LEGISLATIVE COUNCIL

Wednesday 16 October 2013

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 11:02 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) (11:03): I move:

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

Motion carried.

FIRST HOME AND HOUSING CONSTRUCTION GRANTS (ELIGIBILITY CRITERIA) 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) (11:03): Obtained leave and introduced a bill for an act to amend the First Home and Housing Construction Grants Act 2000. 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) (11:03): I move:

That this bill be now read a second time.

This bill introduces legislative amendments to the eligibility criteria for the Housing Construction Grant (HCG). Under the First Home and Housing Construction Grants Act 2000, only one HCG is payable in relation to a particular new home. In many cases, both the person who has a home built on their land (including the owner builder) and a subsequent purchaser of the same new home, may be eligible for the HCG.

The act allows the HCG to be paid to either party in recognition that the scheme was intended to provide maximum flexibility to the housing construction industry, enabling the HCG to be claimed in a manner that best suited the nature of individual transactions. While the act enables RevenueSA to disclose that a HCG has been paid on a particular property, it does not currently make provision for how competing applications for the HCG should be treated. This has led to a small number of cases where there have been disputes over who the HCG should be paid to when there is more than one application.

The amendments in the bill operate to ensure that, unless otherwise agreed between the parties, the purchaser of the new home should receive the HCG in these situations. The policy of the government has always intended to give the benefit to the HCG to the purchasers in these scenarios and the amendments in this bill provide for that outcome, so I commend the bill to the house. 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

This clause provides that operation of the measure will commence on 1 July 2013. If the Act is not assented to before 1 July 2013, it will be taken to have come into operation on that date.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *First Home and Housing Construction Grants Act 2000*

4—Amendment of section 18BAB—Housing construction grant

This clause amends section 18BAB of the Act by substituting '1 January 2014' for '1 July 2013', so that a housing construction grant is payable on an application under the Act (subject to the other requirements of the section) if the commencement date of the eligible transaction is on or after 15 October 2012 but before 1 January 2014. If the eligible transaction is a contract for an 'off-the-plan' purchase of a new home, the contract must state that the eligible transaction is to be completed on or before 30 June 2015 (unless the transaction is completed on or before that date). Currently, the section requires the contract to state that the eligible transaction is to be completed on or before 31 December 2014.

Schedule 1—Transitional provision

1—Transitional provision

A transitional provision is included to deal with the possibility of a person receiving an *ex gratia* payment to provide for a housing construction grant for the period between 1 July 2013 and the day on which the Act is assented to by the Governor. If a person is entitled to a housing construction grant in relation to an eligible transaction with a commencement date that is on or after 1 July 2013, and the person has received an *ex gratia* payment before the Act is assented to, the amount of the entitlement will be reduced by the amount of the *ex gratia* payment.

Debate adjourned on motion of Hon. J.M.A. Lensink.

ELECTORAL (FUNDING, EXPENDITURE AND DISCLOSURE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 October 2013.)

The Hon. R.I. LUCAS (11:07): I rise to continue the remarks I commenced yesterday afternoon in indicating Liberal Party support for the second reading of the bill. The Liberal Party's position, as I indicated, was that we supported the commencement of this being delayed until 2018 and the government's position, as reflected in the House of Assembly debate and voting, is that they now accept the logic of that particular argument.

There are two principal reasons. I touched on one which was at a time when we are looking at a billion dollar deficit and have just moved past a financial year where we had a deficit of about $1.2 billion, we are clearly confronting a budget crisis. At a time when we are cutting funding to hospices, community health programs, school programs and a range of important programs right across the board, to be saying to the people of South Australia that a higher priority to our funding is to fund political parties for an election campaign and that that is a higher priority than the non-hospital based services within health, for example, or the funding of hospices or the funding of a paediatric ward at Modbury or the funding of obstetric services at Millicent, we think is not likely to attract too much support from the community. That is one reason.

The second reason is a more technical and administrative reason for some parties. For our party (and other representatives can speak on behalf of their own parties) the complexity of the legislation to be imposed on candidates and political parties in the future will be a quantum step above the level of complexity that already exists at the moment. The increasing requirements for what is in the end weekly reporting of contributions and particular issues such as the aggregation of donations in a financial year above a level of $5,000 will make it extraordinarily complex for parties which are decentralised, such as the Liberal Party.

