LEGISLATIVE COUNCIL

Wednesday 11 September 2013

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 11:00 and read prayers.

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (11:01): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time and statements on matters of interest, notices of motion and orders of the day, private business, to be taken into consideration at 2.15pm.

Motion carried.

PORT PIRIE SMELTING FACILITY (LEAD-IN-AIR CONCENTRATIONS) BILL

Adjourned debate on second reading.

(Continued from 25 July 2013.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (11:02): I rise on behalf of the opposition to speak to the Port Pirie Smelting Facility (Lead-in-Air Concentrations) Bill. The Labor government has wasted a lot of time fumbling over securing the Nyrstar operation for South Australia. With a great deal of Port Pirie's future hinging on Nyrstar, there has been understandably a great deal of tension and nervousness for the people of Port Pirie. This much-needed upgrade is something the state Liberals have been pushing for over a number of years. We recognise that it is not just a plan for the facility but a plan for the whole city and the whole region as well. To quote a document we received under FOI, we saw that if Nyrstar were to:

...close or further restrict its operation, there is limited potential for significant numbers of displaced local job seekers to remain living and employed in Port Pirie. The nearest major town, Port Augusta, is 80km away. A 30% reduction in the town's population is a realistic possibility.

In addition to the social dislocation, the key economic impacts of a closure of Nyrstar's operation include:

- up to half of the town's labour force of some 4,743 people may be adversely affected;
- an estimated total annual wage loss to the community of between $70 million and $100 million; and
- potential loss in house values estimated at $126 million for each 10 per cent drop.

Nyrstar is a great regional employer and exporter, which adds significant value to our mineral exports. These are important matters to point out so that we are aware of the significance of this bill. As mentioned, we do not believe the government has treated this issue with the urgency that it deserves. However, we are pleased that this action has now been taken and, from the moment of the announcement, we have supported it.

Over its 124-year history, the Port Pirie smelter has faced receivership or closure. It has progressed from servicing all production of lead, zinc, copper and silver and other precious metals. A major upgrade of the smelter is necessary, not just to meet the environmental standards but also to give Nyrstar the flexibility it needs to react to market changes and potentially process an increased number of products.

There has been some concern about the nature of the bill. Even though it talks about lead-in-air concentrations, clearly this is an economic bill. Some would say that, because it talks about air quality, it is an environmental bill, but it is not—it is an economic bill. This is one of the reasons that the Environment Protection Act is not being used. There are no economic provisions in that act for capital improvements. This is the advice we received from the department, including the founding director of the EPA.

As we know, Nyrstar sought considerable third-party investment for this project, $250 million in total. Those investors want a reasonable level of assurance, because without that assurance it could potentially be a high-risk investment. The first assurance made by this legislation is the environmental regulatory certainty. Once the EPA sets an air-quality standard

(which on my understanding is after the new smelter is in place, it would take about six months of negotiation with the EPA), then they would not be able to change that air-quality standard without consultation with the minister and Nyrstar.

Importantly, we have to understand that this is a new enclosed bath smelting technology which, for these days, is the world's best practice. On my understanding, it reduces—or almost prevents—airborne emissions from the smelter. Studies so far completed predict the upgrade will achieve about a 50 per cent reduction of lead in the air which would be an excellent environmental outcome. My understanding is that, while virtually nothing would escape into the air from the smelter, some particles may still escape into the air with the bringing in of the material to be smelted and some of the other processes, but nonetheless it is a significant step in the right direction.

It is clear that Nyrstar is aiming for an excellent facility but, notwithstanding that, attitudes towards health issues like lead in air can change quickly and gain global traction, sometimes without any scientific basis. Nyrstar and its investors need the assurance that the EPA could not react abruptly in such circumstances to the detriment of the operation. Some people have asked, 'Why can't the reduction be 100 per cent?' There are matters to be dealt with on the Nyrstar site apart from the upgrade that will need to be addressed, but, as I said, this is a step in the right direction.

So lead-in-the air reduction is the target, and the specific target is to be set by the EPA, but, more importantly, is the outcome—a reduction in lead levels in the blood of young children. I think the current Australian guidelines indicate that the concentration is 10 milligrams per decilitre. I am advised that we hope to see an increase over time of between 75 to above 85 per cent of the children in Port Pirie with lead in their blood below that level. Understandably, it will not happen overnight and there perhaps maybe a time lag of some five to seven years.

Once the upgrade has taken place, deposits of lead will diminish as homes and infrastructure are upgraded and cleaned up. Members understand that it is often the dust that falls, and when small children touch something dirty they can lick their hands or touch their face and, of course, that is how the children ingest this lead. So with less and less going into the air over time there will be less and less for the children to pick up.

It is also promising to see that both the government and Nyrstar are directing money into a program called TLAP (Targeted Lead Abatement Program) which works further to reduce that last 15 or so per cent of children with lead levels outside the targeted range. As mentioned, the department recognises that continuous improvement of the smelter is needed and that we hope governments on both sides of politics will continue to work with Nyrstar and the Port Pirie community to achieve that outcome.

Speaking of working with the Port Pirie community, I understand that the Public Environmental Report—the sort of equivalent to an EIS—is in its final week of consultation and to date no comments have been received. I think it indicates that the community is very excited about the project and sees it as a great step forward because it secures the viability of the community and has some significant health impacts and benefits for the children. I was advised yesterday morning that throughout discussions over the upgrade the topic of the US standards has arisen and that the United States has a lower level of air quality, but a higher standard than Australia.

Firstly, there is an Australian air standard, which is the amount of lead to be emitted into the air. That level is 0.5 micrograms per cubic metre in Australia. It is a licence limit imposed on Nyrstar by the EPA based on a national environmental protection measure and it is currently the best practice. It is interesting that Nyrstar are only ever at about 80 per cent of that level. It is constantly about 0.4 micrograms per cubic metre from the information that we have been provided with. There is some word that the USA is moving to 0.15 micrograms per cubic metre. I would like to highlight that the USA has no smelters; they have all closed. Perhaps the signalled reduction of that limit was what closed them.

Secondly, the National Medical Research Council sets a guideline for lead in blood levels: it is 10 micrograms per decilitre. It has been raised that this guideline is under review and may be decreased to five, which is the guideline in the USA. I would like to highlight that this is not accurate. The equivalent guideline is 10, but five is a level to set for a trigger for a further review. It is a subtle, yet important difference. I have toured the Nyrstar facility several times and I am well aware of the desperate need for an upgrade. I have spent time in the Port Pirie community and I know they have been looking forward to this project.

With the outcome of Saturday's election, I am happy to see the eventual removal of the crippling carbon tax which will also breathe new life into Nyrstar's operation. Nyrstar will continue to endure the burden of the highest tax regime in the nation, along with our state's poor economic conditions. The public will now entrust this Labor government to properly manage the transformation of the Nyrstar operation. The public will look to Labor to succeed in areas of past failure. They will rely on Labor to thoroughly examine the environmental concerns. They will rely on Labor to oversee the development process, which is fully transparent and engaging of the community, and they will rely on Labor to make sure Nyrstar does not collapse. They will try to ignore the fact that companies like Mitsubishi and Holden have either folded or become less viable under Labor's watch.

As at June this year, Labor had lost some 18,500 manufacturing jobs since the 2010 election. Now we need a bipartisan approach to secure full-time jobs at Nyrstar. We simply cannot afford the collapse of another manufacturer. With those few words, I indicate the opposition will be supporting the bill.

The Hon. G.A. KANDELAARS (11:13): I rise to support the Port Pirie Smelting Facility (Lead-In-Air Concentrations) Bill on behalf of the government. The purpose of this bill is to provide regulatory certainty for Nyrstar at Port Pirie. Without this certainty, the proposed investment in the transformation would not happen and the benefits would not be realised. The ultimate progression of the transformation is dependent on the successful completion of the feasibility and engineering studies which are expected by the end of this year, with Nyrstar expected to make a final decision to invest in the transformation in early 2014.

A positive decision will see an investment of $350 million to transform the current smelter to an advanced state-of-the-art, enclosed bath, polymetallic processing and recovery facility, with the project moving into construction in 2014 and commissioning of the new plant expected by early 2016.

The current Nyrstar smelter at Port Pirie is a sinter plant and this is the primary source of lead emissions today. The proposed transformation project will replace the existing sinter plant with international best practice enclosed smelting technology. This best practice technology is expected to improve the lead in air by at least 50 per cent. This expectation is consistent with evidence from smelters currently operating in Belgium and Canada.

There is also an expectation of a 90 per cent reduction in sulfur dioxide emissions. In fact, an example of this technology is the Umicore smelter in Hoboken, Belgium, which uses the enclosed bath smelter technology and is located in a suburb of Antwerp. Such a technological transformation of Nyrstar Port Pirie's smelting facility is consistent with the move towards advanced manufacturing economy for South Australia.

As I said, this bill is aimed at providing the necessary regulatory certainty for Nyrstar to invest in the transformation of the existing Port Pirie smelter to a state-of-the-art ore processing facility that will be capable of not only processing lead ore concentrates but other ore concentrates in a way that substantially reduces the environmental impact on Port Pirie and its environs. This will ensure an ongoing future for the iconic town of Port Pirie and unlock substantial benefits for the local community and the broader region.

The current Nyrstar Port Pirie facility is one of the world's largest primary lead smelting facilities and the third largest silver producer. It plays an important role not only for the regional economy but also for the state's economy. The existing Nyrstar smelter directly employs more than 850 people, or around 17 per cent of the working population of Port Pirie. It is an integral part of the fabric of the Port Pirie community.

The existing smelter has been a significant contributor to the regional economy for over 120 years. In 2012, Nyrstar Port Pirie produced a significant amount of commodity grade lead, zinc, silver, copper cathode, gold and sulfuric acid. For the record, 158,000 tonnes of lead metal, 31,000 tonnes of zinc metal, 3,000 tonnes of copper cathode, 13.8 million ounces of silver and 56,000 ounces of gold.

Nystar's value-add contribution to the South Australian gross state product is around $518 million per annum. It contributes some $1.6 billion to the value of the state's economic output, including an average annual contribution to exports of around $755 million. Nyrstar Port Pirie also contributes just over $100 million in taxes.

I will quote from the House of Assembly's Select Committee on Port Pirie Smelting Facility (Lead-in-Air Concentrations) Bill report. It states that this bill does two key things. Firstly:

> Section 4 provides that, for a period of 10 years following the date on which the EPA sets the maximum lead-in-air condition in the operating EPA licence for the completed project, the EPA may not vary that condition except in circumstances where the variation has been either approved by the Manufacturing Minister or where the company has consented to the variation. This section relates only to any conditions of the EPA licence that set the maximum permissible concentrations of lead-in-air in Port Pirie.

Secondly:

> Section 5, modifies the law of the State to the extent that any requirement that would have the effect of reducing the maximum permissible concentrations of lead-in-air at licensed locations in Port Pirie does not apply, unless a determination is made by the Manufacturing Minister that a particular law or authorisation does apply. The Manufacturing Minister may only make such a determination in one of two defined circumstances;
>
> 1. either the company has consented to the making of the determination, or
>
> 2. the Manufacturing Minister has undertaken consultation with both the company and, where the requirement arises under an Act, with the Minister to whom the administration of the Act is committed.
>
> Section 5 operates from the commencement of the act for a period of up to 4 years, and then, if the defined project completion date is achieved during that initial period, for a further 10 year period.

I reiterate that this bill has been constructed to provide an appropriate level of certainty to ensure that Nyrstar and its investors can commit to the massive investment of $350 million to achieve the transformation, whilst taking into account the interests of the South Australian community and, in particular, the Port Pirie community.

Again, I quote from the House of Assembly Select Committee on the Port Pirie Smelting Facility (Lead-in-Air Concentrations) Bill report in relation to the health improvements expected to result from the Nyrstar Port Pirie smelter transformation:

- The key health benefit of a successful transformation is that emissions of lead will be significantly reduced, along with reductions in emissions of other pollutants like sulfur dioxide and carbon dioxide.
- The expected impact of this is an increase in the number of children with blood lead levels below the National Health and Medical Research Council's guidelines from the current level of 77.8 per cent of Port Pirie children tested in 2012 to at least 90 per cent.
- With ongoing emissions reducing, the work of cleaning up the contamination that has built up over 120 years is likely to have a greater impact.
- Most importantly, continued commercial operations of Nyrstar Port Pirie will ensure ongoing funding for the targeted lead abatement program that is being developed by the state and Nyrstar and is intended to address health risks in children with elevated blood lead levels. This program will drive additional reductions in blood lead levels and is expected to further increase the number of children meeting the guidelines from 90 per cent to 95 per cent.

In conclusion, the jobs of thousands of people depend on Nyrstar's Port Pirie facilities continuing to operate. Direct wages and salaries paid to these individuals total about $270 million each year. Much of this goes straight into the local economy; the rest ripples out into the wider economies of the region and this state.

The transformation of the Nyrstar Port Pirie smelter to a state-of-the-art, enclosed bath smelting facility, operating at world's best practice, will not only bring significant health and environmental improvements but will also ensure the ongoing wellbeing of Port Pirie and the surrounding region. I commend this bill to the council.

The Hon. J.M.A. LENSINK (11:23): I will be brief—

The PRESIDENT: Not too brief.

The Hon. J.M.A. LENSINK: —but not too brief. The leader, the Hon. David Ridgway, put a number of comments on the record in relation to the bill, and I support his remarks. This is a very important bill for Port Pirie and for South Australia. I see it, in some ways, as being quite similar to the BHP indenture and the issues relating to that, because the inherent need for it is to mitigate risk to enable that operation to undergo the transformation.

I do not see how anyone could find any negatives in this in terms of what it will mean for the future of Port Pirie. It will result in much cleaner emissions, and that is obviously a very good thing. I am very conscious of the fact that Port Pirie gets quite tired of being picked on in the media and having a reputation because of the lead smelting that takes place and the pollution that has arisen from that.

I was talking to Kendall Jackson (the candidate for Frome) about this issue. She says that the city has missed out because it has had this thing held over its head for such a long time. She says that this needs to happen as soon as possible and she is looking forward to a positive future for Port Pirie with this transformation.

Some $350 million worth of funding is going to back the transformation: $150 million from the commonwealth through the Export Finance and Insurance Corporation—and I understand that this is the first such transaction that has ever been undertaken by that organisation—$100 million supported by the state government and $100 million from Nyrstar. This will enable the upgrade of the operations there. It is one of the last lead smelters in the world. I think it might actually be the oldest lead smelter in the world, so clearly a lot of investment is required to bring that up to modern standards.

If Nyrstar were to exit Port Pirie then this state would obviously be left with a significant liability, so that is something to be borne in mind. I think this is a good, cooperative solution to enable this company and the people of Port Pirie to be able to continue those operations and, at the same time, reduce the significant amount of emissions that previous speakers have talked about.

We have had the Ten by 10 program for some years, which has been aimed at reducing the blood lead levels in children. I think it may well have plateaued in terms of the reductions, and this upgrade is certainly going to have a big impact on reducing lead levels for the local residents for some time.

I understand that the EPA will retain its licensing role, set the initial standard, but the manufacturing minister has the ability to approve any changes to that within the first 10 years. Also, this must come back to parliament if those initial levels are to be changed by the EPA. Any changes to those standards will require consultation with all relevant parties, and obviously that will be instructed by continuing understanding through research in that area.

I did say that I was not going to speak for very long, and I think that probably covers the matters I want to mention. From an environmental position and for the people of Port Pirie, I think this is a positive outcome and I look forward to the investment upgrade of that plant and the continuing operations for the benefit of South Australia.

The Hon. M. PARNELL (11:28): The parents of children in Port Pirie should not have to choose between having healthy kids and having a job, and I do not think anyone would disagree with that. We want them to have both: we want the pollution of the children that has taken place for over 100 years to end and we want to see a vibrant economy, including an industrial economy in Port Pirie. As has been said, the smelter is an integral part of the local economy. It provides considerable employment, and the Greens, along with everyone else, wish it to succeed and prosper, but we want it to do so in a way that does not damage the health of the local community.

This bill, in fact, does not represent a guarantee of healthy children—it does no such thing. What this bill is is a complete vote of no confidence in the ability of the Environment Protection Authority to carry out its statutory function appropriately. It is a vote of no confidence. This bill says that the parliament, the government and the opposition do not trust that the EPA will apply its mandate to protect the environment, to protect public health properly, they cannot be trusted to do their job, therefore the parliament needs to step in and legislate away their powers. Make no mistake about it: the reason this legislation is needed by the government is because it directly infringes the Environment Protection Act.

Under the Environment Protection Act there are two important matters in which the independent EPA is at arm's length from the state government. Those two things are licensing and enforcement. The reason that in those two areas the EPA is at arm's lengths from government is pretty clear—you do not have to think about it that hard. They need to be independent in relation to licensing, otherwise you would have a corrupt situation where a minister would say to the EPA, 'You make sure you give my mate a licence.' People would not stand for that; they would say, 'That's outrageous.' A licence should depend on a scientific assessment and a health assessment by the EPA and not on ministerial whim.

Similarly, enforcement of pollution laws is an area where the EPA is at arm's length from government, because you cannot have a minister of the Crown saying to the EPA, 'Don't you dare prosecute my mate, you leave my mate alone.' That is what would happen if the EPA was not at arm's length. Those two areas are the only two areas under the legislation where the EPA is at arm's length. This bill attacks the first of those areas. It is saying that the EPA is no longer at arm's

length from government, the EPA is bound by decisions made by people other than its own board. Those decisions are in relation to changes to lead pollution levels.

This bill is a slap in the face to the EPA, and I know that the minister's advisers will be listening to these contributions and a question I pose now in my second reading contribution is: what was the response of the EPA to this bill? Was it consulted, did its board consider it, were submissions made and, if so, what were those submissions? Was it happy to simply put up with legislation that took away its independence or did it have something to say about it?

Another aspect of this bill that I think is frightening is that it compounds what has been known for some time in corporate circles, namely, that the government is a pushover, that all you need to do to get your way with this government is to threaten to close, threaten to move interstate or threaten to move to China and, having frightened the government that that might happen, you then put out your hand for money and you also put out your hand for special legal protection from the laws with which every other company in this state has to comply. That is now the new model. I say 'new' because it actually has been around for a little while.

Members would remember the Whyalla Steelworks legislation in 2005: fairly similar, in that the EPA was requiring OneSteel to do more to reduce its pollution. The company then went screaming to the government and said, 'You need to protect us from the EPA', and the government said, in the fashion of Joh Bjelke-Petersen, 'Don't you worry about that,' and it introduced special legislation into parliament effectively to nobble the EPA. We saw it in 2005.

It has been seen again in relation to the BHP indenture, where the most common answer to questions asked in this place about why concessions were made to the world's richest resource company was almost invariably, 'Because they asked for it,' or 'Because they insisted on it.' As a result they got special treatment. It still was not enough to get their project over the line, which actually raises the question about whether so-called regulatory certainty is the deal-breaker that companies make it to be.

Members can cast their mind back to the Penola pulp mill. The only way that project was going to get up was special legislation in parliament, a special deal, and no environmental impact statement. The parliament bent over backwards for those proponents and there was still no pulp mill; it did not happen. What is disappointing about this debate is that we have known what a lousy negotiator the state Labor government has been, but by the contributions of the Liberal opposition they intend to follow in exactly the same footsteps.

If Holden was in breach of pollution standards or struggling with meeting standards, then I reckon we would see legislation as well as public money going in that direction as well. The question then arises: why is it that the government and the opposition have no faith in the ability of the EPA to do its job properly? Let's have a look at the track record. Again, I will ask the minister (I know her advisers are listening): can you outline the number of cases in South Australia since the Environment Protection Act came into operation in 1994 where the EPA has effectively shut down a polluting industry by changing the pollution standards? I bet you they will not find a case.

There are certainly cases where industry has closed down, but you will find they have closed down for economic reasons or because they lost a client, or for other reasons. I am not aware of any case where the EPA has, using public health science best available information, modified a pollution licence and where that was the deal clincher that forced companies to close. It does not happen. It has not happened and it is not going to happen in this case. Yet the government has been, I think, blackmailed and hoodwinked by Nyrstar into thinking that the only future for smelting in Port Pirie is if special legislation is passed.

When you go to the minister's second reading speech, the minister refers to the Port Pirie transformation task force. It refers to the deal that was struck between the government and the company and then goes on to say:

> The State providing regulatory certainty is a cornerstone of this agreement. Without that certainty, the investment in the Transformation would not happen, and the benefits would not be realised.
>
> Put simply, this Bill provides that regulatory certainty.

What that says is that the government has effectively caved in and said, 'We are prepared to legislate to nobble the EPA as one of the conditions of the smelter going ahead.' Of course, we will not know for some time whether the smelter will go ahead, but I bet you in the boardroom it is not regulatory uncertainty that is really at the heart of the decision-making process, just as that was never the issue with BHP Billiton. It was all about the cost of production. It was all about the

projected price of copper in China in 30 years' time, and it was nothing to do with regulatory certainty. Yet here we have this bill.

The issue at stake, as I have said, is jobs and the health of the Port Pirie community. As other members have said, the smelter has been in Port Pirie for a very long time—over 100 years—and the people of Port Pirie have been poisoned by lead pollution for pretty much the whole of that time. One of the best recent descriptions of the extent of that pollution and the extent of the problem is a short article that was published last year by Professor Mark Taylor, a professor in environmental science at Macquarie University, who, as members would know, has been engaged by the EPA to do work for it on the Port Pirie smelter and pollution levels. What he says in this article, which was published in the online journal *The Conversation*, is:

> It is shocking to discover that more than 3000 children have been lead poisoned in the South Australian town of Port Pirie during the last decade.
>
> Whilst Australia continues to be a world leader in lead mining, smelting, and processing, the adverse impacts associated with production have been consistently downplayed by industry, governments, councils, health officials, and regulators. Even some academics argue the effects of low lead exposures are not of significant concern. Due to ignorance, misinformation, and deliberate obfuscation of evidence, generations of families living next to lead-mining, smelting, and refining centres such as those at Broken Hill, Port Pirie and Mount Isa, have been and continue to be exposed to environmental lead, a known neuro-toxic contaminant.

He goes on:

> Childhood exposure to lead has been linked to lower IQ and academic achievement and to a range of socio-behavioural problems such as attention deficit hyperactive disorder (ADHD), learning difficulties, oppositional and conduct disorders, and delinquency. The disabling mental health issues from lead exposure often persist into adolescence and adulthood.

I note that just in the last days—yesterday, in fact—listeners to ABC 891 and also 639, the ABC regional station broadcasting out of Port Pirie, would have heard about new research conducted at the University of Adelaide which found a link between lead exposure in children and psychological illness and substance abuse later in life as adults. A study by the Centre for Traumatic Stress tested Port Pirie residents for more than 30 years, following infants born from 1979. It found that women were three times as likely to have alcohol-related problems if they had blood lead levels above the recommended guidelines as children.

That is a University of Adelaide study. Ignorant people might pooh-pooh that and say, 'How stupid is that? Just because you live in a polluted industrial town and have higher levels of lead in your blood, does that make you an alcoholic in later life?' Well, no, it is not a direct causal link but, honestly, the evidence is pretty clear—it is three times more likely.

I think that research like this is at the heart of this legislation. What the company knows, what the government knows and I think what the opposition knows is that, when it comes to the setting of pollution standards, as medical science advances and as our technical and scientific knowledge advance, it is very rare for a jurisdiction to say, 'We were overly cautious. We used to think this was dangerous and now we think actually it is not so bad for you.' That is rarely the case. The direction is nearly always in the opposite direction, and that is that the more we know about pollution and the more we understand its harmful effects, the lower the standards are set.

This is an economic bill and an attempt to pre-empt what might happen in the future and to pre-empt medical knowledge and understanding. The Hon. David Ridgway referred to changes that have occurred in the United States. He said they were actually a bit of a furphy because the lowering of the blood lead level in children was not so much a regulatory matter as a trigger for concern. Well, isn't that what we are talking about? At what level should we be concerned about the health of children? If that American number was used in Port Pirie, we would find that over half the children are at risk.

That then brings us to the smelter upgrade. As I have said, the Greens, along with everyone else, want the smelter transformation to succeed in reducing the ongoing pollution load in the air and, ultimately, in the environment of Port Pirie. The company has been granted major project status for the smelter upgrade and they have produced a public environmental report. The Hon. David Ridgway said there had not been any submissions as yet. I am not sure if that is right but I think they will be published on the website once that is concluded. I certainly am working on my submission, as I know are other groups such as Doctors for the Environment.

When you look at the public environmental report, what you find is that the company's commitment is to reduce ongoing pollution by 50 per cent—by half. The question for the

government and the question for the people of Port Pirie is whether that is enough. As we know, the lead exposure problem in Port Pirie is a combination of the daily new emissions coming from the smelter and also the historic legacy pollution that exists all through the Port Pirie environment.

We know from studies that have been conducted in the last couple of months that one of the public parks and playgrounds in Port Pirie had 12 times the safe lead pollution level. That means that the Port Pirie council has its work cut out for it. It needs to make sure that bare earth is not exposed. They need to mulch. They need to make sure that there is a grass cover over all public spaces, because kids playing in dirt in Port Pirie equals exposure to lead and results in the sort of problems that members are very aware of.

People in this place might think that we can trust the government on this—the Greens do not. As I was putting together some notes for today, I discovered that in Mount Isa the state government there has cut the funding to its environment agency, as the state government here has done. The lead monitoring station at Mount Isa has been offline for nine months, so they are not even adequately measuring the level of lead in the local environment. With the cuts that have been made to the environment agencies here in South Australia, it would not surprise me to see a similar outcome.

This bill is flawed on so many levels. It does represent a capitulation on the part of the government to exhortations by the company that if they were not to be protected from the EPA then somehow transforming the smelter would be unviable. There can be no logical explanation for that unless they anticipate that the EPA is about to change standards or that medical science is about to expose that lead is far more dangerous than we ever thought.

The Greens have tabled a number of amendments to this bill, and we will get to those on another day, as I understand it. I appreciate the minister is keen to get this bill into committee today but I think members are probably looking for a greater opportunity to look at the Greens' amendments. As other members have alluded to, the only way that the EPA is allowed to change the lead-in-air licence pollution standards is if either the company or the manufacturing minister agrees.

The question that arises is: why on earth the manufacturing minister? What great expertise does the manufacturing minister have in matters of public health? So, my amendments include a set that replaces references to the manufacturing minister with the environment minister. I am still not entirely happy with that because I think the whole concept of the bill is flawed, but let's at least make sure that if there is going to be ministerial interference in the independence of the EPA that it be the environment minister and not the manufacturing minister.

In terms of consultation, we need to make sure that the health minister is included in the consultation regime. We also need to make sure that the ministers, in making their decision to veto effective changes that the EPA wishes to make, must be fully accountable for their decisions. They must report on their reasons for their decision and must provide the public with analysis of why they believe the EPA is wrong in its assessment of what is required to protect public health.

One other amendment is that, not satisfied with undermining state law, this bill also seeks to undermine federal law by saying that even if South Australia signs up to a new national pollution standard that does not apply to Nyrstar at Port Pirie. This is an attempt to legislate away national standards and not just local standards, so that needs to be fixed as well.

I think that this bill does represent somewhat of a wake-up call to this parliament. As I have said, we have now seen a number of occasions when the government has sought through legislation to undermine the independence of the EPA. I know that from my private conversations with EPA officers morale is at rock bottom. They know the government does not trust them to do their job properly, they now know the opposition does not trust them to do their job properly, and they know they are probably in line for more budget cuts as they have been for the last several budgets.

I think it is a very sad time for our hardworking public officials who are doing their utmost to protect public health, to protect the environment and to balance that with the legitimate needs of industry and the legitimate expectations of the community for employment and economic activity. You can have your cake and eat it too. You can have jobs and a healthy environment, but you do not achieve it by undermining the independence of our chief pollution watchdog.

The Hon. K.L. VINCENT (11:49): I speak today briefly in support of the second reading of this bill on behalf of Dignity for Disability; however, I do have some questions about some of the

health and disability related issues this raises and would like to put them on the record here with the hope of some answers further down the track—and, hopefully, not too far.

Firstly, I would like to thank minister Kenyon's adviser, Corey Harriss, for arranging a comprehensive briefing for my office from the three different departments—from the EPA's Rob Thomas; the acting Solicitor-General, Gaby Jaksa; and Peter Bagshaw and his colleague of the Olympic Dam Taskforce. We appreciate that briefing. I will not rehash some of the issues already raised by colleagues in this place but, as I say, I do have some very serious concerns relating to health and disability issues for the children, given their heightened vulnerability.

As I am sure every member in this place knows, this is no easy issue. The town of Port Pirie is very much reliant on the Nyrstar facility for jobs and its economic viability. I understand that this industry provides some 850 direct jobs and 2,500 indirect jobs. It is good to hear that this project, through implementation of world best technology, will improve the air quality for the community, particularly as it pertains to lead and sulfur dioxide that are known to have a serious effect on health, particularly in children.

I would like to ask some questions of the government's health and disability departments about the rate of health conditions and disabilities in Port Pirie, especially in children, and the comparison rate to the rest of the South Australian community, including the following:

1. What is the diagnosed rate of children on the autism spectrum or with intellectual or other developmental disabilities in Port Pirie?

2. What is the rate of asthma in the child and adult population in Port Pirie?

3. What is the hospitalisation rate of children and adults in Port Pirie with respiratory distress caused by asthma and other respiratory conditions?

4. What is the anticipated reduction in these health conditions and disabilities as the enclosure of the Nyrstar facility occurs?

5. How many social workers and other allied health workers are employed in the government's environmental health office in Port Pirie?

I would also like to know, given the news article by Sarah Martin that appeared in *The Weekend Australian*, what liability the government might feel it could be subject to if a class action were launched by families in Port Pirie in relation to lead in the blood levels of their children. I would also like to put on the record at this stage that I am very interested in the amendments the Hon. Mr Parnell has already tabled in relation to this bill.

