (15:28): I rise on behalf of Liberal Party members to support the second reading of the Motor Vehicles (Third Party Insurance) Amendment Bill. In speaking to the bill, I indicate that this bill, as is the case with most of the Motor Accident Commission's bills, is an extraordinarily complex and complicated bill and, essentially, I think that most of the work will need to be done in the committee stage.

Certainly, the Liberal Party's position has been very adequately outlined in another place by our shadow minister, Iain Evans, who spoke at length on the bill during the committee stage. Whilst there has been some change or alteration to some aspects of its original position, by and

large, the party's position remains largely the same. Therefore, I do not intend this afternoon to repeat at length during the second reading all of the detailed explanation my colleague has outlined in another place. We may well need to explore some of the issues during the committee stage.

In congratulating my colleague Iain Evans on the work he has done on the bill, I also, on his behalf, publicly acknowledge the considerable work that a number of interest groups have done in looking at the ramifications of the legislation and advising non-government members and parties as to their concerns, and significant concerns in some cases, in relation to provisions of the bill.

In particular, we thank the Law Society, the Australian Lawyers Alliance and the Motor Trade Association for their work. In addition to that, the RAA, the South Australian Road Transport Association and one or two other organisations have been active as well in terms of ensuring that we, as a parliament, are perhaps better informed about the possible implications of the legislation.

One of the worrying issues, from my viewpoint, having been associated with these sorts of bills before, both in government and opposition, is in looking at the submission from the Law Society. It has put its concerns pretty succinctly, and let me quote them:

> In the past, the Law Society has been engaged in regular and open dialogue with the South Australian Motor Accident Commission (MAC), particularly prior to any proposed legislative changes to the compulsory third party scheme. On 20 September 2010, the Law Society received a copy of the Motor Vehicles (Third Party Insurance) Amendment Bill and a copy of the second reading explanation from *Hansard* from the Hon. Iain Evans, state member for Davenport.

I think that is extraordinary. Here is, I think to most governments in the past, a respected organisation. We know that this government thinks ill of the Law Society and, in fact, tends to demonise all lawyers and the Law Society for its own political purposes. The former attorney-general and current Premier led the charge in relation to that comprehensive and outright assault on lawyers and the Law Society generally, which I think is sad.

The Law Society states that in the past it has been actively engaged in open dialogue with the Motor Accident Commission. It goes on to state that the first it heard of the bill was on 20 September. It then had its first meeting of the Accident Compensation Committee of the Law Society on 12 October and a subcommittee was formed to look at this bill and make submissions to the parliament on it. The subcommittee comprised a balance of insurer legal representatives and claimant legal representatives.

To me, that would seem to be a common sense way to go about difficult legislation. As I have said, having been involved with these sorts of bills over many years, in both government and opposition, what you are presented with from the insurer is always plausible. When you read the second reading explanation from the minister and when you read the explanation of clauses, it is always plausible in terms of the reasons for it. To be fair, in many cases, even on closer analysis, it is a plausible and defensible case for the amendments. On occasions, it is not, and that is inevitable, because this is a difficult and complicated area.

It would seem to me to be incomprehensible that this government has got itself into such a position that it is unwilling, for whatever reason, to consult with the Law Society. We now have a situation where the government is introducing very significant changes to the bill in the Legislative Council. Thank goodness for the bicameral system. Thank goodness for the Legislative Council. Thank goodness for the filter and safety net that this chamber provides, because otherwise it would have been rammed through the House of Assembly in a sitting week and that would have been the end of it.

With the Legislative Council, the Law Society at least had the capacity to say, 'Okay, the government didn't want to consult us. We are now happy to be consulted by non-government members and parties.' Whilst I have congratulated the Hon. Iain Evans, I know there are a number of minor party and Independent members who have actively engaged in discussions with a number of those groups to inform themselves of the implications of the legislation.

One of the big differences with this bill from many of the ones I have previously been involved with—and I remember one of the earlier bills I was involved with that was so complicated and complex that it ended up in a conference between the houses to try to resolve it. That bill was etched in my memory because it was my first exposure to the complexity of the third-party scheme. What looked plausible on the surface did not always work out that way; that is why you needed to ask questions and pursue it.

At the very least at that stage—and this was a former Labor government back in the 80s, and it was continued through the period of the 90s when there were Liberal governments—when these sorts of provisions were made, by and large there were estimates given of what the impact would be on the financial viability of the scheme. That is—and I know that from the first bill that I had experience with and many others after it—they indicated that, if this particular provision in the bill was passed, it is estimated that this will have a saving of $5 million or $10 million or $1 million for the scheme.

Occasionally they would say, 'Look, we do not know. It is going to be minor, but we think it might be an area where there will be growth in the future.' There were a range of estimates from the honest 'we don't know but we think it's minor' sometimes to 'we don't know but it is not going to be super significant', but more often than not they provided the parliament with an estimate of the financial impact on the scheme.

That should not be the only determinant of a parliament's views but it ought to be part of the range of information that parliaments have in determining it. I know in the past there have been oppositions, when we were in opposition and Labor oppositions as well, that in the end might have had some doubts about provisions but because the estimates were that it would have a significant impact on reducing the costs of the scheme, and therefore reducing the extent of increases for CTP for drivers, that the oppositions of the day have said, 'On balance, we are prepared to go with the advice and accept it.'

I know Iain Evans started off with that position; I certainly started off with that position. When I looked at the bill, after he had looked at it, I said, 'The first thing we need to do is get from the government and from MAC some estimate of what the impact for this is going to be.' If you are arguing about $100,000 here and there or $200,000, or whatever it might happen to be, in a scheme the size of the compulsory third-party scheme, if there are important issues of principle here, are they worth sacrificing for potentially a saving of $200,000 on the scheme? That is, there might only be less than a handful of cases and, even if there were, the impact on the scheme might not be significant.

I think in those circumstances people will be less prepared to support such a change which might disadvantage a small number of people with a smallish impact on the scheme. At the other end, there may well be a particular amendment which might lead to very significant savings. There still might be impact on a number of people, and then it is up to members and parties to make judgements as to how they balance off, 'Okay, we are trying to keep down the costs for all drivers throughout the state (or at least for those who are paying CTP), we are trying to keep down the cost of the scheme, but at the same time trying to be as fair as possible to the scheme.'

The other thing, too—one of the amendments traverses this area—is that there is the potential for the scope of the scheme to continue to grow. That is, there may well be very worthwhile and meritorious cases where costs are incurred by a particular individual, but in the end is it the responsibility of the compulsory third-party insurance scheme or should it be covered in some other way? The compulsory third-party insurance scheme essentially—and the second reading explanation is there—arises out of the use of a motor vehicle, and there are some amendments in relation to this, and that is what it has been constructed for.

It is not a comprehensive 24-hour insurance scheme, and if you just happen to be within spitting distance of a motor vehicle you can claim insurance cover under the CTP scheme. If you do, you increase the costs, and if you increase the costs it means everybody else has to pay higher CTP insurance costs. So, that is the concern with this particular provision—that there is nothing.

All we saw in the second reading explanation of the departed minister, the Hon. Bernard Finnigan, in his second reading explanation was that 'these amendments are important to the long-term viability of the CTP fund'. There is no detail of the individual impacts and no attempt at an overall aggregate impact on the viability of the scheme—just that broad sweeping statement. Whilst the questions were asked, precious little detail was further provided by the government in defence of its scheme.

That then creates a set of circumstances where non-government members and parties are wary about what is in the bill, and non-government members and parties are therefore less inclined to be supportive of the provisions in the bill and the government has a higher threshold, from our viewpoint, that it needs to meet to convince us to support the legislation. That is the position the member for Davenport essentially put down in another place.

One of the reasons for my not going over all the arguments against the government's original bill is, as I said, that the government is seeking to amend significantly a number of the provisions within the legislation. The government recently tabled its amendments, and for members' interest I think earlier today amendments in my name were filed, amendments which the member for Davenport on behalf of the Liberal Party has worked on with various interest groups and had approved by the Liberal Party room late yesterday afternoon.

My understanding is that, whilst there will be second reading debate this afternoon, the committee stages will be delayed until, at the earliest, tomorrow and possibly Thursday of this week, which will give members the opportunity to consult with the member for Davenport if they wish. I know he has given an undertaking to consult with independent and minor party members if they need explanation of the amendments.

In my time this afternoon I propose to briefly go through the Liberal Party's position now to seek to clarify, in at least a summarised version, and foreshadow where we intend to head in the committee stages of the debate and that may well assist other members as they contemplate what they are going to do during the committee stages as well.

We have amendments Nos 1 through 7 from the government. In relation to amendments 1, 2 and 4, I am advised that these essentially now indicate that the government has removed the chain of responsibility provisions of the heavy vehicle fatigue scheme from this bill. This means now that the driver will be exposed if they commit offences relating to driving while fatigued, exceeding the allowable work time for a driver and failing to have the required rest time.

The chain of responsibility provisions were a very significant part of the debate in another place. There has been very significant opposition to the chain of responsibility provisions, and the government, in part, has responded to that. The Liberal Party's position is that, whilst we will support the government's amendments 1, 2 and 4, we will however move to defeat the amended clause—that is, we will not be supporting the amended clause. The Liberal Party, as the member for Davenport has outlined, has accepted the position from the Law Society and others that, even with the amended clause, a driver faces a potential double penalty as a result of what would still be left in the bill.

In relation to the government's amendment 3, the Liberal Party position is that we will be supporting the amendment but, again, we will remain opposed to the clause. In relation to the government's amendment 5, which deletes the ability of the insurer/MAC to demand a statutory declaration, again, the Liberal Party's position will be to support the amendment from government, but we will still oppose the amended clause.

In relation to government amendment 6, which clarifies that defendants do not have to disclose information that is subject to legal professional privilege, again, we will support the government's amendment but will remain opposed to the amended clause. In relation to government amendment 7, which is clarifying that the bill has no retrospective effect on damage claims made before the bill, we will be supporting this amendment, but we will be moving, as members will see, an additional amendment in relation to retrospectivity which we believe tightens even further and confirms that there will be no retrospective impact of the government bill, if it passes the council.

I know that a number of members have been strongly lobbied by the Motor Trade Association on this particular issue of the two examples that are outlined in clause 6 relating to section 99, and we will be moving to delete those two examples. If those two examples are not deleted, then we will vote against the clause. If the amendments are accepted, then we will support that provision.

The next issue is in relation to the reduction of blood alcohol reading from .15 to .1, and this has been a complex issue for the party. The party's position is that we will support a lowering of the blood alcohol content to .1, on the proviso that what is referred to by the member for Davenport as a 'cause and effect' amendment which is filed in my name is passed by this chamber. That is, in essence, where it can be shown in some way that an individual's .1 or above blood alcohol reading had some cause and effect in relation to an accident.

I will have more detail when we get into the committee stage, but my recollection is that the advice to the member for Davenport related to an example where a driver with a blood alcohol reading of .1 was sitting behind the wheel in a parked car and someone smashed into that parked car—that is, there was no fault or cause and effect of the accident from the driver, albeit with a blood-alcohol of above .1, sitting in a parked car.

The advice was that, in this particular example, that person will probably find themselves covered by the government's legislation. If the government's position or argument is that it disagrees with that legal view provided to the opposition, we would certainly be pleased to hear the government's legal advice and argument. It may well be that the government accepts that that is the case and that is what is intended.

One of the areas that the Law Society and others have strongly opposed is the area of the provision of evidence, and I briefly referred to that earlier. This is the only area where I thought I would read at length from the Law Society's submission to the Liberal Party because it is a critical issue for them. I will place on record their arguments as to why it believes the current arrangements, even with amendments, are unsatisfactory and seeks a government response. The Law Society's submission, under the heading 'Provision of Evidence', reads as follows:

> The proposed amendments, in their current form, are strongly opposed by the Sub-Committee. It is understood the intention is to have early access to information which allows better decision-making in relation to liability and quantum.
>
> The strong concern of the Sub-Committee is that it has the potential to create firstly an uneven playing field, in that a claimant is required to give information regarding, in particular, liability without an equal requirement on the part of Allianz to share relevant non-privileged information concerning the same.
>
> The view of the Sub-Committee is that wording such as '*to cooperate fully with the insurer*' is too wide and requires refinement as to what information can and cannot be relevantly and reasonably sought by the insurer and when such information is to be sought.

Under the heading 'Liability—Section 127AB(1)(b)', the submission states:

> MAC/Allianz has access to SA Police Vehicle Collision Reports which, in the normal course, are documents produced to Allianz and MAC, but in practice are not released by them to claimants. In relation to liability early provision of such information to claimants and Allianz can assist in determining the parameters of any potential dispute as to the version of events.
>
> If the aim of the amendments is for information to be available so that early resolution can be achieved, then this will be best achieved where there is equal access to information. The Sub-Committee considers that if a claimant must '*cooperate fully with any request'*, then there should be reciprocal rights for the claimant to access all relevant information as to the defendant's/insured's version of the events.

Under the heading, 'Damages—Section 127AB(2)', the submission goes on to state:

> The scope of Section 127AB(2) is uncertain, in that it is limited to the concept of a '*reasonable request*' by Allianz. In accordance with the usual principles of litigation, the Sub-Committee strongly believes that the section should reflect access only to reasonable and relevant information.
>
> There is also concern as to what is intended by the concept of reasonable. In particular, the limits of information that may be requested under the context of being reasonable. There is significant concern that whilst the stated purpose is to assist with the early resolution of disputes, the wording is so broad as to invite legal disputation, costs, uncertainty and a general level of distrust which will not be conducive to the stated goal of resolution.
>
> The Sub-Committee strongly believes that a more targeted approach to the information that is being sought is appropriate. In Queensland the *Personal Injuries Proceedings Act 2002*, by its Regulations, stipulates the information that an intending claimant must submit to the insurer before commencing a claim. It identifies the classes of documents such as income tax records and other such information.
>
> In South Australia, a like concept is expressed in the Supreme and District Court Rules 2006 where specific information is required to be given in the Statement of Loss and in the Magistrates Court by Form 22 Particulars.
>
> The Sub-Committee would support amendment which would enumerate the information that is sought both in relation to liability and in relation to the quantification of the claim. For ease of reference, the Sub-Committee attaches, by way of example only, an extract from the *Personal Injuries Proceedings Regulation 2002* in Queensland at Part 2, which sets out in detail information that claimants can be required to provide. There would need to be further consultation as to what information should be required to be provided in this State to achieve the intended goal of timely information and the potential for early resolution.
>
> It must be noted that whilst a claimant is required to provide such information in Queensland, there is a reciprocal requirement that respondents, which would include Allianz, should also provide access to relevant material. Again by way of example, section 27 of the Personal Injuries Proceedings Act 2002 Queensland provides that a respondent to a claim must provide information 'directly relevant' to a claim as follows:
>
> 1. Reports and other documentary material about the incident alleged to have given rise to the personal injury to which the claim relates.
> 2. Reports about the claimant's medical condition or prospects of rehabilitation.
> 3. Reports about the claimant's cognitive, functional or vocational capacity.
> 4. Information that is in the respondent's possession about the circumstances of or the reasons for the incident.

5. If the respondent is an insurer of a person for the claim, information that can be found out from the insured person for the claim about the circumstances of or the reasons for the incident.

Section 127AB(3)

It is the subcommittee's submission that if a claimant is required to give information verified by Statutory Declaration, then the same should be a requirement of any respondent providing information. It is imperative that any requested information should be both reasonable and based upon matters which are directly relevant to the claim.

Section 127AB(4)

Should there be a failure to comply with section 127AB(3) this will statute bar and preclude a claimant from issuing proceedings. This does not accord with section 36 of the Civil Liability Act 1936 and if section 127AB were to be put in practice would cause frustration and costs in the court system in relation to application for the extension of any expired limitation period.

Pursuant to case flow management principles, the insured's ability to request information and documents should be limited to the pre-action stage as the court has processes and procedures with respect to matters once actions are issued.

Finally:

Fraud—section 127AB(5)

The subcommittee has concerns with respect to this amendment. If it is to be enacted, the subcommittee recommends wording which deletes 'misleading' so that the focus is on the provision on false information. An alternative is to rephrase the provision as follows:

'A claimant must not furnish information or produce a document or record under this section that is to his or her knowledge misleading in a material particular or is to his or her knowledge, false in a material particular.'

Further, the principal of Privilege against Self-incrimination should remain intact.

I put those views from the Law Society submission on the original government bill on the record because this is one of the areas that is being most trenchantly opposed by the Law Society, as well as other interested parties, and I seek from the government, when we get to clause 1 of the committee stage, a response to the concerns that the Law Society and others have expressed.

Finally, I would like to outline the proposed position of the Liberal Party on this bill. That is, the Liberal Party will move the amendments we have on file and will, by and large, support a number of the amendments—in fact, I think all the amendments—that the government will move. Nevertheless, the Liberal Party will strongly oppose a number of the significant clauses in the bill.

There are three broad things which will need to occur for the Liberal Party to support the bill at the third reading: first, the deletion of the examples as requested by the Motor Trade Association; secondly, the defeat of the evidence provision in the bill (that is, all the government amendments to section 127); and third, the defeat of the clause in the bill amending the Civil Liability Act.

The member for Davenport has outlined the Liberal Party's viewpoint, and I outline it to this house: that, unless the three circumstances I have just outlined occur, the Liberal Party will vote against the third reading of the bill. If those changes are made, then the Liberal Party is highly likely to support the third reading.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (15:59): I understand that there are no further speakers, so in light of that I would like to thank the Hon. Rob Lucas for his second reading contribution, and I look forward to the committee stage. He has put us on notice that a number of issues will need to be dealt with in detail through the committee stage, so I look forward to that. With those few words, I commend the bill to the house.

Bill read a second time.

CORPORATIONS (COMMONWEALTH POWERS) (TERMINATION DAY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 May 2011.)

The Hon. S.G. WADE (16:01): On behalf of the opposition, I rise to support the Corporations (Commonwealth Powers) (Termination Day) Amendment Bill 2011. One of my colleagues suggested the name of the bill was more like the name of a blockbuster movie, but that

is the sort of cultural discussion the Attorney-General and member for Bragg have in the other place, so I will leave that to them.

From January 1991, the commonwealth states and territories separately enacted uniform law to regulate corporations, generally referred to as the Corporations Law. Two High Court cases created uncertainty as to whether the commonwealth Corporations Law could be enforced—in particular, Wakim in 1999, and R v Hughes in 2000.

On 25 August 2000, the commonwealth state and territory ministers reached an in-principle agreement for the states to refer to the commonwealth parliament the power to enact the Corporations Law as a commonwealth law and to make amendments to that law subject to the terms of the corporations agreement. This referral is unusual in that it does not refer to specified legislative powers but refers to the state legislative power necessary to maintain a piece of legislation.

The states and territories chose to make a time-limited referral, rather than an ongoing one. The South Australian referral act, the Corporations (Commonwealth Powers) Act 2001, provides that the reference terminated on the fifth anniversary of its commencement. In that sense, the first referral terminated and was renewed in 2006, and the second referral lapses on 15 July 2011—a very short time away. The states and territories have considered this matter and reaffirmed their commitment to the limited referral approach. The amendment bill seeks to maintain the status quo by extending the referral of powers for a further five years—that is, to 15 July 2016.