If I can give you an example: in the Liberal Party we have up to a couple of hundred of branches and bodies—it is not just branches; it includes state electorate committees and federal electorate committees as well—that conduct their own finances and administration and also run their own cheque accounts and investment accounts as well, and some of their funds are locked up in investment accounts. In those particular circumstances, under the current arrangements a particular person who might make a donation to the Ceduna branch of the Liberal Party for $2,000, then makes a donation to the City of Adelaide branch of the Liberal Party for $2,000, and then makes a donation to the Naracoorte branch of the Liberal Party for $2,000 at three-monthly intervals through a financial year, under the proposed terms of this legislation will go above the $5,000 disclosure level. Under the current arrangements, clearly a donation of $2,000 to each of those branches accounted for during the financial year does not have to be disclosed.

Under our current structural arrangements, the person who would ultimately be sent to gaol if there is an offence (our state director) is not in a position of knowing that a donation is being given by a person to the Ceduna branch in July of the year, then a donation to the City of Adelaide branch in September of the year, and then a donation to the Naracoorte branch in March of the following year, but still in the same financial year. The only way that could potentially be known is

when the end of year financial accounts are produced in July at the end of the financial year when there is currently some centralised collection of that sort of information.

From our discussions with Attorney-General Rau, the Labor Party's position is centralised where that sort of circumstance is either immediately known or readily accessible to the central headquarters of the Labor Party. That does not exist within the current arrangements of the Liberal Party.

When you move to a position of anything more regular than annual accountability of six-monthly reporting, then three-monthly reporting and, just before the election period, weekly reporting, then I suspect it is physically impossible to keep our state director out of gaol if we are to have this particular arrangement implemented in the proposed time frame. This will be an issue we will have to work our way through if the legislation passes for 2018. We will have to move to a system either akin to the Labor Party's or much closer to the Labor Party's which is centralised accounts or some centralised accessibility of accounts. In relation to the administrative arrangements, we will have a position where it is impossible under our current arrangements in the Liberal Party to be aware of when someone goes above that particular aggregate figure.

There is additional complexity as well—and I guess we will tease this out in the committee stages—in relation to issues such as auctions, and there are new accountability arrangements in relation to that. As I understand it (this needs to be clarified), if someone donates an auction item that counts against the $5,000 donation as well, so you have the issue of determining the value of an auction item. Some things are relatively clear in terms of what the value might be, but there might be a week's stay at someone's beach house, accommodation house or whatever it might happen to be, where they have not established a market value for that.

Someone will have to, in essence, value the auction item and then see whether that is enough to take someone above. If someone has donated $3,000 and then donated for an auction a week's stay in my house on Kangaroo Island, what is the value of that and does that take it above $5,000 in aggregate terms over a 12-month period? So, there are some complexities in relation to all that.

There will need to be not only centralised record keeping of donations, for which I assume the Labor Party will have a more accessible model, but I suspect that the Labor Party, from my discussions with some Labor members, does not record currently the accepted value of donations for auctions, for example. Somehow all parties, if my reading of the legislation is correct, will have to come to administrative arrangements that are acceptable within the terms of these provisions as well.

What I am not yet clear on (and I guess the committee stages will provide us with an answer) is whether someone who bids at an auction, as many of us have attended, for a dinner for two with the Premier of South Australia and pays $2,000 for it, is that a donation and will it be included in the $5,000? I am not clear in relation to that, but if it is that will add another degree of complexity to all parties in relation to whether or not you go above this $5,000 level over a 12-month period.

Whilst a key reason for not supporting its starting in 2014 is clearly the budget crisis we are confronting (and I have outlined that), the second reason is the complexity that is required, with significant penalties for your responsible officer if you breach provisions of the disclosure requirements. Clearly, everyone will have to get their head set around what these arrangements mean for things that have been long-accepted practice within political parties and in terms of fundraising for candidates and for political parties. That is going to require information, it is going to require training of volunteers, it is going to require training of admin officers, and it is also going to require training of Electoral Commission staff.

I think the member for Davenport outlined the discussions he had with the New South Wales Electoral Commissioner in relation to the extensive training that was required in New South Wales and what will be required in South Australia for the Electoral Commission staff as well. I have not had a discussion with the Electoral Commissioner in South Australia, but I would be amazed if her view was not that this is a significant issue for her and her staff and that it would be an enormous task if the parliament were to say in October of 2013, 'You are to implement straightaway the provisions of this legislation, and you are going to be the ones answering all these sorts of questions coming from candidates and political parties, prior to the March 2014 election.'