The Hon. R.L. BROKENSHIRE (11:53): Family First rises to welcome this bill—a bill that we know has been in the making for some time—and to advise the house that, due to the importance of the economic operations for Port Pirie and the State of South Australia, we will be supporting this bill.

I am familiar with Nyrstar, as I toured the facility sometime last year. I have been there a couple of times actually, but last year I went there with the local member, Geoff Brock, and also that day met with both mayor Brenton Vanstone and CEO, Andrew Johnson, and had a very good briefing from the senior manager of Nyrstar in Port Pirie.

We can all dispute the merits with hindsight of having a smelter so close to housing and the situation there. Whilst historically it has been close to the town, the company, particularly in more recent years, has done whatever they can to eliminate the risks associated with its location close to the town. In part, by its participation, I believe the government accepts some moral liability here. I am not going to talk about legal liabilities, but moral liabilities to try to improve the situation through any contribution the government may be able to make to ensure health safety for the residents of Port Pirie.

This bill presents as a very difficult balancing act between environmental and public health standards (and also, obviously and importantly, we are talking about child health here in particular); government risk-taking by underwriting via guarantees to secure the $350 million expansion necessary to abate the lead emissions; and the corporate certainty for Nyrstar going forward so it can be assured of income necessary to finance redevelopment of the plant to world best standard.

I understand the comments made by the Hon. Mark Parnell who has a genuine and longstanding commitment to environment protection. I have listened closely to what he has had to say with respect to his concerns about the bill and the amendments that he has put forward which,

whilst looking complicated, are fairly straightforward because it really focuses, as I understand, on who is going to be the minister responsible for the ongoing carriage of the follow-through if this bill is passed in both houses, and the associated legal requirements with respect to Nyrstar and the new development.

On the guarantee of underwriting by the government of $350 million, from memory it is not the first time governments have done this. However, I think it is something that governments need to be very careful about. Whilst I would trust, after talking to Nyrstar, that the contracts they have into the future are sound and solid contracts and that they have indeed done a lot of due diligence themselves—because I think they are putting in up to $150 million of their own shareholders' money—I urge governments to be cautious on the number of times they commit to underwriting via guarantees significant amounts of money.

In this case we are talking about a $350 million expansion for efficiency and abatement of lead emissions. At the end of the day, things can go wrong. Even the brightest and the best and most people did not see the GFC looming—there were some who claimed they did but by and large world leaders and experts around the world did not see it looming. We know what is happening now and we also know how difficult the economy is still. Even as recently as yesterday, listening to Gail Kelly, the CEO of Westpac Group talking at a function, we are in for a pretty hard road for at least the next 10 years and maybe longer. Any signs of recovery internationally are slow and spasmodic.

I urge governments to be very careful with underwriting because if we start underwriting too many projects and something goes wrong—taking into account the heavy debt load that the state has now, without a AAA credit rating and with record debt—it is going to be a huge challenge as it is to reduce and get a manageable-sized core debt; notwithstanding all the other debt that we ultimately are responsible for one way or another. We just need to be careful in case something goes wrong and makes the future for our children and grandchildren very difficult in this state.

The corporate certainty for Nyrstar going forward so they can be assured of the income necessary to finance the redevelopment of the plant to world best standard, is very important. We could go out of balance. We could say the lead levels need to be much lower—that is ramp up the public health standards to let us call it a platinum standard. Something is not really within reach unless you want to stop the activity altogether, from what I am advised.

However, in my opinion, that is not economically or socially responsible. We are told there are 850 direct jobs and 2,500 indirect jobs at risk. I argue that if this smelter was not to proceed with its expansion and upgrade we would basically see the demise of Port Pirie as we have known it, albeit that historically, from a processing and manufacturing point of view with silver, lead and zinc, Port Pirie has been fundamental in underpinning a lot of the economy of this state for most of its history—certainly in my living memory anyway. What I am saying is that standards need to be high, but they also need to be achievable. If they are best practice, then I am not sure we can do much more than that.

From a moral point of view, what will happen if we have a platinum standard environmental health policy here? Nyrstar is foreign owned, and the bulk of smelting occurs in China, so they say 'Fine, China has a copper standard,' and they shut down the plant, run a smelter somewhere in China instead, and our kids' future will be at risk. You can say that they always threaten this—and we have GMH threatening it at the moment, as well—and I understand what the Hon. Mark Parnell is saying there, but, having eyeballed the senior executive for South Australia on this, I feel that there is a real risk they could leave. We are a very remote area of operations for Nyrstar, when you think that its board and its central focus is in Europe.

Let's take a step back and consider the usual global consciousness politics of some who might want a platinum standard here. If we are globally aware we have to realise that the best thing for global public health is to run these enterprises here—not in polluting countries—and/or in countries with very public environmental standards. Whilst more can be done, at times, to improve our environmental standards, I think it is fair to say that when you look at international standards South Australia, from an environmental point of view, has some of the highest. I think we can easily argue that our benchmarks are up there with the best, and the mere fact that the government wants an economic minister driving this project does not mean that environmental factors will not be very important.

The government has said that it is looking to assist other industries in similar ways—and this is coming back to these guarantees; we have been advised in a briefing that the government is

looking at assisting other industries in similar ways—and again I caution that the more guarantees that are given in this way the more they add to a different kind of unfunded liability. It adds to the government's risk profile and, as I said, given our record debt levels under Labor, we need to be very careful. I have reinforced that twice in my few minutes on this debate because I want to be on the public record as expressing some concern and as putting pressure on the government to ensure that this project—which I believe, from the briefing I have had and from my adviser, will be alright—does not become a habit.

Finally, looking at the balance sought in this bill and bearing all that in mind, in this instance a vital industry in Port Pirie—and not only for Port Pirie but also for South Australia–we support the bill. However, we urge the government to be very transparent and to report regularly to the parliament on progress towards meeting the relevant targets under this bill. We look forward to the debate in the committee stage.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (12:03): I understand there are no further second reading contributions, so I rise to thank all members for their second reading contribution and their interest in this very important piece of legislation.

Fundamentally, this bill aims to provide regulatory certainty to enable the investment necessary to ensure the continued operation of the Nyrstar Port Pirie smelter. It seeks to do that by doing a number of things but, in particular, by making special provision in relation to Nyrstar's environmental licence.

I do not need to remind honourable members—most have made reference to this at one point or other—that the Port Pirie smelter is the world's largest lead smelter. It also produces significant quantities of zinc and silver and it is a major employer, I am told, of around 850 people, which represents about 18 per cent of the town's total workforce. So, it is a very significant industry and a very important employer in that area, and all of the social consequences associated with that.

A number of questions have been posed, and I am happy to address those through the committee stage. I again thank members for their contribution, particularly those who have indicated support for this bill, and I look forward to dealing with it expeditiously through the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. G.E. GAGO: A number of questions were asked throughout the second reading stage and, with your leave, Chair, I will provide answers to some of those questions at this point in time.

The CHAIR: Yes, minister.

The Hon. G.E. GAGO: I was asked about the lead poisoning level. I have been advised that the term 'lead poisoning' is, in fact, inappropriate when there is no evidence of any form of clinical syndrome or illness. It is our objective to protect all children; however, at the same time, it is important not to generate unnecessary anxiety in the community. The use of the term 'poisoning at low levels', certainly below 30 micrograms per decilitre, is inappropriate. It is important to separate exposure and effect.

Exposure to lead does not always result in an effect on an individual as there are substantial differences between individuals and how they respond to elevated blood lead levels. However, blood lead levels above 30 micrograms per decilitre are regarded as unacceptably high and can result in physiological effects such as anaemia, which can be clinically diagnosed for an individual. An effect such as anaemia could also be described as poisoning.

Below 30 micrograms per decilitre, it is unlikely that any effects on an individual can be determined through clinical diagnosis. Effects at these levels have been determined through epidemiological studies, which are population based. The effects are largely IQ shifts of one to three points and, in a different socioeconomic environment, these shifts are essentially masked by other factors, such as the level of parental reading and suchlike.

This in itself does not make a low level of blood lead acceptable, but at the same time it points to the use of the term 'poisoning' at these levels as being inappropriate. For all levels of blood lead, it is better to refer to exposure and then determine the risk associated with that exposure. For high levels, this can be determined through clinical diagnosis, while for low levels a precautionary approach should be adopted, aiming to keep all children as low as possible below 10 micrograms per decilitre.

The Hon. M. PARNELL: The government has made very clear that this protection was a precondition for Nyrstar to progress with the transformation. My question of the minister is: what evidence did the company provide to the government that this legislation was necessary? In other words, did they say, 'We don't want to end up in a position like company X or company Y'? Did they provide a practical example of why they felt that they were at risk without this legislation?

The Hon. G.E. GAGO: As I have indicated, the reason for this legislation is to provide regulatory certainty, and that was a very significant element in the agreement negotiated between the government and Nyrstar. This element is to enable Nyrstar to be able to secure and obtain long-term funding commitments from third-party investors, supported by a period of operating certainty. Without this level of operational certainty, we were advised that investment in new technology would not happen.

Basically, the company indicated that, looking at the current plant situation, it would not be able to meet the new proposed EPA standards under the current plant configuration. It indicated that it had two choices: one was a major investment involving outside third-party investors, and therefore the need for regulatory certainty; the second option was to shut down.

The Hon. M. PARNELL: I thank the minister for her answer. It goes part of the way to answering my question, which really is: what were they worried about? The minister said that they were worried they might not get funding, and they were worried they might not meet EPA standards. I will rephrase the question: whether it was the funders or whether it was Nyrstar, was any example provided to the government that added flesh to the bones of this fear that the EPA has some sort of form in denying licences or closing down industry on the basis of licence conditions?

The Hon. G.E. GAGO: This goes to the last question, but it certainly answers a previous question, namely, how many companies has the EPA shut down? I have been advised that companies have shut down under EPA enforcement action, for example, Castalloy, but these are obviously very difficult to determine because usually a wide range of different factors are operating at a particular time—industry factors, the dollar inflation, economic climate. The advice is that there is evidence that they have shut down. Certainly, the advice I have received is that companies have been stopped from operating for periods because of enforcement action. I am still working on those others.

The Hon. M. PARNELL: I thank the minister for her answer. I am glad she mentioned Castalloy. I was the lawyer for the south-west residents' association, and I can tell you there were factors far beyond the EPA intervention. I will move on to a slightly different line of questioning and ask: what consultation did the government undertake with the board of the EPA before drafting and introducing this legislation?

The Hon. G.E. GAGO: I have been advised that in fact ongoing communications between CE and CE had been undertaken for at least a period of a year. I have been advised that there was also at least one presentation to the board about this proposal.

The Hon. M. PARNELL: The minister has explained that the EPA was told what was to happen. Was the EPA consulted? Were they asked their views, and were those views expressed in writing or otherwise?

The Hon. G.E. GAGO: I have been advised by the chief executive that, in fact, there were two presentations to the board, not one, and the views of the EPA were sought and considered right throughout those discussions that I indicated had occurred between CE and CE and also during those presentations with the board.

The views that the EPA board expressed were that they objected to the licensing arrangements. However, they indicated that they realised and appreciated how important this project was and how important it was that the smelter continued, and they worked very closely with the team to make sure that the legislation before us was workable and practical and able to

preserve as many protections as possible while still allowing the regulatory certainty that was needed by Nyrstar.

The Hon. M. PARNELL: I thank the minister for her answer and, of course, those considerations she has attributed to the EPA are exactly the considerations they are legally obliged to take into account, anyway. I refer members to the general environmental duty under the Environment Protection Act: it is an obligation on all South Australians to comply with this duty. But, in determining what measures a company or a person needs to take, regard has to be had to the financial implications of various measures and how expensive they are going to be. So, the economic criteria are always in there.

What I am interested to know as well about these discussions with the EPA is: was consideration given to the use of existing exemption powers to enable Nyrstar to continue to operate? What I mean by that is this. We know there are some companies that are so dirty but so important that they are never going to be shut down. Playford B Power Station is a classic example. They cannot legally operate because of how polluting they are but, in the interests of not turning out the lights of South Australia, they have been granted an exemption. That is an example of the EPA, in its balancing act, taking into account economic and environmental considerations.

You could say the same thing about the Adelaide Brighton cement works at Port Adelaide. At certain times during their production cycle they cannot meet pollution standards so they are given an exemption. My question to the minister is: was consideration given to keeping the EPA as the regulator and using the exemption power to see them through any particularly difficult periods in the transformation process?

The Hon. G.E. GAGO: The short answer to the question is: yes, alternatives were considered, including the existing exemption powers. I am advised, however, that the advice was that those powers were not able to be applied, and therefore were not going to be helpful in this particular situation; therefore, other options were then explored.

The Hon. M. PARNELL: I thank the minister for her answer. I am not sure about that but, in any event, I guess it is internally inconsistent because the company will have to comply with the first lot of licence conditions that are established so, presumably, there is no need for exemptions. Anyway, the minister has answered that question.

This project has been declared a major project under the Development Act. The decision-maker as to whether or not the transformation will go ahead is the Governor—effectively, the government. Under section 48 of the Development Act, the Governor is obliged to take a range of considerations into account, including the Environment Protection Act objects and the general environmental duty. So, my question is: given that the EPA does not have an effective right of veto over major projects—they are effectively obliged to license major projects—why was that not enough?

The Hon. G.E. GAGO: I have been advised that they have to give them a licence but they still have responsibility for setting this licence limit. Just going back to the former question, I have received further advice to say that the reason that it was not considered appropriate to apply the existing exemption powers to this operation was that the exemption is still at the discretion of the EPA and this was not going to provide the level of economic certainty that was required.

The Hon. M. PARNELL: It is not my intention to rile the minister—far be it from me to do that—but I do need to ask this question. It is very clear that the company has no confidence in the EPA; does the government have no confidence in the EPA as well, and does this bill reflect a lack of confidence by the government in the EPA's ability to do its job?

The Hon. G.E. GAGO: The answer to the first question is, yes, we do have confidence; and the answer to the second question is no.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. M. PARNELL: I move:

Amendment No 1 [Parnell–1]—

Page 2, lines 10 and 11 [clause 3(1), definition of *Manufacturing Minister*]—Delete the definition of *Manufacturing Minister* and substitute:

> *Environment Minister* means the Minister to whom the administration of the *Environment Protection Act 1993* is committed;

This is a test amendment for a number of others. It seeks to replace the role of the manufacturing minister in the bill with the environment minister. Having moved the amendment, I ask the minister: given that the role of the manufacturing minister in this situation is to determine whether or not a change to licence conditions is required, what expertise does the manufacturing minister's department have in dealing with issues of public health and pollution? We know that the environment minister has a large agency full of people with such expertise. My question is: what expertise does the manufacturing minister have in public health and pollution?

The Hon. G.E. GAGO: I have been advised that the Minister for Manufacturing has responsibilities under this bill to balance economic and environmental issues; that is their primary responsibility and that is the main area of the focus of attention. If they require any other policy expertise from any other area, the minister will obviously seek that, as do other ministers performing roles that from time to time might require additional expertise.

The Hon. D.W. RIDGWAY: I indicate the opposition will not be supporting the Hon. Mark Parnell's amendment for basically very similar reasons. I asked the same questions when I was briefed by the department over the last few days as to why it had to be the manufacturing minister and not the environment minister. They cited the example that in Whyalla it was the primary industries minister who was the minister responsible.

The Hon. M. Parnell: And that was wrong as well.

The Hon. D.W. RIDGWAY: The Hon. Mark Parnell says it was wrong. I think from the evidence I have seen from visiting Whyalla and the community response, they have been very happy with the outcome and so given the pleasure with which the Whyalla community has greeted the arrangements—and I hope the Port Pirie community was equally as happy—I indicate we will not be supporting the amendment.

The Hon. G.E. GAGO: The government rises to oppose this amendment. This bill is essentially about economic development. It is to provide Nyrstar with a level of regulatory certainty that the company and its third party investors require to invest in a facility with the best available technology. The manufacturing minister should administer the legislation as he or she is best placed to take account of the range of competing factors related to any proposed changes to lead-in-air limits. The bill requires the manufacturing minister to take into account the following matters that are relevant to changes proposed to the maximum lead-in-air condition prior to making a decision.

- Firstly, that the environment minister must be consulted in relation to variations proposed by the EPA and, if required in relation to variations put forward by other regulatory requirements, consult with that relevant minister. These ministers are given the opportunity to make written submissions that the manufacturing minister must consider.
- Secondly, health and environmental matters related to lead emissions, such as international standards, medical and scientific advances.
- Thirdly, the impact any variation should have from a social and commercial perspective, that is to the community of Port Pirie and the company of operations.

These are the requirements that the manufacturing minister must consider prior to making any decision. Through this provision, the manufacturing minister is required to take a holistic view of proposed changes. It is the manufacturing minister rather than the health minister, for instance, or environment minister, that is best placed to weigh up these health, environmental, social and economic factors.

Under the Environment Protection Act, the EPA is independent of the environment minister in the exercise of its powers in relation to environmental authorisations. It would therefore be logical to have an exception in this particular instance. To vest this responsibility with the environment minister would place the minister in an unnecessary position of conflict with his agency and with the EPA.

Amendment negatived.

The Hon. M. PARNELL: I have two further amendments to clause 3 which are consequential, so can I deal with those first. Having tested the first amendment, I will not be moving those further amendments to clause 3.

The Hon. D.W. Ridgway interjecting:

The Hon. M. PARNELL: I can do clause 4 now, if you want?

The CHAIR: No, I am in the Chair so take the advice from me, not the Hon. Mr Ridgway.

Clause passed.

Clause 4.

The Hon. M. PARNELL: At clause 4, amendments numbered 4, 5, 6 and 7 are consequential on the amendment that has just been defeated so I will not be pursuing them. However, I will move:

Amendment No 8 [Parnell–1]—

Page 3, lines 31 and 32 [clause 4(4)(a)(ii)]—Delete '*Environment Protection Act 1993*' and substitute '*Health Care Act 2008*'

This seeks to replace the phrase 'Environment Protection Act 1993' with the phrase 'Health Care Act 2008.' It goes to the question of who must be consulted by the manufacturing minister before determining whether or not to allow a change to the licence conditions. It fills what I think is a fairly glaring omission, and that is that the health minister has no part in this discussion.

People might think that what I am seeking to do is to remove the environment minster, and I have just been trying to put the environment minister in all these other clauses. However, I know where the numbers lie on this but I just wanted to put on the record that the Greens believe that the health minister is an integral part of the decision-making process and should be consulted.

The Hon. G.E. GAGO: The government rises to oppose this amendment as well. I think I have covered the reasons pretty much in my response to the first amendment where I outlined in some detail the very thorough considerations that are required to be taken by the manufacturing minister prior to making any decisions. It is quite a thorough and comprehensive process, ensuring that all relevant matters or concerns have an opportunity to be raised prior to any decision being made.

Amendment negatived.

The Hon. M. PARNELL: There is a further amendment to clause 4. I move:

Amendment No 9 [Parnell–1]—

Page 3, after line 32 [clause 4(4)]—After paragraph (a) insert:

(ab) by public advertisement (in the Gazette, in a newspaper circulating throughout the State and on a website determined by the Environment Minister) invite any interested person to make written submissions to the Environment Minister within a reasonable period specified in the advertisement (which must be a period ending not less than 2 weeks after the date of the advertisement); and

Another omission to the list of people who I believe need to be consulted in relation to this is the general public. I will say that I did not ask this question when I had my briefing, for which I should thank officers—I have not done that yet on the record. I thank the officers for their briefing. I did not ask this question because it had not occurred to me at the time. Under the Environment Protection Act there is an obligation on the EPA to go out to public consultation if it is proposing to water down licence conditions, in other words, make the licence conditions less onerous.

My question in relation to this bill—and it fits in at this clause—is: how does that obligation of the EPA fit in with this bill which provides for no public notification of intention to change a licence condition? Is it simply a matter that this is a newer bill and therefore it trumps the Environment Protection Act, or should the Environment Protection Act prevail if, in fact, the proposed change to lead-in-air levels is a weakening of the standard?

As I understand it, this bill is value neutral: it refers to changes in the lead-in-air levels, not necessarily strengthening or weakening—it could apply to both. How does this bill sit with the existing obligation to consult the public under the Environment Protection Act?

The Hon. G.E. GAGO: I have been advised that if the standards have been tightened, then the EPA does not consult with the public, and this is common practice.

The Hon. M. PARNELL: That was not my question. My question was: what if the standards were relaxed?

The Hon. G.E. GAGO: I am advised that we are not contemplating standards being relaxed, so it is not an option.

The Hon. M. PARNELL: It is an option because it is not the minister's contemplation but the Environment Protection Authority's contemplation. If it is proposing to relax a licence condition, then I reckon the people of Port Pirie would have something to say about it. Under the current law, under the Environment Protection Act, they get to have their say on the relaxation of a licence condition.

The minister might be able to say that I am wrong in terms of the effect of this bill, but it seems to me that the effect of the bill is about changes in the lead-in-air standard, not necessarily increases or decreases. It is a change, and if a change is a relaxation in the pollution level then surely members of the public should be consulted. So, my question is about the statutory interpretation, the conflict of those two laws.

The Hon. G.E. GAGO: I am advised that this bill has no impact on the EPA's powers and authority around its ability to put conditions on licences. For instance, if the EPA, as you are suggesting, chose to relax a licence condition for Nyrstar, I am advised that this bill will have no impact on the powers, authorities and obligations of the EPA and the processes that it may be required to put in place in relation to that. This bill has no impact on that.

The Hon. M. PARNELL: I can see the officers squirreling away there because I know I am right. The minister is right to the extent of if it is a condition of a licence that is anything other than the maximum lead-in-air condition; however, if we look at clause 4, it provides:

The Environment Protection Authority may not, during the period commencing on the project completion date and ending on the commencement day, vary a maximum lead-in-air condition—

I am answering my own question here—

in a way that would have the effect of reducing the maximum specified in the condition…

There you go; you should have answered that for me, but I have answered it myself.

The Hon. G.E. GAGO: We assumed you had read that.

The Hon. M. PARNELL: Well, I had read it, but I reread it. That was a bit of a dead end, I am afraid, but I still maintain that I think the public is a key stakeholder in this, so the amendment I have moved requires the government to advertise to the public that a proposed licence variation is on the cards.

The Hon. G.E. GAGO: Again, I think I have already addressed the issues underpinning this in my previous responses. The government opposes this amendment. We think it is unnecessary because of the rigorous process the minister is already required to go through.

The Hon. D.W. RIDGWAY: The opposition will not be supporting the Hon. Mark Parnell's amendment.

Amendment negatived.

The Hon. M. PARNELL: Amendment No. 10 is consequential so I will not move it. I move:

Amendment No 11 [Parnell–1]—

Page 3, after line 34 [clause 4(4)(b)]—After subparagraph (i) insert:

(ia) any reasons given by the Environment Protection Authority for the proposed variation;

Amendment No. 11 is a new issue. It is, I think, an omission. The omission is that before the manufacturing minister grants approval to a licence condition the minister has to consult with the company and with the environment minister and they have to take into account any written submissions received by the company or the environment minister. There is a range of other things they have to take into account. The one thing they do not have to take into account is the EPA's views.

My amendment seeks to include in the list of things to be taken into account reasons given by the Environment Protection Authority for the proposed variation. People might think it is stating the bleeding obvious, but it is not in here and it is important to list it. If you are going to list some things in legislation, you should list them all. So, the EPA's reasons for wanting to change the licence should be a relevant consideration for the minister to take into account in making her or his decision.

The Hon. G.E. GAGO: The government rises to oppose this amendment. The rigorous set of conditions imposed on the manufacturing minister that requires him to consider a range of things prior to making a decision includes health and environmental matters related to lead emissions, such as international standards, medical and scientific advances, etc, including variations proposed by the EPA. The minister for environment must be consulted in relation to variations by the EPA, etc. So already the EPA is involved in consultations and the manufacturing minister is required to be advised of all environmental matters.

The Hon. D.W. RIDGWAY: The opposition will not be supporting the Hon. Mark Parnell's amendment. I perhaps might quickly add that the opposition participated in the House of Assembly select committee. We are very happy with the bill in its current form and do not seek to make any further amendments. So, rather than jumping up and down every time the Hon. Mark Parnell moves an amendment, I indicate that we will not be supporting any of his amendments.

Amendment negatived.

The Hon. M. PARNELL: Amendment No. 12 is consequential so I will not be moving it. Amendment No. 13, also to clause 4, is a new issue but I will not proceed with it because I have already replaced the manufacturing minister with the environment minister. The manufacturing minister is now back in the bill so this section has no work to do. Basically it is about the minister publishing reasons for the determination. I can see that technically there is no point proceeding with that now.

The ACTING CHAIR (Hon. G.A. Kandelaars): You are withdrawing?

The Hon. M. PARNELL: Yes, I will withdraw the amendment but I want to put on the record that I think the minister should provide reasons for her or his decision.

Clause passed.

Clause 5.

The Hon. M. PARNELL: I move:

Amendment No 14 [Parnell–1]—

Page 4, lines 31 to 34 [clause 5(3)]—Delete subclause (3) and substitute:

(3) Subsection (1) does not apply—

(a) in relation to a requirement applying under a national environment protection measure (within the meaning of the *Environment Protection Act 1993*); or

(b) to the extent that the Environment Minister determines, by notice in writing to the Company, that a particular law or authorisation specified in the notice should not be so modified, or should only be modified as specified in the notice.

As I alluded to in my second reading contribution, this bill not only seeks to potentially avoid the law of South Australia but it also seeks to avoid national standards that might be incorporated into the law of South Australia. As members would know, the mechanisms for that are things called national environment protection measures, or NEPMs for short. We have NEPMs in relation to air quality, contaminated land and a range of other issues. It seems to me that, whilst we are not happy with undermining the law of the state, it is even more serious to be undermining the law of the commonwealth. This amendment seeks to make clear that, if national standards change, they will apply to the Port Pirie smelter.

The Hon. G.E. GAGO: I have been advised that, if a national standard does change, whether it is through a NEPM or other means, this bill has no impact on the ability for a national standard to be enforced. So, this bill has no impact on that. It will continue to be applied via whatever the usual mechanisms are. When I was environment minister I used to know this extremely well, but the details allude me now. I have been advised that it has no impact on the ability for these standards to be applied to this particular business.

The Hon. M. PARNELL: I will take the minister's answer, although I am not convinced. I can understand that, if we were to take, for example, the current suite of national environment protection measures, that would be right, because it relates to ambient air quality rather than point source pollution. I will accept the minister's answer for now and time will tell if the circumstances arise that this clause is tested.

Amendment negatived.

The Hon. M. PARNELL: My remaining amendments, Nos 15, 16 and 17, have been dealt with and are consequential. Amendment No. 18, which relates to public notification, I have discussed already and I will regard that as consequential at this stage. I think amendments Nos 19 and 20 are also consequential. Amendment No. 21 was about giving reasons for a determination. It is the same principle as applied earlier, and I will regard that as consequential, as I do amendment No. 22. When we get to clause 6, amendments Nos 23 and 24 are consequential also.

Clause passed.

Remaining clause (6) and 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 the Status of Women, Minister for State/Local Government Relations) (12:55): I move:

That the bill be now read a third time.

Bill read a third time and passed.

NOT-FOR-PROFIT SECTOR FREEDOM TO ADVOCATE BILL

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (12:55): Obtained leave and introduced a bill for an act to prohibit state agreements from restricting or preventing not-for-profit entities from commenting on, advocating support for or opposing changes to state law, policy or practice; and for other purposes. Read a first time.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (12:57): I move:

That this bill be now read a second time.

The proposed Not-For-Profit Sector Freedom to Advocate Bill 2013 will promote the already strong partnership between the South Australian government and the not-for-profit sector. The bill, if enacted, would prohibit state agreements restricting or preventing not-for-profit entities from commenting on, advocating support for or opposing changes to state law, policy or practice.

This bill is based on a commonwealth act for the same purpose that received bipartisan support when it was considered by the commonwealth parliament earlier this year. The South Australian government recognises that a strong, independent and innovative not-for-profit sector is essential to building an inclusive community. The not-for-profit sector in South Australia provides services to some of our most marginalised and disadvantaged individuals, families and communities. The government's partnership with the sector is essential to the achievement of its social policy objectives.

The not-for-profit sector has a critical role in developing and commenting on public policy. The provision of funding to not-for-profit entities should not prohibit such comment. South Australian government policy already prohibits the use of gag clauses in grant agreements. However, the government is committed to ensuring that the not-for-profit sector's freedom to advocate is protected in law.

The bill, if enacted, will apply to all state government agreements with the not-for-profit sector, regardless of whether they were entered into before or after the commencement of the legislation. It will render void and have no effect on any clauses in state agreements, that is, agreements between a state government agency and a not-for-profit entity, that purport to gag the not-for-profit entity. The bill should be supported, we believe, as it protects the rights of the not-for-profit sector to engage in honest and frank public discourse on matters of government policy. I commend the bill to the members.

Debate adjourned on motion of Hon. D.W. Ridgway.

ABORIGINAL LANDS TRUST BILL

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (13:00): Obtained leave and introduced a bill for an act to continue the Aboriginal Lands Trust; to

enable the trust to acquire, hold and deal with land for the continuing benefit of Aboriginal South Australians; to repeal the Aboriginal Lands Trust Act 1966; to make related amendments to other acts; and for other purposes. Read a first time.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (13:00): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill represents an important reform for Aboriginal South Australians. It is the result of a review by this Government of the historic *Aboriginal Lands Trust Act 1966*.

