LEGISLATIVE COUNCIL

Thursday 29 March 2012

The PRESIDENT (Hon. R.K. Sneath) took the chair at 09:00 and read prayers.

SUMMARY OFFENCES (WEAPONS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (9:02): I move:

That the sitting of the Legislative Council be not suspended during the continuation of the conference with the House of Assembly on the bill.

Motion carried.

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (9:02): I move:

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

Motion carried.

STATUTES AMENDMENT (SHOP TRADING AND HOLIDAYS) BILL

In committee.

(Continued from 28 March 2012.)

Clause 6.

The Hon. R.I. LUCAS: In relation to the government amendment, the only amendment that the government intends to move, I want to clarify which clause it involves and why this particular clause is not being amended. Mr Chairman, you were just about to put clause 6. Isn't the minister actually moving an amendment to clause 6?

The CHAIR: No; the minister's amendment is to insert new clause 6A.

The Hon. R.I. LUCAS: The minister? I thought that was Mr Brokenshire.

The CHAIR: No.

The Hon. R.P. Wortley: I will be moving that amendment.

The Hon. R.I. LUCAS: I am very happy for you to rush the clause through without the government moving its amendment.

The CHAIR: We nearly did that. If you had not stopped us we would have done that.

The Hon. R.I. LUCAS: Exactly; that's what I am saying. If I am not here to assist you in the chair heaven knows what would happen in the committee.

The CHAIR: I haven't got an amendment.

The Hon. R.I. LUCAS: What, the government has not filed an amendment? This is extraordinary. The Chair is saying that the government has not filed an amendment for what is supposedly the key deal being done. The Chair has just said—

The Hon. R.P. Wortley: Well, there is—

The Hon. R.I. LUCAS: Are you saying that the Chair is wrong?

The Hon. R.P. WORTLEY: I am saying that we should deal with the amendment.

The Hon. R.I. LUCAS: Well, we have the minister in disagreement with the Chair. The Chair says that there is no amendment and the minister says that there is. Can you actually get your act together? Is it possible to get your act together?

The CHAIR: It was not in front of me, it was over here. It has obviously been filed, it just has not been given to the Chair.

The Hon. R.I. LUCAS: That is not my fault, Mr Chairman.

The CHAIR: It is not mine either.

The Hon. R.I. LUCAS: With the greatest of respect, if the committee was not here assisting you, that particular clause would have gone through without you or the minister being aware of it and this whole wonderful deal would have unravelled.

The CHAIR: If you had not been asleep, it would have gone through.

The Hon. R.I. LUCAS: If we are talking about who is asleep at the wheel this morning, I think that particular descriptor can go to the minister in charge of the bill.

The CHAIR: Just get on with it.

The Hon. R.I. LUCAS: Well, it is not my amendment, Mr Chairman. I was just asking whether the minister was actually going to move an amendment. I am waiting for the minister to actually get off his backside and do something.

The Hon. R.P. WORTLEY: I move:

Page 3, line 19 [clause 6, inserted section 3B]—Delete '5pm' and substitute '7pm'

This amendment reflects the arrangements made between the government and the Hon. Mr Darley. As you know, the original time for the part-day public holiday was from 5pm until midnight. As a result of our negotiations with Mr Darley, we have now changed that to 7pm until midnight, giving the government quite a significant amount of savings for taxpayers and also allowing us to accommodate those working in the non-government sector of disability and community services. So, we seek endorsement of this amendment.

The Hon. R.I. LUCAS: The Liberal Party's position is that we opposed the original deal, which was from 5pm, and we oppose the compromise deal, if one wants to use that particular phrase to describe the amendment that we have before us. The Liberal Party's position, as we outlined in the second reading, is equally applicable to either the 5pm start or the 7pm start of this part-day public holiday.

As the minister indicated last night, the total cost of the deal ($4.65 million), while still substantial for taxpayers, is a reduction of some $350,000 on the original $5 million estimate. However, as the Liberal Party has said publicly, the deal was a bad deal in the first place, and it is made no better, no more palatable to taxpayers, small-business operators or all those who have opposed the original part-day public holiday, and it is no different in relation to this changed start time (from 5pm to 7pm) for the part-day public holiday.

As an indication of that, and certainly from our viewpoint, we do not intend to repeat all the arguments we used against the 5pm start of the holiday; suffice to say, we apply all those arguments to the start of the public holiday being at 7pm. We oppose this amendment and will vote against it.

The Hon. T.A. FRANKS: The Greens will be supporting this amendment. We were happy to support the 5pm start, but we are also happy to support the 7pm start.

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

The Hon. R.L. BROKENSHIRE: We opposed this last night, and we will oppose this again today.

Amendment carried; clause as amended passed.

New clause 6A.

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

Page 3, after line 22—Insert:

6A—Insertion of section 3C

Before section 4 insert:

3C—Adelaide Cup Day.

(1) The second Monday in May will be a public holiday and a bank holiday.

(2) Section 5 does not apply to Adelaide Cup Day.

Based on some discussions this morning, I have made a further slight amendment to which I alert honourable members. I have given the Chair and the Clerk a slightly amended version, with the removal of the words 'Carers and', so the amendment now reads 'Adelaide Cup Day', with the exclusion of 'Carers and'; I am happy to explain the reason for this.

First of all, just to speak generally to the amendment, Family First is moving this amendment because there has been a lot of discussion and argy-bargy on the best time to hold the Adelaide Cup public holiday long weekend. Whilst, initially, I understand there was an agreement between the South Australian Jockey Club, Thoroughbred Racing SA and the government to move the Adelaide Cup long weekend—which was the third long weekend in May—to March, that was partly to do with two things: firstly, the weather and the rain around the track in May at times (there were two very wet Mays) and, secondly, there was a situation where we had the Magic Millions.

That has now changed, and it is no longer beneficial for the Adelaide Cup Day to be moved. There is an argument that, because there are so many other activities happening in what is commonly known as 'mad March', when there is just a logjam of events, that it is actually working against the best economic interests of the state of capitalising on the opportunities for another long weekend. I reinforce that this is not an extra public holiday but shifts it back to May.

We had further discussions and deliberations, and Family First strongly supports, as I am sure do my other colleagues in the chamber, the government's focus on volunteers on the Queen's Birthday long weekend in June, because that focus on volunteers is important. Volunteers are vital to South Australia, as are carers and, in particular, mothers, who I believe are the ultimate carers.

We were moving an original amendment to shift Adelaide Cup Day back to May (not the third weekend for a long weekend but the second weekend for a long weekend) which would also coincide with Mother's Day. Effectively, what would then happen is that you would have a public holiday in May, making the long weekend the weekend of Mother's Day, which we believe would be particularly good for the recognition and support of mothers. We believe also that carers need a special day.

Having had discussions with some members of the crossbench and the opposition, I have had indications that there would be support for this from some members but not with respect to having the tagging in the front, of 'Carers and Adelaide Cup Day', in other words, simply to have 'Adelaide Cup Day'. We deliberated on that, and we believe that it would still be good and important and, if this is changed. we would encourage the government to sit down with the sectors and members of parliament in this and the other house to discuss how we could capitalise on celebrating carers on that long weekend as well, just as we do on the June long weekend for those who volunteer.

We also believe that it would be economically beneficial to the state because, in early May, it is the last decent weather; it is just before we get into the serious part of winter. It gives families and the community an opportunity to get out, recreate and enjoy. Particularly with Mother's Day, it would give them the opportunity to possibly consider a little trip away for special recognition and rest for the mothers in this state during that time, so that is the reason why we have pushed this suggestion. We believe that it has merit, and I would be keen to get support from colleagues in this chamber.

The Hon. R.I. LUCAS: As I indicated on Tuesday and yesterday, the difficulty the Liberal Party finds itself in, given that the government and its supporters have gagged various stages of this debate and are now forcing a vote on the bill and its amendments today, is that it precludes the Liberal party room from actually considering a number of the amendments that the Hon. Mr Brokenshire is moving. I do want to indicate at the outset of this discussion (and some of the other amendments) that that is the dilemma the Liberal Party finds itself in.

It is no criticism of the Hon. Mr Brokenshire; he outlined the process he had to go through late on Monday afternoon for these amendments. We have still only received feedback from three of the stakeholders in the 48 hours since we circulated the amendments on Monday evening. Given the time that we have been spending in the chamber on this and other issues, I have not had the opportunity to be able to chase up the other stakeholders who have not yet responded to the proposed amendments. That is the dilemma the Liberal Party finds itself in.

However, in relation to this one, the Liberal Party has already established a position which it indicated publicly early to mid last year. Our party room separately had considered this issue of

the rightful location in terms of timing of the public holiday related to the Adelaide Cup. We are now on the record as having supported the move back to May of the Adelaide Cup and the Adelaide Cup public holiday.

The dilemma that confronted us was that we have never considered the issue, which was the original drafting of the amendment, of designating either this public holiday or, indeed, any other one as a carers public holiday. We were not in a position, on the basis of a previously-established policy position, to support a carer's public holiday, or the renaming of the public holiday as 'Carers and Adelaide Cup Day'.

I do not prejudge the view that my party room might adopt at some stage in the future on that issue. There may well be people who are quite supportive. There may well be people who do not support the changing of the title. Whether or not it is in the title, the notion that if the government of the day wished to celebrate the contribution of carers in any way on this particular day or, indeed, at any other time, there would certainly be no opposition, I am sure, from the Liberal Party.

The principle behind the original drafting of the amendment from the Hon. Mr Brokenshire I am sure can be translated into action, if any government so chooses, with or without the formal designation in the Holidays Act. From that viewpoint, whilst we were not in a position to support the original drafting of the amendment, this drafting is broadly consistent with the publicly-announced policy of the Liberal Party since the 2010 election. For those reasons, we are prepared to support the amendment as amended.

The Hon. R.P. WORTLEY: I do not think this bill is the appropriate place to discuss or even move on the Adelaide Cup Day. The member would be aware that we are currently doing a review into the Holidays Act, and the Adelaide Cup Day will be a part of that discussion.

An honourable member interjecting:

The Hon. R.P. WORTLEY: We are at the moment open for public consultation. It was closed, but I extended it to allow more organisations to give their views on this day. Probably the most appropriate forum to talk about the Adelaide Cup Day is when we debate the Holidays Act. With regard to the Adelaide Cup, a number of years ago the racing industry approached the government and put a position that, because of the weather in May and dwindling crowds, they thought it would be more appropriate to go into March. The government obliged and the Adelaide Cup Day became a part of the March festivities. What has happened since then is that a number of festivals have used the Adelaide Cup Day for their festivals.

WOMAD now is on Adelaide Cup Day, and there were 20,000 people at WOMAD. There was also the Future Music Festival, which had many thousands of people. If you talk about economic benefit to the state, if we move it back to May it could have a significant impact on the economic benefit that the Adelaide Cup Day now brings on the second Monday in March. So, I do ask the chamber to oppose this amendment and we are happy to have a debate under the Holidays Act when that comes to the parliament, and it will be coming to parliament in the near future.

The Hon. R.I. Lucas: This is the Holidays Act.

The Hon. R.P. WORTLEY: When we look at a total review of the Holidays Act. The Holidays Act has not been properly reviewed for over 100 years, so we are having a very extensive debate and discussion regarding the Holidays Act. We will be bringing a bill to parliament after taking into consideration the feedback from the public consultation.

The Hon. R.L. BROKENSHIRE: I have a question for the minister.

The CHAIR: Just before you do, I will just explain to those that might not have a fresh copy of your amendment that the amendment now reads that it is the Adelaide Cup Day. Instead of 'Carers and Adelaide Cup Day', it is just 'Adelaide Cup Day'. Then it says, 'The second Monday in May will be a public holiday and bank holiday.' Then part (2) of the amendment says, 'Section 5 does not apply to Adelaide Cup Day'. So, 'Carers and' has gone out of the second part as well.

The Hon. R.L. BROKENSHIRE: That is correct, and thank you for that explanation. I have a question for the minister. I know that we are under a tight schedule today so I will try to not hold up things. On a point of principle, there are two points that I would ask the minister to explain based

on what he just said regarding my amendment. The first is that I understand that we are debating the shop trading hours at the relevant act in the holidays bill right now.

In other words, we have the legislation open before us now, so I thought that we did have a right to move an amendment. The key question that I would like an explanation from the minister on is that he has just said that it is not appropriate for any member in this house to move a further amendment under an act that is specifically for what I am moving this amendment for, because we actually have a review into public holidays at the moment, for which submissions finish tomorrow, the 31st to be precise.

Can the minister explain, while he says, 'Let's wait, because it's a century since we've had a look at the public holidays act,' why we are not looking at these two half public holidays that this bill is all about? Why are we doing that now and not waiting for the review into the whole issue so that it could have been debated democratically in the parliament? I am pretty confused that the government does not want to support this now, but it might actually support this when it has finished its review. The government is happy to bring in two brand-new half public holidays without waiting for the review and submissions into all the aspects and issues regarding the public holidays. What is the difference?

The Hon. R.P. WORTLEY: First of all, I did not say it was wrong for the member to move this amendment. What I did say was it is probably more sensible to have this debate on the Adelaide Cup during the total revamp of the Holidays Act; but if the member wants not to be sensible and pursue this he is quite welcome. You are doing nothing wrong by moving this. I do not believe it is sensible. I think the sensible thing would be to do it in the future holidays act. The reason we are doing the part public holidays in this bill is because this is a package. This is a package that is happening now.

Those are the very clear reasons we think it is a good idea. It is all a part of our strategic thinking and planning for the City of Adelaide. This forms a part of that, and this is why we have decided to have these two new part public holidays in this bill. By all means debate the Adelaide Cup, even though we will be debating the Adelaide Cup probably in a month's time or so, so you can have your say then.

The Hon. T.A. FRANKS: I indicate the Greens will not be supporting this amendment. In our considerations, we have had a look at the history of Adelaide Cup Day. We acknowledge that it has not always been a public holiday, that there was some lobbying for it to be included as a public holiday some decades back and that that lobbying allocated that holiday to where the event had been for many decades (in fact, possibly most of its history) in May. We do acknowledge also that the debate to change it to March was not only about the weather, which seemed to be a factor, but also because of where it fitted into the racing program overall.

Those factors may have changed, and I understand there were also some considerations with March not necessarily having the best weather for a while. However, our concerns are the people who have not been consulted at all, and the minister has touched on them. Mad March happens because we have put a whole lot of events there, successful events such as WOMADelaide, Future Music Festival, the Fringe Festival, and the Adelaide Festival. Yes, it is weather related, but we also have a public holiday in that season which is in fact the height of our tourism and festival season, and there seems to be no consultation being done with those groups.

I would point to arguments that we could acknowledge mothers as carers in May as missing the opportunity that we have in March. International Women's Day falls on 8 March every year. I think most mothers are women, and so by celebrating women we could in fact—

The Hon. R.L. Brokenshire: All mothers are women, but not all women are mothers.

The Hon. T.A. FRANKS: Not all women are mothers; that's right. The Hon. Mr Brokenshire is right. I would also say that all women are daughters. I would point out that many countries around the world celebrate International Women's Day with a public holiday. Certainly, when the Hon. Steph Key was the minister for women she often talked about the possibility of celebrating International Women's Day in that March program of events. Sure, there would be many people who have an opinion about that.

I have concerns that we are jumping the gun, if you like, in not consulting all. When the March holiday was proclaimed, there were efforts to include volunteers in that day, and I acknowledge that that has changed in the schedule as well. I was involved in some of those early volunteer days around that March program and I would certainly not want to see carers or

volunteers overlooked but I certainly would not want to see all the other groups that I have mentioned overlooked either.

I also find it odd that there has been talk of moving the Adelaide Cup to a Sunday, in which case you do not need a public holiday at all; you simply run the race on a Sunday in May. There are always options. The weather in May is often wetter and colder than the weather in March and that is reasonably undeniable. All of the events not exclusive to but including WOMADelaide, Future Music, the Fringe, the Festival and so on have all taken advantage of the March public holiday.

Some of those events would find it difficult to move to accommodate May as a public holiday and I think we would lose that built-up knowledge in the tourism community and the arts community of the three-day weekend we have there. With that, the Greens will not be supporting this amendment and we look forward to future debate on the Holidays Act.

The Hon. J.A. DARLEY: I will not be supporting this amendment.

The Hon. K.L. VINCENT: Obviously this is an interesting topic for me simply because within the D4D (Dignity for Disability Party) and indeed the disability community, every day is carer's day and every day is a day to celebrate and acknowledge the contribution that carers make to our society. I think that it is important to note that, in fact, in South Australia and, indeed, I believe nationally, we already have a Carer's Week and a Carer's Day within that week. It occurs to me that the best way to acknowledge the work that carers are doing and the contribution they are making to society is to keep that day separate and purely focused on that work and that contribution.

I am concerned that by modelling this with Adelaide Cup Day we are, in fact, detracting not just from the contribution of carers but also from the Adelaide Cup. I think that both events deserve to have their own focus per se. I think there are things that we could do to use Adelaide Cup Day as a day to acknowledge carers without necessarily making the waters so muddied. For example, it occurs to me that sponsorship for carers to attend the Adelaide Cup as a form of respite might be an option, without the necessity of muddying the waters in the sense of a mixed focus.

I think the best way to acknowledge the contribution that carers make to our society is to keep these two things separate. I am very happy to debate this under what I think is the appropriate piece of legislation, and that is the Holidays Act.

The Hon. R.I. LUCAS: I have a couple of points arising from the debate thus far. The first point to note is that the parliament has made a decision on this particular issue—past parliaments, I should say—and that is that the Adelaide Cup holiday should be in May. The act, as it exists at the moment (the Holidays Act) says that the Adelaide Cup holiday is in May.

What has happened is that, for a small number of years, the minister issued a proclamation under the act which gave him or her the power to say, 'Okay, we're going to move the holiday from May to March.' I think the minister has outlined that the original decision was taken on the basis of the industry lobbying for and supporting the move, so it was not a pre-emptive strike by the government of the day but was done in consultation with the industry. The industry has now changed its position, and has done so for a while.

The reality is that the parliament, in relation to the Holidays Act, has expressed the view that the holiday should be in May. It is only the fact that the government (or the minister of the day) and the industry asked for it to be moved that the powers that exist in the act to allow these public holidays to be moved at the whim of the minister and the government has been used, and done so on a yearly basis. I think that is the first point to make in relation to this. The parliament's view is that it should be in May. It has not been changed. The government has not come in here at any time over the last decade and said, 'Let's change the act and make it March' and have the parliament either endorse that or not endorse that. It has just been done through the back door using this proclamation to move the holiday.

The second point to make is that the minister and the Hon. Ms Franks rightly raised the issue that there are some other events through the day on the Monday. However, I just remind those members that South Australia does not just belong to the CBD and the tollgate down to the south. There is a South Australia beyond metropolitan Adelaide, and that is regional South Australia; and sadly there are too few people prepared to stand up in this chamber and elsewhere and advocate on behalf of regional communities because the numbers are in the city.

People will talk about WOMADelaide and Future Music festivals, but do they talk about the Kernewek Lowender and the variety of regional festivals which had always operated on the basis of the holiday in May? That was the impetus for them establishing festivals, and they established festivals on that public holiday in May. My colleague the member for Goyder and a number of my regional colleagues have advocated passionately that often members who do not live in the regions forget that there is a part of South Australia beyond metropolitan Adelaide.

Yes WOMADelaide is important for those who attend, and yes Future Music is important for those who attend. I acknowledge that, but let us not forget the importance of regional festivals for regional communities who are struggling, and they are the fiercest advocates—together now with the racing industry which has obviously changed its mind—for saying, 'Hey, the act actually says that the holiday should be in May, and we in the regions have festivals, too. We believe we should be considered in a parliamentary debate on the issues. Don't just talk about those of you who are in the metropolitan area and the festivals that you attend.

The third point I would make in relation to mad March is that the current government is actually acknowledging that—because it has said that it has actually instituted a review—in essence we have a mad March overload. We have people arguing against each other at the moment in relation to these events saying, 'We've just got too many of them in March, and it would make much more sense to actually spread these tourism-related events throughout the year to a greater degree than we currently have.' That is not the Liberal Party raising that particular issue specifically or Family First raising the issue, that is this government.

The Hon. R.L. Brokenshire: Michael Wright is in the paper on it.

The Hon. R.I. LUCAS: The Hon. Mr Wright, indeed, has supported this particular issue, but his influence from his viewpoint, I guess, is somewhat less than it might have been at times in the past, but that is for the government and others to argue. The point that I am making is that it is the government acknowledging the problems that a number of the festival organisers are saying already exist within mad March.

Those three reasons, clearly, are not going to change people's minds in relation to this issue, sadly, but I would urge members; and I will be amazed if this minister, frankly, brings a bill for the Holidays Act back within a month as he was talking about. I thought it was the ultimate irony to have the minister talking about what was sensible in relation to an approach from another member of parliament. I will stand corrected if within a month we are debating the Holidays Act, and happily do so.

The issue for whenever it is—or if it ever comes—that we come to debate the Holidays Act is that I hope members, at least on that occasion, will consult not just with the metropolitan-based festivals, such as Future Music and WOMADelaide, but I would urge them to put their eyes beyond the horizons of the tollgate and Gepps Cross and actually consult some of the regional festivals and the regional communities in relation to their views on this issue.

