LEGISLATIVE COUNCIL

Thursday 26 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 and question time to be taken into consideration at 2.15pm.

Motion carried.

VETERINARY PRACTICE (MISCELLANEOUS) AMENDMENT BILL

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): Obtained leave and introduced a bill for an act to amend the Veterinary Practice Act 2003. Read a first time.

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) (11:02): I move:

That this bill be now read a second time.

This amendment bill is about improving the current operation of the Veterinary Practice Act 2003 and principally to introduce national recognition of veterinary registration.

The proposed amendments to introduce the veterinary registration (NRVR) will complement similar amendments already made or in the process of being made in all other jurisdictions, following endorsement of NRVR by the Primary Industries Ministerial Council in 2008. This will allow veterinarians, both general and specialist, who are resident in other jurisdictions and who are registered to practice there, to also practice in South Australia. Until now, a veterinarian wishing to practice in more than one jurisdiction has to register and pay fees annually in each jurisdiction in which they desire to work.

The mechanism for achieving NRVR is deemed registration, where general and specialist veterinary registrants are deemed to be registered in all jurisdictions when registered in any one state or territory. This must be the state or territory where the veterinarian resides.

NRVR is strongly supported by the veterinary profession nationally and by the Veterinary Surgeons Board of South Australia and the Australasian Veterinary Boards Council. NRVR is also supported by consumers of veterinary services, including the livestock industries.

Most of the changes to the act are to implement NRVR in administrative areas, which are the responsibility of the board and the registrar, including the veterinary registers, applications for registration and removal from and reinstatement to the register. The amendments also make it clear that the board may only suspend a person pending the outcome of disciplinary proceedings if there is a serious risk to the health and safety of the public or the health and welfare of animals.

Some more modest changes not directly related to NRVR have been included in the amendment bill. The principal change is to allow the Veterinary Surgeons Board of South Australia to recognise courses or veterinary education on the recommendation of the Australasian Veterinary Boards Council Incorporated (AVBC). The previous act required the board to independently approve such courses of education, which is an unnecessary burden given that a principal function of the AVBC is to approve courses in education in veterinary science in Australia and New Zealand on behalf of all relevant veterinary boards.

It will be the responsibility of the Veterinary Surgeons Board of South Australia, as well as the corresponding boards in all other Australian jurisdictions, to assist veterinarians and their clients to become aware of the new arrangements of national recognition of veterinary registration. The veterinary boards will be required to ensure that any restrictions, variations or limitations that they may individually apply to the registration of veterinarians are communicated to all other

veterinary boards so that users of the veterinary services can be assured that veterinarians they use are appropriately controlled.

The bill will significantly reduce the regulatory burden on veterinary surgeons who work in multiple Australian jurisdictions. This will also improve client access to veterinary services across Australia, especially in regional areas. I expect that all members will favourably consider supporting these amendments.

Finally, the bill provides for an additional member of the Veterinary Surgeons Board of South Australia to be nominated by the council of the University of Adelaide to be a veterinary surgeon engaged in teaching veterinary science. This reflects the importance of the university's new School of Animal and Veterinary Sciences to train new veterinarians to the highest level of professionalism.

The South Australian government contributed $5 million to assist with the establishment of the veterinarian school at the University of Adelaide, increasing its potential value to the state. The university commits a substantial part of its curriculum to developing in veterinary students the attributes which are of critical relevance to the responsibilities of the Veterinary Surgeons Board. This additional board position should therefore enhance its effectiveness and operations.

I commend this bill to you and I seek leave to have the explanation of clauses inserted into *Hansard* without my reading them.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Veterinary Practice Act 2003*

4—Amendment of long title

This is a consequential amendment to the long title of the Act.

5—Amendment of section 3—Interpretation

It is necessary to include some new definitions in connection with the amendments that are to be made to the Act to provide for deemed registration.

6—Amendment of section 6—Composition of Board

The membership of the Veterinary Surgeons Board of South Australia is to be increased by 1 person to 8 members. The additional member will be a veterinary surgeon engaged in teaching veterinary science nominated by the Council of the University of Adelaide.

7—Amendment of section 13—Functions

The Board will now adopt a function of 'recognising' courses of education or training in veterinary science rather than 'approving' such courses and, in so doing, may act on the recommendation of the Australian Veterinary Boards Council Incorporated.

8—Repeal of section 14

This is a consequential amendment.

9—Amendment of section 17—Procedures

This is a consequential amendment.

10—Substitution of sections 26 and 27

As part of the scheme for deemed registration under the Act in relation to veterinary surgeons registered under a corresponding law, it is intended to establish a register where decisions of the Board in relation to such registration will be recorded.

11—Amendment of section 28—General and specialist registers

12—Amendment of section 29—Register of persons removed from general or specialist register

These are consequential amendments.

13—Insertion of section 29A

New section 29A will set out the matters that must be included on the register relating to the decisions of the Board that apply in relation to deemed registration under the Act.

14—Heading to Part 3 Division 2

This is a consequential amendment.

15—Amendment of section 32—Registration of natural persons on general or specialist register

It will be a requirement for registration under the Act that the person's principal place of residence is in the State. A person who is to provide veterinary services on a visit to the State (not being a person with deemed registration) may apply to the Board for limited registration under the Act.

16—Amendment of section 33—Application for registration

The Act is to be amended so that the Board will have the ability to refuse an application for registration until any complaint against the applicant being dealt with under a corresponding law has been finally determined.

17—Amendment of section 34—Removal from register or specialty

A new provision will allow the Registrar to suspend the registration of a person under the Act if the Board has determined that a suspension should occur pending the outcome of any disciplinary proceedings under Part 5 of the Act. Another provision will allow the Board to determine that a person's registration should occur in another jurisdiction by virtue of the fact that his or her principal place of residence is in that other jurisdiction.

18—Amendment of section 35—Reinstatement on register or in specialty

19—Amendment of section 36—Fees and returns

20—Amendment of section 37—Variation or revocation of conditions of registration

21—Amendment of section 38—Contravention of conditions of registration

These are consequential amendments.

22—Insertion of Part 3 Divisions 3, 4 and 5

This clause sets out the scheme for deemed registration under the Act where a person's principal place of residence is located in a 'participating jurisdiction' and the person is registered under the corresponding law of that jurisdiction.

23—Amendment of section 40—Illegal holding out as veterinary surgeon or specialist

24—Amendment of section 41—Illegal holding out concerning limitations or conditions

25—Amendment of section 42—Use of certain titles or descriptions prohibited

26—Amendment of section 43—Board's approval required where veterinary surgeon has not practised for 3 years

27—Amendment of section 60—Medical fitness of veterinary surgeon

28—Amendment of section 61—Cause for disciplinary action

These are consequential amendments.

29—Amendment of section 62—Inquiries by Board as to matters constituting grounds for disciplinary action

A number of these provisions relate to other amendments to be made by this measure. New subsections will also set out the power of the Board to determine that the registration of a person should be suspended pending the outcome of disciplinary proceedings if the Board considers that there is a serious risk to the health and safety of the public, or a serious risk that the health and welfare of animals will be endangered.

30—Amendment of section 66—Right of appeal to District Court

This clause is consequential.

31—Amendment of section 74—Confidentiality

This amendment will facilitate the provision of information in connection with the establishment and administration of a national database of veterinary surgeons.

32—Insertion of sections 75 and 75A

It is possible that a national database for veterinary surgeons, and for purposes associated with the recognition of people engaged in veterinary practice or treatment in other jurisdictions, is to be established. Furthermore, in connection with the scheme that is to be established, the Board will be required to notify each interstate registration authority of any disciplinary action taken against a veterinary surgeon under the Act, or of any other action of a prescribed kind.

33—Amendment of section 76—Evidentiary provision

These are consequential amendments.

34—Amendment of section 79—Regulations

In view of the arrangements that are to be introduced under this measure, it may be necessary or expedient to make regulations about the keeping of records or other information about veterinary practice, and to provide for the provision of prescribed categories of information to the Board.

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

ABORIGINAL LANDS TRUST BILL

Adjourned debate on second reading.

(Continued from 24 September 2013.)

The Hon. T.A. FRANKS (11:08): I rise on behalf of the Greens today to indicate that we will support this bill to second reading stage and reserve our judgement on third reading until proper processes have been conducted. Those processes, of course, in some ways are administrative and required by the hybrid nature of this bill, but also those processes will include referral to a select committee as a part of that particular requirement and, indeed, reference and rigorous investigation of this bill through the Aboriginal Lands Parliamentary Standing Committee. That particular standing committee, of which I am a member, certainly has in its terms of reference an oversight over this particular act. It is with those reservations that I continue my second reading speech on this bill.

The bill is aimed at strengthening South Australia's Aboriginal Lands Trust, and I commend this minister for finally introducing it. The bill will purportedly—and I do not mean that in a pejorative way—seek to unlock the commercial potential of some 500,000 hectares of land, worth some $60 million, that are currently held by the trust.

The bill is intended to ensure a more efficient and productive use of this trust land to deliver long-term benefits for Aboriginal communities across this state—on that, I imagine, all members of this council will agree. There are many significant challenges faced by the trust, and certainly this legislation is long overdue in ensuring measures to overcome the barriers that many Aboriginal communities face with the current status quo.

The land held by the trust is located across metropolitan, regional and remote areas of this state. Those holdings are incredibly diverse, both in geography and nature. They are managed and developed by Aboriginal people to improve their economic wellbeing and strengthen the community. As a member of the Aboriginal Lands Parliamentary Standing Committee, I have certainly heard time and time again from communities that we have the privilege to go and speak to that the current legislation is indeed a barrier to those goals.

This bill will establish a new commercial development advisory committee, which is intended to provide specialist advice to the minister and the trust about commercial transactions. The Aboriginal Lands Trust will also be given more autonomy in its dealings with the trust land. There will be a process for Aboriginal community involvement in decision-making, as well as support for new opportunities for future cultural and residential development. The bill also creates a new position, that is, a chief executive officer for the trust.

The road to bringing this debate to our chamber today has, of course, been very long. Indeed, the current act is now some 47 years old, which is longer than I and some other members of this council have been on this planet. As one who is on the side of progressive politics, I am certainly most heartened that there have been many major social and legal changes since 1966. I particularly note the passage of the commonwealth Native Title Act 1993. I have in my notes here, 'Onya, P.J.K.' As a very young Australian, I remember that being a groundbreaking piece of our modern history in this nation, and I certainly commend the then prime minister for that legislation.

The government of South Australia, however, commenced a review of this particular act that brings this bill before us on 20 November 2008. Indeed, we have heard from several ministers in that time that a bill was pending, that legislation was due in the parliament within months or that it was off at parliamentary counsel. There have certainly been three extensive ranges of public consultation processes on those various incarnations of that review. I commend minister Hunter for finally getting it here.

I note that we have some five, or possibly six, sitting weeks left of this particular year, and I certainly hope that we will see the passage of legislation that reflects and supports the stated intentions of this bill passed this calendar year. I look forward to rigorous and robust investigation to

ensure that it does indeed give us the best and not simply the speediest bit of legislation that can pass this place. I look forward to working with my colleagues across parties, and indeed across the crossbench and Independents, to achieve that goal.

With those few short words, I will say that this is much-needed legislation. Certainly, anyone who has conversations with those who are unable to undertake business transactions, or entrepreneurial, business or farming development, as a result of the restrictions that are currently enforced by such archaic legislation would know that we have to find some solutions here and that we have to find a way forward. I look forward to further processes of this debate both in this council and in committees and, indeed, in the community.

The Hon. K.L. VINCENT (11:15): I will speak very briefly in favour of the second reading of the Aboriginal Lands Trust Bill 2013. Firstly, I would like to thank the Hon. Ian Hunter's adviser, Shane Webster, for the comprehensive folder of information—a very large and glossy folder, in fact—provided to me and my staff member yesterday morning and for also arranging three departmental staff to brief me at that same meeting.

I would hope that there is no question, through our previous work, that Dignity for Disability certainly has something of a proud record in supporting the recognition and empowerment of Indigenous South Australians in particular through all sectors of society and by whatever legislative means, and we are pleased to see this bill before the parliament. I have no further questions at this stage, but I look forward to progressing it through the committee stage.

I understand that because this is a hybrid bill, it will now be voted off to a select committee, and I commend that process to the chamber.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (11:16): I would like to thank honourable members who have spoken on this bill, and I would also like to thank them for their indications of general support for this important reform. Honourable members will recall that earlier in the year this chamber experienced a sometimes rare but welcome spirit of multipartisanship when it passed the Constitution (Recognition of Aboriginal Peoples) Act 2013. Today, this parliament comes together again for the benefit of the Aboriginal peoples in this state to jointly advance this bill.

After almost 47 years of operation, it is time that the current Aboriginal Lands Trust Act is replaced by new legislation which reflects the complexities of the modern world and which allows the trust to deal with the significant challenges of owning and managing the trust estate, which comprises over half a million hectares and is valued at approximately $60 million.

It is sometimes said that there can be no real self-determination for Aboriginal peoples without economic development. This bill certainly provides a new mandate to increase opportunities for that economic development to take place. A more commercial approach to the trust assets, where appropriate, will go far to assist the trust in generating income to support the operations of the trust into the future.

A new skills-based trust structure, the availability of advice from the commercial development advisory committee, the good order audit, and the requirements for a register of trust land, in addition to the continuation of the obligations for good financial management, will enable more efficient, productive and beneficial use of trust land. Importantly, these changes will help support the expansion of Aboriginal businesses and improve Aboriginal participation in our economy. As members in this place have identified, the bill will also provide for greater empowerment of Aboriginal decision-making.

The trust will have the governing capacity and commercial expertise to ensure the trust's land is in good order, and it will assist to improve the cultural and economic wellbeing of South Australian Aboriginal people for the future. It will no longer be necessary for the trust to require consent from the minister every time it proposes to deal with land, and Aboriginal women will also have a greater opportunity to participate in the trust's dealings and decision-making.

The bill provides for the appointment of a selection panel which will, as far as reasonably practicable, endeavour to achieve a gender balance on the trust. It is also appropriate in this modern age that the trust will be required to consult with all Aboriginal people with an interest in relevant trust land before dealing with that land.

In closing, I would like to acknowledge those members of the ALT Reference Group who have provided me with advice about the content of the review and its process. It is with much

pleasure and gratitude that I acknowledge the contributions of Mr Haydn Davey, Acting Chair, ALT; Ms Khatija Thomas, Commissioner for Aboriginal Engagement; Mr Parry Agius, nominee from the South Australian Aboriginal Advisory Committee and former chair of that council; Mr Harry Miller, community representative; Mr Klynton Wanganeen, community representative and former commissioner for Aboriginal engagement; and Mr John Chester, General Manager of the ALT.

I put on record the government's thanks for the reference group's dedication to its task and the breadth and sensitivity of the consultation process. Each member of this group donated their time to participate in the consultations and provided an essential link between the legislative review team, key Aboriginal organisations, and the broader Aboriginal community. I would also like to thank the current and previous boards of the ALT for their commitment and resolve to persevere through what were at times very robust conversations with the community, I am told.

The outcome of that resolve and patience is that Aboriginal peoples in the state will have a more empowered and independent role as beneficiaries and protectors of an ever-increasingly useful and valuable asset which is supported by this new legislation. I understand this bill is a hybrid bill, and I look forward to participating in the next stage of that process through the formation of a select committee and return to this chamber for the ordinary course of proceedings. I commend the bill to the house.

Bill read a second time.

The PRESIDENT: I now rule that this bill is a hybrid bill and must be referred to a select committee pursuant to standing order 268.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (11:20): Accordingly, I move:

That the select committee consist of the Hon. T.A. Franks, the Hon. K.J. Maher, the Hon. T.J. Stephens, the Hon. S.G. Wade and the mover.

Motion carried.

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

That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberate vote only.

Motion carried.

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

That this council permits the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to the council.

Motion carried.

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

That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves that they shall be excluded when the committee is deliberating.

Motion carried.

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

That the select committee have power to send for persons, papers and records; to adjourn from place to place; and to report on 27 November 2013.

Motion carried.

The Hon. I.K. HUNTER: I seek leave to move a motion without notice concerning the select committee on the Aboriginal Lands Trust Bill.

Leave granted.

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

That the select committee on the Aboriginal Lands Trust Bill have permission to meet during the sitting of the council this day.

Motion carried.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) (NO. 3) BILL

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. D.G.E. HOOD: I will not be moving my amendment, and I will give a brief explanation as to why. I have had discussions with the government which, I understand, is sympathetic to the idea but not necessarily to the way it is being suggested that it be done. Having had discussions with them, they have raised one point that is valid, so I am prepared to leave this amendment for now and have ongoing discussions with them in order to see if we can achieve this through another means.

Clause passed.

Clause 5.

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

Amendment No 1 [AgriFoodFish–2]—

Page 3, after line 6—After line 6 insert:

(1) Section 44(2)—delete 'If' and substitute:

Subject to subsection (2a), if

Amendment No 2 [AgriFoodFish–2]—

Page 3, lines 8 to 15 [clause 5, inserted subsection (2a)]—Delete inserted subsection (2a) and substitute:

(2a) The Minister for Correctional Services must, before deciding whether to waive the obligation of a probationer to comply any further with a condition requiring supervision, take into account the likely impact on a victim to which this subsection applies if the probationer is no longer required to remain under supervision.

These amendments rectify an error that was identified by the Law Society. The bill seeks to amend section 44 of the Criminal Law (Sentencing) Act 1988 so that the Minister for Correctional Services must take into account the likely impact on a victim before exercising the minister's power to waive a condition of a bond requiring supervision or to vary or revoke a condition of a bond. The minister does not have this latter power, therefore the amendments rectify that particular error.

The Hon. S.G. WADE: The opposition supports the amendment.

Amendments carried; clause as amended passed.

Clauses 6 to 9 passed.

New clause 9A.

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

Amendment No 1 [AgriFoodFish–1]—

New Part, page 4, after line 14—Insert:

Part 6A—Amendment of *Magistrates Court Act 1991*

9A—Amendment of section 42—Appeals

(1) Section 42(5)(c)—after 'including' insert:

, subject to subsection (5a),

(2) Section 42—after subsection (5) insert:

(5a) The Full Court may not make an order for costs in relation to an appeal to the Full Court of a kind referred to in subsection (2)(ab).

The Statutes Amendment (Courts Efficiency Reforms) Act 2012 amended the Magistrates Court Act 1991 and the Summary Procedure Act 1921 to enable a magistrate to impose sentence in major indictable cases where a defendant has pleaded guilty in the Magistrates Court and both the defendant and the Director of Public Prosecutions consent to the matter being finalised in the Magistrates Court.

Prior to this act, all major indictable matters were sentenced in the higher courts. This meant that all appeals against sentence for major indictable matters were heard in the Court of

Criminal Appeal which is a no cost jurisdiction. The changes made by the courts efficiency reforms act have inadvertently led to appeals against major indictable sentences imposed in the Magistrates Court to be to the Full Court sitting in the civil jurisdiction and therefore liable to cost orders. This was not the intent of the reform, and it is appropriate that appeals against sentences imposed in major indictable matters be treated the same and with the same cost implications. That is why we put that amendment forward.

The Hon. S.G. WADE: I acknowledge that the government did write to us in relation to this amendment. It is noteworthy that the government and the Law Society seem to be as one in terms of policy, and we do welcome the government's intention to consult the Chief Justice. However, we do not think that that is sufficient. We do not think it is appropriate to pass the legislation and then find a solution after the legislation, because after all, the consultation with the Chief Justice may well lead to suggested changes to the legislation. If we are doing the Chief Justice the courtesy of consulting him, we should be giving him the courtesy of flexibility in response.

We also do not think the Chief Justice should be the limit of the consultation. This, after all, is a change to the magistrates act. We also consider that the Chief Magistrate and the magistracy more generally should be consulted. It is not an extensive set of amendments. We believe that could happen in the next two weeks and it could be considered on the next sitting day of this council.

Let us remember we have recognised the growing status of the magistracy in the magistrates act and enhanced its jurisdiction through the courts efficiency reform bill. The opposition urges the council to give ourselves an opportunity to pause and reflect on the implications of these proposals on the magistracy. Let us remember that one of the reasons that the Law Society puts forward is the status of the magistracy. The society specifically queried whether it is appropriate for a magistrate who is not a judge to have the powers that are implied by the current bill and recommended that there should be an extra safeguard of an appeal to a single judge attracting costs.

The opposition does not support progressing the bill until these consultations have occurred and the council has been able to consider a statement as to the specific actions proposed to be taken and views on it. On other issues raised by the society, the opposition supports the government, as we did in the Statutes Amendment (Appeals) Act 2013. We will not be proposing or supporting the amendments sought by the society in that regard. Let me stress, we do not have a negative view of the amendments before us. We just believe there is value in consultation.

The Hon. G.E. GAGO: The government does not support postponing the progress of this bill for the purposes of consulting with the Chief Justice or the Chief Magistrate because we believe it is unnecessary to speak to either the Chief Justice or the Chief Magistrate about this particular matter. All appeals in the criminal jurisdiction in higher courts—it is a no-cost jurisdiction, and that is an accepted practice and has always been an accepted practice, and it is most unlikely that the Chief Justice or the Chief Magistrate would have concerns.

These matters were never captured by costs in the past. What occurred in the drafting of this bill was an anomaly to capture costs associated with them. The Chief Justice and the Chief Magistrate never raised issues of concern about these matters not capturing costs in the past, so we believe it is completely unnecessary to delay the bill any further for any further level of consultation.

The Hon. S.G. WADE: I am surprised to hear the minister say that there is no need to consult the Chief Justice, because the Attorney-General's letter to me of 23 September 2013 states:

> If the Legislative Council agrees to pass the amendment I shall raise this issue the Chief Justice so that appropriate amendments to the rules may be made.

I would have thought it was better to put the horse before the cart. I also believe that in light of the comments made by the society in relation to the, if you like, status of magistrates being somehow short of a judge, it would be appropriate to engage the Chief Magistrate.