I have only highlighted two or three examples of the complexity of the legislation which I suspect not too many people in this chamber, or perhaps even in the other chamber, have got their

head set around in terms of what, in the end, the implications will be when it is implemented. As I said, those who should concentrate their attention the most will be the responsible officers in the political parties because they are the ones the penalties will fall upon and they are the ones, in the end, who might end up in gaol for significant breaches of the new requirements.

Another aspect of the legislation is a threshold of 4 per cent. As the member for Davenport outlined, this is a pretty uniform threshold around the nation. There has been, as a result of amendments moved by the member for Davenport, some agreement between the government and the opposition in relation to the special circumstances of members of parliament who have been elected in the past on less than 4 per cent of the vote, in terms of entitlement to reimbursement.

Amendments moved by the member for Davenport to change the dollar per vote arrangements were also, as I understand it, successful in the House of Assembly debates so that the arrangements that are before us today are closer to the federal funding arrangements, although not exactly the same, than the original proposal from the Labor government in South Australia.

The next area on which, originally, there was a significant difference of opinion—but it has now been, mercifully, resolved (and this perhaps says as much as anything about the Labor Party's state of mind as it enters the 2014 election)—is that the government was seeking to cap the maximum payments under the legislation to 35 per cent of the primary vote. So, if a party polled more than 35 per cent of the vote—if it polled 45 per cent of the vote, it would not get 45 per cent worth of the entitlements under public funding—it would be capped at the 35 per cent level. The Liberal Party strongly opposed that.

Certainly, the arrangements in the commonwealth are that, if you get 40 per cent or 45 per cent of the vote, you are not capped at 35 per cent. Our understanding is that, in most if not all the other jurisdictions, that is the same as well, so the government changed its original position and my advice is they have now accepted the general arrangements that occur around the nation.

The next issue is in relation to the disclosure requirements. The current disclosure requirements federally are $12,400. Essentially, if you donate up to $12,400, you do not have to disclose. I would have to say that, whilst this is a position that has been adopted by both federal Labor and federal Liberal, I think, my personal view has always been that that has been too high a disclosure level, and I am pleased to see that the government and the Liberal Party in South Australia have supported the reduction of that disclosure level to $5,000. So, that is certainly a stronger disclosure regime. As I indicated earlier, the closer you get to an election, the more regular is the required reporting on that provision, to the stage where it gets to weekly.

Given that we do have, potentially, up until 2018 the opportunity to further refine this legislation, whoever is in government after 2014, this is one of the issues I suspect will need closer consideration because, in the middle of a four-week election campaign, the capacity for mistakes to occur, with potentially significant penalties, are just enormous.

Many of us have been involved in our political parties during the four weeks of the election campaign, and by that I mean within the central administration, the fundraising, the accountability, etc. They are not places for cool, calm and considered decision-making. They are times of frenetic activity in political parties. I suspect that it is the same in minor parties and for Independent candidates as well; I guess less so because you potentially have less complexity.

For those parties, for example, such as the Greens and Family First, which are running 47 candidates all over the place, together with the Legislative Council team, your responsible officer is going to be responsible for whatever it is that each of those doing and taking in donations or taking in auction items. Your responsible officer is the one who will go to gaol if two or three of those take you above the disclosure limits and you have not reported them within the seven days—no, I do not think they would go to gaol for not reporting them within seven days; I would need to check what the penalties are. But there will be clearly penalties for some of the offences; I guess we will need to tease this out in relation to it, but clearly there would be some penalties that relate to breaches of those provisions.

This whole notion that there is some easy mechanism during the frenetic period of a four-week campaign to be making sure that no mistakes occur on a seven-day regular period is, to use the words of Sir Humphrey, 'a courageous assumption, a courageous decision', I think, by those who have drafted the legislation. At this stage, the government is proposing it, and at this stage the Liberal Party is supporting it, and it is likely that the legislation in this form will pass.