I welcome the time-limited nature of the referral. It certainly suggests that there has been a considered, reflective approach by the states and territories, which I welcome. A limited referral may be a matter of trialling an approach. It may be that a referral is appropriate for a time and is no longer relevant in the future, and also a time-limited referral would be more likely to be revocable than an open-ended referral. I think that sort of considered, cautious approach is particularly important in the face of the centralising trends within the Australian Federation.

Through the expansion of its taxation powers at the expense of the states, the commonwealth has far greater fiscal resources, which it has used extensively to distort the federal balance. We have seen in federal Labor's bungling of service delivery programs, such as the Pink Batts and school building programs, that the commonwealth is often not well-placed to deliver services on the ground, particularly if they have a Labor government at the helm. We are seeing at the moment the federal government willing to raid state powers in relation to gambling regulation, as part of a desperate attempt to hang on to power federally.

These realities are a warning to the states to remain active to maintain a healthy federal balance. There is a bit of a view amongst the Canberra elite that federation is an anachronism. Our path to federation was indeed through the union of a group of British colonies, but the facts of the world today show that federalism is not merely an historical accident.

While only 24 of the world's 193 countries have federal political systems, federations host 40 per cent of the world's population. The fact that eight of the 10 world's largest countries by area are governed by federations, including Australia, highlights the relevance of federal structures to geographically diverse nations. Historically, it is true that most federations developed where previously separate entities came together to form a federal government; we think of the United States colonies, the Swiss cantons and the Australian colonies.

The constituent entities normally keep some powers, but others are transferred to the federal government. But more recently, we are seeing significant developments in previously unitary countries which are adopting federal structures. They often do so as a way to maintain a common central government whilst also empowering regional self-determination; we think of countries such as Spain, Belgium and South Africa.

Federalism allows the recognition of both diversity and common interests, including geographic diffusion. In fact, some of these countries, although in relatively recent experiments, are progressing federal models more creative than the traditional federal model. I am thinking particularly there of Belgium. It was founded as a centralised state, based on the French model, but in recent decades (I understand, since the 1970s), they have developed a federal state, but more recent developments see Belgium taking on elements of the confederation.

Even Australia's mother country, the United Kingdom, if you like, one of the bastions of unitary governments, is moving towards federation. In recent years, national assemblies, such as those in Scotland, Wales and Northern Ireland, have taken on significant governmental

responsibilities. Whilst one should not refer to an entity such as the European Union as a federation (it is a supranational organisation), in terms of its political operations, some observers note that, after 50 years of institutional evolution, the European Union does possess some attributes of a federal state.

I make the point that my party and I are federalists; our party is federalist by its constitution. We do not see federations as merely a colonial anachronism; they can be just as relevant to meeting the challenges of the modern world. In that context, I pay respect to the Attorney-General, who I do accept as a sincere federalist. He does see the relevance of a federal system to Australia moving forward, and I hope to see that reflected in the policies and legislation he brings before this house.

I also acknowledge that premier Rann was involved in the formation of the Council of Australian Federations, a body which claimed to be seeking to communicate to the Australian community the relevance of federation to Australia moving forward, but I note that the Council of Australian Federation seemed to be a greater priority for the Rann Labor government when all the states were Labor and the federal government was Liberal. I noticed that the council's website suggested that there has not been a meeting of the council since November 2009.

I certainly believe that, within the Australian political community, we need to have constructive forward-looking dialogue on shaping a contemporary federation. I acknowledge that this bill is an example of a model that we can use to constructively engage with other states and territories and the commonwealth, and I indicate the opposition supports this legislation.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 March 2011.)

The Hon. J.M.A. LENSINK (16:11): I rise to make a contribution on this particular piece of legislation. Prior to making comments on the specifics of the legislation I would like to address comments that were made in relation to whether this bill would be proceeded with in the previous sitting week. There was a tirade from the minister about honourable members not being ready, which, quite frankly, I would like to place on the record where I see that particular debate, in that I had the briefing.

The particular week prior to that sitting week was a short week because of Easter. I received some research from the minister's office on the Friday afternoon at about, I think, 4 o'clock. I had been up north with a number of my honourable colleagues, at the invitation of the member for Stuart, and therefore had not had the opportunity to print and review those documents, particularly over the weekend.

So, I think those comments by the new leader were a little bit desperate, and I do congratulate her on that role now that she has been permanently appointed. It was a desperate way to deflect that the management of this chamber was in a fair amount of disarray. Just one small piece of advice, if I may. I think she will find that approach is like quicksand: the more she thrashes about and lashes out at the rest of us, the faster she will sink.

In relation to this particular bill, the Liquor Licensing (Miscellaneous) Amendment Bill, the purpose of it is to amend the Liquor Licensing Act 1997 in reflection of government policy of 'the promotion of responsible and safe service and consumption of alcohol creating a safe environment' and to 'tackle alcohol-fuelled violence and antisocial behaviour'. At the outset, I would state that that is a fairly ambitious target, and when we look at the particular measures I think this piece of legislation will be found to come up very short indeed.

The background to this legislation is that on 3 December 2009, the then attorney-general and the Minister for Consumer Affairs jointly announced a review of the act. In May 2010, the South Australian police released a report entitled, 'Alcohol and crime: late night liquor trading and the real cost of a big night out in the Adelaide CBD', which highlighted the cost to police and other emergency services patrolling the CBD, and particularly of note was Hindley Street and the West End for late night antisocial behaviour.

Discussion papers were released by the OLGC in July 2010, entitled, 'A Safer Night Out' (a review of the Liquor Licensing Act) which argued the case for a change to the way in which licensed premises are managed to control binge drinking and serious alcohol-related harm. Many of the changes in the bill arise from this paper; however, the proposal for an annual licensing fee

has been transferred to Treasury and will be a measure in the upcoming budget. Submissions to that particular paper closed in September 2010.

In relation to particular aspects of the bill, it removes the right from licensed premises to serve liquor—by which we mean just drinks—between the hours of 4am and 7am, and these restrictions would be enforced on any business which holds one of the following licences: a hotel licence, residential licence, restaurant licence, entertainment venue licence or club licence. However, I note that it excludes the Adelaide Casino from this at clause 5 (new section 7A) even though that venue holds the same type of liquor licence as other premises such as the Strathmore Hotel.

Exceptions are also being made for dining rooms within a restaurant or residential licence where the service of liquor is with or ancillary to a meal whilst the patron is seated as a table. Because this is not extended to hotels, special circumstances or entertainment venues, this will cause inequity between dining services such as Marcellina's, which is on Hindley Street, while the Rosemount will not attract that exemption even though they are located in similar locations. There is also the potential for liquor merchants such as Dan Murphy's to open at 5am to sell liquor.

Sections 22 to 29 double penalties for second and subsequent offences by licensees; however, I note that there are no penalties in this legislation which are aimed at individuals who may be causing disruptive behaviour. Section 11B allows the commissioner to make management plans for licensees in specific geographical areas for 'public order and safety'. These management plans can be placed on specific licensee classes or create exemptions for licensees and may include requirements such as improved lighting, additional security, metal detectors, CCTV or radio links.

The amendments also grant significant power to the commissioner who will be able to issue public order and safety notices at his discretion which can vary or suspend conditions of a licence, impose additional conditions, vary trading hours or close premises, any of which can be applied for up to 72 hours. Furthermore, senior police officers will have the power to remove or order the removal of persons from licensed premises if they believe it is unsafe and close venues for up to 24 hours.

There are also criminal intelligence provisions. My colleague the Hon. Stephen Wade has made many contributions on this particular issue, and our firm position on this side of the house is that these should only ever be targeted at serious and organised crime. For everybody else, normal rules of evidence should apply, and applying criminal intelligence to licensees who already have to demonstrate that they are fit and proper persons in order to hold a licence and be able to use such provisions on their licence conditions, we believe, is grossly unfair. The outcomes of actions in the Liquor Licensing Court should demonstrate that licensees far and away are mostly abiding with all legislation.

Use of existing provisions in the Liquor Licensing Act: I understand that OLGC do audits, and there is a licence enforcement branch with SAPOL, and this has been subject of questions in this place. Indeed, I first asked questions in October last year and did not receive a reply, so I sought the same questions to be answered in March, again receiving no reply. However, through the delightful provisions of freedom of information, I have finally been able to get the answers I wanted.

First, from the Courts Administration Authority, I sought all documents relating to fines issued to liquor licensees in South Australia from 1 January to the current date, which has been brought up to 15 April 2011. There is a list of offences. They include fail to display licence, fail to wear approved identification, false statement in application to licensing authority, licensee failing to comply with licence condition, licensee of business not supervised or managed as required, supply liquor on unlicensed regulated premises. Of those, in the past three and a bit years, there have been some 10 fines imposed. For the particularly serious offences which are sell or supply liquor to intoxicated person, none have been recorded, and as to the also serious offence of supply to a minor on unlicensed premises, two in 2008 were recorded.

It has been similar for a request that I made for prosecutions of liquor licensees from January 2008 to the present date. They are very similar figures which honourable members may avail themselves of when they receive their *Hansard*. Furthermore, in relation to the inspections, I have a document which I would like to insert in *Hansard* which lists the number of inspections for various financial years. I seek leave to have all those documents inserted in *Hansard* without my reading them.

Leave granted.

SCHEDULE OF LIQUOR LICENSING

Fines Imposed Between 1 January 2008 and 15 April 2011

Liquor licensing offences nec

	2008	2009	2010	Sum:
FAIL TO DISPLAY LICENCE	-	-	2	2
FAIL TO WEAR APPROVED IDENTIFICATION	-	-	1	1
FALSE STATEMENT IN APPLICATION TO LICENSING AUTHORITY	1	2	-	3
LICENSEE FAILING TO COMPLY WITH LICENSE CONDITION	-	2	1	3
LICENSEE OF BUSINESS NOT SUPERVISED OR MANAGED AS REQUIRED	-	-	-	-
SELL OR SUPPLY LIQUOR TO INTOXICATED PERSON	-	-	-	-
SUPPLY LIQUOR ON UNLICENSED REGULATED PREMISES	-	1	-	1
Sum:	1	5	4	10

Liquor offences underage persons

	2008	2009	2010	Sum:
SELL OR SUPPLY LIQUOR TO A MINOR ON LICENSED PREMISES	2	-	-	2
Sum:	2	-	-	2

Prosecutions Lodged Between 1 January 2008 and 15 April 2011

Liquor licensing offences nec

	2008	2009	2010	Sum:
FAIL TO DISPLAY LICENCE	-	-	3	3
FAIL TO WEAR APPROVED IDENTIFICATION	1	1	1	3
FALSE STATEMENT IN APPLICATION TO LICENSING AUTHORITY	1	2	-	3
LICENSEE FAILING TO COMPLY WITH LICENSE CONDITION	-	2	1	3
LICENSEE OF BUSINESS NOT SUPERVISED OR MANAGED AS REQUIRED	1	-	-	1
SELL OR SUPPLY LIQUOR TO INTOXICATED PERSON	3	2	-	5
SUPPLY LIQUOR ON UNLICENSED REGULATED PREMISES	1	1	2	4
Sum:	7	8	7	22

Liquor offences underage persons

	2008	2009	2010	Sum:
SELL OR SUPPLY LIQUOR TO A MINOR ON LICENSED PREMISES	2	-	2	4
Sum:	2	-	2	4

NOTE: Fines imposed only relate to prosecutions lodged with the Courts Administration Authority. This does not include any Expiation Notice issued by Issuing Authorities.

Inspections

Period	Inspections	Priority 1	Priority 2	Priority 3	
1/1/08-30/6/08	½ year	376	85	0	461
1/7/08-30/6/09	1 year	1,000	1,250	300	2,550
1/7/09-30/6/10	1 year	1,364	1,383	471	3,218
1/7/10-31/3/10	¾ year	1,058	1,454	5	2,517

The Hon. J.M.A. LENSINK: Those figures are significant, particularly in relation to fines and prosecutions, because that really highlights one of the weaknesses in what is being promoted by the government in that clearly there are not a lot of fines or prosecutions being issued, yet there

is a new regime being bestowed upon liquor licensees and not any further measures on any patrons.

I turn to the submissions made to those reviews the government published. The Adelaide Casino was one of many that expressed grave concern, and it stated that it had concerns that the changes would bestow powers to the government that would have negative impacts on their operations. The Casino does not support any changes that empower the government to impose one-sided restrictions on licensees and, whilst it has been subsequently excluded from the curfew, any attempt to include it would be met, I would understand, with strong resistance.

However, in spite of its exemption, the lack of transport during those particular hours, combined with greater number of patrons and staff awaiting taxis, remains a concern. Long taxi queues, regardless of whether individual patrons have consumed alcohol, can often result in violence, and this may deter patrons from seeking hospitality in the CBD.

A number of members may have received a letter from United Voice, the Liquor Hospitality and Miscellaneous Union, which expressed animosity that the Adelaide Casino is the only exemption to the mandatory closure and, while the union does not argue that the casino should not be exempt, it believes that other licensed venues should be able to apply for the same exemption, particularly the Strathmore Hotel, which I understand operates during the hours in question as a venue for hospitality staff to, for want of a better term, chill out after the end of their shift.

The union also expressed great concern for hospitality workers regarding loss of wages, pay cuts and job losses, as well as the ability for the industry to attract and retain staff, which is already a challenge. Transport issues again were raised, with extended waiting periods for taxis and the increase of people on the street awaiting either taxis or public transport, which is not available really until at least 6am, if not after, in order to get home. Whilst they believe there may be some positive initiatives in the bill, these are not enough justification to support it.

The view of the Australian Hotels Association is similar, with concerns about lack of transparency, financial ramifications and transport problems, which may again lead to safety and violence issues, and under no circumstances does the AHA support the mandatory closure. The AHA states that the rush to drink and last minute drinks before closing time may result in negative ramifications, including binge drinking, which will end up with a return of the 6 o'clock swill.

I note, in correspondence to the Office of the Liquor and Gambling Commissioner, that the AHA feels, I think, quite unfairly done by in this review in that it has attempted to address some of these issues but feels that the measures that are being imposed are rather a one-way street. Particular licensees have written to us. The Strathmore Hotel, which I mentioned, has a special circumstances licence, which enables it to trade 24 hours a day. It employs 61 South Australians. Its broad opposition is to the discriminatory one-size-fits-all changes. I will read directly from the letter, which states:

> Since 1988 my hotel has run an 'industry only' bar after midnight...catering exclusively for hospitality workers. The bar has no live music, does not market itself to the general public and has precious little history of violence or community disruption. This new legislation would see this bar close and result in at least four job losses and end a two decade tradition for no apparent tangible benefit.
>
> This bar enjoys a sense of difference as our customers arrive to the venue from work after drinking no alcohol. These shiftworkers can enjoy their after work drinking, socialising and relaxing in an environment with licensed and fully trained bar staff with Responsible Service of Alcohol qualifications.
>
> This seems particularly inequitable as the restaurant within the venue must close between 4am and 7am yet every 'freestanding' licensed restaurant in South Australia will still be able to serve food with a meal while seated at a table in a designated dining area 24 hours a day, including the 21 restaurants in Hindley Street.
>
> The proposed new legislation presumes all of us work 9-5 Monday to Friday. It heavily discriminates against shift and hospitality workers. The closure of this bar would ask those patrons to leave our controlled environment onto the streets where public transport is non-existent. Hospitality staff will be required to compete with patrons for transport.
>
> The proposed early closing ignores the fact that the Strathmore has always given a full commitment to its duty of care obligations and has earned the excellent reputation it enjoys. It is our view this legislation unfairly targets and damages a legitimate longstanding business because of the actions of a minority of people elsewhere.

That letter is signed by Mr David Basheer. We also received a submission from the Dog & Duck, which has a number of headings and, under the title 'Managing irresponsible drinking', it states:

> The Liquor and Gambling Commission at present has enough power to control behaviour of liquor licensees by using the court system where both parties can have their say in a fair fashion. There must be a fair and

just process as the majority of licensees have large financial commitments which must be protected until an offence can be proven through the court system.

Lock Outs are certainly not a sensible measure as it will result in a [great] abundance of patrons in public areas either socialising or waiting for public transport which could also lead to unrest in the street. An example where this has already occurred was when Hindley Street was closed for all cars for a period of time which attracted more people to the area who could not gain entry to venues. If lockouts are [to be] considered—

I do note that this is a submission to the Liquor Licensing Review, so lockouts are not on the table, but we have mandatory closures—

for one hour before current licence closing time, this would be the most sensible approach. This would provide staggered closing and lock out times and therefore would help in allowing public transport and taxis to clear patrons from the West End area. The greatest method of improving the management of irresponsible drinking would be more interaction between licensed venues and officers of OLGC in times when Licensees and officers can discuss concerns and act upon them.

There is also a section on safer precincts and trading hours, which states:

Hours of trading imposed on customers by people who like myself find midnight a later night also does not seem fair to our youth mainly who go out at midnight or later.

I think that is an important point because, in this day and age, young people do go out later and that is a trend and I think it is part of the mix of what is happening, but I do not think that we should unfairly target youth as a scapegoat because they happen to like to be out when the rest of us are asleep. I referred earlier to United Voice, and this is a letter to all members specifically in relation to the bill. It talks about the process and states:

In addition to making a written submission, United Voice sought and attended a briefing facilitated by Minister Gago. Representatives of the Office of Liquor and Gambling were also present at the briefing. It was apparent at that briefing that despite the calibre of likely submissions, or alternative solutions, licensed premises were going to close for a mandatory period of time. The only exception to the mandatory closure would be the Adelaide Casino on the basis that the Casino offers a 'unique experience'.

United Voice does not oppose the proposed exemption of Adelaide Casino. We do however note that there has been no cogent explanation limiting the exemption to one establishment. We submit other venues should have an opportunity to seek an exemption…

The letter goes on to explain about the Strathmore which has been detailed extensively in Mr Basheer's letter. The letter goes on to state:

Hospitality workers will suffer from these proposed changes to the licensing laws. Wages will be cut as shifts are shortened and jobs lost. Hoteliers will look to change their established operating models to extract further savings in order to sustain their businesses. The cuts in working hours could arguably impact on their retirement incomes if the loss in hours means they no longer earn enough to meet the Superannuation Guarantee threshold. This is particularly concerning for women.

Attraction and retention of workers is already an issue for the industry and the cut in hours may see workers chasing jobs in other sectors rather than see their take home pay cut and having to deal with increasingly angry patrons. Our members will not be able to avail themselves of the additional taxi services that have been promised as a sweetener for the proposed changes. Many members live in the outer northern and southern suburbs and a $70.00 + taxi fare is beyond their means, they will have to wait several hours for public transport to commence. Thus being exposed to the apparent dangers on our streets.

We also have a letter from the Youth Affairs Council of South Australia (YACSA) which states the following:

YACSA is under no illusions that alcohol use is a serious problem for young people. According to the most recent data from the Australian Institute for Health and Welfare, an estimated 37 per cent of 16 to 19 year olds and 45 per cent of 20 to 24 year olds drink at levels that place them at risk or at high risk of short-term alcohol-related harm. Long-term alcohol consumption can drastically increase the likelihood of a range of negative health conditions, including cancer, cirrhosis and alcohol-related brain damage.