The minister's remarks related specifically to the cost issue. I want to stress again that I do not believe that the difference is in relation to costs. I think we are on the same page on that. The Law Society and the Attorney-General's discussions have related to whether appeals from the Magistrates Court are treated as civil appeals or as criminal appeals. These issues might have

implications beyond costs. Feel free to call the Legislative Council a cautious place, but it has so often in the past proved to be wise.

With no objections to the current provisions, the opposition is still of the view that it would be a good discharge of our duties to leave this on the table for two weeks; certainly consider it on the first sitting day when we come back. These are not extensive issues. I move:

That progress be reported.

The committee divided on the motion:

AYES (10)

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

NOES (8)

Darley, J.A.	Franks, T.A.	Gago, G.E. (teller)
Hunter, I.K.	Kandelaars, G.A.	Maher, K.J.
Parnell, M.	Wortley, R.P.	

PAIRS (2)

Ridgway, D.W.	Zollo, C.

Majority of 2 for the ayes.

Progress thus reported; committee to sit again.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

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

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

That the council do not insist on its amendments.

The government would like to take this opportunity to thank the Hon. Mr Hood and the Hon. Mr Darley for their support of the government's positions on amendments Nos 13, 20 and 24.

The Hon. S.G. WADE: I want to put the Liberal Party position in context. The Liberal Party is increasingly opposing the government's approach of undermining the presumption of innocence. In 2011, the Liberal Party took a decision to reaffirm its commitment to defend the privilege against self-incrimination as a matter of principle, only abrogating it where the public benefit significantly outweighs the private detriment.

The legal privilege against self-incrimination provides immunity against compulsion to give evidence or to supply information that would tend to prove one's own guilt of a crime or other breach of the law. I will not go into detail, but the sort of policy justifications for the privilege in the modern age are to protect the accusatorial system of justice. A fundamental principle of the accusatorial system of justice is that the prosecution bears the onus of proving to the relevant threshold that an accused is guilty of an offence with which he or she has been charged.

The principle of the presumption of innocence is said to undergird that privilege. Those who allege the commission of an offence should not be able to compel the accused to provide evidence of his or her own guilt. Secondly, the privilege helps prevent against abuse of power. It helps protect the quality of evidence, and in legal terms it is said to help avoid the cruel trilemma, where a witness has to choose between three unpalatable options.

Since 2011, as I said, the Liberal Party has consistently sought to protect the right. We have opposed the removal of the privilege in a range of bills, including the Natural Resources Management (Review) Amendment Bill 2013, the Burial and Cremation Bill 2013, the Work Health

and Safety Bill 2012, and the Electrical Products (Energy Products) Amendment Bill 2011. When the Legal Practitioners Act came up for review we, of course, had a look at it too and felt that the resuscitation of the common law was the best way forward in the context of this bill.

The government has been dismissive of basic legal protections. The government's view is that serious criminals should have stronger rights than law-abiding lawyers. If you steal from a bank, the government wants you to have legal protection, but if you work as a lawyer you can be forced to incriminate yourself. As I said, the Liberal Party view is that these basic rights should only be taken away in the most extreme circumstances.

An honourable member made this point to me: is the privilege relevant outside the criminal jurisdiction? The Liberal Party view is that it is already widely available in a wide variety of investigatory situations and it is very relevant to non-criminal proceedings. In that context, I would like to quote others. In 2004, the Queensland Law Reform Commission report specifically addressed this point:

> In an era of increasing governmental regulation of many aspects of everyday life, civil penalties are a useful tool for securing compliance with a regulatory scheme. Legislation may provide for civil proceedings for the imposition of a penalty as an alternative, or in addition to, criminal liability for non-compliance. Although the imposition of a penalty does not result in a criminal conviction or the possibility of imprisonment, the consequences can nonetheless be extremely serious for the individual concerned. They can include an obligation to pay a pecuniary penalty, dismissal from employment in the public service or disqualification from engaging in a professional activity. In some circumstances, the outcome of the imposition of a penalty may be as onerous for the individual as a criminal conviction.

The Queensland Law Reform Commission recommended that the privilege should be reinforced by statute in situations other than criminal proceedings.

The Australian Law Reform Commission has also noted that some civil and administrative penalties carry consequences that are just as serious as traditional criminal punishments. It suggested that the readiness to remove the privilege more easily in relation to non-criminal penalties may require reassessment in the light of the convergence of the severity of criminal punishments and non-criminal penalties.

While the state Liberal team considers that the self-incrimination issue is a very important one, I would indicate that, in the context of this bill, we do not intend to suggest to the council that it insists on its amendments in relation to self-incrimination. We will continue to work with stakeholders to make sure that consumer protection measures are fair not just for consumers but for lawyers too.

The Advertiser last week criticised this amendment. When it published its article and the associated comment, it knew that we, the Liberal Party, wanted the laws in question to go through the parliament unamended but, unfortunately, that was not reflected in the article. The most bizarre element of *The Advertiser* coverage was the Attorney-General's linking the issue with the case of Eugene McGee. *The Advertiser* report states:

> Mr Rau, a lawyer by profession, believes the Upper House moves to dilute the legislation are 'a joke' and will undermine public confidence in the profession—already at a low ebb following the Eugene McGee hit-run saga.

I do agree with the Attorney that public confidence in the profession is at a low ebb following the Eugene McGee hit-run saga, but that is not because Mr McGee was able to access any legal privileges: it was because the legal profession oversight regime failed. One of the factors that led to this failure was the Attorney's own decisions.

To say that the Attorney is being tough on lawyers and tough on McGee, as was suggested in some commentary, is itself a joke. The Attorney has consistently refused calls by Senator Xenophon, by former attorney-general and current Speaker of the other place Michael Atkinson, and the opposition to refer the McGee case to the Legal Practitioners Disciplinary Tribunal. He then brought to this place a bill which sought to remove all consumers from the process of reviewing lawyers' conduct.

The Liberal Party moved amendments, which this council supported, which blocked the Attorney-General's attempt to sideline the community from legal regulation, and I am glad to see that they have backed down on that. As a result of this council's workmanlike work in relation to this bill, the tribunal will now consist of one-third of non-lawyers. The Liberal Party will be supporting the motion that we not insist, but we believe we have unfinished business to do.

The Hon. M. PARNELL: It seems clear from the minister's brief contribution that the government has used the time that has elapsed since this bill was last debated to secure the

numbers; therefore, it is pretty much now a moot point, it seems. I would just like to make the observation that issues of principle such as this—the right to silence and the right against self-incrimination—are fundamental legal rights, and we debate them in a very ad hoc manner in each of the different bits of legislation that arise.

The Advertiser headlines the Hon. Stephen Wade has referred to could just as easily have been 'Mass murderer getting away with refusing to answer questions'. What we are trying to do is weigh up chalk and cheese in many ways. The mass murderer has every right to keep his or her mouth closed, and no adverse inference can be drawn from that fact. For a lawyer facing potential disciplinary action, it is a very different situation, and they do not have the right to keep their mouth shut.

I think that what I take out of this whole debate is that one of the things missing in this state that I think would help us as legislators is a law reform commission or some body that is tasked with investigating some of these complex legal issues. I do not think we do justice to it if every time this occurs with an NRM act or a legal practitioners act—maybe it will be hairdressers' registration next and whether hairdressers have a right to silence in disciplinary actions. Who knows what the next one will be?

I think we really do need to do better than has happened in this case. Certainly, having secured the numbers, there was no great need for the government to lobby the Greens, so we have not actually had to think about it or talk about it since we last debated it. I just make that observation, that what this state would really find useful, I think, is a law reform commission where some of these issues could be explored in greater detail than we do here in this chamber.

Motion carried.

TORRENS UNIVERSITY AUSTRALIA BILL

Adjourned debate on second reading.

(Continued from 24 September 2013.)

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (11:59): I would like to thank members who have made a contribution and for their indications of support for this bill. I note in particular a number of questions were asked by the Hon. Tammy Franks in relation to the bill, and I will attempt to provide a response to all of them now.

The Hon. Ms Franks raised the question regarding the need for this bill. It is true that this legislation is not necessary to establish Torrens University Australia. Indeed, the government's original declaration of the approval to establish Torrens University Australia, gazetted on 17 October 2011 under the Training and Skills Development Act 2008, provided the approval for the establishment of the university itself. However, Torrens University Australia has expressed a desire to be recognised under state legislation to enable it to compete on an even playing field with the state's three public universities.

What this bill, therefore, does is provide a formal mechanism for the South Australian government to recognise the university and, insofar as it is within the legislative power of the state, facilitate the provision of higher education services by the university. The successful passage of this bill through parliament will, indeed, be a statement of support by the parliament for Torrens University Australia and its operations here in South Australia.

What this bill also enables is a level of public scrutiny of the university, insofar as it requires the university to present the minister with its annual report and for this report to be laid before each house of parliament. Similar provisions for reporting form part of the other three university acts. Torrens University Australia is keen to provide this level of public accountability and transparency as they seek to establish themselves as a valuable part of South Australia's higher education sector.

In relation to Ms Franks' question about ombudsman provisions, I can confirm that the state Ombudsman remit is limited to complaints from students enrolled in public institutions. It is the case, however, that the state Ombudsman, through existing relationships, is able to refer matters to the South Australian Office of the Training Advocate. This is to be available to both domestic and international students enrolled at Torrens University Australia. The Training Advocate's Charter of Functions explicitly allows investigation, if required and as appropriate, into such matters. Students

will, therefore, have access to the independent and confidential services of the state Office of the Training Advocate.

However, Torrens University Australia must ensure all of its students have access to the university's internal complaints handling processes in the first instance. The national regulator of higher education, the Tertiary Education Quality and Standards Agency, requires providers such as Torrens University Australia to have policies and procedures to manage complaints in a constructive and timely manner, to have an area responsible for dealing with complaints and to have arrangements for a review by an appropriate independent authority. This applies to all of its students.

Torrens University Australia is currently not able to enrol international students. However, I have been informed that the university will be seeking registration on the commonwealth Register of Institutions and Courses for Overseas Students in late 2013. If and when it achieves this registration, Torrens University Australia will be further obliged to comply with the Education Services for Overseas Students Act 2000. This act provides the regulatory requirements for education and training institutions offering courses to international students in Australia on a student visa. This will require Torrens University Australia to comply with the ESOS framework, including National Code Part D, Standard 8, that sets out requirements in dealing with complaints and appeals.

In relation to consumer protection and tuition assurance, I am further informed that Torrens University Australia has arranged for membership of an approved tuition assurance scheme, which is a requirement under the Higher Education Support Act 2003. The tuition assurance scheme ensures that any Australian student displaced from a course due to the inability of a provider to continue the course is relocated efficiently and with minimal disruption to a comparable course with another approved provider.

Finally, international students in Australia can also access the services of the Overseas Students Ombudsman. The Overseas Students Ombudsman is a role for the commonwealth Ombudsman. The OSO is also able to refer matters to the state Office of the Training Advocate for students studying in South Australia.

Ms Franks also asked several questions in relation to the original conditions of approval for the establishment of Torrens University Australia. These were published in the South Australian *Government Gazette* on 17 October 2011 and are a matter of public record. I would, however, like to clarify some misconceptions about the financial guarantees which form part of the conditions of this approval. The South Australian government, as part of its original gazetted approval for the establishment of Torrens University Australia, sought a range of financial guarantees from the parent companies of Torrens University Australia, namely, Wengen Alberta LP (Canada), through Laureate Education Asia and LEI Singapore Holdings Pte Ltd.

These financial guarantees included capital injections of $A10 million at the formation of the university on enrolment of the first student, and a further injection of funds when enrolments reached a total of 500 students. These capital injections were to be made to Torrens University Australia from the parent companies of Torrens University Australia. At no time was it suggested that these funds were to be paid to the South Australian government, I am advised.

These financial guarantees were included in the original approval as a way of assuring the future of Torrens University Australia and as a protection for students in the event that the university failed. Torrens University Australia has advised it has received the first capital injection of $10 million to support the establishment of the operation of the university. This first payment was made in January 2012, prior to the handover of regulatory responsibility to the commonwealth. I further state that no state government financial assistance has been provided to Torrens University Australia to establish operations in South Australia, nor has it provided any undertakings to provide any government scholarships. In fact, Torrens University Australia itself is funding a number of generous full and partial scholarships across all programs on offer to cover tuition for the 2014 intake.

I also note that in relation to the original conditions of approval the national regulator for higher education, the Tertiary Education Quality and Standards Agency (TEQSA), is now responsible for the regulation of Torrens University Australia and assessing whether it is meeting its conditions of approval and operation. This has been the case since 29 January 2012. Under these circumstances the original conditions imposed by the state government have been overtaken by the process of Torrens University Australia being registered with TEQSA, and the state

government has no further role in the regulations of Torrens University Australia as a university. I am also advised that TEQSA has not imposed any conditions on Torrens University Australia's operations.

With regard to the question raised in relation to the naming competition held in 2011, I can confirm that Torrens University Australia did hold a naming competition for the new university. While there were around 450 entries I am told, the final name of the university was not selected from any of these entries and therefore no winner was selected to meet former president Clinton. The university has confirmed that all entries were considered; however, following internal research the name Torrens University Australia was put to the minister for approval as per condition 3 of the original approval.

Ms Franks also questioned possible future locations for Torrens University Australia. The university is currently located in an international university precinct located in the Torrens Building in Victoria Square, under a formal leasing arrangement. I am advised that teaching will be conducted from a leased space in the Torrens Building. However, the university will acquire additional premises in the future as it expands its operations and student numbers. At this stage the university has a short list of properties it is considering; none of these, I am advised, are publicly owned. At this stage I make the point that Torrens University Australia is a private Australian company and the South Australian government is not, nor should it be, privy to its commercial arrangements or agreements. While Torrens University Australia has been willing to share many of the details associated with the establishment of its operations here in South Australia, it is under no obligation to furnish details of its private property transactions.

With respect to questions asked about the agreement with TAFE SA in relation to a number of new technical colleges in Saudi Arabia, I am advised that this is an agreement between TAFE SA and another member of the Laureate network. Torrens University Australia is not a party to this agreement, and therefore the question should have no bearing on the passage of this bill. I would suggest that, if it is indeed a matter of interest, the member seek further information on these arrangements directly from TAFE SA. However, I do think it is important to highlight the benefits of having an organisation like Torrens University Australia, and a Laureate universities group, involved in South Australia, as it has potential to create opportunities for other institutions in this state.

As a private company the issue of staffing numbers are operational matters for Torrens University Australia to consider. The number and qualifications of staff also impact on the quality and provision of teaching and learning at the university and are therefore matters to be considered by TEQSA as part of its regulatory activities. That said, I have been assured that Torrens University Australia will employ appropriate numbers of staff to support its teaching and learning activities, taking into account the number of students enrolled and the number of programs being offered at the time. I also point out that details of staffing numbers will be included in the university's annual report, which, should this bill be passed, will be tabled in parliament.

The Hon. Ms Franks yesterday posed a question about why we need another university in South Australia, or indeed if there is a market in South Australia for another university. The fact that South Australia had a clear vision about establishing Adelaide as a university city was something that was considered positively by the Laureate Group when it was looking to establish a university in Australia. It was one of the key reasons it selected South Australia, I am told.

The establishment of Torrens University Australia in South Australia supports this vision and further contributes to achieving the state's seven strategic priorities: building education, research and innovation as key enablers for success and an essential component of Adelaide's future as a vibrant cultural and economic centre of the state. I note in particular Torrens University Australia's contribution to achieving the priority of creating a vibrant city. Adelaide is arguably more than a university city but an education city with tens of thousands of domestic and international students living and studying in the CBD, bringing cultural, economic and social benefits to the city.

With a global network of over 70 accredited private institutions delivering both on-campus and online educational programs to around 780,000 students in more than 30 countries worldwide, Laureate is certainly not a new player in the global education market. In relation to the decision to establish another university in this state, I am confident that Laureate undertook significant market research to determine if there is room in the South Australian tertiary market for another university before seeking approval to establish in South Australia. Indeed, the efforts made to gain approval, along with the significant financial investment by the Laureate group, are an indication of their level of confidence in their decision.

I note also that Torrens University Australia is not the first higher education institution in which Laureate has an investment in Australia. The Blue Mountains International Hotel Management School, established in New South Wales in 1991, was acquired by Laureate in 2008 and to date has successfully graduated more than 3,000 students. The South Australian government firmly believes that the strengths and capabilities of our three public universities are complemented by the introduction of other universities in this state.

This has certainly been evidenced by the introduction of Australian campuses of two high-calibre international universities—US-based Carnegie Mellon University and University College London—and the opportunities this has created for partnership and collaboration. I am confident that Torrens University Australia will continue to help develop and strengthen our higher education sector and the reputation of Adelaide as a leading centre for educational research and innovation.

The South Australian government looks forward to the positive contribution that Torrens University Australia will make, and I commend the bill to the house.

Bill read a second time.

In committee.

Preamble passed.

Clause 1.

The Hon. T.A. FRANKS: Of the 450 entrants for the competition to name the university, was any suggestion other than Torrens University Australia put to cabinet for a decision?

The Hon. I.K. HUNTER: My advice is no.

The Hon. T.A. FRANKS: Given he has only just responded to my questions about the Ombudsman, could the minister clarify whether there has been any public information to clarify what role an ombudsman-like position will play in Torrens University to ensure that students have access to adequate grievance procedures? I thank the minister's staff for ringing me this morning with some information, but I would certainly like it on the record.

The Hon. I.K. HUNTER: I am advised, and I think I said in fact during the speech (the Hon. Ms Franks might not have been in the chamber when I was doing that)—

The Hon. T.A. Franks: I came in as soon as I heard you talking about it.

The Hon. I.K. HUNTER: Yes. I am advised that, under the requirements of the registration with TEQSA, Torrens University must have these procedures in place.

The Hon. T.A. FRANKS: Then following that, I was previously assured that Torrens University would have access for students to some sort of ombudsman-like role, as all institutions did. However, Torrens University is a private institution, so I understand that the arrangements will be somewhat different, and I would like the minister to clarify that.

The Hon. I.K. HUNTER: I might just reread a section of my speech very quickly for the benefit of the honourable member:

> In relation to Ms Franks' question about ombudsman provisions, I can confirm that the state Ombudsman remit is limited to complaints from students enrolled in public institutions. It is the case, however, that the state Ombudsman, through existing relationships, is able to refer matters to the South Australian Office of the Training Advocate. This is to be available to both domestic and international students enrolled at Torrens University Australia. The Training Advocate's Charter of Functions explicitly allows investigation, if required and as appropriate, into such matters. Students will therefore have access to the independent and confidential services of the state Office of the Training Advocate.
>
> However, Torrens University Australia must ensure all of its students have access to the university's internal complaints handling processes in the first instance. The national regulator of higher education, the Tertiary Education Quality and Standards Agency (TEQSA), requires providers such as Torrens University Australia to have policies and procedures to: manage complaints in a constructive and timely manner; have an area responsible for dealing with complaints; and have arrangements for review by an appropriate independent third party. This applies to all its students.

The Hon. T.A. FRANKS: This is the final question, I assure you. Can the minister confirm that that is indeed in conflict with the original advice I was given in this past week from the department?

The Hon. I.K. HUNTER: I am not aware of the original advice provided to the honourable member so I cannot confirm that.

Clause passed.

Remaining clauses (2 to 12) and title passed.

Bill reported without amendment.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (12:17): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (POLICE) BILL

Adjourned debate on second reading.

(Continued from 12 September 2013.)

The Hon. R.L. BROKENSHIRE (12:18): I will speak briefly on this bill and advise the council that Family First will be supporting the government with respect to the Statutes Amendment (Police) Bill. This is a bill that has the concurrence of the Police Association and it was part of the workings of the last enterprise agreement. We believe the government has this right and the testing and other matters that have been agreed to in principle and are now being debated before the house are worth reporting. However, I advise that our party has tabled an amendment and that I will speak to that during the committee stage of the bill. It is my intention to put an overview paper to all the members of the Legislative Council over the lunch break to help explain the amendment. With those few words, we will support the principle of the bill.

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) (12:20): I understand that there are no further second reading contributions, so by way of summing up I would like to thank honourable members for their contributions during the second reading debate. The Hon. Tammy Franks requested information regarding the number of times that tasers had been used by police in the last financial year and whether there had been a significant increase in their use.

I have been advised that in the 2012-13 financial year electronic control devices (ECD aka tasers) were discharged a total of 19 times. Specifically, on 17 occasions an ECD was used once and on two occasions it was used twice. Having regard for these figures, it should be taken into account that after the initial rollout of ECDs during 2011-12, where 162 ECDs were allocated, there were an additional 16 allocated in 2011-12. A further 184 ECDs were allocated in 2012-13, to bring the total number of allocated ECDs to 362.

Having consideration for the fact that the number of ECDs in operation has more than doubled since 2011-12, the increase in the number of times the ECD has been discharged since 2011-12 is negligible. This indicates that the taser is being used appropriately to de-escalate violent situations.

In response to the query by the Hon. Ms Franks regarding what had caused a fault in the audiovisual recording operation of a particular ECD, I am advised that Taser International were not able to provide an explanation as to what had caused that particular malfunction. With those words, I recommend the bill to the council and look forward to it being dealt with expeditiously through the committee stage.

Bill read a second time.

In committee.

Clauses 1 to 8 passed.

Progress reported; committee to sit again.

DISABILITY SERVICES (RIGHTS, PROTECTION AND INCLUSION) AMENDMENT BILL

Second reading.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (12:29): 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.

I am pleased to introduce the Disability Services (Rights, Protection and Inclusion) Amendment Bill 2013 ('the Bill') to the House.

This Bill seeks to amend the *Disability Services Act 1993* to provide greater legislative protections for people with disability.

The amendments will ensure that people with disability are able to exercise greater choice and control over their lives and ensure appropriate protections of the rights of people with disability.

The Bill seeks to promote the rights of people with disability and ensure they enjoy adequate safeguarding protections and inclusion.