New clause negatived.

Clause 7 passed.

The CHAIR: Amendment [Brokenshire-1] 2?

The Hon. R.L. BROKENSHIRE: That is a consequential amendment. I withdraw that.

New clause 7B.

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

Page 3, before line 28—Insert:

7B—Review

(1) The Minister must cause a review of the operation of section 3B of the *Holidays Act 1910* (as to be inserted into that Act by section 6 of this Act) to be conducted and a report on the results of the review to be submitted to him or her.

(2) The review must include an assessment of the impact of the introduction of part-day public holidays on government, business and the community, including the additional costs resulting from part-day public holidays and, in particular, any additional Government expenditure in each financial year on matters relating to part-day public holidays (such as expenditure on wages and funding to organisations to compensate for the additional costs to those organisations resulting from part-day public holidays).

(3) The review must be commenced on 1 January 2013 and the report must be submitted to the Minister within three months after the commencement of the review.

(4) The Minister must, within 6 sitting days after receiving the report, cause copies of the report to be laid before both Houses of Parliament.

This amendment was tabled late, but I think it is very important that we take this into consideration. The reason we believe this should happen is that, first, there are plenty of examples in this house where bills have been passed and members have used amendments in those bills for a review to assess ramifications with respect to the bill or, indeed, to ensure that there is some review process for unintended consequences that were not able to be explained when the debate was occurring.

The reason this amendment was not tabled with the rest of my amendments is that it was only yesterday when we were really able to drill into the issues around what scoping studies, due diligence, assessments, analysis and modelling had been done to ensure that there were no unintended consequences that were going to have a detrimental effect on jobs and the economy as a result of this.

Also, in my opinion, we did not get absolute commitments from the minister when it came to issues around the disability sector, the aged-care sector, the public sector (with police cross-shifts), and a host of other public servants who need to be reassured the government has properly costed this proposal and also, very importantly, where there has been no work done at all; that is, as the minister indicated in this place yesterday, the private sector and the impact of the changes.

Therefore, I am moving that we have a review. Without spending too much time on it, I do not believe that the government should have any fear in relation to this amendment. This amendment does not stop the deal from being brokered through the debate here today. We all know that we have a vibrant, deregulated CBD and we have two half-day public holidays. That done deal in the backroom has been rubberstamped here and in another place, so it has no impact on the primary reasons the government has introduced this bill.

However, I believe that the government should not fear this amendment because, surely, the government has done its homework. This amendment provides that there will be a three-month time limit. I acknowledge that that is tight but, with the expertise and the resources the government has, I for one believe that a good government could easily do this review within a three-month period. As responsible economic managers who I hope understand the pressures the business sector is under, the government should have all of this information at its fingertips. So, it should be easy and a non-issue.

A promise has been made to the disability sector that it will be no worse off under public holiday changes due to reimbursement supposedly achieved from savings because the government is not paying public servants from 5pm to midnight on the new part holidays but, instead, 7pm to midnight. However, even with the questioning on the disability sector yesterday, we did not get an absolute costing or, indeed, a commitment.

More and more people in the future will be affected, and I remind colleagues again that this is not just one year. This is perpetual (unless it is at some stage changed in the parliament). As more and more people in the disability sector rightly opt to self-manage their income, we need to ensure that they are protected, and this is just one example into the future. We did not even get an absolute guarantee yesterday from the minister that self-managed income earners with a disability will be able to be topped up in the same way as those that are NGOs that are providing a service to the government.

That is just one little example. I could go on and on but I will not, because it is already quarter to 10. I believe that this is a sensible amendment based on what we have done a lot of the time in the past—particularly in the last year or so when members have said, 'Let's have a review on this,' and it is clear to this house that the government has done no work, costings, due diligence, scoping studies, modelling, or anything, to see what unintended consequences there are for the state. If colleagues have not had a chance to read it, I will read subclauses (3) and (4):

(3) The review must be undertaken on the commencement of section 6 of this Act and the report must be submitted to the Minister within three months after the commencement of section 6.

(4) The minister must, within 6 sitting days after receiving the report, cause copies of the report to be laid before both Houses of Parliament.

In conclusion, there are very substantial unintended consequences in what the parliament is passing here today and I believe we need to have the transparency of those consequences

through a review tabled in this parliament so at least it gives the business sector, the disability sector, the aged care sector, and many other sectors that will be affected in this state, an opportunity to see what the impact is and then be able to make some personal analysis on what they do to manage the way forward regarding the ramifications of this deal done in the back room. I commend the amendment to the committee.

The Hon. R.I. LUCAS: I have only just seen the amendment this morning myself but, in general terms, the Liberal Party has supported reviews. I think the Hon. Mr Darley moved a review in the long WorkCover debate that we had, and I think that was a sensible amendment and the Liberal Party supported it. The dilemma I have with what I understand is the drafting of the Hon. Mr Brokenshire's amendment and given the rushed nature—and, again, I make no criticism of the Hon. Mr Brokenshire in this debate—is that, as I read it, we would be enforcing a review prior to the event.

Let us say the act is proclaimed next week, or whenever. We would be doing a review before seeing what actually happens at Christmas and New Year. To me, whilst that might provide some information, it, in essence, reviews the current state of play at the moment. Given what we were told yesterday, the minister is going to say, based on his advice and others, that there are hundreds of awards and it will depend on how these things are actually determined.

So, to me, it makes more sense to have a review after a period of time when we have actually seen what happens. If the member wanted it sooner rather than later, it would seem the earliest it would make sense would be after 1 January next year. That is, you have experienced at least one round or one year of half-day public holidays on 24 December and 31 December and then starting 1 January next year you could have a review conducted of that.

I think, whoever is elected after 2014 and whoever happens to be the minister after 2014, when we would have had two years of wrinkling out of the system and tribunal decisions and enterprise bargaining negotiations and all those sorts of things, it would make even more sense, but that means that information would not be available to the parliament until after the election. Given where we are at the moment, I have asked parliamentary counsel to have a look at whether or not we can amend the Hon. Mr Brokenshire's amendment on the run to have that review commence on 1 January, or words to that effect. As we speak, parliamentary counsel is having a quick think in relation to that.

What I want to clarify, I guess from the member's viewpoint, because I have not had a chance to discuss this issue at all with the member, is whether it is by conscious decision that he is wanting to have these reviews start next week, basically before we had had the opportunity to see any of the implications that might occur late this year, or whether he is interested or prepared to have a look at having a review provision which might start on, say, 1 January and have the minister report some time in the second quarter of next year, which means that whatever is established by that review will at least be made known to the parliament and the general community well before the 2014 election in relation to what the implications might be.

I think this chamber has demonstrated, as it did with the Hon. Mr Darley's amendment, that generally we are prepared to consider, and approve on many occasions, review provisions, because that is just providing information in relation to a particular issue. From my viewpoint, if we can establish something along those lines—again, I do not have a specific party room decision on this—given our general position relating to reviews and in the interests of keeping the debate alive at least for another hour or two while it comes from our chamber to the House of Assembly, it would give me the opportunity, if it was to pass this chamber, to consult with some of my lower house colleagues to see what their position is.

So, if we were to approve some amended form of review, at this stage I could only do it on the basis of supporting it to keep the notion alive while it gives me the opportunity to have a quick chat with some of my lower house colleagues, and we may or may not confirm that position if it comes back to the Legislative Council, or we may well say that at this stage it is something we cannot support. Given the nature of where we are, in terms of being forced to vote on these things today without proper time for consideration of a number of these issues, that is essentially where we are at the moment. So, while you and other members respond to that, I will have another chat with parliamentary counsel to see how easy it is to amend the amendment.

The Hon. R.L. BROKENSHIRE: In response to the Hon. Rob Lucas, I have two or three points. First, the reason for suggesting that it be tight and in three months was that it became very clear in this chamber yesterday that no work had been done on the enormous amount of

unintended consequences of this bill. It is in the best interests of business and the other sectors I have highlighted to give them an opportunity to see what is going to hit them in the future, that is why this review is important and that is why I put it up like that. Having said that, I think it is even more important that at some point in time there is a review.

Regarding WorkCover, if my colleague the Hon. John Darley had not moved an amendment for that review then we would be in an incredibly difficult situation at the moment with all of the scenarios around WorkCover and all of the ramifications there. Just to add to that, it has now been announced that WorkCover's unfunded liability has gone back over $1 billion. So, these review processes are very important. They keep governments on their toes—and that is our job—and they also give the sectors that are affected in any way an opportunity to have some understanding of the implications and ramifications of what we have done in the parliament.

Having said that, I would accept an amendment to this amendment on the run saying that if the majority of the members of this committee could see the wisdom in the review but felt that three months was too soon, and took on the valid points that the Hon. Rob Lucas has highlighted to the committee about having the review after we have seen the total ramifications of the first Christmas Eve and New Year's Eve issues, and all the other stuff that we have debated here in the last day or so, I would be happy, on behalf of Family First, to certainly support that on the run, that is, a further amendment to my amendment.

The Hon. R.P. WORTLEY: The government opposes this amendment for very good reason. The Hon. Mr Lucas has identified the flaw in this amendment, that obviously this amendment has just been cobbled together by the Hon. Mr Brokenshire. I think it is another reason to get on the Leon Byner show. He had to have something, so he cobbled together an amendment. This is more about legislation by Byner than anything else. It is absolutely ridiculous to think that you will do a review seven or eight months before the first part public holiday.

The government admits that there will be a cost to business but, when you take into consideration that we are talking about 10 hours a year, the vast majority of people who work in this state would not apply. What you are doing is creating an extra cost and more red tape for business. You are overemphasising the cost this will have on business.

There will be costs. There will be a cost for hospitality workers, of course, and government workers and aged-care workers. We have looked at those costs, and we think the cost is acceptable, taking into consideration the importance of this quite significant reform. So, I would ask the committee to vote against this and take it for what it is: a late-minute amendment. This bill has been around for a little while.

You had plenty of time. It went through the lower house. You had plenty of opportunity, but you get a thought bubble on the way to work, 'I need to get on Byner today,' so you cobble together an amendment and jump on Leon Byner's show with it. It is just unacceptable to have legislation amended in this form, so we do oppose this. We do not believe it is necessary. We think it just adds more red tape and a cost to business. When you take into consideration 10 hours over a whole year for some industries, the cost does not warrant a review.

The Hon. R.L. BROKENSHIRE: I just want to ask a question of the minister on my thought bubble. My thought bubble actually occurred because you did not answer one question because you have done no work. The question is—

The ACTING CHAIR (Hon. J.S.L. Dawkins): The Hon. Mr Brokenshire will direct his comments through the Chair.

The Hon. R.L. BROKENSHIRE: Sorry, sir. I should not get too stirred up. Through you, Acting Chair, the minister did not answer one question, illustrating that no work had been done on this. Whether it is three months or whether it is 15 or so months from now, my question to the minister is: if a review is done into this area what would be the red tape and the cost to business in doing the review? I thought it would be a review done by the government.

The Hon. R.P. WORTLEY: To get information to make a valued and proper assessment of the cost, you have to contact businesses, and we do that quite often, so we know that it does take time and there are costs. When you consider the cost of these two part public holidays and the number of employees they will affect, we do not believe it is necessary to have a review. We think the red tape and the cost to business is unnecessary. As I said, when you consider that we are talking about 10 hours in a year, and it does not apply to the vast majority of people. We think it is just a cobbled-up amendment to get on the Leon Byner show.

The Hon. T.A. FRANKS: Through you, Mr Chair, I have a question of the mover first, and then I will make another response. Why did the mover not also cause a review of the operations of the shop trading hours as part of this review, given it is a package that we have before us in this bill?

The Hon. R.L. BROKENSHIRE: I understand the question is: why, further to what I have in this amendment, I did not suggest a review into the impacts of the shop trading hours? Well, the honest answer to that is that I did not consider that in the last 24 hours—since the minister did not give us the answers—but, again, it is a valid question by the Hon. Tammy Franks and, if on the run, that was to be added into this, then I would certainly look at that.

I would say to the chamber that this highlights that we are being rushed into all the deliberations and considerations around this. Yes, the government may have come out in November and said that they had done this deal, and that two sectors had done a deal, and that it was now being endorsed by the government but, in fairness to us, and in fairness to parliamentary counsel, they are not in a position, minister, to look at drafting amendments for us until they see what comes through the other house. It only came up to us last Thursday, so I think it is a point that could be accepted as another on-the-run amendment, and we could look at that. However, it again highlights what happens when things are rushed through this house.

The Hon. T.A. FRANKS: I would certainly echo some of the concerns that both the minister and the opposition spokesperson, Hon. Rob Lucas, have mentioned with regards to the timing of this review, in terms of the commencement of section 6. I have a question of whether one can delineate section 6 commencing, as opposed to the whole act commencing, in terms of a timeframe, and the wording here, and whether you would, in fact, be reviewing something before it had even happened? That does raise some grave concerns.

I also indicate that if you were to conduct a review, there are going to be changes that come in from many industries in the next few years and, so, the next year of implementation of this particular act, if proclaimed, will not necessarily be the same as the year after. So, there is a longer-term game here, and I think that if there is no review of the shop trading hours impact as part of any review, then the Greens will not look sympathetically at that.

The Hon. R.I. LUCAS: I will just take the minister into my confidence and indicate that I suspect that if a review was to be conducted at any time, the minister would not have to worry about individually contacting the concerned stakeholders. I think all he would have to do would be to issue a press release and he would be swamped with submissions in relation to any review. If we could put him out of his misery, it is not going to be an onerous task chasing up submissions from concerned stakeholders.

I think the degree of controversy that has been engendered by this particular move from the government from a wide range of stakeholders in South Australia is that if there were to be a review, no-one would need to be chased up and pursued to make a submission. You would just have to issue a press release or send an email, minister, and I am sure you would be swamped with submissions from people wishing to put a point of view about the issue.

It would be a novel approach by the government to consult broadly industry, small business and others, prior to making a decision like this. Clearly this did not happen in relation to this deal. The only business group that was consulted was Business SA and, on the other hand, the shoppies union was part of the deal. So, in relation to a review, I do not think that there is going to be a concern about having to chase up people to put a point of view. I will move an amendment to subsection (3) of the Hon. Mr Brokenshire's amendment. That subsection currently reads:

> The review must be undertaken on the commencement of section 6 of this Act and the report must be submitted to the Minister within 3 months after the commencement of section 6.

For the reasons we have outlined, that would occur virtually straight away and prior to 24 December and 31 December this year. The substance of my amendment, which I will move in a moment, put simply is that the review would commence on 1 January next year, and it would then have to be done within three months and still be tabled. So, the broad framework of the Hon. Mr Brokenshire's amendment would be the same, except that it would occur after the events of the end of this year. That is the only substantive change that I am making. Rather than commencing the review now, before the events have occurred late this year, the proposed amendment would mean that the review would start on 1 January. Therefore, I move:

> The review must be commenced on 1 January 2013 and the report must be submitted to the Minister within 3 months after the commencement of the review.

Put simply, the report would start on 1 January as opposed to starting almost immediately. I think that essentially resolves the major concern that some of us had in relation to the timing of the review. The Hon. Ms Franks has raised another issue and, in principle, I do not have a problem with whatever the review is to review. The dilemma we have is that we are being forced to debate, resolve and finalise this issue this morning and, as the Hon. Mr Brokenshire has amended, that is one of the problems you face when you are forced into this sort of position by the government and its supporters.

From that viewpoint, I move that amendment and again put on the record that I am doing so on the basis at this stage of endeavouring to keep this issue of a review alive whilst there is further passage of the bill between the houses. It will allow me to have some urgent consultation with some of my lower house colleagues in relation to the review. I place on the record that subject to those discussions I have with my lower house colleagues, if the amendment passes this house and then was to come back to this house because it was rejected by the House of Assembly, then we would reserve our position in relation to what final position we would adopt on it.

As I said, we have not specifically had a discussion about this, but in general terms we have been supportive of reviews of controversial pieces of legislation because all they do is put fact on the record for all of us to see, then for us to make our own judgements about. I am not sure how anyone would argue against having facts being placed on the record in relation to what occurred as a result of some changes, whereas at the moment we are obviously working within the realm of the concerns. Some will be accurate, some will be inaccurate. I am the first to acknowledge that. So why not see what happens at the end of the year and then actually have a review and review the facts?

It may well be like the Cossey review in relation to the WorkCover Act which, as useful as it was, said that it was still too early to tell in some respects, and I think that is correct. We may well find even with a review on 1 January that we will be able to establish some facts but in other areas the reviewer may well say that it is still too early to tell and we will need to see after two or three years. That is why I was saying earlier that I think whatever happens to this review it would make sense for whoever is elected in 2014 to review the impact of these provisions on the broader community, on business, on workers and indeed anybody who is impacted by the changes we have.

The Hon. R.P. WORTLEY: We oppose the Lucas amendment. I reinform the committee that I introduced this bill into the parliament on 15 March. That is now two weeks ago. It takes a thought bubble on the way to work yesterday to develop an amendment off the cuff. We have now have a handwritten amendment. It is totally unacceptable the way this process is operating. It will cost money for business and will have red tape. When you consider that we are talking about 10 hours in a year to a few industries and the overwhelming vast majority of people will either be home with their families or out celebrating on New Year's Eve. It is an impost on business they do not need, so I ask members to reject it.

The Hon. R.L. BROKENSHIRE: As a further response to the Hon. Tammy Franks' question, we were actually focused on the part public holidays, which is really the key issue of this whole debate. We are not really focused on the shop trading hours as such because I think everybody in the parliament is agreed that the shop trading hours, with respect to the deregulation and the vibrancy, are a given. It was the key issue—

The Hon. T.A. Franks: Well, that's actually not true.

The Hon. R.L. BROKENSHIRE: Well, you can speak to that.

The Hon. T.A. Franks interjecting:

The Hon. R.L. BROKENSHIRE: You can speak to that. I have not heard you say that, I am sorry—I have not heard the Greens say that at all. Family First would support and accept the on-the-run amendment from the Hon. Rob Lucas because it makes sense. I have said the rest before, but if we do not have some review in this we have no way of measuring just where things are up to, and we will support the Hon. Rob Lucas's on-the-run amendment.

The Hon. J.A. DARLEY: I will support the Hon. Rob Lucas's amendment.

The committee divided on the Hon. Mr Lucas's amendment:

AYES (12)

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

NOES (7)

Finnigan, B.V.	Gago, G.E.	Gazzola, J.M.
Hunter, I.K.	Kandelaars, G.A.	Vincent, K.L.
Wortley, R.P. (teller)		

PAIRS (2)

Bressington, A.	Zollo, C.

Majority of 5 for the ayes.

Amendment thus carried; new clause as amended inserted.

Clause 8.

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

Page 3, after line 29—Insert:

(a1) Section 4(1)—before the definition of *building* insert:

ANZAC Day means 25 April in any year;

I will be brief on this one, given that we are trying to get this through this morning. I guess you could say that this is more about just defining in the act the actual namings. What has happened is, instead of actually talking about Christmas Day and ANZAC Day, which is what we have always talked about—two very, very special days—for some reason, in the drafting of the bill, and I am not critical of why it happened, the dates are actually talked about: 25 April, 25 December.

We believe that it is more appropriate and more correct and proper to actually specifically have in the act ANZAC Day, which is what ANZAC Day is. It is not 25 April: it is ANZAC Day. Christmas Day is actually Christmas Day. It happens to be on 25 December, but it is actually Christmas Day. So, for those reasons, we have moved that amendment standing in my name.

The Hon. R.P. WORTLEY: We oppose this. ANZAC Day is already covered in section 3A of the Holidays Act. It states that 25 April will be a public holiday and sets out the arrangements for the transfer of this holiday when 25 April falls on a Sunday.

The Hon. R.I. LUCAS: Could I just ask the minister to indicate again the reasons why? I missed the reasons why the government is opposing.

The Hon. R.P. WORTLEY: We well and truly support the actual sentiment with regard to having it called ANZAC Day, but in section 13—the section that relates to trading hours for partially exempt shops on the excluded public holidays, which include ANZAC Day—to remove the confusion about the actual day the shops cannot open, it is better to use the date so that when 25 April is a Sunday, it is that day and not the public holiday that is closed.

The Hon. R.I. LUCAS: Again, this is an issue that has not been discussed at all by my party room. On the surface of it, I am 100 per cent on side with the Hon. Mr Brokenshire and I think the court of public opinion would be 100 per cent on side with the Hon. Mr Brokenshire. However, I recall from my briefing with the government's advisers some weeks ago, this was an issue raised not in relation to ANZAC Day but in relation to Christmas Day, and the honourable member has, I think, a similar amendment in relation to Christmas Day, as opposed to 25 December.

For the reasons that the minister has just put on the public record, there are technical grounds or reasons why the act is drafted the way it is. I would be the first to hop into this government and all governments of a Labor persuasion for their undue reliance on political correctness and a whole variety of other dastardly deeds but, on this particular occasion, I think

even I will have to concede that it is not political correctness that is driving this issue. It has been there for quite some time within the legislation. As I said, I do not think it is being driven by those in the community who, in the policy areas, do drive the politically correct line and seek to remove—either from the legislation or the policy of various departments and others—reference to Christmas Day in particular.