Introduced by the then Attorney-General and Minister for Aboriginal Affairs, the Honourable Don Dunstan, the Aboriginal Lands Trust Act was the very first legislation in Australia to recognise the profound connection of Aboriginal people to the land and waters of this country, and to seek to redress in some way the huge losses suffered by them as a result of European settlement. It did this by giving Aboriginal people a collective, legal, right to land. It provided for the transfer of freehold title in Crown lands reserved for Aboriginal people to a statutory Aboriginal land holding body, the Aboriginal Lands Trust, for the ongoing use and benefit of Aboriginal South Australians.

In his Second Reading Speech in 1966, Don Dunstan set out the history of Aboriginal land rights in South Australia and noted that, despite the original intention of the United Kingdom Government in 1836 to ensure that the rights of Aboriginal people to the occupation and enjoyment of their land would not be affected adversely by the settlement of the new colony, this intention was not realised. Proposed measures to ensure that Aboriginal people's interests in the land would be protected, and recognised under the newly introduced system of English land rights, were never carried out. Instead, a few small areas of Crown land were set aside as 'reserved' for Aboriginal people. These were added to over time, in particular with the addition of Yalata Station on the West Coast and the Gerard Mission on the River Murray. But, as Don Dunstan said in 1966, 'no land rights comparable with those granted to many other indigenous peoples were ever ensured for the Aboriginal people of South Australia'. Indeed, this was the case for the entire country.

The *Aboriginal Lands Trust Act 1966* broke new ground in Australia by establishing the Aboriginal Lands Trust, with a wholly Aboriginal membership, and provided for the transfer to this body of all Aboriginal reserve land.

The mechanism of a statutory trust was intended to provide flexibility, and to avoid the difficulties noted to have been experienced in other countries in providing for indigenous land rights, namely 'constitutional difficulties, fragmentation of title, and difficulty of calculation of inheritance'.

The Act anticipated the formal constitution of councils on the reserve lands, and that the membership of the new Trust board would not only be drawn from those councils but that the Trust would also negotiate with them about the development of their respective lands.

The Trust was to be funded by the Government, and as such its performance would be subject to public scrutiny.

The Trust could exercise its discretion in using and developing its lands, but it was required to obtain the consent of the Minister to sell, lease, or mortgage any land—although the Minister must give consent if satisfied that 'the benefits and value of the land being alienated are being preserved to the Aboriginal people so that the purposes of the trust are carried out.' Any sale of Trust land would also require the approval of both Houses of Parliament.

An aspect of the Act highlighted as very significant in 1966 is the provision that the Mining Act and the Petroleum Act do not apply to Trust land. The aim was to give Aboriginal people pre-eminent mineral rights over land held by them, in line with indigenous people under land rights in other parts of the world—to provide Aboriginal communities with a means for economic development; to go some way to compensating Aboriginal people for the loss of their land upon settlement; and to give them some control over, and a say in the use of their land for mineral exploitation. However, the provision was amended during the passage of the original ALT Bill through Parliament to give the Governor power to override this right by making a special proclamation in relation to particular Trust land.

Today, the Aboriginal Lands Trust owns over half a million hectares of land, valued at approximately $60 million, dispersed across various metropolitan, urban, regional and remote areas of the State.

But after 46 years of operation the Act is now in need of fundamental change to reflect the contemporary circumstances and aspirations of Aboriginal South Australians, and to better enable the Trust to deal with the significant challenges of owning and managing this land.

There have been significant changes to both the scope and diversity of Aboriginal land ownership, and the rights and responsibilities of land owners generally, since the Act was introduced.

The competing needs of community residents, Aboriginal people with a historical or traditional connection with land, and native title claimants and holders are not being met by the current legislative scheme. At the same time, Aboriginal community organisations are now facing much higher expectations from their own members and from Government for accountability, stability and good administrative practice.

New legislation is required to guarantee all stakeholders the right to be consulted and involved in decisions regarding development, leasing, licensing or other land dealings.

The current Act lacks the clear objects, structures and administrative mechanisms to enable the Trust to develop its capacity to meet the changing demands of successful land management.

Given the nature of the ALT estate and the importance of it to Aboriginal people of South Australia, particularly those living on ALT land, there is a need for a modern Trust body whose functions and powers are clearly defined, and with the ability and power to identify and develop opportunities for both cost recovery for Trust operations and to improve the economic well-being of Aboriginal communities.

This Bill represents a major reform of the structure and focus of the Trust and its relationship with Government.

The proposed legislation is designed to continue the Aboriginal Lands Trust (the Trust) as a statutory trust holding land for the benefit of Aboriginal South Australians. Its objects are clear—to enable the Trust to acquire, hold and deal with Trust Land for the continuing benefit of Aboriginal South Australians; and to ensure the efficient and effective administration, management and development of Trust Land in a way that involves proper consultation with Aboriginal people with an interest in the land and that increases opportunities for economic development on Trust Land.

The Bill proposes a new, more independent, skills-based Trust body, and supports sound land management, long term planning and decision making, community responsibility and economic development.

The role of the Trust will be the efficient management of its freehold estate, including the setting of relevant policy; the provision of expert advice to communities; leadership in land management projects; and consultation on land management decisions and dealings with all Aboriginal groups with a connection to the relevant land.

The aim is to increase the participation of Aboriginal people with an interest in ALT lands in the management and development of the ALT estate. This will contribute to South Australia's Strategic Plan, which recognises that land and cultural heritage are assets that can be used to improve Aboriginal well-being and to assist in 'closing the gap'.

The structure of the Trust pursuant to current legislation has been representative of some ALT communities and there have been concerns expressed by other communities that they have not been able to speak for their country when decisions have been made about their land. There has also been no requirement for the Trust board to possess a skills or knowledge base which would enable it to assist communities with the technical aspects of land management such as preparation of funding applications, commercial negotiations, contract administration and insurance.

The proposed new Trust will comprise eight (8) members, being Aboriginal persons who collectively have, in the opinion of the Minister, knowledge, skills and experience in, among other capabilities, corporate governance, property management and development, commercial enterprise development, natural resource management and Aboriginal community life and culture. A newly constituted Trust will be supported by a Commercial Development Advisory Committee (CDAC) nominated by the Trust and appointed by the Minister.

The proposed structure will require the Trust to ensure that all Aboriginal groups, commensurate with their interest in the land, will have input into decisions about the use and management of the land.

The new Trust will have clear functions, providing it with a mandate for leadership and responsibility for all primary decisions about the use and management of Trust land. The Trust's decision-making will be informed by guiding principles set out in the Act and supported, where required, by advice from the CDAC. The Minister will be able to direct the Trust only in limited circumstances, but where it is warranted in the interests of the State and the beneficiaries of the Trust, namely Aboriginal South Australians, i.e. where there is a clear risk of the Trust becoming insolvent or there has been a failure by the Trust to comply with the requirements of the Act. Any such direction must be the subject of a report to Parliament.

A consequence of the current legislative and administrative arrangements is that there is considerable inaccuracy in the land holding and uncertainty about current rights and interests in land. The Bill requires that all ALT lands be subjected to a 'good order audit' so that the Trust and all Aboriginal people have a clear and accurate record of its landholdings and all legal interests in them, and can work more effectively to manage them. The Bill also requires the Trust to keep an up-to-date land Register.

These measures, together with the CDAC and the various statutory obligations for good financial management, are intended to ensure more efficient, productive and beneficial use of ALT land.

Significantly, the current requirement for ministerial consent to dealings in land will be removed. This requirement has proven to be administratively cumbersome and inefficient, but has also inhibited the ability of the Trust board to develop its capacity and skills in both policy and operational matters as fully as it might if given more scope. Under the new legislation, the Trust will have full control over the use and management of land vested in it through its ability to deal with the land generally and, in particular, its power to grant leases and licences for any purpose and on any conditions that the Trust deems appropriate. It is expected that this will include long term residential and community leases and shorter term commercial leases. This will be subject only to the usual checks and balances applying to a Government funded statutory authority.

An example of the way that the Trust is already working to maximise the commercial value of ALT land in a way that also protects and enhances its cultural values is the Head of the Bight Whale Watch Centre. The site is located within the ALT's most substantial tract of land of the Far West Coast, which also includes the community of

Yalata. The Whale Watch Centre is operated as a cultural and eco tourism business under agreement between the ALT, the Indigenous Land Corporation, and management company Maralinga Tjarutja Services Pty Ltd. After investing in significant infrastructure upgrades and innovations in the past couple of years, the business is now making a good profit, and upwards of 30,000 tourists visited the site last year to see whales, other unique and rare flora and fauna and to experience a part of the country rich in Aboriginal dreaming stories. The Bill is aimed at paving the way for more investment activities and commercial ventures that will make the most of ALT land for the ultimate, long-term benefit of Aboriginal South Australians.

A clear and important change in the social, political and legal landscape in Australia since the enactment of the ALT Act is the advent of native title law. Importantly, the proposed new ALT legislation does not diminish the rights of Aboriginal interests in the land under the *Native Title Act 1993*. The ALT Act has special status under that Act. Land vested in the Trust under the ALT Act is 'Aboriginal land and Torres Strait Islander land' in that it is held by and for the benefit of Aboriginal people. This means that the usual 'future act' processes under the Native Title Act do not apply to acts done in relation to this land. In effect, native title is not extinguished but is 'suppressed' so long as the land remains held by the Trust. However, should any land be transferred out of that holding, native title will revive, and the associated effects of that transfer on native title rights and interests will need to be addressed. The Bill contemplates this by requiring that any such transfer must be in accordance with any relevant requirement under the Native Title Act.

It is worthy of note that South Australia is the only State in Australia whose land rights legislation—the *Aboriginal Lands Trust Act 1966*, the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*, and the *Maralinga Tjarutja Land Rights Act 1984*—create statutory land holdings with the designation of 'Aboriginal and Torres Strait Islander land', because it means that there are legal implications in dealing with such land that do not necessarily apply in other states. This places the Trust in a special position of custodianship and responsibility for all the various cultural, historical and economic interests of Aboriginal people in ALT land, and the Bill is intended to better equip it and support it in this role.

This role of custodianship leads back to the important issue of mining. As mentioned, giving the Trust some responsibility and control over access to its land for mining purposes was a very significant element of the ALT Bill as originally introduced to the Parliament in 1966. Ultimately this right was diluted to some extent in the resulting Act, which is also silent as to the need for consultation by the Trust with ALT communities about access or conditions on mining on ALT land.

This Bill proposes a clear process for decisions about mining activity, based on the principle that the Trust as legal owner, and those Aboriginal people with interests in the relevant land as beneficiaries, should, as far as possible, be in the same position as landowners and people holding interests in the APY and MT lands. Hence the Bill provides that any proposals for mining must not only comply with the processes required by relevant Mining Acts but that permission for access must be sought from the Trust. The Trust is obliged to consult with the relevant Aboriginal people before determining an application for permission, and give notice of its response to the applicant and the Minister. The Trust may also make submissions as to conditions on which the mining authority should be granted. In the case of any dispute, the Minister must appoint an arbitrator to hear and decide the matter. Any separate native title rights to negotiate are not displaced by these provisions.

The Bill further provides that wherever royalties in relation to mining operations on ALT land are paid to the Crown, one third will be retained by the Crown while the Treasurer is to pay an amount to the Trust equal to two thirds of the total royalty, subject to a cap being prescribed to ensure the scheme is adaptable to different possible mining outcomes in the State. The Trust must apply half of the amount it receives towards improving the ALT land to which the payment relates or for the benefit of the community living there. It may use the other half to assist with the resourcing of ALT operations generally.

In conclusion, this Bill represents an important and very practical step forward for this State in its journey towards reconciliation and capacity building for Aboriginal South Australians. The Aboriginal Lands Trust is not just a historic relic of our earlier attempts to repair the damaging results of colonialism and racism. If properly modernised and revitalised in the way this Bill provides, it will be a potentially useful and increasingly valuable asset for our Aboriginal population—a means to better empower Aboriginal people to protect and improve their own cultural well-being and economic security.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines key terms used in this measure.

4—Interaction between this Act and certain other Acts and laws

This clause clarifies the relationship between this measure and other Acts or laws, and, in particular, that—

(a) this measure prevails in terms of any inconsistency with the *Real Property Act 1886*; and

(b) Trust Land will, despite restrictions on entry, be taken to be a public place; and

(c) the *Road Traffic Act 1961*, the *Motor Vehicles Act 1959* and the *Australian Road Rules* apply to roads on Trust Land.

5—Objects

This clause sets out the objects of the measure.

6—Principles

This clause sets out principles to be applied in relation to the operation and administration of the measure.

7—Power of delegation

This clause enables the Minister to delegate a function or power under the measure in accordance with the clause.

8—Consultation

This clause sets out how consultation is to be conducted if the consultation is to be conducted in accordance with this proposed section.

Part 2—The Aboriginal Lands Trust

Division 1—The Trust

9—Continuation of Trust

This clause continues the Trust in existence on commencement of the measure.

10—Expressions of interest

This clause requires the Minister to call for expressions in respect of appointments to the Trust, and requires the Minister to determine and publish a scheme for that purpose.

11—Selection panel

This clause allows the Minister to set up a selection panel to recommend Aboriginal persons for appointment to the Trust. The clause sets out procedural matters in respect of the panel.

12—Composition of Trust

This clause sets out the composition of the Trust, which will set the number of members at 8 (it is an indeterminate number under the repealed Act). The clause requires all members to be Aboriginal, and sets out the qualities that, collectively, the Trust members must possess.

13—Presiding member and deputy presiding member

This clause requires the Minister to appoint a presiding and deputy presiding member.

14—Conditions of membership

This clause sets out the conditions of membership for the Trust members. In particular, a member cannot hold office for more than 9 consecutive years.

15—Allowances and expenses

This clause provides that members of the Trust are entitled to fees, allowances and expenses approved by the Governor.

16—Validity of acts

This clause provides that an act or proceeding of the Trust is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

17—Functions of Trust

This clause sets out the functions of the Trust.

18—Committees

This clause enables the Trust to establish committees, and sets out procedural provisions for same.

19—Power of delegation

This clause enables the Trust to delegate a function or power under the measure in accordance with the clause.

20—Trust's procedures

This clause sets out procedures to be followed by the Trust in respect of its business.

21—Trust Fund and Trust monies

This clause requires the Trust to deposit all moneys received into a specified bank account. The clause also sets out how monies held by the Trust can be applied (including by requiring certain amounts to be spent on Trust land to which the moneys relate).

22—Accounts and audit

This clause requires the Trust to keep proper accounting records and be audited annually by the Auditor-General.

23—Annual report

This clause requires the Trust to prepare and deliver an annual report, and sets out what the report must contain.

24—Minister may require Trust to provide report

This clause enables the Minister to require the Trust to prepare and provide him or her with a report in relation to certain matters.

Division 2—Chief Executive and other staff

25—Chief Executive

This clause creates the position of Chief Executive of the Trust, to be appointed by the Trust. The clause also allows Aboriginal people to be preferred for the position, despite the provisions of the *Equal Opportunity Act 1984*.

26—Functions of Chief Executive

This clause sets out the functions of the Chief Executive.

27—Staff of Trust

This clause provides that the Trust will employ its own staff.

28—Use of facilities

This clause provides the Trust may make use of the services or staff of an administrative unit with the agreement of the relevant Minister.

Division 3—Direction and suspension of Trust

29—Minister may direct Trust to take certain action etc

This clause enables the Minister to direct the Trust to take particular action in the circumstances set out in the clause. The clause sets out procedural matters in relation to the giving of such directions.

30—Minister may suspend Trust in certain circumstances

This clause enables the Minister to suspend the Trust for a specified period in the face of non-compliance with requirements under section 24 or 29 of the measure, and following the conditions precedent set out in subclause (2). The clause also enables the Minister to appoint an administrator to administer the Trust during any period of the Trust's suspension.

31—Use of facilities

This clause provides that an administrator appointed under clause 30 may make use of the services or staff of an administrative unit with the agreement of the relevant Minister.

32—Offence

This clause creates an offence for a person to hinder etc an administrator, or to falsely that he or she is assisting an administrator in the exercise of powers or functions under this measure.

Part 3—Commercial Development Advisory Committee

33—Commercial Development Advisory Committee

This clause enables the Minister to establish the Commercial Development Advisory Committee.

34—Presiding member

This clause requires the Minister to appoint a presiding member of the Commercial Development Advisory Committee.

35—Conditions of membership

This clause sets out the conditions of membership for the members of the Commercial Development Advisory Committee. In particular, a member cannot hold office for more than 9 consecutive years.

36—Allowances and expenses

This clause provides that members of the Commercial Development Advisory Committee are entitled to fees, allowances and expenses approved by the Minister.

37—Validity of acts

This clause provides that an act or proceeding of the Commercial Development Advisory Committee is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

38—Functions of Commercial Development Advisory Committee

This clause sets out the functions of the Commercial Development Advisory Committee.

39—Procedures of Commercial Development Advisory Committee

This clause sets out procedures to be followed by the Commercial Development Advisory Committee in respect of its business.

40—Use of facilities

This clause provides that the Commercial Development Advisory Committee may make use of the services or staff of an administrative unit with the agreement of the relevant Minister.

Part 4—Trust Land

Division 1—Acquiring Trust Land

41—Transfer of certain land to Trust

This clause provides that unalienated Crown land, and land owned by a Minister, may be transferred to the Trust in accordance with a resolution of both Houses of Parliament.

42—Register of Trust Land

This clause requires the Trust to keep and maintain a register of all Trust Land containing the information required by the regulations.

Division 2—Dealing with Trust Land

43—Inalienability of Trust Land

This clause provides that Trust Land is inalienable.

44—Dealing with Trust Land

This clause sets out how and when the Trust may deal with Trust Land, including when and how the Trust can dispose of Trust Land. The clause further prevents sub-interests in Trust Land from being created except with the consent of the Trust.

Division 3—Trust may appoint person to manage Trust Land

45—Trust may appoint person or body to manage Trust Land

This clause enables the Trust to appoint a manager of particular Trust land (being leased land where the lease is granted for the benefit of a particular Aboriginal community), who will stand in the shoes of the lessee in respect of the management of the relevant land. The clause also makes procedural provision for same.

46—Manager may direct lessee

This clause provides that a manager appointed under clause 45 may direct the lessee of the relevant Trust Land and other persons to report to the manager in respect of matters relating to the management of the land.

47—Offences

This clause creates an offence for a person to hinder etc a manager of Trust Land, or to falsely that he or she is assisting a manager in the exercise of powers or functions under this measure.

Part 5—Commercial and other activities of Trust

48—Trust may enter into commercial transactions etc as it thinks fit

This clause provides that the Trust may enter into such commercial or other transactions as it thinks fit (not being transactions involving Trust Land as contemplated by Part 4), however the Trust will need the approval of the Minister to enter a transaction with a value exceeding an amount to be prescribed by regulation.

Part 6—Regulation of liquor and other substances on Trust Land

49—Regulations may prohibit consumption etc of regulated substances on Trust Land

This clause confers a regulation making power on the Governor, who may make regulations in relation to the use and possession of substances including petrol and liquor on Trust Land. The clause preserves the existing powers of police officers in the repealed Act.

50—Application of the Public Intoxication Act 1984 to certain Trust Land

This clause extends the operation of the *Public Intoxication Act 1984* to certain Trust Land specified by proclamation under the clause.

Part 7—Mining operations etc on Trust Land

51—Interpretation

This clause defines key terms used in Part 7.

52—Interaction between this Act and mining Acts

This clause clarifies the relationship between the Mining Acts (as defined in clause 51) and the measure. In particular, mining authorities may only be granted to a person who has obtained permission under proposed section 53 to carry out the relevant activities on the relevant Trust Land.

53—Permission required to carrying out mining operations etc on Trust Land

This clause establishes an offence for a person to carry out mining activities on Trust Land, or entering Trust Land for that purpose, without the permission of the Trust. The maximum penalty is a fine of $120,000.

The clause sets out how permission is to be obtained from the Trust, and makes procedural provision in respect of applications for such permission.

54—Arbitration

This clause provides for arbitration of certain applications under proposed section 53.

55—Royalty

This clause requires the Treasurer to pay to the Trust an amount (not exceeding a prescribed limit) equal to two thirds of the total royalty paid under a mining Act that relates to mining operations or regulated activities on Trust Land.

56—Certain payments or other consideration to Trust must represent fair compensation

This clause requires certain payments made or consideration given to the Trust in respect of mining operations or regulated activities on Trust Land to be proportionate to the disturbance the operations or activities cause to the land, and its occupants. A person who makes such a payment or gives such consideration is required to notify the Minister of the quantum of the payment or consideration, and the terms of any relevant agreement.

Part 8—Delivery of services under *Local Government Act 1999* and *Outback Communities (Administration and Management) Act 2009*

57—Trust to liaise with councils etc

This clause requires the Trust to liaise with local councils, or the Outback Communities Authority, (as the case requires) in respect of the provision of services etc on Trust Land, and requires leases granted under the measure contain provisions granting access to those bodies.

Part 9—Dispute resolution

58—Conciliator

This clause creates the position of conciliator for the purposes of the measure.

59—Dispute resolution by conciliator

This clause establishes a dispute resolution process for Aboriginal persons aggrieved by a decision of the Trust relating to Trust land on which the person lives, or has responsibility for.

60—Order compelling compliance with direction of conciliator

This clause enables a party to a conciliation process under proposed section 59 to seek an order from the District Court compelling a person or body to comply with a direction of the conciliator.

Part 10—Miscellaneous

61—Exemption from stamp duty

This clause provides that stamp duty is not payable in respect of an instrument comprising, or relating to the conveyance or transfer of, or the creation of any other interest in or over, Trust Land.

62—Liability of directors

This clause provides that where a body corporate is guilty of an offence against proposed section 53 (i.e., mining etc without permission) then each member of the governing body of the body corporate is guilty of the offence unless the member proves that he or she could not by the exercise of due diligence have prevented the commission of the offence.

63—General defence

This clause confers a general defence on a person charged with an offence under the measure, other than an offence under section 53 (i.e., mining etc without permission).

64—Confidentiality

This clause creates an offence for a person to divulge or communicate certain confidential information, except as permitted under the clause.

65—Service

This clause sets out how notices or documents under the measure are to be served on a person or body.

66—Evidentiary provision

This clause sets out evidentiary provisions as to how the matters identified in the clause may be proved in legal proceedings.

67—Review of Trust Land

This clause requires the Minister to conduct a review of Trust land for the purposes of identifying and recording all Trust Land, and any easements and encumbrances on the those lands.

68—Regulations

This clause is a standard regulation-making power.

Schedule 1—Related amendments, repeals and transitional provisions

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *Aboriginal Heritage Act 1988*

2—Amendment of section 45—Commencement of prosecutions

This clause makes a related amendment to a reference in the principal Act.

Part 3—Amendment of *Aboriginal Lands Parliamentary Standing Committee Act 2003*

3—Amendment of section 3—Interpretation

4—Amendment of section 6—Functions of Committee

These clauses make related amendments to references in the principal Act.

Part 4—Amendment of *Real Property Act 1886*

5—Substitution of section 6

This clause updates and clarifies the wording of section 6 of the principal Act.

Part 5—Repeal of *Aboriginal Lands Trust Act 1966*

6—Repeal of Act

This clause repeals the *Aboriginal Lands Trust Act 1966*.

Part 6—Transitional provisions

7—Offices of Trust vacated on commencement of Act

This clause vacates the offices of members of the Trust, allowing new appointments to reflect the changes made to numbers and skills etc of members under the measure.

8—Transfer of employment of Trust staff

This clause transitions staff employed by the employing authority under the repealed Act into the employment of the Trust.

9—Appointment of managers of Trust Land under repealed Act to continue

This clause continues the appointment of managers appointed under section 16AA of the repealed Act as if they were appointed under the measure.

10—Continuation of leases and licences

This clause continues leases or licences granted under the repealed Act in accordance with their terms.

11—Transitional provision for purposes of section 49

A requirement of recommendation or consultation under proposed section 49 does not apply in relation to the first regulations made under that section to the extent that the regulations are substantially the same as the *Aboriginal Lands Trust (Umoona Community) Regulations 2007* or the *Aboriginal Lands Trust (Yalata Reserve) Regulations 2005*.

12—Transitional provisions for purposes of section 50

This clause continues the appointments of authorised officers (in respect of the *Public Intoxication Act 1984*) under the repealed Act as if they were appointments under this measure. It similarly continues proclamations prescribing certain Trust land for the purposes of that Act.

13—Transitional provision—mining

This clause continues existing or purported mining authorities granted over Trust Land and in force on the commencement of the proposed clause, and modifies the permission requirements in respect of those mining authorities until they are renewed under the relevant mining Act.

Debate adjourned on motion of Hon. D.W. Ridgway.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

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

[Sitting suspended from 13:02 to 14:15]

PAPERS

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. G.E. Gago)—

Fourth Variation of the Port Operating Agreement for Port Adelaide

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

National Environment Protection Council Acts (Commonwealth, State and Territory)—Report of the Third Review dated December 2012 and National Environment Protection Council Response dated April 2013

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:16): I bring up the 31st report of the committee.

Report received.

ANSWERS TO QUESTIONS

WOODVILLE WEST URBAN RENEWAL PROJECT

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (1 May 2012).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations): The Minister for Housing and Urban Development has advised that the redevelopment project is not intended to make a cash profit. Revenue from sales for each stage will be reinvested in the next stage. At completion the South Australian Housing Trust will retain assets of a higher value than at project commencement.

FRUIT FLY

In reply to the **Hon. S.G. WADE** (20 March 2013).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations): I am advised:

Biosecurity SA conducted a random roadblock at Bordertown the week prior to the long weekend of 9 to 11 March 2013. This roadblock coincided with the Clipsal 500 V8 Supercar race held in Adelaide 28 February to 3 March 2013, which increased traffic from eastern states.

Biosecurity SA determined that as a result of the increased threat of the introduction of fruit fly from the eastern states, a stronger emphasis on highlighting the restrictions on entry of fruit and fruiting vegetables into the state was better at this time. This roadblock resulted in 229 verbal cautions being issued, 40 expiable offence reports being completed and 27 expiations subsequently being issued.

There will be more random fruit fly roadblocks across South Australia this year and Biosecurity SA is planning to operate these roadblocks on roads into the Riverland that have not seen random roadblocks before. Naturally the roadblocks will be focused around times of high traffic flow coming into the region.

The Australia Day long weekend roadblock resulted in 7 expiation notices being issued.

MURRAY RIVER FERRIES

In reply to the **Hon. J.S.L. DAWKINS** (10 April 2013).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations): The Minister for Transport and Infrastructure has been advised:

The asset management and operation of all the River Murray ferries is undertaken by the Department of Planning, Transport and Infrastructure.

The state government is committed to the ongoing operation of the River Murray ferries and it will continue to consult with local government on this.

QUESTION TIME

WORD ADELAIDE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:17): I seek leave to make a brief explanation before asking the minister representing the Minister for Tourism a question regarding Word Adelaide.

Leave granted.

The Hon. D.W. RIDGWAY: In mid-August, Adelaide hosted a new festival, called Word Adelaide. This was suppose to be August's answer to the Adelaide Fringe and Festival, a counterpoint to Mad March and a springboard for new festivals in the state. Disappointingly, the state chose to focus the festival on a microscopically small niche market, with little potential for success. It was an ill-guided and misjudged cash splash.

In fact, a source told me that the Fringe Festival considered running shows of a similar theme but discarded the idea as it was unprofitable. I understand the festival cost the taxpayers of this state some $400,000 to run. The event was an unmitigated disaster, with taxpayers' money being spent on an unattended festival and its headline act described as 'flaccid' by *The Advertiser*.

Members interjecting:

The Hon. D.W. RIDGWAY: Some might laugh—it was flaccid. That was in the article in *The Advertiser*. My questions to the minister are:

1. Under whose guidance was Word Adelaide conceived, implemented and undertaken?

2. What due diligence was done on previous—

The Hon. R.P. Wortley interjecting:

The Hon. D.W. RIDGWAY: I'll be talking about things that are flaccid in this place when I'm looking at you, the Hon. Russell Wortley.

3. How much funding was given to run the festival, including administration, advertising and marketing?

4. How much were guests, especially the international ones such as Matt Lucas and Gary Kemp, paid to attend the festival?

5. How much was spent on the guests while they were in Adelaide, including accommodation, dining and entertainment and, for that matter, how much was spent on their airfares?

6. What were the combined ticket sales for all the events?

7. How many tickets were sold to the headline act, which had to be moved from the Entertainment Centre because of poor ticket sales and was then staged at Her Majesty's Theatre? I am advised that there were five A4 pages of names for free tickets. How many free tickets were given away?

8. Will the festival be running next year to waste more of the state's taxpayers' money?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:20): I thank the honourable member for his most important questions and undertake to take them to the minister in the other place and seek a response on his behalf.

MURRAY RIVER

The Hon. J.M.A. LENSINK (14:20): I seek leave to make a brief explanation before asking a question of the Minister for Water and the River Murray regarding the EPBC Act.

Leave granted.

The Hon. J.M.A. LENSINK: On 5 August the federal government, on the last possible day before it would have invoked caretaker conventions, approved the inclusion of the section of the river at the Darling junction to the Murray Mouth on a list of critically endangered communities under the EPBC Act. This means that any new or substantially intensified activities will be subject to a new approval process. There has been outrage from communities, including in our own Riverland, who say they have not been consulted and who are very concerned about further red tape and green tape and what it all means.

Can the minister advise whether the state government was consulted prior to this EPBC listing? Is he aware of any community irrigator groups or other stakeholders who were consulted? Does this potentially impact on future engineering works, such as the Pike River flood plain, Chowilla and so forth in the future?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:22): On 10 August 2013 the commonwealth Minister for the Environment, Heritage and Water listed the River Murray—Darling to Sea as a critically endangered ecological community under the Environment Protection and Biodiversity Conservation Act 1999. South Australians have long been aware of the importance of this region and fought hard to ensure that enough water was returned to the river under the Murray-Darling Basin Plan. As a result of South Australia's demands, there is a commitment to return more water to the River Murray so that environmental outcomes consistent with recovering 3,200 gigalitres of water can be achieved.