The following provisions are contained in this Bill:

- Referencing the United Nations Convention on the Rights of Persons with Disabilities
- Enshrining the right of people with disability to exercise choice and control in relation to decision-making
- Referencing other national and state discrimination legislation
- Mandating a requirement for disability service providers to have accessible and well publicised complaints and grievance procedures
- Protections for those who complain or report bad treatment
- Mandating a requirement for disability service providers to have in place safeguarding policies and procedures
- A power to enable the Minister for Disabilities to make regulations covering the issue of reporting on outcomes with a view to monitoring and action on a lack of appropriate performance by government and government-funded agencies

The former Social Inclusion Board undertook two years of consultation on issues of importance to people with disability, their families and carers. This work culminated in their 'disability blueprint' for South Australia. South Australia has made significant strides in driving disability reform. In a number of areas we have surpassed the goals laid out in the disability blueprint. With the introduction of the *National Disability Insurance Scheme (NDIS) Act 2013*, the disability services and disability legislation landscape has been significantly changed.

In recent months, the government has hosted two consultative roundtables to discuss the South Australian disability legislative framework with key people with disability, disability advocates, carers and sector representatives. A common theme arising from these consultations is that, while the current legislation does not cause any impediments, there is a desire, on the part of people with disability and the wider community, to see the rights of people with disability enshrined in legislation, and for there to be a greater focus on safeguarding people with disability. We are not talking about the need for a whole new Act. There are a few key issues that people with disability have stated that they want legislated in this Bill.

I now turn to key provisions of the Bill.

Referencing the United Nations Convention on the Rights of Persons with Disabilities

This Bill explicitly acknowledges Australia's commitment to, and support of, the principles enshrined in the United Nations Convention on the Rights of Persons with Disability. The Bill recognises the Convention as a set of best practice principles that should guide policy development, funding decisions, and the administration and provision of disability services. Adding this to the Principles in Schedule 1 will mean that the Minister could impose performance requirements in accordance with the existing section 5(2) where appropriate.

Enshrining the right of people with disability to exercise choice and control in relation to decision-making in their lives

The provisions in this Bill acknowledge and support the rights of people with disability to exercise choice and control over their own lives and the positive impact this control can have on a person's quality of life, health and wellbeing. This Bill highlights the importance for people with disability and their intrinsic human rights to be at the centre of disability legislation.

Mandating a requirement for disability service providers to have accessible and well publicised complaints and grievance procedures

The Bill requires that disability service providers have in place appropriate policies and procedures for dealing with complaints and grievances. This includes having in place a referral mechanism to the relevant statutory complaints or dispute resolution bodies, including the South Australian Health and Community Services Complaints Commission, the South Australia Office of the Public Advocate, the South Australia Equal Opportunity Commission, the Federal Disability Discrimination Commissioner and the Federal Human Rights and Equal Opportunity Commission when appropriate.

Under this Bill, information about these policies and procedures must be readily accessible by people accessing services.

Protections for those who complain or report bad treatment

We know that people with disability and their families may be reluctant to report poor treatment or abuse for fear of retribution.

For this reason, this Bill introduces an explicit statement of protection, which will make it unlawful to persecute or victimise someone who makes a complaint or reports bad treatments.

Mandating a requirement for disability service providers to have in place safeguarding policies and procedures

This Bill sets out new requirements for disability service providers to have in place policies and procedures for ensuring the safety and welfare of people accessing their services. These policies and procedures will cover a range of issues relating to the safeguarding of people with disability, including:

- the management of care concerns
- restrictive practices
- supported decision making and consent
- disclosure of abuse or neglect
- reporting of critical incidents

Under this Bill, these policies and procedures must be reviewed at least once a year.

Referencing other national and state discrimination legislation

The Bill stipulates that disability services are to be provided in compliance with all relevant State and Commonwealth laws. Adding this to the Objectives in Schedule 2 will mean that (as with other measures in the Bill) the Minister can impose performance requirements in accordance with the existing section 5(2) where appropriate.

A power to enable the Minister for Disabilities to make regulations covering the issue of reporting on outcomes with a view to monitoring and action on a lack of appropriate performance by government and government-funded agencies

Monitoring outcomes and continued service improvements are important mechanisms in ensuring disability service providers are delivering high quality service provision. This Bill provides a regulation making capacity to require providers of disability services or researchers to provide specified information for the purpose of assessing the outcomes of funding, rather than simply outlining how money is spent.

Overall, the amendments proposed by the Bill will ensure that people with disability are able to exercise greater choice and control over their lives and ensure appropriate protections of the rights of people with disability. Further, it will deliver improved legislative provisions in the interests of safeguarding people with disability. These are the provisions call for by people with disability, their families and carers

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Disability Services Act 1993*

4—Substitution of section 2

This clause adds 3 new objects to the Act as follows:

- to acknowledge and support the rights of people living with disabilities to exercise choice and control in relation to decision-making; and
- to ensure that disability services provided by the government or funded under this Act are of the highest standard and are provided in a manner that is safe, accountable and responsive to the needs of people living with disabilities, their families and carers; and
- to promote the protection of people living with disabilities from abuse, neglect and exploitation.

5—Amendment of section 3—Interpretation

This clause inserts a definition of *prescribed disability service provider* (being consequential to other measures in the Bill).

6—Insertion of sections 3A and 3B

This clause inserts new sections ensuring that prescribed disability service providers have appropriate policies relating to safety and welfare and to the handling of complaints and grievances.

7—Amendment of section 5—Obligations on funded service providers and researchers

This clause makes a consequential amendment to section 5 to ensure that the Minister may, as a condition of approving funding, require the funded service provider to enter into a performance agreement to ensure compliance with new sections 3A and 3B.

8—Insertion of section 5A

This clause inserts a new section as follows:

5A—Victimisation

A provider of disability services funded under the Act will commit an act of victimisation if he or she causes detriment to the victim because the victim, or a person acting on the victim's behalf, discloses information or makes an allegation that has given rise, or could give rise, to legal proceedings against the provider of disability services or that may disclose a breach of a funding agreement under the Act. An act of victimisation may be dealt with as a tort or as if it were an act of victimisation under the *Equal Opportunity Act 1984*.

9—Amendment of section 7—Review of funded services or activities

Under this clause the regulations may require providers of disability services or researchers funded under this Act to provide information to the Minister for the purpose of assessing the outcomes of funding provided under this Act.

10—Amendment of section 10—Regulations

This clause consequentially amends the regulation making power.

11—Repeal of section 11

Section 11 is repealed because it is now obsolete.

12—Amendment of Schedule 1—Principles

Schedule 1 is amended to refer to the *United Nations Convention on the Rights of Persons with Disabilities*.

13—Amendment of Schedule 2—Objectives

Schedule 2 is amended to delete the existing clause 1(h) (consequentially to proposed new section 3B) and to include a statement that disability services are to be provided in compliance with all relevant State and Commonwealth laws.

Debate adjourned on motion of Hon. S.G. Wade.

[Sitting suspended from 12:30 to 14:16]

PAPERS

The following papers were laid on the table:

By the President—

Report of the Ombudsman SA concerning the Department for Education and Child Development

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

Approvals to Remove Track Infrastructure—Report, 2012-13

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

Access to Water and Sewerage Infrastructure Explanatory Memorandum
Water Industry (Third Party Access) Amendment Bill 2013—Draft for Consultation

VISITORS

The PRESIDENT: Before I call for ministerial statements, I would like to welcome on behalf of the South Australian government and acknowledge and welcome to the Legislative Council Mr Tongerie's grandchildren—Mr Shane Tongerie, Troy Tongerie and Ms Michelle Tongerie—who are here today on behalf of the family. Welcome.

TONGERIE, GEORGE

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

(14:17): I seek leave to make a ministerial statement relating to the passing of Mr George Tongerie, a well respected Aboriginal elder and leader.

Leave granted.

The Hon. I.K. HUNTER: On behalf of the South Australian government I would like to express our condolences on the sad news of Mr George Tongerie's passing on Wednesday 21 August 2013. Mr Tongerie was 88 years old. Tributes, condolences and messages of support for the family have come from right across the state as a mark of respect for Mr Tongerie.

The Premier attended the memorial service on 30 August 2013 on behalf of the South Australian government. I would like to especially pay tribute to and honour a man whose contribution to South Australia was significant in so many ways.

Mr Tongerie was born in Oodnadatta in 1925. His early childhood days were spent at Colebrook Home in Oodnadatta, later moving to the United Aborigines Mission Children's Home in Quorn, which was also referred to as Colebrook Home. It was here he received a primary school education, and from the age of 13 as a young man he went to work on a farm.

At the outbreak of war in 1939 Mr Tongerie moved to Adelaide where at the age of 17 he enlisted in the Air Force where he subsequently completed his mechanical training. I understand he was the second person of Aboriginal descent to have joined the Royal Australian Air Force.

It was during this time that Mr Tongerie met his wife, Maude, and they married in 1945. Mr Tongerie was later posted overseas to Borneo and Papua New Guinea for active duty. Mr Tongerie has been quoted as saying, 'not having a birth certificate enabled me to join. A rare occasion when a lack of recognition actually helped me to do something that I wanted to do.' I am advised that Mr Tongerie, like many other Aboriginal service men and women, were quite disappointed with the lack of recognition and treatment they received on their return home to Australia after the war. I am pleased to say this government is working to amend that deficit of recognition and reconciliation.

The Aboriginal War Memorial, next to the Torrens Parade Ground, will be officially opened on 10 November 2013. This memorial will recognise and pay respect to those Aboriginal service men and women who fought for their country and for those who made the ultimate sacrifice for all of us. Mr Tongerie was a man who faced and overcame much adversity as a member of the stolen generations. We also know he was a pioneer in his day through his active service in the armed forces and his dedication to protecting Australia. Mr Tongerie was a proud digger and a proud South Australian.

On his return from active duty to Adelaide Mr Tongerie continued in his service to public life. He was a man who was very committed to advocating for the cultural, economic and social justice interests of all Aboriginal people. Mr Tongerie's commitment to public life continued up until the time of his passing. I am told that he was a foundation member of the Aboriginal Progress Association in Oodnadatta from 1964; a foundation member of the Council of Aboriginal Women Inc., from 1966; a community welfare worker from 1973 to 1979; a foundation member of the Aboriginal Community Centre, now Nunkunwarrin Yunti, from 1970, and its chairperson from 1978 to 1979; a foundation member of the Aboriginal Education Consultative Committee from 1978 to 1980; a member of the National Aboriginal Education Committee from 1979 to 1980; and a community development officer in regional and remote South Australia from 1980 to 1988.

He was responsible for the management of the service delivery of Aboriginal welfare programs from 1988 to 1992 and he was a member of the Aboriginal Lands Trust Board from 1983 onwards, and its chairman from 2001 onwards, representing a total of 30 years of dedicated service towards the advancement and wellbeing of Aboriginal people and their communities.

One of the first Aboriginal persons in South Australia to be appointed as a justice of the peace, he was also an Aboriginal ombudsman from 1992 to 1996. He was a member of the South Australian Parole Board from 1987 to 2002, and he was a family ambassador on the state government's Ministerial Advisory Committee from 1995 to 2002. This lifetime achievement has been recognised with Mr Tongerie awarded the South Australian Aboriginal Person of the Year award in 1985 for assisting with the welfare of Aboriginal people. In 1988 Mr Tongerie was awarded the Order of Australia medal.

Many people knew and respected Mr Tongerie, and South Australia has benefited from his 'can do' attitude, and that has been really a role model for many people in his communities. I would like to extend our condolences to his wife, Maude, and their children, grandchildren and great-

grandchildren, as well as their extended family. It is also appropriate, I think, to extend our condolences to the Aboriginal communities across the state who also feel his passing, and a great loss at his passing. With his passing we have lost a great leader of our state and a great leader for the Aboriginal communities. He will be sadly missed, but long remembered. His legacy continues.

WATER INDUSTRY REFORMS

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:23): I seek leave to make a ministerial statement on water industry reforms.

Leave granted.

The Hon. I.K. HUNTER: I am pleased to release a draft bill to establish a state-based third-party access regime for water and sewerage infrastructure for consultation. This draft bill is a key milestone in the ongoing water reforms, major reforms to the water industry in South Australia. It began with the passage of the Water Industry Act last year. The Water Industry Act promotes greater efficiency, competition and innovation in the water industry. It appointed the Essential Services Commission of South Australia as the independent industry regulator and, to ensure customer rights are protected, also appointed an independent Water Industry Ombudsman and Consumer Advisory Committee.

The Water Industry Act also committed the government to the establishment of a state-based third-party access regime. The establishment of an access regime was also a commitment under action 77 of Water for Good. The implementation of access arrangements will be another key step towards an efficient, dynamic and transparent water industry for South Australia. In February this year, I published a report entitled 'Access to Water and Sewage Infrastructure'. That report was intended to facilitate consultation with industry participants and interested community members on the eventual implementation of state-based access arrangements for water and sewerage infrastructure services.

This draft bill is closely based on that earlier report and the feedback we received. It also builds on our experience with economic regulations and access regimes for maritime services and railway operations, which have been certified by the National Competition Council. Current arrangements allow access seekers and SA Water to negotiate access on a commercial basis. This draft bill formalises those arrangements and provides a regulatory framework that will apply consistently to all South Australian water industry entities.

The access regime proposed in the draft bill would initially adopt a light-handed approach to suit the stage of development of our local water industry. Under a light-handed approach, the parties to an access request are required to negotiate in good faith without the regulator's direct involvement in the negotiations. This approach also provides for binding arbitration if negotiations break down.

The access regime will apply to the following water infrastructure services: bulk water transport, water distribution transport, local sewage transport, and bulk sewage transport. Initially, it is expected that the access regime would only fully apply to SA Water's bulk water transport infrastructure. The other infrastructures would be partially covered, which will only require the owners to comply with basic contact and information requirements. It is also expected that small-scale water facilities which are provided as a community service will be exempt from the state-based access regime.

There will be mechanisms built into the regime so that, over time, as the water industry develops and demand for access grows, the regime can be reviewed and adjusted. It is essential that third-party access to SA Water's infrastructure does not compromise public health, environment and safety standards. The draft bill explicitly states that the arbitrator cannot make an award that will be inconsistent with an existing law or legislative requirement relating to health, environment and safety. Further, the arbitrator must accept any advice provided by a department of the Public Service (such as the Department for Health and Ageing) which administers the legislative arrangements pertaining to health, environment and safety.

ESCOSA would be appointed as regulator for the access regime. Their role would include monitoring and reporting to me (as the Minister for Water and the River Murray) on their work and in regard to access, conciliation and appointment of an arbitrator in the event of a dispute. ESCOSA would also conduct a five-yearly review of the regime.

I have tabled this legislation as an exposure draft to give the community and industry further opportunity to consider the drafted provisions and allow time to assess any implications of the Productivity Commission's review of the national access regime to be completed by the end of October and to negotiate over provisions regarding the commonwealth Water Act following our recent federal election.

On 24 September 2012, the Treasurer referred to ESCOSA an inquiry into pricing reform for drinking water and sewerage retail services provided by SA Water. The inquiry's final report is due by the end of 2014. Subject to parliamentary processes, the commencement date for a state-based access regime will be set, taking account of the timing of ESCOSA's inquiry and to allow sufficient time for water industry entities and the regulator to prepare for commencement of the regime.

We have already undertaken considerable consultation in drafting this bill, including a public submission process earlier this year. I now invite anyone with an interest in the state's water industry to take this further opportunity to provide written comments on the bill and the explanatory paper, which are available on the Department of Treasury and Finance website. Written submissions are due by 29 November 2013. The government regards the work on third-party access as important and believes the implementation of access arrangements will be another key step towards an efficient, dynamic and transparent water industry for South Australia.

CHILD PROTECTION INQUIRY

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:27): I table a copy of a ministerial statement on the topic of an outcome of disciplinary proceedings made earlier today in another place by my colleague the Minister for Education and Child Development.

SA WATER

The Hon. J.M.A. LENSINK (14:27): I seek leave to make a personal explanation.

Leave granted.

The Hon. J.M.A. LENSINK: At the conclusion of question time yesterday, the Minister for Water and the River Murray, in response to a question of mine, stated that the supply of water to Hands On SA was interrupted for less than half an hour. I would like to advise that I have spoken to the chief executive of Hands On SA, who has advised me that their water was interrupted between the hours of 7am and approximately 12.20pm yesterday.

QUESTION TIME

PREMIER'S CLIMATE CHANGE COUNCIL

The Hon. J.M.A. LENSINK (14:29): I seek leave to make a brief explanation before directing a question to the Minister for Sustainability, Environment and Conservation on the subject of the Climate Change Council.

Leave granted.

The Hon. J.M.A. LENSINK: The Premier's Climate Change Council was established in 2007 in accordance with the Climate Change and Greenhouse Gas Emissions Reduction Act 2007. One of its roles is that the council must provide an annual report every financial year. I have examined the sa.gov website and am unable to find one for the year 2011-12, the most recent one being 2010-11. The council, as part of its role, provided advice on the final report of the climate change act review, which was tabled on 28 February 2012. My questions for the minister are:

1. What actions have arisen as a result of the review of the climate change act?

2. Will there be any amendments to the legislation?

3. Has the 2011-12 annual report been completed and, if so, why is it not available publicly with the previous year's reports?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:30): I thank the honourable member for her most important question. I am advised that all legislative reviews of the Climate Change and Greenhouse Emissions Reduction Act 2007 are

tabled in parliament and then published on the Government of South Australia website. Under section 21 of the Climate Change and Greenhouse Emissions Reduction Act 2007, a review of its operation, including the extent to which objects of the act are being achieved, must be undertaken on a four-yearly basis. The first review occurred in 2009. It found a range of issues that could affect the operation of the act were unclear at the time.

In light of this, the Premier's Climate Change Council advised that the second review should occur after two years. The government agreed to this recommendation and undertook a second review in 2011. I am advised that the final report was completed in December 2011, and in accordance with the act a copy of the report on the review, the Premier's Climate Change Council advice, and the ministerial response, were laid before both houses of parliament on 28 February 2012.

The review reports that significant progress has been made in achieving the objects of the act; particularly, the target to increase the proportion of South Australia's electricity generation source from renewables to 20 per cent was achieved three years ahead of schedule. The sector agreement program established under the act has been found to be successful in providing recognition to those who commit to addressing climate change, and the South Australian government has been a key contributor to national and international policy development associated with climate change, including to the national carbon pricing mechanism.

I am advised that consultation by the Department of Environment, Water and Natural Resources during and after the review process occurred on a number of issues. Recommendations from the review and the divergent views expressed by stakeholders during consultation continue to be considered in the context of a rapidly evolving national and international policy framework.

MURRAY RIVER SHACKS

The Hon. S.G. WADE (14:32): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question relating to shack sites.

Leave granted.

The Hon. S.G. WADE: In answer to a question from me yesterday, the minister asserted that the issue of illegal development and environmental compliance in the Mid Murray region is not one for government as the shacks are not on crown land. I am advised that there is a range of unlawful developments which raise issues of environmental compliance which are within the minister's areas of responsibility. The Mid Murray Council is confronted with work occurring on crown land, including reserved areas, and on the banks of the River Murray.

River compliance issues include the construction of river structures, such as jetties, landings, houseboat moorings, riverbank modification and so on, as well as the placement of fill or sand to replenish river beaches and recreation areas. I understand that all these areas would ordinarily be of interest and involve the EPA, crown lands and the department.

Yesterday, the minister asserted the department is not aware of any direct requests from the Mid Murray Council to increase inspections along the River Murray. I draw the minister's and the department's attention to page 13 of a series of letters to ministers dated 22 May 2008, including the then minister for the River Murray, in which the council highlighted the limits of its own resources and sought additional staffing of both EPA and DWLBC. My question is: will the minister ensure that his agencies engage the Mid Murray Council to ensure that resources are being deployed effectively to meet the complementary responsibilities of both tiers of government?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:33): I thank the honourable member for his second question on this topic this week. If I didn't make it perfectly plain yesterday, I will try to make it perfectly plain today.

The Hon. G.E. Gago interjecting:

The Hon. I.K. HUNTER: Well, I could, but I won't take up the chamber's time.

The Hon. S.G. Wade: You denied responsibility yesterday, so that might be a good start.

The Hon. I.K. HUNTER: The honourable member seems to have made up his own mind about what the answer is going to be. I'm not sure if I can assist him any further, but let me say this. It is the council's responsibility—the council's responsibility—to deal with development on privately held freehold land. Where the council approaches my department for assistance, in terms of crown

lands or illegal developments that go against any acts that I have to administer, I have said my department is very happy to engage with local government, and it will do so.

SOUTH-EAST DRAINAGE SYSTEM

The Hon. T.J. STEPHENS (14:35): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation questions about the proposed South-East drainage system tax.

Leave granted.

The Hon. T.J. STEPHENS: Recently the minister outlined the government's intention to introduce a tax on the good people of the South-East for the upkeep of the drainage system. As I indicated, the upkeep of the drainage system has always been the realm of government, whether by the drainage board or the minister's own department. As the Hon. Mr Brokenshire pointed out, it is a public good. It is a public good because the benefit is not fully excludable; in other words, the total number of beneficiaries cannot be identified. This is the reason previous plans for a levy have been abandoned. My questions to the minister are:

1. What methodology is the government using to define those South Australians liable for this tax?

2. What does the government expect to raise from this tax?

The PRESIDENT: I am a bit unsure about tax and the state's ability to raise a tax. 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) (14:36): Indeed, Mr President: members opposite do not seem to have any understanding of what a levy might be and for what purposes it might be used. Let me take them through it. As I have said before in this place, over the past two years the 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. There has been an additional $6 million over two years, on top of base funding of approximately $2.1 million. This additional funding was needed to complete urgent asset maintenance, repairs and upgrades on ageing public infrastructure, such as bridges on public roads, property access culverts and monitoring stations.