For those reasons, whilst I understand the sentiments—and I think on the surface of it there would be broad support for the thought behind the member's amendments—I think the technical explanation as to why it is drafted that way is something that I can personally understand. As I said, whilst we have not discussed this as a party room, at this stage we would not support the amendment.

Amendment negatived; clause passed.

Clause 9.

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

Page 4, after line 5—Insert:

(1a) Section 5(5) and (6)—delete subsections (5) and (6)

Family First is moving this amendment because we still see a loophole in the actual act regarding future deregulation. To be fair to the government with respect to this matter, I do not believe that the government actually looked at this particular section because its focus was on the amendments it needed to get through. So I want to be quite fair and clear there. I am not having a go at the government at all on this; this is an existing clause that I believe we now have an important opportunity to amend.

Whichever way any of us feel on this debate, one of the things that has been very clear to me—and I think all my colleagues would agree with this—is that whilst a lot of people in the retail sector have said that they want to have the penalty rate payments if they have to work on Christmas Eve and New Year's Eve, when you actually look at what they are really saying, when you listen to the general discussion and debate around this, they are saying that they would prefer not to work. In fact, most of the people in retail I have talked to have said that they do not really want any more deregulation. In fact, the Labor Party, as a government, has said that it did not want any further deregulation, and I did say yesterday that the former minister, the Hon. Paul Caica, said that he thought they had the balance about right.

I think all of us have been fair to business from the point of view of giving them the green light for the vibrancy of the CBD, but when it comes to retail I think businesses are divided on whether they want any more deregulation. Clearly, Coles and Woolworths, Myer, those sorts of organisations, would love to have full-blown deregulation, but I know that people like Foodland and IGA, for example (and I will name them because they also said to me that they have concerns), and a highly respected company like Peter Shearer do not want any further deregulation.

When this debate was occurring, the government was using the word 'forever', that this would forever fix the deregulation debate. Nothing is forever, but there is an important process in strengthening the argument about forever, and that is to ensure that, if there is to be any further deregulation, it has to come through both houses of parliament in a democratic way.

I think it is fair to say that the SDA has been very consistent for as long as I have been in this council, and in the other house, about not wanting further deregulation. The reason why we have been debating whether or not there should be two half public holidays is that the SDA, on behalf of its members—because this has all focused on retail—has said that if it had to agree to this to see the vibrancy of the CBD occur, then it wants reward for effort for its workers. I still believe that the baseline of the SDA is that it actually does not want any further deregulation because retail workers are already working long hours, a lot of very flexible hours and on weekends.

On a Sunday, for example—which is now one of the busiest trading days—whilst it is supposed to be voluntary as to who works, the fact of the matter is that employers lean on the most experienced retail workers. As uni students, my children have worked in retail and hospitality. The reality is that employers do not want uni students (like my daughters) working on a Sunday: they want their best, most experienced people.

I understand clearly all of those issues around the debate. As I said, I do not believe that the government had time to look at the whole act. What this proposes is that, to ensure that the

forever issue is addressed with respect to any further deregulation, we have to have—and we can have if this amendment is passed—the checks and balances that I believe are part of a democratic Westminster system; that is, it has to go through both houses. If the Liberal Party happened to get into government in the future—its policy is full-on deregulation—it would have to actually go through the processes.

So that there is no misunderstanding of this, this clause I am seeking to amend is a clause that actually allows exemptions for periods of up to 14 days, which we have seen, for example, with the Adelaide Cup long weekend during Mad March. It is fair to say that any government of any persuasion needs to have a minister with the capacity to make exemptions at times.

I will just give a quick example. Let us say that Prospect is celebrating a Centenary and they decide that as part of that they want to be able to have a 24-hour trading period, or whatever. The minister should have the right—and the parliament should give the minister the right—to be able to make that exemption.

In fact, we are leaving in the part that says that a minister can declare exemptions for a period of up to 14 days. What we are actually removing is the part that says that the minister would have the power to grant an exemption beyond 14 days, e.g., years or indefinitely. It would be possible under the act, from the legal advice that I have had, that the Adelaide metropolitan shopping district could be deemed to be a district with such a broad-scale exemption, that it could apply under that clause.

It says that the minister has to consult with interested persons, but my legal advice is that it could actually be argued that if the minister placed an advert in a newspaper which drew minimum responses or did a web poll, that would be deemed to be enough public consultation and, therefore, through a de facto situation, we could have a situation where we had deregulation indefinitely without it coming through both houses.

I hope I have explained that to everyone. I think this is a sensible amendment and it puts any further deregulation forever as the responsibility of the lower house and the upper house of this parliament of South Australia.

The Hon. R.P. WORTLEY: The government is prepared to support this amendment. We consider that it does add value by reducing red tape for small businesses and providing certainty about shop trading hours arrangements into the future. We are prepared to support it.

The Hon. R.I. LUCAS: For reasons that I have given before, the Liberal Party is not in a position to be able to express a view but if the government is supporting it (and I assume other supporters are) then our attitude can be left happily sitting on the fence. I want to clarify that the amendment, as I understood it, was to delete sections 5(5) and 5(6). The Hon. Mr Brokenshire just indicated that, in essence, all he was seeking to do was to get rid of the indefinite section. He was going to allow the minister this power to exempt his Prospect example. Is that correct?

I have taken the advantage of having a quick discussion with parliamentary counsel and their advice is that—

The Hon. J.S.L. Dawkins: The very honourable parliamentary counsel.

The Hon. R.I. LUCAS: Yes, exactly. Their advice is that clause 5(4) of the act, which is not being disturbed by the Hon. Mr Brokenshire, gives the minister the power, without any consultation at all with anybody to, in essence, issue these exemptions in the Prospect example (or whatever else it is) for a period of up to 14 days—so it allows that—and subsection (5) says that if you want to do it for longer than 14 days, then you have to go through a process of consultation with interested persons, which are residents, shopkeepers and shop assistants, etc. Subsection (4) is the one that would allow the continuation of that. My question to the minister is: have subsection (5) and subsection (6) for an indefinite period been used by the minister—not this minister but by this government?

The Hon. R.P. WORTLEY: Not since the act was last amended in 2003.

The Hon. R.I. LUCAS: The obvious question then is: if it has not been used since 2003, in living memory of the officers who have control of the act, was it used by previous governments and, if so, for what purpose?

The Hon. R.P. WORTLEY: We are not aware of any time that it has been used and that is why we think it is appropriate to have it taken out.

The Hon. R.I. LUCAS: On that basis, whilst my position cannot change because we have not discussed this in the party room, the fact that this appears to have been a redundant section of the act and has never been used by Labor or Liberal governments in the past, for the purposes the Hon. Mr Brokenshire has highlighted, and the government has obviously taken the view that it has not been used and it is unlikely to be used, one of the interesting issues I was going to ask was that if it had been used, how had the ministers determined what the majority view of shopkeepers and shop assistants who work within the shops had been?

It is an interesting issue. I presume you would have to do a survey of all the shopkeepers and shop assistants within the shopping district. Whilst I cannot give a position, on the basis of what the minister has suggested I suspect we would not have a problem with supporting the amendment either, although at this stage, as I said, our view will not be significant given the government support for it.

I will make one other point just to correct the record, because it is often said. The policy the Liberal Party took to the last election was not for full-on complete deregulation or whatever it is. It was actually for a further liberalisation of shopping hours. The policy we took to the 2010 election does still involve regulation in relation to, for example, Christmas Day, Good Friday, half of ANZAC Day, Easter Sunday and a variety of other controls that are in that policy.

Whilst it is a statement often made by Labor ministers and members, for the benefit of the Hon. Mr Brokenshire, as I would caution him on any other occasions: do not always accept what Labor ministers and members and their confreres within the shoppies union say. That is not a fair or accurate description. Our policy in 2010 was certainly for a considerable liberalisation of shopping hours, but it ain't, to use the phrase, full-on 24/7 deregulation.

Amendment carried; clause as amended passed.

Clause 10.

The CHAIR: The Hon. Mr Brokenshire has an amendment.

The Hon. R.L. BROKENSHIRE: I formally advise that that is withdrawn.

The CHAIR: All of them?

The Hon. R.L. BROKENSHIRE: I advise that we are withdrawing amendment No. 5 and that amendments Nos 6 and 7 were consequential. The next one that I will speak to is amendment No. 8.

The CHAIR: Amendment [Brokenshire-1] 8, clause 10.

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

Page 4, before line 30—Insert:

(6b) Section 13(6)—after paragraph (b) insert:

and

(c) after 7:00 p.m. on the day before Good Friday in any year.

This amendment is to do with Maundy Thursday or Good Friday eve. As I said earlier, it was very clear to Family First—and I am sure all my colleagues agree—that one of the real worries for workers in retail is how much they are required to work these days. Whilst now there will be choice with respect to the issue of the two half public holidays for the workers, many of those workers, and indeed some of the small businesses, do not want to be tied up working or opening their shops after 7pm on Good Friday eve because it does give quite a lot of them one chance of a four-day break. That is the intent of the amendment.

The Hon. R.P. WORTLEY: This amendment seeks to close non-exempt shops at 7pm on the eve of Good Friday, when shops in all districts can now trade until 9pm. This is a particularly busy shopping night for people stocking up on the extended Easter long weekend, and this removes the choice of traders to trade until 9pm if required. Employees also lose the opportunity to work and earn wages during that two-hour period. We will be opposing the amendment.

The Hon. R.I. LUCAS: This comes right within the bailiwick of the comment I made at the start of the committee stage, that is, this is not an issue that we have specifically addressed as a joint party room and therefore at this stage I am not in a position to support this amendment.

Amendment negatived.

The CHAIR: The Hon. Mr Brokenshire has subsequent amendments. You are not moving those?

The Hon. R.L. BROKENSHIRE: Mr Chairman, amendments Nos 9, 10 and 11 are consequential, and therefore they are withdrawn.

Clause passed.

New clause 11.

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

Page 4, after line 34—Insert:

11—Amendment of section 13A—Restrictions relating to Sunday and holiday trading

(1) Section 13A(1)—delete subsection (1) and substitute:

(1) Subject to subsection (2), a term of a retail shop lease or collateral agreement in respect of a shop situated in a shopping district that requires the shop to be open—

(a) on a Sunday or day that is a public holiday; or

(b) after 7pm on the day before Good Friday or on a part-day public holiday,

is void to the extent of that requirement.

(2) Section 13A(3)—delete subsection (3) and substitute:

(3) A person who is employed to work in a shop in any shopping district is entitled to reasonably refuse to work on Sundays and public holidays unless he or she has agreed with the shopkeeper to work on a particular Sunday or public holiday.

Again, this amendment relates to the message I was getting not only from workers within retailers, who emailed and postcarded and contacted us in other ways but also from some small businesses.

To an extent, the situation is that workers will not have to be forced to work on New Year's Eve and Christmas Eve, but there is still the issue of Maundy Thursday. What we are basically doing by moving this amendment—and they are subject to conditions which legal advice told us that we had to leave—is to try to help the workers in retail, in particular, and those small businesses that do not open, and they would be small businesses primarily in shopping centres that are put under the hammer, as we all know. For years and years, I have had small businesses that operate within Centros and so on come to me and say, 'Robert, we really don't want to be opening, but the pressure on us to open is phenomenal.' So, some of those small businesses are almost under as much pressure as the retail workers.

The crux to this amendment is that it will give workers and small businesses the right to refuse to work on Maundy Thursday (or Good Friday eve) after 7 o'clock. As I have said, it is covered now through the government's amendments with respect to Christmas Eve and New Year's Eve, but these workers will still have no choice but to work until 9 o'clock on Good Friday eve (or Maundy Thursday), simply because it is not a half-day public holiday, and therefore their award says that they have to work. All I am trying to do here is to give a choice to those retail workers of whether or not they work on Good Friday eve (Maundy Thursday) and also with respect to those small businesses.

The Hon. R.P. WORTLEY: We oppose this amendment. This amendment seeks to add to a public holiday on Good Friday eve to the current provisions that void shop leases where shops are required to open on Sundays. The amendment also seeks to allow employees the right to reasonably refuse work on Sundays and public holidays. The commonwealth National Employment Standards currently provide the right to reasonably refuse shifts on public holidays to employees in all industries, and this extra provision is not necessary.

The government, as mentioned in debate on earlier clauses, does not support the provisions relating to a 7pm closing time on the eve of Good Friday. It is a busy time of the year. People are stocking up on their goods for the long weekend, and you would be denying the right of working people, who are very often low-paid people, the right to earn that extra two hours of wages.

The Hon. R.I. LUCAS: This is again within the realm of not having been discussed by the joint party room of the Liberal Party, so I am not in a position at this stage to be able to support the

amendment as it is drafted. We certainly support the provision, and we have a record of having moved similar, if not the same, amendments in the past in relation to seeking to ensure on public holidays that workers cannot be compelled to work. I know that there has been discussions about businesses not being compelled to open as well.

As the minister has outlined, under the Fair Work Act, however, there are provisions now which broadly provide those sorts of protections. The member's amendment, as the minister indicated, does extend that to Holy Thursday, in particular, after 7pm. But for the reasons that I have indicated, I am not in a position at this stage to be able to indicate support, whilst nevertheless being supportive of the general notion the member is raising, and that is that on public holidays those who do not want to work should not be forced to work.

New clause negatived.

New clause 11.

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

Page 4, after line 34—Insert:

11—Review

(1) The Minister must cause a review of the operation and impact of the amendments to the *Shop Trading Hours Act 1977* made by Part 4 of this Act to be conducted and a report on the results of the review to be submitted to him or her.

(2) The review must be undertaken in conjunction with the review under section 7A of this Act and the report must be submitted to the Minister at the same time as the review under that section.

(3) The Minister must cause copies of the report to be laid before both Houses of Parliament at the same time as the report under section 7A is laid before both Houses.

I move this amendment because earlier in this debate we sought a review of the part-day public holidays that will be instituted under this act, but we have not looked at the impact of the shop trading hours reforms that are also a key part of this packaged bill. Without the trade-off of the public holidays there would be no bill before us with regard to shop trading hours.

Without acknowledging that this comes as a package, not all members of the community or parliament support unrestricted deregulation of shop trading hours. We realise there are both costs and benefits to that, and for the costs there has been a trade-off that there is a benefit coming to workers in terms of 10 hours additional public holidays in the South Australian calendar for those who are required to work on Christmas Eve and New Year's Eve.

Overwhelmingly, the public has shown that it is in support of recompensing those who are required to work on Christmas Eve and New Year's Eve. We think there will be an impact on those shop workers who are going to be required to work in these newer trading hours, but there is also a financial benefit coming out of that. We cannot look at one small part of this bill with a review if we are to be honest and transparent in our government. We need to look at the impact of the entirety of this bill, not just one small aspect of it.

I indicate that the Greens move this amendment as an indication that if there is to be a review it is to be a holistic review, it is not to be a political witch-hunt or campaign tool for the next state election to be used to whack the government on the head with. It has to be holistic in its approach, it has to be transparent and it has to put all sides of the argument, not just assist with the polemics of this debate that have happened so far. With that, I indicate that the Greens may not look favourably on a lack of a holistic approach to any review, should this go between the two houses.

The Hon. R.P. WORTLEY: I thank the honourable member for her amendment. The government, for the reasons I have stated earlier, does not support a review. The government believes the red tape and costs associated with a review would be an impost on business. We understand there is going to be a review, if this gets through parliament on the two part-public holidays. Now we are going to have a review into the shop trading hours. The shop trading hours will create, in our view and in the view of many of the organisations that we are dealing with, a significant economic benefit to the CBD. It will also activate and make the city much more vibrant. So, we are quite sure that the economic benefits arising out of this far outweigh any costs that may be associated with it. We oppose the amendment.

The Hon. R.I. LUCAS: Again, this is not an issue that the joint party room of the Liberal Party has addressed. We supported the review earlier with the caveat that from the passage of this bill to another place it will give me the opportunity to discuss the issue with some of my lower house colleagues and, on that basis, I have never been fearful of putting facts on the table. I can understand that it is quite appropriate for this minister to argue that ignorance is bliss. They do not want a review, they do not want the facts put on the table.

Certainly from my viewpoint, I have never had any objection to having a review which would put facts on the table and better inform the debate. They may or may not change people's views on legislation and the impact of the legislation but nevertheless it is a review. From that viewpoint, personally, I have no problem with the length, breadth and depth of a review. I support this proposition. On behalf of my party at this stage, therefore, consistent with my earlier views, I will support it with the caveat that if and when it comes back our position is reserved as to what our final position might be. My suspicion is that the majority of my colleagues (those I am able to consult) are likely to be more supportive of a review of a broad nature than not.

The Hon. R.L. BROKENSHIRE: I take it this is the same time line as the review that I put up that was passed. I think transparency, reviews, assessments and then allowing consideration is a good way to go. This dovetails in with the earlier review that I put up that was passed, so Family First will be supporting this amendment.

The Hon. J.A. DARLEY: I do not have any problem with the Hon. Tammy Franks' amendment.

New clause inserted.

Title passed.

Bill reported with amendment.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (10:58): I move:

That this bill be now read a third time.

Bill read a third time.

The PRESIDENT: The question is that this bill do now pass.

The Hon. R.I. LUCAS: I rise at the end of this particular debate to indicate the Liberal Party is still strongly opposed to the deal that has been done and now the amended deal that looks like passing this chamber. I want to indicate that we remain opposed, as we have been all along, to the deal. We are not seeking to divide on the final motion at all. We just want to record the fact that now that the bill has come through—even though some amendments have been passed with our support—we still remain opposed to the deal because of the additional costs that are going to be imposed on small businesses.

We remain hopeful that perhaps the review will throw some light on the situation. I suspect that it may well be that we will need a couple of years or so to see what all of the implications will be of the various crossovers between awards and National Employment Standards, enterprise bargaining agreements and this new legislation. In our view, it should continue to be monitored and whoever is elected after 2014 will need not only to review but then to make their own judgements in terms of what an appropriate way forward might be.

Bill passed.

STATUTES AMENDMENT (CRIMINAL INTELLIGENCE) BILL

In committee.

Clause 1.

The Hon. S.G. WADE: Considering that it has been restored to the *Notice Paper* and perhaps, unusually, it is a bill that has not actually been before this chamber since 2010, I thought it might be of assistance to the council if I reiterated not only the key points of the opposition's position but also provide an update on what has happened since 2010. There have been a number of developments and changes to the Liberal approach. In that context there will be two sets of amendments, and I will guide members as we go through committee as to which amendments I will put in the current Liberal position.

Over its term the Rann/Atkinson, Weatherill/Rau Labor government has introduced a range of bills that have allowed police to use secret evidence without making the evidence available to other parties, including the affected party. This is a fundamental divergence from the rule of law principle that a party has the right to know the case against them and be given a fair opportunity to rebut the case. The Weatherill/Rau government has followed in the footsteps of the previous Rann/Atkinson government in continually providing laws that challenge the rule of law.

In my view, they are driven more by public relations needs rather than delivering outcomes on the ground. The government calls secret police evidence 'criminal intelligence'. In my view that is misleading in that this bill is not about whether or not authorities should be able to use police intelligence against criminals: of course they should, of course they do, and of course they will continue to do so. What is at issue is whether the government needs to respect basic principles of the rule of law, basic principles of justice, the most relevant being that a person should know the case against them. The government wants to be able to use secret evidence without observing the normal rules of natural justice, due process and evidence.

Most of the uses of secret evidence have been in administrative and regulatory processes, but the bill seeks to preserve the confidentiality of material, including within court proceedings which constitute an appeal within administrative and regulatory processes. In 2008, provision was made for the use of secret evidence in relation to the Serious and Organised Crime (Control) Act, and that act can lead to criminal sanctions.

On 25 October 2010, the government introduced a bill to standardise the range of provisions in the light of the High Court judgement in K-Generation. This bill, which is the bill that is before us today, was last considered in committee in the Legislative Council on 25 November 2010. On 9 March, the Legislative Council referred the issues of criminal intelligence and other matters to the Legislative Review Committee for inquiry. The committee reported on 18 October 2011.

The majority report, supported by government members and the Hon. John Darley, endorsed the government's criminal intelligence model but, in doing so, recommended that all acts containing criminal intelligence provisions be amended to provide for an annual independent review and report on its use. Now, almost 6 months later, the government has restored the bill to the *Notice Paper* and insists that the bill be passed unamended.

This government considers that government bills are infallible and cannot be improved—that is indicative of the general arrogance of the government—but this is a particularly arrogant stance when the reason that this bill was necessary in the first place is because the government needs to remove provisions that the High Court is likely to find invalid. That fact alone shows that government bills can be improved.

Further, the fact that the government's own members in the Legislative Review Committee recommended that the bill be amended shows that government bills can be improved; yet this government did not take the opportunity, in restoring the bill to the *Notice Paper*, to provide amendments reflecting the recommendations of their own members in the Legislative Review Committee. The opposition, in contrast, has consistently shown an open and constructive approach to improving this legislation.