However, YACSA acknowledges that the majority of young people who use alcohol do so responsibly, in order to enjoy themselves, within the law and in accordance with societal norms. Therefore, YACSA asserts that young people have a right to feel safe should they choose to visit licensed premises or other entertainment venues.

So it is particularly pleased the state government has committed to a harm minimisation approach but does make the point that the ABS shows that the highest proportion of risky and high level drinking occurs in the 45 to 54 year old age group. The submission goes on:

...YACSA also has a number of reservations regarding some of the proposed legislative measures discussed in *A Safer Night Out*. For example, the proposal to abolish 24-hour trading and require licensed premises to close at a certain hour may, as the discussion paper suggests, give patrons 'an opportunity to disperse during this time [so the] physical environment can be restored' in time for business hours, but it will also have significant implications at closing time.

Specifically, a large number of individuals, potentially intoxicated, will be leaving every venue at approximately the same time. YACSA is very concerned about the likelihood of conflict in a situation such as this, and look to the State Government for further information as to how this will be managed.

Business SA also made a submission to the review where it expressed concern about the significant costs being imposed on licensed premises which will not necessarily lead to a reduction in alcohol-related crime and antisocial behaviour. I now quote from its letter which states:

While increasing the powers of the Liquor and Gambling Commissioner could lead to potentially dangerous situations being resolved quickly, there is a risk that excessive use of such powers could result in a heavy-handed approach to public safety being forced upon licensees and patrons. Any use of extra powers and the imposition of possibly draconian restrictions on licensees should be limited to emergency situations.

Business SA is concerned that lock-outs and restricting trading hours for some premises may only result in the problem of alcohol-related crime and antisocial behaviour moving from one place to another and at the same time could unduly restrict some licensees. The same or similar times for lock-outs and closing times for licensed premises may lead to many people being on the streets at the same time, increasing the possibility of undesirable behaviour.

Business SA then goes on to talk about it being supportive of a proposal to develop agreements for particular areas or precincts which I understand most licensees would also welcome. The letter goes on to state:

However, there is a concern about their mandatory nature. A preferred approach would be to establish voluntary codes of conduct in the first instance.

I think that is eminently sensible. We have also received a comprehensive submission from the West End Traders Group which, again, talks about precinct agreements, a multidisciplinary approach and the possibility of expiation fees for individuals who are engaged in disruptive behaviour. It supports a ban on so-called 'booze buses' from the CBD, and it talks about police presence.

I think our police spokesman, the Hon. David Ridgway, in particular, has said many times that increasing police presence, particularly within these precincts, would be the most effective way to reduce antisocial behaviour. The submission also notes that SAPOL is often readily available for public events, such as Schoolies Week, but ignores the West End, which has some 50,000 people on weekends.

The submission also makes the point that in relation to assaults it is very difficult to get any accurate data from SAPOL, and I think the whole research issue is a critical one that needs to be examined much further in this debate. Honourable members have been provided with a copy of a table that makes the point that, while the overall statistics might make it seem as if certain precincts within the CBD have high levels of crime, when we look at such issues on a smaller scale the actual numbers are not very high, given that they are a per annum figure.

I referred earlier to some research that the minister provided to me, and there are several reports that have been published by the New South Wales Bureau of Crime Statistics and Crime Research: the 'Impact of Restricted Alcohol Availability on Alcohol-Related Violence in Newcastle', which was published in November 2009; secondly, 'The Nature of Assaults Recorded on Licensed Premises' published in December 2010; and, thirdly, 'The Association between Alcohol Outlet Density and Assaults on and around Licensed Premises', which was published quite recently in January 2011.

Without going into the reports in a great deal of detail, the conclusion I draw from each of them is that it is hard to compare apples and oranges, in that in some jurisdictions—particularly in Newcastle and Queensland—the level of control or the regime under which the licensed premises were operating were quite different and I think, to use the vernacular, were probably quite slack compared with what already exists in South Australia.

Certainly, there has not been any level of research of that nature done in South Australia. The SAPOL paper, 'Alcohol and Crime: late night liquor trading and the real cost of a big night out in the Adelaide CBD', is not a reference document, and I certainly do not think it would survive a test of rigor to be published in any respected journal around the world or in Australia. I have also sought out a submission made to the Queensland parliamentary committee inquiry which was provided by the Centre for Accident Research and Road Safety.

It did a literature review and looked at reducing alcohol outlet density, which I think has been found to be somewhat more effective. On page 52 of that submission, it turns to the issue of restricting the hours and days of alcohol sales. The paper says that the research evidence noted

previously—that is, in earlier parts of the document—supports that ever-increased availability of alcohol through extended liquor trading results in higher rates of injury due to assaults and drink-driving related crashes.

The paper talks about Scandinavian research and, in its second paragraph on this particular issue, states that, in contrast, the research findings within Australia in relation to restricting alcohol trading hours have been mixed. It refers to some research done in the ACT and goes on to say that restrictions to alcohol access in some regional and remote Aboriginal communities have been more successful. The big clanger for me was where, in summary, it stated that studies examining the impact of restricting hours and days of alcohol sales have lacked controlled methodology and have been inconsistent.

Regardless of the operational hours and days for the availability of alcohol, responsible service of alcohol may be a more effective method to minimise alcohol-related harm. If we return to those statistics that I provided earlier, there a very strict regime in South Australia in relation to responsible service of alcohol, and those issues are not being addressed in prosecutions of licensees. So, in other words, if that is the problem and it is not being enforced, then why do we need this particular measures?

The interstate approaches, which are not along the lines, seem to be having more effect. I will return to the argument that we need more police to be policing antisocial behaviour. That appears to be the case, according to the Mayor of Melbourne, in the Victorian experience. In Fortitude Valley in Brisbane, extra police, bans on troublemakers and safe drinking zones are helping to curb alcohol-fuelled violence, and so forth.

Certainly, the experience interstate, where police numbers have been increased, has led to some positive results, but these particular measures that have been proposed are untested, for starters, but also there is no evidence that they will lead to any improvement. Now, we have heard a lot of rhetoric from this government about them being sick of people ruining other people's nights out. Indeed, the Police Commissioner in 2008 was questioning why young people go out so late. He said—I think it was on ABC radio:

> Personally, I don't know why premises have to trade so late and so early in the morning or indeed 24 hours a day. You can have a lot more fun without having to stay out until those sorts of hours.

I think it would be interesting to unpack that statement, and I will just return to the comments from the proprietor of the Dog & Duck, who wrote about how young people go out at midnight or later. The last time I checked, Australia was a free country and we did not dictate to people how they have fun, at what time of the day, or in what measure; as long as they were not breaking the law, then those were legitimate activities.

Now, you and I, Mr President, may not wish to be out at four in the morning having a drink, but that is the choice of other young people. I think there is a furphy, too, that people are drinking 24 hours a day. There may be individuals at any one time in South Australia having a drink at four or five in the morning, but I would be quite reassured that they are not all the same people drinking at every hour of the day because, quite frankly, if anybody tried to go on such a bender, they would more than likely find themselves in the emergency department of one of our esteemed teaching hospitals. So, I think people do go out at different times. The young people I know who go out will usually have a nap in the evening, and then that will give them enough wakefulness to be able to head out for the evening.

At the briefing which was provided to me, the commissioner advised that he is quite convinced—and I think, in part, based on his experience as a policeman in the Northern Territory—that there is too much alcohol-related harm in our community, and he believes that the measures in this bill will send a message about binge drinking. He also believes that the CBD is open 24 hours for seven days a week and is therefore a magnet for such behaviours, and that I think it might come down to the belief that 'something must be done'. I must admit, I recall similar arguments in relation to when Prime Minister Rudd made his alcopop announcement.

The government has said that it does not want to punish those licensees who do the right thing, but I think even they would acknowledge that the measures in this bill will harm all licensees, and I firmly believe that the licensing enforcement branch needs to enforce existing laws in relation to the serving of intoxicated patrons prior to taking these measures.

There were some 61 submissions to these bill and yet no final report has been tabled. I think that is disappointing. I think using youth as a scapegoat—because a lot of young people are

not into socialising at those same hours—makes a lot of assumptions as to what is happening in licensed premises and in those precincts, without the benefit of firsthand knowledge, to which I will turn from our own personal consultation.

On Saturday 2 April and into Sunday, the next day, Tammy Franks organised what I think she entitled a 'Big Night Out', and I will leave some of this for her to explain in greater detail because I would like to give her credit for having organised that visit. I am very grateful that she was able to contact a very broad range of venues. Steven Marshall and I accompanied her, not to protect her in any way; I think we might have needed protection, if anybody was in need of it. The clear impression I obtained from that visit was that there were a very broad range of diverse offerings, if we can use the marketing parlance the government has been throwing around, with a different range of target markets.

We started at 11.30 at night and ended at about 6am. There was a change to daylight saving, so I do not think anybody knew what the time was by the time we finished. We visited La Boheme, Tuxedo Cat, Format, City, and I assume that the Hon. Ms Franks will go into much greater detail about what we discovered at each of these venues and some of the voluntary measures we witnessed. We also visited the Marble Bar, which has a very young target market; HQ; the Rosemont; Red Square; The Strathmore, and the Casino, which certainly had a much older group of people. If I were to be a nanna and cast judgement on them, I would say, 'Why do people need to be gambling or drinking at that hour of night?' I would say that to older people who I think often unfairly target younger people. We also passed several crowded taxi ranks.

On speaking to people, it was evident that none of the venue managers or proprietors want to have the silly young drunks, if I can call them that, in their venues, and a number of them have voluntarily implemented measures to improve safety and to keep out other undesirable patrons. The major concern, I think, is that the closure from four to seven is a one-size-fits-all approach, which unfairly disadvantages the staff's safety, as they finish work at the same time and are competing with patrons for taxis. There are a number of recurring themes, I think, in a lot of the submissions I have read out and a lot of the issues that have been raised, in relation to not just this this particular set of measures but also the interstate experience.

In summary, there has been a lot of rhetoric about drunken louts, but the fact that there has not been any prosecution for drunkenness or for serving drunk patrons means that the solution the government has come up with to shut premises and penalise licensees is just a knee-jerk reaction. I also note that the release of this to the public domain was made at a time when a couple of the Rann government ministers had opened their mouth and thought out loud on the issue of whether we should have nuclear power. So, I do wonder whether this was rushed out without their having thought about it beforehand.

We will oppose the third reading of this bill. We will not oppose it at the second reading, because we believe that the hypocrisy needs to be exposed and that therefore the committee stage is an important one to demonstrate all of the things that are wrong with this bill.

We will not be supporting the Greens' amendment to include the Casino in the curfew because we think the whole four to seven mandatory closure is a bad policy for any venue, so it is also a silly one for the Casino. We would be interested in the concept of expiation fees, and I place this on the record and ask the minister how far the issue of developing expiation fees for individuals who engage in antisocial behaviour has progressed. With those comments, I look forward to further contributions to this bill.

The Hon. T.A. FRANKS (16:49): I rise on behalf of the Greens to speak to the Liquor Licensing (Miscellaneous) Amendment Bill. I indicate that the Hon. Michelle Lensink has covered certainly a lot of the research and that I have also read and received very much the same correspondence and also undertaken consultations. For the sake of my voice, I will not repeat those various resources, names and so on.

The Greens agree with the government that we need to address the challenge of excessive alcohol use in our community and alcohol-fuelled violence. However, the bill before us, with its focus on a curfew between 4am and 7am, does not address those issues. We agree that we would like South Australia to be a safe place to live, work and play and that perceptions of safety can be seriously affected by the behaviours of those who drink to excess. In fact, excessive consumption of alcohol can present a significant potential for harm, both to the intoxicated person themselves as well as to those around them and those who look after them, such as police, emergency services workers and health service providers.

Additionally, the ongoing health and associated costs of excessive consumption of alcohol are massive to this country. In the decade from 1995 to 2005, more than 800,000 Australians were hospitalised with alcohol-related injury or illness, and a recent report by the Alcohol Education and Rehabilitation Foundation (AERF) found that the total morbidity cost of alcohol-related harm to others was in the vicinity of some $77.5 million.

In recent decades in South Australia there has been a considerable number of increases in licensed premises in this state; different types of licensed premises and the hours of availability of alcohol have also increased. Indeed, since 1996, the number of liquor licences held in South Australia has increased by some 3,593 up to 5,752 by the end of the year 2009. This raises increasing challenges for service providers, for patrons and for the legislature here.

We need to address and ensure the ongoing safe and relaxed environments within our state and the Greens welcome any moves that constructively seek to do that. We note that the Rann government has run a number of initiatives to combat problem drinking in the recent past and we observe that future measures will need a comprehensive and integrated approach in cooperation with law enforcement services, health service providers, social and community service providers, business owners and, of course, patrons themselves.

Some of the inadequacies of the current measures to reduce alcohol-fuelled incidents around licensed premises need further investigation and further improvement. We all want, I believe, a vibrant central entertainment district in this state in our capital city and we believe that should be one that has safety and enjoyment for all who wish to partake.

In recent years, the concept of lock-outs has been investigated around Australia and other parts of the world. While they are not specifically in this bill, I note that many of the lock-outs that we have had experience with around Australia have certainly not been peer reviewed, and there is a great deal of dispute about the effectiveness of these lock-outs.

What I would say is that a curfew takes this concept of a lock-out one step further. There is little evidence that lock-outs, or curfews for that matter, reduce the consumption of alcohol and violence around licensed premises. I would say that a 24-hour licence does not entail 24-hour drinking patterns.

I will repeat the words of the Hon. Michelle Lensink, that there seems to be some furphy out there that a 24-hour licence means that patrons are, in fact, in these premises drinking for 24 hours straight. This is, of course, an absolute furphy. If anyone were to be doing that they would end up hospitalised or dead, and I imagine there is no way that any venue in this state would continue to serve them for that amount of time.

Police reports have produced anecdotally positive results with regard to alcohol-related violence in public places. In regard to some lock-outs, however, it is impossible to tell whether these are due to the lock-out or other harm reduction strategies implemented at the same time. I pay particular attention here to the Newcastle experience, which is often held up as the Holy Grail of those who believe that the restricting of licensed premises' operating hours will, indeed, reduce alcohol-related violence.

There were many other initiatives in place at the time in Newcastle and Hamilton with regard to more responsible provision of alcohol and increasing the safety for patrons, but also when you look at the raw figures, the level of violent episodes related to alcohol actually increased at certain hours. In fact, you could say that it simply shifted it forward and, where it did decrease, the numbers were minimal (some two incidences less per week) to be able to be held up as a holy grail.

The Greens indicated in our submission to the first review process which preceded this bill that we do not support lockout schemes. We believe that there is a long way to go before they have proven their worth. From a personal point of view, with curfews and lockouts, I have been on the streets of Sydney in Oxford Street where they trialled a lockout at something like 2am, possibly 3am, where all the punters who had been in venues were pretty much tipped out onto the street.

They had a lockout system, so some people who were still in a venue were able to remain in that venue but, if you were out on the street, you were certainly not allowed access into any other venue. If you were a tourist like myself and did not know that these were the rules, you got a nasty surprise because you went from one pub to another to see what the next pub was like and found yourself not only out on the street with a whole bunch of other rather unhappy people and rugby players, but there were no taxis, no access to public transport, and it was indeed a recipe for

violence and disaster. It was quite a frightening experience and certainly one I would not like young people to have to experience in my own home town of Adelaide.

I also have recently been to the Gold Coast where, as a tourist, you receive information in your hotel room warning you not to go into certain parts of the Gold Coast hotspot entertainment precincts at night because this is when they close down and have their lockouts. They know that at these times you will be subject to violence on the streets should you be wandering by. I think these things are not something we want to see repeated in Adelaide. I note that it is even on the Travel Wiki information for the Gold Coast to keep off the streets after 3am in certain parts of that small city.

My brothers live in Brisbane and they know that, once the venues all start to shut down at a similar time, there is no transport (whether it is bus, train or taxi). They know that the violence escalates from their own anecdotal experience, and we have seen that in the research as well.

So, what are we trying to do here with this bill by introducing a curfew supposedly to reduce alcohol-related violence? It appears to me, and it is backed by a lot of the research, that it will in fact increase the vulnerability of those people who are out in our cities and our licensed venues who get kicked out onto the street. We talk largely about the city in this context, but of course it is across the state. People are kicked out—young people typically—because, let's face it, most of us do not have the stamina to stay out beyond 3am or 4am these days.

My son lives in the regional town of Berri. They have underage nights for their football and netball clubs on a regular basis because they have underage access to their big events, and they are the big events for the youth of the town. Everyone who is under 18, of course, needs to be cleared out before midnight. What they do when they are not thinking is they kick out all of the young people into the street to let all the ones who are under 18 and over 18 leave all at the same time and then let the ones who are over 18 come back again.

This has proven to be quite a mistake. It has escalated violence and it has certainly escalated alcohol-related violence. I understand from my son that they have stopped that practice because it was not well thought through. Again, this is the sort of thing that we will be seeing on our streets in our entertainment precincts and in our football clubs across South Australia.

Young people do want to go out and have fun. Licensed venues actually provide them with quite a safe environment in which to have that fun. What we are talking about here when we talk about alcohol-related violence is not typically fights that are breaking out within the licensed venues. We are not talking about fights that are breaking out in pubs and clubs; we are talking about the violence that is on our streets. Yet, we are wanting to shut down the places that are providing the safety in these entertainment precincts, that is, the licensed venues.

As the Hon. Michelle Lensink alluded to, herself, myself and Steven Marshall (and I am afraid that we had an apology from the Hon. Kelly Vincent, who had flu that night) undertook a tour of the entertainment precinct in our capital city in the West End, and we toured a range of venues on 2 April—a short time after this bill was tabled—to see for ourselves what all the fuss was about, to see for ourselves whether or not we fear for the safety of our children and our young people in this state.

We visited La Boheme, a cabaret/cocktail bar venue. We also met with the people from Renew Adelaide, and we had a look at Tuxedo Cat, which is an award-winning Fringe and arts venue, which has had all sorts of trouble with licensing issues, yet it provides an amazing venue that has now been recognised as quite outstanding around our artistic community. Format is a very small venue, which has a zine shop, local and international small acts and plays, and it has young people creating art and a culture that is very different from some of the other venues we went to.

For example, we went to the City Nightclub, which is incredibly opulent and something like the set of CSI. When you walk in, you are fingerprinted, your ID is scanned, and it all goes to a secure facility apparently in Perth. You walk a little further, and you have the option of several floors of quite beautifully decorated bars. They have different ranges of music in that venue. According to the management and security staff at City, everyone has to have an R&B room, and their R&B room certainly did seem very popular. There were young people there out to have a good time—not out to start a fight, not out to get trashed and drunk and lie in the gutter, but out to have a good time, meet new people and catch up with their friends.

We also went to the Marble Bar, where again young people were there to have a good time. HQ was quite an impressive venue, with some 30-plus security CCTV monitors and an

enormous range of responsible provision of alcohol mechanisms and security measures they had put in place. They basically manage their taxi rank. They have stood up and taken on responsibility for a whole range of issues in that venue. We were escorted largely by Daniel Michael, who is one of the main staff there. They have a real commitment not only to the safety of their patrons but also to providing a unique experience.