As I have also said before in this place, those opposite have not stated how they would fund the upkeep of the drainage system, they have not said whether they would introduce their own levy or just expect the taxpayer to subsidise the works. Yes, there is certainly an environmental benefit for some of these projects, and that is exactly why the government, on behalf of the taxpayer, contributes annually to the upkeep of the drainage system.

However, there are also people who can be identified as having a direct benefit, a financial benefit, from such a drainage system, and is it not fair that they pay a little bit towards the maintenance of that system on an annual basis? Isn't that fair? Or, will members opposite demand that the taxpayers of South Australia pay for it? That is what we want to hear. Tell us what you're going to do. You know what we're going to do—tell us what you're going to do. Are you going to take out of the taxation system the funding for SEDSOM? Come and tell us—we are all waiting to hear.

SOUTH-EAST DRAINAGE SYSTEM

The Hon. T.J. STEPHENS (14:37): By way of supplementary question, will the minister describe clearly for us who in fact he is going to levy?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:38): As the honourable member will recall, I have had visits to the South-East and visits here in Adelaide with people who will be or are impacted by the drainage system. I have raised with them, including local mayors, local farmers and local environmentalists, the need for ongoing maintenance of the system over and above what the taxpayer currently puts in, and whether they would be willing to talk about a levy that will be coming in to assist us in paying for the ongoing maintenance of those drainage systems. It is fair to say that the response has been mixed.

It is reasonable—and some members of the South-East community believe it is reasonable—that those people who actually get a direct benefit from the drainage system should

contribute to the ongoing maintenance of that drainage system, on top of what the taxpayer already contributes on behalf of the whole state.

FOOD AND WINE PROMOTION

The Hon. R.P. WORTLEY (14:39): I seek leave to ask the Minister for Agriculture, Food and Fisheries a question about premium food and wine from our clean environment.

Leave granted.

The Hon. R.P. WORTLEY: The minister previously provided information on the appointment of ambassadors as part of the premium food and wine from our clean environment strategic priority. Will the minister update the chamber on recent appointments as part of the ambassadors program?

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) (14:39): I thank the honourable member for his most important question. One of the best ways to learn about something is from someone you trust, respect and admire, and that's why I believe that this government's premium food and wine from our clean environment ambassador program is so important. This program is an exciting way of spreading the message about this state's premium food and wine and the clean environment that it comes from.

Yesterday, in this place, I was very pleased to appoint Mr Hirata—the chief executive officer of Japanese-based Hirata Industries—as the second internationally-based premium food and wine from a clean environment ambassador. He and a delegation were here in Adelaide and our regions for about four or five days, I think it was, just recently.

Mr Hirata has a long, well-established relationship with the South Australian food industry. He is recognised as the pioneer of importing canola from South Australia, in particular Kangaroo Island Pure Grain. This canola product is favoured by Hirata Industries due to its premium quality grade and non-genetically modified status. Because of this government's commitment to prohibit the commercial cultivation of GM food crops until at least 1 September 2019, there is particular interest in South Australian produce in Japan.

Mr Hirata has already played a significant role in introducing our premium produce to previously untapped international markets and in supporting our industry's growth around the world. He has also assisted in expanding exports of other products from Kangaroo Island, including Ligurian honey.

Mr Hirata is an obvious choice as a premium food and wine from a clean environment ambassador for he will be a spokesperson in Japan, informing people he meets across various businesses and across the industry, as well as those in his existing networks, about how valuable our food and wine produce is. I am very pleased that he has kindly accepted my offer to be part of this exciting program.

Mr Hirata's appointment follows the appointment of Hong Kong master chef Wong Wing Chee during my recent trip to Hong Kong last month. Chef Wong was born into a family of culinary masters, with his father also a renowned chef. He has been working as a chef since 1978, gaining extensive international experience. In 2006, chef Wong established his Dragon King Restaurant Group.

Mr Wong is an incredibly popular chef who, I understand, has won the Chinese Iron Chef competitions not once, not twice, but three times. His television programs are seen by millions of people, and he is extremely well known throughout China and Hong Kong. He is particularly known for using high quality ingredients from all over the world, including South Australia. At that announcement, chef Wong talked about why he believes South Australia's seafood is the best in the world and how he frequently seeks it out to feature it in his dishes. Chef Wong is thrilled now to be an official promoter of this state's food and wine.

The ambassadors program is just another example of this government's commitment to capitalise on the increasing global demand for our premium products from South Australia's clean water, clean air, and clean seas and soil. As a government, we are continuing to work with industry to build on the tremendous opportunities that exist for the food and wine industries here in this state.

Mr Wong and Mr Hirata are fabulous additions to the line-up of 17 South Australian-based ambassadors. Having ambassadors of this calibre promoting our premium food and wine from a clean environment is a real coup for South Australia's food and wine industries.

POLICE DNA LEGISLATION

The Hon. A. BRESSINGTON (14:44): My questions on DNA testing are to the minister representing the Minister for Police:

1. Will the minister provide details of whether it is acceptable for police officers to force individuals to give a DNA test without first clearing the process or getting permission from a senior officer, as is stated in the legislation?

2. Will the minister provide the number of DNA tests undertaken by police that did not relate to an investigation of an indictable offence, from July 2011 to September 2013?

3. Is the minister aware that the application paperwork used by police to obtain the DNA sample may not be lawful and within the legislative requirements, according to a number of legal practitioners in South Australia?

The PRESIDENT: The Leader of the Government, representing the Minister for Police in the other place, may ignore the part of the question seeking an opinion.

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) (14:45): Thank you, Mr President. I thank the honourable member for her questions and will refer the matter to the Minister for Police in another place and bring back a response.

SOUTHERN RIGHT WHALES

The Hon. K.J. MAHER (14:45): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the chamber about the recently publicised aerial survey of southern right whale populations along our coast?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:45): I would use pictures, but I think they are out of order. I thank the honourable member for his most important question. Just a few weeks ago, researchers from various institutions and the non-government sector undertook an aerial survey of the southern right whale populations along our coast.

The southern right whale is, of course, a very important marine mammal to our state. They draw tourists to our state through June to October, I am told, especially through the nursing months of July and August, when mothers and calves can be seen close to shore. Popular viewing locations include the Fleurieu Peninsula and more remote regions of our West Coast, such as the Head of the Bight.

This aerial survey, I am told, was a first. Traditional surveys had been undertaken from the coastline with telescopes and other viewing equipment, but this could never really provide a fully accurate picture. Aerial surveys have been conducted by the Western Australian Museum between Ceduna and Cape Leeuwin, I am told, but one tracking east had not been conducted until now.

Following on from the good quality data and research the Western Australian Museum has provided on their side of the border, this survey was undertaken to get a better understanding of the populations of whales on the eastern side, but also their range, behaviour and personal identifying features. The researchers travelled from Ceduna all the way to the south coast of New South Wales. Armed with just a notebook, a camera and an aircraft, it took one week to fly along the coast observing whales and documenting the data.

About 35 whales, including 11 calves, were spotted between Ceduna and the Victorian border. This included three adults at Sceale Bay, a cow and a calf at Point Drummond and three adults at Coles Point near Coffin Bay. Photos were taken to document the callosite patterns of individual whales. Mr President, no doubt you have noticed those patterns on the top of whales and wondered what they were. Those patterns are unique to whales and they can be an identifying feature. I am told that they are in fact colonies of lice that reside on the heads of the animals. These patterns are an easy method to identify individual whales.

This was the first stage in what is planned to be a three-year project that will involve further annual surveys in order to obtain a complete picture. However, this particular survey did not take in at this time the Head of the Bight. Following on from the success of this most recent survey, however, officers from my department, together with support from the commonwealth, will now conduct aerial surveys of the population of whales found at the Head of the Bight.

I am advised that it will take about six years of surveying to get a true picture of the whales, their total population and their movements, but doing this will also enable the whales to be surveyed at least twice, which is important in order to understand their life history and patterns.

I am told that this year approximately 150 southern right whales were seen at the Head of the Bight, including four rare white calves. The Head of the Bight has, of course, the biggest population of southern right whales in Australia and surveying this particular spot will provide much knowledge and data for research and also assist in the ongoing recovery and conservation of this wonderful species.

By 1750, I am told, the closely related North Atlantic right whale was close to extinction due to intensive whaling practices. Discovery of the southern right whale in Australia and New Zealand led to a new whale rush and the population here suffered almost a similar fate. Following the advent of industrial whaling, the numbers of right whales crashed so rapidly that in 1937 the southern right whale was banned from being caught. In the 1982 book, *History of Modern Whaling*, by Tonnessen and Johnsen, the underestimated figure of the total right whales caught through whaling was 38,000 in the South Atlantic, 39,000 in the South Pacific, and 1,300 in the Indian Ocean.

Thankfully, the population of our coast is now, it seems, recovering, but it is recovering very slowly. This survey will help us understand this creature and the ways we can ensure that this wonderful animal is found along our coast for many years to come.

FREE-RANGE EGGS

The Hon. T.A. FRANKS (14:50): I direct my question to the minister representing the Minister for Business Services and Consumers on the topic of free-range eggs.

Leave granted.

The Hon. T.A. FRANKS: Can the minister advise whether, under the government's newly announced voluntary industry code for free-range eggs, eggs produced at stocking densities greater than 1,500 chickens per hectare will still be able to be labelled as free range?

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) (14:50): I thank the honourable member for her question and will refer it to the appropriate minister in another place and bring back a response.

BERRI BOWLING CLUB

The Hon. J.S.L. DAWKINS (14:50): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question about the Berri Bowling Club.

Leave granted.

The Hon. J.S.L. DAWKINS: On 25 July this year, I asked questions of the minister regarding the five-year delay experienced by the Berri Barmera Council whilst seeking state government approval for the relocation of the Berri Bowling Club to the Glassey Park sporting hub. In his responses the minister initially indicated that the matter was before him and that he would make a decision as soon as possible. He also said:

> I can advise that I think my office or department met with the bowling club people just this Monday to work on this issue. We will be working with them in the first instance and giving them the good news first, but we will bring back a speedy response.

My question is: given that the Berri Barmera Council is yet to receive this response (some two months later) will the minister indicate when he will make a decision on this matter?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:52): I thank the honourable member for his most important question and his hurry up. As I

have previously said in this place, the government is working very hard with the Berri Barmera Council to find a way forward as soon as we can on this issue. My office is ensuring that both the Berri Barmera Council and the Berri Bowling Club are kept informed of the progress of our consultations. As I previously said, we have been and will continue to work with the council and the bowls club to achieve a resolution to this matter. I am advised that my office has received a letter from the Berri Bowling Club expressing their appreciation and thanks for the support they have received from my office and for the information provided to keep them in the loop regarding this matter. We will continue to keep them in the loop until we bring this to a resolution.

BERRI BOWLING CLUB

The Hon. J.S.L. DAWKINS (14:52): Supplementary question. Given that the minister responded to me on 25 July about a speedy response, will he clarify what he regards as a speedy response for this initiative in Berri, supported by the community, which has been delayed five years so far?

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): The honourable member indicates in his supplementary that this matter has been ongoing for quite some time. Whilst I have committed to making this a speedy resolution of this process, he can hardly think that the limited amount of time that I have spent on it so far would equate to the last five years, I am pretty sure. We are working our way through this process as best we can. There is goodwill on both sides and I am expectant of a speedy outcome.

WOMEN IN LEADERSHIP

The Hon. CARMEL ZOLLO (14:53): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question regarding boards and committees.

Leave granted.

The Hon. CARMEL ZOLLO: The South Australian Strategic Plan Target 30 is to increase the number of women on all state government boards and committees to 50 per cent, on average, by 2014. Can the minister provide an update to the chamber on the progress of achieving this target?

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) (14:54): I thank the honourable member for her most important question. As the Minister for the Status of Women, I obviously have the lead responsibility for ensuring that more women are able to make a contribution as leaders and key decision-makers in the South Australian community and for women's leadership targets in the South Australian Strategic Plan (SASP). The SASP Target 30 is to increase representation of women on state government boards and committees. We set ourselves an ambitious target of 50 per cent by 2014, and there is no doubt that meeting this target has presented its own challenges.

We are serious about improving these numbers and we have strategies in place to help us do just that. I am very pleased that as of 1 September 2013 women held 47 per cent of positions on state government boards and committees—in fact, it is 46.91 per cent.

The Hon. I.K. Hunter: Rounding up.

The Hon. G.E. GAGO: I rounded up, I took the liberty—a 0.19 per cent embellishment. This represents an increase of 13.23 percentage points from 34 per cent (33.68 per cent) at 1 April 2004, following the release of the SASP.

I think this is our best performance so far. South Australia continues to be one of the leading jurisdictions in Australia for the inclusion of women on boards and committees and we are the first amongst the states, and only minimally behind the ACT, who have reached 47.6 per cent. As I said before, I am convinced that our excellent figures have only been achieved because we set ourselves a publicly accountable target and then worked hard to achieve that target.

Targets and quotas have been proven to work and that's why we can stand here today and speak proudly to the change that this SASP target has achieved. Quotas have been proven to work internationally, and I am advised that when Norway introduced a quota for representation on boards their figures jumped from just 7 per cent in 2003 to 39 per cent in 2009.

However, it appears that reliable figures and hard evidence can be confusing, particularly to our Coalition counterparts. You only have to see their position on climate change to understand that facts seem to trouble them. Last week saw the announcement of a federal cabinet so lacking in women that we now trail behind Afghanistan on the number of women ministers. Current and past Coalition women, members of parliament—

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

The Hon. G.E. GAGO: Current, including the Hon. Michelle Lensink, and past Coalition women members of parliament fell over themselves to defend the decision of Mr Abbott, and what was their explanation for the disappearance of women from cabinet? Merit. So what are they saying? It appears the Coalition government simply cannot find meritorious women from within their own ranks. That's what Mr Abbott is saying. Mr Abbott is saying there are no meritorious women within their ranks at present. Apparently, they only have one meritorious woman; they have no others in their ranks. Is this because those women are not there? Well, I find that extremely hard to believe, having seen a number of current women there perform.

Instead, I believe that the Liberal and National parties simply don't see that there is something fundamentally flawed about their party structure which, it seems, does not concern itself with non-traditional innovative ways to find, attract and retain women. Apparently, the Abbott government doesn't see a problem in excluding women from key decision-making roles in their cabinet. Women are only half the population after all and, although women are generally better educated than men, apparently that is not meritorious enough for the Coalition.

Organisations like the Australian Labor Party have long recognised the cultural and structural barriers that prevent women from participating fully in public life, and we are still striving with those challenges, but at least we accept that those structural and cultural barriers are there and we are prepared to do something about it, rather than deny that they even exist and blame it all on merit.

We have implemented changes necessary to increase the representation of women in parliament. A career in politics can be often more difficult for women, who still often bear the larger burden of family caring responsibilities, and so it is imperative that flexibility and innovative solutions are found to ensure that women can fully participate. The appalling lack of women in the Abbott ministry is not about skill or talent. We know that women complete university degrees more than men. The female workforce participation has grown to almost 59 per cent. Organisations that make a point to embrace succession planning, flexible workplace arrangements and cultural change are doing the smart thing and the right thing.

I would like to take this opportunity to stress that arguments that use merit to explain the absence of women in public life only serve to perpetuate dangerous stereotypes that gender inequality exists in our society because women are not yet as accomplished as men, ignoring the inherent social structures that inhibit a woman's full and equal participation. Women represent half the talent pool of our nation and should be encouraged and supported, not just out of a sense of fairness but to ensure that the very best minds are brought together to address the issues our society faces.

Mr Abbott said that he, too, was disappointed in the number of women in his ministry. He was disappointed—he is the one who excluded all those other women. It was Mr Abbott who was the only one who chose one woman, and he is disappointed. Is he then, too, disappointed in the calibre? Is he saying to us that he is disappointed in the calibre of women in his party? Is that what Mr Abbott is saying—he is disappointed in the calibre of women in his party, that he can't find anyone else meritorious enough? I am unsure if anyone has informed our new Prime Minister that he is, in fact, the one who selects the ministry.

So, if he is disappointed in anyone, he should be disappointed in himself, as he failed to develop women in his own shadow ministry when he was opposition leader and he has failed as Prime Minister to ensure women—other than one—participate in his cabinet. I think it is fair enough that he should be disappointed in himself because I think that we are all disappointed in him, too.

WOMEN IN LEADERSHIP

The Hon. T.A. FRANKS (15:02): Supplementary question: will the minister now take this opportunity to distance herself from former prime minister Bob Hawke's comment that Tanya Plibersek, the member for Sydney, couldn't possibly be leader of the Labor Party in the parliamentary sphere because she has a three year old, as, I note, does Bill Shorten?

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) (15:02): I thank the honourable member for her question, although it doesn't arise from the answer, but I am happy, even though it is out of order, to comment.

I think it is a disgrace that the Hon. Tammy Franks, who I know is a feminist, and I know that she has come out and supported women on a whole range of issues and has been a very strong public advocate, has come in this place today when we are talking about the appalling performance of Abbott—Prime Minister Abbott—putting one woman—

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

The PRESIDENT: There's a point of order.

The Hon. G.E. GAGO: A matter of principle, it's a disgrace to put yourself down.

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

The PRESIDENT: Point of order. Come to order! Minister.

The Hon. J.S.L. DAWKINS: Mr President, the Leader of the Government ought to be well aware that the Hon. Tony Abbot is the Prime Minister of this country and should be referred to as such, not 'Abbott' or 'Tony Abbott'.

The PRESIDENT: That's correct; I uphold that point of order.

WOMEN IN LEADERSHIP

The Hon. T.A. FRANKS (15:04): A supplementary arising from the original answer.

The PRESIDENT: I don't want these supplementaries turn into a debate, but what is your supplementary question?

The Hon. R.I. Lucas interjecting:

The PRESIDENT: And I don't need your assistance.

The Hon. T.A. FRANKS: Does the minister support comments by either side of politics—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: I don't need your assistance.

The Hon. R.I. Lucas: You'll get it if you want it.

The PRESIDENT: I don't need your assistance.

The Hon. T.A. FRANKS: —that diminish a woman's ability to lead because she has children?

The Hon. R.I. Lucas interjecting:

The PRESIDENT: You will sit there because I can't hear the supplementary.

The Hon. G.E. Gago interjecting:

The Hon. T.A. FRANKS: She's not going to answer it.

The PRESIDENT: The Hon. Ms Lensink.

WOMEN IN LEADERSHIP

The Hon. J.M.A. LENSINK (15:04): How does the Leader of the Government explain her own elevation because, surely, it cannot be through merit?

The PRESIDENT: That is not a supplementary. The Hon. Mr Hood.

CRIME STATISTICS

The Hon. D.G.E. HOOD (15:05): I seek leave to give a short explanation before asking a question of the minister representing the Attorney-General.

Leave granted.

The Hon. D.G.E. HOOD: I have conducted a survey of all sentencing decisions in criminal cases in the District and Supreme courts over the three months of June, July and August this year, and I took a note of all the cases where the sentencing judge referred to 'past illicit drug use' or 'frequent use', as it turned out, by the offender. The result was that, in almost two-thirds of the cases, there was a history of personal drug use and, in most cases, extensively so. The main drugs used were methylamphetamine and, to a lesser extent, cannabis.

I emphasise that these are various types of serious offences dealt with in the higher courts, obviously, and specifically excludes the Magistrates Court and that the information about the history of drug use that I have obtained was actually from the sentencing remarks themselves. I have no doubt that the actual number of drug users amongst defendants being sentenced was actually much higher than those who were prepared to admit to this in court (it would stand to reason that some were not prepared to admit drug use in court), so the two-thirds figure substantially underplays the reality, I am sure.

The only conclusion that can be drawn from this is that there is a strong connection between drug use and the commission of serious criminal offences. My questions to the government are:

1. What statistics does the government have as to the percentage of serious criminals who have a history of illicit drug use prior to or around the time of their offending?

2. Does the government accept that there is a statistical connection between illicit drug use with drugs such as methylamphetamine and serious criminal conduct?

3. What step is the government taking as a result of the statistical link in order to address the situation?

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) (15:06): I thank the honourable member for his important questions and will refer them to the Attorney-General in another place and bring back a response.

PHILIP KENNEDY CENTRE

The Hon. R.I. LUCAS (15:07): I seek leave to make an explanation prior to directing a question to the minister representing the Minister for Health on the subject of the Philip Kennedy Hospice.

Leave granted.

The Hon. R.I. LUCAS: The Philip Kennedy Hospice at Largs Bay is unique in that it provides a hospice under the roof of a nursing home. The hospice section is a 12-bed unit run by an experienced team of qualified nurses. That team is supported by local GP practices, the Central Adelaide Palliative Service, Queen Elizabeth Hospital and others. Patients are admitted from the Queen Elizabeth Hospital community and other health service facilities, obviously, for the last weeks, or perhaps months, of their lives. I am advised that approximately 300 patients a year are serviced through this hospice and it has been running for more than 25 years.

Last week, I think it was, Premier Weatherill and minister Snelling made a decision to remove funding from the hospital. I am advised the grant is approximately $1 million a year and I am advised that those associated with the hospice believe that will lead to the closure of the Philip Kennedy Hospice. Clearly, that decision is being strongly opposed by family members and acquaintances of people who are either using the services of the Philip Kennedy Hospice or have previously used the services of the Philip Kennedy Hospice.

The government's position, as best I can understand it, is that the government will replace the Philip Kennedy Hospice with alternative service options for palliative care in and around the western suburbs community. My questions to the minister are:

1. Will the government, through its decision to remove $1 million in funding from Philip Kennedy Hospice, be achieving any net budget savings by its decision and, if so, what is the level of net budget savings for the financial years 2013-14, 2014-15, 2015-16 and 2016-17?

2. What are the alternative service options that the government says will be implemented by the government to replace the palliative care services provided by the Philip Kennedy Hospice and what are the detailed costs of these options for each of the financial years 2013-14, 2014-15, 2015-16 and 2016-17?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:10): I will take that question—I think 10 questions—to the Minister for Health and Ageing in another place and seek a response on his behalf.