The listing of the River Murray—Darling to Sea ecological community as critically endangered under commonwealth legislation confirms what we already knew: that this region is of central environmental importance and that we must work hard alongside our commonwealth colleagues to ensure that the Murray-Darling region is protected for future generations. I reiterate what I said yesterday about our willingness in this state to work with the new incoming federal government, but we do have significant concerns about their plan to push back funding for the river.

The only threat that I can foresee to the critical engineering works the honourable member asked about in her question would come from the federal government's pushing back the protections on the river, pushing back the investment that has been promised for the river communities, and I would exhort her to use her influence in the Liberal Party to go off to the federal government and tell them, 'Do not pull out your investment in the state of South Australia. Do not pull out your investment in the River Murray, because so many of us in this state depend on it.'

MURRAY RIVER

The Hon. J.M.A. LENSINK (14:23): I have a supplementary question. Is the minister going to answer anything that I asked about the EPBC Act, or is he just going to grandstand and play politics and make a fool of himself?

The PRESIDENT: Do you want to take that as a supplementary, minister?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:24): I do not know that it is a supplementary, but I again encourage the honourable member to use her extensive influence in the Liberal Party to make sure that the federal Liberal government keeps its commitments to this state and to our Riverland communities. At the moment, all they are doing is retreating.

SOUTH-EAST DRAINAGE SYSTEM

The Hon. T.J. STEPHENS (14:24): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation questions about the maintenance of the South-East drainage system.

Leave granted.

The Hon. T.J. STEPHENS: The minister oversaw the recent transfer of responsibility—

Members interjecting:

The PRESIDENT: The Hon. Mr Stephens.

The Hon. T.J. STEPHENS: The minister oversaw the recent transfer of responsibility for the Upper South-East drainage system to the South Eastern Water Conservation and Drainage Board (commonly known as the drainage board) from the Department of Environment, Water and Natural Resources. However, there was no increase in the funding allocation to the drainage board for this new responsibility, in fact, additional funding initially allocated to the drainage board, which could have been used for this purpose, was removed. Given that the minister was able to fund the maintenance of the Upper South-East scheme through his departmental budget, why has that money not been transferred to the drainage board?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:25): I thank the honourable member for his most important question. Over the past two years this state government has provided additional funding for the South Eastern Water Conservation and Drainage Board for the operation, management and maintenance of the South-East drainage system.

An additional $6 million over two years was provided on top of the base funding of approximately $2.1 million. This additional funding has been used to complete urgent asset maintenance, repairs and upgrades on ageing public infrastructure, such as bridges, on public roads, property access, culverts and monitoring stations, so it is completely wrong for the honourable member to assert in this place that we have withdrawn money. In fact, we have given additional money to do additional works.

Future funding really is going to be dependent on alternative sources of income, but I would like to know where those people opposite intend to get the funds that they say we should be putting into the upkeep of the drainage system on top of what we already do. Where do they say we should get those funds? Are they saying that they are going to put a levy on the community—those people who are directly impacted, those people who benefit so much from the drainage system—or are they going to say that every other taxpayer in this state puts their hands in their pocket and subsidises those drainage systems? Is that what they are saying?

Are they saying to us today that they are going to commit another $5 million in the budget should they become the government? Is that what they are saying today? I want to hear it. I want to know what they are going to promise the people of South Australia in terms of their budgeted commitments at the next election but, of course, we are not hearing any of that. Do they have any policy at all or will they just block the passage of a bill that was intended to provide some kind of ongoing security for those in the South-East? That is all we want to do on this side. They have not stated they would not introduce their own levy—

The Hon. R.L. Brokenshire interjecting:

The Hon. I.K. HUNTER: This is the Hon. Mr Brokenshire who says that it is the public good of the state. Well, is it in the public good for the state's money to go into the pockets of people who will directly benefit from it? Should they not also contribute to the maintenance of the system? The taxpayer already is. Why should the direct beneficiaries also not contribute? The Hon. Mr Brokenshire—as is his wont—has always got his hand out for government subsidies for himself and those people like him who benefit from public infrastructure, but do not want to contribute.

Members interjecting:

The Hon. R.L. BROKENSHIRE: Point of order.

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

The Hon. R.L. BROKENSHIRE: I ask that he withdraw those outrageous remarks. I do not get anything from his government.

The PRESIDENT: That is no point of order.

The Hon. I.K. HUNTER: Mr Brokenshire says he gets nothing from the government. I guess he does not use government roads to travel home. I guess he does not use government infrastructure when he turns on his taps. I guess he does not use anything that is provided by the taxpayer in this state. He has done it all on his own. Of course, that is rubbish. Where will the opposition get the funds—

Members interjecting:

The Hon. D.W. Ridgway: I can't tell the difference between Ian's face and the chair!

The Hon. I.K. HUNTER: It is rather warm in here.

The PRESIDENT: Order!

The Hon. I.K. HUNTER: Where will the opposition get the funds to do what the honourable Mr Stephens is implying in his question?

Members interjecting:

The PRESIDENT: Order! The minister has the call.

The Hon. I.K. HUNTER: They refuse to outline their position, but they are happy to criticise ours—a position that is intended to ensure the upkeep of the drainage system for years to come. It was proposed that from 1 July 2014 expenditure for the maintenance and operation of the South-East drainage system will be partially offset by revenue from beneficiaries of the drainage system through the raising of a levy as proposed by the South East Drainage System Operation and Management Bill. I might need to ask for your ruling, sir, about a question that pertains to a bill that may be before the house, but if I have your indulgence I will continue with my answer.

I reiterate 'only partially offset'. The levy will be collected from those who directly benefit from the drainage system. It makes sense, I think, that those who benefit from the system contribute to its upkeep. This includes the state government, landowners and beneficiaries or people whose activities contribute to the need for a drainage system.

As you know, Mr President, the South East Drainage System Operation and Management Bill was introduced into parliament on 31 October 2012 and includes provisions that I, as Minister for Sustainability, Environment and Conservation, may raise a levy to help support an effective drainage system into the future. The bill also proposed that prior to the raising of a levy the minister must undertake a social impact assessment and consult with the South-East drainage management board. The social impact assessment would assess the expected social impact of the imposition of such a levy, including an assessment of the relative private and public benefits of the provision and management of the drainage system.

Unfortunately, those opposite have categorically ruled out supporting the new bill and, indeed, intend to block its passage in this place. As a direct result of their position, the ongoing maintenance of the drainage system is in jeopardy—because of the Liberal party's recalcitrance, because of the Liberal Party's desire not to make a policy decision, and the Liberal Party's desire not to tell the community of South Australia what they intend to do if they were to win government.

The state government has continued to provide funds, but this needs to be partially offset by some kind of contribution from those whose activities contribute to the need to maintain the system. I recently visited the South-East to gain the views of those most affected by the upkeep of the drainage system. I was keen to explore the fairest way to apply some kind of levy. I even raised the possibility of having a much smaller interim levy to ensure that basic works would be maintained on top of what we already do and allowing a period of further consultation within the community. This could have ensured that the community had input into any kind of levy that was applied.

I also approached those opposite and asked them to consider a levy in some form. I approached them and said that we were willing to bear the unpopularity that goes with introducing a levy to ensure that those in the South-East would get the drainage system that they deserve and need. I know and they know that the only way to properly fund the system is by working out contributions from everyone who benefits, not just the taxpayers of this state. I said that the

Liberals could not promise that they would not introduce a levy if they were in government and they should let us make the hard decisions.

I did this because of how important the drainage system is for the region, how important its upkeep is and how important it was that this drainage system was properly maintained. However, those opposite have put the entire drainage system at risk by obstinately refusing to consider this bill. The Hon. Mitch Williams was cited in *The South Eastern Times*, I understand, claiming that he had told me that he would not be supporting the bill.

The Hon. J.M.A. Lensink: Last time I checked, you guys were in power.

The Hon. I.K. HUNTER: Well, we do like to work together from time to time, and we do hold out the olive branch across the parliament when we are trying to work in the best interests of this state. Unfortunately, the Liberal Party never takes us up on it.

However, the reality of maintaining this kind of system is more than just a popularity contest. I repeat: I would like to know where the Liberals intend to find the funds for the upkeep of the drainage system which they seem to be out there in the community promising that they will deliver on. I would like to know, and so would the people of the South-East, what their policy is.

In the meantime, the Department of Environment, Water and Natural Resources is working with the South Eastern Water Conservation and Drainage Board to identify operational efficiencies to ensure effective and efficient drainage and wetland management services are delivered to the South-East community.

SOUTH-EAST DRAINAGE SYSTEM

The Hon. T.J. STEPHENS (14:33): I have a supplementary question. It has been the understanding of the government that these schemes are vital to the South-East of the state and therefore should be funded by the taxpayer, so why is the minister wanting to levy farmers for this cost, especially given that the Dunstan government abandoned such plans in the seventies?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:34): The Hon. Mr Stephens just didn't listen to a word I said. I should start again and read it all into the record. To break it down into very simple language for the Hon. Mr Stephens, it is simply this: the government recognises that it has a duty to provide for the maintenance of the South-East drainage board, and we do—and we do. However, we also maintain that those people who directly cause the need for the drainage, those people who directly benefit from the drainage, should also contribute to the maintenance costs. That is about sharing the burden fairly and equitably across our state.

RURAL AMBASSADOR AWARDS

The Hon. R.P. WORTLEY (14:34): I seek leave to ask the Minister for Regional Development and Agriculture, Food and Fisheries a question—

Members interjecting:

The PRESIDENT: Order! What was that, the Hon. Mr Wortley? I had a difficult time hearing what you were saying.

The Hon. R.P. WORTLEY: I seek leave to ask the Minister for Regional Development and Agriculture, Food and Fisheries a question about the Rural Ambassador program.

Leave granted.

The Hon. R.P. WORTLEY: The Department of Primary Industries and Regions South Australia (PIRSA) is the major sponsor of South Australia's country shows, including the Young Rural Ambassador and Rural Ambassador Awards. My question is: can the minister inform the chamber about the Rural Ambassador Awards, which were held last night?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:35): I thank the honourable member for his most important question. I am advised that each year there are 49 country shows held across South Australia. Country shows play a very important part in regional and rural communities; not only do they provide an arena in which social and business connections are forged but they also provide a

valuable training ground for young South Australians to learn and develop their skills in agriculture, horticulture and viticulture. They are also a lot of fun.

The South Australian government recognises that the continued support of country shows, and of the young adults who participate in them, is vital to sustaining strong regional and rural communities, along with developing a succession plan in our primary industries. Since 2000, the South Australian government has delivered, via PIRSA, an annual grants fund of $100,000 to the Agricultural Societies Council of South Australia (ASC), the governance body which oversees South Australia's country shows. The PIRSA grant is allocated into two programs: $40,000 is directed to the 49 country shows to assist with prize money for things like competitions, and the remaining $60,000 is allocated to the Rural Ambassador Awards.

The Rural Ambassador program covers both the Young Rural Ambassador and the Rural Ambassador programs. Honourable members may remember that I have spoken previously about the Young Rural Ambassador Award, which is open to rural youth aged from 16 to 19 years. This year's Young Rural Ambassador winner was Carly Gogel, a leader of the next generation of women in our primary industries. I am advised that Carly, who is from Keith, hopes to use her time as Young Rural Ambassador to encourage more young people to become involved in their local agricultural shows.

The Rural Ambassador Award is available to young adults between 20 and 30 who are committed to their local show and community and again highlights the importance of youth participation in the agricultural show movement. Local shows select eligible entrants who then go on to compete in regional finals. Each regional representative then contests the state final at the Royal Adelaide Show. The state finals were held last night, and I am pleased to announce that the 2013 Rural Ambassador winner is Courtney Ramsey.

Courtney Ramsey, who currently works as a farmhand at Buckleboo, north-west of her hometown of Kimba on Eyre Peninsula, is an outstanding representation of the can-do spirit of our regions. Aside from her committed involvement in country shows for many yeas, Ms Ramsey also undertakes an exceptional amount of volunteer work within her local community, volunteering for organisations such as the Royal Society for the Blind and the Kimba District Football and Netball Club.

I am advised that Ms Ramsey hopes to use her award to encourage more young people to become involved in country shows and to draw attention to and raise support for young people's engagement in regional communities. The two runners-up, who were also announced during the awards, included Mr Edward Scott, who represents the Southern Region, and Ms Chelsea Dahlenburg, from the South-East and Border Region.

It is a real disgrace and disappointment that the federal Liberal government apparently cannot offer the same sort of support to South Australian regions, our primary industries, upon which our economy and communities are so dependent, or our future young rural leaders. This is a government that, as we know, is prepared to delay the River Murray buyback, a government that thinks it is a good place to make savings by ripping the heart out of our regions, a government that will take no responsibility for the health of our river or the health of South Australian communities, and a government that could not care less what happens to the South Australian industries and South Australian people dependent on our wonderful River Murray.

RURAL AMBASSADOR AWARDS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:40): I have a supplementary question. When will the minister sign the agreement to allow South Australian farmers to access the funding the for the low interest loans?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:40): When the federal Coalition government gets its act together and provides us with an agreement.

RURAL AMBASSADOR AWARDS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:40): As a further supplementary, why has every other state in the nation signed with the former Labor government and this minister has been asleep at the wheel and not done it?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:40): The Hon. David Ridgway misleads this parliament. Not all jurisdictions have signed up. Only a couple of the larger jurisdictions have, as I have already reported in this place, so he misleads this place. He misleads this parliament. He comes in here saying that all other jurisdictions have signed. They have not. It is incorrect information.

The Hon. J.S.L. Dawkins: Who hasn't?

The Hon. G.E. GAGO: Tasmania hasn't. South Australia hasn't. As I have outlined in this place before, the federal government commenced with the larger jurisdictions that already had in place farm financing authorities on which to place this model. South Australia and Tasmania do not have such authorities. The federal government moved from state to state on a case-by-case basis signing up jurisdictions to this provision. They commenced negotiations with South Australia and since then went into caretaker mode.

The detailed work that needed to be supplied by South Australia to provide adequate information for these provisions has been fulfilled and it is now simply a matter of the federal government taking its place and the agreement being signed. In terms of all of the information that this state is required to provide, all of that was furnished quite some time ago.

HOUSING SA

The Hon. J.A. DARLEY (14:42): My questions to the Minister for Sustainability, Environment and Conservation, representing the Minister for Social Housing, are:

1. Does Housing SA have a program of progressively installing electrical safety switches into existing Housing SA properties?

2. If so, can the minister provide details of the program, including how many safety switches have been installed to date and how many properties are still to receive one?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:43): I thank the honourable member for his most important question. I undertake to take that question to the minister in the other place and seek a response on his behalf.

MARINE PARKS

The Hon. CARMEL ZOLLO (14:43): Will the Minister for Sustainability, Environment and Conservation inform the chamber about the positive impacts of the state and federal marine parks?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:43): I thank the honourable member for her most important question. The establishment of the marine parks program is one of the most significant and important conservation programs ever undertaken in our state. I am sure members will be aware that after a decade of planning, in November last year the government finalised management plans for our state's 19 marine parks.

South Australia's network of 19 marine parks covers around 44 per cent of the state's waters, approximately 26,670 square kilometres in total, I am advised. Each marine park is zoned to provide for both conservation and ongoing community and industrial commercial use. Marine parks were developed after extensive consultation with local communities and stakeholders. They have been designed to provide protection for some of South Australia's most iconic and ecologically important areas.

During the final round of consultation last year, more than 8,600 submissions were received, with the overwhelming majority of submissions received during the public consultation period confirming support for the introduction of marine parks with sanctuary zones. Responding to the advice received from the community and stakeholder groups and others during the consultation process, the government made more than 50 amendments to the marine park management plans, I am advised. The changes ensure that we will still achieve excellent conservation outcomes whilst further reducing the impact on users of the marine environment such as commercial and recreational fishers.

Marine parks are zoned for multiple uses, meaning that people can still enjoy their favourite pastimes be it swimming, diving, boating or fishing. We have ensured that recreational fishing will be largely unaffected by the introduction of marine parks. Fishing from jetties and breakwaters and

popular beaches will not be impacted and, as a result of this, around 6 per cent of state waters, approximately 3,623 square kilometres in total, have been assigned to the highest levels of protection as sanctuary zones or restricted access zones. This leaves the vast majority of the state's waters, approximately 94 per cent, available for fishing and other resource uses.

There has been much debate about marine parks in recent years in this chamber and in the community and, interestingly, I am sure most members are aware that it was a former Liberal government that commenced the marine parks process in 2001 when they released their vision for marine protected areas. Credit to where it is due, we commend them on that work and we were very pleased to build on it. However, that vision proposed by the Liberal government proposed zoning for multiple uses and that is what we adopted.

That vision also proposed no-take areas, and that is also what we adopted. That vision recognised that some displacement of existing activities would be unavoidable, of course. They also proposed to involve the community and key stakeholders in the planning processes, just as we have done every step of the way. But sadly, 10 years later, they appear to have lost their vision, the vision they had at the outset. Certainly that is true of the federal Liberal government, given what we are hearing about the suspension of marine parks announced by the incoming federal government.

In September last year the Liberals here, I understand, released a so-called marine parks policy which did nothing more than indicate that they want to take the state backwards once again. They want to ignore 10 years of planning with local communities, they want to ignore the overwhelming scientific evidence from all around the world that our oceans are under threat. Our coastal waters absolutely need greater protection, and that is why it is also so very sad to see that at the federal level the Liberal Party has also lost that vision, as I said.

Prime Minister-elect Abbott has come out and said that he will suspend the commonwealth management plans for marine protected areas while he conducts a review. We can only hope it will be a proper review and not some political hatchet job, as many people suspect. The commonwealth government proclaimed the world's biggest network of marine reserves protecting more than 2.3 million square kilometres of ocean environment on 16 November 2012. This is a Labor government doing the work it does best—visionary, nation-changing reforms that protect us into the future.

That network of parks was created to protect habitat necessary to support many of the world's threatened and endangered animals, including green turtles, blue whales, southern right whales, Australian sea lions and whale sharks.

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: It is so terribly disappointing to hear that the Liberals seek to disallow the management plans for the world's largest network of marine parks, and the Hon. Mr Ridgway is once again misleading the people of South Australia. He has no clue, even though I set him straight, he still has no clue. He really does need to pick up his work rate.

The new commonwealth marine reserves were only established after an unprecedented consultation process. There were five rounds of consultation on marine reserves over the past four years, including more than 250 public and stakeholder meetings around the country attended by over 2,000 people, I am advised. I understand that more than 750,000 people participated in the public consultation process and provided feedback.

The federal government used the best available science, talked to the public over a number of years, made and revised plans based on community consultation and delivered the world's most comprehensive marine reserve network with only about a 1 per cent impact on commercial fisheries. But this just shows that the Liberal Party does not understand or care for science or public consultation. They do not care for decisions based on the science and public consultation and they do not care what is right for conservation.

There is a greater variety of marine life in southern Australian waters than at the Great Barrier Reef, and the state government recognises the importance of protecting and preserving these habitats for future generations.

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: The honourable member entices me to go into discussing what the federal Liberal incoming government will do to the Great Barrier Reef—another horror story that

awaits us—but I will not be distracted at this point in time. I have another few pages for any supplementary questions about that the honourable member might like to raise.

This is the important point that is lost in this issue. Many of the marine plants and animals living in these waters cannot be found anywhere else on the planet, but my colleagues across the chamber no longer think that these are worth protecting. It is a sad, sad day for our state when that is the level of policy debate we see from the Liberal Party—people who purport to be an alternative government. Nevertheless, this government recognises the importance of providing greater protection for the marine environment. We are committed to ensuring the long-term sustainability of our state and all the industries that rely on healthy marine environments.

We expect the marine parks will bring many economic benefits to the state. Marine parks are not the doom and gloom that members opposite like to portray out in the community. I look forward to continuing to work with the local communities and all stakeholders in the rollout of our marine parks well into the future, and I look forward very much, on this side of the chamber, to our efforts of protecting the environment of South Australia, even if we have no support from the Liberal opposition, which purports to be the alternative government in this place.

LITTLE PENGUINS

The Hon. T.A. FRANKS (14:51): I seek leave to make a brief explanation before directing a question to the Minister for Sustainability, Environment and Conservation on the topic of little penguins on Granite Island and elsewhere.

Leave granted.

The Hon. T.A. FRANKS: The minister would no doubt be aware of the recent media reports about the decline in the numbers of little penguins on Granite Island and, indeed, Kangaroo Island, and the delay in the breeding season. There has been some speculation as to the cause of the decline in numbers of the penguins, with blame being attributed to possible predation by fur seals, dogs and foxes, habitat loss or, indeed, disturbance by humans.

Twelve years ago, the Granite Island census indicated over 1,548 individuals, yet last year only 26 were recorded, with similar declines reported on Kangaroo Island where the owner of the Kangaroo Island Penguin Centre has indicated it may have to close in November, or possibly earlier, due to the decline in numbers there.

Media reports are that, while the City of Victor Harbor has raised $9,000 to research the causes of the demise of the penguins, current departmental regulations or requirements have forced the Penguin Interpretative Centre to actually destroy nine little penguin eggs in 2012 alone. Therefore, I ask the minister:

1. Can the minister explain why the Granite Island Penguin Centre was only granted a permit to breed two penguins a year, given the perilous state of the local population?

2. Will the minister advise what actions, if any, his department is taking to assist the centres to allow or enable an increase in the number of penguins able to be bred?

3. Has the minister sought or received advice that the little penguins be listed as vulnerable?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:53): I thank the honourable member for her very important questions and acknowledge her ongoing concern and interest in these areas of conservation. At the state and national level, the conservation status of little penguins, I am told, is secure. It is not listed as threatened under state or federal legislation. As I have said in this place previously, I understand there are approximately 90 little penguin colonies in South Australia. These colonies fluctuate from year to year in response to a number of environmental influences.

Declines in some areas are mirrored by increases in others. For example, recent management of land-based threats at Phillip Island in Victoria, I am told, similar to that being undertaken here in South Australia, has resulted in significant population increases of little penguins. Recent declines near Victor Harbor and Kangaroo Island cannot be explained simply by changing seasonal conditions, but linking the decline primarily to fur seals (as the honourable member intimated in her question that some people are doing) is not really supported by available data. When a popular native animal such as the little penguin appears to be in trouble, it is understandable that people look for quick solutions. However, removing another species, such as

the New Zealand fur seal, as has been suggested in the media I understand, is, I suggest, not the answer.

Possible causes for colonies shrinking include predation by introduced species, such as dogs, foxes, cats and rats, habitat loss and disturbance by people visiting the colonies, parasites, fluctuations in the availability of bait fish and seawater flooding of nest sites during storms all play a part. It may also be that penguins are simply migrating to more remote locations where they are not being constantly disturbed by humans, and I understand that certainly in the case of Kangaroo Island there is a suggestion that human intervention, particularly by young people, has had some role to play in the situation there.

It is true that New Zealand fur seals do sometimes eat seabirds, including penguins, but they form only a minor part of the seal's diet, I am advised. Most of a fur seal's diet is made up of redbait and lanternfish, and small bait fish that have no commercial fishery in South Australia. They also eat arrow squid and leatherjackets, and I understand there is a small commercial industry around at least leatherjackets.

I am advised that New Zealand fur seals eat almost no King George whiting or giant Australian cuttlefish, as cuttlefish live on the sea floor, where fur seals rarely feed. They do not eat gummy sharks, I am advised, nor do they eat the same food as gummy sharks, which live mostly on cephalopods and a few bony fish.

I am told that it is wrong to say that New Zealand fur seals are outcompeting dolphins or sea lions, as the three species have different diets and different fishing habits. Dolphins, for example, feed mostly on anchovies, sardines, cardinal fish and cephalopods, such as octopus, calamari and cuttlefish. Sea lions feed on the sea floor, while seals mostly feed close to the surface.

Fur seals spend upwards of 90 per cent of their time at sea, fishing, I am told. Adults do most of their fishing 100 to 150 kilometres from shore, and juveniles travel further, fishing 500 to 1,000 kilometres from shore, well away from penguin colonies and most commercial fishing off South Australian shores. The seals that we see onshore around the state, including those on the beaches of Kangaroo Island, incidentally known as one of the state's major tourist attractions, are not fishing but breeding, caring for pups or simply resting after their long fishing trips.

The South Australian government does not support culling of New Zealand fur seals. It is a protected native species that is only now nearing recovery after more than 150 years of hunting. Seals are a natural part of the marine ecosystem, not an environmental pest, and the recovery of the species is already bringing significant benefits on Kangaroo Island, I am advised.

I am also advised that harassing seals, apart from presenting an animal welfare issue, would do very little to shift them. Attempts have been made overseas and interstate to relocate seals and scare them away from certain locations, but with little success. The same seals quickly return or are replaced by other seals. Fur seals can cause problems for fish farms, of course, but the industry understands that it has to find socially acceptable solutions to those problems. The reputation of the industry is central to its ability to market its produce domestically and internationally.

I understand that New Zealand fur seals are native to South Australia and have a national distribution that coincides with that of the little penguin. I am advised that this is likely to have been the case prior to European settlement, suggesting strongly that the two species have co-existed. Little penguin colonies across our state are subjected to a range of threats on land and sea. I am advised that a range of little penguin colonies in our state have stable populations, despite coexisting with large populations of New Zealand fur seals.

As I have said previously in this place, recent commissioned reports recommend current management programs at little penguin colonies, where declines have been noted, should continue to focus on threat abatement activities on land, including effective land predator control, revegetation of nesting habitats, including sometimes provision of artificial nests, and protection of nesting and burrowing habitat from coastal developments to maintain spatial extent of colonies.

I am advised that a range of these recommendations are currently being implemented. For example, revegetation and other improvements to nesting habitat and baiting of introduced black rats is ongoing. Nesting burrows at locations on Kangaroo Island have also had camera traps established at their entrances to determine the frequency of visits by potential land-based predators, for example, cats and rats.

A number of government agencies, departmental staff and volunteers are working together to investigate the extent of localised declines in little penguin colonies and factors which may be contributing to these declines. Research projects are being undertaken to gain a better understanding of the drivers of penguin colony dynamics and to determine what can be done practically to address local declines. The South Australian Research and Development Institute recently secured funds to complete a state-wide assessment of New Zealand fur seal colonies in South Australia. This survey will be completed in 2014 and involve a statewide census on New Zealand fur seal pup production, including all colonies on and around Kangaroo Island.

The department is also partnering with another South Australian Research and Development Institute research project that will examine the diets of New Zealand fur seals using DNA testing of faecal samples. This will provide information on the frequencies of little penguins and the diets of New Zealand fur seals. Monitoring of the declining colonies on Kangaroo Island and at Victor Harbor continues, and monitoring of other stable colonies on Kangaroo Island has been undertaken for comparison. I understand that a recent finding has been that the large breeding colony of little penguins on Troubridge Island, north of Kangaroo Island in Gulf St Vincent, has a strong and stable population.

I know it is tempting to grasp at short-term solutions for local problems, but it is not always the rational way to approach a complex environmental issue that has been the subject of human interference for close to 200 years. Instead, we need to consider the complex marine systems and their interactions on the science we have before us and the lessons from other jurisdictions. The government is well aware of the complexity of the issue and is working with stakeholders to arrive at a long-term and sustainable solution.

In regard to the penguin centre on Granite Island, I am advised that the facility there is not of a size that could actually hold more than the penguins that it is licensed or has a permit for.

The Hon. T.A. Franks: That's the crux of the question, so it would be good to get the answer.

The Hon. I.K. HUNTER: I am giving you the background, the Hon. Ms Franks. You asked a very important question, and I am giving you the background so that you can understand why there are difficulties with the claims that have been made in the media and why we need to approach this very complex problem in a rational and deliberate way.

I am advised that the penguin centre facility on Granite Island is only capable of holding a maximum of 10 little penguins. The penguin centre does not have the appropriate facilities for breeding little penguins and does not meet quarantine or biosecurity standards to enable the centre to release any little penguins back into the wild. Even if the centre could meet these standards, the number of little penguins that could be bred at the facility and released would not have an impact upon the little penguin population on Granite Island.

The centre is still a very important resource for educating the public about the little penguin species and has been licensed to hold and display little penguins that are not fit for re-release for this purpose. The centre also plays a valuable role in acting as an intermediary and local penguin rescue, ensuring that any little penguins rescued in the area are transferred to appropriate facilities. For example, I understand that Flinders University has recently constructed a facility where little penguins can be held for behavioural studies.

Given that the status of little penguins across the state is stable, a broader penguin breeding and releasing program is an option that has not been pursued to this date. Again, I say that it is very tempting to look at short-term solutions for local problems—very tempting indeed—but it is not the best way to approach a very complex environmental issue.

LITTLE PENGUINS

The Hon. T.A. FRANKS (15:02): As a supplementary question, did the minister seek any advice regarding listing the little penguins as vulnerable?

The PRESIDENT: I thought you had answered that.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:03): I can only advise the honourable member, who I know has a very deep-seated commitment to these issues, to read my answer tomorrow. She will find contained in that answer information about their status.

REGIONAL DEVELOPMENT AUSTRALIA

The Hon. J.S.L. DAWKINS (15:03): I seek leave to make a brief explanation before asking the Minister for Regional Development a question regarding Regional Development Australia involvement in innovation cluster development.

Leave granted.

The Hon. J.S.L. DAWKINS: On 21 February this year, the minister announced the allocation of $2.7 million worth of funding over several years for a pilot program which, as per the minister's accompanying media release, states:

> The Fund is designed to grow stronger, sustainable and competitive regions. The Fund provides support to regional communities through Regional Development Australia (RDA) Associations which can access funds to deliver programs that support regional economic development and regional communities.