I would remind the committee that our original 2010 amendments sought to focus the use of criminal intelligence on serious and organised crime. The government said that the amendments were unworkable. In 2010, we repeatedly indicated to the government our willingness to consider alternative amendments. On two occasions, we understood that the government was going to do so. On both occasions, no amendments were forthcoming.

The opposition showed that it was genuinely constructive through the Legislative Review Committee process. The minority report of the Legislative Review Committee was supported by opposition members and found that, with safeguards, there was scope for criminal intelligence to be used beyond serious and organised crimes. In other words, there was a significant shift in the position that we had put to this house in November 2010.

The minority report suggests that we allow a broad use of criminal intelligence but within a framework of standards and accountability. In spite of the best efforts of police, police intelligence can be unreliable or even fabricated. Lack of scrutiny undermines reliability, increases the risks of miscarriages of justice and undermines public trust in the police and the justice system as a whole.

The minority report suggests that we draw on commonwealth anti-terrorism court procedures contained within the National Security Information (Criminal and Civil Proceedings) Act 2004. The constitutionality of the commonwealth act was confirmed in R v Faheem Khalid Lodhi. The commonwealth act balances the need to protect sensitive information of the commonwealth while providing for due process. The sensitive information may be national security information as we would normally know it or it may relate to law enforcement interests—the sorts of values that are protected by criminal intelligence.

The opposition position is that we will support the bill and allow continued use of secret police evidence but only if the use is subject to enhanced reporting and accountability and similar safeguards that apply under commonwealth national security laws. It is our view that, if these protections are appropriately offered to terrorists, we cannot see why it is not appropriate to provide them to ordinary South Australians.

In our view, our amendments are as much about protecting the police as about protecting our citizens. The police are vulnerable to unreliable information which may be provided vexatiously. It is important for the integrity and reputation of the police and the integrity and reputation of the whole justice system that there are safeguards in place to maintain standards.

The opposition amendments confirm the scope of criminal intelligence. We propose that police should be able to classify intelligence as criminal intelligence where the disclosure of the information could be reasonably expected to prejudice criminal investigations, enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement, or endanger a person's life or physical safety. We understand that that scope is the same scope that the government proposes.

Once police have decided that they want to present criminal intelligence, the government's legal representative would be required, at the earliest opportunity, to identify that classified criminal intelligence would be tendered in proceedings. The court would be able to do a range of things, including view any information, hold a pre-trial conference, hold a closed hearing, and involve the affected parties and/or their legal representatives.

We want to be explicit about the quality threshold levels of reliability under internationally recognised police intelligence classification systems before intelligence should be able to be used as classified criminal intelligence. I should foreshadow that when we say that, we do not actually specify which system they would be or what would be sufficiently reliable. Those matters are left to the judgement of the police, but I think it is an indication from this parliament that we look forward to quality being preserved through measures such as that.

In terms of reporting and reviewing, the opposition considers that police should maintain records on how often criminal intelligence is used and how many people are affected. This data should identify the use of criminal intelligence in relation to each act which permits the use of criminal intelligence. Reporting enhances continuous improvement within the police and accountability to the parliament and the community.

In addition, each year we consider that a retired judge should undertake an independent review on use of criminal intelligence and report to parliament. The report should include a review of the operation of police processes to ensure that discredited intelligence is marked as such within police systems, with appropriate audit arrangements.

That last element, particularly in terms of how police handle discredited intelligence, was a matter that was discussed at length in the Legislative Review Committee so it was not surprising that those last two elements, recording and reporting and the review process, were recommended by the Legislative Review Committee. As I said, the government did not see fit to include that in the reintroduced bill or table amendments to that effect. The opposition has done so.

To maintain due process and reflect similar processes to those under the commonwealth act, the courts could be required to assess whether the classified criminal intelligence is properly classified and whether it is sufficiently reliable and of such probative value that it is the interests of justice to be admitted. It is the opposition's view that the courts should retain overarching control of judicial proceedings to protect the rights of all parties to a fair process and to protect the administration of justice. The court should maintain a discretion as to the disclosure or nondisclosure of information properly classified as criminal intelligence but, if the court proposes to disclose, the government's legal representative should be entitled to withdraw the information.

We consulted a range of legal stakeholders in developing these amendments, and of course we engaged parliamentary counsel. In terms of the views of the legal community, it would be fair to say that it had significant concerns with any use of secret police evidence. but generally the advice we got back was that it was supportive, at least of providing safeguards.

The government has repeatedly claimed that this and other bills related to serious and organised crime are urgent, but I remind the committee that this council last considered this bill in November 2009, and the Legislative Review Committee report was tabled in October 2011. Almost six months later the government is now reintroducing a bill without any amendments, not even amendments suggested by government members.

I think it is important for the parliament to stay alert as to how laws are being used and, in that context, assess the government's request for new legislation in the light of its understanding of how the legislation had been used in the past. In that regard issues were raised earlier this year in relation to the use of criminal intelligence and firearm prohibition orders. Firearm prohibition orders were enacted in 2008 as a tool against organised crime, but there has been a low take-up of those orders. For example, in relation to the 274 members of outlaw motorcycle gangs, less than 10 per cent of them have a firearms prohibition order on them.

One of the arguments put forward for such low numbers is that the police needed to use criminal intelligence and this bill had not been settled. Personally, I find that argument unconvincing. First, criminal intelligence has not proven to be widely used in relation to firearms proceedings. On the government's own figures, criminal intelligence had not been used in relation to the Firearms Act between 2003, when it was enacted, until 2010. Secondly, the government's own firearms prohibition orders legislation included what the government now considers to be a faulty criminal intelligence scheme and, indeed, laid unproclaimed without any attempt to amend it for 23 months. I look forward to the committee stage of the bill.

The Hon. G.E. GAGO: The government rises to oppose this amendment and, in fact—

The Hon. S.G. WADE: Point of order, Mr Chairman. That was a clause 1 comment; I was not moving anything.

The Hon. G.E. GAGO: I beg your pardon.

The Hon. M. PARNELL: It may assist the committee if I put the Greens' position in relation to these amendments and this bill on the record now. The first thing is, and it will come as no surprise because it is a consistent position that we have taken over the last six years in this place, that the Greens do not like this increased use of criminal intelligence. We think that, as it has been legislated and is proposed to be legislated further, it has the capacity, the potential to be misused and, certainly, I think we are seeing signs of it being overused.

I moved for the Legislative Review Committee to look at criminal intelligence, as it did, but I disagree with the majority government findings. I am not convinced that the bill as drafted is an appropriate use of this fairly serious infringement on what is a basic legal principle: the right of people to know about allegations made against them and to respond to those allegations. I remind the committee that we debated criminal intelligence, obviously, in the serious and organised crime legislation. I was one of only two members of parliament out of 69 who voted against that legislation. We voted against it because we knew that the government was overstepping the mark in relation to basic legal principles. The High Court agreed with us.

Anyway, the government is trying again, and there has been a range of cases that have called into question different aspects of criminal intelligence. The government is holding its ground and it is not backing away from the use of this principle. The use of criminal intelligence in serious criminal matters is one side of the debate, but its use in what are essentially civil and administrative jurisdictions is another thing entirely.

We last debated this back in 2010, as the Hon. Stephen Wade has outlined. The Greens, at that stage, supported the Liberal amendments not because we thought they were perfect but because we thought that they made a bad situation better. They provided for more transparency and more accountability. Our support for the opposition amendments, which is ongoing, needs to be seen in that context. The Hon. Stephen Wade uses the word 'enhanced' reporting and accountability, and we accept that that is better than the status quo that is in the bill.

However, we do not like the bill and we do not believe that it is necessary. We think that the government has got the balance entirely wrong when it comes to the administrative convenience, if you like, when compared with sacrificing fundamental legal protections that have

been developed over centuries. As I say, we think that the right of people to know and respond to allegations that are made against them, whether it is in a criminal jurisdiction or a civil jurisdiction or a licensing jurisdiction, is a fundamental principle that should be enshrined and continue to be enshrined in both common law and statute law.

In summary, the Greens will be supporting the Liberal amendments, but we will be voting against the third reading of this bill, regardless of whether or not the amendments are successful. That is the position that we took back in 2010, and we have not been convinced by anything that has been said since.

The Hon. G.E. GAGO: The government would like to make a clause 1 contribution and outline its position, which may help expedite then the clause by clause considerations. The Hon. Stephen Wade is proposing to move an extensive range of amendments to this bill. The effect of those amendments is to delete all the government's bill and replace it with a new and unworkable scheme of the opposition's devising. The bill and its original purpose have been completely hijacked by the opposition and these amendments.

This is not improving the bill by a house of review at all. It is a private member's bill under another name. I think it is also worth noting here that both SAPOL and the Police Association support the government's bill and they both oppose the opposition's amendments, so I have been advised. In the light of all this, there is obviously little point in debating the opposition's amendments one by one. They stand and fall as a package. The debate should take place, I believe, on the first of them, and the government will be rejecting all of them.

I think that it is important to begin by reminding honourable members about exactly where this bill is now and how it got here. The bill was introduced into parliament on 27 October 2010. The object of the bill was breathtakingly simple. There are a number of acts on the statute book which deal with criminal intelligence and authorise its use in certain proceedings. There are three versions of the criminal intelligence provision already passed by this parliament in the statute book. The Statutes Amendment (Criminal Intelligence) Bill does not propose to add a single new criminal intelligence provision.

Let's be really clear about that. It is not adding one more criminal intelligence provision to our statute book—not one. It is simply designed to make the existing provisions uniform and, more importantly, to adopt the terminology which was expressly approved by the High Court, no less, a decision by K-Generation Pty Ltd v. Liquor Licensing Court (2009). The case dealt with the provisions in the South Australian Liquor Licensing Act. This bill before us is overtly and quite clearly simply tidying up a bill.

The bill passed in another place on 10 November 2010. It was introduced into this place the same day, then debate proceeded in a fairly leisurely way. We reached the committee stages by 8 March. In 2011, the opposition filed quite a lengthy series of amendments (not quite as lengthy as this lot). The government opposed them. It was clear that the government did not have the numbers, and the first of the opposition's amendments passed. Progress was reported and the rest, as they say, is history; here we are today.

In the meantime, the Hon. Mark Parnell had moved that the matter of criminal intelligence generally be referred to the Legislative Review Committee. That was done on 9 March 2011. The matter proceeded, again in a fairly leisurely way. The matter returned to the council on 19 October 2011. That report was generally in favour of the government's position. The opposition put in a dissenting report and indicated that it was adamant in continuing to amend the government's bill—the Greens agree with that—and there the matter rests.

It is now March 2012, and 16 months have passed. I think it is an absolute disgrace. Now we are faced with a raft of different amendments which, as I have indicated, are not really amendments at all. The government will be opposing them. The government will drop the bill rather than accede. If the High Court invalidates one of these criminal intelligence provisions, or a member of an organised crime group obtains a firearms licence because the Registrar was reluctant to rely on the existing criminal intelligence provisions, the blame will squarely rest where it belongs, and that is on the shoulders of the opposition. The blood will be on their hands. The opposition is using the opening of this legislation as an opportunity to hamper the efforts of police to disrupt organised crime. For whose benefit? The criminals?

A key question is the operation of the proposed amendments to the Evidence Act that deal with how criminal intelligence information is to be handled. The proposed section 67L evidences a complete lack of understanding on the part of the opposition about how appellate proceedings

work. Except in the rare case of fresh or further evidence, an appellate court determines an appeal on material upon which the matter was decided in the first place. Requiring the Crown to give notice of its intentions in an appeal and determining whether the material can be relied upon before embarking on an appeal is novel, to say the least. The opposition should not attempt to change what they do not clearly understand.

In those instances where the Crown sought to adduce criminal intelligence evidence before a court at first instance, I am advised that, incredibly, the proposed amendments would have a significant negative impact on the operation of those acts that directly target organised criminal, namely, the Serious and Organised Crime (Control) Act 2008, as it relates to control orders and public safety orders, the Serious and Organised Crime (Unexplained Wealth) Act 2009, and the Summaries Offences Act 1953, as it relates to applications to remove bikie fortifications, by making it harder for police to introduce criminal intelligence evidence.

Under the existing arrangements, which the government's bill does not alter, the court is not required to embark upon an inquiry to determine whether it will receive the criminal intelligence. The court receives it and decides what use, if any, it will make of the criminal intelligence. In the case of Tamasebi v the Commissioner for Consumer Affairs is a testament to the fact that this process is working. That particular case did not rely on criminal intelligence, so why is the opposition intent on trying to change a system which works and which has been quite clearly unequivocally endorsed by the High Court? Under the government's bill, the courts retain control.

Significantly, proposed section 67L of the Evidence Act requires a court to assess whether evidence is sufficiently reliable twice—once when determining whether the information is properly classified as criminal intelligence and then again when determining its reliability. This is untenable. Similarly, the criminal intelligence provisions proposed by the Hon. Mr Wade do not provide any evidentiary aid to enable criminal intelligence, which is usually hearsay (that is, it is from an informant) to be admitted in the first instance. I stress that, under the proposed amendment by the Hon. Mr Wade, it will not provide evidentiary aid to enable criminal intelligence to be admitted in the first instance. The practical effect is to render the criminal intelligence provisions largely useless.

However, the greatest insight into the opposition's complete lack of understanding about criminal intelligence is evidenced by the fact that their proposed amendments contemplate that the Crown would seek to adduce classified criminal intelligence evidence in criminal proceedings, when in fact none of the acts that provide for the use of criminal intelligence currently contemplate this.

There can be no doubt that use of criminal intelligence allows for the making of informed decisions. The ability to classify information as criminal intelligence allows members of the community to be protected whilst providing relevant information to decision-making authorities and without impeding the flow of that information to the police. SAPOL is aware that classification of information as criminal intelligence invokes a tension with an aggrieved party that results from the breach of procedural fairness.

Since the introduction of criminal intelligence provisions, SAPOL has been diligent in the proper classification and use of criminal intelligence and has done so sparingly and only when absolutely necessary. This information is used by police to fully inform appropriate decision-makers with information that might impact on their decision. Sometimes police have been required to provide information that might place persons at risk. As decision-makers can give the criminal intelligence no weight in their determinations, SAPOL is of the view that the current processes achieve the right balance between protection of the community and the rights of the individual.

Without the harmonisation of legislation as proposed within the bill, there is a real risk that the capacity to use certified criminal intelligence in appropriate circumstances will be prevented on a permanent basis. SAPOL is currently being frustrated in its ability to rely on the use of certified criminal intelligence with respect to the Firearms Act.

The opposition has taken great delight in reminding the government and the community that it had concerns about the constitutional validity of the Serious and Organised Crime (Control) Act 2008 before it was passed. Ever since the High Court declared sections of that act to be invalid the opposition has regularly reminded us with, 'I told you so.' How ironic then that now, when the government seeks to introduce amendments to ensure the constitutional validity of provisions in other pieces of legislation, the opposition opposes that course of action. As I have said, the government will be opposing all of these amendments and I urge honourable members to support the government's position.

The Hon. D.G.E. HOOD: I would like to make a brief contribution on clause 1. I think members are very familiar with this suite—if I can put it that way—of legislation before us. We have had various forms of it dating back for several years now, and as members would be aware there has been a High Court ruling, etc. I think it is fair to say that this is a suite of legislation that members are perhaps more familiar with than almost any other legislation we have dealt with in this place in my time; that is, six years in this place.

I have a few brief comments to outline Family First's position. I think it is fair to say that we have been consistent in our support of this legislation for that period of time in its various forms; that is, the various number of bills that have been presented to us. I state today for the record that Family First maintains that position. We are strong supporters of this legislation. While the detail of such legislation will always be subject to criticism, and I am not suggesting that is a bad thing, that is, after all, what a Legislative Council seeks to do, I think the principle and the objectives of the legislation are spot on.

I would like to take this opportunity to thank the Attorney-General and the shadow attorney-general for the more than generous provision of their time in the consultation of these bills over the last few years. I think we come to this debate, as I am sure all members do, very well informed and with a very clear understanding of exactly what the issues are.

I guess that gets to the meat of what I wanted to contribute. In very brief terms, I will mention what I have outlined in my quite extensive second reading contribution over the last few years on these issues—particularly, on the last one I gave a few weeks ago, which was an attempt to address all of these bills in one speech, albeit in brief form. The bottom line for us is that in our current environment in our society there are times when we need what would have historically been considered extraordinary measures. There is no doubting that these bills, including the one we are focussing on now, contain what are considered extraordinary measures. Nonetheless, we believe that the circumstance warrants their support.

By way of emphasis on that, I am sure members received a copy of the letter from the Police Association, and communication and consultation from the police force directly regarding their position on this bill. Any member who reads this letter carefully—and I am sure we all have—would have taken note of a number of phrases in that letter, for instance, that a weakening of the bill would put public safety at risk. That is one of the phrases in the bill. I know that is not the intention of anyone in this chamber—I am sure it is not. Nobody in this chamber would be actively seeking to do that, but when you have the Police Association and the police making the claim that that is the effect, then I think that gives us pause as members to carefully consider the implications of what we do on this and other bills.

We have had extensive consultation. I say for the record that our position remains unchanged. We support this suite of legislation, including this bill. We are also unlikely to support amendments. We will, of course, listen to the amendments as they are debated; that is the democratic process which we strongly support and we will be mindful of that. I indicate at the outset that that is the likely outcome for our party. I think I will leave it at that. I look forward to the further committee stage.

Clause passed.

Clauses 2 and 3 passed.

New clauses 3A and 3B.

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

Page 3, after line 1—Insert:

3A—Amendment of section 3—Interpretation

(1) Section 3(1)—after the definition of *child* insert:

classified criminal intelligence means information determined by the Commissioner of Police to be classified criminal intelligence under Part 9A of the *Police Act 1998*;

(2) Section 3(1), definition of criminal intelligence—delete the definition

3B—Amendment of section 45A—Commissioner of Police's power to bar

Section 45A(3)—delete 'information that is classified by the Commissioner of Police as' and substitute 'classified'

My comments on clause 1 have given an overview of the amendments we intend to move. I welcome the government's indication at clause 1 that they were giving an overview of their position on all of their amendments and, likewise in my comments on this amendment, because they are interrelated and intermixed, I will make one contribution which will speak for all of them and, by implication, this will be a test clause for the council's attitude to them.

The amendments seek to do three things: first of all, to ensure that courts retain an awareness of their responsibilities to manage classified criminal intelligence presented in proceedings before them; to enhance police classification, recording and reporting of criminal intelligence; and to provide for regular reviews of the use of criminal intelligence. The overarching concern expressed and reiterated by the minister this morning is to standardise the criminal intelligence provisions to ensure their constitutionality.

We, too, in the opposition share that concern. It has been expressed to us repeatedly that with the shifting attitudes of the High Court, the K-Generation principles on which the government's model is based may be in jeopardy. What I am saying there is that the High Court since K-Generation has had two substantial cases—Totani and Wainohu—which have shown what you would call a strengthening of the court's assertion of the independence of the courts.

In that context, having said that, the opposition amendments are designed to enumerate the principles of the role of the court that was affirmed within K-Generation, and we think that that sort of reiteration or enumeration is wise in the context of the evolving court. The French court, as this parliament is very well aware, has had a strengthening attitude to independence. That is shown by the fact that the government, after the K Generation case was settled, legislated in relation to soccer, believed it had a constitutionally robust regime, and in Totani section 14(1) was found to be invalid.

Again the government was of the view, although a new South Wales statute, that it was robust, and in that case the whole act was found to be invalid. As the opposition we want to ensure that law enforcement powers have longevity and will maintain their constitutional integrity and are future proof. We believe these amendments would actually strengthen the constitutional robustness of the legislation and therefore assist the police.

In our view it is important that the police get access to secret police evidence. We have significantly changed our position from November 2010. At that stage we were wanting the use of this intelligence to be limited to serious organised crime as that is what the government said it needed it for, but in dialogue with the government about the impact of those amendments we withdrew that approach, particularly through the Legislative Review Committee process.

We believe we owe it to the police to give them laws that are robust and will stand the test of time. We owe it to victims to make sure justice is done and seen to be done. We also owe it to the accused that the allegations against them can be tested and that proof beyond reasonable doubt can be promoted.

Turning to the amendments in particular, [Wade-4] No. 2 would benchmark the commissioner's classification of criminal intelligence against international standards. Another thing apparent during consideration of the debate on the bill over the last 18 months was the stark lack of information around the use of secret police evidence, so in the same amendment we propose that information be collected by the commissioner about the number of times classified criminal intelligence is used and the number of persons affected. We are certainly not proposing that secret evidence be exposed or reported publicly, but we think that when extraordinary powers are used there should be checks and balances, including accountability.

Consistent with this we propose that annual reviews are undertaken to monitor the use and classification of criminal intelligence. Since the restoration of the bill and the time we filed the [Wade-3] amendments, we appreciated the opportunity to meet with one of the government's legal advisers about our proposed amendments, and we acknowledge that they raised a number of issues with us in relation to the amendments and, in particular, their concern about the proposed public interest monitor.

Having considered the issues and sought advice, we are satisfied that a judge considering a matter through such procedures can seek by affidavit information that we envisaged might more readily be available under a public interest monitor scheme. Our focus is to ensure the court retains the right to test the veracity of the evidence, but we have been persuaded that a public interest monitor is not necessary.