NATURAL RESOURCES MANAGEMENT COMMUNITY AND VOLUNTEER SUPPORT GRANTS

The Hon. G.A. KANDELAARS (15:10): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the house about his recent announcement on the natural resources management community and volunteer support grants?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:10): As you know, sir, ensuring the healthy, sustainable and environmentally sound management of our natural resources would not be possible without the immense support we receive in this task from the various community groups in our state and, most importantly, our volunteers. In recognition of this, on 5 April 2013, I announced the availability of $1.5 million in funding through the 2013-14 NRM community grants program and an additional $55,000 through the volunteer support grants program. This was the first time, as I understand it, that these grants were opened concurrently. We did that in order to create some efficiencies in the administration process, and I am very pleased to advise the administration of these grants has been so far a success.

These NRM community grants programs were open to community groups that sought to provide care for local land, coast and water projects, and the volunteer support grant program was open to friends of parks groups and other volunteer groups to undertake projects on land managed by the department.

I am pleased to advise that a total of 106 successful projects have been funded under both these programs in areas and places right across our state. The projects are diverse and so too are the communities that have been successful in their applications. The full list is available on the website for members to peruse, and I did write to members in the other place, I think, about these projects awarded within their electorates. Nevertheless, I will take a few moments to share a few innovative projects occurring in and around the state for the honourable member's benefit.

The Aberfoyle Park Primary School campus has been awarded $7,200 to begin the establishment of a bush tucker foods program. This is the first stage in their four-year plan to educate students about bush tucker and native plants, and I understand the school intends to develop a campus environmental education program that will enable hands-on activities in this garden.

Another successful group, the Buffel Busters group, intend to target their latest efforts in the Roxby Downs area and have been awarded $29,350 for their efforts. This money will support a works coordinator to work with the Roxby Downs Environment Forum, local schools and community groups to coordinate and develop weed information brochures and signage. They will also organise the mapping of new infestations of buffel grass and other weeds and follow-up treatments, and encourage volunteer involvement for monthly working bees and events.

Birdlife Australia received three separate grants for work in various places across our state. They will use one grant to work with school students in the South-East to help build habitat for the south-eastern black cockatoo, and another grant to promote and support community monitoring of beach nesting birdlife across the Coorong, Yorke Peninsula and Kangaroo Island.

Lastly, another project I would like to share with everybody is the Friends of the Ferguson Conservation Parks Stonyfell Creek restoration project. They have been successful in receiving $30,000 to continue their works on the Stonyfell Creek begun two years ago. The rehabilitation of the creek will restore the eroded riparian environment and mitigate against further damage resulting from increased water flows in the creek from urban areas and flooding rainfall events.

These events give the chamber a diverse picture of the various projects being run by committed community groups and volunteers right across our state. There is no doubt that the quality, amenity, biodiversity and general health of many of our parks and natural spaces would be much worse off without their efforts, and I commend their efforts to the chamber. As I said earlier, if members would like more information on this year's grants or next year's grants round, they can go

to the Department of Environment, Water and Natural Resources website, or indeed contact my office.

VISITORS

The PRESIDENT: Before calling the Hon. Ms Vincent, I acknowledge the presence of the former Speaker of the House of Assembly, Mr Lewis, in our gallery. Welcome, sir.

QUESTION TIME

FOSTER CHILDREN

The Hon. K.L. VINCENT (15:15): I seek leave to make an explanation before asking the minister representing the Minister for Education and Child Development a question about foster families.

Leave granted.

The Hon. K.L. VINCENT: A recent media report concerning the removal of foster children from their foster families (*Seven News*, 29 July 2013) highlighted concern about this important role in the community. More recently, many members would have received a letter from Foster Care Family Advocacy Incorporated which discusses the problems young people face when they abscond from care, are listed as missing persons and subsequently apprehended by the police.

There can be no doubt that children who abscond from foster care are at greater risk than other children because they have been placed in foster care due to childhood trauma of various kinds. Currently, there are no secure therapeutic centres where young people can be placed at times when they have absconded and been apprehended. My questions are as follows:

1. Does the minister agree that, due to their backgrounds, children who abscond from foster care placements are at increased risk in the community and that the risks they face include criminal activity, such as drug use and violence?

2. Is the minister aware of the practice of handcuffing children as young as 12 years old during processing at police stations and en route to Cavan youth training facility?

3. Is the minister aware of world's best practice regarding therapeutic residential care for young people who are facing difficulties, and will she undertake to conduct a feasibility plan into such a centre here in South Australia?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:16): I thank the honourable member for her most important question on foster families. I undertake to take it to the Minister for Education and Child Development in another place and seek a response on her behalf.

CITRUS INDUSTRY

The Hon. J.S. LEE (15:17): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the citrus industry.

Leave granted.

The Hon. J.S. LEE: Citrus Australia, SA Region, has raised a number of concerns, and two of its main priorities are increasing biosecurity and expanding the marketplace. Biosecurity is the single biggest threat the citrus industry faces, and the committee has stated that managing biosecurity risks is increasingly falling on growers who are already struggling with increased production costs. Threats of the deadly citrus disease huanglongbing has the potential to wipe out entire orchard and regions that become affected.

The committee has focused on lobbying the state government to do all it can to maintain South Australia's fruit fly status. Industry has also indicated that there is a strong need to look at the national fruit fly strategy developed in 2008 yet largely sat idle since being formed. Furthermore, as market opportunities increase to China, South Australian growers are disadvantaged by Chinese authorities not recognising the Riverland's fruit fly status. My questions are:

1. Does the minister believe that the National Fruit Fly Strategy needs to be reviewed, and what actions will the minister take to ensure that the national fruit fly strategy is well balanced and effective in South Australia's agricultural industry?

2. While the minister travels to China quite often, how will the minister ensure that South Australia's fruit fly status is recognised to all exporting markets, particularly China, which does not recognise South Australia's fruit fly free status?

3. What actions were taken by the minister, in conjunction with industry and relevant authorities, to address South Australia not being recognised as fruit fly free in China?

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) (15:19): I thank the honourable member for her most important question. Our citrus industry is a very important industry to South Australia. It is obviously particularly important to the Riverland region—it has a very large focus there as a dominant industry—and not just to that region but to the whole of the state. Indeed, our biosecurity protections are, I think, a real testament to the very hardworking and diligent officers of PIRSA who work in the biosecurity section and other sections, who have worked very hard for many years to ensure that we have biosecurity measures in place that prevent the influx of fruit fly into this state. Where it ever does appear, it's eradicated immediately, and we have seen that these programs have been extremely successful over many years.

It's also a testament, on the other hand, to the industry itself because the responsibility is a shared one—not just with industry but with the community broadly as well. I particularly want to acknowledge the diligence and commitment of the citrus industry sector and horticulture industry generally. They have worked very hard, in cooperation with Biosecurity SA, to ensure that the biosecurity measures, public education measures, etc., and vigilance have occurred in an ongoing way.

As I said, it has been a real success story. We remain a fruit fly free state—the only mainland state to be fruit fly free. We continue to successfully run public education and information awareness programs, we continue with our security roadblock and checking arrangements, we also continue with our monitoring arrangements and trapping, etc., to ensure that we remain fruit fly free.

So, that's the contribution that we have made in the past and that's what we continue to do. I have spoken in this place on many occasions about the additional measures that we have undertaken since the changes to the biosecurity arrangements in Victoria and New South Wales. We have taken some additional measures here, and I have talked about those at length, so I'm sure that honourable members don't want me to go over all of that detail again.

In relation to the recent discussions with the industry, I met with an alliance group who had indicated a range of measures that the industry were looking at to improve their level of activity around fruit fly prevention. It was a very fruitful meeting—excuse the pun. We came to an agreement that our officers would continue to meet, that we would continue to work up a program whereby the industry would be able to identify priority areas for PIRSA's activity and that the industry would continue to identify activities it could also undertake.

The National Fruit Fly Strategy has been a considerable challenge. As with many things that we try to do nationally, the states and territories are ferociously independent, and unfortunately, as we have seen, not all jurisdictions view the approach to fruit fly prevention and eradication with the same level of commitment as South Australia. So, we continue to try to work with other states to ensure that they also invest in appropriate biosecurity measures.

I would certainly encourage the Hon. Jing Lee to correspond with her colleagues in the new federal Coalition government and urge them to pursue further development of the National Fruit Fly Strategy. I will certainly be continuing my efforts in relation to my activities on those federal ministerial councils.

In relation to the issue to do with China not recognising our fruit fly free status, I have written to the former federal minister (minister Fitzgibbon), raising issues of concern and requesting that the federal government continue their efforts to ensure that our fruit fly free status is recognised so that we don't have to implement unnecessary protection measures. I certainly took any opportunity I could whilst I was in China to raise that issue with officials as well, reminding them of our fruit fly free status and how it was an unnecessary impost to be requiring further protection activities on our citrus in particular.

TELSTRA BUSINESS WOMEN'S AWARDS

The Hon. R.P. WORTLEY (15:25): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about this year's South Australian Telstra Business Women's Award recipients.

Leave granted.

The Hon. R.P. WORTLEY: The South Australian Telstra Business Women's Awards were first introduced in 1995 and, since then, they have continued to play an important role in ensuring that women are publicly recognised for their achievements in a diverse range of fields. They also highlight the role women play in all sectors of our community and their contribution to our economy. My question to the minister is: what was the outcome of this year's awards and what kinds of contributions did this year's winners make?

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) (15:26): I thank the honourable member for his most important question. I have had the pleasure of attending the South Australian Telstra Business Women's Awards every year since becoming the Minister for the Status of Women in 2008, with the exception of 2010, I think. I was delighted to be able to attend again this year.

Since 2008, I have witnessed the extraordinary number of accomplished and really inspirational women working in a wide range of very diverse fields who have been chosen to represent South Australia as finalists and winners at the awards. In this, the awards' 19th year, which is again quite remarkable, the high calibre of finalists and winners once again demonstrated the extraordinary talent that we have here in this state.

What I always find particularly inspiring is listening to the stories of these women, many of them very young women who have the most extraordinary stories to tell. Even though their experience might be short, they have achieved truly remarkable things. I will be delighted to see how they develop into our state, national and perhaps even international leaders in the future. I congratulate all those women who were nominated in one of the award categories and recognised as finalists and winners.

In particular, I would like to acknowledge and congratulate this year's South Australian Telstra Business Woman of the Year, Cheryl Shigrov, Director of Precious Cargo Education. Established in 2006, Precious Cargo Education now has four early education centres at St Peter's, Myrtle Bank, Westbourne Park and Lockleys and employees over 200 staff. Ms Shigrov was rewarded for her passion for early childhood education, along with her entrepreneurial spirit. She was also the recipient of the Business Owners Award. I commend her on her achievements.

Other award winners on the night were Ms Nicole Graham, Chief Executive of the Spastic Centres of South Australia, and Ms Alison Pearson, Centre Manager, Westfield Tea Tree Plaza. As CEO of SCOSA, I am advised that Ms Graham oversees over 200 highly-trained staff who provide respite care to approximately 350 South Australians with a disability. She was acknowledged for her work in increasing donations by over $1 million a year, raising brand awareness as well as improving staff retention. Also president of the YWCA, Ms Graham was honoured with the Community and Government Award and also with the Young Business Women's Award.

Ms Pearson was honoured with the Private and Corporate Sector Award. I am advised that Ms Pearson, who oversees the $470 million Westfield Tea Tree Plaza shopping complex, is noted amongst her peers as a committed advocate for supporting the growth of women leaders within the business. I am advised that each category winner wins $4,000 prize money and that Telstra recognises the South Australian Business Woman of the Year with a major prize of $10,000. I congratulate Telstra on its continued support of inspirational South Australian women in business.

The PRESIDENT: Before I call on orders of the day and before I call you, the Hon. Mr Darley, earlier today the Hon. Ms Lensink sought to make a personal explanation. Just for the information of the whole council and honourable members, standing order 173 governs personal explanations, which are:

> By the indulgence of the Council, a Member may explain matters of a personal nature although there be no question before the Council; but such matters may not be debated.

So, it was not quite a personal explanation, and I acknowledge that the minister did not enter into the debate.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

The Hon. J.A. DARLEY (15:30): I seek leave to make a personal explanation concerning the Legal Practitioners (Miscellaneous) Amendment Bill 2013.

Leave granted.

The Hon. J.A. DARLEY: It was my intention to make a contribution during the consideration of the message but, as a result of a misunderstanding on my part, I missed my opportunity to do so. With the indulgence of the council, I would like to make those comments now and place on the record the following statement prepared by Ms Di Gilcrist-Humphrey, the widow of Mr Ian Humphrey, regarding this bill. Ms Gilcrist-Humphrey writes:

In 2011, Attorney-General John Rau personally contacted me to advise that he was unable to take any action regarding the continued registration of Lawyer Eugene McGee after the Legal Practitioners Conduct Board determined that Mr McGee's actions on 30 November 2003 could not be determined to be 'unprofessional conduct'.

At the time of informing of his chosen inaction, Attorney Rau promised that it was his intention to address the loopholes in the system by reviewing and revising the structure and function of the Legal Practitioners Conduct Board.

I have not heard from Attorney Rau or been provided with any update on the proposed changes since 2011.

Despite the fact that my husband's death has been a contributing factor to the drafting of the Legal Practitioners Amendment Bill, Attorney Rau has not had the courtesy or respect to discuss this Bill, and what it means for me and my family.

What occurred on 30 November 2003 occurred because Eugene McGee and his Associates knew that the system could allow it. It was not moral, ethical, professional or humane but McGee and his Associates knew they could manipulate the system to make it 'legal'.

That the Legal Practitioners Conduct Board could be so disconnected from reality and allow for the manipulation to continue by determining that McGee's conduct was in no way unprofessional or infamous, was disappointing.

HOUSING AND URBAN DEVELOPMENT (ADMINISTRATIVE ARRANGEMENTS) (URBAN RENEWAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 September 2013.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:33): When we last dealt with this matter I sought leave to conclude my remarks and I intend to make a few comments and conclude my second reading contribution now. As I indicated when I last spoke, the opposition will be supporting the second reading of this bill, but certainly we wanted to have a look at the amendments that the government had been negotiating with some of the other stakeholders. We have been aware that this negotiation has been going on for some time and we have been awaiting those amendments. I think this Tuesday I saw the minister the Hon. John Rau up on the second floor with one of his staff. I asked him when we would receive them and he said, 'Some time today,' and we got them just before lunch on Tuesday. We have looked at those amendments and we will process them in due course and I suspect that when we next sit—probably Tuesday 15 October—I am sure the opposition will be ready to complete the debate on that particular bill.

I do draw some of my conclusions in relation to this bill from the six-odd years that I was the shadow minister, and over that time I think the face of planning changed considerably and not necessarily always in positive ways. Some of those changes, which I will discuss soon, have accumulated in the establishment of the Urban Renewal Authority. Consistently, though, the Labor government has proved throughout this changing planning environment its blatant disregard for what most South Australians actually want for the city and their neighbourhoods. I think the 30-year plan is an example, and then its numerous flow-on effects, including the infamous Mount Barker debacle.

It is for that reason that I am always cautious when this government instigates legislative change and, of course, the amendments that I spoke of earlier were being negotiated with some of the industry stakeholders, which included the Urban Development Institute of Australia, the Property Council and the LGA.

Just this week upon receiving the government's bills, with the shadow minister I also received a briefing from the minister's office and Planning SA staff and we were led to believe that the associations that had been negotiating had agreed to those amendments or accepted them at

best. We were surprised—although I probably should say not surprised—that when we contacted the LGA, in fact, they have not agreed to the amendments. They believe the government has come some way in appeasing their concerns over the bill, but their understanding is that they are still in dialogue with the minister over his amendments, so it is interesting on one hand to be told that they have agreed when in actual fact they have not agreed. Perhaps this was a strategy to underhandedly rush this bill through the final stages before the LGA had even had a chance to know what was going on.

It was interesting also that the Property Council, who we spoke to yesterday, has always been happy with the bill, but the government has not had the courtesy to forward the amendments to it. So, you have an industry group that was happy with the existing bill, the government has proposed a range of amendments and the Property Council has not even seen those amendments. Again, I think it demonstrates the way that this government consults.

Then I note the general support that the Urban Development Institute of Australia has for the bill, but it also has some understandable reservations about how it may affect private sector involvement in renewable projects. I believe that in general the government's amendments are a response to the LGA's concerns over consultation with local government and the UDIA's concern for the private sector.

The opposition generally agrees with the bill. We need a body to carry out the functions of the former LMC and to focus on affordable housing and renewed social housing, and apart from upgrading and refreshing a number of areas, we also need positive leadership in the development of key precincts.

Throughout my post as shadow minister I spent some considerable time observing the Western Australian Planning Commission model and, in particular, the Metropolitan Redevelopment Authority, which has been pivotal in maximising the benefits of their rapid growth and the economic growth of Perth. This legislation does move a little more in that direction, perhaps not as far as creating truly independent management of development precincts.

I place on the record my congratulations to the people who have been appointed to the URA board. I believe they each have a strength which could value our state's positive development. I have worked closely with a few of them and have confidence in their abilities. The question will be whether the legislation provides them with an adequate framework to go about their business effectively and efficiently. I believe the principle of somewhat independently managed precinct development is positive, but I would like to note that ultimately the planning strategy will still be a major platform for the development of these precincts. For the community to support any development in our state, it must be confident those development decisions are made without political bias or favouritism.

I remind the house that our planning strategy, which will still lead the development of precincts under the URA legislation, was a submission to cabinet prepared under the minister's direction. South Australia, clearly, over the last 11½ years has come not to trust this government when it comes to planning decisions. Clearly trust has been betrayed in a number of areas with this government when it comes to planning decisions and also community consultation.

Only recently I have had some discussions with stakeholders in relation to the protection bills for both McLaren Vale and the Barossa. Obviously the government portrayed the need for this particular piece of legislation because the urban sprawl was going to engulf them. I remind honourable members that the land at Seaford Rise, on the northern end of what can be best described as McLaren Vale, was rezoned for housing during the time of the Bannon government. Through all the period of debt reduction of the former Liberal government it was never placed on the market, but it was placed on the market by minister Holloway before the last election, and now minister Bignell was silent while that process was happening.

It was not until after the process had been dealt with that he made a big noise. I wonder where he was prior to that process and why minister Bignell, the member for Mawson, was so silent as that land was sold, land which ultimately will be developed. With those few words, I commend the bill to the chamber for its second reading and look forward to processing the many amendments that are now on file when we next meet on 15 October.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:41): I rise to close the debate. I would like to thank honourable members for their contribution to the second reading debate on this bill—some more gracious than others. Can I just start by

noting that the Hon. Mr Ridgway wants to have his cake and eat it too. He indicates general support for our bill, but then he goes on to say, 'We haven't had time to consider the amendments,' which we tabled, quite frankly, on Tuesday.

However, I seem to recall that yesterday, when we were considering another situation, the Liberal Party tabled an amendment straightaway and expected consideration to be given to that amendment forthwith. So it is good enough for the Liberal Party to do it, but we have given three days' notice—three days' notice—on a very important amendment, and they are saying, 'Oh no, I'm sorry, we need to take another three weeks.' All they are doing is holding this bill up—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order, the Hon. Mr Ridgway!

The Hon. I.K. HUNTER: —when it should be considered forthwith. It is disgraceful—just disgraceful; but, sir, let me close the debate now and reflect more silently on the perfidy of those in opposition. To ensure that this bill addresses all the competing interests involved in complex urban renewal projects, the government has consulted with and listened to the views of a wide range of groups. In debate on the bill in the other place the Minister for Planning indicated the government's willingness to consider amendments to the bill in response to submissions.

Submissions have been received from the Local Government Association, the Urban Development Institute, the Community Alliance, the Environmental Defenders Office, the Law Society, the Planning Institute, the City of Adelaide, and the City of Charles Sturt. I understand copies of these submissions have been circulated for members, as well as a copy of the comments, on the legislation provided by the Expert Panel on Planning Reform. While it is evident there is broad support for the bill's intent, we have worked to make a number of refinements to address the issues raised in these submissions.

The government has held discussions with a range of organisations, including the Local Government Association, the Urban Development Institute, the Community Alliance, the Environmental Defenders Office and the Planning Institute in relation to amendments. These amendments have now been lodged, and the opposition spokesperson has been briefed on them. The minister's office will also provide briefings to any other members who have requested them, of course. The amendments, we believe, strike the right balance in addressing the issues raised by all key stakeholders.

Members will note that when the bill was first introduced supportive comments were made in the media by a number of organisations, including the LGA, the Community Alliance, the Civil Contractors Federation, the Property Council and the Urban Development Institute. This is unsurprising, as a number of these organisations, such as the Property Council and the LGA, have had longstanding policy positions supportive of the establishment of an urban development authority with adequate statutory powers to undertake urban renewal and development projects in partnership with councils, community and the private sector.

It is pleasing to note that, as a result of further conversations, the support of the Local Government Association and the Urban Development Institute, in particular, has strengthened. I note that the LGA vice-president, Mayor Lorraine Rosenberg, has thanked the government for the close consultation through this process. In turn, the Minister for Planning would like to thank the LGA and staff, including Ms Wendy Campana, Mr Pat Gerace, Lisa Taburea and Megan Leydon, on their approach to discussions with the government on this bill, which have been constructive and helpful.

The government would also like to thank the Urban Development Institute for confirming their continued support for the bill, including the proposed amendments. The industry has been a long-time advocate for this type of reform, and the minister would like to thank Stuart Moseley and Terry Walsh for their engagement with the government on the bill.

Although the government recognises that not all the amendments proposed will address all of the concerns raised by the Community Alliance and Environmental Defenders Office, a number of the changes directly address issues they have raised and, as I understand it, they have been welcomed. The government would like to thank Mr Tom Matthews, Ms Helen Wilmore, and Ms Melissa Ballantyne, among others, for their input and contributions.