I think that one of the other advantages of having it delayed until 2018 is that whoever is elected in 2014 will have the capacity, prior to the start-up of the legislation in 2015, to reflect on it in the cool, calm light of day, have a look at what they have just been through in an election period and then decide whether or not the parliament will agree to some tweaking of the legislation. I say that not with the authority of the Liberal Party. It is not the Liberal Party's position; it is just a personal reflection based on personal experience of political parties in election campaigns over a long period of time.

It is not just that area; I think that there are other aspects of this legislation about which, on mature reflection, and with the recent experience of an election campaign, people might say, 'If this had actually applied during this campaign, we would have had to have done this, this and this within this time frame. How would we have done it and, if we have to do it in 2018, how we will achieve it?'

If you can find a way of achieving it, great, but in the end I suspect there will be some examples where both major parties are going to say that in the mature light of day, whilst parliamentary counsel, ministerial staffers, others and state secretaries who draft this legislation thought that it would work okay, when you actually look at the practicalities, it is not as easy as perhaps some have envisaged it being in terms of practical operation. I am not going to delay the second reading by going through many other examples, but many others spring to mind in terms of potential issues. I think it is a third reason why the position that is being put to the house of not implementing it for 2014 but in 2018 makes so much sense.

The next issue of significance within the legislation is placing a restriction on the ticket price for political events where it is advertised that people are going to get access to a member of parliament, a minister or their staff. The Liberal Party is supporting that particular restriction. As Attorney-General Rau said, it is one of the trade-offs that the public will get in terms of greater transparency and accountability for the cost of funding political parties through public funding.

Again, there are a whole series of questions which I will not raise at the second reading in relation to this particular issue, but given the work a number of members of this house have done, including myself, in terms of this issue as it relates to access to current Labor government ministers and the reasons why donors have indicated why they sought access, it is clearly a needed reform. I would be surprised whether any of the non-government members in this chamber would oppose the direction of this change and the need for this particular change. As I said, I think the work through FOI and other means that a number of members in this chamber have done over the last few years in relation to past circumstances indicates there is a crying need for some restriction in relation to this particular aspect of the law.

One of the issues that I had not understood in terms of our considerable briefings but that the member for Davenport has put on the public record, and I do not see that it has been rebutted by the government but I guess we will leave that for a confirmation from the government, is that he has indicated that if someone does pay $500 or $300 or whatever it is towards a political dinner or lunch where it is advertised that a member of parliament is going to be, that $300 or $500 must be counted towards the $5,000 aggregate donation disclosure limit.

Obviously, that adds another degree of complexity because I am not sure what the accountability arrangements are within the Labor Party but over the years some of the discussions I have had with Labor members indicate—and I do not know whether it is still current practice, and it is certainly the same in the Liberal Party—if you are attending a $300 or $250 lunch or dinner, you can pay by credit card if you want to, you can pay by cheque if you want to, but you can also pay by cash if you want to. Because it is beneath the current disclosure limits of $12,500 it will still be below the disclosure limit of $5,000 under this. In many cases branches would not record by way of an official receipt or invoice the name, address and contact details of the person who provided it. There might be a name written down somewhere, you know, Fred Smith, or whatever, on a list, but that certainly would not be kept and forwarded and recorded in some sort of central registry in the Liberal Party as to someone who has paid $250 or $300 by way of cash to attend a lunch or a dinner.

As I said, from my past discussions with members of the Labor Party that was certainly the arrangement in the Labor Party as well. That might have changed in recent times, I do not know, but the situation is that if the member for Davenport is correct that the $250 or $300 counts towards the $5,000 then somehow your accounting arrangements are going to have to take into account a straight out donation, and not only the true market value of the auction item you have donated to a party in the 12-month period but also the total value of lunches and dinners that you might have

gone to—I am assuming above the level of $200 but we need to clarify that with the minister—because all of those three elements over a 12-month period need to be aggregated and as soon as you go above $5,000 you need to declare it at the next disclosure point.

If during an election period someone is teetering on $4,900 and therefore does not have to disclose but then goes to a dinner in Whyalla and pays $250 to talk to the parliamentary leader of Family First, the shadow minister for health, or whoever it happens to be, that $250 will take you above the level of $5,000 and within a week your account keeping needs to be able to disclose that to the electoral commissioner.