HQ plays host to some amazing touring international bands. In fact, Gary Numan was there last night, and I have seen many wonderful bands in that environment. While it is not my cup of tea to go there on a Saturday night (we were told not to come a Friday night as it is quite quiet then), Saturday night and into Sunday morning is their big time. It is a wonderful venue and it is young people again having fun, enjoying their leisure time. We went past the Rosemont. We had intended to go in, but the international Indian cricket match was on and it was largely full of Indian cab drivers, who later took to the streets in celebration of a great victory.

The Hon. J.M.A. Lensink: Very safely.

The Hon. T.A. FRANKS: Very safely and quite jubilantly. It was a wonderful, joyous celebration they had in that cricket win. We also went into Red Square and, again, there were security provisions the like of which I have never seen to ensure the safety of the patrons and then, the entertainment and the decorations, the fittings and refurbishment—quite amazing stuff. These are professionally-run businesses. They provide a safe environment, and young people want these sort of things. If they were not there, they would not be there in their thousands, and they go to these venues in their thousands of a Saturday night.

They do not go of a Monday night, they do not go of a Tuesday night or a Wednesday night. A few go on a Thursday night; often that is the student cheap drinks night. Some go on a Friday night when in fact they have probably worked their 9 to 5 week and done their study. Saturday night is the big night so a lot of them make the most of it and do have a sleep—a nanna nap, if you like—in the early evening and then head out into town around about 11 o'clock.

That is of course the time that I prefer to be going home, and I do wonder how I will feel if all the young people who currently do not go out until 11 o'clock are in fact going out when I am going out rather than the other way round. I certainly think we will have some more issues on our streets of increased patrons of very different demographics, should this bill come into force.

We did indeed visit other venues. We went to cafes and we were on Hindley Street quite a lot for the evening. I did notice some things about Hindley Street. It was a night when the cricket was on, and it was also one of the Operation Unite nights, I do understand, so there was quite a police presence. I did not once feel unsafe on Hindley Street in this time. We did see a few incidences of argy-bargy, but we certainly did not see anything that scared us as citizens of this state; anything where we felt unsafe or insecure.

I would have liked to have seen a chill-out space on Hindley Street. I would have liked to have seen people be able to sit down while they waited for their friends when they were arranging to meet and then go out to a venue together, but there were not these sort of things on Hindley Street. I am interested in some of the discussions that I had with some of the management of the aforementioned venues where they said that, in the olden days, back in the seventies and eighties, in fact, you did not have the masses of people simply on Hindley Street thronging about, and that to me seems to be one of the issues that we need to be addressing here.

I worked for the YWCA, and we were heavily involved in harm minimisation around schoolies week, and I do think that there are some aspects there where we can look at harm minimisation in our entertainment precincts as well, where we can have our chill-out space and we can have chai teas and access to water and non-alcoholic drinks in a safe space where you can perhaps wait for a friend if you cannot find them in the throng, that sort of thing, but I saw none of that at the moment on Hindley Street.

I saw an environment where people are shoved along and pushed along into that street were there are no spaces to congregate safely, where traffic is going both ways, and certainly one-way traffic or shutting the street down to traffic completely on a Saturday and a Friday night might be another option that we could be looking at here. In terms of the intensity that I felt on the street as a regular city nightlife goer, I certainly do like some of the little bars like The Apothecary, for example. It is a lovely little haven on Hindley Street.

The Hon. I.K. Hunter: I've never been.

The Hon. T.A. FRANKS: For those members who have not been, I suggest you check it out. They do have a lovely cheese platter, if the Hon. Ian Hunter ever wishes to partake. It is a wonderful place to go; if you have been to see a theatre show, I highly recommend it as a great way to finish the night.

I often brace myself to walk down Hindley Street to get to that venue, and I found when I was on Hindley Street for more than 20 minutes actually with the throng, if you like, that my levels of fear actually did evaporate and I realised that, while there were masses and teams of people, it was quite a reasonably safe environment. I certainly did not feel physically threatened at any stage.

Having said that, we then went past the KFC, and I cannot help mentioning that the KFC was in fact the lowlight of our evening. The KFC was strewn with packaging and food on its floor. It was disgusting, it was ill kept and, as the *Sunday Mail* photographer who was with us attempted to take a photo, it was the only part of the evening where we were in fact threatened. We were threatened because we were taking a photo of their brand and because we might be bringing them into disrepute. The state of that restaurant and how it was kept is something that I think they should be very ashamed of.

However, we went to all those licensed premises and they were very quick to pick up glasses and make sure that there were no broken glasses (obviously, we also have polycarbonate and hardened plastic options) or what has been termed by me and my friends as 'rockupational' health and safety issues, because people want to have a good night.

The KFC should be embarrassed and ashamed of itself, but we are not cracking down on the KFC in this bill. We went onto The Strathmore Hotel, which was an absolute oasis, where there were people who had been working a long night and who had finished work. It was around 4am when we got to the Strathmore—and I repeat that it was the daylight savings weekend, so we had done the extra hour—and it was a beautiful environment where people were simply catching up with friends.

I note that a lot of those people were Casino staff, who I understand are not allowed to drink in their own venue after hours so, in fact, head over to the Strathmore. People were simply having a bit of a chill after a long night at work—because not everyone works in the daytime, as we well know here. That venue is by no means a high-risk venue, and by no means an irresponsible venue, yet it is being punished under this bill for what it has done very well and very successfully for the past two decades.

We finished up at the Casino. We went in and had a cup of tea with some of the other ducks also having a cup of tea in the Casino at 5 o'clock in the morning. Yes, there were people gambling, but it certainly was not one of the thriving hotspots we had been in earlier in the evening. I certainly do not think it would have appealed to any of those who were looking for an R&B room. I am pretty sure the Casino will not be wanting to offer and R& B room or a venue where young people in their early 20s are going out and, let's face it, looking to meet other young people not just to make friends but also to form ongoing relationships. They will be going somewhere, no matter whether or not we are providing them with a safe venue to do so.

What we will see, if we start to close down venues and create these curfews, is young people setting up their own house parties. We know that house parties, particularly in this era of social networking, can get incredibly out of control, and policing will be a nightmare. We will not know where a house party will be; we will not know where, say, 400 people may congregate and we will be leaving parents to clean up the mess. This bill, with the curfew, is quite shortsighted in that area.

I want to reiterate the Greens' position that we really do need some strong cultural change around the consumption of alcohol. People should not drink to excess, and it should not be acceptable. Also, we should not be having underage people drinking. I will clarify at this point that the Casino staff can, in fact, drink at the Casino but most choose not to because, after being in the Casino environment for an eight, nine or 10-hour shift, they like to have a change of environment and the Strathmore, as I said, provides that wonderful serene, calm and non-work leisure environment for the Casino staff.

People who are under age (under the age of 18) should not be drinking alcohol, and we should be cracking down on that. People who are over 18 should drink alcohol responsibly, and we should not be having episodes of binge drinking or encouraging or allowing people to be drunk in public or, in fact, drunk in any way that creates levels of violence for themselves or other people, and the health impacts that come out of that.

I have some concerns that there is no way that public transport options will be able to deal with the curfew measure in this bill. Typically, Adelaide CBD public transport stops running about 12:30 in the evening and does not start again for some six or seven hours. We do have some Saturday night bus services; however, I note that these are sometimes confusing to young people and, because they bunch together a whole range of people who have had too much alcohol, they can provide an unsafe environment.

We would certainly not like to see young people deciding not just to have parties at houses that are unsafe and so on and putting pressure on parents, but also, as result of this curfew, young people—particularly young women—making life choices that could have quite significant impacts for them. Young people told us, while we were out on the streets discussing this bill with a range of people, that they often they go out as a group and have a $70 cab fare to get home. They cannot afford it by themselves, so the three or four of them who go out—usually into town—have to make sure that they are the ones who split the cab fare at the end of the night.

This means they are often waiting around while one of them is perhaps talking to a new acquaintance, having a dance or doing whatever it is that they have gone out to have fun and do. If we do not have public transport options those young people will be put at risk, and the place they will be put at risk is when they are waiting on the streets—whether that is waiting for the first bus or first train to start up, unable to afford a cab fare on their own, or whether that is choosing to go home with someone they have just met or who they do not know very well, or who they do not trust very well.

Something we have not talked about in this debate yet is that I think there is actually a very serious impact of this bill if you create a curfew: you will see young people, having just met someone they may be vaguely interested in romantically, going home together and perhaps engaging in activity to a level of risk that they normally would not engage in. It might be because they do not have money, they might have lost their other friends, but they have no other option. If you do not give them the option of being able to stay in the safety of a licensed premises, waiting for their friends, then the reality is that some young people will make bad life choices and engage in risky behaviours.

It is interesting that the Casino has an exemption from this curfew, and the Greens have tabled an amendment to seek to remove that exemption. A lot of people wonder why the Casino gets special treatment; I understand, from the minister's briefing and from the minister, that it provides a unique environment, but so does an R&B room, and so do many of the clubs such as the Apple Bar, HQ, and Earth in this city. They provide unique experiences for young people, who want to go there in their thousands. I actually think that, should the Casino be exempted, it really would not want these young people in its venue; it is not the clientele it is after and it is not the unique experience it is seeking to provide. It will create more problems.

The final thing I want to say is that the Greens welcome some of the measures that have come as a corollary to this bill in the delegated legislation, and I am happy to see that some of the measures around things such as drink spiking, monitoring of CCTV and other safety measures have been looked at by the government. However, while we welcome the second reading of this bill and look forward with interest to the committee stage, a knee jerk reaction will not address the alcohol problem we have in this country.

I would like to put one question on notice before I finish: how many people have been arrested under the Public Intoxication Act from 2005 to 2011? I believe that we have current laws and measures in place that can ensure that we can have safe partying environments in this state under those laws, and we are not implementing them. Public intoxication and excessive alcohol consumption are problems we already have the power to address, but do we have the courage to do it without a curfew?

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

SAFE DRINKING WATER BILL

Adjourned debate on second reading.

(Continued from 7 April 2011.)

The Hon. A. BRESSINGTON (17:20): I rise to indicate my support for the second reading of the Safe Drinking Water Bill 2011 and my intention to move some amendments (which would probably be no surprise). The bill, which I believe has its origins in the Productivity Commission, has as its premise the right for consumers to expect safe drinking water when they turn on the tap.

It seeks to achieve this objective by subjecting water providers to universal safety standards, inspection and reporting requirements.

In detail, the bill—subject to certain exemptions—covers all the several hundred water providers in South Australia. While the largest, of course, is SA Water, with some 94 per cent of consumers as customers, there are numerous smaller suppliers, such as water carters and other resellers. Further, there are those who indirectly provide drinking water from rainwater tanks or bores, such as bed and breakfasts, caravan parks and other forms of holiday accommodation.

To limit contamination or toxic outbreaks, the bill requires each of these providers to have a risk management plan, with separate monitoring and incident plans. The bill also requires relatively frequent (once a year for SA Water, and no less than once every two years for smaller providers) audits and inspections by suitably qualified environmental health officers, the results of which are then to be reported to the Department of Health. Further, if there is an outbreak or contamination, the bill requires the provider to notify its consumers, which I believe is an increase in the transparency of the current reporting of incidents. Obviously, I fully support these measures to limit the risk and effect of outbreaks.

Ironically, it is a government that is probably responsible for more illness in this state that is introducing the safe water bill, when it persists in artificially fluoridating the water supply of everybody, when the known health effects of that practice are now accepted worldwide. The United States has lowered its level of 'dosing', if you want to call it that, to 0.7 parts per million because of the findings of the United States Federal Department of Health and Human Services, following significant scientific risk assessments performed by the Environmental Protection Agency, which in part found over 40 per cent of American teens now show signs of dental fluorosis—a sign of excessive fluoride intake that can lead to severe pitting and staining of teeth.

Those reviews also confirm earlier research showing that the prolonged high intake of fluoride can increase the risk of skeletal fluorosis, leading to brittle bones, fractures and crippling bone abnormalities. The reason the South Australian Health Department gives not to follow that lead is that this is Australia—Australia, where we have not done any of this testing, where we have not done any of these audits or risk assessments, and where the science on the harms of fluoride has basically been shoved under the carpet and ignored.

At the end of last year or beginning of this year, I had an expert in the field of fluoridation, Dr Paul Connett, come here and address members from this place and the other, and members of the public and healthcare professionals who were interested in this issue. I know that there were members of the Labor party who were shocked by the information they received, and I know that because I have spoken to them myself, and they are now asking why we would persist with this practice when the health and wellbeing of not only our children but also of our sick and our elderly are being put at risk by an outdated and unscientific practice of putting rat poison in our water.

We know that fluoride has never been approved for human consumption. The way in which legislation has been drawn up and manipulated by federal and state governments, the TGA has no jurisdiction over any sort of assessments or studies on the efficacy of fluoride ingestion. So, that is a bypass, basically, of the watchdog of safety in this country. As far as putting medicines into people's bodies, they have to go through stringent testing, yet for sodium fluoride—and let me be clear, sodium fluoride (silicic acid) is rat poison—we are saying that it is okay to put this in our water supply at one part per million, based on junk science.

I am not going to rave on about this, because I have already made a very long speech on fluoridation, but I am going to put on the record, given the context of this bill and the title being the safe water bill, that the known symptoms of fluoride poisoning are:

- arthritis—stiff, painful joints, with or without swelling;
- asthma, especially after showering with chlorine-filtered water;
- bony, painful lumps where tendons and ligaments attach to connective tissue;
- chronic fatigue syndrome;
- being very sensitive to cold temperature—always feeling cold, even after a hot bath or hot shower;
- colic in bottle-fed babies, or colic developing when breastfed babies are weaned;
- dental fluorosis;

- diabetes: a worsening of symptoms;
- diabetes insipidus (a kidney ailment)—excessive thirst, increased consumption of water that does not relieve thirst, dry throat and irritation frequent, diluted urine, especially at night;
- eyes: moving black spots in front of the eyes;
- fatigue: weakness and brain fog after bathing or showering in fluoridated water;
- fibromyalgia: severe muscle weakness and/or pain, with extreme pain in various bony areas;
- food intolerances that seem to come and go;
- gastrointestinal problems: irritable bowel, nausea, diarrhoea, heartburn and upper bowel pain, especially after drinking water;
- gum disease: irritated or bleeding gums despite good hygiene which are difficult to heal but which heal easily when you start using unfluoridated toothpaste and water;
- heart palpitations and increased heart rate without exertion;
- kidney disease: worsening symptoms; kidney stones;
- skin: hives, blisters, rash on stomach or back within a fluoridated area or after bathing or showering;
- drinking tea causes upset stomach, gastric pain, heart palpitations or the jitters, similar to strong coffee;
- teeth: loosening or needing to be extracted despite good hygiene; and
- thyroid diseases: underactive thyroid or overactive thyroid, goitre and nodules.

That is for adults. So, it may well be—and according to Dr A.K. Susheela, who has been diagnosing and treating fluoride toxicity for 35 years—that a great many people who are going to doctors for these ailments as adults are being misdiagnosed and therefore being prescribed medications they probably do not need. If that is the case, this government is responsible for that—and so is every previous government that has supported this practice without even considering that times change, science evolves and new information comes to light.

I think it is a bloody disgrace myself that we will not even call on Dr Susheela to come here and present to medical practitioners what she has found in her 35 years. You know what? If the science says that 3,700 healthcare professionals and 14 Nobel Laureates in science and medicine have this all wrong, we will yield. But no, turn a blind eye, a deaf ear, shove it all under the carpet and hope to God that these people never actually get tested for fluoride toxicity, and when they do they cannot even take it to a court of law. They have no common law rights the way we have legislated for fluoridation of our water supply.

I have just gone through the effects that it has on adults. Now, common in children—this is our children we are talking about, folks. Affliction of children due to fluoride poisoning is significantly different from adults. In children the adverse effects commence from intra-uterine life, if the mother is exposed to high fluoride. Infants with respiratory distress should be tested for fluoride in urine of the infant/drinking water, blood and urine of the mother. Fluoride ingestion by the infant from early developmental stages can lead to rickets, which may not respond to calcium and vitamin D treatment; unless the fluoride levels in urine/blood are lowered to normal range. In children the discolouration seen on the permanent teeth may not necessarily be due to dental caries or dirty teeth. But, in fact, dental fluorosis, which is, as I have said before, a sign of damage to the skeletal system.

The discolouration of the permanent teeth can be due to dental fluorosis. Discolouration is always horizontally aligned on the enamel surface; discolouration shall be away from the gums; the discolouration shall occur in teeth in pairs (bilaterally). Fluoride poisoning effects in adults can be tracked to soft tissue manifestations besides skeletal derangements. We also know now that it is a cause of kidney disease, it is a cause of lowered IQ in our children, it is a cause of behavioural problems and learning difficulties in our children and it is also the cause of brain damage which is absolutely debilitating in our children. We also now have a situation in Lismore, on the north coast of New South Wales, where a hero of the environmental movement named Al Olshack has fought

Rous Water, which was basically directed by the New South Wales Health Department to fluoridate the Northern Rivers water system. A movement in Lismore has taken steps and brought this before the Environmental Court.

Last week, the judgement of Justice Biscoe was handed down. It was a decision on a preliminary legal matter ruling that Rous Water was required to comply with sections 111 and 112 of the Environmental Planning and Assessment Act 1979 with respect to the impacts of fluoride on human health and the environment. The ruling means that the New South Wales Fluoridation Act of 1957 does not stand in isolation from the EP&A Act, as was previously understood. In his ruling, Justice Biscoe made it clear that he did not believe that the environmental and human impacts of fluoride have been adequately investigated and has allowed for this case to go to trial so that the evidence can be presented in his court.

As a matter of fact, that is a win for the anti-fluoride movement, although I hate to call it that because it always sounds like people who want to go to war with each other. The fact is that we have one court in Australia that is able to hear a case against water fluoridation that will allow all of this evidence to be presented and for a judicial ruling to be made on the efficacy of fluoridating water supplies.

I wonder what will happen in South Australia if that particular trial shows that this has been a bad practice for so many years and governments all around this country have rolled it out, steamrolled it, onto communities who have objected because they have done their research. For 40 years in South Australia the objections of many people have been ignored and they have been referred to as the lunatic fringe because they refuse to drink water with a toxic poison in it.

In conclusion, I would like to say that one of these days this issue is going to come home to roost whether it be that a government is forced to pay compensation for the harm that it has caused to children, the sick, the vulnerable and the elderly in this state or whether it be that each one of you in here who refuses, whether it be your portfolio or not, to look at the research that has been published and peer reviewed, because it has shown without a doubt that fluoride is contributing to ill health.

The former health minister in the Whitlam government now has to go away and live with the fact that he just did not do enough. That will be basically your lot when you leave here. You have sat on your hands and shut your mouth because of party politics and commercial agreements and agreed to poison thousands of people in this state. You have refused to take any responsibility within your party rooms to rectify that. Your lot will be the same as that former minister who expresses his absolute ongoing regret at the age of 87 that he did not do more to prevent this from happening. I hope you can all live with yourselves.