Of course, I should stress that all stakeholders are in a similar position. We have not adopted any single set of suggested changes holus bolus. We have attempted to strike the right balance and address the substance of the issues raised while also maintaining the intent of the

legislation. I reiterate that the government has closely modelled the legislation on similar legislation that works in other jurisdictions, such as the Victorian Urban Renewal Authority and the Perth Metropolitan Redevelopment Authority, amongst others. These bodies are well established and there is sound evidence about the robustness of their procedures and active engagement of communities and design of urban renewal projects.

I would like to address one further matter of process before moving to outline the substance of the government's proposed amendments. This goes to the reasons the government is seeking to progress this bill at this time. I note there have been some calls for this bill to be withdrawn pending the outcomes of the government's planning review. This was a view I think put by the Hon. Mr Parnell, for instance, in his second reading contribution.

Indeed, I note there have been calls in some media reports that suggest going further than this—proposing a moratorium on all major planning decisions until a review of the state's planning system is complete. To be clear, this would mean that all major rezonings, major projects and substantial assessment processes would need to be suspended. As the minister has clearly said, this is an untenable proposition.

So that members are clear about time lines, a review being undertaken by the Expert Panel on Planning Reform will not be complete until the end of next year. This is to enable thorough consultation with all stakeholders in the development of new legislation for our planning system. The panel has just recently completed an intensive round of community engagement across South Australia, and they have an ambitious program in the new year as they refine ideas and options for the future system framework. I gather that a number of members attended a recent updated briefing hosted by the minister and the Chair of the expert panel.

It is likely that it will take a further one to two years to draft new legislation in consultation with all relevant stakeholders and secure parliamentary passage. Depending on the extent of change adopted, there will also need to be a carefully staged program of implementation of the new legislation. In other words, it will be some two to three years before this process ultimately delivers a new system.

It takes time to do these types of jobs effectively. We have set up this process (and I note it is one that has cross-party support) to ensure that, as a community, we are able to genuinely interrogate our system and set the framework that will take us forward for the next 30 years or more. To do that, this process needs to be genuinely bipartisan and based on an attempt to exhaustively listen to all views and identify the areas of potential consensus and compromise.

So far in the initial stage of the review, the panel has held some 30 community workshops across the state in addition to attending stakeholder sessions and seminars. Those members who have been around will recall processes such as the Local Government Act review which spanned similar time frames. It should be very obvious that we simply cannot cease all planning initiatives while this review goes on. This would result in a system gridlock.

However, out of respect for the expert panel and those participating in this consultation process, there is a need to ensure that, wherever possible, matters which can be addressed through the review process are not dealt with out of context. This is doubly so when these issues are potentially contentious. This is exactly what the government has done. We sought the views of the expert panel, who agreed there are sound reasons for this bill to continue forward and provided suggestions for improvement to it.

Members will note the panel was asked to consider another bill which was at the time under development by the government. The panel's advice to the government, which we have provided to members, indicates that the panel thought this second bill should be deferred and the issues considered through the review process. The minister agreed this was appropriate and has not sought to pursue other significant legislative reform ahead of the review process. I think this speaks for itself.

Significantly, while the bill is, in a larger sense, a reform that will effect the delivery of good planning outcomes, it is not fundamentally a change to the general regulatory framework established under the Development Act, and this, no doubt, was a factor considered by the panel in providing its advice. This makes it quite different from the proposals the Hon. Mr Parnell has brought forward, which go to the heart of the development control system as it stands.

This government is serious about urban renewal and urban regeneration, and we do not want to put off the task of serious renewal until another day. We are doing what we can within the

current legislative framework, but it has long been identified that the framework is poorly structured for urban renewal activity. For example, in addition to the 2008 planning and development review, a number of submissions from councils and industry on the 30-Year Plan for Greater Adelaide called for the establishment of a development authority with appropriate urban renewable powers.

The proposals in this bill are a targeted reform that help kickstart urban renewal while the panel continues its work of reviewing the overall legislative framework. It is important to note that this is not about the state government taking control of urban renewal; rather, it is about setting up a mechanism that allows complex urban renewal projects to be undertaken by the state or local government in cooperation with the community and the private sector. It will follow up the government's establishment of the Urban Renewal Authority in 2011 and the foreshadowing of a precinct-based approach to urban renewal, outlining the planning strategies since 2010. It is also a bill for which there is wide support both in principle and now for the amendments the government is moving on issues of detail.

The same cannot be said of other bills that have passed this place recently or that remain on the books. On issues such as landowner notification of zoning changes, interim operation, assessment notification of requirements in the development plan process—all raised by the Hon. Mr Parnell—there is simply no consensus of opinion yet evident. There is, for example, no evidence of consultation on these proposed reforms with local government, which I am sure would have a view on the potential costs involved. Industry has also raised a number of concerns with the proposals.

None of this is to say the ideas raised in these bills are not worthy of being considered—far from it—but the compelling case for prosecuting them ahead of the expert panel's process has not been made, in the government's view, nor has clear agreement emerged amongst the key stakeholder sectors which would be affected by the bills. That consultation needs to happen before such bills could be taken forward, and that is our view.

The government, on the other hand, has brought forward a proposal based on longstanding discussions stretching back to 2008 and given life in the establishment of the Urban Renewal Authority in 2012. We have openly invited feedback on the proposal, and we have actively engaged with stakeholders to address their needs effectively in the bill. We have industry support, local government support and a reasonable level of acceptance from community organisations.

We have taken on board the advice of the expert panel and received their agreement that the bill can be handled ahead of the conclusion of their review process. We have drawn from interstate legislative models in designing our proposed precinct planning approach. We have both private sector and councils ready to take advantage of the proposed precinct development process set out in the bill, as well, of course, as a number of future government-led urban renewal projects that could become candidates for this process in due course. Why would we wait?

I would now like to briefly outline the amendments the government is proposing, with a view to more detailed exposition on a clause by clause basis presently. The amendments in large measure seek to provide greater checks and balances around the establishment of precincts, including a high degree of parliamentary oversight throughout the precinct planning process and better consultation and engagement processes with the community and councils.

The amendments will also provide for greater clarity around the use and application of the precinct planning process and greater accountability on precinct proponents. Perhaps the most significant aspect of the changes has been the introduction of greater parliamentary oversight of the precinct planning process. Our amendments will introduce reporting of all stages in the precinct planning process to the Environment, Resources and Development Committee, with the potential for disallowance of a precinct master plan on a similar basis to a development plan amendment.

Reinforcing this, we have made it clear that the minister cannot initiate precinct declaration of his or her own volition but can act to receive and consider proposals from the public or private sectors, subject to consultation with the planning minister and relevant local councils. We have also, at the suggestion of the Local Government Association, introduced a requirement for precinct proponents—who may be public or private sector—to prepare a business case outlining the proposed precinct development and providing critical background material, such as commercial feasibility, infrastructure requirements and the like. This business case will also be specifically required to address community engagement.

We believe the introduction of the business case also clarifies the ability of the private sector to submit precinct proposals and have them considered. In effect, this opens the door to a

statutory form of joint venture style arrangement by allowing negotiation of potential urban outcomes on a tripartite basis between state government, local government and private sector investors. Additionally, we have included a provision that makes it clear that the Urban Renewal Authority should aim to involve the private sector in urban renewal projects where practicable to do so.

We have strengthened the role of community consultation in a number of ways and also made some changes in response to submissions of the Community Alliance to improve the access to information about a precinct development. For example, we have inserted a requirement that all reports to the minister or by the minister, including the business case, are transparently published online at each stage of the process.

We have also strengthened the role of the design review and community reference panels, making them mandatory default requirements which can be departed from only by regulation; we would expect this only to occur when the engagement plan put forward as part of the business case demonstrated a better form of engagement. Similarly, we have specified that minimum consultation timeframes for each stage of the precinct planning process should be specified in regulation.

We have qualified the relationship between local councils and precinct authorities in a number of ways, including in the exercise of rating or infrastructure powers, the making of by-laws, the transfer of precinct infrastructure and assets, and other transitional arrangements. Consultation provisions have been included to ensure that partnership with local councils in the delivery of precincts is effective. We have also expanded the ability of councils to participate in the precinct process by allowing a council subsidiary to become a precinct authority.

A number of provisions of the bill, including in the amendments, will require various procedural and operational matters to be specified by regulation. Recognising that the devil is often in the detail, we have included a specific requirement to consult with the Local Government Association in relation to regulations that could impact on the local government sector. The minister has asked me to indicate that, in relation to the first set of regulations, he will propose to extend this consultation to members, industry and others who made a submission on the bill prior to promulgation.

Finally, we have included a provision requiring review of the legislation within two years of its commencement. This will enable operational matters to be identified and clarified. We expect that this obligation could be discharged by the review being conducted by the Expert Panel on Planning Reform, or as a separate process. I commend the bill to the house.

Bill read a second time.

In committee.

The ACTING CHAIR (Hon. J.S.L. Dawkins): I am advised that the bill has nine clauses, one schedule and a title. The first amendment is planned at clause 8.

The Hon. D.W. RIDGWAY: There will be a range of questions that I want to pose, once I have feedback, to the minister and to the officers on the vast number of amendments we are still considering. I indicated in my second reading speech that we would be happy to process the committee stage of the bill on Tuesday 15 October, so on that basis I move:

That progress be reported.

The committee divided on the motion:

AYES (13)

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

NOES (8)

Finnigan, B.V.	Gago, G.E.	Hunter, I.K. (teller)

NOES (8)

Kandelaars, G.A.	Maher, K.J.	Vincent, K.L.
Wortley, R.P.	Zollo, C.	

Majority of 5 for the ayes.

Progress thus reported; committee to sit again.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) (NO. 3) BILL

In committee (resumed on motion).

New clause 9A.

The Hon. G.E. GAGO: During the debate this morning, the Hon. Stephen Wade indicated that the opposition sought consultation with the Chief Justice and the Chief Magistrate before this bill is progressed. The need for further consultation was in relation to the first and second amendments included in the government's first set of amendments.

These amendments were filed on 11 September 2013. I am advised that letters enclosing the amendments were sent to the Australian Lawyers Alliance, the Bar Association, the Legal Services Commission, the Law Society, the Chief Justice, the Hon. Mr Wade MLC, and members of the crossbench in this place. Comments were requested by 24 September.

I am further advised that the Legal Services Commission had no comments, the Australian Lawyers Alliance indicated by telephone that they would have no comment and the Bar Association did not respond. The Law Society responded and their comments were addressed. Members of this place received an email to this effect on 23 September 2013.

Since the debate this morning, the Chief Justice has provided a written response. I am advised that this response has been sent to members of this place. The Chief Magistrate was also contacted, who advised that the amendments were matters for the Chief Justice. It is the government's position that adequate consultation has occurred. The government opposes any further and unnecessary delay and requests that the bill be progressed throughout the rest of the committee stage.

The Hon. S.G. WADE: As is so often the case, the minister fails to give key facts. What the minister did not say was that the government did not provide to the opposition a copy of the Law Society's response to its consultation letter until during Monday, well after the deadline for the Liberal Party's joint party room consideration.

The government also provided that day a response to the Law Society's submission, which indicated that the Law Society had made a very good point about a matter that the government had not considered. The Law Society's point, with which the government agrees, had implications for the status of the magistracy. The Law Society's view was that the magistracy is a set of judges that, to paraphrase them, require extra safeguards.

The point I made in this morning's debate is that the opposition currently is not in opposition to the Law Society or the government, but what we do want to do is not to consult further about the cost issue—we actually agree with that fundamental goal and we are yet to come to a disagreement in relation to the status of the magistracy—but surely it is appropriate for this parliament to consider the implications of issues that were raised late.

The Attorney-General's office has approached the Chief Justice, and it will be interesting to read that letter and unpack it, but we cannot do that on the run. As I indicated this morning, I was not just talking about the Chief Magistrate. If the Attorney-General's office would like to read the *Hansard*, I talked about other stakeholders. I do not believe that this council should be unnecessarily rushed in the consideration of issues which are late breaking. I acknowledge that the Attorney-General and his office have consulted appropriately and that we were advised in an orderly fashion, but an issue came up late and I believe that it is worthy of our consideration. I actually think there is an even more important point here, and that is government respect for this council doing its task.

I believe that the fact that we have two procedural motions in a row, two procedural debates in a row, reflects not on any lack of cooperation from non-government members of this place: it reflects on the government's management. We failed to sit on Tuesday night, we failed to

sit on Wednesday night and the minister brought us in here this morning at 11 o'clock and now she is having trouble keeping the program running. The fact of the matter is that this council is being very cooperative.

I would remind the Attorney-General's office and the Leader of the Government that we have made substantial progress on the Electoral Act this week, we have made substantial progress on the Legal Practitioners Act—in fact we have passed the legal practitioners legislation—and we have also passed the child sex offenders legislation, all huge pieces of work. Let us be clear on that. The child sex offenders legislation was in preparation for two years; the legal practitioners legislation, one could say, had been in development for seven years—two very substantial pieces of work that were brought to fruition this week—and what am I asking? I am asking that we do not resolve this matter today, that we resolve it on the next sitting day.

I would ask the council to remember that there was no suggestion in what the minister said that there was any great urgency. This was a very late amendment to a government bill. One could even say that, considering this is the Attorney-General's portfolio bill No. 3, why could it not wait until the Attorney-General's portfolio bill No. 4? Be that as it may, we are not opposing it. As I said, I am yet to find that I have a point of policy difference with the government, but could we have some courtesy? Could we allow the Legislative Council to do its job.

Earlier today this council supported me in doing my job, which is consulting legal stakeholders beyond those with which the government has consulted and what we had was the audacity of the government not to accept that decision by choosing to adjourn it on motion instead of adjourning it to the next day of sitting, as is the convention of this place.

I would urge members, even if you did not see fit to support me this morning, on whatever basis, if this council is not going to spend day after day on procedural issues we need to be clear that once having made a decision we are not going to be in the business of making it and re-making it. We do not actually have the time to make the same decision over and over again. The council supported me this morning in allowing me one more sitting day to do consultation that I believe is appropriate in relation to the issues raised. I would ask the council to support me in that. I move:

That progress be reported.

The committee divided on the motion:

AYES (13)

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

NOES (8)

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

Majority of 5 for the ayes.

Progress thus reported; committee to sit again.

NOT-FOR-PROFIT SECTOR FREEDOM TO ADVOCATE BILL

Adjourned debate on second reading.

(Continued from 24 September 2013.)

The Hon. S.G. WADE (16:15): The government has clearly indicated it is having trouble padding out this afternoon, so I will help them by giving a full discussion of the Not-for-profit Sector Freedom to Advocate Bill.

I think it would be fair to say that this bill has its origins not in this parliament but in the commonwealth parliament. The commonwealth government and parliament for some years now have been considering the appropriate regulation and governance of the not-for-profit sector. Honourable members would recall the report of the Productivity Commission, called 'Contribution of the not-for-profit sector: research report, Commonwealth of Australia, Canberra, January 2010'. That was part of the process of the commonwealth government considering how best to provide sound governance for the not-for-profit sector.

Of course, it was not focused on the issue of the impact of public sector funding on the roles of those agencies, but it would be fair to say that it was an issue—

Members interjecting:

The Hon. S.G. WADE: I am sorry that government members are not interested in this matter. It would be fair to say that the focus was not on public sector funding but more on the general governance, particularly to make sure that Australians, when making donations for not-for-profit organisations, could be confident that those funds were being properly looked after.

That said, whilst it was not the focus of the work of the Productivity Commission, it was an issue that was considered by them. In that regard, I would refer honourable members to page 296 of the Productivity Commission report. It makes the point:

> Where influence or control is exerted by government over funded organisations in order to limit advocacy and other activities of NFPs—

I pause to indicate that that is not-for-profit organisations—

> it is likely to be wasteful of public funds and may also distort the best endeavours of community organisations.

In line with this recommendation, the Productivity Commission recommended:

> Australian governments funding service provision or making grants should respect the independence of funded organisations and not impose conditions associated with the general operations of the funded organisation, beyond those essential to ensure the delivery of agreed funding outcomes.

I would like to make two points from that quote. The first point is that a productivity-focused organisation saw the value of political independence, so this is not just a civil society issue. It is not just about conducting a healthy robust democracy in Australia. In the view of the Productivity Commission, where influence or control is exerted over a funded organisation to limit advocacy it is likely to be wasteful of public funds.

The work that was being done at the federal level progressed to the point where, under the Gillard Labor government—I think the expression is 'of blessed memory'—an Australian Charities and Not-for-profits Commission was established. It would be fair to say that we on the Liberal side of the equation are very disappointed with the way that the former Gillard government implemented that.

Initially, what was promised in that commission was an opportunity to simplify, to reduce the administrative compliance and duplication of reporting by agencies, so enabling the not-for-profit sector to be able to direct more of their limited resources to charitable and religious activities. But, as so often happens when Labor tries to implement a good idea, it all turns to sand. The final product of the legislation failed to meet this objective. It has become another great bureaucracy focusing on assessing compliance, rather than streamlining it.

The incoming Coalition government has made it clear that they will not treat charities and not-for-profit agencies as merely arms of government. The Coalition supports transparency and accountability of public funds, but it also supports simplicity and efficiency. When people give money to charities, they do not expect it to be chewed up by unnecessary commonwealth bureaucracies.

Particularly in the context of this particular legislation—because I know that honourable members are always interested to see how our legislation interacts with commonwealth bureaucracies and legislation—the incoming Coalition government has said that, until and unless there is harmonisation of various state and territory laws, their view is that the proposed commission simply adds yet another layer of regulation and bureaucracy on the sector. Interestingly, implicit in that is the government is not necessarily committed to harmonisation, but in any event they will be looking at winding back the overly bureaucratic approach of the former Gillard Labor government.

The Coalition government has indicated that it will be looking to work with the states to achieve harmony, particularly in relation to fundraising codes and other various regulations. The legislation before us, as the honourable minister indicated in his second reading speech, is significantly based on the commonwealth legislation. I can see very few real differences between the two, and I am not accusing anyone of plagiarism. The minister was quite frank about the fact that this was picking up what the government saw as a good idea from the commonwealth realm.

I just make the point that the incoming Coalition government is not giving an indication of the need for uniform law. I am sure they do not object to similarity and harmony between their legislation and ours. I will have some questions to raise in the committee stage, but I thought it would be remiss of me to let this government put in a piece of legislation singing the virtues of civil society and advocacy without reminding the house of the hypocrisy of this government—shall we say the Rann/Weatherill Labor government that has been in power for 12 years and is showing every sign of tiredness.

Let's remember that in 2006, under then disability minister Weatherill we went into a disability reform process which involved a massive attack on advocacy. So the so-called Weatherill Labor government wants to sing the virtues of advocacy and a civil society in this piece of legislation when, in fact, what they did in practice was appallingly different. Let me remind you of those events.

In 2007-08, the government withdrew funding for a number of agencies providing disability advocacy and information services. State government funding was to be cut and information services that were to be provided through the department, we were told, would enable money to be put into front-line services. This decision was made without consultation and delivered by letter on the very day of the budget.

I was involved in the disability sector prior to taking my seat in this house; in fact, I needed to convene a board meeting of Julia Farr Services the night before I was sworn in to this parliament. We had been advised that then minister Weatherill, under the then Rann government, was going to announce a disability reform process on that day, so it was important that as I left that organisation they were ready for the changes ahead, and they were very significant.

We saw in Weatherill the minister the indicators of what we see with Premier Weatherill. He was a centralist then and he is a centralist now. He believes the government knows best, and this Labor Party value, that the bureaucrats and the political elite know better what is best for people than they do themselves, was evident in the way they emasculated advocacy in the disability sector.

We do not normally have dedicated advocacy services for Australian citizens, but let us remember the particular needs of people with a disability. There are significant sectors within our community who are living with disabilities which significantly impair their own capacity to advocate for themselves. There are people with intellectual disability, for example, who many would say are not in a position to advocate for themselves so advocacy services are often seen as very important for system development.

That can be system advocacy (in other words, advocating for what people with an intellectual disability need as a community) and it could be individual advocacy (what I as an individual person with an intellectual disability might need). Let me hasten to add that people with an intellectual disability often do not need somebody to advocate for them and, in fact, it was during this period that I became very well aware of the work of Our Voice. Our Voice was a group of South Australians with an intellectual disability who were being trained and supported to self-advocate.

Another one of the organisations that was affected was the Arthritis Foundation of South Australia, which was providing a program to combat juvenile arthritis, a condition which causes many children to develop a permanent disability or deformity, particularly in the absence of appropriate information and treatment. This was an organisation (as with a number of these organisations) whose advocacy services were blended with their information services so, in spite of the Weatherill Labor government's rhetoric about preventive health, these cutbacks in advocacy and information services were leading to a worse outcome in health and disability indicators.

It is a very well established pattern in the disability sector that information informs practice and vice versa but, in spite of its rhetoric in this bill about the importance of advocacy in civil society, this is the government that cut millions out of the disability sector and deprived people in that sector of valuable advocates.

Certainly, public servants are valued professionals and they often have significant perspectives to share, but they are, by nature, generalists. They do not have the expertise to develop and maintain information over an extended period of time. I think it would be fair to say that disability is a classic example of a sector where, to be able to advocate effectively, to have either a limited experience with a disability or to have a direct role in providing support or care to a person with a disability provides you with perspectives that are unlikely to be achieved anywhere else.

At that time, a senior disability leader indicated to me his concern about the defunding of advocacy on the basis that it was leading to an unhealthy shift in the relationships between the government and non-government sectors. Let me quote him:

> One of the key principles of disability services is the valuing of diversity but, unfortunately, this decision is only part of a trend towards uniformity and centralisation that will eventually compromise disability service delivery in South Australia. A vibrant non-government sector is one of the checks and balances needed to provide the dynamic tension that nurtures growth and development. Placing information services within a department rather than valuing diversity in the capacity of non-government organisations to provide this important front line service is a retrograde step.

So the point I am making is that it is easy to put a bill in. After 12 years, 170 days before the election, it is easy to put a bill in, but a government will be known by its actions not its words, and what we have seen with this government is a failure to respect advocacy, a failure to respect civil society.