I notice that Queensland and Victoria are using public interest monitors in different ways and, to be frank, it is a concept that I believe the parliament should consider in other contexts and it may well in due course have relevance in the context of criminal intelligence. In relation to the issues raised with us, and the advice we received, we will not proceed with the public interest monitor elements of the scheme. Again we believe that indicates a constructive approach from the opposition and I stress that we do not see that as stopping today. I will come back to that at the end of my comments.

Another concern raised with us was the difference in wording between section 67L(2)(b) and section 63B in relation to 'sufficiently reliable' versus 'reasonably reliable'. Again, we accepted that it is appropriate to have consistency between the provisions and [Wade-4] reflects a change in the amendments accordingly. We also received advice that, 'on the balance of probabilities' and 'likely to' were problematic terms in relation to the threshold of the classification of criminal intelligence proposed in section 63B. Again, we have tried to accommodate this concern and we have gone to the original wording which is 'reasonably expected to'.

As I said, the opposition has consistently sought to be constructive with amendments and has consistently invited the government to offer alternatives. In that regard, I suppose I would summarise my understanding of the government's position in relation to these amendments in relation to three points. First of all, I understand the government would argue that the amendments are unnecessary and that K-Generation is sufficiently understood by the courts and being used appropriately such that the amendments are not needed.

The consultation that we have had with the legal community, reflected also in the evidence before the Legislative Review Committee, is that there is not sufficient clarity and that it would be beneficial to reflect constitutionally recognised principles in a process in an act. Secondly, it is put to us that it is unworkable. I would indicate to the minister, the Leader of the Government, that, just as we have shown ourselves amenable to amending our amendments to make them more workable, I will continue to do so.

The third point is, as I understand the government's advice to me, they do not think that my amendments achieve what I want to achieve. Let me restate the key goal: the key goal is to improve safeguards. I would indicate today that, if the government was willing to offer a set of amendments which put in place safeguards, I would be happy to work with them on that. There is nothing sacred about our draft. As I think I have said on a number of occasions when the council has needed to divide on these issues, we urge the council to support the amendments, not because they are perfect, not because they will be final, but they are at least an opportunity to work through these issues.

In relation to the minister's comments that the government is threatening to drop the bill, we certainly do not welcome those comments. As I have stated again and again in my contribution this morning, we want police to have access to secret police evidence. In contrast to our position in November 2010, we want police to have access to secret police evidence across all defendants. I know the police will not be using secret police evidence lightly. The information we received at the end of 2010 is that it is not used heavily even now but, as I have indicated to the government in relation to this matter and other matters, that does not mean that we should treat this legislation lightly.

The fact is that the current members of the South Australian police and the current members of other elements in the justice system may well be using a set of powers appropriately. That does not mean that we should put in place legislation that does not give due regard to balancing the interests. With those comments, I would urge the council to support the amendment standing in my name. As I said that this would be a test clause, I would stress again that, if the council does support the amendments, the opposition stands ready to work with the government to look at the best way to ensure that this bill reflects safeguards.

The Hon. G.E. GAGO: The government has already put forward its substantial arguments for the opposition of this amendment and the following amendments, so I do not want to go over those arguments too much. I do want to put on the record that we accept this first amendment as a test amendment to the rest of the Hon. Stephen Wade's amendments. I think that is a sensible thing to do. The only thing I want to say is that I want to remind honourable members that the bill before us does not add any new criminal intelligence provisions; there are no new provisions to be added. It simply makes uniform the criminal intelligence provisions that currently exist in our statutes. It provides consistency.

The model we are proposing is in line with the High Court decision, and we know that SAPOL has made it very clear that it believes that without this consistency and guarantee it could potentially lead to a risk to public safety. SAPOL and the Police Association support this bill as it stands. SAPOL and the Police Association do not support the amendments of the opposition.

In relation to a couple of comments made by the Hon. Stephen Wade, I have been advised that the High Court has endorsed its decision of the K-Generation, in its decision of Totani, and there is absolutely no indication whatsoever that the High Court would move away from that. In fact, it has already endorsed its own decision quite clearly in the courts. To suggest, as the Hon. Stephen Wade has, that it may be moving away is quite misleading to this chamber.

I also want to remind honourable members, given some of the comments that the Hon. Stephen Wade made in his second reading contribution, that the Tamasebi case demonstrates quite clearly that the model the government is proposing does work; it is living proof that what we have before us today actually does work within our system. It is also important to clarify, given some of the comments and innuendo of the Hon. Stephen Wade, that SAPOL does in fact support the government in dropping the whole bill in its entirety if the Hon. Stephen Wade's amendments were to be successful. So its view is that they would be completely unacceptable, the bill would be completely unacceptable, and it supports our dropping the whole thing. That is what I have been advised.

The Hon. S.G. WADE: I have no doubt that South Australia Police and the Police Association fully support the legislation; that has been very clear to me. The brief comment I want to make is that I accept that the Police Association and the police would rather legislation not proceed than it be amended in its current form, but I would like to put the question to the government in a different way. Is it conceivable that there would be a set of safeguards that the government, the police and the Police Association could find acceptable? If that is the case, I believe it is worth continuing work on this bill because it is certainly the opposition's strong view that, in terms of balancing the interests, it would be useful to have more clearly enumerated safeguards in the legislation.

The Hon. G.E. GAGO: Yes, there is indeed the possibility of reaching consensus on a set of safeguards. They are before us in this bill. That consensus has already been arrived at, and it is delivered here in this bill before us. We believe this bill delivers the right balance and has the degree of safeguards necessary. I can only reiterate: this does not introduce one single new provision of criminal intelligence—not one. All it does is simply make consistent the provisions that already exist in our statute books.

The Hon. D.G.E. HOOD: I would like to clarify a statement made by the minister. Was I correct in hearing the minister say that both SAPOL and the Police Association would prefer that they have no bill rather than an amended bill? Is that is their formal position?

The Hon. G.E. GAGO: I have been advised that SAPOL has clearly indicated that position.

The Hon. D.G.E. HOOD: Our position is unchanged; we will not be supporting the amendment. Just for clarification, we are supporting the bill.

The committee divided on the new clauses:

AYES (9)

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

NOES (8)

Brokenshire, R.L.	Darley, J.A.	Finnigan, B.V.
Gago, G.E. (teller)	Gazzola, J.M.	Hood, D.G.E.
Hunter, I.K.	Kandelaars, G.A.	

PAIRS (4)

Dawkins, J.S.L.	Zollo, C.

PAIRS (4)

Bressington, A.	Wortley, R.P.

Majority of 1 for the ayes.

New clauses thus inserted.

The Hon. R.L. BROKENSHIRE: Mr Chairman, I wish to offer an explanation. The bells were not able to be heard in one of the MP's adviser's rooms in the lower basement, which is where I was. They were not working at all and were very quiet in the hallway. I just want to report that to the chamber.

The CHAIR: Fair enough.

Progress reported; committee to sit again.

STATUTES AMENDMENT (COMMUNITY AND STRATA TITLES) BILL

In committee.

(Continued from 15 March 2012.)

Clause 17—reconsidered.

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

Page 11, line 17 [inserted section 78B(4)(a)]—After 'contract' insert:

(other than a contract that is for a period of 12 months or less)

I thank the committee for postponing further consideration of this bill to allow us to submit this amendment. We understand this amendment merely clarifies a previous amendment, and I understand from indications from the government that it is amenable to both amendments. As I understand it, the government's primary policy concern was in relation to property developers and that it is inappropriate for property developers to, if you like, constrain a corporation going forward with long-term contracts.

We did not dispute that as a policy goal and supported that, but it was brought to our attention that there could be an unfortunate consequence for property managers, that they would lose value in their property. As I understand it, this amendment merely confirms the previous amendment that has been considered by the committee, and I commend it to the committee.

The Hon. G.E. GAGO: The government supports this amendment for the reasons the honourable member has outlined.

The Hon. D.G.E. HOOD: Just briefly, for the record, Family First supports it as well. I would like to take the opportunity to thank the Hon. Mr Wade for his consultation on this issue.

Amendment carried.

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

Page 11, after line 25—Insert:

(4a) For the purposes of subsection (4)(a), the period of a contract is the term of the contract disregarding any renewal period that may occur at the end of that term unless the renewal occurs at the option of the body corporate manager (in which case the period of the contract will be taken to include the period of the renewal).

This amendment is consequential.

Amendment carried.

The CHAIR: There is a further amendment to clause 17, [Wade-1] 3.

The Hon. S.G. WADE: I might actually pause, because—no, I do still need to move this. I move:

Page 13, line 29 [inserted section 78D(7)(a)]—Delete '3' and substitute '10'

The reason I was doubting it is the government's previous amendment changes the bill introduced to a 28-day notice period, and in normal circumstances that would mean that a body would already

have had 28 days' notice of the termination of a contract. This amendment is still needed because it talks about access to records even outside a termination context.

We suggest that three business days is too short a period for a business to be expected to make records available. I can assure you that even 10 business days would be difficult for my household budget. We think that that is a reasonable compromise, and we would commend it to the committee.

The Hon. G.E. GAGO: The government supports this amendment.

Amendment carried; clause as amended passed.

Clause 53.

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

Page 33, line 2 [inserted section 27B(4)(a)]—After 'contract' insert:

(other than a contract that is for a period of 12 months or less)

I indicate that this is consequential on previous amendments supported.

Amendment carried.

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

Page 33, after line 10—Insert:

(4a) For the purposes of subsection (4)(a), the period of a contract is the term of the contract disregarding any renewal period that may occur at the end of that term unless the renewal occurs at the option of the body corporate manager (in which case the period of the contract will be taken to include the period of the renewal).

This amendment is also consequential.

Amendment carried.

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

Page 35, line 11 [inserted section 27D(7)(a)]—Delete '3' and substitute '10'

I believe this is consequential.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (12:10): I move:

That this bill be now read a third time.

Bill read a third time and passed.

CRIMINAL LAW (SENTENCING) (SENTENCING CONSIDERATIONS) AMENDMENT BILL

In committee.

(Continued from 13 March 2012.)

Clause 5.

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

Page 7, lines 29 and 30 [clause 5, inserted section 10C(2)(d)]—Delete paragraph (d) and substitute:

(d) in circumstances other than those referred to in a preceding paragraph—the sentencing court may, if satisfied that there is good reason to do so, reduce the sentence that it would otherwise have imposed by up to 10 per cent.

Page 9—

Lines 27 and 28 [clause 5, inserted section 10D(2)(e)]—Delete paragraph (e) and substitute:

(e) within 7 days immediately following—

(i) an unsuccessful application by or on behalf of the defendant to quash or stay the proceedings; or

(ii) a ruling adverse to the interests of the defendant in the course of a hearing of the proceedings,

determined during the period commencing on the day on which the defendant is committed for trial for the offence or offences and ending not less than 5 weeks before the commencement of the trial—the sentencing court may reduce the sentence that it would otherwise have imposed by up to 15 per cent;

(f) in circumstances other than those referred to in a preceding paragraph—the sentencing court may, if satisfied that there is good reason to do so, reduce the sentence that it would otherwise have imposed by up to 10 per cent.

Lines 30 and 31 [clause 5, inserted section 10D(3)(a)]—Delete '(a), (b) or (c)'

After line 40 [clause 5, inserted section 10D(3)(b)]—After subparagraph (ii) insert:

(iia) the court did not list the defendant's matter for hearing during that period; or

Line 41 [clause 5, inserted section 10D(3)(b)(iii)]—Delete 'because of reasons' and substitute:

for any other reason

The government rises to support this amendment. The Criminal Law (Sentencing) (Sentencing Considerations) Amendment Bill 2011 is a major reform. It draws on the work and input of many sources and interested parties. The bill provides a comprehensive legislative framework for the provision of a sentencing discount for pleading guilty and/or cooperating with the authorities.

The bill has two main but distinct purposes. First, it is an integral part of the government's ongoing series of linked measures designed to promote efficiency in the criminal courts and to help tackle current court delays by encouraging those offenders who wish to plead guilty to do so at a timely and early stage in the proceedings and not at a really late stage, which is far too common presently, often literally at the doors of the trial.

Secondly, the bill is also an integral part of a series of linked measures the government is presently taking to tackle the very real problems posed by the activities of organised criminal gangs. The bill is intended to encourage offenders, particularly those involved in serious and organised crime, to turn on their erstwhile criminal associates and to assist the authorities in the investigation and prosecution of other offenders and/or other crimes. Such cooperation can and does play a very important role in combating crime, especially the leaders of organised criminal gangs.

The present bill should not be seen in isolation, in the context of either tackling delays in criminal courts or confronting the activities of organised criminal gangs; rather it should be viewed as part of the wider series of linked measures the government is taking in respect of both areas of the bill. The bill strikes the correct balance and ensures that offenders will not receive excessive or unjustifiable discounts in sentence for pleading guilty and/or cooperating with authorities.

I noted at the end of the second reading debate in this house the contributions made by honourable members and the various issues that have been raised in the debate. I can inform the committee that the issues raised in the debate by members have been carefully taken into consideration by the Attorney-General.

There have been extensive and helpful discussions involving the Law Society. The result of these discussions is that the government is intending to move these amendments in the Legislative Council, which I am doing, to clarify aspects of its operation and, in particular, to make it clear that it is not to prejudice defendants who, through no fault on their part, have entered a late plea of guilty. The amendments will provide for a limited discretion to confer a discount for a late plea of guilty in two specific situations.

In brief, these amendments will allow the provision of a discount of up to 15 per cent for a prompt guilty plea in the higher courts following an unsuccessful legal argument and confer a general residual discretion of up to 10 per cent for a late guilty plea in any court if good reason exists. The Law Society has confirmed that these amendments address its main concerns about the original bill.

The original bill was carefully drafted to promote the government's policy to encourage early guilty pleas but not so as to prejudice or disadvantage offenders whose delay in pleading guilty was due to unforeseen circumstances, particularly those circumstances that might be beyond

their control. The original bill contains a general exemption allowing any court to confer a discount of up to 30 per cent for a late plea of guilty if the guilty plea was entered at the first practicable opportunity and the reason for the delay was beyond the control of the defendant. It was always considered that this provision was adequate to protect the position of the defendant who pleaded guilty late in the proceedings through no fault of his or her own. However, to dispel any lingering concerns, the government amendments are intended to make the operation of the bill entirely clear and to put the situation beyond doubt.

The government amendments represent a sensible model that both addresses the concerns that have been expressed but leaves intact the substance and rationale of the bill. Furthermore, contrary to the recent assertions of the Hon. Stephen Wade, the bill should not result in the granting of excessive or unduly lenient sentences for offenders. The figures for the maximum discounts in the bill for pleading guilty or providing normal or exceptional cooperation to the authorities are consistent with existing common law guidelines. Indeed, by preventing a court, in the absence of some good reason, from treating a belated guilty plea on the doors of the trial in the same way as a prompt and early guilty plea, the bill will help prevent the granting of excessive discounts for late pleas of guilty.

Turning to the particular amendments. The first amendment confers on any criminal court a residual discretion, in limited circumstances, to provide a discount in sentence of up to 10 per cent if it is satisfied that a good reason exists for the delay in pleading guilty. The government accepts in certain circumstances that, despite the late guilty plea, there is merit in a residual discretion for a late plea if good reason exists to avoid an unnecessary trial, especially in cases such as a sexual case and/or one involving a vulnerable witness.

This residual discretion will only apply once any other discretion in the bill, including the 15.5 discount to be conferred by the next government amendment, for conferring a discount for a late plea of guilty has been considered and discounted. It is truly a residual discretion. The residual discretion will be available in both the Magistrate's Court and the District and Supreme Courts. A good reason is deliberately not defined. It will depend upon the good sense and discretion of the court in each particular case.

The committee divided on the amendment:

AYES (9)

Brokenshire, R.L.	Darley, J.A.	Finnigan, B.V.
Gago, G.E. (teller)	Gazzola, J.M.	Hood, D.G.E.
Hunter, I.K.	Kandelaars, G.A.	Wortley, R.P.

NOES (10)

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

PAIRS (2)

Zollo, C.	Bressington, A.

Majority of 1 for the noes.

Amendment thus negatived.

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

Page 9, lines 27 and 28 [clause 5, inserted section 10D(2)(e)]—

Delete paragraph (e) and substitute:

(e) within 7 days immediately following—

(i) an unsuccessful application by or on behalf of the defendant to quash or stay the proceedings; or

(ii) a ruling adverse to the interests of the defendant in the course of a hearing of the proceedings,

determined during the period commencing on the day on which the defendant is committed for trial for the offence or offences and ending not less than 5 weeks before the commencement of the trial—the sentencing court may reduce the sentence that it would otherwise have imposed by up to 15%;

(f) in circumstances other than those referred to in a preceding paragraph—the sentencing court may, if satisfied that there is good reason to do so, reduce the sentence that it would otherwise have imposed by up to 10%.

The Attorney-General has explained that he has taken into consideration the views raised by honourable members. This amendment provides for the provision of the discretion to confer a discount of up to 15 per cent for a guilty plea in the District or Supreme Court in the period of seven days following an unsuccessful legal argument by the defendant. It is not intended that this discretion will arise with respect to a guilty plea following a frivolous or untenable legal argument put on behalf of the defendant.

However, the defendant may have a valid legal argument to raise, such as that vital piece of evidence such as an incriminating confession or the result of a search should be excluded but be nevertheless perfectly willing to plead guilty without any further delay if the legal argument is rejected by the court. This amendment therefore provides that, if a defendant pleads guilty within seven days immediately following an unsuccessful application by or on behalf of the defendant to quash or stay proceedings or a ruling adverse to the interests of the defendant in the course of a hearing of proceedings, then the defendant can still receive a discount of up to 15 per cent.

The ACTING CHAIR (Hon. J.S.L. Dawkins): Order! There is too much conversation in the chamber and I am having difficulty hearing the minister.

The Hon. G.E. GAGO: To assist with the alternative court listing arrangements and to minimise the stress and inconvenience to all of the parties and witnesses in the proceedings, the guilty plea would have to be entered after committal and at least five weeks before the first date set down for the commencement of the trial at the District or Supreme Courts. This timing is dependent on the court listing the defendant's case for a legal argument during the period in question, as government amendment No. 4 clarifies.

The phrase 'commencement of the trial' is already well understood (see R v Wagner (1993) 68 A Crim R 81 and Attorney-General's Reference (No.1 of 1988)), etc. Though court listing practices are clearly an issue for the Chief Judge, the Chief Justice and the Courts Administration Authority, it is hoped that this provision will encourage the parties in the proceedings to identify issues in dispute well in advance of the trial and the court to list pre-trial legal argument significantly in advance of the trial date rather than leaving them to the morning or day before the jury is empanelled.

The introduction of binding rulings in the courts Statutes Amendment (Courts Efficiency Reforms) Bill should help provide the support for listing legal arguments significantly in advance of trial. At this stage this 15 per cent discount is confined to proceedings before the District and Supreme Courts and it is unnecessary to include this discount at the Magistrate's Court, given the different nature of cases and listing pressures and practices in that court. We did see the first amendment as a test amendment and the government, although keen to get its position clearly on the record, will not divide.

The Hon. S.G. WADE: In relation to an absence of presence, I owe both the President and the council an apology for not being prompt enough in receiving the call. I appreciate that it was my tardiness and not the chair's. If I might have the latitude of the council to indicate the basis on which we oppose not only this amendment but also the previous amendment, the government is certainly correct in suggesting that the amendments it is putting before this house today will improve what was a clearly flawed bill. I do not agree with the comments of the minister that it addresses all the issues raised in the second reading contributions of members.

I will not take more than a minute to remind members that in my clause 1 contribution I reminded the council that the concerns of Family First in relation to legal aid, the concerns of the Hon. Kelly Vincent in relation to undermining a defendant's rights, the concerns of the Hon. Mark Parnell in relation to unnecessary codification of the common law, the concerns of Ann Bressington about not improving the law and undermining the justice system—none of those issues are addressed by the government's amendments.

As I indicated in my clause 1 contribution on 13 March, the opposition's view is that not only does the government fail in its amendments to deal with the other issues raised in the debate, but, in effect, the government has actually reduced the incentive by, if you like, softening the no-discount period. It actually decreases the possibility that the government will achieve the objective of dealing with its courts backlog through this measure. As I indicated in my second reading contribution, this is fundamentally not a bill about justice: it is about a government that is failing to properly manage our court system.

We are certainly very concerned about the general increase in discounts offered under this legislation. We are also particularly concerned about the uncapped nature of the discounts for cooperation with authorities—what the Attorney-General called 'get out of gaol free cards'. Perhaps I could summarise that by saying that, because the bill is actually, in terms of its case management task, weakened by the government's amendments and the other concerns of honourable members have not been addressed, the opposition, as I indicated in clause 1, will not be supporting the bill and it will also not be supporting amendments to the bill.