I want to put on the record that I was absolutely disappointed with the response of the Liberal Party to these amendments that I have put forward in this bill that because it was about fluoridation, it did not need to go to the party room. It did not need to go to the party room for discussion. They would be completely disregarded because the amendments referred to fluoridation. How pathetic! How pathetic is that for an opposition to take that point of view when children, our elderly, sick and vulnerable are being exposed possibly to something that they are highly sensitive to or completely allergic to?

We are talking about the low socioeconomic people of this state who, unlike myself and others, cannot afford to have a rainwater tank installed or cannot afford a reverse osmosis filter or cannot afford to substitute their tap water for bottled water. They are forced to drink and bathe in this crap and get sicker as time goes by. I know of families who are having their urine tested and sent over to Dr Susheela in India and, by having the diagnosis from those urine analyses, this place and the other place and the major parties in here are going to have a lot to answer for in years to come when all this unfolds. Believe me, it will unfold. The science will come out. The truth is out there and the truth will set you free. I believe on the fluoride issue that the truth will prevail, and you can all hang your heads in shame.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (17:39): I understand there are no further second reading contributions. By way of concluding remarks, I thank honourable members who have made second reading contributions for the support that they have indicated and I hope to be able to persuade those who have concerns during the committee stage in a way that allays their

concerns. There were a number of questions that were asked during the second reading contributions that I would take some time at this point to put on the record.

Access to reliable supplies of good quality drinking water is recognised as a basic human right and is a fundamental requirement for community wellbeing. Communities have a right to expect that their drinking water supplies are safe and that there are systems in place to ensure that this right is maintained and their health is protected. South Australia has avoided drinking water outbreaks associated with public water supplies, and incidents have been restricted and very well controlled.

To a large extent, this has relied on voluntary actions applied by the major water provider, SA Water, which has long worked collaboratively with the Department of Health to meet the shared goal of ensuring safe drinking water supplies. SA Water applies the risk management approach described in the Australian Drinking Water Guidelines and the World Health Organisation Guidelines for Drinking Water Quality for assuring drinking water safety. However, the arrangement with SA Water does not extend to all drinking water providers, and it is likely that the number of providers will increase in response to challenges associated with climate variations and growing populations.

The consequences of failure to provide safe drinking water can be very high in terms of public health, economic and social impacts. Development of the Safe Drinking Water Act is identified as action 92 in the Water for Good plan. Water for Good notes that, with increasingly diversified supplies and potential new providers, it is timely to develop and implement more prescriptive safe drinking water legislation to provide a more clearly defined framework for identifying roles, responsibilities and reporting requirements.

In 2000 the Productivity Commission criticised Australian drinking water regulation as being light handed, lacking certainty of compliance, transparency and accountability, and that legal responsibilities were not always clear. However, in recent years the level of regulation has been increasing due to a number of factors, including corporatisation of the drinking water industry, outsourcing of functions, greater private involvement and isolated but serious incidents in Australia and overseas.

In 2003 Victoria enacted a specific Safe Drinking Water Act 2003, New South Wales enacted the Water Industry Competition Act 2006 for private sector water suppliers and Queensland enacted the Water Supply (Safety and Reliability) Act 2008. In South Australia provisions applying to drinking water were incorporated into the Food Act 2001 and the Food Regulations 2002. This was based on direction provided by the national Model Food Bill. Food Standards Australia and New Zealand recognises drinking water as a food. Legislation broadly defines a requirement to produce food that is fit for purpose and handled in a safe manner but does not provide direction to water providers on how this requirement should be achieved or how it should be measured.

This bill addresses the lack of clarity of the Food Act 2001 and provides a description for the actions required by providers to ensure drinking water to verify compliance with the Australian Drinking Water Guidelines. The bill will improve protection of public health, prevent disease and is consistent with objective 2 of the South Australian Strategic Plan 2007-16 'Improving Wellbeing'. The Department of Health and local government work jointly to ensure compliance with the Food Act, and it is proposed that the Department of Health will take primary responsibility for the administration and compliance with the Safe Drinking Water Act, and this will provide a uniform approach.

While SA Water provides about 94 per cent of the population with drinking water, there are broad range of other drinking water providers. The bill applies to those providers who are currently subject to the Food Act. Hence it will apply to providers who are responsible for the supplying of drinking water from independent sources. A list of sources is included and those it does not apply to and provisions for exemption as well, and if members need details I am happy to provide them.

Compliance requirements include that the level of detail in risk management plans as well as monitoring, reporting and inspection/audit frequencies will reflect the size, complexity and hence the level of public health risk of drinking water supplies, and the Department of Health will generate templates for:

- registration of water supplies;
- risk management plans for small water supplies; and

- audits and inspections of water supplies (excluding large supplies).

Drinking water providers will be required to register with the department and must not supply drinking water unless they are registered. Registration will be a one-off event, with no associated fee, and will provide the department with important information as to the type, size and location of drinking water providers across the state. The department will be responsible for the upkeep and management of the register and will inform local councils of registered drinking water providers in their local area.

Risk management plans are recognised as the essential feature of assuring drinking water quality and a key component of the Australian Drinking Water Guidelines and the World Health Organisation Guidelines for Drinking-Water Quality. The framework for developing risk management plans described in the Australian Drinking Water Guidelines was developed with support from state and territory health agencies and drinking water utilities. Risk management plans have been successfully developed by all major water utilities and some medium providers.

In addition, risk management plans have been successfully adopted and applied by communities of fewer than 20 people. The Department of Health has undertaken considerable consultation with drinking water providers, especially smaller utilities and communities, to progress implementation of risk management plans. This assistance will continue to be offered.

The Department of Health considers that all drinking water supplies, except those supplied from domestic rainwater tanks, should be subject to water quality testing. Requirements proposed for small water systems will be based on current recommendations, including in the Department of Health fact sheets. In terms of audit and inspections, the Australian Drinking Water Guidelines recognise auditing of drinking water quality management as an important tool in confirming that systems are effective and producing desired outcomes.

Inspections and audits are prescribed in the bill to ensure that appropriate risk management plans are developed and implemented. Documentation, including monitoring results and maintenance schedules, will be examined as part of this process. Inspection and audit frequencies will be specified according to classes of drinking water providers, and inspectors and auditors will be approved for the purposes of the bill by the department with regard to appropriate technical skills, experience and competencies.

Environmental health officers employed by local councils who are currently undertaking inspections of food premises and/or have completed the core components of the Approved Lead Auditor in Food Safety Management Systems course offered by the department would be competent to undertake inspections for small drinking water suppliers. Audit of medium suppliers would require the completion of all components of the Lead Auditor in Food Safety Management Systems course or completion of the Drinking-Water Quality Management System Auditor Certification Scheme provided by RABQSA International. Many environmental health officers are approved food safety auditors, and it is proposed that this approval will be transferred to allow auditing under the bill.

In terms of Australian and international legislation, there is an increasing move towards specific drinking water legislation. The 2000 Model Food Bill, developed as part of the Intergovernmental Agreement on Food Regulation in Australia, identified the need to regulate drinking water quality either within a Food Act 2001 or alternative legislation. South Australia included drinking water within its Food Act 2001, as did Victoria before they introduced their act and associated regulations.

The Victorian Safe Drinking Water Act and regulations were developed to address inadequacies with the established regulatory framework and to provide a descriptive approach to assuring drinking water safety. The legislation includes requirements for drinking water providers to implement risk management plans, approve independent auditors and a range of other requirements.

New South Wales enacted the Water Industry Competition Act 2006 and associated regulations in 2008. The legislation applies to private sector water suppliers, and the regulations include requirements for implementation of risk management plans, auditing of plans by approved independent auditors and immediate reporting of incidents that threaten water quality.

Queensland passed the Water Supply (Safety and Reliability) Act 2008, and it also includes requirement for risk management plans, independent auditing of plans, immediate reporting of water quality incidents and publication of water quality results. Tasmania and the

Australian Capital Territory have applied regulatory control through their public health legislation while including descriptive requirements in separate drinking water codes and guidelines.

In international legislation there has been growing support for drinking water regulations. The United States has long-established drinking water regulations and the EU regulates drinking water, also New Zealand and others. Requirements for risk management plans, annual reporting to health departments and immediate reporting of incidents are common components of the Australian regulatory requirements, and there are other mechanisms such as memorandums of understanding. Many elements of the draft Safe Drinking Water Bill are also similar to requirements contained in international legislation. We can provide a summary of that Australian international legislation if needed.

In terms of the cost of failure of the current system, the provision of safe drinking water is a continual challenge. The major risk to public health is the occurrence of an outbreak of disease from contaminated drinking water. While incidents and outbreaks occur infrequently in developed countries, the health, social and economic consequences can be severe. A contamination incident in Sydney in 1998 demonstrated the potential cost of a major water incident, even in the absence of illness.

Three 'boil water' notices were issued over several weeks following the detection of suspected contamination. The cost to Sydney Water was estimated at $75 million. The inclusion of hidden costs to the community increases that figure to $350 million. The Sydney incident was one of the primary catalysts for developing risk management approaches for ensuring drinking water safety in Australia. Disease outbreaks resulting from contaminated drinking water have occurred in other developed countries as well and have incurred considerable costs.

Responses to incidents and outbreaks typically involve subsequent imposition of increased standards, regulations and oversights. Both the Sydney and Walkerton incidents led to judicial inquiries. SA Water applies a risk management approach that minimises the likelihood of outbreaks. There have been infrequent water quality incidents requiring public notification and no evidence of outbreaks associated with the SA Water operated supplies. There have only been isolated occurrences of disease outbreaks detected in association with small non SA Water community supplies.

However, under-reporting is known to be a factor associated with detection of water-borne illnesses. Prevalence of groundwater use in rural areas and high use of rainwater tanks may also have contributed to the lack of public health impacts from community water supplies. The bill, by providing greater clarity, will reduce the likelihood of disease outbreaks originating from drinking water and the issuing of avoidance mechanisms, such as 'boil water' advisories. The requirements of the bill will also facilitate public confidence in the safety of drinking water supplies.

Costs associated with meeting the requirements of the proposed legislation largely represent a transferral of costs from ensuring compliance with the intent of the Food Act 2001. Hence, the cost to comply with the proposed act are expected to be relatively minor for responsible providers. This has been confirmed by discussions with a range of drinking water providers during consultation, including medium-sized regional suppliers such as Coober Pedy and Leigh Creek.

Additional costs will be incurred by providers who are not applying good management practices considered necessary to ensure and confirm supply of safe drinking water and public health protection. There will also be minor inspection/auditing costs. Costs to small businesses will be minimised by incorporating flexibility within required elements, combining drinking water inspections and audits where possible with existing requirements and programs, and exempting some premises that supply rainwater for drinking.

The impact on responsible businesses will be small and offset by the benefits of improved clarity and intent. In addition, compliance with the proposed legislation will increase customer confidence in the products or services provided by water providers, including accommodation and food provided by bed and breakfast businesses, as well as reducing risk of disease outbreak and contamination incidents.

As raised during consultation, the bill supports consistency of practices applied across specific industries such as accommodation premises and water carters. If the bill passes, the department will develop an implementation plan to enable the Safe Drinking Water Act to become operational. Implementation will require development of regulations and supporting guidance and training. The bill refers to matters prescribed by regulations in a number of areas including

registration, rainwater supply exemptions, functions of inspectors/auditors and testing requirements.

The Department of Health will consult with key stakeholders on the development of the regulations and provide accompanying information to clarify intent and application. The Department of Health will work closely with local government to ensure appropriate consultation on implementation and effective liaison in developing a shared understanding of the processes and resources required to implement and administer the act.

The development of a memorandum of understanding between the Department of Health and local government will be initiated as part of the implementation plan. Training will also be developed, particularly for the environmental health officers, in relation to the performance of inspections and audits. Templates and guidance will be prepared to assist drinking water providers meet the requirements of the proposed act. These will include registration forms, guidance on the preparation of risk management plans, including monitoring requirements, water quality criteria and incident protocols, generic templates for risk management plans for small water suppliers and templates for inspections and audits. Local government and drinking water providers will be consulted on the nature and content of written material. With those concluding remarks I commend the bill to house.

Bill read a second time.

[Sitting suspended from 17:57 to 19:45]

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. A. BRESSINGTON: I move:

Page 6, after line 3 [clause 3(7)]—after paragraph (b) insert:

(ba) contains fluoride at a concentration greater than 0.7 mg per litre; or

This amendment seeks to reduce the current rate of fluorosilicic acid added to our water supply to 0.7 parts per million, down from one part per million. This is in line with the recommendation earlier this year by the United States federal Department of Health and Human Services following scientific risk assessments performed by the Environmental Protection Agency that in part found over 40 per cent of American teens now show signs of dental fluorosis.

I make the point that last September, I think it was, my office put in freedom of information requests from the Australian Dental Association (ADA) to try to get the analytical data that relates to the amount of fluorosis and tooth decay in South Australian areas, comparing them with non-fluoridated areas. It took six months for them to be able to compile that data, because it is not data that they normally compile and analyse.

Really, what we are doing here is flying blind on the amount of fluoride that we are adding to our water. I do not believe 0.7 parts per million is an ideal level either, because that figure has just been pulled out of thin air by somebody, but at least it is a start in reducing the amount of fluoride that people will be taking in through their drinking water, their bathing water and the water that they are cooking with.

A point for members to grasp is that, when we cook our children's vegetables or our own vegetables with fluoridated water, the concentration of fluoride in that water is increased by some 600 per cent because of the evaporation. Fluoride does not vaporise, so it stays in the water and the level of the water decreases with boiling. The same applies to making tea and coffee with that water as well. So, whatever steps we can take now to reduce the widespread dosing of people who may be sensitive I think would be a good step, and I commend the amendment to the house.

The Hon. G.E. GAGO: The government does not support this amendment. Drinking water is deemed to be safe, providing it complies with the Australian Drinking Water Guidelines. The current guideline value for fluoride is 1.5 milligrams per litre and water containing concentrations that are less than this value are deemed to be safe.

Reducing the fluoride limit in South Australia to 0.7 milligrams per litre would have significant ramifications for groundwater supplies in the state. All groundwater contains natural fluoride and concentrations above 0.7 milligrams per litre are fairly common, I am advised. This includes groundwater supply to communities such as Millicent, Naracoorte, Port MacDonnell, Melrose and Geranium. There is no justification for reducing the upper limit of 1.5 milligrams per litre or for declaring these supplies unsuitable for drinking.

The suggested amendment is based on a proposed recommendation from the United States Department of Health and Human Services to establish a single concentration of 0.7 milligrams per litre where fluoride is added to drinking water supplies. The current policy is that fluoride should be added to achieve concentrations between 0.7 and 1.2, based on ambient air temperatures and hence water consumption. Under this policy, higher concentrations are applied in colder areas where water consumption is lower. This is similar to existing policy in Australia, with the National Health and Medical Research Council recommending that fluoride should be added to achieve concentrations between 0.6 and 1.1 milligrams per litre, depending on climate.

In South Australia, fluoride is added to achieve 0.9 milligrams per litre. The reason for the proposed change in the United States policy is evidence of increased dental fluorosis in adolescents between 12 and 15 and the absence of evidence that water consumption is influenced by climate. The likely explanation for this increase was considered to be greater use of fluoridated toothpaste and drinking water fluoridation. The proposed change is not based on evidence of skeletal fluorosis as claimed.

The situation in Australia is very different, where prevalence of dental fluorosis is decreasing. This reduction has largely been associated with better use of fluoridated toothpaste, including specific types designed for children. In Australia, the overall rate of dental fluorosis has markedly declined. In the early 1990s, the prevalence of fluorosis in Australian children was over 40 per cent, which is similar to current rates in the United States. By the early 2000s, the prevalence had halved. Nearly all of the dental fluorosis identified in Australia is classified as very mild to mild, which strengthens the teeth and is barely visible.

There is no evidence of skeletal fluorosis associated with fluoridated drinking water in Australia. The drivers for the proposed reduction in dose in the United States do not exist in South Australia. There is no evidence that South Australia should adopt a position that differs from the rest of Australia in relation to concentrations added to drinking water supplies or the upper limit of 1.5 milligrams per litre recommended by the Australian and World Health Organisation drinking water guidelines. I have been advised that the normal heating of fluids has very little influence on the concentration of fluoride.

The Hon. A. BRESSINGTON: I have a question for the minister. If we do not have doctors trained in Australia to test for fluoride accumulation, the Australian Medical Association, I think it is—I could be corrected on the organisation—has refused to do post-mortem bone studies on people who are suspected to have fluoride toxicity. If we do not do that sort of testing in Australia for people with osteoporosis or osteoarthritis—if we are not testing for fluoride—how can we possibly have any data in relation to that?

The Hon. G.E. GAGO: I have been advised that the review undertaken by peak health bodies here in Australia, including the National Health and Medical Research Council, have investigated the possibility of adverse effects of fluoridation and concluded that the evidence is limited to dental fluorosis.

The Hon. A. BRESSINGTON: I have a question for the minister. That information the minister says comes from the NHMRC, were they scientific studies done or a review of other literature written? My understanding is that there has been no scientific testing done in Australia on fluoride toxicity or fluoride build-up in the human body.

The Hon. G.E. GAGO: I have been advised that it is, in fact, a review of all worldwide research papers.

The Hon. A. BRESSINGTON: Did that review include the Harvard study by Dr Bassett, the study, from Harvard again, done by Dr Phyllis Mullenix and the 120 studies, I believe, that have been peer-reviewed and published? It is my understanding that very few, if any, of those particular studies that show adverse effects from fluoride were considered in any of those reviews.

The Hon. G.E. GAGO: I have been advised that the review considered all published research that had been done in the last 10 years, no matter what the source or outcome. For that

research to be considered, it had to meet certain scientific criteria. I am advised that not all of the research was able to meet those criteria and qualify. However, all of this has been published. So, it has been very clear in terms of what research was included, what met the criteria and what research failed to meet that scientific criteria.

The Hon. A. BRESSINGTON: Another question for the minister: just to clarify that, are we saying here that our NHMRC review of the literature and the science here are of a higher standard than the department of neurotoxicology of Harvard University? Are we saying that we have had the same kind of testing done that they would do in Harvard and other toxicologists have done in their universities—Canada, Toronto, India, for example—and that none of those would meet the standards, scientifically, of little old Australia?

The Hon. G.E. GAGO: I have been advised that no, that is not what we are saying. Some of the research that was alluded to was likely to have been considered. Some of it was likely to have been included, having met the scientific criteria, and some of it not included.

The Hon. A. BRESSINGTON: All right. So, in 1991, the NHMRC made a recommendation that a full audit, if you like, or research should be done into the fluoride intake, in areas that were being proposed to be fluoridated or that were fluoridated, to see sources other than fluoride that people were consuming.

Can the minister explain why that particular recommendation was never followed through and clarify for the house that there has never been any sort of research done into the amount of fluoride, outside of drinking water, that people are actually taking in on a daily basis? Note that that was also a recommendation of the World Health Organization before fluoride was to be rolled out. They also recommended the same sort of study and review of the areas that were proposing fluoridation. Why haven't those reviews and that research been done?