I was focusing particularly on disability. I could draw other case studies. After all, it was this government that provided a unique South Australian contribution to the Australian dictionary: being Bottralled, I think is the expression, which is generally known as being aggressively sat upon by a government media spin doctor. Another case study that comes to mind is a group of businessmen who having put an ad in the paper critical of former premier Rann were fortunate enough to get a telephone call from him sharing his views about their behaviour.

This is a government that might like to put in a bill towards the end of its term, but 12 years of Rann-Weatherill Labor government, of centralism, bullying, and lack of respect for diversity, will not be wiped out by this bill. We will be supporting it, just as our Coalition colleagues supported the similar bill at the commonwealth level, but as I said, this government will not be remembered for this bill; it will be remembered for 12 years of bullying, 12 years of lack of respect for civil society.

The Hon. T.A. FRANKS (16:31): I rise on behalf of the Greens to speak to the Not-For-Profit Sector Freedom to Advocate Bill and I do so welcoming the introduction of this bill, thanking those who have lobbied long and hard for it and acknowledging in particular the role of SACOSS in that. It should come as no surprise that the Greens will be supporting this bill, and I certainly acknowledge Tony Piccolo's work as Minister for Communities and Social Inclusion in progressing it to this place at this stage. I thank him and in particular Megan Hackett from his office and other officers within the Department for Communities and Social Inclusion for their recent briefing.

Of course, this bill before us is a state bill, but it cannot be viewed without the federal context and indeed the context of, in particular, the Newman government in Queensland and recent developments there. I would like to step back a little and acknowledge the work of Clive Hamilton and Sarah Maddison, who edited a book called *Silencing Dissent* which very well illuminated the problem here, that there was indeed a systematic silencing of the NGO sector and that that systematic silencing happened under the Howard era federally.

In that book, many contributors detailed experiences and evidence of this silencing of dissent, documenting the processes inside and outside government, in the Public Service and in statutory authorities, in media, in universities, in the research community, in non-government organisations, in the intelligence community, and indeed, when the government won a majority in that place, in the Senate.

The book put forward that what were seen previously to be apparently unconnected phenomena of attacks on non-government organisations, politicisation of the Public Service, stacking of statutory authorities, increasing restrictions on academic freedom and control over universities, gagging and manipulation of some sections of the media and politicisation of the military and intelligence services actually formed a pattern that posed a grave threat to the state of democracy in Australia.

In that particular book we saw chapters such as that written by historian Stuart McIntyre, who documented how the then education minister Brendan Nelson had interfered with the research grant process. Emeritus professor of science Ian Lowe examined the ideological intervention in the

science field, and indeed he quite eloquently wrote that the government 'is increasingly using science as a drunk uses a lamppost—for support rather than for illumination'.

Journalist Geoffrey Parker captured the attitude towards the Public Service when he recounted the comment of one former secretary who said, 'Don't be against us but this one asked "Are you one of ours?"' with regards to a previous incoming government. That sort of behaviour in Australian democracy deserved to be exposed and deserves to be rejected. This bill before us will go some way to rejecting those sorts of behaviours, be they at a federal or state level and whatever colour of government is in power at the time.

I note that SACOSS (South Australian Council of Social Service) has written to all members of at least the upper house advocating support for this bill in an unamended form and providing information that it not only supports the intent of this bill but also that it had been consulted in an appropriate manner. They express their clear support for the passage of this legislation.

I also thank them for their kind words acknowledging both my past experience in the NGO sector and my record of promoting anti-gag clause legislation, which I have done when opportunities presented themselves in the community and in the media. I was also very pleased to work with the government on the recent gambling reforms which saw removal of any potential for gag clauses on those NGOs, not-for-profits and small organisations which take money from those particular pokies funds sources.

This is a much more wideranging bill, and it should go some way to restoring confidence in what I believe should be a truly civil society. From my experience in the NGO sector, I will draw on one area where this has had a profound impact in recent history—not the disability sector, to which the Hon. Stephen Wade referred, but when I worked for Amnesty International in our work on refugees in this country.

When I worked for Amnesty International, it was in the days when mandatory detention of asylum seekers was a recent introduction. At first, it was almost incredible and unbelievable to the community when groups such as Amnesty, where I worked, informed the Australian community that we were locking up children, in particular, but also men and women for committing no crime in this country. At that time, in the South Australian context the Woomera detention centre was being used and later it was the Baxter facility.

At that time, most of those who supported refugees through NGOs were scared to speak up. In fact, they came to Amnesty and we set up a refugee group to assist with getting the message out, not just that people should support refugees in our community but that in fact we were locking up asylum seekers, despite having committed no crime. In that, I was honoured to be part of helping establish the South Australian Justice for Refugees Group because it acted as a shield, a group that did not take money from government and could therefore actually speak out against government policy, when those who were helping refugees and new arrivals—

The Hon. S.G. Wade interjecting:

The Hon. T.A. FRANKS: The Hon. Stephen Wade interjects and notes that Amnesty doesn't take money either—that is true. That is why they came to Amnesty for assistance with this, but also I was proud to be part of setting up a group that was specifically just to advocate about the refugee issue because those who worked with refugees were too scared. They knew that their funding would be threatened if they spoke up against government policy, and they thought that the work they were doing was so valuable—and I believe that it was—that they could not endanger that very important work.

I am sad that we continue to need such advocacy in this country. It is a very sorry state of affairs that the debate has come to where it has in this country, that refugees are a political and politicised issue and that it is a race to the bottom. I digress—and I do so because I have the freedom not to be gagged and the luxury of not being in an NGO that is a bit scared to speak up on a particular hot potato issue.

That is the culture that has been documented by works such as *Silencing Dissent* and other reports as well. We know that, where it is not necessarily an issue of politicisation or direct government interference, NGOs can often fall foul of dying through bureaucracy or drowning in constant editorials made to a flyer, for a very simple matter can actually take weeks or even months to finally come to an end product.

With those things, the government and bureaucracy should simply get out of the way and let NGOs do what they do best, which is address community concern at that coalface level. I have heard some horror stories about dealings with bureaucracy that do indeed drain the very lifeblood out of those wonderful, vibrant community organisations.

With that, I will have a few questions of the government at clause 1, but I certainly commend them for this very positive step forward. I hope that it will continue to be not just a bipartisan but very much a cross-party supported initiative.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:41): I thank members for their contribution, and I rise to close the debate today. As members should now be all aware, the bill includes provisions that will prohibit and invalidate gag clauses in South Australian government agreements with the not-for-profit sector that restrict or prevent not-for-profit entities from commenting on, advocating support for or opposing changes to South Australian government law, policy or actions.

I should probably not comment, but I cannot let it go. The Hon. Mr Wade said that he believes this bill arose from a similar bill that was passed, I think, in the federal parliament; of course, that is not exactly the story. The bill arose initially, as I understand it, as a result of actions of the Campbell Newman Queensland Liberal government and their attempts to gag community organisations who were receiving government funding.

In fact, I distinctly recall that it was Premier Weatherill who instructed me, when I had another portfolio, to put out a circular to the NGO sector that received fundings under my portfolio to advise them that this government—this Jay Weatherill government—would not be following the lead of the Queensland Liberal government. That is where this started, and I will leave it at that.

The not-for-profit sector works to assist South Australians, particularly our disadvantaged and vulnerable. Our not-for-profit sector supports our communities in so many different ways: the provision of services in health care, caring for our environment and promoting a healthy lifestyle, sports, arts and culture. An independent not-for-profit sector is essential to building our inclusive communities.

I am concerned, as I said, about the actions of the Queensland state government, which has sought to use clauses in funding agreements that prohibit the not-for-profit organisations from advocating and restrict their input on important policy issues. This move by the Queensland state government will ultimately lead to poorer outcomes for individuals and communities who rely on government funded services. The decision by the Queensland state government to restrict advocacy in funding agreements demonstrates a lack of respect for the not-for-profit sector and, ultimately, our broader communities.

The bill before the chamber will protect the rights of the not-for-profit sector to engage in honest and frank public discourse on matters of government policy. I believe that is what we would all expect, and I once again commend this bill to members.

Bill read a second time.

In committee.

Clause 1.

The Hon. S.G. WADE: The similarities between the state bill and the federal bill are significant, but perhaps the area hardest to correlate is the definition of 'agency'. Considering I was not able to decipher the similarities and differences, I wonder whether the minister might be able to advise in broad terms whether there are any significant variations between the scope of agencies under the commonwealth legislation and the scope of agencies under this bill.

The Hon. I.K. HUNTER: My advice is that parliamentary counsel were asked to replicate as best they could the commonwealth bill but, as we know, our parliamentary counsel are the best in the country and they have their own approach and use different terms from time to time. However, I am advised that it should not have any great impact.

The Hon. S.G. WADE: I thank the minister for the answer. In that sense I am not surprised that it significantly varies because we all have different organisational structures and different ways of referring to them. I wonder whether the minister might help me understand what might be permitted and what might be prohibited. It says that you cannot restrict or prevent or purport to restrict or prevent a non-profit entity or staff from commenting on advocating support for,

or opposing a change to, any matter established by law, policy or practice of the state government or a government agency, etc.

That is what I understand we are referring to when we say 'a gag', but presumably a funding agreement could still say that money cannot be spent on matters other than what the government is buying, if you like, under the funding agreement and that may not include advocacy. I am just trying to understand a provision which says that you cannot use this money for advocacy: you can only use it for providing services for our target group. Is that a gag and is that privy to content?

The Hon. I.K. HUNTER: My advice is that funding generally is given for specific activities, and that is normally in the funding agreement. It would be an expectation that the funding would be disbursed for the purposes for which it had been granted. My advice is that we need to consider that this was actually aimed at allowing organisations to act in support of its community of interest and is not meant to be construed as applying to a formal advocacy role for which they may receive other funding streams, either from the state government or another funder.

The Hon. S.G. WADE: Thank you, minister. My understanding of the non-government sector, particularly over the last 10 years or so, and perhaps in response to the Howard government and the activities of other governments, that increasingly agencies are developing their own policy units or advocacy units funded by, if you like, own-source income. Considering that I am not aware of the government providing any advocacy funding in any sector primarily for an advocacy purpose, is it the expectation of the government that whilst organisations would be free from a gag they would still be looking to own-source income to undertake advocacy work?

The Hon. I.K. HUNTER: Again, my advice is that we need to distinguish between formal advocacy work and political advocacy. For instance, off the top of my head, an organisation may be funded to deliver a particular service to a community group or subgroup. That would not prevent that organisation from engaging in public debate on topics of interest of the day, but the expectation would be that the moneys for which that organisation is funded would only be used for the purpose for which they were granted.

The Hon. S.G. WADE: I am just wondering how broadly the prohibited content might apply. I will probably have some rusty examples but hopefully the minister might be able to glean the import. I am thinking, perhaps, of what I understand are differences between the Salvation Army in New South Wales versus the Salvation Army in Victoria. I think they have quite a different attitude to drug rehabilitation. I am not exactly sure what the difference was, but one, I think, was, perhaps, willing to get involved in needle exchange, and the other one was not. I am also thinking of the issue of values in relation to government-funded schools.

We often hear, in relation to, particularly, discrimination legislation, for example, that if an organisation is getting public funds then they are expected to respect public values, and that might come across a whole gamut of discrimination areas. I appreciate that the Salvation Army example is probably different in nature and that, perhaps, is a good example of the diversity you would expect in the public debate. I am just wondering whether the prohibited content provisions might, in particular, mean that governments and parliaments in the future are saying that it is inappropriate for parliaments or governments to say, 'If you're taking public money you've got to consistently promote values that reflect broader community values.'

The Hon. I.K. HUNTER: Again, my advice is that we need to distinguish the two activities. So, for the example the honourable member gave, if an organisation was funded to deliver a particular service then, yes, the expectation would be that they would apply public values. That would not, however, constrain them (an NGO) from advocating on government issues and policies of the day.

The Hon. T.A. FRANKS: My question goes to publicity clauses that are put into government contracts. Will there be some sort of review of those clauses and, indeed, perhaps a removal of those clauses where they are deemed to not be strictly necessary as a result of this legislation?

The Hon. I.K. HUNTER: My advice is that the minister has given an indication to the NGO sectors that any clauses in existing agreements would be reviewed in light of this act. My understanding, from dim memory, in terms of funding documents, when I used to see them, is that publicity clauses were usually phrased in such a way that an organisation would be expected, as a courtesy to the funder, to provide that funder with documents that they produce for public consumption. So, newsletters would go to the relevant office, for example.

The Hon. S.G. WADE: Just picking up on your answer, in terms of, if you like, heritage clauses. My understanding is that as this has no transition provisions it has retrospective effect to the extent that—and I am not objecting to it, I am just noting it—once this legislation has passed any agreements with prohibited content would immediately have those clauses void and to no effect pursuant to proposed section 4(2).

The Hon. I.K. HUNTER: My advice is that the honourable member's supposition is correct, but I have no information available to me that suggests there are any such clauses that would be impacted; however, that does not mean that they do not exist historically.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. A. BRESSINGTON: Mr Chair, I will not be moving my amendments.

Clause passed.

Title passed.

Bill reported without amendment.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:56): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SA WATER

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:57): I seek leave to make a personal explanation.

Leave granted.

The Hon. I.K. HUNTER: Yesterday, I provided a response to a question asked by the Hon. Michelle Lensink in relation to the interruption of water supply at a property in Kent Town. At that time, advice from SA Water was that supply was interrupted for less than half an hour and then fully reinstated. I have since been advised by SA Water that supply was interrupted for approximately two hours and 15 minutes—considerably longer than half an hour.

An honourable member interjecting:

The Hon. I.K. HUNTER: That's the advice I have.

MAJOR EVENTS BILL

Adjourned debate on second reading.

(Continued from 24 September 2013.)

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:57): In summing up, I thank honourable members who made a contribution to this bill and look forward to its speedy passage.

Bill read a second time.

WORKERS REHABILITATION AND COMPENSATION (SAMFS FIREFIGHTERS) AMENDMENT BILL

Second reading.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (17:00): 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.

The Workers Rehabilitation and Compensation (SAMFS Firefighters) Amendment Bill 2013 gives additional protection to firefighters exposed to higher cancer risk as a result of their work.

Career firefighters are at greater risk of developing certain types of cancer due to the direct exposure to carcinogens released by combusting materials. This measure will be taken to have commenced on 1 July 2013, thereby ensuring that South Australian Metropolitan Fire Service (SAMFS) firefighters, including retained firefighters, who contract any of the 12 specified cancers after that date will, subject to qualifying periods and in the absence of proof to the contrary (but subject to other provisions of the Act), be entitled to workers compensation without having to prove that the cancer arose from their employment with SAMFS.

The Commonwealth has accepted that employed firefighters are at greater risk of developing certain types of cancer, and enacted the Commonwealth Safety, Rehabilitation and Compensation Amendment (Fair Protection for Firefighters) Act 2011, on 6 December 2011. The establishment of this legislation was underpinned by the work undertaken by the Australian Senate Education, Employment and Workplace Relations Legislation Committee (the Senate Committee).

The task of the Senate Committee was to consider the work relatedness of cancer in firefighters. It received 27 submissions from individuals and organisations, conducted public hearings, and listened to personal accounts from firefighters and their families. A finding of the Senate Committee was that the type of exposures identified in the research was more often experienced by firefighters working in urban areas, and that most operational activities undertaken in these areas related to structural and non-structural fire incidents.

As reported by the Senate Committee in the Report on the Safety, Rehabilitation and Compensation Amendment (Fair Protection for Firefighters) Bill 2011 (the Senate Committee's Report), '… studies and meta-studies conducted around the world, including in Australia in the 1980s, demonstrate that certain types of cancer are caused by the release of carcinogens from combusting materials in structure fires. These known carcinogens can include benzene, styrene, chloroform and formaldehyde, and are absorbed by firefighters through the skin or by way of inhalation.' (Senate Committee's report at paragraph 2.27) 'Most operational activities undertaken by urban firefighters are structural and non-structural fire incidents. Car fires, although technically considered non-structural, produce toxic chemicals rivalling those found in structure fires … due to the prevalence of plastic components found in cars. Unsurprisingly, even ordinary houses and household products release toxic chemicals when they burn.' (Senate Committee's report at paragraph 2.30-31).

The hazards of a fire may migrate away from the scene of the fire. Evidence provided to the Senate Committee indicated that the hazards of a fire are pervasive and 'the hazards of a fire scene may be transported away from the fire scene by firefighters and the equipment they carry…' (Senate Committee's report at paragraph 1.39). The migration of the hazards of the fire may result in further hazard exposures when, for example, cleaning fire equipment or the truck back at the station.

The Senate Committee concluded that when a firefighter, with a certain number of years of service, develops cancer, that cancer is most likely to be caused by occupational exposure to carcinogens.

The 12 compensable primary site cancers and the applicable specified periods of employment in the Commonwealth Safety, Rehabilitation and Compensation Amendment (Fair Protection for Firefighters) Act 2011 are:

- Primary site brain cancer—5 years
- Primary site bladder cancer—15 years
- Primary site kidney cancer—15 years
- Primary non-Hodgkins lymphoma—15 years
- Primary leukaemia—5 years
- Primary site breast cancer—10 years
- Primary site testicular cancer—10 years
- Multiple myeloma—15 years
- Primary site prostate cancer—15 years
- Primary site ureter cancer—15 years
- Primary site colorectal cancer—15 years
- Primary site oesophageal cancer—25 years

The scope of the research evidence considered by the Senate Committee about the work relatedness of cancer in firefighters, incorporated all firefighters, including volunteers. The Committee was satisfied with the scientific evidence demonstrating a link between firefighting as an occupation and the greater numbers of cancers (Senate Committee's report at paragraph 2.18).

The Commonwealth legislation sponsored by the Hon. Adam Bandt (Australian Greens, member for Melbourne), and co-sponsored by the Hon. Maria Vamvakinou, (Australian Labour Party, member for Calwell), and the Hon. Russell Broadbent, (Liberal Party, member for McMillan), was given broad support on the strength of the currently available evidence considered by the Senate Committee, evidence that is primarily limited to career

firefighters. When speaking about the proposed legislative amendments, the Hon. Adam Bandt stated that the legislation could be expanded to volunteer firefighters and to other groups that could demonstrate a science based case (House of Representatives, Consideration in Detail Debate at 31 October 2011, page 12,190).

The proposed amendments to the Workers Rehabilitation and Compensations Act 1986 are generally consistent with those introduced by the Commonwealth and recognise the considerable effort by the Senate Committee to establish legislation based on the best currently available evidence.

In the South Australian public sector, SAMFS firefighters are employed largely in urban contexts where they are exposed to structure fires. SAMFS also employs 'retained firefighters' who are employed on a part-time or as required basis in regional centres where they are called on to attend structure fires of the sort that were the subject of the Senate Committee's report.

The gap in the research relevant to carcinogen exposure during firefighting activities undertaken by volunteers, and the more general limited research applicable to the Australian context, will be addressed through the Australian Firefighters' Health Study conducted by the Monash University Centre for Occupational and Environmental Health. This study is expected to be completed by September 2014 and no doubt the outcomes of that Study and any new evidence will need to be taken into consideration at that time.

This Government is satisfied with the Senate Committee conclusions regarding the scientific evidence about the work relatedness of cancer in career firefighters. The Senate Committee concluded, in accordance with a number of studies which focused largely on urban based firefighters, that when a career firefighter, with a certain number of years of service, develops cancer, that cancer is most likely to be caused by occupational exposure to carcinogens.

The legislative presumptions that this Bill provides will also significantly reduce the emotional and financial burden that would otherwise fall on career firefighters and their families.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Operation of the measure will be taken to have commenced on 1 July 2013.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Workers Rehabilitation and Compensation Act 1986*

4—Amendment of section 31—Evidentiary provision

Section 31 as amended by this clause will provide an evidentiary presumption applicable to a worker who was employed by the South Australian Metropolitan Fire Service ('SAMFS') as a firefighter. If the worker suffers an injury of a kind referred to in the first column of Schedule 2A (inserted by clause 5) and the injury occurred on or after 1 July 2013, the injury will be presumed (in the absence of proof to the contrary) to have arisen from employment by SAMFS. The presumption will apply if the worker was employed as a firefighter for the qualifying period referred to in the second column of Schedule 2A opposite the injury and, during that period, the worker was exposed to the hazards of a fire scene (including exposure to a hazard of the fire that occurred away from the scene).

5—Insertion of Schedule 2A

This clause inserts a new Schedule. The Schedule lists the injuries that will be presumed under section 31 to arise from the worker's employment as a firefighter and specifies the relevant qualifying period in relation to each injury.

Schedule 1—Review of amendments

The Schedule requires the Minister to appoint an independent person to carry out a review concerning the operation and impact of the amendments made by the Act. The appointment is to be made as soon as possible after the fifth anniversary of the commencement of the measure and a report of the review is to be provided to the Minister within four months of the appointment. The Minister must then have copies of the report tabled before both Houses of Parliament.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

ELECTORAL (FUNDING, EXPENDITURE AND DISCLOSURE) AMENDMENT BILL

Second reading.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (17:01): 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.

In its last term this Government implemented a number of significant reforms aimed at restoring the fundamental principles of accountability, transparency and efficiency in government. The amendments contained in the Electoral (Funding, Expenditure and Disclosure) Amendment Bill 2013 ('Bill') further demonstrate the Government's commitment, introducing a number of significant and overdue reforms to South Australia's electoral laws designed to improve public confidence in the electoral process.

It is evident that community attitudes toward the political process have become increasingly cynical. A general mistrust exists, predominantly as a consequence of the spiralling costs of electioneering, the inherent reliance on private donations to fund political campaigns, and a lack of transparency existing in the financing of such campaigns.

The measures taken in this Bill will improve public confidence in the electoral process, directly addressing these concerns and integrating reforms that will ensure the highest standards of political integrity, accountability and transparency.

The amendments can be broadly categorised into three main components.