In terms of going forward, we note that we have on the *Notice Paper* the Statutes Amendment (Serious and Organised Crime) Bill and I presume committee stages of that bill will be part of the work we do next week. That bill is already dealing with sentence discounts for cooperation with authorities so, if this council is not supportive of this bill, I would suggest to the government that there is an opportunity in the context of that bill to explore issues in relation to sentence discounts for cooperation with authorities. As I have indicated at the second reading stage and a number of other places, we are particularly concerned about the uncapped nature of those discounts and believe that would certainly need further work before changes were made in the law in that area.

The Hon. M. PARNELL: I will take the opportunity as well now to put the Greens' position in relation to these amendments on the record. I made a second reading contribution in relation to this bill last year on 29 September and I will not repeat the things that I said then. In summary, we were unhappy with the bill and we did not believe that it warranted support, although we supported the second reading in the hope that some changes could be made.

The changes that the government has now put forward with these amendments are not sufficient to make what is an unacceptable bill to us acceptable, so we will not be supporting the amendments. We did spend a fair bit of time considering a range of amendments that the Liberal Party had canvassed at one stage but, now that they will not be moved and now that we are not convinced that the Labor amendments sufficiently fix up this bill, we will be opposing the whole bill. To avoid any mucking around, we will be opposing all the amendments as well. So, this is an invitation to the government to go back to the drawing board.

The Hon. D.G.E. HOOD: As has been alluded to, I made a contribution at the second reading stage of this bill and I outlined a number of concerns Family First had with this bill as it stood at that time, some of which have been addressed by the government's amendments, and that is pleasing, but some have not. However, on balance, we will support the bill. I indicated that at the second reading and that continues to be our position.

I will not disclose our position on the amendments except to say that we generally view them favourably. Some of the concerns I outlined in my second reading speech have been addressed by some of the amendments proposed and we will consider them on merit as the debate continues.

The Hon. K.L. VINCENT: Just to aid the proceedings of the council, I understand what the government is attempting to achieve with these amendments; however, my opposition to this bill as a whole remains and for that reason I will be opposing the amendments.

Amendment negatived.

The ACTING CHAIR (Hon. J.S.L. Dawkins): The next amendment we move to is in the name of the minister, [Gago-1]...3, clause 5, page 9, lines 30 and 31. I call the minister.

The Hon. G.E. GAGO: It is a consequential amendment to amendments Nos 1 and 2 and, given that both 1 and 2 have failed, I will withdraw it.

The ACTING CHAIR (Hon. J.S.L. Dawkins): And equally amendment No. 4? The minister is not going to move that one?

The Hon. G.E. GAGO: That is consequential as well, as is No. 5.

The ACTING CHAIR (Hon. J.S.L. Dawkins): And amendment No. 5 the same way.

Clause passed.

Clause 6 passed.

Schedule 1.

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

Page 11—

Line 1—Heading to schedule 1—delete 'provision' and insert:

and review provisions

After line 5—Insert:

2—Inquiry into and report on operation of reduction of sentence scheme

(1) The minister must, at the end of 2 years from the commencement of section 5 of this act, appoint a person recommended by the Chief Justice of the Supreme Court, to conduct an inquiry into—

(a) the operation of part 2 division 2 of the *Criminal Law (Sentencing) Act 1988* as amended by section 5 of this act; and

(b) report on the effect (if any) the operation of the division as amended has had on—

(i) providing transparency in respect of sentences given to offenders; and

(ii) improving the operation and effectiveness of the criminal justice system.

(2) A report on the inquiry must be provided to the minister who must cause a copy of the report to be laid before each house of parliament within 3 months after receipt of the report.

My amendment No. 6, relating to the heading of the schedule, is consequential on my amendment No. 7, which provides a scheme to review the effects of this bill after a period of two years of operation

The bill, as I said, is a major reform and it is appropriate to provide a means of oversight. At the end of two years after the commencement of the new law, to evaluate its effect a suitable person recommended by the Chief Justice will be appointed by the relevant minister to conduct an inquiry into the operation of the new law. The inquiry will specifically look at the transparency of the act with respect to sentences given to defendants and the effect of the act in improving the operation and effectiveness of the criminal justice system. These amendments are based on the system being used interstate to assess the effectiveness of major new legislative reforms.

The Hon. D.G.E. HOOD: This is something we would certainly support. As I said, some of the concerns have been addressed by the amendments there, particularly with respect to the issue with legal aid, but also other things that were mentioned in my second reading contribution that were in a sense relatively minor. Nonetheless, a review will at least provide some sort of assessment of their success.

Amendments negatived; schedule passed.

Title passed.

Bill reported without amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (12:39): I move:

That this bill be now read a third time.

I would like to make a very brief third reading contribution. I would like to make sure that the record reflects that the government believes that it is, indeed, most unfortunate that this bill has been defeated. A great deal of effort and preparation has gone into this over several years. It draws on the very considered input of many interested parties within the criminal justice system. I think it is, in fact, a bit rich that the opposition talks about improving the effectiveness of the criminal courts, alleviating the pressures of the criminal justice system and tackling the very real problems posed

by organised gangs of criminals when all it does is seemingly oppose everything concrete that the government comes up with to try to address these very serious issues of concern which contain very serious potential threats to the public.

The opposition is simply all talk. Whenever the government makes a move to legislate to try to improve the effectiveness of the criminal courts, to tackle delays, especially for victims, to maximise the use of prosecutors' time and minimise the amount of time defendants have to frustrate the system, the opposition comes up with new and imaginative ways to oppose whatever the government is proposing. I think the opposition has been highly irresponsible in its attitude to this bill and it is truly a case of opposition for its own sake.

The council divided on the third reading:

AYES (8)

Brokenshire, R.L.	Darley, J.A.	Finnigan, B.V.
Gago, G.E. (teller)	Gazzola, J.M.	Hood, D.G.E.
Hunter, I.K.	Wortley, R.P.	

NOES (9)

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

PAIRS (4)

Kandelaars, G.A.	Lensink, J.M.A.
Zollo, C.	Bressington, A.

Majority of 1 for the noes.

Third reading thus negatived.

SERIOUS AND ORGANISED CRIME (CONTROL) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 March 2012.)

The Hon. S.G. WADE (12:47): The government introduced two bills in the House of Assembly on 15 February 2012 to repair its anti-bikie laws and to deal with serious and organised crime. The bill that we are debating now, the Serious and Organised Crime (Control) (Miscellaneous) Amendment Bill 2012, is what I refer to as the control bill. Another bill on the notice paper, the Statutes Amendment (Serious and Organised Crime) Bill 2012, is what I refer to as the offences bill.

Whilst they are quite separate bills with quite separate provisions, they are part of a pair. I certainly do not believe in the government's rhetoric in terms of every bill that has some relevance to the justice system somehow becomes part of its integrated package to deal with serious and organised crime, but it is clear that these two pieces of legislation are a set. On that basis, and to facilitate the consideration of the council, my second reading contribution on this bill will be my only second reading contribution on these two bills. That is my expectation anyway, unless I am provoked into further contributions on another occasion. I suspect that we will not get to the second reading stage of the statutes amendment bill today nonetheless.

As I have indicated in the past, the Liberal Party gave in principle support for these bills in February. In reiterating that support today, I will also indicate our significant concerns with the bills. The control bill seeks to amend the anti-association regime that was introduced by the 2008 Serious and Organised Crime (Control) Act, particularly in response to the High Court decisions in Totani and Wainohu. Those decisions were in 2010 and 2011 respectively.

In the House of Assembly the Liberal opposition sought to amend the control bill to allow for a review. The government accepted our amendment, and I welcome that. The Liberal Party's first concern is in relation to enhancing the prospect of the bills being effective in controlling serious

and organised crime. I believe we have every reason to approach this legislation with scepticism, given Labor's appalling record of controlling gangs over the 10 years it has been in power. Over the 10 years that Labor has been in government, outlaw motorcycle gangs have, in fact, grown and become more dangerous.

At the 2010 election, Labor promised its legislation would help 'disrupt and dismantle serious and organised crime gangs.' Yet in January 2012, Commissioner Hyde advised that, since the government first enacted its anti-association law in 2008, outlaw motorcycle gang membership had actually gone up 10 per cent to, at that stage, 274. The only organisation declared under the legislation to this point is the Finks Motorcycle Club. In spite of the presence of the laws, only nine of the 52 Finks members are currently in prison.

Labor has indeed disrupted the gangs but, in my view, it has disrupted them in a way which has emboldened them. Labor has succeeded in fostering new gangs. Let me put it this way: in the period that these laws have been in place, new gangs have emerged. The New Boys street gang, for example, has been transformed into the Comancheros Outlaw Motorcycle Gang. The behaviour of the gangs is also becoming, in my view, less controlled, more public and more of a risk to public safety.

The Labor Party also promised in 2002 that it would deal with fear in the community. Before the 2002 state election, Mike Rann, then opposition leader, promised that he would 'focus not only on minimising crime, but on ending the fear of crime that terrorises many in our community, especially older South Australians'. Labor has failed to deliver on that promise. South Australians walking locally at night, according to a report on government services statistics, feel the least safe of citizens of any other state. In 2009-10, 43 per cent of South Australians walking locally at night felt unsafe and, as I said, that was the least safe record throughout the federation. In contrast, 2001-02, South Australians felt the safest of any state.

The Labor Party also argues that crime reduction was a goal of its policies. Labor claims that its approach to serious and organised crime has reduced crime. In the Attorney-General's discussion paper on serious and organised crime, the government asserted that there had been a cut in crime by 35 per cent. Reductions in crime in South Australia, in fact, merely reflect national trends and a higher general prosperity over the decade and other factors such as higher use of immobilisers in motor vehicles. The homicide rate is the equal highest rate of any state. In 2009-10, it was 1.3 per 100,000. In 2002, South Australia, South Australia was the second highest state.

In terms of that review on the outcomes of 10 years of Labor, I am reminded of the comments by Mr Pallaras and the need to focus on outcomes in this area. On radio, Mr Pallaras said:

> ....the phrase 'get tough' means absolutely nothing, it means making a lot of noise. What we need to do is get effective and have effective legal constraints on this sort of behaviour.

The opposition supports the view of the DPP that we need to be focusing on outcomes, and this legislation will be putting outcomes at the forefront.

The Liberal opposition is strongly of the view that crime networks are a cancer which need a customised targeted response. The worsening situation under Labor shows that its strategy is not the right one for South Australia. There is also concern in the criminological community relating to anti-association laws. With their focus on a definable organisation with members and associates, there is a concern that they are unlikely to be effective as they fail to allow for the dynamic decentralised nature of modern criminal business networks. Outlaw motorcycle gang members often run their criminal activities in association with non-outlaw motorcycle gang members. In any event, a significant proportion of criminals in South Australia are not related to outlaw motorcycle gangs.

In terms of academic concern about the anti-association approach, I thought it was most relevant to quote from a contribution by Professor Roderic Broadhurst and Ms Julie Ayling. They are members of the Australian Research Council Centre of Excellence in Policing and Security, Regulatory Institutions Network, Australian National University. I will quote from part of their evidence before the Legislative Review Committee in relation to its inquiry into criminal intelligence. They took it upon themselves, and I welcomed the fact, to comment on criminal intelligence in the context of the anti-association approach. They said:

> There are other reasons, too, why we might consider that applying a bandaid solution to the criminal intelligence problem of the South Australian Serious and Organised Crime (Control) Act 2008 is not the best way to proceed. These are that the Act itself has inherent problems. Two suggest themselves as particularly important.

First, Justice Hayne in the High Court case of Totani stated, in relation to the Act's application to an [outlaw motorcycle gang] member, that 'the freedom of association of a defendant may be restricted where neither the executive nor the judicial branch has made any determination about what he or she has done, intends to do, or is likely to do in connection with "serious criminal activity"'...

Many commentators, including eminent lawyers, have argued that what this and other similar laws in fact do is allow the state to take pre-emptive action (through declarations and control orders) against those it suspects, but perhaps cannot prove, of involvement in serious crime, on the basis of their identities rather than their actions. In other words, it introduces 'status offences'. The principle that there should be 'no punishment without law' (nulla poena sine lege)—that is, that one cannot be punished for doing something that is not prohibited by the law at that time—underpins our legal system and status offences, in their focus on criminal type rather than criminal conduct, offend this principle. In our submission, status offences are inappropriate in a society such as ours that claims to be human rights compliant and to respect the rule of law.

That is the end of the first point. In the second point the submission goes on to state:

Second, the legislation brings within its ambit all members (defined broadly) of a declared organisation rather than targeting only the criminal elements within it. It disregards functions that such organisations play in the life of their members other than as incubators of criminality and includes in its scope any members who are not involved in criminal activity, as well as associates of members. This lack of appropriate targeting of laws is clearly regarded as unreasonable, even draconian, by those targeted, as the formation of the SA United Motorcycle Council and various public protests by motorcycle club members attest. Even if we put aside those objections as self-interested, we should note that inappropriate targeting can do society at large a disservice by bringing laws into disrepute and diminishing the legitimacy of law's agents. The counterproductive results may be more difficulty in securing general compliance with the law and reductions in police efficiency.

In terms of the concerns that have been expressed in relation to the anti-association approach, which this bill reflects, they have also been expressed by the Australian Crime Commission and Victoria Police. In 2008, the Australian Crime Commission warned that the impact of anti-association legislation may be reduced over time as these groups adapt their practices to overcome legislative impediments. They also express concern that there may be a displacement effect, which makes members of these groups more difficult for law enforcement to monitor or target.

Victoria Police in the same year also warned that such laws may merely drive the visible appearance of outlaw motorcycle gangs underground. They suggested it may be more cost effective to deploy the surveillance resources used for monitoring associations to investigating and prosecuting general criminal activity.

The opposition is also concerned that we need to make sure that we do not infringe constitutional principles. In that context, I think it is fair to note that we are dealing with a riskier environment in 2012 than we did in 2008 in constitutional terms. The state government chose to go to the High Court to defend this legislation. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

[Sitting suspended from 13:01 to 14:18]

JAYDEN'S LAW

The Hon. R.L. BROKENSHIRE: Presented a petition signed by 760 residents of South Australia requesting the council to—

1. Support an initiative called Jayden's Law to give mothers and fathers of these much wanted and loved babies the right to obtain a birth certificate for a child who is delivered as a live baby would be, but the delivery has occurred between 12 to 20 weeks' gestation;

2. Ensure that no financial benefit shall arise from the use of that right, nor should the right arise in terminations; and

3. Give parents who love and treasure their babies from conception this right as a means to recognise the child's birth, respect parents' beliefs and bring closure and healing to the family.

PAPERS

The following papers were laid on the table:

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

South Australian Film Corporation—Report, 2010-11

By the Minister for Communities and Social Inclusion (Hon. I.K. Hunter)—

South Australian Fire and Emergency Services Commission—Report, 2010-11

NATURAL RESOURCES COMMITTEE

The Hon. G.A. KANDELAARS (14:19): I bring up an erratum to be attached to the report tabled yesterday of the Natural Resources Committee on Water Resource Management in the Murray-Darling Basin Volume 3.

Erratum received.

QUESTION TIME

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:20): I seek leave to make a brief explanation before asking the Minister for Tourism a question about regional guides.

Leave granted.

The Hon. D.W. RIDGWAY: Yesterday the minister inserted in *Hansard* a reply to a question that she was previously unable to answer. This was in reference to a breakdown of the $900,000 decrease in net costs due to the implementation of savings referred to in Budget Paper 4, Volume 4, and specifically to what are these savings initiatives. I will not go through all the savings initiatives, but one of the increased revenue items was an increase in revenue associated with the Shorts/visitors guides. Members would be aware that I embarked on a fact-finding mission on Eyre Peninsula last week and, of course, visited nearly all the visitor information centres.

Members interjecting:

The Hon. D.W. RIDGWAY: No, I was not riding a horse: there are not any horses big enough to carry me that distance. However, I visited nearly all the visitor information centres across Eyre Peninsula and was well received by most of the volunteers in those particular establishments. Some of them were concerned, obviously, about the very late publication of this year's regional guides. We know that, sadly, they have last year's in stock at present and, given that Ceduna especially is the gateway to our great state from the west, the publication they like to give them is this 96-page Eyre Peninsula visitor information guide, and it is very embarrassing for the staff of the visitor information centre when people discover it is last year's magazine.

We all know that the publishing of these guides has been brought into a city location and done centrally here by SATC rather than by the regions themselves. The regions often would keep the revenue from advertising, and such revenue was always spent back in the regions. I have been made aware that, while this guide is 96 pages, the draft for the Eyre Peninsula guide that has been seen by some members working in the visitor information centres is now 46 pages—some 50 pages less than the magazine they distribute now. My questions are:

1. What has been omitted from the regional guide to reduce it by some 50 pages?

2. How will the increased revenue of some $85,000 be achieved, given that the guides are up to six months late and, in the Eyre Peninsula case, half its normal size?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:25): I thank the honourable member for his important questions. Indeed, the regional visitor guides, as I have spoken about in this place before, are a very important part of the South Australian Tourism Commission's domestic marketing campaign. In the past the regional tourism committees and the South Australian Tourism Commission have individually contracted suppliers to produce various components of the annual regional visitor guides.

For this year's guides—and I have said it in this place before—the Tourism Commission tendered for a supplier to produce all the visitor guides as well as the Shorts brochures, and this was to enable economies of scale and consistency across all regional visitor guides. This was something the regions were very supportive of in principle—we should acknowledge this.

I know that at the moment they are not happy because they are late, but there was indeed in-principle support to go about improving efficiencies in the way they went about this. It was quite

an impost for each individual region to have to do it, and they saw that there was the potential to be able to produce economies of scale and reduce costs and improve efficiencies.

I have said in this place before that this was the first time that this occurred. Indeed, there were a number of problems in implementing this new system which have resulted in most unfortunate delays; I have spoken about that in this place before. But we believe that we are consulting with the regions, and we are working through the issues of concern, and we believe that we should be able to iron out these problems and put in place a system that does work effectively and efficiently in an ongoing way.

In terms of the regional drafts, these are operational issues. What I am responsible for is to ensure that the regions are consulted with. Even the honourable member has indicated that the region was being consulted on the draft. My view is that, if they are not happy with the draft, there is an opportunity to input and make appropriate changes where possible—and that is exactly as it should be. Drafts go out, the regions get a chance to input and make improvements or changes where necessary. So, I would have thought that what the honourable member is reporting here today is a system that is, in fact, demonstrating that we are consulting and we are trying to improve what is going on.

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

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:26): Did the SATC give a commitment to the regions that the books would be of the same quality and size as they are currently used to?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:26): I've got no idea. That's just outrageous. This is a matter for regions to be able to input to identify what their needs are, to input those needs into a central system and for the appropriate literature to be put out. The number of pages a region wants, the size, how many pages or the font size or the quality of the paper: they are all operational matters and they are matters for the SATC and the regions to be consulting on together to land on an outcome that meets the region's needs in a timely way.

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): I have a further supplementary question. Will the regions receive the same revenue from the new model of centralising and then disbursing the revenue as they did from producing their own publications and keeping the revenue they produced in their own regions?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:27): I am not aware of any changes to the arrangements but, in terms of the details, I am happy to take that question on notice and bring back a response. But I am not aware of any changes to the arrangements.

TOURISM COMMISSION

The Hon. R.I. LUCAS (14:27): I seek leave to make an explanation prior to directing a question to the Leader of the Government on the subject of the Tourism Commission.

Leave granted.

The Hon. R.I. LUCAS: It is on the public record now that the minister, together with her legal advisers, was discussing with the Commissioner for Public Sector Employment as early as January of this year the issue of the possible termination of Mr Ian Darbyshire from his position and what the minister claims was the related issue of restructuring the full-time chief executive officer position to a part-time chief executive officer position.

My question to the minister is as follows: given the minister was discussing with the Commissioner for Public Sector Employment and her legal advisers the termination of Mr Darbyshire and the possible appointment of a part-time CEO instead of a full-time CEO in January of this year, did the minister ensure that Mr Darbyshire was advised of these discussions before her meeting with the Commissioner for Public Sector Employment in January and, if not, why not?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:29): I thank the honourable member for his question, and I think it is just indicative of how incredibly lazy and indifferent the opposition are. The first two questions that we have had in this place are basically questions that have already been answered in this place—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —and rehashed. They are just old questions that are being rehashed. It's a lazy and indifferent opposition that we have in this place and they are a disgrace. They are just a poor excuse for an opposition. No, is the short answer to the question. The conversations I had were obviously of an extremely sensitive nature. I cannot believe that the Hon. Robert Lucas, who is almost the longest-serving member in this chamber—

Members interjecting:

The Hon. G.E. GAGO: He is? I thought the Hon. Mr Dawkins might have been.

Members interjecting:

The Hon. G.E. GAGO: No? I beg your pardon. The Hon. John Dawkins just appears to be much wiser than the Hon. Robert Lucas at the moment.

The PRESIDENT: The Hon. Mr Lucas started when he was in nappies.

The Hon. G.E. GAGO: Well, all I can say is that it is a disgrace that he could bring a question of this nature to this place, when he knows only too well that these were matters of a highly sensitive nature. As I have said in this place before—

An honourable member interjecting:

The Hon. G.E. GAGO: A very sensitive nature. I have indicated in this place before that we know that a number of agency savings had to be made right across the board, right across government, and that included the South Australian Tourism Commission. We then had the Mid-Year Budget Review where a further $1.2 million in savings was required of the tourism commission. As I have said in this place before, it was obvious to me that there were going to be considerable challenges to be met to be able to meet all those savings within the time required.