The CHAIR: I remind the honourable member that this is not a court of law and the honourable minister is not under cross-examination, and it is the honourable member's amendment that we are talking about. The honourable minister can answer parts of that, if she wishes.

The Hon. G.E. GAGO: I have been advised that in 1999 the NHMRC published a draft report assessment of dietary intake of fluoride. Food Standards Australia and New Zealand has also recently published dietary intake of fluoride as part of its assessment and concluded that such intakes were safe.

The Hon. A. BRESSINGTON: Can the minister clarify how that assessment came about? What was the process of assessing daily fluoride intake?

The Hon. G.E. GAGO: I have been advised that Food Standards Australia and New Zealand used nutrition data and content of fluoride in various dietary components and I have been advised that their measures were standard measures for such compounds.

The Hon. J.M.A. LENSINK: The honourable member has three amendments to this bill which relate to fluoridation. The Liberal Party has a firm position that we do support fluoridation. I am not going to discuss the merits or otherwise of it this evening, but suffice to say that we trust the advice of the NHMRC as a longstanding body which has the authority on these matters. Therefore, we will not be supporting the honourable member's amendments.

The Hon. D.G.E. HOOD: None of us are experts on these matters and I think any of us who has done the reading on this would agree that it is incredibly complex, I certainly did. I would like to congratulate the Hon. Ms Bressington for examining these issues thoroughly. She has brought a number of articles to my attention, which I have read, and I must say that I was fascinated by the findings that have been handed down by very credible people about this issue.

I do not know whether or not there is too much fluoride in our water, I really do not. What I do know is that there are serious questions being asked by very credible people, and I think that in itself warrants not just this place but scientists to examine these issues thoroughly. We will support the amendments of the Hon. Ms Bressington. They are obviously going to be defeated, so it matters not in the end, but I believe that this is an issue that deserves further investigation.

So, I vote for these amendments hoping that sends a signal that this is a matter for inquiry. As I said, I do not know if there is too much fluoride in our water or not, but I do believe that this deserves a proper and thorough look.

The Hon. T.A. FRANKS: The Greens share the concerns raised by the Hon. Ann Bressington and also some of the sentiments just communicated by Family First. We note that

around the world many countries do not have fluoride in their water; some do in their salt. However, Northern Ireland, Austria, the Czech Republic, France, Germany, Belgium, Luxembourg, Finland, Denmark, Norway, Sweden and the Netherlands are not countries to be ignored, and they have all chosen not to use fluoride in their water. Canada, East Germany, Cuba, and Finland have chosen to get rid of fluoride from their water.

The Greens in the UK, Canada, New Zealand and Europe have raised concerns about the levels of fluoride. What we have to remember is that this is something that cannot be regulated in dosage. We put a certain amount in the water, or we have existing levels of fluoride in our water, but we cannot control the dosage. We do regulate in some areas, such as children's toothpaste, to have a lower level of fluoride.

In America they have a certain level—a very low level—in baby products, and baby formula is not to have fluoride in it. We think that there is enough concern out there, which has been raised both by the Hon. Ann Bressington and the experts that she has brought to this place, and we thank her for bringing this issue to our attention.

We believe that there is an issue to be addressed here, not simply to be ignored. We think also that there has been a lot of corporate science (or junk science) involved in this debate. We would like to see some independent science, and we think that the governments of this country have a role to play in leadership in that area.

The Hon. J.A. DARLEY: I support the Hon. Ann Bressington's amendments for the same reasons already mentioned by Family First and the Greens.

The Hon. K.L. VINCENT: I was just going to say pretty much the same thing as everyone else has already said. For what it is worth, I support the amendment.

Amendment negatived.

The Hon. A. BRESSINGTON: I move:

Page 6, after line 7 [clause 3(7)]—After paragraph (c) insert:

(ca) has been declared by the Environment, Resources and Development court to be unsafe by order made under Part 7 division 4; or

I indicate that amendment No. 4 is consequential on amendment No. 2, which I have moved, and I will speak to both of them now. This amendment addresses what I consider to be a fundamental flaw in the current bill, namely, that it relies upon the state to initiate a prosecution against a drinking water provider for providing unsafe drinking water. While this may be appropriate if the bill is solely regulated by SA Water, the fact is this bill now regulates all water providers, including small water carters and other minor providers who will undoubtedly fail to attract the same level of attention and urgency.

Modelled on section 104 of the Environment Protection Act 1993, my amendment will enable a consumer to initiate action in the Environment, Resources and Development Court to have polluted drinking water found unsafe. Currently, such determinations are made by the minister or the state, with no avenue for a court to hear argument that is likely to be detailed technical evidence and, if satisfied, make such a determination.

In effect, the bill proposes to create a consumer's right to safe drinking water and yet provides no means for a consumer to enforce this right themselves. My amendment creates such a means. It is my hope that such an action will finally enable a court in this state to decide on the scientific evidence whether or not fluoridated water is safe.

Further, this section will enable a constituent to initiate an action to compel a water provider to meet their obligations under this act, to restrain a provider from breaching the act, or to take any remedial action necessary. While these are traditionally powers vested in the regulator, I see the proposed amendments as an additional level of accountability (which is a bit of a joke) on water providers and an avenue for constituents to enforce their right to safe drinking water.

More significantly, the bill currently also fails to provide a means to compensate consumers directly affected by the provision of unsafe drinking water. This is in contrast to the Environment Protection Act 1993, which enables individuals who have suffered loss or damages, or incurred expense in undertaking remedial action, to be duly compensated. Again, my amendment rectifies this with the Environment, Resources and Development Court able to order reasonable compensation from the water provider and, of course, number four is acceptance onto a fluoride tolerance register.

This is basically giving consumers a right. If they can prove that they are sensitive to fluoride and they can come up with the medical evidence to do so, they should be able to be heard in a court and have a judicial finding made and, once and for all, at least have an avenue of recourse for having to consume water that they may be either sensitive to or completely allergic to.

The Hon. G.E. GAGO: We are not dealing with the register now, though, are we?

The Hon. A. Bressington: No.

The Hon. G.E. GAGO: The government does not support these amendments. The aim of the Safe Drinking Water Bill is to provide a clear direction to drinking water providers on how to achieve safety and describe how safety will be measured. The bill also provides safety mechanisms to enforcement agencies to compel drinking water providers to meet obligations under the bill. Safety will be defined in terms of compliance and management principles and guideline values described in the Australian Drinking Water Guidelines.

A feature of the bill is that it has been designed to be practical and to describe requirements that can be applied in a manner that is commensurate with risk. This is particularly important for operators of small and moderate water supplies which can include professional and volunteer water carters and owners of small accommodation premises such as bed and breakfasts and caravan parks.

There was a good deal of discussion in another place that focused on addressing concerns and providing reassurance that the bill was not too onerous and did not place too many barriers or impediments to providers of drinking water supplies, particularly in small rural communities. Concerns were also expressed that, if too many impediments were included, an undesirable consequence of the bill could be that some providers might decide to opt out of providing drinking water and instead provide exactly the same water but market it and sell it as domestic non-drinkable water which is not subject to the provisions and protections afforded by the bill.

Alternatively, some providers may stop supplying water altogether. The outcome of discussions in the other place was general acceptance that the bill was pitched at a reasonable level. This amendment adds a significant layer of complexity in that anyone supplied with water in a very small rural community, for example (a bed and breakfast or caravan park) could initiate an action in the Environment, Resources and Development Court seeking compliance with the bill. Given that ensuring compliance is the responsibility of the enforcement agencies, it is assumed that the intent is to enable action to be taken when a person is not satisfied with the actions taken by enforcement agencies. This will add uncertainty for drinking water providers and could contribute to difficulties as raised in the discussions in another place.

It is also assumed that such action could include a consideration of fluoride or any other parameter where a person disagreed with the basis of the Australian Drinking Water Guidelines, again increasing the complexity of the bill potentially. The amendment includes an ability for a person to seek payment of compensation for injury, loss or damage. This type of remedy is available through common law, and inclusion in the bill is not considered necessary.

The Hon. A. BRESSINGTON: Is the minister saying, just for the record, that if a person has medical records that show and prove that they are fluoride toxic, and that they may have kidney problems, for example, and that fluoridated water is aggravating that condition or may have actually caused that condition, or if a person suffering from thyroid problems (either overactive or underactive) can prove through medical testing that it is caused by fluoride, can the minister explain to the committee what recourse those people have to require that the water coming out of their tap is safe for them?

The Hon. G.E. GAGO: I am advised that they would be entitled to take civil action in the same way as someone, for instance, affected by food poisoning.

The Hon. A. BRESSINGTON: It is my understanding that there is no court that can take any evidence on fluoride in this state, that there is no civil remedy available to people who have health concerns due to fluoride. I will check that.

If I can clarify that, apparently a civil court is not able to determine whether water is safe or unsafe. So, first, there have to be criteria in place for a person to be able to get a judgement, because a civil court will rely on the safe drinking water guidelines. We do not have a fluoridation act, I believe, in South Australia, as other states have, that can be tried and tested; so the civil court will not be able to find whether water is safe or unsafe. We have to knock that off before anyone can take civil action. That is my understanding.

The Hon. G.E. GAGO: I have been advised that the honourable member is right and a civil court cannot make a determination about whether water is safe or unsafe in relation to fluoride per se. However, the court can make a finding on damages if a causal link is established between the agent or, in this instance, fluoride and harm or damage caused to the person.

The Hon. S.G. WADE: Can I clarify that. If the contaminate was not fluoride, would a civil court be able to make a determination?

The Hon. G.E. GAGO: I have been advised that the answer is yes, so long as it is a finding to do with damages and a causal link is established between the agent and the damages or harm caused.

The Hon. A. BRESSINGTON: So, in order for a civil court to find a breach of duty of care, they have to use the safe drinking water guidelines as a guideline to show negligence. If the state is fluoridating at the level recommended by the safe drinking water guidelines, then no civil court is actually going to find the provider—that is, SA Water—negligent because it is within those parameters. Even if a person has proof that they are fluoride toxic, they are not going to be able to present that evidence at court; that is my understanding. There is actually no civil remedy for any person who is fluoride toxic in this state.

The Hon. G.E. GAGO: I can only reiterate that a civil court can make findings on damages, providing they are able to establish a causal link between the agent, such as fluoride, and the harm or damage caused. That is the remedy. I have already outlined that. I do not think I can elaborate on that any further.

The Hon. S.G. WADE: I must confess that I am not understanding the issues the honourable member's amendment is raising. In the minister's response, what I am failing to grasp is how a court can award damages if they are not in a position to establish a cause. The damages are in response to a cause. I thought I was understanding the minister in the context of subclause (7) to be explaining that a court was not competent to declare water to be unsafe, but it would be competent under paragraph (a), for example, to identify that a particular person had experienced harm. That is a different story to what I am hearing the minister present, so I just wanted to home in as to what is the limit of the court's competence, and does it relate to general unsafeness or personal harm to this particular individual?

The Hon. G.E. GAGO: I have been advised that the court's primary concern would be looking at the harm to the individual, that one of the benefits of the act would be that concentrations of all these parameters would be placed on the public record. These could be taken into consideration by the court together with other information, such as recommendations from the NHMRC, and also other evidence tendered from other sources, such as the one cited by the Hon. Ann Bressington.

The Hon. A. BRESSINGTON: One more question: will the minister agree that in order to establish a breach of duty of care the court would have to find that the water supplier had not adhered to the safe drinking water guidelines, which allow for the fluoridation of our water supply at 1 to 1.5 parts per million? If that is part of the safe drinking water guidelines, the court cannot really find a breach of duty of care if they are adhering to that, so it is a circular argument and a circular process that people would have to go through, to no outcome.

The Hon. S.G. WADE: I might add an addendum to that question—and I ask the minister to comment on the Hon. Ann Bressington's amendment—but surely one response to the honourable member's question is: yes, but how would this improve it? If the Environment, Resources and Development Court has to rely on the safe drinking water guidelines to declare it to be unsafe, it would be doing the same circular process in the proposed CA.

The Hon. G.E. GAGO: That is the point I have been trying to make, thank you. The government agrees with the Hon. Stephen Wade's comment.

The Hon. S.G. WADE: I interpose another thought which may or may not complicate matters, but I would ask for the council's forgiveness if it does. It might be that, not having been fully involved in the debate, I am missing other elements of the act. The Hon. Ann Bressington's questions about a person and the community draw my attention to subclause (7)(a), which states that water is unsafe if it causes or is likely to cause harm to a person who consumes that water. The Hon. Ann Bressington is highlighting that some individuals have an allergic reaction—I do not know if that is the word—or a reaction to fluoride.

The Hon. A. Bressington: A toxic reaction.

The Hon. S.G. WADE: A toxic reaction to fluoride. In those circumstances, that water being put out by a water provider would make the water unsafe in terms of subclause (7)(a). I do not know whether part of the response is that you do not expect a person who is fluoride toxic to consume water that a water provider supplies if they know that it has fluoride in it.

It seems that subclause (7)(a) sets quite a high standard, which means that anybody—even an individual who might suffer harm from the water—causes that water to be defined as unsafe, whereas (7)(d) talks about water that is otherwise reasonably fit for human consumption. So you could say, for the community as a whole, fluoridated water is reasonably fit for human consumption. Might subclause (7)(a) put a duty of care, or whatever the legal term is, on a water provider who puts fluoridated water out into the community when there is a significant number of people with fluoride toxicity?

The Hon. A. BRESSINGTON: I made a mistake before by referring to the safe drinking water guidelines. It is the National Drinking Water Guidelines that we are referring to, so different from this bill here. We already have the National Drinking Water Guidelines which outline that fluoride is to be added at so many parts per million. That is not relevant to this bill; the court would have to refer to the National Drinking Water Guidelines to make a determination if there was a breach of duty of care, and the court is not going to find that if the water authority is adhering to those guidelines. As I said, it is a circular argument, a circular process, with no end outcome of civil remedy for anybody who is fluoride toxic.

The Hon. G.E. GAGO: Yes, you are right, so therefore the amendment would not change things.

Amendment negatived; clause passed.

Clauses 4 to 27 passed.

New clauses 27A and 27B.

The Hon. A. BRESSINGTON: I move:

Page 17, after line 40—Insert:

Division 3—Fluoride

27A—Fluoride intolerance register

(1) The Chief Executive may include a person on a register to be called the *fluoride intolerance register*.

(2) An application for registration under subsection (1) may be made by a person or by a class of persons prescribed by regulation.

(3) An application for registration under subsection (1) must—

(a) be made to the Chief Executive in the manner and form approved by the Chief Executive; and

(b) be accompanied by the fee fixed by regulation; and

(c) be accompanied by a medical certificate in respect of each person named in the application that—

(i) certifies that the person has a fluoride-related illness or condition of a kind prescribed by regulation; and

(ii) is signed by a medical practitioner; and

(iii) is, according to its terms, based on an examination of the person conducted by the medical practitioner within 28 days before the date of the application.

(4) A person is entitled to be registered on the fluoride intolerance register or to have his or her registration renewed if the Chief Executive is satisfied that the application has been properly made under this section.

(5) An applicant for registration under subsection (1) or for the renewal of registration must provide the Chief Executive with any information required by the Chief Executive for the purposes of determining the application.

(6) Subject to this Division, a person's registration under this section remains in force for a period of three years.

(7) If it appears to the Chief Executive, from a medical practitioner's certificate or declaration, that a person registered on the fluoride intolerance register is not eligible to

be so registered, the Chief Executive must, by written notice to the person, suspend or cancel the person's registration.

(8) If a person's registration has been suspended or cancelled under subsection (7), the Chief Executive must not remove the suspension or re-register the person on the fluoride intolerance register unless the person has given the Chief Executive two medical certificates that—

(a) certify that the person has a fluoride-related illness or condition of a kind prescribed by regulation; and

(b) have been signed by different medical practitioners; and

(c) are, according to the terms of the certificates, based on examinations of the person conducted by the medical practitioners within 14 days before the date of the person's application for removal of the suspension or re-registration.

(9) The Chief Executive may, at any time, alter information contained on the fluoride intolerance register to ensure that the register is kept up-to-date.

(10) In this section—

medical practitioner means a person registered under the *Health Practitioner Regulation National Law* to practise in the medical profession (other than as a student).

27B—Fluoride removal notices

(1) The Chief Executive must, on the registration of a person on the fluoride intolerance register, on each renewal of such registration and at such other times as the Chief Executive may consider appropriate, issue a fluoride removal notice to SA Water in respect of drinking water supplied to premises of the person.

(2) A fluoride removal notice—

(a) must be in the form of a written notice served on SA Water; and

(b) must specify the name, and address of the registered person in respect of whom the notice is to apply; and

(c) must include a requirement that specified action be taken by SA Water in accordance with guidelines issued from time to time by the Chief Executive to remove fluoride from the drinking water supplied by SA Water to the registered person or to premises at which the registered person resides; and

(d) must specify a period (which must not exceed 28 days from the date of the notice) within which the requirements of the notice must be complied with; and

(e) must state that SA Water may, within 14 days, appeal to the District Court against the notice.

(3) SA Water must ensure that the requirements of a fluoride removal notice are complied with.

(4) The costs involved in carrying out the requirements of a fluoride removal notice are to be borne by SA Water.

(5) SA Water may, in taking action under a fluoride removal notice, enter any relevant land at any reasonable time.

(6) A person must not hinder or obstruct a person taking action under a fluoride removal notice.

Maximum penalty: $25,000.

(7) SA Water may, if satisfied that it is no longer necessary to provide for the removal of fluoride at particular premises, remove any equipment or item installed at the premises under a fluoride removal notice.

(8) In this section—

SA Water means *South Australian Water Corporation* established under the *South Australian Water Corporation Act 1994*.

This is to establish a fluoride intolerance register so that people who are experiencing adverse effects from fluoride—if they have gone through medical testing and it has been confirmed that it is fluoride that is causing their health problems or contributing to those health problems—will be able to register on this fluoride intolerance register and they will then be able to seek remedy from SA Water. If they can prove that they are fluoride toxic, they can then have fluoride removed from their drinking water. That would mean that SA Water would be responsible for installing probably either a tank to collect rainwater or a reverse osmosis filter stage 7. I think they are retailing now for

about $350 each. That would be SA Water's responsibility if people can prove the medical condition to enable them to get onto this register.

I think, given that we are all standing up and saying, 'Fluoride is good, drink up. Don't worry about how much you're taking in and don't worry about the recommendations of the NHMRC' and 'It's all good; everything is fine,' stand by it and allow a register to be established. Allow people to get medical evidence, present it and go onto this register and then have SA Water legally responsible for removing fluoride from people's water—if they can prove they are fluoride toxic. It is pretty simple.

The Hon. G.E. GAGO: The government does not support this amendment. Fluoride intolerance is a condition that has been raised by the anti-fluoridation lobby and relates to claims of increased sensitivity of some people to fluoride leading to a range of conditions including effects on the gastrointestinal system, immune system, kidneys and liver. There are three issues that we believe need to be considered. First and most importantly, with the exception of very mild to mild dental fluorosis, which is decreasing in prevalence, fluoridation is not considered to cause harmful effects. The concentrations added to drinking water supplies where harmful effects have been linked to fluoride occur at much higher concentrations, observed in countries and regions such as India, China and parts of Africa, where naturally occurring concentrations of up to 50 milligrams per litre have been recorded.