A number of RDAs had already progressed work in developing innovation clusters in their regions prior to this announcement. However, up until August, the RDAs had no contact from PIRSA regarding their role and involvement in the process or how they can access the funds. Given the delay in government consultation, it is also worth noting that the minister's own media release stated that 'the funds announced today will be available from 1 July 2013'.

Last month, the government finally made contact with the RDAs to discuss their role in innovation cluster development; however, the only thing apparently to come out of the meeting was another media release stating that the government is working with RDAs on this program. In reality, the RDAs have reported that they are yet to hear any further solid details on the pilot program from the government. My questions are:

1. What work is the department actually doing to progress this $2.7 million pilot program with the RDAs?

2. Is there any agreement with RDAs about their involvement and role in developing innovation clusters under the announced government pilot program?

3. What, if any, assistance is the government giving to RDAs who are already significantly advanced in their work on cluster development?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:05): I thank the honourable member for his most important question. Indeed, to demonstrate this government's commitment to regions we were very successful in gaining new money for our regions in the last budget; not all ministers were as fortunate. It was a very tough budget in a very tough economic time, so I think the fact that we were able to obtain new funds for new projects to assist the development of our regions really does demonstrate this government's commitment to the regions.

It involves, as the Hon. John Dawkins outlined, $2.7 million to establish innovation clusters in the Riverland-Murraylands and also the Limestone Coast. Two pilots are being established, and the idea behind this is that businesses in an area can band or collect together, pool their resources and achieve more than they might do on their own, particularly given that our businesses and primary industry and agribusiness sector are predominantly characterised by fairly small family businesses.

We know that this clustering model does very much assist those small businesses that on their own might not have the resources or the wherewithal to develop opportunities across the board. Through methods as simple as regular meetings, strategic planning and joint marketing opportunities, industry productivity can expand and a region's profile and brand potentially grow through these opportunities.

PIRSA is currently working with representatives in both of those regions. They have conducted a number of meetings and some forums as well, and they have already consulted with RDAs, so for the Hon. John Dawkins to come into this place and suggest that they are not consulting is not representing the truth. They have consulted extensively and will continue to do so.

What this model intends to do is to build on the activities and work that have already taken place in both regions. Both regions have already developed some cluster approaches in different types of ways. For instance, the South-East has mainly done it through that diversification forum and activities through there, mainly led by councils; in the Riverland-Murraylands, the RDA has been involved and more central.

Different regions are going about things in different ways, but what this project intends to do is to actually harness the energies, activities and developments that have already occurred and to help use those funds to build on top of that. The direction that those clusters are to take will be industry driven. This is not a government that is stomping into town and telling locals, particularly local businesses and local councils, how to do their job.

What we are saying is that the government's role is to assist and enable, and these funds are here to assist those regions to develop clusters to help those businesses that are interested and willing to come together, to partner together, to work collaboratively with other like-minded organisations to help expand their potential.

We are consulting and working with all interested parties and, as I said, the objective of this work is to enhance the endeavours that have already occurred, to harness and enhance them, and to help build on that very valuable work that communities have already invested in cluster development and activity.

REGIONAL DEVELOPMENT AUSTRALIA

The Hon. J.S.L. DAWKINS (15:10): I have a supplementary question. Given that, according to your own press release, the funds that were announced would be available from 1 July this year, when is it expected that the pilot programs will receive their first funding from PIRSA?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:10): The funds are already available and, as I said, they will be spent on those activities that the regions themselves identify as priorities for the future development of their clusters. The funds are available, discussions and negotiations are occurring and that is the way we intend to proceed. It is a commitment that we have already honoured and we stand by that. As I said, it is about building on and enhancing the very valuable work that has already occurred in the regions. Our decisions, in terms of the exact spending, will be informed by the inputs from those local communities themselves.

REGIONAL DEVELOPMENT FUND

The Hon. G.A. KANDELAARS (15:11): I seek leave to ask the Minister for Regional Development and Minister for Agriculture, Food and Fisheries a question about regional development funding in the Limestone Coast area.

Leave granted.

The Hon. G.A. KANDELAARS: Grant funding was approved from stream 2 of the Regional Development Fund to Mayura Station in Millicent. Will the minister inform the chamber of how this funding will benefit Mayura Station and the Limestone Coast region?

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: The Minister for Regional Development has the call.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:12): I thank the honourable member for his most important question. Restructuring of the regional development infrastructure fund enabled the government to establish the new Regional Development Fund (the RDF). This fund aims to increase the prosperity of regional communities by facilitating projects and programs that support sustainable, economic development. The RDF is a $3 million per annum, merit-based grant program which is directed at delivering PIRSA's regional development objectives and the government's seven priority areas.

The fund consists of two streams and stream 2 of the fund provides support to leverage funds to deliver projects that develop and support the priorities of the Premium Food and Wine From Our Clean Environment, Growing Advanced Manufacturing, or Realising the Benefits of the Mining Boom for All.

South Australian non-metropolitan RDAs, regional local government, along with private sector business and industry, and community organisations are all eligible to apply for funding under stream 2. Each proponent of an eligible project can access funding from $50,000 to a maximum of $200,000. I am very pleased to be able to announce that the A. de Bruin and A.S. de Bruin Partnership, who trade under the name Mayura Station, have been successful in their application for a grant of $200,000.

Based in Millicent, in this state's beautiful Limestone Coast region, this grant will assist South Australia's premier full-blood Wagyu beef producer to meet growing export demand and create new job opportunities. The Mayura Station has current capabilities to run a 500-head feedlot. Mayura Station, and its full-blood Wagyu beef, has a significant national and international reputation as a producer of ultra premium quality. It currently exports to South-East Asia, China and the Middle East, and its beef can be found in some of the top-rated restaurants in those regions.

However, the catch-22 of having a product with superior quality and reputation, such as the full-blood Wagyu beef from Mayura Station, is, of course, an increase in demand for exports. It can be difficult to keep up with the popularity of our premium food and wine overseas, and, of course, our reputation is growing as our clean, premium credentials continue to be heard and understood overseas.

The South Australian government recognises that support for primary industries is vital, not just to our state's economy but to the development of vibrant, strong regions. Unlike others, we do more than just talk about supporting our industries and regions; we actually fund them. You will note, Mr President, that those opposite have very little to say when, just last week, their federal Liberal colleagues announced they would withdraw funding from some of the projects in the federal Regional Infrastructure Fund. Where are their voices now? Where are the cries of outrage now? What do we hear from members opposite, as their federal colleagues withdraw money from the regions? Nothing, nothing whatsoever. You could hear a pin drop. It is a disgrace and they should be ashamed of themselves.

It was a fund designed by Labor to help regional infrastructure projects. What a disgrace. It is obvious that only the Labor Party is serious about building our regions, about working together to create jobs and opportunities and to help our regions flourish. There is only one party that is prepared to do that in a genuine way, and it is the Labor Party. The successful funding allocation of $200,000 will be used to construct 12 new pens—

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

The Hon. G.E. GAGO: What is the Hon. John Dawkins going to say to his federal colleagues about the new Coalition government withdrawing funds from our South Australian regions? What is the Hon. John Dawkins going to say about that? Is he going to write a letter demanding that these funds be reinstated to South Australian regions? Are we going to see—

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

The Hon. G.E. GAGO: What are we going to hear from the Hon. John Dawkins in relation to protesting against his own party, in the federal jurisdiction, ripping out funds from our regions? Nothing, that is what we hear. What do we hear? Silence. You could hear a pin drop.

The successful funding allocation of $200,000 will be used to construct 12 new pens as well as handling facilities and sedimentation basins, along with a manure stockpile and composting area, and a holding pond for effluent. By offering support we have ensured that Mayura Station will be able to increase its production capacity, as well as helping it meet growing export demand. This helps cement its international market and goes hand in hand with the excellent work many other primary producers are undertaking to increase awareness of South Australia's premium produce from our pristine environment.

I am advised that the project is likely to result in three additional FTE positions initially, with an additional five FTEs created in 2014-15. So as I said, we support regions, we support jobs, we support growth, we support opportunity.

MATTERS OF INTEREST

SAFE RATES CAMPAIGN

The Hon. R.P. WORTLEY (15:19): I rise to draw member's attention to the Transport Workers Union Safe Rates campaign, a campaign that aims to improve the safety of the truck drivers who criss-cross the country night and day, the truckies who carry fuel to our service stations, food to our supermarkets and shops, the goods and materials we produce for domestic purposes—and for export—to our airports and wharves, building materials to our construction sites, and much, much more. These truckies, whose cabs are their offices, are just as entitled to a safe working environment and reasonable pay levels as any of us here are.

It has been said that truckies are the backbone of our country, and I think that is a pretty good call. What is unfair, though, is the fact that these professional drivers risk injury and death on a daily basis. Indeed, I believe that they suffer a workplace fatality rate 11 times the industrial average. This unacceptable risk is undoubtedly due to the often onerous schedules and delivery deadlines imposed on them by businesses and their consignors. I am talking in particular about truckies who are compelled to drive to schedules set by corporate wholesalers and retailers. Those schedules mean pressure to drive for longer periods, when tired, or in hazardous weather, to drive vehicles that, due to time constraints, may not be optimally maintained.

Coupled with low rates of pay and incentive rates, the result can only be a risk to driver safety and health, and that is a combination that spells danger for all road users. For more than two decades, the TWU, truckies and their colleagues in the supply chain have worked towards a fairer road transport industry, one that provides safe pay rates for truckies and safer roads for all Australians, but the Safe Rates campaign is being threatened.

The big industry players—the major supermarket chains and their associated petrol outlets—now hold one in every three dollars of revenue from road freight, but they have persistently failed to shoulder their responsibility to help make the road freight sector fairer. The Transport Workers Union has now asked the Road Safety Remuneration Tribunal to introduce stronger obligations on the freight supply chain to make sure that drivers are paid sufficiently to enable them to work without jeopardising safety and health.

The TWU have advocated over a long period of time that both owner-drivers and employee drivers need minimum rates and it wants all parties to the supply chain to support the approach. The TWU also wants companies to get more involved in the creation and implementation of safe driving plans and to contribute financially through a levy system towards training specific to the truck driving sector. One may ask why. Here is why: I am advised that research demonstrates that a 10 per cent increase in pay means a more than 18 per cent decrease in crash probability, and that benefit increases as pay rates increase. It is a no-brainer.

Meanwhile, we know that the federal Coalition has made it pretty clear that it intends to review the Road Safety Remuneration Tribunal, which holds the big trucking companies to account. If that review leads to its abolition—a likely scenario, given the new government's close links to the big end of town—then the safety of truckies, and by extension all road users, will suffer. It is crystal clear that the only thing that stands between truck drivers and continued exploitation is their union: the Transport Workers Union.

I commend the Safe Rates campaign and I urge all who really give a dam about working Australians to support the TWU in its mission to improve the remuneration, the safety and the well being of truck drivers, without whom this country would quite literally grind to a halt.

GALLNOR, MARY

The Hon. J.S.L. DAWKINS (15:23): I rise today to pay tribute to the late Mary Gallnor. Mary passed away on 19 July this year. The celebration of her life was held on 4 August 2013, which would have been her 80th birthday. It was a privilege to know and work with Mary, originally when she was a Liberal branch member in the electorate of Florey and, of course, through our common interest in voluntary euthanasia and on many other social issues that members of parliament deal with. There were a number of issues upon which we did not agree, but we always held a high regard for each other. Indeed, it was Mary Gallnor who referred Kerry Faggoter to me in relation to the need to change the laws in this state regarding altruistic gestational surrogacy.

Mary was born in Stockton-on-Tees in the north of England to Catherine and John Gallagher. After school Mary trained as a teacher, graduating in July 1953 from St Mary's Training

College in Newcastle. She met her future husband Terry Cannon at school, but not long after they decided to marry Terry went off to war in Malaya. They married in 1959 and had two daughters, Alexandrea and Joanne. They moved to Nottingham and then in 1968 the young family along with her mother-in-law moved to Australia.

Mary continued to work as a teacher including new teaching methods at Strathmont Primary School. Later she was appointed head of the middle school of Scotch College and head of year 7 at Pembroke. Mary developed a keen interest in the areas of politics, justice and feminism. In her local area in the north-eastern suburbs she served for three years on the Tea Tree Gully Development Board.

After joining the Liberal Party in 1981 she served on State Council and as vice president of the Liberal Women's Network and as delegate for the Liberal Party Policy Committee. With her views as a social reformer, many of her friends and colleagues thought she may have been better suited to the other side of politics. In 1989 she became one of the founding members of the South Australian Voluntary Euthanasia Society (SAVES). She went on to serve as president of SAVES for eight years. Her energy and activism also saw her elected to become the president of the World Federation of the Right to Die Societies.

In 2007, she moved from the family home in Modbury to her unit at Kensington Gardens which she loved and of which she was very proud. In her later years Mary volunteered at Resthaven Nursing Home, giving hand massages and a friendly ear to older residents. In late 2012, she had an emergency hernia operation. Mary suffered from myelofibrosis, a condition which resulted in too many abnormal blood cells, a situation that also made surgery more complicated and recovery more difficult.

In early 2013, while reluctant to leave her beloved unit, she moved to St Louis Nursing Home at Parkside. She spent her final months with the care, support and friendship of the wonderful people at St Louis Nursing Home. She died unexpectedly but peacefully in her sleep. Her final wish to donate her body to medical science was fulfilled, but her quest to secure the legal right to die with dignity was not completed.

At the celebration of her life it was instructive to see that there were members of pretty well all political persuasions present, including the member for Unley in another place and members of this place, including the Hons Gail Gago, Ian Hunter and Mark Parnell. One of the speakers during that celebration was our former colleague, the Hon. Sandra Kanck.

Certainly, as I have said, while there are some things that I agreed with Mary on, there were others that I did not, and I think many other members of this place could attest to that. However, she always had great respect for members of parliament and those who serve their community and, even if she did not agree with you, she still had great respect for most people in this place. Vale, Mary Gallnor.

RIVERLAND SUSTAINABLE FUTURES FUND

The Hon. G.A. KANDELAARS (15:28): Recently I visited the Riverland and took the opportunity to visit three firms that had received grants under the Riverland Sustainable Futures Fund. Given that those opposite seem to like to question and denigrate the government's commitment to this fund, I thought I would give the council a rundown of some of the great outcomes that have come from the Riverland Sustainable Futures Fund grants.

The three iconic firms I visited were JMA Engineering at Berri, Almondco at Renmark and Angove Family Winemakers at Renmark. All three firms provide significant employment in the Riverland and play an important role in the local economy. I visited JMA Engineering's metal fabrication site at Berri and was shown around by Tony Trevorrow. JMA was awarded a $250,000 grant from the Riverland Sustainable Futures Fund in June 2011 for its $500,000 upgrade.

The upgrade of a grit-blasting machine and spray painting booth has double the amount of raw steel that JMA can fabricate, clean and paint. It allowed JMA to secure a major contract with a large multinational almond processing business in Victoria because of their increased capability. The new grit-blasting machine removes surface deposits by applying a fine sand and glass beads at high pressure without damaging the surface. Interestingly, JMA Engineering has won work with both Almondco and Angove's. It specialises in the design, manufacture and supply of steel products for wine and brewery equipment, and industrial and retail buildings.

The next firm I visited was Almondco, on the outskirts of Renmark. I was taken on a tour of Almondco's facility by Tim Jackson, the National Sales and Liaison Manager. The facility is highly mechanised, and the $1.9 million grant from the Riverland Sustainable Futures Fund was used by Almondco in its $4.2 million pasteurisation project. The project sees the business remaining at the forefront of food safety and technology. The new state-of-the-art pasteurisation equipment treats almonds individually to remove any potential micropathogens that may have been on the almond skins. The pasteurisation project mitigates micro food safety risk and is now being demanded by leading supermarkets and retailers.

Almondco is a significant player in the Australian almond industry, as it is supplied by more than 80 per cent of the nation's almond growers and handles nearly 30 per cent of Australia's almond harvest. Almond production in South Australia has almost doubled in the past 10 years, with 12,500 tonnes resulting in $40 million worth of almonds being exported out of South Australia in 2011-12.

Finally, I visited Angove Family Winemakers' Renmark facility, the home of St Agnes Brandy, Stone's Original Green Ginger Wine and many other premium wines. I was shown around Angove's Renmark winery by John Coombe, the company secretary. Angove Family Winemakers have been operating in the Riverland since 1910. It currently exports to 30 countries around the world and, as I understand it, Angove's is one of the few remaining, if not the only, family-owned mid-tier winery in Australia.

After receiving a grant of $250,000 from the Riverland Sustainable Futures Fund, Angove's has been able to significantly increase its production capacity at Renmark. The grant allowed the company to complete a project of over $550,000, installing four new 100-tonne fermenters at their Bookmark Avenue winery just in time for the 2012 harvest. This has expanded its red grape fermenting capacity from 13,000 tonnes to 17,000 tonnes per week, helping to meet an increase in the demand for the company's wines. The expansion is estimated to result in extra payments to growers of more than $1 million for 2013 and beyond and also provide work for other Riverland companies.

It was a pleasure to see some of these projects that have been funded through the $20 million Riverland Sustainable Futures Fund, which was established to assist industries promote and sustain economic and social development in the Riverland.

Time expired.

FEDERAL ELECTION

The Hon. R.I. LUCAS (15:33): I want to talk about Labor in 3D—delusion, division and deception. After the federal election result on the weekend, Labor Party ministers and spin doctors have been doing the rounds seeking to portray the result in South Australia as in some way being a failure or a loss as a result of the leadership of Steven Marshall and the South Australian Liberals. Minister Koutsantonis, for example, has been tweeting and trying to indicate just that particular case.

It is hard to see, in the circumstances that minister Koutsantonis is talking about, where, prior to the election, he indicated that Labor would win the federal seat of Hindmarsh, and win it easily, when one looks at the facts of an 8 per cent swing to the Liberal Party and a victory for the Liberal Party candidate there, Matt Williams. When one looks at the aggregate figures, the biggest national swing to the Liberal Party in any state was in Tasmania, and South Australia and Victoria were close in terms of the second largest swings to the Coalition at the election. If those in the Labor Party want to continue with their own delusional interpretation of the results on Saturday, more strength to their arm, and let's hope they continue to dictate strategy and campaign direction for the Labor Party as they lead up to the state election in March.

We have seen the division within the Labor Party, the forces of the right and the left now arcing up against each other as a result of what would appear to be the imminent demise of the Godfather of the right, Senator Don Farrell, as a result of being forced into a position of having to take the No. 2 position on the Senate ticket behind Senator Wong. The ramifications of that in terms of the division between the left and the right in the Labor Party will be felt for months to come. I think one of the lessons of the federal election, and one of the lessons for the state election, is clear: if parties such as the Labor Party are divided, disunited and cannot govern themselves, how on earth can the people trust them to govern either the nation or the state?

The other issue in the last couple of weeks has been the damning report by the Auditor-General of the government's handling of the Adelaide Oval procurement process. The Auditor-General noted that a probity auditor was appointed after the commencement of the procurement process, and as a consequence key aspects of the procurement process were not reviewed by the probity auditor. He found that the preferred tenderer did not fully comply with the department's information requirements when submitting their best and final offer. He found that the evaluation panel did not evaluate the offer, as provided for in the tender documents, as the project manager entered into direct negotiations with the preferred tenderer to agree to a final design and price.

Then minister Koutsantonis went on air to defend the position and said that the Auditor-General was quite happy, quoting him as saying that he had not identified any other matters that would indicate the public money made available and expended for the purposes of and in connection with the redevelopment of the Adelaide Oval, envisaged by the act, was not managed and used properly and efficiently, and he said, 'That's something Mr Lucas won't tell your listeners.'

Minister Koutsantonis was left red faced when I was able to point out straight away on ABC that the minister had deliberately misquoted the Auditor-General's Report and excluded the important lead-in to that particular quote. He excluded the following sentence:

> With respect to term of reference 3, on the basis of information obtained and reviewed to date, except for the matters detailed in sections 422, 423 and 424 below...

That was the important proviso from the Auditor-General, and then for the next five or six pages the Auditor-General proceeded to outline all the very significant concerns he had about the procurement process. Minister Koutsantonis sought on the radio to read only part of the Auditor-General's findings without actually including the key caveat the Auditor-General had included.

For those of us who are aware of the minister, who has been referred to by many as the 'welsher from the west', someone who is unprepared, even after now 12 years, to pay up on a gambling debt he has, it is not surprising that he would seek to be deceptive in relation to the Auditor-General's findings on this most important issue.

EPILEPSY

The Hon. J.A. DARLEY (15:38): On 25 August, I was invited to attend a public meeting hosted by Epilepsy—Let's Talk About It, a group established by like-minded people suffering from epilepsy, either directly or indirectly, who hope to adjust the way epilepsy is treated in Australia. At this meeting, I was shocked to hear that South Australia was the worse of all the mainland states in regard to epilepsy treatment. South Australia is the only Australian state where there is no funding for epilepsy support services and, to make matters worse, there is no support by way of a disability support payment, as epilepsy is not considered to be a disability.

A mother who travelled from Victoria told us about the services available to her as a mother of a child with epilepsy. She explained that, upon diagnosis, her child was registered for the children's epilepsy program, and testing through EEG monitoring started almost immediately. As her child was part of the children's epilepsy program, she had access to dedicated staff who specialised in the treatment and management of epilepsy. Conferences are held monthly between parents and all staff, including nurses, neurologists, dieticians and paediatricians. An epilepsy support nurse is contactable five days a week, and at home respite services are provided.

In contrast, the services available in South Australia—a mere eight-hour drive away—are significantly inferior. Upon seeking medical treatment for a child who has suffered a seizure, many parents find that their children are placed on a waiting list to have the diagnosis of epilepsy confirmed. The average weight on this list is 12 months. Until a diagnosis of epilepsy is confirmed, patients are unable to access the few epilepsy services available in this state and parents must continue to watch their children suffer seizures, often chronically, without support or treatment. Even after serving the waiting period, people often find that South Australian hospitals have limited resources and lack the equipment required to make a full and proper diagnosis.

Once a diagnosis of epilepsy is finally confirmed, the resources are so limited that often people have to wait a further 12 months to see a neurologist. Every other state in the country has at least one epilepsy nurse. However, in South Australia parents find it difficult even to access information services that will help them understand what is happening with their child. Similarly, South Australia is the only state which does not offer long-term VEEG monitoring—which is essential to determining where a seizure originates in order to obtain a clear diagnosis—to children.

We heard story after story of the same thing—delayed diagnoses, inadequate treatment and shortage of medical specialists. Desperate parents, those lucky enough to be in a position to do so, often made the journey to Victoria to help their children. Tragically, we also heard a story about a 15-year-old girl who sadly died whilst waiting for an appointment to see a neurologist. Her parents shared with us how they had waited months to see a neurologist. Heartbreakingly, their daughter suffered a seizure whilst in the bathroom and drowned.

It is simply appalling and shocking that this young life has been lost due to the lack of funding for epilepsy services. Had the family lived in Victoria, she would have been registered with the children's epilepsy program after her first seizure, and treatment and management would have begun immediately. It is simply awful that South Australians are treated as second-class citizens. I hope that by talking about it more and spreading awareness about the issue, epilepsy services in this state will begin to improve.

AGRICULTURE INDUSTRY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:42): We do not know exactly how many people were in Australia before Europeans arrived; some put the figure as high as a million, others say it peaked at less than half that. We do know that the population fluctuated widely over the 50,000 to 55,000 years of human occupation, depending mostly on two things: climate change and technology.

And the climate did change. When the first people arrived, the continent was still connected to New Guinea, and Tasmania was not yet an island. The sea level was 150 metres lower than it is now. You could have walked across what is now Gulf St Vincent. Kangaroo Island was, in effect, Kangaroo Mountain. Lake Eyre was a freshwater sea, where natives lived in abundant numbers, as they did at Lake Mungo, and in abundant splendour. There was food to be had for the picking, but there was little surplus year to year.

From century to century, millennium to millennium, the maximum number of people Australia could support was always dependent on how much food the land could provide. Food is the limiting factor on population. In the Middle East, there was a population explosion soon after farming began. The invention of agriculture, specifically cheap carbohydrates—rice in Asia, maize in the Americas, wheat, rye, barley and oats in Europe—allowed civilisations to grow.

It was only then that writing developed and cities were built, and 10,000 years later we stand here in South Australia reaping, as it were, the fruits of those labours. With agriculture came animal husbandry and then technologies to better use animal and plant fibres, oil seeds like canola and sunflower, biofuels, plant-derived medicines, rubber, and ultimately industrial and technological revolutions.

When the Europeans arrived in what is now South Australia, the colony's success depended upon agriculture. Soon we were exporting wheat and wool. We became the granary for the mother country. Two hundred years later we are a major food provider to the world. Last year Australian food exports were worth more than $30 billion. More than half of this feeds the nations of Asia. Australia, with its population of 23 million, produces enough food—mostly beef, wheat and dairy—to contribute to the diets of 60 million people. Seventy per cent of our food production goes overseas.

The Chair of Visy Industries, Mr Anthony Pratt, told us he thinks Australia can quadruple our exports and feed some 200 million people, and, according to the Centre for Plant Functional Genomics, we contribute to the diets of up to 400 million people through overseas application of Australia's agriculture research and expertise. However, it is not just people in Vietnam eating bread made from South Australian wheat or Japanese eating Port Lincoln reared tuna or chefs in Shanghai sizzling West Coast abalone who benefit from South Australian agriculture. Every South Australian—every one of us in the city and in the country, in Edwardstown and in Aldgate, in Mitcham and in Modbury, in Prospect and Pinnaroo—is a beneficiary.

Every South Australian is better off because of South Australian primary industry. It provides jobs—30,000 people are directly employed in agriculture, forestry and fishing. That is more than the entire population of Mount Gambier or Whyalla, and they are the state's second and third largest cities respectively. Add on the indirect jobs in food processing and manufacturing, packaging, wholesale and retail, transport, agricultural support services, railways and ports, and the number of South Australians whose lives are enriched rises to 1,650,600 people. That is every man, woman and child in this state.

Agriculture helps pay for the kids' schools in Elizabeth, it helps put bitumen on South Road, it pays the local police station and provides public transport. There is not a single factor in South Australia's economy—from the state of the state's finances to personal living standards—which is not affected in some way by what happens on our farms and our fishing fleets.

Agriculture and primary industries, including food processing, wine and aquaculture, are key drivers of the South Australian economy and our export industries. So, as you tuck into dinner tonight, it is time to thank a farmer; and no matter what we do—whether we design computer programs, work in a cafe or a restaurant or a supermarket, in civil administration and in private enterprise—every South Australian should appreciate that agriculture and primary industries feed not just our bodies, but our entire economy.

DEVELOPMENT (DEVELOPMENT PLAN AMENDMENTS) AMENDMENT BILL

The Hon. M. PARNELL (15:48): Obtained leave and introduced a bill for an act to amend the Development Act 1993. Read a first time.

The Hon. M. PARNELL (15:48): I move:

That this bill be now read a second time.

This bill is one of a number of bills that I have introduced in the past, and will introduce in the future, that have come out of a considerable body of work undertaken by an organisation known as Community Alliance. This group is a couple of years old now and it is an umbrella body that represents a large number (over 30) of different residents and ratepayers' associations from around South Australia.

What all of these groups have in common is that, at some stage or other, they have all had to deal with the planning system and they have all found that system to be inadequate. Members will recall that in the past I have introduced bills to clean up the interim operation provisions of the Development Act, and this council, in its wisdom, has seen fit to support that bill. It now languishes in the lower house. I also put forward a second bill to amend the Development Act which, again, passed this house but is now languishing in the lower house.

What I have today with this bill is yet another attempt to fix problems that have been identified by community groups as difficulties with the Development Act that are in urgent need of reform. This particular bill does two main things: first of all, it reforms the system around the Development Policy Advisory Committee; secondly, it deals with the subject of parliamentary scrutiny of planning schemes under the Development Act.

I will deal with the first issue. The first problem that was identified by the community alliance and its member groups was that in the Development Act there is no trigger for the Development Policy Advisory Committee to be brought in to consider the effect of planning changes and, in particular, rezoning changes. Currently, the only trigger is that if the minister wants to get advice the minister can ask for that advice. That, I submit, is an inadequate trigger for what is effectively the main vehicle for public input—that is, submissions to and appearances before the Development Policy Advisory Committee.

What this legislation does is basically add to the ministerial discretion already in the bill. It adds further triggers, the first of which is that if a local council requests the Development Policy Advisory Committee to consider a development plan amendment that request should be sufficient for the minister to trigger that process. Secondly, the Development Policy Advisory Committee should be able to resolve, of its own initiative, to look at a controversial rezoning regardless of whether the minister has called for that advice. I think that is a sensible reform because there are situations where, clearly, rezonings have been controversial, the minister has not sought advice and therefore the Development Policy Advisory Committee has not met.

The second reform relates to when the Development Policy Advisory Committee does seek submissions from the public and the public, in good faith, make their submissions but there is no mechanism for them to find out how their submissions were treated—whether they were taken seriously, whether they were ignored—and how their comments fitted into the overall scheme of comments made by other members of the community.

The solution to this inadequacy is to require the Development Policy Advisory Committee to respond to all those who make submissions with a copy of its advice to the minister, and that advice would show how submissions were accepted or rejected and the reasons why. In order to bring that about, there is a change required in the terminology of the act so that the task of the

Development Policy Advisory Committee becomes one of preparing a report and not just giving advice to the minister.

However, I think the point has been well made by a number of community groups—that it is disrespectful in the extreme for people to spend hours (collectively, in fact, hundreds and sometimes even thousands of hours) preparing detailed submissions on what they like or do not like or suggested reforms to planning schemes only to find that work going into a black hole and for them to not find out how their submissions were treated.