I have been quite open in this place about the fact that I have had a number of meetings, obviously confidential meetings of a sensitive nature. They were sensitive because we were looking at ways of making cost cuttings and savings to an agency. Of course the number of people included in these discussions were limited.

The Hon. R.I. Lucas: Did it include him?

The Hon. G.E. GAGO: I have just said no; I have already answered the question, and I said no right at the beginning. It did not include him, and it did not include him in those early discussions because they were of a really sensitive nature. There were a number of options that I looked at, and I know that Jane Jeffreys was also involved in those discussions. A number of ways of trying to deliver these savings were discussed and considered and, as I have indicated in this place before, those options required other advice to test whether they were viable or doable.

That meant meeting with Mr Warren McCann. We also sought some legal advice, and not just on the position of Ian Darbyshire; as I said, there were a number of other matters that we considered as well as ways of delivering savings. I have been very open in relation to this. I have put all this information on the record in the past. I think it is a lazy and indifferent opposition, one that is just too lazy to come into question time with a new or novel question. They are a very poor excuse for an opposition.

TOURISM COMMISSION

The Hon. R.I. LUCAS (14:33): I have a supplementary question arising out of the minister's attempted answer. Given that the minister has just conceded that she was having these meetings with the independent commissioner and the legal adviser without the knowledge of Mr Darbyshire, when did the minister or the chair of the commission first advise Mr Darbyshire that the intention was to restructure the position from a full-time one to a part-time one and that he would be terminated?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:34): I don't know the exact date that he was informed, but it would have been within a day or two of the board making its recommendations. Whether it was the day before or the same morning I don't have that detail, but it was very close to the time of the board making its recommendation, I am advised.

TOURISM COMMISSION

The Hon. R.I. LUCAS (14:34): I have a further supplementary question arising out of the minister's attempted answer. Given that the acting chief executive, Jane Jeffreys, has stated that her current review is not considering the option of having a part-time chief executive officer permanently, how will replacing a full-time chief executive officer in Mr Darbyshire with another full-time chief executive officer after this review help meet $1.2 million in savings which the minister claims was the reason for getting rid of Mr Darbyshire?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:35): I thank the honourable member for his question. It is not just the $1.2 million; as I have said in this place several times before, that is $1.2 million in addition to other savings that are required.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: The role of the chief executive/CEO is to conduct a review to look at the restructuring of the organisation and other strategies to deliver those savings. What that new structure will look like is a matter that is under review, and I am not going to pre-empt that. I will wait to see the recommendations that are handed down by the South Australian Tourism Commission, and then I will consider them and make my decisions accordingly.

TOURISM COMMISSION

The Hon. R.I. LUCAS (14:36): I have a supplementary question arising out of the minister's answer.

The PRESIDENT: Without explanation, the Hon. Mr Lucas.

The Hon. R.I. LUCAS: Absolutely, Mr President. Is the minister indicating that the results of the review from the commission, whilst operational issues, will each be subject to a final decision by her as minister?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:37): My understanding is that the South Australian Tourism Commission operates at arm's length and independently of—

The Hon. R.I. Lucas: You just said you were going to independently review their decision.

The PRESIDENT: Order!

The Hon. G.E. GAGO: They will inform me of what they are doing and I will consider that and make any relevant decisions—

The PRESIDENT: The Hon. Mr Lucas should listen; he might learn something.

The Hon. G.E. GAGO: —within my responsibility.

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:37): I have a further supplementary question. What role will the manager, Mr Rik Morris, play in the review?

The PRESIDENT: You don't have to answer that.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:38): Thank you, Mr President. I thank the member for his question.

Members interjecting:

The PRESIDENT: Order! I have all the authority in here. I am the most authoritative person in here.

The Hon. G.E. GAGO: The opposition's obsession with Mr Rik Morris—

An honourable member interjecting:

The PRESIDENT: All right, well, tell Mr Ridgway to be quiet.

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

The PRESIDENT: Order! Do you want to listen to the minister? You tell the Hon. Mr Ridgway, your honourable leader, to be quiet, and the Hon. Mr Dawkins should be quiet, as well.

The Hon. G.E. GAGO: Thank you, Mr President. I find the obsession of the opposition with Mr Rik Morris absolutely fascinating. It is just incredible to watch this behaviour. Lots of people are employed by the government, and lots of people are employed in electorate offices and members of parliament's offices and ministers' offices. We employ lots of different people who have a wide range of really valuable skills and expertise.

Sometimes we even employ journos to come and help us with our media, so we employ all sorts of people with a wide range of different backgrounds, skills and expertise. Because Mr Rik Morris has been successful in achieving an employment position in the South Australian Tourism Commission there is some assumption that if you work for government you can never ever work again.

That is the underlying assumption: if you work for government you can never, ever work again and, if you do happen to win a job somewhere else out in the real world, that is somehow 'jobs for the boys'. There is this underlying assumption that you simply cannot work. That is it: once you have worked for the government you are never going to work again and, if you do, it is somehow jobs for the boys. It is an absolute disgrace because it is undermining the reputation of this very talented man. He is a hardworking man. He contributed an enormous amount in his job with the government.

The Hon. R.L. Brokenshire: Does he have Labor Party membership? Which faction?

The Hon. G.E. GAGO: In fact wouldn't have a clue what faction he is in. I don't know, and it doesn't matter. It is completely irrelevant.

Members interjecting:

The PRESIDENT: Order!

The Hon. D.W. Ridgway: Mr President, it would be much simpler if the minister just answered the question.

The Hon. G.E. GAGO: Mr President, I am answering the question.

The PRESIDENT: The government does not have to employ past Liberals every time it gives a job out.

The Hon. G.E. GAGO: And we employ a lot of those as well. We employ Rob Kerin, Mr Olsen; we have employed a number of Libs. We have employed Dean Brown.

An honourable member: John Olsen.

The Hon. G.E. GAGO: I did say Mr Olsen. As I have said, it is a snide innuendo that Mr Rik Morris is somehow involved in things that he should not be, got a job that he should not have got—which he won in an open, genuine contest. The job was advertised, he applied for it and he won it. He won it because he was the best candidate, no doubt. Time after time, the opposition brings his name up with this snide underlying innuendo that discredits this person. He does not have an opportunity to come in here and speak for himself, and it is continually undermining his reputation.

We know that South Australia is a fairly small state, so it is a disgraceful, dishonourable thing to do to keep coming into this place and suggesting that somehow Mr Rik Morris is involved in activities that he should not be and that he won a job in some untoward way. It is completely incorrect; it is a completely dishonest thing to be portraying in this place. The honourable member should be apologising to Mr Rik Morris, who is a hardworking man.

I have requested Jane Jeffreys to conduct a review of her organisation. She will conduct that, and I will keep waxing lyrical about the merits of Rik Morris, because of the disgraceful conduct of the opposition. I will stand here all day, because I am absolutely sick to death of him being maligned. It is not just Rik Morris, but there are so many others that the opposition comes in here and maligns, and it ruins these people's reputations in a dishonest and unfair and despicable way. I will take time and speak at length about how disgraceful that behaviour is.

I have requested that Ms Jane Jeffreys conduct this review, and she will conduct that review in any way she sees fit. What staff she involves; and how, what, where and why she conducts that review are matters for her. She is the CEO, and she has the skills and the responsibility to get on and do the job. No doubt she will involve whomever she sees fit to do that job. In terms of the issue of whether the future chief executive position will be a part-time or full-time position, that will be a matter for the review.

Members interjecting:

The Hon. G.E. GAGO: It will be an independent review, and it will be a matter for that review. In terms of the government's ability to direct the board, I do have powers to direct the board to change decisions it makes if I so wish, but I believe that it has to be tabled in parliament and made publicly available. So, there are powers there, albeit very limited powers, and they are powers that are required to come under public scrutiny.

VITICULTURE AND OENOLOGY SCIENCE AND INNOVATION AWARD

The Hon. G.A. KANDELAARS (14:46): I seek leave to make a brief explanation before—

Members interjecting:

The Hon. G.A. KANDELAARS: I will start again, if you like.

The PRESIDENT: Hear, hear!

The Hon. J.S.L. Dawkins: It 's supposed to be an opposition question, anyway.

The PRESIDENT: They have had eight. The Hon. Mr Kandelaars.

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

The PRESIDENT: You have had 30 minutes. There are other people here, apart from the Liberal Party.

Members interjecting:

The PRESIDENT: Family First might want a turn today, the Greens might want a turn, and the Hon. Kelly Vincent might want a turn. This show is not all about the opposition over here. The Hon. Mr Kandelaars.

The Hon. G.A. KANDELAARS: Thank you, Mr President. I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about wine.

Leave granted.

The Hon. G.A. KANDELAARS: Wine is South Australia's third largest single export commodity, making up 9.7 per cent of all South Australian overseas commodity exports. Will the minister inform the chamber of recent awards for the innovation in wine research?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:47): I thank the honourable member for his most important question. I am very pleased to be able to announce to the chamber this year's 2012 Viticulture and Oenology Science and Innovation Award for Young People in Agriculture, Fisheries and Forestry.

South Australia dominates the Australian wine industry, with just under half of all Australian vineyards situated in this great state. The $22,000 award is part of an investment into research, development and innovation in the Australian wine sector, and it is sponsored by three key stakeholders: the Wine Grape Growers Association, the Winemakers' Federation of Australia and the Australian government.

This year's award of $22,000, which was presented in Canberra last week to Dr Matthew Gilliham, was sponsored by the Grape and Wine Research and Development Corporation.

Dr Gilliham is a senior research scientist at the University of Adelaide's Waite Research Institute, School of Agriculture, Food and Wine, and the ARC Centre of Excellence in Plant Energy Biology.

The Waite Research Institute fosters the Waite campus as a globally preeminent research environment in agriculture, wine and food, and it invests in research initiatives, people and state-of-the-art infrastructure. It addresses key issues such as global food security and agricultural sustainability. Researchers at the Waite Research Institute are taking a holistic approach to agriculture, investigating soils to crops, value-adding to market chains, and human health.

The award will allow Dr Gilliham to draft the first sequence of a rootstock genome by comparing the 140 Ruggeri rootstock's genetic sequence, with the genome of the common grapevine, *Vitis vinifera*. Rootstocks are an important asset to Australian viticulture and 140 Ruggeri is one of the most commonly planted in Australia. Rootstock is a plant, or stump, which already has an established, healthy root system. It can be used for grafting a cutting or budding from another plant. The tree part being grafted onto the rootstock is usually called the scion.

The scion is the plant which has the properties desired by the propagator, and the rootstock is the working part which interacts with the soil to nourish the new plant. After a few years, the tissues of the two parts will have grown together, producing a single tree, although genetically it always remains two different plants. Grafted vines have been widely used in Australia for decades. Scions are drawn from the species *Vitis vinifera* and rootstocks are drawn from American species of the *Vitis* genus.

Over the next 12 months, Dr Gilliham will compare the 140 Ruggeri rootstock's genetic sequence with the genome of the common grapevine, *Vitis vinifera*. This research will help identify genetic markers for traits such as drought, salinity, root pathogen and acid soil tolerance that could improve Australia's rootstock breeding programs. It is hoped that sequencing will provide the important first steps in linking useful traits to genes, an approach that will accelerate breeding for key rootstock attributes and help support a competitive Australian wine sector. This is a major step forward in the science behind Australia's wine industry. I would like to personally congratulate Matthew on winning this award and I look forward to his continuing contribution to excellence in the Australian wine sector.

The PRESIDENT: I am sure every member of the council would join in congratulating South Australian winemaker Peter Gago on achieving world's best winemaker.

Honourable members: Hear, hear!

LEVEL CROSSING PEDESTRIAN SAFETY

The Hon. K.L. VINCENT (14:52): I seek leave to make a brief explanation before asking the minister representing the Minister for Transport Services questions concerning pedestrian safety at rail crossings.

Leave granted.

The Hon. K.L. VINCENT: Pedestrian safety at rail crossings has recently been promoted through a government advertising campaign in which the public were informed that, 'stepping in front of a train is like stepping in front of 1,000 horses'. According to the Department of Planning, Transport and Infrastructure:

> There are more than 340 incidents at level crossings each year in South Australia. Risk taking at level crossings, whether you are a motorist, cyclist or a pedestrian, is hazardous. Actions like queuing at level crossings, not expecting or looking for a second train, not paying attention to the railway level crossing signs or signals, running warning lights and evading boom gates can result in serious injury or death.

In relation to trains at level crossings, the public are advised that, 'some things are worth waiting for'. Following the tragic death of a constituent with an intellectual disability in November last year at the Lonsdale station, on 11 November 2011 I asked the minister a number of questions, including a call for safety at level crossings that serviced people with disabilities on the Noarlunga line, in particular.

Later, I found out that there were no white lines on one side of the Belair train line. This includes the station that services the Balyana facility for people with disabilities. The Belair line also services long heavy freight trains. On 14 February 2012, I asked a question of the minister about why white safety lines were missing. To date, there has been no public action nor announcements

on either issue from the minister, nor have the questions I raised in this chamber been answered. Therefore, my questions to the minister are:

1. How long should I wait for an answer to the question on rail crossing safety that I asked on 11 November 2011?

2. Similar to those at the Brighton Road pedestrian crossing in her own electorate, will the minister install automatic gates at pedestrian crossings that are used by large numbers of more vulnerable commuters such as children or people with disabilities?

3. How long should I wait for an answer to the question on rail crossing safety that I asked on 14 February of this year?

4. Will the minister take responsibility for any incidents that occur as a result of inadequate line marking at railway crossings?

5. Will the 'more than one train' signage rollout supersede the need for white safety lines at railway crossings?

6. Will the minister prioritise improved safety at crossings where freight trains pass in particular?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:55): I thank the honourable member for her most important questions and will refer those to the Minister for Transport in another place and bring back a response. I will certainly ask those questions expeditiously.

ANDAMOOKA

The Hon. CARMEL ZOLLO (14:55): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations about a recent community workshop held in Andamooka.

Leave granted.

The Hon. CARMEL ZOLLO: I understand that the minister was recently in Andamooka to attend a community workshop on land use planning. Will the minister please provide further information on this matter?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:56): I would like to thank the honourable member for her very important question. Members will recall that in February this year I informed the chamber of my support for the Outback Communities Authority's formation of a Town Management Committee to guide the future growth of Andamooka resulting from the impact on the town of the expansion of Olympic Dam. I indicated to the chamber that the government is providing resources to develop and implement a land use structure plan for the town.

On 20 March, a land use planning workshop sponsored by the Outback Communities Authority and the Andamooka Progress and Opal Miners' Association was held in Andamooka to give the community and local stakeholders the opportunity to have a say on what type of development should occur in the town in the coming years, what areas should be protected from development and what infrastructure is required to support the expected growth.

The workshop comprised two sessions: one for local stakeholders held in the morning and a second held in the afternoon for the general community, which I attended. Officers from the Office for State/Local Government Relations, the Outback Communities Authority and the Department of Planning, Transport and Infrastructure facilitated each session. Almost 80 residents and stakeholders were in attendance. When you consider the size of the town and the fact that the sessions were held at 2 o'clock in the afternoon when there were quite a few people at work, I consider the turnout to be quite excellent.

I did get a little bit of criticism—not of myself, but there was some concern that the people up there had not seen anyone from the opposition for many years. They did indicate that there used to be a very strong presence representing the regions and the outback in this chamber a number of years ago but, since Caroline Schaefer left, they had been left isolated. I did try to defend the opposition by explaining the fact that most of them live in the eastern suburbs of Adelaide now and in the foothills, so it was difficult for them to get up in the outback and look after

them. That is why I have taken them under my wing—to make sure they are getting some good service and representation.

I was impressed by the high levels of energy at each discussion table, and while there were differing views and ideas put forward, there was a shared passion by the community to help shape the way Andamooka will look in the future. The information received from the workshop is currently being analysed by the Department of Planning, Transport and Infrastructure and will help shape the structure plan for the town.

A draft plan will be provided to the Outback Communities Authority by the end of May for distribution to the workshop participants and other interested parties for review and comment. Once finalised, the structure plan will help guide future development in Andamooka through the identification of areas for future residential, industrial and commercial development; community services, such as education, health centres and aged-care facilities; community space that should be protected; and essential infrastructure, such as water and power supplies and waste and effluent disposal.

The plan will also provide a basis for the Andamooka Town Management Committee and the community to plan and prioritise services and infrastructure to meet the future demands of the town's growth. Also, while I was there, I attended a barbecue and opened their playground and community facility. It was attended by a couple of hundred people, so when I left there they did feel a little bit more loved than they have for quite a few years.

HEALTH AND COMMUNITY SERVICES ADVISORY COUNCIL

The Hon. J.A. DARLEY (15:00): I seek leave to make a brief explanation before asking the Minister for Industrial Relations, representing the Minister for Health, questions with regard to the Health and Community Services Advisory Council.

Members interjecting:

The PRESIDENT: Order!

Leave granted.

The Hon. J.A. DARLEY: The Health and Community Services Complaints Act 2004 provides for the establishment of the Health and Community Services Advisory Council. The function of the council is to advise the minister and the Health and Community Services Complaints Commissioner on the operation of the act on how to educate the general public on how to make a complaint in relation to health or community service and any issues arising from the resolution of such a complaint.

The council is to comprise a presiding member, two members representing users of health services, two members representing users of community services, two members representing health and community service providers, two members of a registration authority who represent the interests of the public, one member representing carers and one member with expertise in quality and safety standards of health services.

I understand Ms Jennifer Hall, the South Australian and Western Australian manager of a mental health service provider, has been appointed as a person representing users of health services. I further understand that Ms Athena Karanastasis, a program manager for a community service provider, has been appointed as a person representing users of community services.

The 2010-11 annual report of the Health and Community Services Complaints Commissioner shows that an amount of $30,500 was allocated to the advisory council. I understand that the council has met four times. My questions to the minister are:

1. Can the minister provide details of how members of the advisory council were chosen?

2. Have the last two positions on the advisory council been filled? If so, can the minister provide details on who has been appointed? If not, can the minister advise when the vacancies will be filled?

3. Does the minister think there may be a conflict of interest appointing a community service provider and a health service provider to represent the interests of users of community services and health services?

4. Can the minister provide a breakdown of how much each of the advisory council members received for the 2010-11 financial year?

5. Can the minister provide details on what matters the council has provided advice to the minister?

6. Although not required under the act, given the amount of public moneys allocated to the advisory council, can the minister advise whether the advisory council's considerations and/or recommendations are made public by way of a report other than the council's one page contribution to the Health and Community Services Complaints Commissioner's annual report?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:03): I thank the honourable member for his very important question. I will refer that to the Minister for Health in another place and get an answer back as soon as possible.

BUILDING REGULATIONS

The Hon. J.M.A. LENSINK (15:03): I seek leave to make an explanation before asking the Minister for State/Local Government Relations on the subject of truss regulations.

Leave granted.

The Hon. J.M.A. LENSINK: I understand that from 1 July changes to development regulations will mean that South Australian councils will be forced to inspect two-thirds of all buildings with roof-framed construction by a licensed builder. For most councils this is estimated to more than double the number of buildings they are required to inspect at an estimated cost of $230 per inspection.

I further understand that no additional funding has been made available by the government for these measures, which means that it will be footed by councils and, therefore, ratepayers and consumers. Officials from Alexandrina and Loxton-Waikerie councils have also expressed concerns over a statewide shortage of accredited building surveyors which will be exacerbated by this measure. My questions to the minister are:

1. Does he accept the Local Government Association's claim that the regulation changes will cost councils between $3 million and $4.5 million each year?

2. What steps have been taken to ensure there is not a decrease in other inspections relating to things such as swimming pools and general construction?

3. What steps have been taken to ensure long delays in building processes caused by the shortage of accredited building surveyors are mitigated?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:05): This question would probably be more appropriately directed to the Minister for Planning, so I will ensure he gets the question and provides an answer as soon as possible.

ADELAIDE FESTIVALS

The Hon. J.M. GAZZOLA (15:05): I seek leave to make a brief explanation before asking the Minister for Tourism a question about events.

Leave granted.

The Hon. J.M. GAZZOLA: In Adelaide we have been known to refer to the month of March as 'mad March'. This time of year there are just so many exciting things to do and see that perhaps we should refer to March as 'magnificent March' or 'marvellous March'. Will the minister tell the chamber about some of the successes of this year's March events?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:05): I thank the honourable member. He is quite right: March is indeed a full and exciting month for South Australia, and we are very lucky to have so much to choose from. We saw the opening of the Garden of Unearthly Delights and the opening night of the Fringe Festival last month. The Garden of Unearthly Delights seems to get bigger and better every year, and I hope that members were able to get down to Rundle Park and enjoy the live acts, food and drink for which the garden is so well known at night. The garden was beautifully lit and was really a sight to see.