Secondly, with one exception, there is no evidence for hypersensitivity or allergic responses to fluoride which is a common component of fresh marine waters and a range of foods including tea. The possible exceptions are those with renal impairment who can retain high concentrations of fluoride. For example, in its 2006 report the United States National Research Council noted that while gastrointestinal irritation, hepatic function and immunological responses are unlikely to occur in the general population at concentrations below four milligrams per litre, those with renal impairment may have increased susceptibility.

However, Kidney Health Australia has stated that there is no evidence that consumption of optimally fluoridated drinking water poses any health risks even to those with severe kidney disease. In a similar vein, expert medical advice has indicated that there is no clinical or scientific evidence of allergies or immune responses associated with fluoridated drinking water supplies.

The third issue is one of practicality. The amendment refers to removal of fluoride by SA Water but it is unclear why it excludes reference to all water supplies containing fluoride and, in particular, to groundwater supplies which all contain fluoride. Notwithstanding this issue, the practicality is that there is no evidence to support the amendment.

The Hon. A. BRESSINGTON: Can the minister make clear to the council what training has been undertaken to train medical practitioners in Australia and South Australia to be able to diagnose fluoride toxicity or sensitivity? What data has been collected on that through medical practitioners and specialists and if, in fact, doctors are trained to recognise that fluoride toxicity even exists?

The Hon. G.E. GAGO: I believe I have already answered this question, which was to refer to a review undertaken by the peak health bodies, including the National Health and Medical Research Council, which investigated the possibility of adverse effects of fluoride and concluded that the evidence is limited to dental fluorosis only.

The committee divided on new clauses 27A and 27B:

AYES (5)

Bressington, A. (teller)	Franks, T.A.	Hood, D.G.E.
Parnell, M.	Vincent, K.L.	

NOES (14)

Darley, J.A.	Dawkins, J.S.L.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I.
Ridgway, D.W.	Stephens, T.J.	Wade, S.G.
Wortley, R.P.	Zollo, C.	

Majority of 9 for the noes.

New clauses thus negatived.

Remaining clauses (28 to 53), schedule and title passed.

Bill reported without amendment.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (20:53): I move:

That this bill be now read a third time.

Bill read a third time and passed.

CHILD EMPLOYMENT BILL

In committee.

(Continued from 5 May 2011.)

Clause 1.

The Hon. G.E. GAGO: Again, I thank members for their contribution. In particular, the Hon. Rob Lucas raised a number of issues that I took on notice, which I will now provide a response to. In relation to capacity to regulate a child's working hours, a clarification is required regarding the capacity of the state parliament to regulate a child's working hours following the referral of certain industrial relations powers to the commonwealth.

The short answer is yes; we can regulate the times at which or the periods during which a child may be employed. This was clarified on Thursday 5 May 2011; however, it appears that the Hon. Lucas was still not clear on this. The Fair Work Act 2009 provides that state child employment laws may not regulate issues covered by the National Employment Standards, modern awards or enterprise agreements. However, it clearly permits state and territory child employment laws to regulate the times at which or the periods during which a child may be employed. I refer the honourable member to the commonwealth Fair Work Act 2009 and regulations, in particular, section 29(3) of the act and regulation 1.15 of the regulations.

In relation to prosecutions under section 78 of the Education Act, the honourable member queried the number of prosecutions that occurred under section 78 of the Education Act. I have advice from the department of education that there have been no employers prosecuted under section 78 of the Education Act. Where a child has been found to be employed during the hours at which they are required to attend school, the department of education will in the first instance approach the employer. These matters are generally resolved through discussion and have not required prosecution to date.

The fact that there have been no prosecutions under section 78 of the Education Act does not mean there have been no cases of children being required to undertake work that adversely affects their schooling or their health, safety and development in the workplace. It is important not to be distracted by the fact that the Education Act focuses on educational outcomes and regulates young peoples' attendance at school.

The Child Employment Bill focuses on industrial conditions and regulates young peoples' participation in the workplace. An employer will come into conflict with the Education Act if a child of compulsory school age fails to attend school and the reasons for this are that they were employed during this time or their employment rendered them unfit for attending school. In those situations, an employer will be approached and, as I have pointed out, the conflict has generally been resolved through discussions and has to date not resulted in any prosecutions. Unless an employer was intentional or reckless in employing a child of compulsory school age during school hours then no offence will have been committed.

In relation to the Education Act in general, the Hon. Rob Lucas in his address to the Legislative Council on 5 May focused primarily on the Education Act. However, in his discussion he raised a number of concerns with the Education Act that need to be corrected. He stated that the Education Act talks about the impact of a job on a child's education or schooling and does not relate solely to a child's attendance at school. This, I have been advised, is incorrect. The Education Act is not industrial legislation. The only provision of the Education Act that deals with

the employment of a child is section 78, which deals specifically with a child's compulsory attendance at school.

I refer members to section 78 of the Education Act. I believe that the section is quite clear in its construction. It creates an offence for an employer to employ a child of compulsory school age during the hours that they are required to attend school or an approved learning program, or if an employer employs a child in work that is likely to render them unfit to attend school or an approved learning program, or obtain the benefits of that attendance.

A school is defined as a government school or a registered non-government school. An approved learning program is broader and includes TAFE courses, approved diploma courses, apprenticeships and traineeships, recognising the diverse range of options that may satisfy a child's compulsory attendance at school.

The honourable member stated that the concept of 'approved learning program' is undefined. Again, that is not correct. I direct members to section 75D of the Education Act, which spells out what an approved learning program is. In light of this, the honourable member asked whether employing a child during the hours of four to six would be an offence against section 78 of the Education Act. The answer is no, I have been advised, unless those are the hours at which a child of compulsory school age is required to attend school or an approved learning program. This to me seems fairly unproblematic.

I also point out that it is not an offence under the bill before members to employ a child from 4pm to 6pm. The bill simply requires that the work does not harm the child's health, safety or development nor interfere adversely with their schooling. Clearly, it will be only in very serious cases where an employer has breached these requirements.

The honourable member raised the issue of modelling, acting and other situations where a compulsory school-age child is permitted to work during the hours at which they are required to attend school. Exemptions may be given from a child's compulsory attendance at school. These are provided either by the principal of a school for short-term periods or by the minister responsible for education, via section 81A of the Education Act. Where these exemptions are provided, a child of compulsory school age may work during the hours at which they are required to attend school.

I point out to members that clause 7(2) of the Child Employment Bill specifically recognises these exemptions. I hope this clarifies the Education Act and, in particular, the only provision of the act that has anything to say about employment. Clearly, the primary focus of the Education Act is a child's compulsory attendance at school. That is the reason the Education Act deals specifically with children of compulsory school age. I trust this satisfies the honourable member's questions about the Education Act.

The bill before the council is industrial legislation and as such is directed specifically at providing protections for children in the workplace. Its objectives are significantly different from but complementary to those of the Education Act. The bill is intended to protect all South Australian children while they work. For that reason, the bill applies to all children under the age of 18 and not only to children of compulsory school age. The bill does not reference a child's compulsory attendance at school, as this is a matter for the Education Act and the minister responsible for that legislation. Insofar as the bill relates to a child's education, it asks employers, so far as reasonably practical, not to require children to undertake work that adversely affects their schooling.

The honourable member asked for the definition of schooling as it relates to this bill. Schooling is not defined in the bill and therefore the natural meaning of the word will apply. Schooling is defined in the Macquarie Dictionary as 'the process of being taught in a school' or 'education received in a school'. A school is defined as 'a place of establishment where instruction is given, especially one for children'.

As a general rule, the legal interpretation of schooling would follow the natural definition, and it is likely that what is considered schooling will include the normal public or private schools and also other institutions where school equivalent courses are undertaken, such as TAFE. This does not appear to be problematic to me. It is appropriate that the term 'school' includes the traditional public and private schools, as well as the other alternative forms of school that are considered as approved learning programs.

As I have said, the bill does not directly prevent an employer employing any child; all it does is ask an employer to turn their mind to the fact that the person they are employing is under the age of 18 and to take reasonable steps to ensure that the work they require a child to

undertake does not adversely their schooling. On the question of homeschooling, it is the case that some children are homeschooled.

This will generally not come into the definition of an approved learning program contained in section 75D. Therefore, in these instances, a child of compulsory school age may receive an exemption under section 81A of the Education Act to allow them to be homeschooled. This would exempt them from the compulsory requirement to attend school. Exemptions will only be granted where the Minister for Education is satisfied that it is appropriate.

If a child of compulsory school age has been expelled from school and is subsequently re-enrolled in an approved learning program, then the employer must not employ a child during the hours in which they are required to attend the approved learning program or employ them to work that renders them unfit to attend the approved learning program.

An employer is not required to know everything about a child's education. The bill asks them to take reasonable steps to ensure the work a child is required to undertake does not adversely affect a child's schooling. Further to this, clause 7(4) of the bill provides a defence for an employer where they can show the offence was not committed intentionally or was not a result of their failure to take reasonable care. Clearly, prosecutions will only occur in the most serious cases. For a prosecution to occur, the employer must have intentionally required a child to undertake work that adversely affects their schooling or must have failed to take reasonable care.

The bill does not restrict an employer from employing a 17-year-old child during normal school hours if they tell them that they are not enrolled at school. However, if a 17 year old tells their employer that they require a different shift as they have, for instance, an important year 12 exam, then the bill requires employers to take notice. This is entirely appropriate and this situation would not be covered by the Education Act which, as I have pointed out, deals specifically with the child's compulsory attendance at school.

All the bill asks an employer to do is to turn their mind to the fact that they are employing a person who is under the age of 18 and take reasonable steps not to require them to undertake work that adversely affects their schooling. Reasonable steps may be as simple as talking to a child about their schooling, or listening, if a child requests different shifts to accommodate their, say, for instance, important final years of school.

Most employers who employ young children already do this and the bill will not create any new or onerous requirements on them. The bill is aimed at those employers who do not do this and ensures that, in those circumstances, young people will not be exploited at work. Examples of children being exploited are not covered by the current legislative framework. The Hon. Rob Lucas stated on 5 May that I had failed to provide examples of children who had been exploited at work in circumstances that would not be fixed by the current legislative framework. I believe that I have already highlighted some of these issues; however, I will provide members with some more detail.

Youth support agencies have highlighted instances of children as young as 13 being asked to work until 1am in fast-food restaurants, including when they have school the next day. Clearly, this is an issue of concern both for the impact on the child's schooling and the child's health, safety and development. There have been instances of children who are required to work late, sometimes well after midnight, being left alone on the street after their shift with no suitable transport home. This situation is clearly unacceptable, placing vulnerable children in potentially dangerous situations.

There have been some cases of children telling their employers of study commitments, including during their important final years of school, only to be told that they still have to work or risk losing more shifts in the future. There have been numerous instances where children were not given adequate information explaining to them their rights as young people at work. This lack of information was a consistent message from young people during SafeWork SA's consultation with them. These situations would not necessarily be covered by the existing legislative framework because the current legislative framework does not deal specifically with the particular vulnerabilities of children in the workplace.

The bill is aimed specifically at protecting children in the workplace. It asks employers to simply turn their minds to the special vulnerability of young people, many of whom are taking jobs for the first time. The bill will be complemented by regulations and codes of practice to be developed out of consultation with key business, employer and employee associations. It will ensure that children, who are among the most vulnerable members of our community, are provided with the protection they need to enjoy positive working lives.

The Hon. R.I. LUCAS: We will be able to explore a number of those issues later in the specific provisions. I will leave the bulk of the issues relating to the Education Act until we get to the specific provisions which talk directly about the Education Act, and I will leave the minister's responses relating to the entertainment industry until clause 8.

I have a couple of general comments and then some follow-up questions to the minister's response. The first one is that I am pleased that we now have on the record the fact that the existing provisions under the Education Act, when one looks at them, are fairly onerous. What the minister has said is that, with penalties of $5,000, there has not been a single prosecution of an employer under those onerous provisions of the Education Act.

One of the questions that has been asked of me is: define for me the extent of the problem? What is the problem that we are trying to fix with the legislation? We have these onerous provisions which state that you can be fined up to $5,000 under the Education Act if you do anything which, firstly, requires a child of compulsory school age, 'during the hours at which the child is required to attend school...' etc. Then part (b) provides:

> in any labour or occupation that renders, or is likely to render, the child unfit to attend school or participate in an approved learning program...

So, if you do anything as an employer which is going to render a child unfit to attend school or participate in a way so that they can obtain a benefit then that is an offence punishable by a $5,000 fine.

The answer that the minister has given us, and that the education department has provided, is, as I suspected, that there has not been a single prosecution or a single offence under those particular provisions. We are not just talking about this year, we are talking about, I assume, since the act has been in place, and certainly for many years there has never been a prosecution under the provisions.

How has it been resolved? As I suggested in the second reading the opening to the committee stage, generally with these sorts of things if there has been a problem with a fast food outlet the principal of the school, the school counsellor, or whoever it is, sits down with the child and the family and one or both of them speaks to the employer and says, 'Hey, Johnny (or Julie) is falling asleep at school because I understand that they had a shift up until midnight last night', or whatever it happens to be, 'That really isn't what ought to be going on', and the education department has advised the minister that they have all been resolved through sensible discussion and consultation, and credit to the schools, the employers, the parents and the families in relation to that.

So, what we have is, no prosecutions of employers and fine of $5,000, yet we are now talking about (later on) jamming those fines up to $20,000 in relation to this. What we find is that across the board these issues have been resolved through common sense and talking about it, rather than with the heavy hand of belting them over the head with a new legislative change.

That supports the view of a number of business organisations that have lobbied all of us and said, 'What is the problem? Why are we actually doing this when you have occ health and safety laws, when you have the Fair Work Act, when you have the Education Act? What is it that this act is going to do?' I suspect the view is that we are going to have some child employment bill. Most of the employer associations are of that view, so their plan B is to say, 'Well, look, let's just make sure that we have a child employment bill which doesn't, in and of itself, create problems which don't exist at the moment.'

The other general point I want to make is that I also asked: what are the abuses that have occurred? We asked about the prosecutions and the offences. When the minister replied on 5 May, she said that the Young Workers Legal Service, etc., have listed a number of examples of problems:

> These include the exposure of children to bullying and harassment at work in circumstances where children lack the ability or confidence to speak up.

My question to the minister in relation to that is: is it not correct that the current occupational, health and safety laws, our existing ones—and we are about to move to the national harmonised models—apply to all employees, young or old, child or adult, and that it is already an offence to bully or harass at work, whether you are a child or an adult?

The Hon. G.E. GAGO: I have been advised that the legislation before us provides a much broader framework than just protections around bullying and harassment. That is the first point. I

have also been advised that the Occupational Health, Safety and Welfare Act 1986 creates duties for employers and employees in relation to health, safety and welfare at work, and provides protections that apply to all employees, as the honourable member points out, but it does not cover all the issues relating to the employment of children.

Children are amongst our most vulnerable employees, as I have already stated, and as such require additional protections at work. Isolated examples of poor treatment of young workers include children being directed to work with asbestos without proper protection, the verbal assault and sexual harassment of a young worker at a bakery, the assault of a young worker on a late-night shift on a school night, and a young restaurant employee who waited alone in the dark for a taxi for up to 30 minutes after the restaurant closed.

Consultations conducted by SafeWork SA with young people confirm the need for this legislation, with young people themselves saying that children require special protection due to their lack of knowledge and experience in employment environments. All other states and territories, except Tasmania, have enacted specific laws to protect the health, safety and welfare of children at work. The laws vary, but all provide a greater level of protection than is currently in place in South Australia.

This legislation enables South Australia to fill a gap in its labour laws to the extent to which it deals with the times or periods during which a child may be employed. Essentially, this means that while the Fair Work Act anticipates that states and territories will develop their own child employment legislation, it also ensures that those regulations will not cover matters provided for in the national employment standards, modern awards, or enterprise agreements.

The Fair Work Act effectively prohibits state or territory child employment laws from regulating issues such as rates of pay, leave, public holidays and superannuation. However, the Fair Work Act and regulations ensure that state and territory child employment laws may apply to the times at which or the periods during which a child may be employed. This recognises the vulnerability of children in the workplace and the importance of ensuring that children are not required to work at times which would be harmful to their health, safety and development, which would adversely affect their schooling.

Codes of practice will only be developed out of consultation with key stakeholders. Clause 19 also contains provisions allowing regulations to contain provisions that regulate children's working hours. The regulations will only be made where stakeholders identify a need in full consultation with IRAC and other interested parties.

The Hon. R.I. LUCAS: I am interested in all of that, but I have just asked a simple question: is it not correct that if a child is bullied or harassed at work they are already covered by the existing occupational, health and safety legislation?

The Hon. G.E. GAGO: I understand by the honourable member's question that it is suggesting that the occupational health and safety laws around bullying and harassment protections for all employees is in some way duplicated by the Child Employment Bill or that in some way the Child Employment Bill might not be needed because there are general protections provided elsewhere for children.

The Hon. R.I. LUCAS: I am just asking: is bullying and harassment covered for children under occupational health and safety laws?

The Hon. G.E. GAGO: The advice I have received is that, yes, there is a general duty of care.

The Hon. R.I. LUCAS: Indeed, that is the advice I have received. Looking at the occupational health and safety laws makes it quite clear that it does not matter whether you are a child or an adult, bullying and harassment is a significant offence under the occupational health and safety laws. Whilst I do not have them with me, I think the penalties are more significant than the penalties we are looking at here. They are significant penalties, in particular in relation to bullying and harassment.

When I asked the question—why do we need the bill?—the second reason the minister gave on 5 May was that children are being pressured to work at times that interfere with their important school work. Children are being made to work late hours, etc. Tonight, the minister has added to that by saying there was a 13 year old who was required to work a late shift and there were some children being asked to work until 1am. My question to the minister is: is it not correct

that those examples are clearly offences under the Education Act in relation to 78(1)(b)? That is, an employer has employed someone that:

> renders, or is likely to render, the child unfit to attend school or participate in an approved learning program...to obtain the proper benefit from such attendance or participation.

Is it not correct that those examples are already covered by the Education Act?

The Hon. G.E. GAGO: I have been advised that the answer is no, not necessarily. For instance, an example might be of a child who finishes their shift at, say, a restaurant and it could be dark and they could be left out on the street to find transport for 30 to 40 minutes. It might be between 8 o'clock and 9 o'clock at night. That might not necessarily be a breach of the Education Act, but it could constitute a breach of the Child Employment Bill. It is one example.

The Hon. R.I. LUCAS: I will be happy to pursue that when we get to that particular clause. I think the minister's non-response to my question—and I will not pursue it—is quite clear that the example she gave earlier of a 13 year old who was being made to work until midnight or whatever it was and the under 16s who have been required until 1am clearly are covered by the Education Act. We have had this debate on the Education Act previously. They are clearly covered by those sorts of examples.

The third sort of example the minister gave tonight was young people being assaulted in the workplace. An assault is a criminal offence covered by the criminal law. Clearly, an assault is an assault: it is as simple as that. The Child Employment Bill is not going to cover those sorts of circumstances.