We have had some minor improvements over the years, and certainly now the Development Policy Advisory Committee finally releases its advice to the minister, but it only does so, in some cases, many months after the final decision has been made, well after the horse has bolted. If we can change that system so that the Development Policy Advisory Committee prepares a report and is obliged to provide that report to all those who made submissions, that goes partway towards treating the public more respectfully.

However, you do need to take one further step, and that is to make sure that the minister does not make a final decision on a development plan amendment—on a rezoning, for example—before that report has been released. It makes no sense for the current situation to apply, where the advice is only made public long after the final decision has been made.

Those three elements make up the reform package in this bill. The Development Policy Advisory Committee will have increased triggers to enable it to investigate contentious rezoning exercises, it will be required to provide a more detailed report than it currently does, it will be required to provide that report to those who made submissions, and the minister will not be able to make a final decision until after the publication of the report.

Those reforms alone would not actually deliver what is required if we were to have a genuine system of oversight in the planning system because the current system of parliamentary scrutiny of planning schemes is probably best described as a joke. The proof of that assertion is the fact that, through the entirety of its existence, the parliamentary scrutiny trigger has never been used to reject rezoning.

Think of how many rezoning exercises there would have been since 1994: they would number in the hundreds; I have not taken the trouble to count them, but it may even be more. All those planning schemes—many of them highly controversial, many of them not having majority support in parliament—yet there has never been one that has been knocked off in parliament, notwithstanding the provision of the Development Act that is euphemistically described as 'parliamentary scrutiny'.

There are a couple of reasons that is the case; the first, as many members know, is that parliamentary scrutiny does not take place in relation to planning changes until after the minister has made a final decision, so after the horse has bolted. The minister has made a final decision, it is in the *Government Gazette*, and the changes to the planning scheme are operative, then, and only then, does the parliament get to have a look at it.

In fact—and I have mentioned this on a number of occasions in this place—even if the parliament were to reject a rezoning, it would not be retrospective, in which case the work that planning change had to do would have been done by the time parliament got to it. The reality is that a system, described as 'parliamentary scrutiny', where the parliament is effectively nobbled by not getting to scrutinise the changes to the planning scheme until after they have come into operation, is a joke of a system.

There is another element of the parliamentary scrutiny process that is the subject of a separate bill (which I will get to shortly) which also means that the parliament has never taken its role seriously—that is, the fact that the particular standing committee of the parliament that has responsibility for planning schemes, the Environment, Resources and Development Committee of parliament, is at present controlled by the government of the day. That means that over its 20-year history it has never made a decision adverse to the interests of the government of the day. The solution to that (as I will get to shortly on the other bill) is to make that committee a Legislative Council committee.

In terms of the bill before us now, I think it goes a long way towards improving the scheme for planning changes in this state. It enables the Development Policy Advisory Committee to engage more respectfully with the community and it ensures that parliamentary scrutiny of changes to planning schemes occurs before the change comes into operation and not after.

Just to make the mechanism very clear, the bill provides that the minister must not approve a change to a planning scheme until after the parliamentary scrutiny period has expired. If the Environment, Resources and Development Committee disagrees with a planning change and it goes before both houses of parliament, then that should stop the clock.

Again, the minister should not be able to gazette the operation of a change until the parliament has well and truly finished its deliberations. This need not add a great deal of time to the process because, in the vast majority of cases, these changes go through very smoothly. However, what it really does is it actually gives truth to the heading of that section of the Development Act entitled 'parliamentary scrutiny' because at present, as I say, parliamentary scrutiny is a joke. With those comments, I commend the bill to the council.

Debate adjourned on motion of Hon. G.A. Kandelaars.

PARLIAMENTARY COMMITTEES (MEMBERSHIP OF THE ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE) AMENDMENT BILL

The Hon. M. PARNELL (16:01): Obtained leave and introduced a bill for an act to amend the Parliamentary Committees Act 1991. Read a first time.

The Hon. M. PARNELL (16:02): I move:

That this bill be now read a second time.

As I alluded to in my comments on the previous bill, this bill seeks to add truth to the concept of parliamentary scrutiny by making sure that the parliament genuinely does have the ability to scrutinise a planning scheme. Again, this legislation was born out of the deliberations of the Community Alliance. A large number of community groups recognised at a very early stage that they were wasting their time coming to parliament looking for relief and looking for the parliament to exercise scrutiny over the executive because, by the time the parliament got to look at it, the horse had well and truly bolted and the planning changes were already in the *Government Gazette.*

I note the Hon. David Ridgway's interest in this matter. In the past he has been very critical of instances where the Greens have sought to refer something to the Environment, Resources and Development Committee because—and I agree with him entirely—it is a government-controlled committee and therefore, whilst I think the scrutiny of that committee inquiring into things is worthwhile, the outcome in terms of votes on the committee is a foregone conclusion, as members would know.

The reason it is a foregone conclusion is that the Parliamentary Committees Act provides that the six members of that committee are to come half from the House of Assembly and half from the Legislative Council. The act also provides that the House of Assembly is to provide the chair and that the chair has a casting vote. So, a very common scenario in the Environment, Resources and Development Committee is a 3-3 tied vote on the floor of that committee, and the chair invariably exercises his or her casting vote in favour of the executive. That is how it has been since 1994.

I am only aware of one instance of a different outcome and, in the end, that was resolved by negotiation. I am now going back into the archives, long before my time. It was a bit of a wake-up call to certain people. Certainly, on the record, the parliament has never rejected a change to a planning scheme on the basis of a referral from the Environment, Resources and Development Committee because the ERD Committee is controlled by the executive and that is because it is a committee administered by the House of Assembly.

The solution is dead simple. In fact, it is the same solution I put forward as an amendment to a government bill that is sitting on the *Notice Paper*—in fact, languishing on the *Notice Paper*—because the government has no intention of advancing it. I thought if they are not going to advance their bill, I will take that amendment and introduce it as a standalone measure.

All the bill really does is replace the words 'House of Assembly' wherever occurring and substitute 'Legislative Council'. What that would mean is that given that the executive, the government of the day, has not controlled this chamber since the 1970s, there is every chance that the three members of this chamber are likely to reflect a diversity of opinions and parties. It is also likely that the person they choose as their Chair would not be a member of the government of the day. That is not guaranteed, and of course the make-up of the Legislative Council might dictate that it works otherwise, but the only chance of the government not controlling the committee is to take

the committee away from the House of Assembly and preventing that house from providing the chair.

It is a definitional matter. The government is the party with control of the House of Assembly. If the House of Assembly controls this committee, the government controls this committee. I think that if parliamentary scrutiny is to mean anything, it needs to be a lot more democratic than we have at present. It is a very simple change.

As I have said, the Liberal Party has been very critical of the fact of it being a government dominated committee, and I am sure their principal position of the past will not change as we get closer to the election. I am sure it will stay a principal position and I would be very keen for all parties to recognise that this is a change that is long overdue. I commend the bill to the house.

Debate adjourned on motion of Hon. G.A. Kandelaars.

DEVELOPMENT (PUBLIC CONSULTATION) AMENDMENT BILL

The Hon. M. PARNELL (16:08): Obtained leave and introduced a bill for an act to amend the Development Act 1993. Read a first time.

The Hon. M. PARNELL (16:08): I move:

That this bill be now read a second time.

This bill is the third I am introducing today and again it comes from the hard work and the deliberations of the Community Alliance representing community groups from around South Australia that have an interest in planning law reform.

This particular bill does two distinct but very simple things. Unlike the earlier bills where the main subject matter was changes to planning schemes and rezoning exercises, this bill relates to development applications and how they are advertised and dealt with. The first reform in this bill is to enable either the regulations or a development plan itself to list a form of development as a category 3 development. What that means is that category 3 developments are the only form of development that is required to be notified to the world at large through a notice in a newspaper and where any person is entitled to make a representation or a submission.

At present, category 3 is defined as a remnant category. In other words, only forms of development that are not category 1 and 2 are regarded as category 3. Again, it is quite a technical area of law but, in a nutshell, the vast majority of development is category 1, a smaller number is category 2 and a tiny proportion is category 3.

Generally speaking, if a form of development is a complying form of development, (in other words, it is a type of development generally envisaged by the planning scheme), then it will be regarded as a category 1 and maybe a category 2 but it cannot be regarded as a category 3, no matter how controversial, how significant or how large. You could, in fact, have the largest industrial complex ever constructed in South Australia being regarded as a category 1 development provided it was constructed in an industrial zone, because at present the planning scheme basically regards the zone as paramount and, as long as a form of development is consistent with that zone, no-one need be notified.

That may well be an appropriate response for some minor types of development, and I will come to some exceptions, but in the vast majority of cases I think people do have a right to know what is going on in their neighbourhood, and for large and controversial developments it should be possible for either the regulations, or the government through a development plan or a planning scheme (I use those terms interchangeably), to actually list something as a category 3 development. It has not been possible up until now: this bill enables that to happen.

The second reform in this bill—and, again, one that has come out of conversations with community groups and one that, I recall, was given a fair bit of support at a public meeting at the Norwood Town Hall probably the best part of a year ago—is a very old-fashioned idea that, when somebody has applied for development approval, they should be required to place a notice on the land to that effect. That might sound complicated but you only need think of the regime under the Liquor Licensing Act.

You walk past a hotel and you will see a sign in the window—a number of honourable members are shaking their heads. They never walk past hotels, and I have just appreciated the irony of what I have said. But, let's say, hypothetically, that you do walk past a hotel: you often see a sign in the front window (an A3 sheet of paper affixed to the window) which basically is a notice

to the world walking past that an application has been made for a liquor licence or for a variation of the licence.

The public policy rationale for that is quite clear. Let's say a hotel was seeking to extend its hours. Therefore, people have an interest. Neighbours, for example, have an interest. A regime whereby a notice is affixed to the window and people have a right to put in submissions is one that has been long accepted in that area.

When it comes to development applications more generally, many other jurisdictions have a system of requiring a notice to be affixed to the land. The purpose of that notice is exactly the same: it is to let people know that something is afoot, that some change is proposed, and whether or not people choose to investigate further is up to them but, at present, not only are most development applications not notified but it can be very difficult to even find that information, even if you are seeking to pull it towards you rather than have it pushed at you. So, a sign on the land, I think, is a very simple and straightforward method.

The requirement in the bill I have put forward does not set out the detail. It does not talk about the font size or the size of the paper, or anything like that. The only requirement is that the relevant authority, which in most cases will be the local council, must ensure that the person making the application has taken reasonable steps to display a notice of the proposed development at the site of the development in accordance with the regulations.

In some cases, it might be an A4 piece of paper sticky taped into the window. In other cases, it might be a wooden stake hammered into the ground with a laminated notice attached to it. It might be a star picket. It might be on the front gate or front fence. Those details can be left to regulation, but I think the principle is what is important. People have a right to know what is going on in their neighbourhood and they should have a right to make representations or a submission if a form of development is likely to affect them or they have an interest in it, and the best way to do that is to make sure that we do not keep these things secret and we let people know.

It is usually at this point that someone interjects with the story from *The Hitchhikers Guide to the Galaxy*, where of course the plans for the hyperspace bypass, which involve the destruction of planet earth, were found in a basement, rather inaccessible to most people. The reason that that is funny in *The Hitchhikers Guide to the Galaxy* is that it has such a ring of truth to it. People know that information that should be readily available is very often hidden away in places like the *Government Gazette*, which I am still yet to read and I am yet to meet an ordinary South Australian who has ever read the *Government Gazette*. With those brief words, I commend this bill to the house, along with the two that have preceded it, and I look forward to debate in coming weeks.

Debate adjourned on motion of Hon. T.J. Stephens.

SELECT COMMITTEE ON DEPARTMENT FOR CORRECTIONAL SERVICES

The Hon. T.J. STEPHENS (16:16): I move:

That the report of the committee be noted.

I rise to speak to the report of the Select Committee on the Department for Correctional Services, which was laid on the table just before the winter recess. This committee was established in February 2011, during the previous session of this parliament, after revelations of deep-seated cultural issues in the department and the dysfunction caused as a result.

The catalyst for the creation of this committee was the mishandling of, or the unwillingness to address, this problem by the government, particularly the minister at the time, the current Minister for Transport and Infrastructure. It is important to highlight that the establishment of this committee was not a partisan exercise insofar as my private member's motion was strongly supported by the crossbench of this place, and we had the inclusion of the Hon. Mr Brokenshire in the committee membership.

In these 2½ years the committee has heard a swathe of evidence from many connected to the corrections system in the state. Witnesses included departmental executives, correctional officers, union representatives, mental health workers and former employees. This gave the committee a wide array of evidence to address the terms of reference.

The mandate of the committee was quite broad, and I do not have a problem with this. Despite the fact that it may have prolonged the committee's deliberations and pushed back the reporting date of the committee on more than one occasion, I believe one of the major tasks of the

committee was to act as a forum for aggrieved employees to air their frustrations and to ease their burden, as it was often felt that there existed no recourse to the way they had been treated.

The government, particularly via the many comments made by the Hon. Mrs Zollo, insisted that this process was a witch-hunt aimed at the government, but if the concerns of these many now former employees were addressed appropriately, and to the satisfaction of the aggrieved parties, obviously there would have been no need for them to appear before the committee. As chairman I have the responsibility of explaining the committee's deliberations and subsequent report, an unfortunate task given the many failures and sad cases identified.

The first witness was then departmental chief executive Mr Peter Severin. Mr Severin defended the department's record in the areas of concern for the committee and also against the assumed accusations of disgruntled employees. Unfortunately, Mr Severin seemed to dismiss the accusations as being the opinion of a select few and painted these few as instigators and agitators. It was interesting to me, and to most on the committee, that Mr Severin's testimony appeared contradictory. On one hand he defended the department's record in the area of employee grievances and dispute resolution, yet presented the committee with a detailed plan of how the then current procedures were to be reformed, as weaknesses had been identified.

This was a farcical situation. How could a chief executive defend his department as running smoothly when concurrently it had been identified as being dysfunctional enough to warrant a complete overhaul of operating procedures? Interestingly, the minister was quiet during all this, a trait which he is not generally known for. It was clear even before Mr Severin gave his evidence that the department had capacity issues, around 98 per cent, with close to zero spare beds.

Mr Severin did identify that certain upgrades had been planned, including the use of 'modular accommodation', which is the official term for shipping containers. The department was looking into opportunities to double-up cells, presumably in line with the government's policy of 'rack 'em, pack 'em and stack 'em' as articulated by former deputy premier, the Hon. Kevin Foley.

The very few additional beds to be opened up in the coming years will barely match the predicted prisoner increase and, in further evidence heard by the committee, Mr Kernich, a correctional officer, highlighted cases where prisoners were held in police cells and inappropriate double-ups, where the cells 'don't meet international standards, nor those of peak prison bodies in Australia and elsewhere'.

Mr Kernich also claimed that women prisoners were accommodated at the City Watchhouse, which lacks basic female sanitary equipment and where the officers were not trained in handling female prisoners. This was despite Mr Severin stating that there were 118 spare beds at the Adelaide Women's Prison. This is one of the many bizarre situations which seem to occur in the department, which at the very least obviously has serious communication issues.

This brings me to one particularly shocking example that highlights the serious lack of procedure and oversight amongst the departmental hierarchy, as well as the basic lack of communication, but chiefly a lack of basic human decency that would be inappropriate and shocking in a Third World country, let alone here in South Australia. I refer to the evidence of correctional officer Mr Alan Radford, who brought to the committee's attention the case of two prisoners who had clear mental and psychological deficiencies and were housed in the infirmary of Yatala as a result. According to Mr Radford, the female prisoner spent:

> ...nine months—20 hours of a 24-hour day—handcuffed to a bed with two handcuffs on each side...That female had an officer on her 24 hours a day, and yet even if she was behaving, they did not relax the time that she was in cuffs.

As honourable members would be aware due to the press coverage this case received last year, this was occurring right up until two months before Mr Radford gave his evidence in June 2012, well after the committee opened its inquiry.

The second case was that of a severely disabled Aboriginal offender, who in the opinion of Mr Radford would have been granted bail if he were 'any other person'. He was held in the infirmary because 'the system could not work out what to do with him'. Whatever your opinions, this should not be acceptable in any jurisdiction, let alone in South Australia—a jurisdiction that historically has prided itself on fairness and social progress.

I move on to another concern now, that is, the housing of remandees at Yatala Labour Prison. Mr Severin made it abundantly clear that 'South Australia has not ever had a policy of completely separating remand prisoners from sentence prisoners'. We later heard from

Mr Kernich's submission that in South Australia there exist some of the 'worst examples, including the celling up together of young remandees for minor offences (e.g. driving disqualified) with convicted multiple murderers'.

I understand the capacity pressures placed on the department, and I also understand, as Mr Severin pointed out, that this is standard practice in most jurisdictions in Australia. However, I believe the real reason for this problem is capacity pressures that are directly caused by the government's budgetary crisis. Would this situation exist if the government could afford to go through with its previous plan for a new prison?

We know that the government strategy is to add to the existing ageing infrastructure with a patchwork of upgrades. Where these upgrades perhaps should be focused is on the safety of existing cells, particularly to prevent unnecessary deaths in custody. The ability in recent times of some prisoners to end their own lives whilst in custody is a disgrace from a government's duty of care perspective, as it robs the prisoner of a chance to rehabilitate, and in some cases robs the victims and their families of justice. Correctional services ministers of this government, both past and present, have been silent on this issue, and to me that is not good enough.

The committee heard from the department on the recent escapes—including that of Drew Claude Griffiths in 2011—which were totally unacceptable. The escapes occurred during transport, which is contracted out to the security firm G4S. However, the buck stops with the minister—a responsibility which he delegates to his department and its procedures. It is widely known that following his escape Drew Claude Griffiths carjacked a vehicle on Wakefield Street, stole firearms from a gun store, attempted to rob a jewellery store and briefly escaped custody again from the Royal Adelaide Hospital. This escape exposed glaring gaps in prison transfer procedures and attracted warranted criticism of the minister at the time.

One final matter in regard to the testimony of Mr Severin was the issue of his general letter to all departmental employees regarding the submission of evidence to the committee and/or appearing as a witness before the committee. In this letter, Mr Severin made it clear to all employees that any unilateral action without prior permission of the chief executive was not allowed, specifically that any request for documents to be submitted must go through the chief executive. Whether the intention or not, this gives the ability of the chief executive to gag any criticism. It should be noted, of course, that Mr Severin denied that this was the case and stated that this was merely the advice he has received from crown law. It is clear from the testimony of officers that staff interpreted this as a threat or, at the very least, as intimidating.

One of the major concerns of the committee, and one on which a significant amount of time was spent collating evidence, was that of workplace bullying and the perceived culture of intimidation. This issue was brought to the attention of the Hon. Mr Brokenshire before the establishment of the select committee by two men—Mr Alan Radford and Mr Neil Franklin. The crux of the issue stems from the unsuitability of standing operating procedure No. 60 to appropriately address employee complaints and to resolve disputes.

Many of those officers were reluctant to use the procedure or report incidents for fear of reprisal or because the complaints were about the very superiors they were expected to report to. The lack of any anonymous reporting methods or any serious internal affairs type operation is obvious and important to note. Given that much of this evidence was given in camera, it is difficult to go into detail; it is suffice to say, however, that the evidence was concerning to the committee.

Complaints about a lack of adherence to standard procedure were commonplace, as were complaints from many about being overworked and certain units being understaffed. The committee heard evidence from community corrections officers about ridiculous workloads, coupled with impossible time limits that led to angst in many units. There was particular concern around the introduction of the Offender Risk Needs Inventory-Revised Risk assessment tool and the time taken to conduct a review to the appropriate standard and that community corrections officers were expected to meet certain daily quotas for the number of completed reviews. Surely the need for a thorough review and the need for a daily minimum quota are completely juxtaposed. This is one serious question arising from the evidence given.

While I could go into much more detail, a much more comprehensive and eloquent summary is contained within the report, Mr President, as I am sure you and other honourable members have seen. I encourage all honourable members to comment, if they feel the need, and I certainly welcome the comments of the other members of the committee, namely, the Hon. Mr Brokenshire, the Hon. Mr Wade, the Hon. Mr Kandelaars and the Hon. Mrs Zollo.

As chairman of the committee, I sincerely wish to thank all honourable members for their contributions during deliberations and for committing their time diligently to the causes of the committee. It is my understanding that the government has a dissenting statement, which I look forward to hearing, but I hope it is reasonable in that it recognises the serious flaws and issues identified by the committee.

Lastly, I would like to thank all those people who came; some showed enormous courage to come and give evidence, knowing that it probably was going to make their working lives more difficult for some period of time. I respect that and acknowledge their courage. With these words, I commend the motion to the council.

Debate adjourned on motion of Hon. K.J. Maher.

SELECT COMMITTEE ON DISABILITY SERVICES FUNDING

Adjourned debate on motion of Hon. J.M.A. Lensink:

That the report of the committee be noted.

(Continued from 24 July 2013.)

Motion carried.

CHILD PROTECTION INQUIRY

Adjourned debate on motion of Hon. R.L. Brokenshire:

1. That a select committee of the Legislative Council be established to investigate and report on—
   - (a) Any matter arising from the 2012-2013 Independent Education Inquiry also known as the Debelle inquiry;
   - (b) Any matter raised by the Debelle inquiry related to incident and records management, including compliance with legislation and policy;
   - (c) Any matter relating to the tenure of the Chief Executive of the Department for Education and Child Development in June and July 2013;
   - (d) Progress on the implementation of the recommendations of the Debelle inquiry; and
   - (e) Any other relevant matter.
2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.
3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being presented to the council.
4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 24 July 2013.)

The Hon. K.J. MAHER (16:29): Once again the government opposes this motion and the establishment of this committee. We have had an inquiry led by a retired Supreme Court judge, Justice Bruce Debelle. The terms of reference were broad and the powers given to the inquiry extensive. When Justice Debelle thought more powers would be useful, that is what happened—royal commission powers were granted. If, at any time, Justice Debelle thought that the terms of reference needed to be amended or broadened, I am sure that would have happened. In fact, the independent Debelle inquiry went to the quite extraordinary step at the end of last year to publish an ad in *The Advertiser* newspaper so that they could 'correct misinformation concerning the conduct of this enquiry'. That written ad concluded:

> At this stage it is not necessary to seek extended terms of reference. That question will be kept under constant review.

If Justice Debelle thought that he needed extended terms of reference, I am absolutely sure he would have asked for them.

What this motion proposes to do is to re-examine the very matters that the Debelle inquiry covered. This motion arrogantly supposes that politicians on a select committee will be better able to investigate facts and make recommendations than a retired Supreme Court judge with royal

commission powers. What we have not heard from the proponents of this motion are any compelling reasons why the select committee is needed.

We have not heard where the Debelle inquiry went wrong, what powers the Debelle inquiry should have had but lacked to properly perform its duties, what incidents the Debelle inquiry should have inquired about but did not, and what were the defects in the methodology of the investigation or the reasoning of the Debelle report.

So far we have had no answers to any of these questions, and unless we get them today it is clear that this is no more than a political stunt. The Greens admitted as much this week when they said in the media:

> This is a noose around the Weatherill government's neck—they need to either step up or realise this will dog them until March.

This is all about the politics, not the substance.

The Debelle inquiry ran from 1 November 2012 to 27 June 2013—239 days. The Debelle inquiry took more than 8,000 pages of evidence from the Department for Education and Child Development alone. The inquiry published an issues paper in November 2012—23 written submissions were submitted in response to this issues paper; 94 witnesses appeared before the inquiry, not including families of victims whose identities must remain confidential; roundtable discussions were held with government agencies and community organisations in February and March of this year. The final report ran to 328 pages and cost around $1 million.

Does this proposed committee propose to be more thorough than this? In what ways does this committee propose to be more thorough and more skilful than the Debelle inquiry? This question needs answering by those who are proposing to set up this committee. As I said, unless these questions are answered it is no more than a political stunt.

I am sure that a bit later Rob Lucas, in his typical folksy way, will talk about the government's—

The Hon. J.S.L. Dawkins: The Hon. Rob Lucas.

The Hon. K.J. MAHER: The Hon. Rob Lucas will talk in the typical way that he does about the government trying to hide things and, 'We need to have a look just to see if there is maybe, possibly anything else,' go on a big, expensive fishing expedition. On anything that has been stated to date in other jurisdictions you would not get close to getting something like this off the ground with such unsupported whims and no evidence. You would never get a warrant, you would never get a subpoena based on the lack of evidence that has been presented to justify this committee.

Here is the chance, when people make their contributions, to present the evidence to justify this committee. The Hon. Robert Brokenshire, the Hon. Rob Lucas and others will have the opportunity—in fact, the responsibility—to make a compelling case as to where the Debelle inquiry was deficient. It is time to put up today, show us this is more than a political stunt. We are all looking forward to the exact ways and reasons that the Debelle inquiry was insufficient.

If this was just an inquiry about records management it might have more validity, but it is not. I am pleased that the Attorney-General has announced a review to look at the practices in relation to records management, particularly to reflect today's technology. To re-investigate the matters covered by the Debelle inquiry shows that this is just a political stunt.

However, if it is the will of the Legislative Council that this committee be established, then I think it is incumbent to make sure we have a very thorough examination of how these types of incidents have been handled in the past. In fact, in preparation, a number of FOI applications have been lodged to ascertain how such incidents were handled by departments, education and police ministers in the nineties, what practices were in place back then and how they compare to how such incidents are handled today. Getting to the bottom of the details of the occurrence and handling of such incidents in the past will be an important task of this committee to ensure that past mistakes are not repeated.

I am the father of three primary school-aged children, but you do not have to be a parent to be shocked and horrified by the offences that gave rise to this inquiry. However, I would much prefer that those who are charged with implementing the recommendations of the Debelle inquiry were getting on with doing that rather than fronting a politically motivated upper house committee.

The Hon. S.G. WADE (16:35): I rise to support the establishment of the select committee, as proposed in the motion of the Hon. Robert Brokenshire. The opposition supports the need for this select committee because the most important issues that arise from the Debelle inquiry relate to child protection and communication with parents and school communities. The Hon. Robert Brokenshire strongly presented a number of concerns arising from the Debelle inquiry, but they are not limited to child protection.

What we found in relation to the Debelle report was that the government's failure to properly manage records management failed the parents and children of South Australian communities. The fact is that records management will continue to fail the South Australian community in areas well beyond child protection unless the government takes action.

This is not just a matter of the government complying with the community's expectation of good government; it is also a matter of the government complying with the legislation that this parliament has passed. Section 17(1) of the State Records Act provides:

> If a person, knowing that he or she does not have proper authority to do so, intentionally—
>
> (a) damages or alters an official record; or
>
> (b) disposes of an official record or removes an official record from official custody,
>
> the person commits an offence.

And it is not regarded as a trivial offence. Under that legislation it is subject to a maximum penalty of $10,000 or imprisonment for two years. Likewise, section 23(1) of the State Records Act provides:

> An agency must not dispose of official records except in accordance with a determination made by the Manager with the approval of the Council.

The importance of the State Records Act is highlighted by the honourable member's terms of reference. Subclause 1(b) of the terms of reference of the proposed select committee states that the select committee be established to investigate and report on:

> Any matter raised by the Debelle Inquiry related to incident and records management, including compliance with legislation and policy;

The opposition welcomes that clause. State records are an important responsibility, not only to support the effective discharge of our duties in relation to child protection but across the whole gamut of state responsibility.

Under the act, state offices and agencies are required to comply with a series of policies and standards issued by State Records. One of those is the General Disposal Schedule No. 18. That is, specifically, a general disposal schedule relating to the disposal of documents out of ministerial offices. It makes it clear that email records are official records, and it puts a responsibility on ministerial officers to make sure that they properly handle the official records.

If the government had received the Debelle report in the middle of this year, and that had been the first alarm bell in terms of its poor management of records, then perhaps the government could stand before us with more honour. However, in 2010—the very year that this incident occurred—there were two alarm bells that rang in relation to this government's poor management of State Records.

In 2010, State Records undertook an assessment survey of agency record management practices which found, according to a briefing from State Records, that there was wholesale noncompliance with the act. The survey relied on agencies themselves to identify their compliance with their responsibilities in the State Records Act, and there was limited sampling to verify the responses provided. I quote from the latest annual report of State Records. On page 13, referring to the survey, it says:

> Following the assessment survey of agency records management practices undertaken in 2009-10, agencies continue to provide State Records with plans outlining improvement actions they are taking. During 2011-12, action plans were received from 101 agencies. State Records will continue to follow up on the agencies that have not yet provided an action plan.

Let me stress that we are told there are about 400 agencies responsible to State Records for their compliance with the act. We are told that 101 of those in one financial year alone needed to provide action plans on their strategies to address non-compliance. We do not know how many submitted in the 2010-11 year; we do not know how many submitted since, but the fact is that this

indicates that well above a quarter of state government agencies were so noncompliant that they needed to develop action plans to address that noncompliance.

What we were advised in a briefing today with State Records was that, having done the survey in 2010, they were not going to follow up again until 2014. That is the first alarm bell. In 2010, State Records did the assessment survey. The other alarm bell in relation to this government's failure to properly manage records management relates to the Burnside inquiry. Three years ago today—let me stress that: three years ago today—an article appeared in *The Advertiser* under the headline 'Under fire'. It was written by Craig Cook and it reads:

> Police 'hampered' the year-long corruption investigation into the Burnside council, partly because senior police provided 'unhelpful' and 'unnecessary' responses to requests for information, a report has found.
>
> The draft report of former auditor-general Ken MacPherson's investigation into the troubled council expresses 'serious concerns' over the police role in the inquiry. The 1095-page draft also contains dozens of references to possible breaches of the law.
>
> It found the email systems for all state government agencies, which keep back-up emails for only 30 days after end-of-month reports are retrieved, to be 'seriously inadequate for proper governmental accountability'.
>
> In the draft report, Mr MacPherson outlines an inadequacy in South Australia Police systems which made it difficult for investigators to access the email accounts of its members.