Members may know that the Fringe opened on 24 February with the well-attended parade, and I am told that 21 different venues across the city celebrated opening night with a wide range of performances occurring. The parade saw the western side of King William Street spectacularly lit up, making a wonderful backdrop for the parade. I am sure members know that the Adelaide Fringe events are staged in pop-up venues in parks, warehouses, laneways and empty buildings, as well as established venues such as theatres, hotels, art galleries, cafes and town halls. It is a wonderful event that really showcases all that Adelaide has to offer.

The Fringe is affordable—many events are free—and the Festival always gives us the opportunity to enjoy comedy, cabaret, theatre, dance, art shows and events for children. Of course not all Fringe events are city based; many events are held in our beautiful regions, which is always pleasing to see. This year I am advised that the Adelaide Fringe saw 367,000 tickets sold, which is a 10 per cent increase from 2011.

The garden and Fringe are obviously not the only attractions in March: the Adelaide Festival was another fabulous arts event, which ran from 2 to 18 March. The Festival is well known for offering impressive shows, and I know that this year the production of *Streetcar* was much discussed. A huge variety of national and international artists bring their shows to Adelaide for the now annual Adelaide Festival.

The Hon. T.A. Franks interjecting:

The Hon. G.E. GAGO: There was a range of different views about the show, but it did create discussion. There really is something for everyone, with the Festival featuring theatre, dance, opera and cabaret and classical and modern music, and I am delighted that this year the Adelaide Festival saw more than 245,000 attendances.

WOMAD, of course, is another significant event held each March, this year from 9 to 12 March. WOMADelaide began in 1992 and really has gone on to become one of Australia's favourite festivals, held in the very beautiful Botanic Park. WOMADelaide brings some of the world's respected musicians, actors and visual artists to Adelaide. I am advised that this year WOMADelaide saw 87,000 attendances over four days.

Of course, March also saw the Clipsal 500 roar into Adelaide again from 1 to 4 March. This annual motor racing event attracts V8 supercar fans from across the nation and overseas and is held on the streets of the East End. The carnival also features a music concert every night and air displays. This year I am advised that the Clipsal saw 263,400 attendances. In fact, this is much more than just a motor race, being recognised on several occasions as the winner of the Major Festivals and Events category at the Australian Tourism Awards, to winning the best event series for many successive years. The Clipsal was in 2005 inducted into the V8 Supercar Hall of Fame. It was the first time an individual event has been inducted.

Other events held in March include the Australian Swimming Championships and the Clare Film Festival. I am advised that the swimming championships saw 33,500 tickets sold, which is incredible. I am sure members will agree that Adelaide in March has many exciting things to do and see, and I hope everyone had the opportunity to attend some of these wonderful events.

ADELAIDE FESTIVALS

The Hon. T.A. FRANKS (15:09): I have a supplementary question. The minister detailed how many tickets were sold for the Fringe. Will the minister provide information to this parliament about how many shows were cancelled and how many tickets remained unsold for the Fringe?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:10): I am happy to take that question and bring it back, but it really is incredibly disappointing to see a question of that nature asked. Talk about talking down the state! Nothing like talking down our state, bagging our state, instead of taking just a few moments to celebrate our achievements.

It would have been nice if the honourable member had got to her feet and acknowledged something positive, acknowledged the hard work and efforts of these people, acknowledged the success. No: bag us; bring us down. Really, it is very, very disappointing. It is that sort of attitude, that 'can't do' attitude, that really is a very negative drive in this state. We need a bit more upbeat, upmarket, can do, build us up, talk up our strengths, congratulate the achievers, congratulate the successes—that is what we want to see in this state.

The PRESIDENT: And we put the whole event on without cutting down one tree. The Hon. Ms Franks.

SAME-SEX MARRIAGE

The Hon. T.A. FRANKS (15:11): I seek leave to make a brief explanation before asking a question of the Minister for Tourism on the topic of tourism benefit for marriage equality and weddings in this state.

Leave granted.

The Hon. T.A. FRANKS: The findings of a recently released report—the 'Economic impact of extending marriage to same-sex couples in Australia' by the Williams Institute of the University of California—indicate that the net benefit to a state in tourism terms could range from $161 million to as much as $742 million over the first three years for any Australian state that first grants marriage equality. My questions to the minister are:

1. Is the minister aware of the findings of this report published by Professor Lee Badgett and Jennifer Smith of the Williams Institute?

2. Has the South Australian Tourism Commission conducted any research to assess the likely tourism economic benefits of South Australia being the first state to grant marriage equality rights to our citizens and to other citizens interstate?

3. If the South Australian Tourism Commission has not conducted any such research, will the minister provide a copy of this report to the South Australian Tourism Commission?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:12): I thank the honourable member for her most important question. Indeed, members would be well aware that I and other members in this place, particularly the Hon. Ian Hunter, have been long-time advocates for equality, including equality in marriage. I very much look forward to the day that same-sex marriage is considered to be marriage. I agree with the Hon. Tammy Franks most strongly that there are potentially great opportunities for this state. I can just see us being the wedding place for gay tourism.

The Hon. J.M. Gazzola: In March—'Marriage March'.

The Hon. G.E. GAGO: March is a good time. I am aware that there is a report, and I have not had an opportunity to read it yet. I have requested that I receive a copy of it and I will be most happy, once I have a copy, to pass that on to the SATC.

FRUIT FLY

The Hon. J.S.L. DAWKINS (15:14): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries questions in relation to random fruit fly roadblocks.

Leave granted.

The Hon. J.S.L. DAWKINS: On the recent Adelaide Cup long weekend, a random fruit fly roadblock was set up on the Sturt Highway, intercepting at Blanchetown a large number of vehicles using the road to enter or pass through the Riverland. A total of 366 vehicles were pulled over on Friday 9 March and Saturday 10 March. Of those 366 drivers, 103 of them were reported for introducing material into the quarantine zone. The random roadblock resulted in 180 kilograms of fruit being seized. This is an alarming figure, which shows just how many potentially infected fruit and vegetables are being introduced to the Riverland by drivers on a regular basis, particularly when random roadblocks are not in operation.

The Riverland and its producers are such an asset to this state, and the protection this area receives needs to be comparable to the region's importance to this state's economy. These concerns have been highlighted by my colleague the member for Chaffey in another place who, like many other food producers in the Riverland, is worried about the potential for fruit fly contamination in the quarantine zone should current strategies not be enhanced. My questions are:

1. Will the minister ensure that random fruit fly roadblocks will operate during the remaining long weekends this year, particularly over Easter and the Queen's Birthday weekend, when there is significant leisure traffic passing into and through the Riverland?

2. Considering that previous fruit fly quarantine roadblocks have operated only in the quarantine area for about 12 of the 72 hours of a long weekend, will the minister commit to extending the operating hours to protect the assets of this state that are featured in the Riverland?

3. Will the minister advise the council how many of the 103 drivers reported for introducing restricted material into the Riverland quarantine area on that long weekend will actually receive fines for these breaches?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:16): I thank the honourable member for his important questions. Indeed, fruit fly, and its management, are critical issues for South Australia. Fruit fly is the world's most economically significant horticultural pest.

Of course, we have a great legacy here in this state: South Australia is the only Australian mainland state or territory which is acknowledged as being fruit fly free for both the Mediterranean fruit fly and the Queensland fruit fly. Industry sources have indicated that area freedom for the Riverland provides the region with access to the US and Asian markets, with a net benefit of $3 to $5 a carton of citrus fruit. The value of this industry to the state is in the order of $600 million, I am advised.

A fruit fly exclusion zone encompassing the Riverland region of the state has been established under the Plant Health Act 2009 through the application of a quarantine zone. Under the terms of the quarantine order, home-grown fruit and vegetables that are fruit fly hosts must not be introduced into the exclusion zone. This is supported by a permanent quarantine station established at Yamba, between Renmark and Mildura, and signage and quarantine disposal bins at entry points to the exclusion zone. Random roadblocks are also operated at times of higher risk to the exclusion zone, such as when there are fruit fly outbreaks in the Adelaide metropolitan area.

Currently, three eradication operations are underway in the metropolitan area, and a random roadblock was established at Blanchetown on the Friday and Saturday morning of the Adelaide Cup long weekend. A total of 366 vehicles, including caravans and trailers, were inspected, and 181 vehicles (49.5 per cent) carried fruit and vegetables. Of those 181 vehicles, 78 (43 per cent) had valid receipts, and 103 were reported for introducing material into a quarantine zone (57 per cent).

The Hon. J.S.L. Dawkins: Will they be fined?

The Hon. G.E. GAGO: I am not aware of that. There were three expiation notices and 100 written cautions issued, I am advised. The 103 vehicles carrying fruit and vegetables without a valid receipt represented 28 per cent of the total number of vehicles inspected, and this figure increased from 16 per cent from previous random roadblocks held at Blanchetown.

It is very pleasing to see that these roadblocks are really effective. It is very disappointing to see the number of breaches that still occur. It is clear that people have really no idea how irresponsible those actions could be and the devastating impact it could have on our industry.

In terms of the timing of the roadblocks and their duration, those assessments are done by officers who seek to ensure maximum coverage during peak times and times when the risks are highest. I certainly leave them to make those decisions and assessments. They do an extremely good job and they try very hard to maximise coverage and vigilance in relation to fruit fly.

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the time and place appointed by the Legislative Council for holding the Conference.

SERIOUS AND ORGANISED CRIME (CONTROL) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

The Hon. S.G. WADE (15:22): It was a long second reading speech and, considering the responsibilities we have to Government House, I was hoping, in resuming my remarks, to indicate that I intend to conclude my contribution on this bill today and leave aside a number of issues that I was intending to address. Contrary to my earlier intention, I intend to raise those issues in the second reading on the Statutes Amendment (Serious and Organised Crime) Bill.

I think, in terms of the government facilitating the legislative program, we owe it to the Attorney-General to let him know the indicative position of the opposition on the serious and

organised crime legislation before the weekend break so that we can have further discussions over the weekend before the house resumes with the committee stage of these bills. In that context my remarks this afternoon will be relatively short, and we can continue with further discussion on the other bills.

In briefly concluding the point I was making about constitutional issues, I was indicating that the constitutional issues in relation to anti-association are more acute in 2012 than they were in 2008. Labor, having botched the first SOCA legislation, has reduced our flexibility. Following the Totani and Wainohu cases, anti-association laws are an area that lacks legal clarity and is increasingly an area of judicial activism.

As a state, we also have less flexibility because we cannot afford to lose the time that we have lost in the High Court challenges with Totani (both Supreme Court and High Court); we cannot afford to lose even more years in High Court challenges. We cannot afford to be wasting hundreds of thousands of dollars more in legal battles rather than fighting crime on the streets; and we cannot afford another High Court loss which emboldens the defiance of outlaw motorcycle gangs.

The Liberal opposition's concern in relation to constitutional issues is to minimise the risk that we will end up back in the High Court. The government indicates that it expects High Court challenges to the legislation and, if any of them are successful, not only would the legislation come back but, in my view, the outlaw motorcycle gangs would be re-emboldened.

I note that in drafting the bill, the Attorney-General tells us that he was strongly influenced by the benefit of consistency in the legislation between the states with similar bills, particularly South Australia, New South Wales and Western Australia. If the legislation is similar, we are told, a challenge to one would be supported by the others, thereby sharing the costs and, of course, the lessons from the litigation against one could be shared by the others.

South Australia does vary in significant ways from both the Western Australian and New South Wales bills, and I think it would be fair to say that it differs in ways that are more likely to be constitutionally challenging before the High Court. In that context, if there is going to be an attack on one of those three, or related legislation, it is likely to be the South Australian one, so I really question and do not understand why this Attorney-General, given South Australia's track record in terms of High Court challenges, and given the point he makes about the benefits of consistency, has gone out on a limb on so many of these issues.

The concerns the opposition has in relation to these bills could be summarised into a set of three concerns. Firstly, we are concerned to enhance the prospects of the bills being effective in controlling serious and organised crime, and in my earlier comments I stressed that we note the concerns about the effectiveness of the anti-association legislation.

Secondly, we are concerned that the legislation needs to be targeted on criminal organisations and does not unnecessarily impact on law-abiding South Australians. Thirdly, we want to minimise the risk that the legislation is unconstitutional so that the litigation does not impair the implementation of the scheme and the taxpayer is not put to unnecessary legal costs.

These three criteria raise a host of concerns in relation to the bills, and if we were to fully explore these issues through amendments and dialogue between the houses, it could engage the council, and for that matter the parliament, for an extended period. After 2½ years of delay, South Australia cannot afford that process, and so we were forced to consider what else we could do to deal with the issues this legislation raises for us.

Many of the concerns are about the use of police and prosecutorial discretions. In that context, we are mindful of the fact that a number of the concerns we have had in relation to legislation in recent years, and for that matter concerns of legal stakeholders and so forth, have not in fact materialised, not because the legislation was tightly drawn but because the police and prosecutors have shown wisdom and restraint in their use of the laws and have, as we would expect, respected the rights of law-abiding South Australians.

In that context, we are willing for the legislation to be enacted substantially as drafted, in the context of oversight. What do I mean by 'in the context of oversight'? In the consideration of this legislation, the opposition established what we called the 'Liberal anti-gangs task force', which was a subcommittee of the shadow cabinet which sought submissions from a range of stakeholders on the legislation. That was a very useful process, and in my second reading contribution on the other bill I will give a fuller overview of the stakeholder perspectives but, in the context of what needs to

be a short contribution this afternoon, I would like to pick up on a particular contribution from the Commissioner for Victims' Rights.

The Commissioner for Victims' Rights, Mr O'Connell, suggested to the task force that he had a number of concerns about the bill and that he thought there would be value in a parliamentary committee to oversee the issue of serious and organised crime. The Liberal opposition has come to the view that that is a good suggestion and we believe that an oversight by such a committee would encourage restraint in the use of powers.

As I said before, we have seen that restraint from police and prosecutors over recent years. We look forward to that wise use of the law moving forward, but we also think it is appropriate to support that reflective approach through appropriate accountability to a parliamentary committee. It enhances the accountability of law enforcement authorities and builds the capacity of the legislature to develop the legislation over time.

In that context, of course, we do not want proliferation of parliamentary committees in this parliament. But members would be aware that the government has undertaken to introduce an independent commission against corruption and that it is common practice for such commissions to have a parliamentary oversight committee. In that context, we are interested in the comments that Mr O'Connell was making about the interrelationship between organised crime and corruption.

We are proposing to the parliament that, given that linkage, it would be appropriate for the committee that is providing oversight for the independent commission against corruption to also provide oversight in relation to implementation of serious and organised crime legislation. I would hope that the committee spends very little time on serious and organised crime in the sense that, if the laws are seen to be applied appropriately, the time needed for the committee to address issues coming out of this legislation might be relatively small.

In relation to the process of the interaction between the ICAC bill, which is yet to be tabled, and this legislation, we will be moving an amendment to this bill. It may well be necessary, in the context of the ICAC legislation, to finetune the amendment to this bill, but we think that is an important part of putting in place legislation that can provide appropriate oversight to minimise the risk of law-abiding South Australians being unnecessarily impacted by this legislation and to minimise the risk of unconstitutionality and to ensure the effectiveness of the legislation dealing with outlaw motorcycle gangs.

In that context, the Liberal Party will be offering three sets of amendments. The first set of amendments we will be insisting on. One is to provide a review of the legislation, and the other is to provide for the parliamentary oversight committee. In the context of the review, the government has already accepted that in the lower house. We welcome that, and we look forward to a similarly constructive approach in relation to the parliamentary oversight committee.

We are developing two further sets of amendments. But in the context of facilitating the passage and the implementation of the legislation, that will be predominantly through dialogue with the government, encouraging the government to take amendments on board. With some amendments, we will reserve the right to move and divide in this parliament to put issues on the record but, as I have said, we are keen to facilitate the passage of this legislation through the parliament, following due scrutiny but not in such a way as to endure delay.

We look forward to the committee consideration of the legislation next week. Having said that the opposition will not be insisting on amendments, we will be taking the opportunity to highlight concerns about clauses. As I said, we have a large number of concerns, and we would like to get them on the record. If you like, it is almost the menu, or the task list, for the parliamentary committee to keep an eye on these and other issues that they themselves become aware of.

There may well be issues which the legal stakeholders and/or the opposition have identified in the legislation and which emerge through implementation as issues for concern. With those words, I conclude my comments on the second reading of this bill. I will provide more extensive comments at the second reading of the statutes amendment bill next week. I look forward to the committee stage of both bills in the days ahead.

The Hon. CARMEL ZOLLO (15:34): The good reputation of the state has for too long been blighted by those who would wish to bring violence to our streets. I am certain that none of us would want to see innocent bystanders caught out and possibly pay the price for the reckless behaviour of those organised crime groups in South Australia.

A strong message needs to be sent to these groups that this behaviour will not be tolerated in any circumstance. This is exactly what the government is seeking to achieve with the package of legislation which the Attorney-General, the Hon. John Rau, has introduced into this parliament. The bill currently before this chamber is an essential element of this package, finally giving our law enforcement agencies the ability to effectively deal with organised crime in this state.

It is often difficult to balance the need to protect the public from the scourge that is organised crime, as well as protect individual rights and liberties, which are central to our democracy. As the Attorney-General has made mention of in the other place, every effort has been made to consult with all stakeholders, including the Legal Services Commission, the Commissioner of Police as well as the judiciary.

This consultation process was undertaken in light of the 2010 decision by the High Court to strike down elements of the original legislation which it felt did not allow for proper judicial independence when administering the control orders. The government has ensured that the bill before the chamber, whilst allowing the necessary powers for law enforcement authorities to attack organised crime groups, will continue to protect the individual rights and freedoms of South Australians.

I expect all members would have received correspondence from the South Australian Police Association regarding the proposed amendments of the proposed legislation. I think it appropriate to place a few of these comments on the record, especially in relation to the government's efforts to address the High Court's concerns. I have a couple of quick quotes from their letter:

> Quite apparent to the Police Association is that the bills tabled by the government, respond directly to the concerns of the High Court in the decisions of Totani and Wainohu. They appear to have been framed to withstand constitutional challenges in the future.

It goes on to state:

> It appears to the association that, in relation to the repair bill, the government has engaged in a thorough process to find amendments that achieve this aim.

The Police Association's comments certainly indicate that government is making the right decisions when it comes to tackling bikie violence in our community.

I would now like to highlight some of those amendments in the bill that the government believes will ensure that the legislation before us meets the requirements set down by the High Court. As the Attorney-General has previously made mention of, the government will remove the provision that enabled the attorney-general of the day to make declarations against a particular organisation. To ensure complete judicial independence from the executive, the eligible judge model will be introduced, the same model which I understand is used in other jurisdictions such as Western Australia and the Northern Territory.

Additionally, the admission of evidence from previous court proceedings may be used by the presiding judge in their decision on whether or not to make a declaration against an organisation. This will ensure that the correct decision is made and the group is not allowed to hide behind the laws of evidence. In a further effort to ensure that the legislation will stand up to judicial review, submissions for control orders against an individual will have to be lodged by the police commissioner directly to the Supreme Court.

This bill, whilst addressing the concerns held by the High Court in its Totani and Wainohu decisions, also seeks to build on the existing legislation introduced by former attorney-general the Hon. Michael Atkinson in 2008. The government has introduced provisions to allow for confidential witness statements to be used as part evidence in the declaration process. The insertion of the provision will finally give victims and former members of the offending organisation the ability to come forward and give evidence against them.

I think one cannot overstate the importance of this provision. For many years now, police efforts to take down gangs have often been frustrated by the difficulty in attaining reliable information of the activities which has meant that mounting a successful prosecution is extremely difficult. This has been a result of the constant intimidation and acts of violence against those who would seek to assist law enforcement to bring down these organised crime gangs.

Whilst I do not want to go over what the Attorney-General has previously said, I would like to quickly run through a few other of the new provisions that have been included in the proposed legislation, namely the introduction of a civil remedy. All members will be liable to pay damages

where a member of a prescribed organisation is found to be civilly liable by the courts where it has been proven they have been involved in illegal activities on behalf of the organisation. This approach will enable our law enforcement bodies the means to financially cripple these organisations, severely curtailing their activities.

Along with the civil remedy, it is the government's intention to make it an offence to recruit new members to a declared organisation. Proposed penalties for doing so could result in up to five years gaol. The Attorney-General, as mentioned in the other place, is seeking to disrupt gang activities even further by making it an offence to make premises regularly available to members of a declared organisation and also an offence to be involved in an organisation which knowingly gives safe haven to members of declared criminal entities.

This bill is about choices—the choice of whether we want a state where the rule of law prevails or one where the general public is held hostage to the interests of organised crime. With this legislation the government has taken on board the concerns of the High Court in regard to the act as it currently stands. The amendment bill before us will ensure that this act operates completely independent of government, ensuring that the only people with anything to fear are those who would terrorise our streets.

Essentially this legislation, as I have previously mentioned, will finally allow our police force the power to disrupt these criminal elements out of existence, making this state a far safer place in which to live.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:43): I take this opportunity to thank honourable members for their second reading contributions. This is an important piece of legislation. It is part of a raft of strategies that this government has put in place—a series of measures that we have put in place to assist us in combating organised crime. As I said, I thank members for their second reading contributions and look forward to the committee stage.

Bill read a second time.

At 15:44 the council adjourned until Tuesday 3 April 2012 at 14:15.