The first introduces a voluntary public funding scheme which will partially reimburse political parties, candidates and groups for political expenditure incurred during the campaign period. Specifically, candidates and groups will have the choice of opting into a scheme to receive funding and, as a condition of opting into the scheme, will be subject to prescribed limits on 'political expenditure' during a specified period of time.

The second outlines expenditure caps that will apply to those candidates, groups and parties who choose to opt in. For a general election, limits on expenditure will apply throughout the eight month period prior to polling day. The expenditure caps, in conjunction with public funding, will level the playing field, reducing campaign costs and the need for political fundraising.

The final, and arguably most pivotal of the reforms, is the introduction of a regulatory disclosure scheme, requiring all key political participants, including political parties, their associated entities, candidates, groups and third party campaigners to disclose certain financial information on a regular basis, including relevant details of all gifts and loans valued over a threshold of $5,000.

Unlike other Australian jurisdictions, South Australia currently has no legislative framework requiring financial disclosure. The establishment of a regulated scheme which exposes fundraising activities, will give the community access to meaningful information, and provide effective transparency of the fundraising activities of key political participants.

Third party regulation is a new and important element of this reform. For some time the anonymity that has existed in relation to third party campaigns has been of concern. Electors are not always able to easily identify the source(s) of funding of a campaign and are therefore left unaware of the driving influences behind the information being provided to them.

The Bill does not restrict expenditure of third parties as it does to those candidates, and their parties who may opt in to scheme. However, the Bill subjects third parties to financial disclosure obligations and requires disclosure of political expenditure, providing a framework which will enable the public to identify the contributions made by third parties. The Bill specifies that the amendments will commence on 1 July 2015.

I now turn to the details of the Bill.

Division 2 of the Bill establishes a scheme of reporting agents nominated by political parties, candidates, groups and third parties. A nominated agent establishes a point of contact for parties, candidates, groups and third parties and will facilitate legislative compliance.

Reporting agents will be responsible for ensuring compliance with the disclosure obligations in the Bill, including lodgement of financial and expenditure returns, a responsibility that carries criminal penalties for non-compliance. Any payment of funding will also be made to the agent.

To assist in the regulation of the expenditure and disclosure obligations, the Bill requires agents to establish and maintain a designated campaign account for State campaigns. The Bill requires all gifts to be paid into the account and prohibits parties, candidates and groups making other payments into the account other than those prescribed by regulation. To assist in the administration of relevant spending caps, all political expenditure must also be paid from the campaign account.

Division 7 of the Bill establishes the regulatory financial disclosure scheme, requiring all key participants to disclose, among other financial information, details of gifts and loans received within certain reporting periods that exceed the set threshold of $5,000.

A gift is broadly defined so as to capture a wide range of circumstances, and specifically includes money (excluding annual subscriptions and compulsory levies paid to a political party) and the provision of a service (excluding volunteer labour).

The scheme establishes two reporting cycles, one which applies outside the election period and the other throughout the election period, referred to in the Bill as the 'designated period'. The designated period commences

on 1 January in an election year, and ends 30 days after polling day. During this period, the frequency of required disclosure increases considerably.

An annual disclosure period applies to parties, associated entities and third parties outside the designated period. Agents of political parties, third parties and financial controllers of associated entities are required to furnish two returns relating to the financial year, disclosing general financial details, including the total amounts received, total amounts owed and prescribed details of all gifts and loans received, valued above the threshold. This includes details of aggregate amounts received in a single disclosure period.

Unlike parties, non-party candidates and groups will only be required to furnish one return setting out specified details of all gifts received outside the designated period. The reporting period for candidates and groups will vary depending on whether the candidate is a new candidate or a sitting Member.

As of 1 January in an election year, parties, associated entities, candidates and groups will all be required to furnish a return at end of January, and then on a weekly basis thereafter. Again, this includes specified details of aggregate amounts received in a single disclosure period that exceed the threshold.

The continuous disclosure obligations adopted during this period are necessary in the interest of promoting transparency and informed voting. The timeframes for furnishing returns ensure there will be no lag between transactions being entered into and their disclosure. In order to augment the effectiveness of such disclosure, the Commissioner will be required to make the details of gifts received publically available for inspection on a website as soon as reasonably practicable.

In addition to this, the Bill requires immediate disclosure of large gifts received by political parties. Accordingly, if a political party receives a gift that exceeds the value of $25,000, the party will have seven days to furnish a return to the Electoral Commissioner that includes information such as the name and address of the donor and other prescribed details.

Donors will also be required to furnish returns relating to gifts made. Their reporting periods mirror the entity they donate to, with the exception of the designated period. Upon receipt of a gift that requires the donor to lodge a return, an agent is obliged to inform the donor of their disclosure obligations.

The short-comings of disclosure schemes often relate to inadequate or insufficient information being disclosed, and most significantly, infrequent disclosure and late release dates for returns.

No other State jurisdiction requires the same frequency of disclosure leading up to polling day. The proposed reforms will ensure that every voter will be able to see the significant donations that have been made to every party before they cast a vote.

Further to this, the Bill addresses the issue of the purchase of political access. Both the major political parties in South Australia have been accused of raising funds by selling political access. Many in the community object to such practices, seeing them as an exclusive forum for discussions that only those in attendance are privy to. This perception is reinforced by the price of tickets.

The Bill will not inhibit the right of parties to raise funds through access events. It will not prevent those who wish to obtain access via these events from doing so. However, the Bill will make it unlawful to receive an amount of money exceeding $500 per person for entry into such an event.

Notwithstanding the prohibition on anonymous gifts valued over $200, the Bill does not place any restrictions on the amounts that can be donated, nor does it restrict who may make donations. Such restrictions carry an inherent risk of offending the implied freedom of political communication under the Constitution. Great care has been taken when drafting this Bill to minimise the risk of a challenge both in relation to the regulation of gifts and the application of expenditure limits.

Consequently, rather than imposing limits on expenditure on all persons and organisations incurring political expenditure, the Bill establishes a voluntary system of public funding in which those opting in will be required to comply with political expenditure limits during the capped expenditure period, which commences on 1 July and ends 30 days after polling day. The alternative scheme of imposing limits on expenditure on all persons and organisations has been rejected.

To 'opt in' to the scheme, agents of candidates and groups must lodge a certificate before a specified date. Party agents and agents for non-party members of parliament must lodge a certificate in relation to a candidate at least 24 months prior to polling day (this may be done, in the case of a party, even though a particular candidate has not been pre-selected). However, an agent of a non-endorsed candidate who is not a sitting MP or a non-party group that does not have a sitting MP as a member must lodge a certificate before 5pm on the day on which the capped expenditure period commences.

Funding is allocated on a 'per vote' basis. To be eligible a candidate or group must obtain at least 4 per cent of the primary vote or be, or have a candidate, who is elected.

Reimbursement is set at a flat $3 per vote for candidates endorsed by a party or group that had a sitting member of parliament going into the election or independent candidates who were sitting members of parliament going into the election, and $3.50 per vote for the first 10 per cent of the primary vote gained, and $3.00 per vote of the primary vote gained above 10 per cent, for all other candidates. These amounts will be indexed annually in accordance with the CPI.

Funding based on electoral support is the most equitable basis for calculating the eligible funding. The tapered scheme adopted in the Bill advances political equality by boosting the finances of legitimate minor parties

and reduces the significant financial advantage afforded to major parties in circumstances where one blanket figure is applied to a primary vote.

To address concerns of profiteering, a provision has been inserted into the Bill that enables the Electoral Commissioner to withhold funding if an amount of political expenditure incurred is less than the amount of public funding payable, or if the Commissioner is unable to adequately determine the amount of expenditure that was incurred. For expenditure incurred by a party or party candidate, the provision applies if the total amount of expenditure incurred by the party and party candidates was less than the total funding payable.

New section 130ZA sets out the different 'applicable expenditure caps' that apply to each participant. This is to recognise the political circumstances and nature of the different participants, ensuring the appropriate application of expenditure limits. The applicable expenditure caps will be indexed annually in accordance with CPI and are as follows:

Registered political parties

For a registered political party that is endorsing candidates for election in the Legislative Council only, a party cap of $500,000 applies.

A registered political party endorsing candidates in 1 or more House of Assembly districts is allocated a cap of $75,000 per district contested. For example, if a political party endorses candidates in 47 seats, the party will have a cap of $3,525,000. It should be noted that part of this cap must be allocated to a party candidate. If the party also endorses candidates in the Legislative Council, the party will receive an additional cap of $100,000 for each candidate (up to a maximum of 5 candidates).

This is intended to provide registered political parties with an additional 'state-wide cap' in recognition of the fact that political parties will conduct general political campaigns across the State of South Australia in addition to candidate specific campaigns.

There is no expenditure cap for a Legislative Council party candidate. Expenditure incurred by a candidate for the Legislative Council is taken to be expenditure incurred by the party.

Party candidate—House of Assembly

A party must allocate an amount (up to $100,000) of the party cap to each candidate for election in the House of Assembly. This allocation becomes the party candidate's applicable expenditure cap. The amount can be agreed between the agent and the candidate. If no agreement is reached, the assumed allocation is $40,000.

The Bill requires a copy of the agreement to be provided to the Electoral Commissioner.

The mandated maximum of $100,000 for a party candidate is designed to avoid significant overspending by parties in marginal electorates. To facilitate this policy aim, clause 130ZC requires an agent to ensure that the expenditure cap allocated to the candidate, and the expenditure incurred, relates to the election of the candidate only.

It is envisaged that the party cap will be used for 'general' electoral matter, whereas the candidate's cap will be used for electoral matter specific to a candidate and that district. There is an interpretive provision which provides that electoral matter 'relates' to a House of Assembly candidate if it:

- expressly mentions the name or displays the image of a candidate seeking to be elected in the district or expressly mentions the name of the district; and
- is communicated to the electors in the district; and
- is not mainly communicated to electors outside the district.

Non-party candidate—House of Assembly

The applicable expenditure cap for a non-party candidate contesting a seat in the House of Assembly is $100,000.

Non-party candidate/groups—Legislative Council

The applicable expenditure cap for a non-party Legislative Council group is $500,000 and $125,000 for a single candidate.

An agent is responsible for ensuring that expenditure is not incurred in excess of the applicable cap. If a party and/or candidate/group exceed their applicable expenditure cap, an amount of funding payable to the agent will be significantly reduced (by an amount equal to 20 times the amount of which the cap was exceeded). The Bill also contains a penalty provision (clause 130ZD) which applies directly to the agent, in the event they fail to ensure the applicable cap is not exceeded.

The strict consequences of an expenditure breach are necessary to compel compliance. Without appropriate and effective limits on political expenditure, public funding will fail to reduce reliance on private donations and merely contribute to expanding budgets, fuelling political overspending.

The definition of political expenditure in the Bill is deliberately broad, primarily relating to expenditure on the 'expression of views' on a political party or an issue in an election, producing material that requires the inclusion of authorisation details, and undertaking opinion polling and research.

The fact that expenditure limits apply to parties, candidates and groups only, raises concerns in relation to the operation of third parties and the potential for them to be used as an avenue by parties and candidates to circumvent expenditure caps.

To mitigate this risk the Bill contains a provision prohibiting a person from entering into an agreement or arrangement with a third party to incur political expenditure for the purpose of avoiding a cap. If found in breach of this provision, an agent will be guilty of an offence attracting a maximum penalty of $25,000. Once again, this strict approach is necessary to compel compliance and ensure established expenditure limits are effective and enforceable. The agent will also risk losing part or all of the entitlement to the funding.

All key participants will be required to furnish returns relating to political expenditure incurred during the capped expenditure period. Disclosure of expenditure by parties, candidates and groups enables the Electoral Commissioner to adequately determine the amount a party, candidate or group has spent for the purpose of enforcing relevant expenditure limits in addition to assessing whether or not they have acted in agreement or arrangement with a third party. It also provides a level of transparency to the public who will be able to inspect expenditure returns.

In addition to expenditure returns relating to the capped expenditure period, all participants, and persons incurring expenditure of more than $5,000 will be required to furnish an annual return outlining details relating to the political expenditure incurred. Persons incurring expenditure of more than $5,000 will also be required to furnish a return disclosing gifts received and used in whole or part, to incur political expenditure.

Clause 130ZW will require that all financial and expenditure returns be accompanied with an auditor's certificate. I note that in some circumstances an auditor's certificate may be provided at a later date with the permission of the Electoral Commissioner.

To assist political parties in meeting the proposed disclosure requirements, assistance funding will be provided to political parties for administrative expenditure incurred in complying with the Legislation. However, the assistance funding will only be made for expenditure that is actually incurred. A political party will not be paid 'in advance'.

The amount of assistance funding available will be $7,000 in the case of a party with 5 or fewer Members of Parliament and $12,000 in the case of a party with 6 or more Members of Parliament. Claims for assistance funding will also require an audit certificate.

This is an historic initiative. It is designed to address an extensively documented cynicism about special interests and financial interests that has plagued politics in other jurisdictions. Sunshine is the best disinfectant. The public will welcome transparency, openness and accountability in political campaigning, especially at times when politicking is at its height. The Parliament should welcome such initiatives.

I commend the Bill to Members.

The explanation of clauses will be included by the Office of Parliamentary Counsel.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal. The commencement clause provides that the Act will come into operation on 1 July 2015.

Part 2—Amendment of *Electoral Act 1985*

4—Insertion of Part 13A

New Part 13A sets out a scheme for the disclosure of campaign donations.

Part 13A—Election funding, expenditure and disclosure

Division 1—Preliminary

Division 1 sets out various definitions required for the purposes of the Part. A number of the definitions have been taken from the *Commonwealth Electoral Act 1918*. The objects of the Part are provided for. This Division also provides that nothing in the Part requires the disclosure of details required to be furnished to the Australian Electoral Commission under Part 20 of the *Commonwealth Electoral Act 1918*.

Division 2—Agents

Division 2 provides for the appointment of an agent for an *appointing person or body* (defined as a registered political party, candidate, group or third party that appoints an agent) for the purposes of this Part. A registered political party will be required to appoint an agent. A candidate who has not appointed an agent will be taken to be his or her own agent. If the members of a group are all endorsed by the same registered political party, the agent of the party is the agent of the group. A third party that is a natural person who has not appointed an agent

will be taken to be his or her own agent. Each member of the executive committee of a third party that is not a natural person and which has not appointed an agent will be taken to be the agent of the third party.

Certain processes with respect to the appointment of agents are set out. Division 2 also provides that the Electoral Commissioner will establish and maintain a *Register of Agents*. Processes to terminate the appointment of agents are set out. The Electoral Commissioner must be given notice of the death or resignation of an agent. Particular provision is made such that each member of the executive committee of a registered political party is to assume responsibility for the obligations of the party under this Part, including in a situation where there is no agent for the political party.

Division 3—State campaign accounts

Division 3 requires the agent of a registered political party, candidate, group or third party to keep a State campaign account. The Division provides for the regulations to prescribe what amounts may, or may not, be paid into a State campaign account kept by the agent of a registered political party, candidate or group. It also provides that agents must ensure that the registered political party, third party, candidate or group on behalf of which the State campaign account is kept does not pay an amount of money for political expenditure unless the amount is paid from its State campaign account.

Division 4—Public funding of candidates and groups for elections

Division 4 provides for public funding for elections. Candidates and groups are to receive funding based on the number of first preference votes received at elections.

No funding is payable to a candidate or group unless the candidate or group received at least 4% of the total primary vote in the relevant election or the candidate, or (in the case of a group) a member of the group, is elected.

Furthermore, no funding is payable unless the agent of a candidate or group has lodged a certificate agreeing to be bound by the applicable cap on political expenditure under the Part. The Electoral Commissioner must also be provided with satisfactory evidence of political expenditure of at least the amount of the funding to be paid (otherwise the amount of funding payable is to be reduced, or, if no evidence is provided, not to be paid).

If a person to who Division 6 applies exceeds their applicable expenditure cap under that Division, the funding amount payable to the person's agent is to be reduced by 20 times the excess amount (or will be reduced to nothing if the excess amount is actually greater than the amount of funding that would otherwise have been payable).

Division 5—Special assistance funding for political parties

Division 5 provides for special assistance funding for registered political parties for administrative and operational expenditure. Parties are to receive half yearly funding if at least 1 member of the party is a member of Parliament during the relevant half yearly period, the party was registered at the last general election and continues to be registered and the party's agent lodges a claim with the Electoral Commissioner. Claims must set out administrative expenses incurred during the period. Funding is paid for those expenses, up to a maximum (which varies depending on the number of members of the party in Parliament).

The Division prohibits the use of special assistance funding for political expenditure.

Division 6—Limitations on political expenditure

Division 6 provides for expenditure caps during the *capped expenditure period* (which is defined) for a registered political party, candidate or group that adopts an expenditure cap (by lodging a certificate with the Electoral Commissioner). As stated above, adopting an expenditure cap for an election entitles the adopting candidate or group (or, in the case of a candidate or group endorsed by a political party, the agent of the party) to payments for public funding in relation to the election (if relevant requirements under Division 4 are met).

Applicable expenditure caps for an election are fixed under the Division. The caps vary based on different factors, such as whether a candidate or group is endorsed by a registered political party or not, or whether the election is a general election or any other election. A party, candidate or group must not exceed the applicable expenditure cap during a capped expenditure period.

Division 6 also makes provision in relation to political expenditure by registered political parties and candidates that *relates to the election of a candidate* (an expression that is defined). In addition, a third party and a registered political party, candidate or group are prohibited from entering into an agreement for the third party to incur political expenditure during a capped expenditure period for the purposes of the party, candidate or group avoiding its applicable expenditure cap. Breach of the provision will result in the commission of an offence by the registered political party, candidate or group.

Division 7—Disclosure of donations

Division 7 sets out the requirements for the provision of returns by the agent for a candidate or group in relation to gifts and loans received during the disclosure period for the election. A return will be required to be furnished to the Electoral Commissioner at the prescribed times and must set out information specified in the Division. However, a return need not set out any details about a gift or loan of an amount or value of $5,000 (indexed) or less, or a private gift or loan to a candidate or group.

The Division will require a person who makes a gift or gifts of more than $5,000 (indexed) to a candidate or member of a group, or a *relevant entity* (defined as a registered political party, an associated entity or a third party) during the disclosure period to also furnish a return. A loan or loans to a candidate or member of a group of more than $5,000 (indexed) must also be disclosed.

Registered political parties must disclose 'large gifts' within 7 days of receipt.

The Division will also require relevant entities, candidates and groups to ensure that they know the names and addresses of people who make gifts the amount or value of which exceeds $200 (or a greater amount prescribed by regulation) or loans exceeding $1,000 (or a greater amount prescribed by regulation).

The Division also prohibits registered political parties from receiving an amount of money of more than $500 for entry to a *relevant event* (which is defined).

Division 8—Returns

Division 8 will require registered political parties, associated entities (as defined) and third parties to file financial returns at the prescribed times, including the particulars prescribed by the regulations.

The Division also requires registered political parties, candidates, groups and third parties to file expenditure returns for the capped expenditure period within 60 days after polling day for an election.

The Division will require a person who has incurred political expenditure totalling more than $5,000 (indexed) (or $10,000 (indexed) for third parties) in any financial year to also furnish a return for the financial year. In addition, the Division will require a person who is required to furnish such a return to furnish an additional return for the financial year in respect of gifts received by the person which were used during the financial year to enable the person to incur political expenditure or to reimburse the person for incurring political expenditure (provided that the amount of at least 1 such gift was more than $5,000 (Commonwealth indexed)). The Division also specifies that returns are not to include lists of party membership.

Division 9—Related matters

Division 9 includes provisions that ensure returns provided under the Part by relevant entities, candidates and groups are accompanied by an audit certificate. The Division also provides that members of the public can inspect any return filed under the Part and that will require the retention of certain records, as well as various powers of investigation for the purposes of the Part.

The Division also provides that, in the event that a person is unable to provide all information required to complete a return, the Electoral Commissioner will be able to require persons to provide information to assist in the preparation of a return. The Division also sets out a procedure for the amendment of a return. A decision of the Electoral Commissioner to refuse a request for an amendment will be reviewable under the Act. The Division provides for various offences in connection with the operation of the Part.

Division 9 also provides that a failure to comply with a requirement of the Part in relation to an election does not invalidate the election.

5—Amendment of section 139—Regulations

This clause amends section 139 to include certain regulation making powers for the purposes of the Act, including the power to fix fees, the power for a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Electoral Commissioner, and the power for the regulations to modify the application of proposed Part 13A in relation to the disendorsement of a candidate by a registered political party or for savings or transitional purposes.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

EVIDENCE (DISCREDITABLE CONDUCT) AMENDMENT BILL

Second reading.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (17:02): 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.

The *Evidence (Discreditable Conduct) Amendment Act 2011* ('the 2011 Act') made changes to the *Evidence Act 1929* (SA) governing the use of discreditable conduct evidence in criminal proceedings. The Act passed with all party support following an extensive consultation process and commenced on 1 June 2012.

The Act was intended to simplify what had become a complex area of the common law. Though the Act is a major advance on the previous common law position, one aspect needs clarification.

The 2011 Act requires a party seeking to adduce any evidence of discreditable conduct to give notice in writing to each other party in the proceedings in accordance with the rules of court. This requirement was drawn from the practice in the *Uniform Evidence Act* jurisdictions.

It has become clear that the inclusion of the notice requirement in the South Australian legislation is not necessary. Importantly, the removal of the notice requirement will not undermine a defendant's right to a fair trial. The court will still, as with any other type of evidence, have to be satisfied of the relevance and admissibility of the discreditable conduct evidence before a party will be able to lead such evidence.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Evidence Act 1929*

4—Amendment of section 34P—Evidence of discreditable conduct

This clause amends section 34P, with the effect that discreditable conduct evidence can be led without prior written notice being given by the party seeking to adduce the evidence.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE (PRESIDING MEMBER) AMENDMENT BILL

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

At 17:08 the council adjourned until Tuesday 15 October 2013 at 14:15.