So what did we have? Three years ago we had a former state auditor-general—a highly respected member of the community, and certainly respected by this government in that he continued to enjoy appointments by this government—stating that the practices of all state government agencies were seriously inadequate for proper government accountability. The government can say that it did not have a copy of the draft report. It was on the front page of *The Advertiser*. That year we had a State Records Act survey which showed gross wholesale noncompliance, and then later in the year we had a report from the former auditor-general which indicated serious inadequacies of proper government accountability in relation to email management.

So what did the government do in relation to those two alarm bells? Apparently nothing. On all the briefings I have received and on all the information I have read, no action was taken by this government in relation to State Records or in relation to the reports on the Burnside inquiry. In fact, what I find particularly curious is that the 2010 assessment survey of agency records management practices excluded one class of government agency: it excluded ministerial officers.

As an opposition we believe that ministerial officers, too, need to be required to comply with records management. I think one of the issues that this select committee should address is: when are ministerial officers going to be audited, why they were not then, and when will they be?

We had two alarm bells in 2010. On 1 December 2010, the rape took place. At 9pm the victim's parent reported it to the police. On 2 December an email was sent to the minister's office with the subject line 'Urgent, FYI' and with high importance. Rightly, there was a wave of community concern regarding the right of the school community to be informed and the failure of the department to keep the community informed. Eventually the government established the Debelle inquiry. Eventually they strengthened its powers and the honourable judge proceeded and provided the state with a very effective report.

The Hon. Kyam Maher wants to have it both ways. On the one hand he wants to say that the terms of reference of Justice Debelle were so broad that this inquiry is almost impertinent. On the other hand he says that the government is responding to the concerns and has appointed the Moss review. Let's look at the terms of reference of Justice Debelle. The terms of reference of the inquiry are:

> To undertake an independent review in relation to the events and circumstances surrounding the non-disclosure to the school community of allegations of sexual assault committed by an employee of the Out of School Hours Care service at [the metropolitan school] against a child in his care in 2010.
>
> The review should consider the actions of all relevant agencies, and make recommendations relating to the actions of the parties involved and the procedures and processes that should be in place in these circumstances.

Considering the assertions of the Hon. Kyam Maher that the terms of reference were broad enough, let's look at what Justice Debelle himself said about the breadth of those terms of reference. Firstly, he said:

> Broadly speaking, the Terms of Reference require two tasks to be undertaken. The first is essentially an enquiry to ascertain facts. It is to investigate the events and circumstances surrounding the arrest and later conviction of X, who was an employee of the OSHC service at the metropolitan school, and the failure to inform the parents of that school in a timely manner that he had been convicted. The second part requires recommendations of

procedures that should be in place to deal with future occasions when allegations of sexual misconduct are made in schools.

Justice Debelle went on to say:

> In my view, the proper discharge of the first task requires an examination of how the events following the arrest of X were managed both by the school and by the Department for Education and Child Development on the one hand and by the South Australia Police on the other.

Later in the report he said:

> The direction in the second paragraph of the Terms of Reference requires an examination of current processes so that recommendations can be made as to how the Department for Education and Child Development and other relevant agencies should manage allegations of sexual misconduct by a member of the staff at the school or by a person employed by a governing council of a school.

The opposition has no dispute with Justice Debelle on how he has interpreted his terms of reference. They were a focused set of terms of reference and he acted according to them, but it is not any reflection on Justice Debelle to say that his masterly report still raised other issues. Whilst he addressed a specific set of emails, as was appropriate in his terms of reference, that report has led to the opposition and other members of the community to raise legitimate concerns in relation to other aspects of government practices.

In that context the opposition raised a series of questions in parliament and then on 4 July the opposition called for the review to be reopened. On 18 July the state Liberal leader highlighted a whole series of questions that had been raised in parliament and elsewhere by the state Liberals. I quote from the leader's press release of that date in relation to unanswered questions:

> The state Liberals understand that a copy of every government email is stored on an external server. If this is the case, what action has been taken by Mr Weatherill to retrieve the email forwarded on by Mr Blewett? To whom did Mr Blewett forward the important email notifying him of the rape of a child at a western suburbs school in December 2010? What is the protocol with Telstra storing important data off-site, especially in regard to the retrieval of this data? If this data has actually been destroyed, did minister Weatherill's office seek appropriate approval to destroy it from the State Records Office, as per the State Records Act?

In the context of that series of unanswered questions and others, state Liberal leader Steven Marshall sought an urgent briefing from the State Records Office to clarify data management issues raised in the Debelle report. Let me remind members that was on 18 July. We highlighted at that stage the issues that we would like to have addressed at the briefing. They were, specifically, that we would like to be briefed on:

- the legislation and policy relating to records management which applies in the government of South Australia, particularly in ministerial offices;
- the prevailing records management practices of state government agencies, including ministerial offices;
- the oversight of compliance with the legislation and policy relating to management by State Records or other agencies;
- issues of compliance with the legislation and policy relating to management by State Records or other agencies;
- issues of compliance arising from the Independent Education Inquiry; and
- what remedial action is proposed.

That was on 18 July. On 24 July, the Hon. Robert Brokenshire moved the motion we have before us and, in the context of those concerns, the opposition welcomed the fact that the Hon. Robert Brokenshire included in those terms of reference an item specifically asking the committee to address records management issues raised by the Debelle inquiry. In that context, I think it is relevant to turn to GDS 18, the government's own policy in relation to what is expected of ministerial officers. On page 12, GDS 18 says:

> Retention periods for temporary records shown in the Schedule are minimum retention periods for which records must be retained before they are destroyed.

The schedule on page 30 in item 4.1.4 says:

> Records relating to routine inquiries concerning the Minister's portfolio or responsibilities from members of the public including constituents. Includes inquiries referred to another agency for a response.

Disposal Action is, 'Destroy five years after last action.' I say to members that even if you wanted to describe an email tagged 'urgent, FYI, high importance' as a routine inquiry, it should not, under the government's own policy, have been destroyed within five years. Specifically, this document is prepared for ministerial officers. It takes into account all of the dynamics, which I appreciate at times are very stressful and the information demands acute but, still, it was updated on 9 February 2010 and applies right through to next June.

I think the Hon. Robert Brokenshire had every right to include that element of the terms of reference in the set and, as I said, on 18 July we had sought an urgent briefing from the government in relation to State Records management. What was the government's response to our request for the urgent briefing? The response did not actually come from the State Records Office: it actually came from the Attorney-General. In a letter, dated 7 August, his response was:

> The relevant legislation and policy is available for you to access from the State Records website.

We know from the briefing received today that that is completely fallacious. The items we sought in the briefings were substantially addressed at this morning's meeting. They are not available on the State Records website. It was a furphy for the government to deny us a briefing. I also note that the Attorney-General advised my leader:

> State Records assess compliance by surveying agency practices against the adequate records management standard. I am advised that the next survey is scheduled for 2014-15 and ministerial officers will be included.

We welcome that. We are concerned that they were excluded in 2010. We cannot see the basis for excluding them in 2010—they are subject to the same act, and they are subject to a specific general disposal schedule.

There was no suggestion on 7 August that there was going to be any review of State Records management. The Premier, on 4 July, in responding to my leader's commitments in relation to improved standards under a Liberal government, said that Premier Jay Weatherill agreed that important records should be kept and said the government was considering changes. We get a comment in the media from the Premier and we get a letter from the Attorney-General. There is no hint of a review.

Then we come to today. Presumably, in anticipation of today's debate, on 9 September the Attorney-General issued a press release, entitled 'Retired judge to review State Records Act'. It states:

> The state government has initiated an independent review of the State Records Act so that it remains relevant to current practices and technologies across Government.
>
> Deputy Premier John Rau said he believes the Act as it stands presently is not achieving practical results.
>
> 'Official government records are an important resource for the community for understanding the history of decisions made across Government...It is becoming increasingly apparent to me that the State Records Act, which was written in the late 1990s, is losing its relevance in the digital information age.

Where was this Damascus road experience? We had two major incidents in 2010: the State Records review, which would have reported to the Attorney-General as the relevant minister, and the Burnside inquiry, in which the whole government was taking an acute interest, and reported on the front page of *The Advertiser* were concerns of the investigator. Yet, two days before this house considers this matter, the government claims that it will set up a review which, according to Kyam Maher, means we do not need to have the select committee proposed by the Hon. Robert Brokenshire. I ask the government: why it did not announce this review in 2010 and not 2013?

What was interesting in the comments of the Attorney-General was that the review is focusing very much on the act. Let me quote the last two sentences of his press release from Monday:

> The review may recommend that more education is required, it may make suggestions for amendments to the Act, or it may even call for a new Act altogether.
>
> What is important is that the Act becomes relevant to current and foreseeable means of communication and that any ambiguities about how the Act is understood and implemented across Government are cleared up.

In the House of Assembly earlier today, the Attorney-General said that the review is basically to look at whether the legislative framework is adequate. The Hon. Robert Brokenshire's terms of reference do not ask us to get fixated on the act; they ask us to look at records management as a whole. What we are concerned about as an opposition is not whether the act is a noble statement of intention—noble statements of intention do not provide South Australians with a records

management system with the transparency and information they require. We want a system crowned by an act, if you like, which actually works.

What the State Records Act review of 2010, what the Burnside inquiry and what the Debelle inquiry show is that the system is not working. This issue about whether we need to catch up with the digital age again is a furphy. GDS schedule No. 18 clearly addresses emails. In fact, in 2002 State Records published a specific policy about the management of emails. It is not as though the government woke up in 2013 and said, 'Oh, no, people have been sending us emails.'

Let me stress, too, that this is not just a matter of the State Records Act. Sound state records management is important for compliance with a whole range of statutory provisions. How can the government fulfil its responsibilities under the Freedom of Information Act, for example, without actually knowing what records are there? How can it fulfil its responsibilities under the information privacy principles? How can it make sure that it has information available for legal proceedings—let's say for a victim of abuse in state care? How can it fulfil its responsibilities under the Public Sector Management Act?

The fact is that emails are the letters of today. I get far more emails than I do letters, and that is not to say that emails are ephemeral: many of the emails I receive have the formality and seriousness of what would have in the past been in letters. It is absolutely vital that those letters in the form of emails find their way into an appropriate records management system.

I wonder whether it might assist the council if I read what I was able to glean from the House of Assembly *Hansard* from about 2.30 this afternoon, when the Attorney-General proffered the terms of reference for the Moss inquiry. Let me stress that this is from an uncorrected *Hansard*, so it may not be an exact record. I am surprised that in the press release on Monday the terms of reference were not attached. Anyway, the terms of reference of the Moss review, as reported in the House of Assembly, are to inquire into:

> …the extent to which electronic communication is used as a means of creating, storing and transferring official records; secondly, the extent to which there has been an increase in the volume of official records created by government agencies due to increasing reliance on technology and electronic communications; thirdly, how other jurisdictions have attempted to address these issues and their degree of success; and fourth, report on whether the existing legislative framework is appropriately managed or realistically capable of being so managed, including an examination of the destruction and retention regimes including efficient official record retention where necessary, and the extent to which the existing framework would be assisted or enhanced by a change in the culture of government agencies and current state records management practices and any legislative drivers required to achieve the same.

The select committee that is being proposed today is not just the whim of the Hon. Robert Brokenshire. It has received very wide support from around the parliamentary chamber and beyond. In fact, we are indebted to the Premier today for calling a press conference, at which he gave the opportunity for Senator Nick Xenophon to state publicly that he supports the reopening of the Debelle inquiry.

An honourable member: Very kind of the Premier to do that.

The Hon. S.G. WADE: It is very kind of the Premier to do that and I think that is a sign of perhaps more hope of openness and transparency from this government. Also, we welcome the fact that Dean Jaensch, a professor of politics, has indicated that there are unresolved issues in relation to the Debelle inquiry. We certainly look forward to the contribution of other members, but the opposition is convinced that there are unanswered questions from the Debelle inquiry that deserve to be addressed.

We welcome the Hon. Robert Brokenshire's terms of reference and the fact that they are broadly written, because at the beginning of the Debelle inquiry, when it was established in December, who was to know that we were going to open a Pandora's box in relation to this government's mismanagement of records management? Likewise, as this inquiry proceeds, there may well be other issues to come to the fore. That is why I think a parliamentary inquiry is valuable.

It is all well and good for Justice Moss to be given terms of reference by this government, and the opposition welcomes that inquiry, but the nature of issues such as this is that an open parliamentary inquiry with an open call for relevant issues, we believe, is the best way to make sure that all relevant issues are addressed.

In conclusion, let me reiterate a commitment that our leader, Steven Marshall, has made. He has said:

If elected to government in 2014, we will ensure that records are retained by State Records from all government ministers, departments and agencies for at least the lifetime of the government.

The community was shocked to know that this government, even from transfer from one minister to another, DBAN or totally wipe the hard disks. It is important to make sure that records are retained so that incoming ministers, incoming governments and the administrations that support them have access to the official records. That is why the State Records Act exists; that is why the policies and standards under that act have been put in place.

What has become clear from the briefings that we have received and from other information that has come out is that this government has totally failed to provide effective records management. We welcome the select committee proposed by the Hon. Robert Brokenshire, not only because it will give us the opportunity to deal with a range of issues coming out of the Debelle inquiry in relation to child protection, but, as I have highlighted, I believe it will also give us the opportunity to deal with serious issues in relation to State Records' management.

The Hon. D.G.E. HOOD (17:03): I will be brief in my contribution; in fact, I will be very brief. I think we have had a great deal of debate about this matter. It will come as no surprise to members of this chamber that I will be supporting my colleague the Hon. Robert Brokenshire's motion. He was sweating on it; he was not sure, but of course I will be.

I will be doing that for a number of reasons and I think they have been outlined by the contributions of my colleague the Hon. Robert Brokenshire anyway in his initial introduction of this motion. Primarily I will be doing so because child protection is core business for Family First. This is a matter which is held dear to our hearts, and I think our party has a proud history in pursuing issues where children's wellbeing has been put at risk. We, of course, were the authors of the removal of the statute of limitations which allowed paedophiles to be prosecuted if they committed their offences prior to 1982. We have a series of other bills I could point to which are also in line with the objective of protecting children and the general welfare of children.

I think the other thing that needs to be said about this is that, despite the fact that we have had the Layton Report, the Mullighan inquiries and a good deal of debate in this chamber and elsewhere about child protection issues, still, just a couple of years ago, we had a trigger event which triggered this whole mess—if I could put it that way—in the education department. These things should not be happening in our schools and an inquiry, such as this, will help get to the bottom of why these things happen at all and what exactly can be done about them. It is something that I feel strongly about and I certainly support this inquiry wholeheartedly.

Having said that, there is one amendment I would like to make to the terms of reference of the inquiry and that is to delete paragraph 1(c) and I will read that for members' information. That says:

Any matter relating to the tenure of the Chief Executive of the Department for Education and Child Development in June and July 2013;

After consultation with other members of this place, Family First has decided to move to delete paragraph 1(c) from the terms of reference. My understanding is that Tony Harrison is a good man and certainly the dealings I have had with him have been honourable. We wish in no way to draw him into this unnecessarily. He may be involved peripherally obviously because of his position. We would seek to have that removed from the terms of reference and, therefore, I move:

That paragraph 1(c) 'Any matter relating to the tenure of the Chief Executive of the Department for Education and Child Development in June and July 2103', be deleted.

With that, I conclude my remarks and support the motion.

The Hon. T.A. FRANKS (17:07): I rise on behalf of the Greens to indicate that we will be supporting the establishment of this select committee. We did not immediately come to that conclusion and we certainly do not do so because this is some sort of political witch-hunt. Those are not reasons that attract us to supporting this select committee.

For those reading *Hansard*, because I am sure that every member of this chamber is aware of the motion, I will actually just highlight that this is not a rerun of the Debelle inquiry that we are supporting here today. This is a select committee to investigate and report on:

(a) Any matter arising from the 2012-2013 Independent Education Inquiry also known as the Debelle inquiry;

So matters arising from that particular report.

(b) Any matter raised by the Debelle inquiry related to incident and records management, including compliance with legislation and policy;

It is quite rightly the role of the Legislative Council to be investigating those matters and indeed:

(d) Progress on the implementation of the recommendations of the Debelle inquiry

Of course, these recommendations were accepted by the Premier and the government in principle, and so I imagine that there will be some significant and some very rapid progress for the select committee to review.

My greatest concern was that the FOI documents requested by the member for Unley with regard to this particular inquiry were released to the public online after the Premier went on the radio saying that he was not going to be subjected to—I believe his words were something along the lines of—a slow drip-feed of FOI, document by document. Certainly, I would agree with a full release and a full disclosure. As I said, I believe that this is a noose around the neck of the Weatherill government and that it will dog them until the election unless—and I went on to say to the media and certainly it was not captured in the sound bite that I believe was quoted earlier in this debate—the ministers front, the Premier fronts and everyone provides full disclosure.

I, for one, have encountered many members of the South Australian public and certainly I was quite surprised to find that a minister of the government would delete such emails and would not pass on these emails, not only to their own staff but to a further future minister of their own government, indeed, of their own faction.

We know the stories between governments of documents being shredded, but I would have thought that within a government there would have been at least that respect for those ongoing ministerial duties to have the history of any particular case. You would imagine that this would be a situation where that documentation would be seen as at least having importance to share with your ministerial colleagues and those who succeed you.

I have encountered people who were just gobsmacked to be told that emails can be deleted from a PC and are therefore no longer retrievable. Anyone who understands technology will tell you that there are ways of retrieving such documents—other than the act of deleting it from the PC I think being one to be questioned—and certainly I would like to see the investigation of such technologies as part of the purview of this particular committee.

Since the release of the report, we have heard the Premier make threats on the radio to take legal action against members of the opposition. I am not sure if those threats have been made good. I am getting nods from members of the opposition that they have indeed. I have also had great concerns with the way that members of the government have reacted to the idea that there be a select committee.

Certainly, members of the South Australian community—and I am going to cite particularly Danyse Soester and the South Australian Association of State School Organisations (SAASSO)—said that they were not afforded enough time to participate properly in the inquiry, and others, such as Freda Briggs, have expressed concerns. These are not people to be taken lightly. These are not people out for a political pointscoring exercise. These are people who were clearly not properly consulted, who were not afforded their voice in the democratic process, and who certainly failed within the administrative and bureaucratic processes of the minister and the department that not only saw these incidents occur but also put this community through an extensive level of pain and angst that was just not necessary.

There is a long way to go to redress what happened with this incident. It is not lost on me that the perpetrator of the particular crime was indeed brought to justice, and I commend all involved in that process, but there is a long way to go before community faith in this government is restored after the handling of this process. With that, the Greens will be supporting this select committee.

The Hon. K.L. VINCENT (17:13): I would like to speak today very briefly on behalf of Dignity for Disability in support of the Hon. Mr Robert Brokenshire's motion to establish a select committee of the Legislative Council into the Debelle inquiry. I hope it is well known that I am not a supporter of pointless inquiries or political stunts, and this committee is neither of those things: it is not pointless and it is not a stunt.

I am sure I am not telling anyone anything new when I say that child abuse is an extremely serious issue, to say the least. The long-term impacts on the victims, their families and the wider community cannot and must not be underestimated or dismissed. I believe that child abuse is

made doubly worse (if that is even possible) when it occurs within our own government-run and funded schools, out-of-school-hours care and other related institutions—places where families hope they can entrust the care of their children. In these cases, that trust was broken and it did not stop there, of course.

The response to these abuses by the minister's office and the Department for Education and Child Development was marked by incompetence and scandalous inaction. We need to restore faith in a system that is currently incredibly damaged due to too many cases of child abuse and too much hiding, but I am sure that no-one in this chamber would disagree that one is too many.

The Debelle inquiry looked into some very specific issues and made some good recommendations that I understand are being acted upon. However, there remain significant concerns about record management in this state, and whether this could happen again, and about an alarming culture of incompetence and cover-up within the Department for Education and Child Development. Dignity for Disability has a proud record of working to highlight the abuse of many vulnerable groups within our society, and we will continue that proud record by supporting this motion today. I commend the motion to the chamber.

The Hon. R.I. LUCAS (17:15): It might surprise members that I have thought long and hard about this and, after reflection, have decided to support the motion for a select committee moved by the Hon. Mr Brokenshire. I support the comments made by some other members, and in particular comments that have been made by my colleague the Hon. Mr Wade.

In considering our position on this issue, I reflect on the attitude of the Premier in relation to a select committee being established; it is quite clear that for some reason he is literally petrified at the prospect. We have seen various responses from the Premier over the last couple of weeks: bluff and bluster, intimidation, and threats. In recent weeks, we have seen a carpet bombing of defamation suits against journalists, and members of parliament; I am not sure whether or not it has involved members of other organisations. Clearly, he and others are intent on trying to close down criticism of him and his actions.

As the Hon. Mr Wade indicated, only this week we saw his last attempt to try to head off the inquiry with the establishment of the Moss inquiry in relation to the State Records Act. As the Hon. Mr Wade very eloquently pointed out, that was as a result of the overwhelming evidence that had been established by the opposition—and indeed some others—that there were clear deficiencies in terms of adherence by the government, ministers and advisers to the requirements of the State Records Act.

I think the Premier's position is clear, that he does not want to see the establishment of this committee. I have to say that in defence of the Premier's position today, the relatively brief speech by the Hon. Mr Maher was the most limp-wristed, underwhelming attempt to defend the Premier I have ever heard in my time in parliament. If I were relying on the Hon. Mr Maher to defend me in relation to the prospect of an inquiry, if I were the Premier I would be seriously underwhelmed in terms of his contribution.

In essence, one can summarise his position on the basis that, first, this was going to be an expensive inquiry. Well, at $12.50 a meeting for members of parliament, I can assure the Hon. Mr Maher that it would be considerably less than whatever it cost to commission the royal commissioner Mr Debelle to conduct that inquiry, so I do not think that was a convincing argument that this was going to be an expensive exercise or inquiry. The other issue he canvassed was a challenge that members should outline what was not covered by the Debelle inquiry, what new evidence there was, and I propose to address some of those issues, in particular. I believe that the Hon. Mr Wade has addressed part of that in his contribution as well.

I hasten to say, in relation to a number of the comments that I will make, that I am not making any specific criticism of Mr Debelle; he did indicate, on a number of occasions during his inquiry, that there were certain issues beyond his purview. However, in this case I refer to the evidence that was turned up by my colleague the member for Unley in his assiduous pursuit of truth through freedom of information and contact with members of the community, in particular parents and others, email exchanges which identified another ministerial staffer who was aware of the particular incident, and I refer in particular to Ms Kate Baldock, who I understand was a media adviser to minister Portolesi.

This series of email exchanges, which are dated early November 2012, makes it quite clear. One of the emails from the then CEO of the department to one of the media people within the

department, Mr Peter Adams—someone many of us would know from media circles—and copied to a whole range of other people, says:

> Thanks, Peter. Very helpful. I note that Kate Baldock was aware on 14 February but it seems that we did not prepare a briefing for the MECD—

the Minister for Education and Child Development. Then there are a series of other email exchanges which go back indicating that Ms Baldock was copied in to a number of emails, which confirms that certainly as of 14 February the media adviser to minister Portolesi was aware of the information in relation to the rape in the north-western suburbs school.

The importance of this is that we have on the record minister Portolesi indicating that she claims she was not made aware of the incident until March 2012. That is, this particular ministerial adviser was supposedly aware in February but evidently, if we are to believe the story, did not inform either her minister then (minister Portolesi) or, indeed, the former minister and the then Premier, Premier Weatherill.

As we know—and I will not go over the detail—there are already a number of examples in relation to Mr Blewett and Mr Harvey where evidence has been canvassed publicly and considered by Justice Debelle regarding them having knowledge of the incident and supposedly not advising the then minister, minister Weatherill.

I suspect that my view of all of this is similar to the view of most South Australians; that is, we find it extraordinarily hard to believe the story we are being asked to believe: that we have the rape of a child in a school in the north-western suburbs and that a series of ministerial advisers, paid princely sums by taxpayers to provide advice to their ministers, at various stages became aware of this particular rape and they did not advise either minister Weatherill or minister Portolesi or, indeed, anybody. That is the story we are being asked to believe. As I said, I suspect that my view is similar to that of most South Australians: we find it extraordinarily hard to believe that that is the situation.

In relation to new issues, there is no evidence that Ms Baldock was called to give evidence to the Debelle inquiry. It has not been considered by the Debelle inquiry. Again, that is no criticism of Justice Debelle. If he was not aware of this particular email exchange then there would be no reason for him to call Ms Baldock before the inquiry to give evidence in relation to it. That is, did Ms Baldock advise the Premier? Did Ms Baldock advise the then minister? Did Ms Baldock discuss it with other media advisers? The way the media advisory system works with this government is that there is general discussion about major issues of the day in terms of how they are to be spun and what is the particular attitude the government is to adopt in relation to controversial issues of the day.

As to big issues or controversial issues, it is not uncommon for them to be discussed with other media advisers, other ministerial advisers, other political advisers in terms of how the government should handle it should it become an issue in the public arena. So, if I can offer a personal view, and it would be up to the committee to decide, it would be to seek to call evidence from Ms Baldock to establish exactly what she knew, when and what actions (if any) did she take in relation to the circumstances. That is one very new issue that needs to be considered.

I want to refer also to claims made today, as I understand it, by the Premier in response to questions that were put in another place. He actually did not answer the question. The question was entirely different, but he obviously decided he wanted to say this and put it on the public record, so it was not really in response to a specific question. He said:

> This question proceeds from the fundamental misreading of the Debelle report. There was one computer in this whole equation that was never wiped, and it happened to be my computer. So, all this furphy that is being spread around about wiped computers and that somehow that was done for some nefarious purpose, the very computer that one might have thought might be at the centre of this thing—

then there is a series of interjections—

> is a computer that I had in my former role and carried with me through to the education department.

I point out to members one of the statements by Mr Debelle in his report at paragraph 406:

> Searches were also made of computers used by Mr Weatherill when Minister for Education. As already noted, his desktop computer had been subjected to the DBAN process.

That is the wiping process. I continue the quote:

Mr Blundell could not find anything relating to the email of 2 December 2010 on that computer. Mr Blundell also searched a laptop computer that had been retained by Mr Weatherill for his personal use. It was a computer that enabled Mr Weatherill to read emails but not to store them. Mr Blundell searched that computer. It contained no relevant information. Mr Blundell also searched two DVDs that contained information provided by Telstra in an attempt to restore emails of a particular date. That process did not recover the email of 2 December 2010.

What Mr Debelle is highlighting there is that the Premier had at least two computers because there are two referred to there; one was his desktop computer and one was his laptop computer. Mr Debelle makes it quite clear that his desktop computer had been subject to the wiping process or the DBAN process. I think this committee should look at the statement from Mr Debelle and the statement made by the Premier where he says a 'fundamental misreading of the Debelle report' and that 'there was one computer in this whole equation that was never wiped'.

Certainly, the committee has the capacity to invite the Premier to give evidence to the committee where he can explain his particular statement to the house and how the committee should interpret that statement compared to paragraph 406 of the Debelle report. In saying that the Premier can be invited, I do note that some ministers and the Premier's office have been running around saying it is unprecedented for ministers to give evidence to a committee. I put on the public record that there have been occasions in our parliamentary history when ministers have willingly attended before Legislative Council select committees to give evidence.

Former minister Lynn Arnold appeared before the marine land select committee in the 1980s to give evidence, as did his erstwhile loyal sidekick at the time and chief of staff, Mr Kevin Foley; and former minister 'Bud' Roy Abbott, who was minister for forests, gave evidence before the South Australian timber corporation select committee in the 1980s as well. They were not compelled to attend but they accepted the very generous invitation from the Legislative Council select committees to give evidence and put their point of view.

I subscribe to the view that it has not been the position of Legislative Council select committees to attempt to require the attendance of ministers in another place to attend before the committees. That is certainly the convention, and I acknowledge that and am not arguing against that particular convention. It can be the decision for individual ministers as to whether or not they willingly comply, but it is certainly not correct, as some of the government spin doctors have been putting, to say that it is unprecedented for a minister to give evidence before select committees.

I certainly suspect there might have been one or two other examples but, suffice to say, I am certainly aware of at least the couple of examples that have been given. Again, I cannot pre-judge the committee if it is established in what it might do, but it may well be that the committee, by majority, might want to extend an invitation to the Premier, and indeed the ministers, to see whether or not they would like to put their point of view to the committee.

The next issue I want to address is one that has become quite important, that is, the issue of the missing email trail from Mr Simon Blewett. Again, to cut a long story short, we all know that Mr Blewett received information and advice and four minutes after he received it he forwarded it to someone (he cannot remember who it was), and who might have received it has been the subject of much speculation.

Can I say that the two most likely recipients of the email fall into two categories. One is it could potentially be, obviously, minister Weatherill. Mr Blewett was his chief of staff at the time and he is being advised of a rape of a child in a school within the portfolio. It is not too far from the minister's own electorate. Again, it would appear logical that that might be forwarded to his minister. Or, it could be referred to some other minister, although it is highly problematic as to why it would be forwarded to another minister.

The other broad category of person that it might have been forwarded to is another ministerial staffer, in particular, perhaps, a media adviser: that is, the chief of staff receives the email and then decides that it needs to be forwarded to somebody else in terms of sharing this particular information. One of the potentially logical persons that it might have been forwarded to might have been another media adviser or a more senior political adviser, perhaps, in another office somewhere else.

Whichever of those categories of persons it was forwarded to, it is an important issue. Clearly, it will be much more significant if it was forwarded to then minister Weatherill but, if it was forwarded to another ministerial adviser or somebody else, it is also a very important issue. So, finding to whom this particular email was forwarded is an important issue that has still not been resolved by the Debelle inquiry. It is entirely possible that, if it was forwarded to somebody else—

person unknown—that that person has also shared it with other people as well. It may well be that there are more and more people, as yet unidentified, who were aware of the incident and that particular email advice because it was shared with other people subsequent to Mr Blewett's forwarding it to somebody else four minutes later.