I will pursue these as we get to the individual clauses but, in rounding it up, having asked the government to justify why, we have been given three broad examples. One was children being exposed to bullying and harassment, and this bill will do nothing for them because the occupational, health and safety laws already have existing penalties and provisions more serious than the child employment laws.

The second set of examples related to young children being required to work at fast food outlets late at night or in the early hours of the morning. That is already clearly covered under the Education Act. If your child is falling asleep, having worked until one in the morning, it is already the case that employers have not been prosecuted for that. As the minister outlined, the principal or the family, or both, go to the employer and work it out amicably without the need for prosecution, and there has not been a prosecution.

The third set of examples the minister gave were young people being assaulted in the workplace. None of us would support that, but the Child Employment Bill will do nothing about that. Rightly, that is a criminal offence. If you are assaulted in the workplace, sexually or physically, the existing law covers those sorts of circumstances. I will leave the remaining aspects of the answers to the questions to the specific provisions. From my viewpoint, I am happy to move to my first amendment, which is to clause 3.

Clause passed.

Clause 2.

The Hon. R.I. LUCAS: If the bill is passed through the parliament, what advice can the government give the Legislative Council as to the intention of the government in terms of proclamation dates?

The Hon. G.E. GAGO: It would follow the usual process, that is, it would need to be passed through the lower house and be proclaimed after that, if successful.

Clause passed.

Clause 3.

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

> Page 2, line 10 [clause 3(a)]—Delete ', safety or development' and substitute 'or safety'

There are some consequential impacts of this amendment later on, but this should be the test case. This is a simple premise that is being put; that is, it is clear when we are talking about health and safety of any employee, including children, that broadly what we are talking about is our occupational, health and safety legislation. As I said, we are moving to a national model of

harmonised occupational, health and safety legislation. So, those sorts of concepts are relatively well argued and relatively well understood.

Here, the object of the act says that children are not required to undertake work that may be harmful to their health, safety or development. The introduction of the word 'development' is important. That raises a whole new concept and is followed on in clause 7 where an employer must in respect of each child employed by the employer ensure so far as is reasonably practicable that the child is not required to undertake work that may be harmful to the child's health, safety or development, and the maximum penalty for that offence is $20,000.

Again, the concept of an employer doing something that impacts on a child's health or safety is well understood and well argued, and there are precedents established in terms of what is the health and safety of any worker, child or adult. What we are now talking about is development. It is clear from the advice the minister gave in response to my questions that development does not just include physical or mental development. We are talking about social or moral development or indeed any other form of development that can be contemplated. So, we are talking about development clearly in its broadest sense.

In the early versions of the bill I am told it included moral and social development. There was some opposition to that, to say, 'How can we as employers be held responsible, with the potential penalty of $20,000, for the moral development of people within our workforce?' As I indicated in the second reading, I think we probably all accept that family, schools, friendship groups, television and a whole variety of other influences impact on a child's moral development. How can one of those be held legally responsible, potentially punishable by a penalty of up to $20,000 if it can be shown that the workplace has in some way been harmful to a child's development?

It would appear to be a significant new step in terms of employment law, certainly in relation to child employment when, for many children, it will be part-time employment and particularly when it potentially impacts on a child's development, which might be something that is seen to be harmful. How can the blame or responsibility be sheeted home to maybe three or four hours part-time work a week with an employer, as opposed to the many other influences that impact on a young person's moral development in relation to the interpretation of these provisions?

There is not much more I need to say—it is a pretty clear cut argument. I understand a number of employer groups have lobbied non-government members in relation to the series of amendments we are moving in this chamber during the committee stages. This is one of the amendments the employer groups I have listed previously in the second reading have indicated they would like to see supported and the bill amended in this way.

The Hon. G.E. GAGO: The government opposes this amendment. The inclusion of the term 'development' recognises the specific developmental risk to children in the workforce and requires employers to take reasonable steps to consider the effect of employment on the growth of our young people into responsible adult citizens, with employment providing a positive experience of the combined value of education and work.

In 2005, the Children at Work report by the New South Wales Commission for Children and Young People studied nearly 11,000 children from years 7 to 10 in 22 schools across New South Wales. The study looked at the full range of work children do, excluding schoolwork and routine household tasks, regardless of whether the work was paid, who it was done for or how regular it was. It was one of the most comprehensive examinations of child employment ever conducted in Australia, and brought together a wealth of research data on child employment.

This study found that a reasonable amount of appropriate work can be positive for children, with some evidence even suggesting that engaging in a reasonable amount of work can improve children's positive view of work and their performance in school. However, the study also found evidence that working more than 15 to 20 hours per week is positively associated with an increased likelihood of a number of negative indicators, such as smoking, substance use, delinquent behaviour, psychological distress and poor educational performance.

The study generally concludes that a reasonable amount of work can be positive for children, but that excessive or inappropriate work can expose children to developmental risk, and I recommend that members consider this report in their deliberations.

The Hon. D.G.E. HOOD: I hope by now that our party is gaining some sort of reputation for being resistant to imposing measures on employers that can make life difficult for them. I think

when you look at the bill as it stands, that is the unamended bill, it is desirable at face value to maintain the word 'development' because, after all, who does not want children to develop in a positive way.

The problem is, of course, that including the word 'development' in this bill will allow some mischievous people—and I accept that there will probably be very few of them, but it is possible—through lawyers and whatnot to create problems for businesses in some malicious way. If they cannot get them in one way, for example, if they have been laid off for some reason, they might look at these sorts of provisions as a way to potentially take some sort of retribution on an employer, because they may be deemed to have not supported their development.

I will give an example and it is along the lines of what the minister just said. If a young person was working in a particular employment and they had worked more than 20 hours a week, then a clever lawyer could get hold of a study that showed that working more than 20 hours a week at a particular venue was in some way detrimental to their development and hence they might claim they have a case against that particular employer. So, I think the word 'development' can be exploited. I think, as the Hon. Mr Lucas said, it is a new concept to this type of law and we would be nervous about including that term in this bill. For that reason we will be supporting the amendment to remove it.

The Hon. A. BRESSINGTON: I will also be supporting this amendment of the Hon. Robert Lucas. Coming from a slightly different perspective, it has been my understanding that we have been encouraging kids to go out and gain employment while they are still in high school, to teach them a little bit of responsibility, and give them some sort of financial independence, but it has always been expected that it would be in conjunction with parental input and parental oversight, and I still see it as the role of parents to be responsible for the development of their children.

I believe that if a parent is not happy with a child working any more than 15 hours a week, that is relayed to the child and therefore relayed to the employer. Some of this stuff has got to come from home, and, being a past employer of mischievous people, I concur 100 per cent with the Hon. Dennis Hood that the term 'development',—

The Hon. T.J. Stephens: Naughty people?

The Hon. A. BRESSINGTON: Naughty people, yes—does open a door that is going to be quite onerous on employers to make sure they do not step over that mark, across that line. Believe me, they have enough to be dealing with in the workplace at the moment. I see this also as the government taking over, yet again, a parental responsibility. So, I will be supporting the amendment of the Hon. Rob Lucas.

The Hon. T.A. FRANKS: The Greens will be opposing the amendment of the Hon. Rob Lucas. We have no problems with the use of the term 'development'. We recognise that it comes from the United Nations language around child labour. It has a long history of implementation in many, many jurisdictions. We think it also value-adds.

We are not just talking about health and safety here. We are talking about, for example, in the education system, a child not being required to work late or early on a day when they have an exam or if they have important finals. We are talking potentially as well about extra protections being accorded to employees. For example, were they to be employed at General Pants in past weeks, they would have been expected to wear T-shirts and badges that say 'I love sex'. I do not think any employee should be required to wear that sort of T-shirt or badge, but certainly no employee, or particularly a young woman, under 18.

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

Amendment carried; clause as amended passed.

Clause 4.

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

Page 3, line 9 [clause 4, definition of 'child']—Delete '18' and substitute '16'

I addressed this issue during the second reading, so I will not repeat all of that argument at length in the committee stage.

Most of us have been used to these provisions in the Education Act as being under the age of compulsion, which up until a few years ago was up until the age of 15, which is the age of compulsion for school. The parliament passed the age of compulsion and increased it to 16, and

that has created some issues in schools, in terms of students staying on who did not want to stay on, but I will put that to the side.

We have been used to the notion of compulsion in relation to schooling and education, and those sorts of provisions we talked about earlier in the Education Act, up until the age of 16. What this is talking about is, in essence, all 17 year olds who are potentially covered by this legislation and a whole range of other provisions, which we will come to later. I am not going to repeat all of them now, but I just remind you of some of them, and I recounted some of the examples in relation to apprentices in a workplace.

There are many examples of young people who want to do a trade; who leave school at the first opportunity, which is now 16, to start their apprenticeship. There are many examples of young apprentices—as Business SA, construction contractors, master builders and others have highlighted—particularly with small subbies, who for parts of the working day may well be left on a particular worksite, if it is a residential building site, with another apprentice. There is nothing illegal or wrong, in relation to employment practice, with having two apprentices for periods of time on a worksite at a particular point in a working day.

The Hon. Mr Hood asked the minister or the minister's adviser for some examples of regulations or codes, and the angle grinder example came up. It may well be that what this bill is going to be about is preventing children from using angle grinders. I think there will be many farmers and farmers' sons and daughters who would even scoff at the suggestion that they should not be able to use equipment like that, but I put that to the side.

That is the case of a child under the age of 16 but, if we leave this provision at 18, what the minister or the minister's advisers told the Hon. Mr Hood is that where this is heading is that for 17 year olds, who may well be apprentices undertaking apprenticeships, the regulations and the codes of practice are going to come down and say, 'You can't use an angle grinder. You can't use this.' It is going to mean that for some apprentices, who quite safely and as part of their productive life at the moment are using an angle grinder, or whatever else it happens to be—properly trained as a 17-year-old young adult, as I would see them, in the workplace. What we are being told is that potentially, under the regulations and codes of practice, that is where it is heading.

I just foreshadow that one of the key amendments in all of this I think is the provision later in the bill where we are going to ask IRAC, as a safety net, to have a look at all the codes of practice and the regulations before they go ahead. I think that is just an enormous safety net that is required under this legislation if it goes ahead—but that is a later amendment. I just foreshadow that one example; I am not going to go through all the other examples as well.

I think those of us in the real world have seen many 17 year olds working in workplaces, and potentially these codes of practice are going to ban them from using an angle grinder or ban them from using this or that, or whatever it happens to be, because someone has a view that a 17 year old is not mature enough or adult enough to use an angle grinder or whatever it happens to be.

We accept that all employees, 17 year olds included, have to be properly trained in the use of any equipment. That comes under our occupational health and safety laws and all those sorts of things anyway. To have a set of circumstances, which has obviously been recounted to the Hon. Mr Hood (it was not given to me so I am relying on the speech of the Hon. Mr Hood in relation to this example) is the perfect example of why I think this particular provision is counterproductive. I think the protection should be there for 16 year olds and under, in relation to it.

We can get into an argument and ask: when is a child a child? In some statutes it is 16 and in some it is 18 or whatever it happens to be. Those who want to support 18 can come up with all sorts of arguments for 18; those who support 16 can come up with arguments in relation to 16. In relation to this, we have not been provided with evidence of the abuses and problems in relation to 17 year olds using angle grinders (or whatever it is) in worksites and workplaces to justify this sort of significant change, and I urge members to at least consider this amendment.

The Hon. G.E. GAGO: The government opposes this amendment. As we know, most children stay in school beyond the compulsory school or education age to complete the very important final year of SACE. All children, as they develop, grow and train for a productive future and are entitled to the protection provided by this bill, which protects their health, safety and development and enables them to balance work with education and training whilst they are committed to education.

It is aimed at protecting those people in particular. The application of this legislation up to the 18th birthday of a child ensures that children benefit from the protections of this legislation during those years. That is very important for 16 and 17 year olds who are still participating in full-time school or other educational training in that they are free to do that and that their education is protected and not adversely affected by their work.

As I said before, we have examples of young workers or young worker's advocates, of 16 and 17 year olds being pressured to take shifts at times when they would have preferred to be studying but they are told, 'If you don't take this shift then you're not going to get any future shifts or they will be limited.' I remind honourable members that, in fact, this bill does not apply to apprentices, so the example that the honourable member gave about apprentices not being able to use angle grinders, I have been advised, is incorrect.

In fact, the ability of children who are working or in employment to use any type of equipment in particular would be assessed in terms of adverse effects on the child rather than any particular piece of equipment, for instance. So this bill does not outlaw the use of angle grinders in particular or any other piece of equipment or tool or utensil. It would only prohibit those that have an adverse impact on the person. I have also been advised that most other states provide protections for 18 year olds and under.

I just remind members that the bill does not stop children working or using equipment; they just need to be protected while they are doing that. Employers need to take account of the age of the worker and ensure that they have considered that before requiring them to undertake particular tasks or use particular tools or equipment.

The Hon. A. BRESSINGTON: I have to say that I am not inclined to support this amendment. The minister has said that the examples given by the Hon. Rob Lucas do not apply. My concern is for young kids working in fast food outlets and doing the nightshift. It is okay for a 17 year old to be put on duty as a supervisor supervising three or four younger people, but I go back to the example of the fast food outlet out north where there was gang violence. If there was a 17 year old on duty as a supervisor that particular night, when five or six youths came in drunk and started smashing up security guards and whatever, that would not be a safe environment for kids to work in. If we drop the age to 16, we could have 16 year olds in senior positions in these workplaces.

Let's face it: fast food outlets have to be the bottom of the rung in employment. It is the starting point for most kids, but I consider it the bottom rung of employment with the least supervision for those late night shifts. I have seen it, and I have seen the kids who work in those places. Given the minister's response to the comments made by the Hon. Rob Lucas, and what I have in my mind, I am now inclined to oppose this amendment.

The Hon. T.A. FRANKS: The Greens oppose this amendment. We think this is such a diminution that it serves to undermine the bill rather than make a point about angle grinders and apprentices, which we do not believe applies here in any way. We also note that this amendment would have the follow-on effect on clause 7, where an employer must not require or permit a child to be working unless appropriately supervised by an adult. In fact, that would end up with the situation that the Hon. Ann Bressington has just described, where you might have 16 year olds supervising 16 year olds—clearly an untenable and inappropriate proposition. Those are the main reasons we oppose this amendment.

The Hon. D.G.E. HOOD: Family First supports the amendment.

The Hon. J.A. DARLEY: I support the amendment.

The Hon. R.I. LUCAS: I was relying on my memory in relation to the point made by the Hon. Mr Hood based on the advice in relation to the angle grinder, and I may not have accurately reflected what he was told. From what the minister is saying apprentices are not covered, but a 17 year old does not have to be an apprentice in a workplace. Obviously, a 17 year old can be a 17-year-old employee and not an apprentice.

The Hon. D.G.E. Hood: I was talking about labourers.

The Hon. R.I. LUCAS: The Hon. Mr Hood, by way of interjection, has just clarified it. I have misunderstood and misrepresented what the Hon. Mr Hood had been told; that is, it was not an apprentice 17 year old, it was a labourer or an employee who was 17. The advice he had received from government advisers was that what might potentially occur in those sorts of circumstances is that an angle grinder—because that was clearly referred to in his contribution—

may be the sort of thing that a code of practice may seek to ban or outlaw. So, my apologies for misleading the minister, the Hon. Ms Franks and others in relation to the issue of apprentices. We are talking about 17-year-old employees within the workplace.

The only other point I would make in relation to the supervision issue is that I am not sure that this issue of the 16 year old—and I know the Hon. Ms Bressington has other reasons for opposing the amendment, so I am not seeking to change her view, because I know I could not do that anyway or, indeed, the Hon. Ms Franks—supervising a 16 year old is correct, if this amendment was to go through. We have a set of circumstances under the legislation which—the Hon. Ms Franks, what was the provision you referred to?

The Hon. T.A. FRANKS: When you get to clause 7, your further amendment actually deletes 'adult' and substitutes 'person who is not a child'.

The Hon. R.I. LUCAS: Under clause 7(3), 'An employer must not require or permit a child to work unless appropriately supervised by an adult.' Again, the circumstances that were outlined in business associations' lobbying of myself and the Liberal party was that there are many examples in workplaces where 17-year-old apprentices are supervising other 17-year-old apprentices on a worksite. You are on a housing site for a builder, there are just the two or three of you there, and the more senior one may well leave the site for half a day and leave you to do the job that you are required to do. There were a number of examples given to me where 17 year olds are supervising 17 year olds on those particular worksites.

Now, if the provision stays there, those sorts of circumstances, I guess, will have to be looked at by the employers in those circumstances. Whilst I understand that, I do not understand the issue in relation to 16 year old supervision. I know from friends of our children that the number of circumstances where 17 year olds are not actually even called 'supervisors', but they are the last remaining employees left at the video shop. We are not talking about midnight, we are talking about the video shops that are open until 9 o'clock (or whatever it is), and there have been many examples where the last remaining employee is a 17 year old. I know it has occurred not only with friends of my children but with some of my own children as well, where, as a parent, you go to collect them at 9 o'clock at night and they are the ones locking up.

It is not just the fast-food outlets but the video shops and a variety of other outlets which are providing a service after hours. Many of our children and their friends have been ever grateful for the employment, the training and the money that they have received in terms of the work that was there. So, Mr Acting Chairman, as I said, I would never seek to try to change the Hon. Ms Bressington's opinion once it is made up, but I just thought at least I would dispute that aspect of her reasoning.

The committee divided on the amendment:

AYES (10)

Darley, J.A.	Dawkins, J.S.L.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Ridgway, D.W.	Stephens, T.J.	Vincent, K.L.
Wade, S.G.		

NOES (8)

Bressington, A.	Franks, T.A.	Gago, G.E. (teller)
Holloway, P.	Hunter, I.K.	Parnell, M.
Wortley, R.P.	Zollo, C.	

PAIRS (2)

Brokenshire, R.L.	Gazzola, J.M.

Majority of 2 for the ayes.

Amendment thus carried.

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

Page 3, lines 18 to 20 [clause 4, definition of *guardian*]—Delete the definition of *guardian* and substitute:

guardian, of a child, means—

(a) a parent of the child who has legal responsibility for the day-to-day care and welfare of the child; or

(b) a person who is the legal guardian, or has legal custody, of the child; or

(c) a person who stands in *loco parentis* to the child and has done so for a significant length of time;

Members will be delighted to know that the minister has indicated that the government is supporting this amendment, so I will speak very briefly and indicate that this is a relatively specific amendment. It seeks to cater for the circumstances where a non-custodial parent under the government's drafting potentially could be held responsible for some of the provisions of the legislation. Clearly, if you are a parent and you have no direct responsibility for a child, it is a bit rough if you are then potentially covered by the provisions of the legislation. My amendment seeks to cater for that and, in essence, just cover those parents who have responsibility for children. The government has indicated, as I understand it, that they will support it, so enough said.

The Hon. G.E. GAGO: The government rises to support this amendment. It clarifies that a parent cannot be considered to be a guardian of a child unless responsible for the day-to-day welfare of the child.

Amendment carried.

Progress reported; committee to sit again.

HEALTH SERVICES CHARITABLE GIFTS BILL

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

At 22:07 the council adjourned until Wednesday 18 May 2011 at 14:15.