The proposition I put to the committee is that establishing who has received it (and it is not just if it went to minister Weatherill, but whoever received it—clearly someone did) is an important issue for this committee to establish. I spoke briefly when I had only a five-minute opportunity in a matters of importance debate some time ago on the issue of trying to find missing emails. I referred to evidence to the Cole royal commission from the Director of the Operations Security Section of the Information Community Technology Branch at the Department of Foreign Affairs and Trade.

I introduced that comment briefly, and I will quote at greater length on this occasion, to indicate that the advice given to me from a former senior federal minister, based on this evidence and on his knowledge of the Cole royal commission, was that in many cases where people believe emails have been deleted, when, as it was put to me, the spooks in the commonwealth department get hold of the information they can retrieve a lot of things that people believe have been deleted. The advice given to me was: don't think that if you've deleted or wiped something that that is necessarily the end of the story. The evidence of the Cole royal commission is proof positive that that is not always the end of the story.

I will quote part of pages 1 and 2 of the statutory declaration by Mr Denis Whitford, given to the Cole royal commission, as follows:

> The absence of a specific email back-up system on the unclassified system.
>
> 4. The department does not, and so far as I am aware has never, had a policy requiring the electronic archiving of all emails on the Department's unclassified email system. It has no system for that purpose. However, in August 2005, the Department introduced a system which facilitated the electronic tagging for retention of emails of enduring value. An Administrative Circular was also issued advising that, from the introduction of the electronic tagging facility it was mandatory to tag such emails. Notwithstanding the introduction of electronic tagging emails in August 2005, it has been the Department's policy for many years and it remains the Department's policy that, if an officer judges an email to have enduring value, it is to be printed and filed in hard copy.
>
> 5. Before August 2005, such electronic systems as the department had for backing up emails on the unclassified email system were limited to the purpose of short-term system recovery in the event of, for example, a server crash. These backup systems employ electro-magnetic tapes ("tapes"). Essentially when a back-up is made the information that is on the email system at that time is copied to a tape, and the tape is then stored and kept until the next backup tape is made. In practice this means that backup tapes could be, and sometimes were, overwritten within forty-eight hours.
>
> 6. The backup systems are not designed to permit emails to be archived or retrieved.
>
> 7. However—

and this is the critical bit—

> with sufficient time and resources, the backup systems can be used to reconstruct historical email files where those files have been captured on the backup tape.
>
> 8. It is upon this task that the OSS has been engaged in an attempt to find and provide emails within the classes sought on behalf of the inquiry.

Then the statutory declaration goes on to say:

> 9. Such email records as can be reconstructed from the backup systems will never be complete.

It then explains in detail why they cannot be complete. I will not quote the rest of that statutory declaration, but, suffice to say, as that particular forensic expert indicated, and I quote again, 'However, with sufficient time and resources, the backup systems can be used to reconstruct historical email files where those files have been captured on the backup tape.'

Further to that, in terms of this missing email, the opposition has received advice from a small number of forensic IT experts, all of whom have a good working knowledge of the South Australian government system, the South Australian Government Electronic Messaging Service (SAGEMS). One particular forensic IT expert who has provided advice to the opposition has had considerable experience of SAGEMS and has also been used by SAPOL on a number of occasions to assist in this sort of forensic IT area.

In addressing this person's advice, can I put aside the question I addressed in the Cole royal commission contribution I made. Can I put aside the question of whether or not the email still exists, or whether or not it can be reconstructed. I put aside that question for the moment. What

this forensic IT expert says is that even if the email does not exist, even if it cannot be reconstructed—and the forensic IT expert does have a view on that and suspects that perhaps they do not exist any more; I put that, to be fair, on the record—even if you put that to the side, under SAGEMS a traffic log of all emails still exists, and that traffic log is held by Telstra.

This forensic IT expert says that this traffic log, even if the email does not exist, still exists and indicates to whom the email was sent and from whom the email was sent. It indicates the subject line of the email, and it indicates the date and time of the sending and receipt of the email. Even if the email no longer exists, within SAGEMS, held by Telstra, there is a traffic log which indicates to whom the email was sent and all that other information.

This forensic IT expert says further that there are two separate traffic logs (and that is just a layperson's description of what it is): the first one is the emails sent to addresses external to SAGEMS, and this is known as the SMTP log; the second log is emails sent internally within SAGEMS, and that is known as the LMS log. There are two separate logs: the SMTP log and the LMS log, which are held by Telstra and which will indicate all the detail in relation to whom the email was sent and the other detail I indicated before.

The Debelle inquiry, or at least the report, indicates that an investigation or questions asked of Telstra in relation to these traffic logs were not considered by the Debelle inquiry. They looked at computers and said that the former minister's computer had been wiped. They looked at Ms Hurrell's computer and could not find any record that she had received the email. There was this consideration of or looking at respective computers. They looked at DVDs, in terms of backups and stuff like that, and could not find any record of the actual email, but there is no indication that an exploration of the traffic logs, as highlighted to the opposition by this forensic IT expert, has been investigated.

It would appear on the surface—and we can only work on the basis of the report—that important questions were not asked of Telstra by the IT experts relied upon by Mr Debelle. As I said, this cannot be any criticism of Mr Debelle because he is not the forensic IT expert. He was relying on a couple of people he named in terms of this forensic IT work. It would appear, and the advice given to us is, if I can summarise it, that the right questions were not asked.

If you ask the question, 'Can you retrieve the email?' you might get the response back from Telstra and others, 'No, we can't retrieve the email.' What this forensic IT expert is saying is, 'If that is their answer, was the question asked: where are the traffic logs and who received the email?' which is obviously the critical question. It is not the only critical question because the email might have also had a covering note which would obviously be of interest; however, who received these emails is obviously critical in relation to this issue.

If the committee is established, we will obviously need to take evidence on this issue because we, the opposition, are not in a position to be able to say whether or not the information we have been given is 100 per cent accurate. So, the committee, if it is established, will need to ask these sorts of questions. We in the opposition accept that we can only rely on advice and information we are given.

We have no right to quiz Telstra or, indeed, others in relation to this issue, but there is prima facie substantial evidence that has been given by this person and a couple of others that these questions are the ones we should be asking of Telstra and, indeed, of others in relation to the traffic logs, and it will only be through the establishment of a committee like this that we will have the opportunity to ask the questions.

As I said, without having the advantage of being able to ask the questions and test what we are being told, we are not in a position to, in the end, reach a conclusion as to whether or not the advice we have been given is 100 per cent accurate. I am quite happy to put that on the record and say that that is the advice we have been given by forensic IT people, but in the end it will need to be considered by the committee, if it is established, to see whether or not it is accurate.

Another issue we have been advised of is that the current service agreement with Telstra only requires that they hold onto emails—that is the actual emails not the traffic logs—for a period of 30 days. Again, I do not know whether or not that is correct, but certainly some people associated with former governments have a view that that has changed and that the old service agreements with Telstra did not have that restriction. Again, I do not know whether that is correct.

This was not my area of expertise when in government, and I do not know whether the Labor government since 2002 changed that to 30 days or whether, in the dying years of the Liberal

government in the late 1990s, that service agreement was changed. One of the forensic IT people thinks it has been changed in recent years to 30 days but, again, the committee needs to consider those sorts of questions; there is nobody in this chamber who can actually answer them. The Debelle inquiry does not consider any of those issues, or there is no evidence that they have considered those particular issues, and those questions have not been pursued. I think they are all questions that need to be addressed.

Finally, in relation to this missing email, I refer to part of the Debelle inquiry report and note, for example, that Mr Debelle notes that a lot of people have very poor recollections of what actually happened in late 2010, including the former minister, Mr Blewett and Mr Harvey. Certainly, there is some reference in Mr Debelle's inquiry—which I did find a bit curious—that Ms Bronwyn Hurrell indicated that she had no recollection of being sent the email from Mr Blewett. Her computer was searched and there was no record of it there, so she could not recall receiving it. They searched her computer, which had not been wiped, and there was no record of it and that was her evidence. What I find curious is that Mr Debelle comments and says:

> Whilst I accept Ms Hurrell's evidence she has no recollection of receiving the email, her memory may be at fault.

He then goes on to say

> She is not the only person who has no recollection of the events of 2 December 2010. The fact that the email is not on her computer establishes nothing as she might have deleted it.

When one looks at the evidence of a number of other people, they also could not recall the events of 2 December, but I do not find any commentary from Mr Debelle there which says that their memories might have been at fault. However, that is what he comments in relation to Ms Bronwyn Hurrell and certainly, in relation to where they did search a computer and they could not find it, there is not any commentary saying, 'Well, the fact that it is not on a computer establishes nothing; she might have deleted it,' or, 'They might have deleted it.'

I do find it curious that there is that commentary in relation to one particular officer in the evidence and not the same commentary in relation to a number of others. Some of that sort of detail, I think, is curious and it is perhaps possible for the committee to consider some of those issues as well, within its broad terms of reference. For all of those reasons, I strongly support the establishment of this committee.

The Hon. A. BRESSINGTON (17:50): I rise also to support this motion for a select committee inquiry by the Legislative Council. I commend the Hon. Robert Brokenshire and I support all the comments of my colleagues in here today. I would just like to remind people in here, and especially the government, that for 7½ years I have been pointing out that the process of investigating and pursuing child abuse allegations was deeply flawed, that the recording and keeping of evidence and documents was questionable, and I have put forward pieces of legislation to try to fill those gaps. I have been told that there is no evidence that there is anything wrong with the system really and it is all, according to the government, sweet and travelling very nicely, thank you very much.

I go back to a SARC inquiry that I sat on about almost exactly the issue that the Debelle inquiry was looking into. That was a matter to do the Mount Gambier school and a teacher who was accused of interfering with up to 24 children. Two years later the parents were trying to find an avenue whereby they could get some sort of justice for their children. While I sat on that inquiry there were people from the union who came in to give evidence about the carry-on. It was very obvious in that particular inquiry that the union rep's main concern was protecting the reputation of the teacher involved.

From that time on, I believe there has been a stain on this government. I have raised cases before in here where child abuse cases have been dismissed, have been just swept under the carpet. It seems that it is some sort of a secret that is sacrosanct in this state. So it is not any surprise that I hear the government stating yet again that a select committee of the Legislative Council be established is nothing more than a political stunt, because they did the same in 2008 when I called for an inquiry into Families SA over the handling of child protection issues.

We had the same thing with a number of other issues and the latest, I might add—which was mainly about record keeping, information being passed around to the appropriate authorities—was that of Kirbee O'Grady, and that was just before the winter break. Nobody can claim that we have not heard time and time again in this place that there are gaps in the system, in the record keeping. We have heard Professor Freda Briggs make statements in inquiries that in fact records

are tampered with (which I thought was a federal offence) but even in relation to the report containing Freda Briggs' evidence—the inquiry that the government chose to boycott because it was nothing more than a political stunt, of course, in their mind—nothing has ever been done about any of that. So I am pleased that this Legislative Council now sees fit to pursue this further.

It is not a political stunt, from my perspective; I am not supporting this because it is a political stunt. I do not get off on chasing the media about these issues, I do not get off on playing politics with issues as serious as child protection. I am supporting this because I am sick and tired of being on my feet in this place trying to get something done about the crappy systems that we have in place that do more harm than good to our children, especially to our abused children, and their families.

You have no idea, when you sit there and say that this is all just a political stunt, of the effect, on a parent of having a child abused by someone of trust, and of having to fight every inch of the way for some sort of justice for that child, of trying to hold your family together; even, as a parent, of trying to hold down a job and continue to function while you try to deal with the pain of your child. I know this firsthand. The fear where that child is going to be in maybe five, six or seven years' time; will they see it through their teenage years, will they ever be able to get on with their life? Many times the answer is no, and I know that firsthand as well.

I commend the Hon. Robert Brokenshire for bringing this motion forward, and I commend every member in this chamber who has supported it. I support every comment that has been made, and I hope the government can grow up enough to see that when nothing changes—as I have said many times—nothing changes. It is time for this to change.

The Hon. J.A. DARLEY (17:57): For the reasons already stated by other honourable members, I will certainly be supporting this motion.

The Hon. R.L. BROKENSHIRE (17:57): I will be brief in my summing up remarks. I had pages of summing up that I would have put forward but, given the importance of this motion and the fact that all my colleagues have spoken, I would just like to put on record my thanks to my colleagues who have spoken, for and against. I note that, other than government members, they have been unanimous in supporting this, and it has been unanimous because we are duty bound to ensure that we protect the children of this state.

There are more questions that have been raised as a result of the Debelle inquiry, and there are questions around the records and the fact that records should—in my opinion and from my knowledge as a former minister—have been kept that have to be answered, and in terms of why they were not kept, that need to be investigated.

However, I leave the chamber with this one thought. Adelaide is named after Queen Adelaide, who is on the record as actually saying, when she was the queen of England, that the one legacy she wanted to leave as queen of England was to ensure that vulnerable children were protected from child sexual abuse. That is the history of Queen Adelaide.

I am not convinced that we are doing the best we can in this state to protect our children from sexual abuse, or from any abuse for that matter. The parents and the constituents of this state expect us, as the parliament and as the government, to do everything in our power to ensure that children are protected. I am not convinced, thus far, that we are doing that, and therefore I commend the establishment of this select committee for the right reasons; not for the allegations of it being a political circus or anything like that, but for the right reasons of getting the proper models, proper implementation and processes, etc., in place for the future wellbeing of the children of our state.

Amendment carried; motion as amended carried.

The Hon. R.L. BROKENSHIRE (17:59): I move:

That the select committee consist of the Hon. Russell Wortley, the Hon. Robert Lucas, the Hon. Stephen Wade, the Hon. Kyam Maher and the mover.

Motion carried.

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

That the select committee have power to send for persons, papers and records and to adjourn from place to place and to report on 27 November 2013.

Motion carried.

PARLIAMENTARY COMMITTEES (NATURAL DISASTERS COMMITTEE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 July 2013.)

The Hon. G.A. KANDELAARS (18:01): I rise to provide the government's response to this bill. On face value this bill appears meritorious. I appreciate the importance of this issue and the ongoing efforts regarding bushfire safety in this state; however, this bill will add very little to the established framework of disaster management in South Australia.

This bill does not acknowledge the existing comprehensive arrangements in place for the management of natural disasters. It is therefore ambiguous how the committee would contribute to the already comprehensive framework of emergency management in South Australia. The preparation for, and the response to, natural disasters and emergencies in this state is governed by the Emergency Management Act 2004.

The act was introduced in 2004 to replace the State Disaster Act 1980 subsequent to a review of the act, which was undertaken in response to the major bushfires and floods that had occurred interstate, in addition to the terrorist attacks of 11 September and the Bali, Madrid and London bombings.

The act establishes an exhaustive framework for the management of emergencies caused by terrorist acts, storage of hazardous goods, human disease (including pandemic and epidemic), transport infrastructure failure and natural disasters (including earthquakes, tsunamis, bushfires and floods). It establishes a State Emergency Management Committee which, among other functions, oversees the development and preparation of the State Emergency Management Plan and keeps this plan under review. The plan is comprehensive, outlining guidelines, procedures, processes, arrangements and organisational structures that come into play in preventing and responding to state emergencies.

Section 11 of the act provides a mechanism in which the Emergency Management Committee can establish advisory groups to advise the committee on all manner of things:

- the State Mitigation Advisory Group (Chair, SAFECOM);
- the State Response Advisory Group (Chair, SA Police);
- the State Recovery Committee (Chair, Department of Families and Communities);
- the State Protective Security Advisory Group (Chair, SA Police); and
- the State Pandemic Influenza Working Group (Chair, Department of Health).

These advisory groups have developed the practice of establishing working groups or task groups to investigate and/or inquire into particular matters. For example, the State Mitigation Advisory Group established a working group in 2011 to review the Queensland and Victorian flood disasters in the context of South Australia's flood management prevention and response plans. The findings were then reported to the State Mitigation Advisory Group and fed through to the structure and out to relevant agencies where policies were modified accordingly.

There are also local zone emergency committees—that is, each identified zone in South Australia has an emergency management committee. These committees are responsible for assessing risks and hazards local to the particular region and establishing an emergency plan to deal with possible risks. These committees involve local people and local governments aware of local issues in addition to state agencies. So, we are seeing a system of comprehensive review and reporting which feeds in through these working groups and committees up through the structure and out again into the relevant response agencies.

The plan also identifies hazard leaders. Hazard leaders work with the advisory groups to ensure aspects of the state approach are coordinated. They have an overall responsibility for the preparation and planning for emergencies. Control agencies have the responsibility when action is required. Hazard leaders are usually the relevant control agency. For example, the hazard leader for floods in South Australia is the Department for Water. The hazard leader for bushfires is the CFS. This is not a vague, disconnected structure, it is a detailed and integrated arrangement involving local participation and the involvement of experts.

Built-in review mechanisms ensure that all plans and policies are regularly reviewed ensuring consistency and efficiency. There is also a whole of government exercise in which

emergency plans are executed. I am advised that this exercise consists of either discussions or an actual practical training run involving deployment of operational resources. Each year the focus changes. There have been years where the exercise relates to a simulated bushfire emergency. I understand other years it has been a simulated response to an earthquake or flood emergency.

The Emergency Management Committee reports all matters to the Emergency Management Council, a cabinet committee chaired by the Premier and comprising the Attorney-General, Minister for Police, Minister for Transport and Infrastructure, Minister for Health and Ageing, Minister for Emergency Services, and the Minister for State/Local Government Relations. Emergency management is no doubt an important matter and we have considered this seriously with a view to determining how best to facilitate and add value to the existing framework. We do not believe that the creation of a parliamentary committee will accomplish this.

This government is committed to improving disaster and emergency management in this state by providing support to these structures. We supported the COAG recommendations which facilitated a fundamental shift in the management of emergencies beyond response and reaction to anticipation and mitigation. We adopted the National Principles of Disaster Recovery that identify recovery as integral to emergency preparation and mitigation. We secured 2.8 million from the federal government to boost natural disaster resilience. This scheme delivers funding to state government agencies, government owned corporations and local governments for projects that help to minimise the risk and impact of natural disasters and projects that support the recruitment, training and retention of emergency management volunteers. This funding was provided in 2010-11 and renewed for 2012-13.

We have also demonstrated our commitment to bushfire safety, allocating $23 million in funding in the state budget in 2011 to help protect South Australia against the ongoing risk of bushfire readiness and response capabilities of the Department of Environment, Water and Natural Resources. This specifically includes employing more firefighters, purchasing new equipment and providing additional resources and accreditation courses to CFS and state emergency volunteers. Last year's budget saw an extra $8.3 million allocated to the state's emergency services providers over the following four years to help maintain services and equipment; $1.7 million of that is to be invested in the development of an emergency alert network to advise residents of danger in specific areas.

I would like to point out that no other state has established such a parliamentary committee, despite the disasters experienced in other states. That is not to say that a select committee cannot be established to deal with contemporary issues that may arise, as has been done in the past. I appreciate the member's intent but fear it is misplaced, and the government does not support this bill.

The Hon. J.S.L. DAWKINS (18:11): I thank the Hon. Mr Kandelaars for his contribution on behalf of the government. I also thank the other members of the chamber who indicated their support for the bill without wishing to speak on the matter today.

I should note that I think it is curious that the Hon. Mr Kandelaars, during his time on the Natural Resources Committee, supported this measure, like all his ALP colleagues on that committee, including the Hon. Mr Wortley, and that he has now stood in this place to oppose the bill. I know that the Hon. Mr Kandelaars was on the committee for a period of time while the Hon. Mr Wortley was a minister, but I think both of them have probably supported this measure at least once and maybe more than once. It was always supported unanimously by the whole committee which, as many would know, has nine members—four members of the government, two members of the opposition and three from the crossbenches. So, I do find that a curious position.

I should reiterate that the bill I have prepared does not make this a remunerated committee. As I said on 3 July, when I introduced this bill, there were suggestions from some sections of the government in the House of Assembly that this measure is just trying to put more 'feathers in MPs' nests'. That is certainly not my intention. I also put a measure into the bill that provides that the membership of the committee would be an equal number of members from each of the houses, rather than the notion that it would be four from the House of Assembly and three from the Legislative Council. With those words, I commend the bill to the house.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.L. BROKENSHIRE: Briefly, I think this bill makes a lot of sense. I was not in a position to support the Hon. John Dawkins earlier, but I want to put on the public record that Family First supports this bill.

Clause passed.

Remaining clauses (2 and 3) and title passed.

Bill reported without amendment.

The Hon. J.S.L. DAWKINS (18:17): I move:

That this bill be now read a third time.

Bill read a third time and passed.

EQUAL OPPORTUNITY (SPORTING COMPETITIONS) AMENDMENT BILL

Second reading.

The Hon. CARMEL ZOLLO (18:17): I move:

That this bill be now read a second time.

Within the indulgence of the chamber, given the state of my voice, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The *Equal Opportunity (Sporting Competition) Amendment Bill 2013* amends the *Equal Opportunity Act 1984* to address a concern with the provisions that prohibit discrimination on the grounds of sex, chosen gender or sexuality by associations, or in the provision of certain services, in Part 3 of the Act as the relevant provisions relate to competitive sporting competitions.

These concerns, which, I understand, members of this place are familiar with, have been raised by Bowls SA Incorporated, the organising body for the game of lawn bowls in South Australia.

Lawn bowls is one of the most popular sports in Australia. Bowls SA has 224 clubs in the metropolitan and country areas and over 18,000 registered members. In addition, Bowls SA estimates that more than 10,000 people participate in social bowls every year through its 'Night Owls' programs. Lawn bowls is played at the local, national and international level. It is approved as a 'core sport' by the Commonwealth Games Federation and has been included in the program for every British Empire or Commonwealth Games since 1930 (other than 1966).

Bowls SA is an 'association' within the meaning of the *Equal Opportunity Act 1984*. As such, it is subject to the provisions of that legislation insofar as it prohibits unlawful discrimination by associations. In providing recreational services, it is also subject to the provision that prohibits unlawful discrimination in the provision of goods and services to which the Act applies.

I should make clear at this point that, subject to the concerns this bill will address, application of the *Equal Opportunity Act* to Bowls SA is entirely appropriate. Indeed, Bowls SA accepts that this is the case.

The Act provides, in sections 35(1)(b) and 39(1)(b) (both of which are in Part 3 of the Act) that:

- in the case of section 35(1)(b), it is unlawful for an association to discriminate against a member of the association on the ground of sex by refusing or failing to provide a particular service or benefit to that member, in the terms on which a particular service or benefit is provided to that member, or by expelling that member from the association or subjecting him or her to any other detriment; and
- in the case of section 39(1)(b), it is unlawful for a person who offers or provides services to which the Act applies,(whether for payment or not) to discriminate against another on the ground of sex by refusing or failing to supply the goods or perform the services or in the terms or conditions on which or the manner in which the goods are supplied or the services are performed.

Section 3 of the Act defines services to which this Act applies to include the provision of a scholarship, prize or award, entertainment, recreation or refreshment and the provision of coaching or umpiring in a sport.

Bowls SA, like all lawn peak bowling associations throughout Australia, has traditionally organised its competitions along single sex lines, that is, men and women play in separate competitions. In this regard, lawn bowls is no different to many, if not the majority, of sports played in this country.

Sporting competitions are subject to a limited exemption from the provisions of Part 3. Section 48 of the Act provides that the provisions of Part 3 do not render unlawful the exclusion of persons of the one sex from participation in a competitive sporting activity in which the strength, stamina or physique of the competitor is relevant.

The problem that has arisen in the case of Bowls SA is the qualification that applies to the competitive sporting activity exemption: that, in order for the exemption to apply the particular competitive sporting activity must be one in which the strength, stamina or physique of the competitor is relevant.

Section 66 of the *Equal Opportunity Act 1995* of Victoria has a provision very similar to section 48. This provision, and its application to the sport of lawn bowls, has been the subject of a decision of the Victorian Civil and Administrative Tribunal (VCAT). In *South v Royal Victorian Bowls Association Inc* [2001] VCAT 207, a female lawn bowls player claimed unlawful discrimination as a result of the Royal Victorian Bowls Association's decision to deny her affiliate membership on the basis of her sex. RVBA sought to rely upon the exemption in section 66, arguing that there were differences in the way men and women played the sport, based on the superior strength of men. The VCAT held, having heard evidence from a number of experts in anatomy, bio-mechanics and human movement and a number of experienced players that it was not satisfied that the exception in section 66 applied.

A decision of the VCAT is not binding on the South Australian Equal Opportunity Tribunal, and the application of section 48 of the Equal Opportunity Act to lawn bowls has not been tested before the South Australian Equal Opportunity Tribunal. Bowls SA does not concede that section 48 does not apply.

In 2007 a complaint was made to the Commissioner for Equal Opportunity about single gender lawn bowl competitions. The complaint did not proceed to a hearing and determination. The parties, instead, negotiated a settlement, part of which was that Bowls SA would establish a committee to examine the issue of mixed gender competitions. This committee produced a policy entitled 'Parameters for the Implementation and Operation of Open Gender Competition Policy', which was adopted by Bowls SA in 2008. The Policy has been in place since the 2008-09 season. Without going into any great detail, the Policy ensures that every member of Bowls SA has the opportunity to play in an open competition, with selection based on merit rather than gender.

The implementation of the Policy has been accompanied by a campaign aimed at educating Bowls SA members as to need for, and merit of, open gender competitions and the promotion of the alignment of men's and women's sections of Members Clubs within the same association and the promotion of the amalgamation of men's and women's Associations.

In October 2009 Bowls SA applied to the Equal Opportunity Tribunal for an exemption from sections 35 and 39 of the *Equal Opportunity Act* to allow it to continue to run single-sex competitions (albeit alongside mixed gender competitions). In February 2010 the Tribunal granted the application and exempted Bowls SA until 30 June 2012 (sufficient to cover the 2010-11 and 2011-12 lawn bowls seasons). In granting the exemption the Tribunal made clear it was doing so to provide Bowls SA with time to give further consideration to the issue of discrimination, to consider other ways, apart from the Policy, in which the objects of the Equal Opportunity Act could be met and its provisions complied with, and, if necessary, to seek legislative change to clarify Parliament's intention with respect to lawn bowls.

In mid 2012 Bowls SA applied to the Tribunal for a three year extension of the exemption. While the Tribunal granted an extension, it did so only until 30 June 2014. The Tribunal has indicated that a further extension beyond this date is unlikely.

The imminent end of the exemption creates uncertainty for Bowls SA. The Policy to which I alluded earlier, developed and implemented following the 2007 complaint, makes provision for open gender competitions. Bowls SA advises that it has taken steps to educate its members in relation to the necessity for open gender competitions and has, in accordance with the Tribunal's original order, examined other alternatives for the provision of single gender competitions. However, Bowls SA must continue to offer single gender competitions to those bowlers wishing to advance to elite-level competitions as the competition pathways to participation in international events is by way of single gender competition.

To enable it to continue to offer a mix of open gender and single sex competitions free of the risk that it is in technical breach of the Equal Opportunity Act, Bowls SA has asked that the Act be amended to allow both open gender and single sex competitions to continue. The alternative is for Bowls SA to continue operating under the Policy until someone complains that it is in breach of the Act, and to seek a judicial determination from the Equal Opportunity Tribunal as to whether Section 48 of the Equal Opportunity Act applies to the lawn bowls.

Notwithstanding the uncertainty as to whether Bowls SA's Policy, insofar as it provides for single sex competitions, is in breach of sections 35 and 39 of the Act, Bowls SA does not wish to wait for a complaint to be made and litigated in order to resolve the issue.

I do not believe this to be an unreasonable position to take.

The *Equal Opportunity (Sporting Competition) Amendment Bill 2013* amends the *Equal Opportunity Act* to broaden the exclusion in section 48.

Currently section 48 (which provides an exclusion where the sporting activity is one in which the strength, stamina or physique of the competitor is relevant) applies only to discrimination on the ground of sex.

The Bill also includes two new exclusions. These are based on amendments to the Victorian Equal Opportunity Act aimed at addressing the problem now confronting Bowls SA in that state.

Firstly, Part 3 of the Act will no longer render unlawful the exclusion of persons from participating in a competitive sporting event on the ground of sex if the exclusion is genuinely intended to facilitate or increase the participation of persons, or a class of persons, of a particular sex. This is subject to two qualifications: it must be unlikely that there will be participation, or an increase in participation, of persons of the particular sex the exclusion is not made (having regard to all of the circumstances of the person or class of persons); and there are reasonable opportunities for excluded persons to participate in the sporting activity in another competition.

This amendment will allow sporting associations to conduct single sex competitions for the purpose of increasing the participation of men or women but only if there are reasonable opportunities for excluded persons to participate in the sporting activity in another competition.

Secondly, Part 3 of the Act will no longer render unlawful the exclusion of persons from participating in a competitive sporting event on the ground of sex if the exclusion is reasonably required to enable participants to progress to elite level (national and international) competitions. This will enable a sporting association to conduct single sex competitions where qualification to an elite level of the sport must occur through single sex qualification tournaments, as is the case with lawn bowls.

To address concern that the exclusions could be used by sporting associations to run segregated sporting competitions for young children, or to exclude children of one sex from participation in a particular sport, an additional amendment ensures that the exclusions do not apply to competitive sporting activities for children aged under 12. This is consistent with the position in a number of other jurisdictions.

I believe the amendments in this bill represent a balanced solution to the situation now confronting Bowls SA and other South Australian sporting organisations wrestling with the same complex issue.

I commend this bill to the house.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

TORRENS UNIVERSITY AUSTRALIA BILL

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

STATUTES AMENDMENT (DANGEROUS DRIVING) BILL

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

At 18:20 the council adjourned until Thursday 12 September 2013 at 14:15.