The central repository of all information is going to have to have all of that information literally on a daily basis with instant access, which means that all of our volunteers—and these are not paid people—who are organising fundraising functions, etc., across the state need to have the same sense of urgency as a full-time paid public employee might have in terms of disclosure and accountability requirements. As they take the auction item there will need to be a valuation and then it will need to be forwarded quickly through to the responsible officer to see whether or not it takes you above $5,000.

As you take a $250 cash donation from somebody, it will have to be disclosed with enough detail so that if the Ceduna branch of the Liberal Party takes $250 from Dennis Smith, that it is the same Dennis Smith with the same address or the same identifier who has previously donated in two or three other sections of the Liberal Party over the previous 12 months which will take Dennis Smith above the $5,000 limit. So, just sending 'Dennis Smith, $250' will not be sufficient in terms of meeting the disclosure requirements for the responsible officer and the political party. Again, another element of the complexity of the legislation.

For some offences, as I inferred earlier, the penalty is up to 20 times the amount of overexpenditure. The other element in this is that there are expenditure caps within the funding system, or within the legislation. Essentially, there is an expenditure cap of $75,000 per state electorate and if you multiply that by 47 you get close to the $3.5 million. There is an expenditure cap of $500,000 for parties contesting the upper house, and there are some complex elements of that. So, in ballpark terms, there is an expenditure cap for the bigger parties of about $4 million in terms of what you can spend as a political party in the period from the July prior to the March election date, essentially 8½ to nine months during that particular period.

There are some other tweaks to that which mean that you can, with the approval of candidates and various other approvals, spend, in some circumstances, up to $100,000. The big parties and the marginal seats, you would imagine, would be seeking to comply with those arrangements to allow spending of up to $100,000 in the more marginal seats. There are some tweaks which allow you to reduce the expenditure in other seats. I am not entirely clear how low you can actually go, but there are certainly arrangements where you can take it down to $40,000. There is a minimum requirement of $40,000, and I think you can only go lower than the $40,000 if the candidate agrees. I must confess that my understanding of how these particular provisions work is not perfect. It is one of the areas in the committee stages on which I will be seeking clarification from the minister.

It certainly does provide some flexibility in all the cases to prevent party headquarters from doing over candidates that they do not particularly like. It does require the agreement of the candidate to go below a certain figure having to be spent in terms of their expenditure cap in their particular electorate. If you overspend by $1,000, the penalty is twenty times that amount, so you are penalised $20,000 for every $1,000 overexpenditure and that comes off your payment. You do not get paid and then you are penalised; it is just netted off your payment.

The other key feature of this is that it is an opt-in system. It is a little akin to the United States system, where if a party wants public funding it has to opt in at a certain period of time a couple of years out. If you do not want public funding, then you can go your own way in relation to some aspects of the legislation. If you are confident enough, for example, if you are Clive Palmer or someone like that, you have plenty of money and you do not want to rely on public funding, then you do not have to opt in, and you can choose the set of circumstances in relation to which, for certain provisions of the act, you want to say, 'We will go it alone.'

There are other provisions of the legislation which will still apply, but it is a decision for the political parties to take as to whether they opt in or whether they do not. We understand the advice from the government is that this opt-in is an important legal principle to help get around some of the

potential legal issues in relation to this type of legislation, some of which, as I indicated, are being tested in the High Court in New South Wales as we speak.

The final issue is the one I referred to briefly yesterday and I will not go over it again. It is the complicated area of third party expenditure. There are some complicated provisions in relation to that particular area. I think both the government and the opposition would argue that this is the best endeavour by this parliament to try to tackle this issue, but that it is imperfect. I do not think there is a perfect solution without impinging on the right of political expression or free speech by people in relation to their political views.

It is an area which I am sure will be tested by particular groups and I guess only time will tell as to whether solutions are found in other jurisdictions or in South Australia in relation to what might be seen by the media, the community and politicians as being abuses of the third party provisions in support of a particular party or candidate. With that, I indicate the Liberal Party's support for the second reading of the legislation.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (11:44): I thank the honourable member for the debate on this bill and look forward to the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: I have indicated that the government on its priority list indicated that it wanted this legislation through this week. I have indicated to my whip, and I indicate now to the Legislative Council, that I am quite happy for this bill to be processed today, but I am not in a position to conclude the committee stage this morning. I have an engagement I cannot get out of in 10 minutes' time at 12 o'clock. I am quite happy to return to conclude the debate in the committee stage this evening and put it through. Up until halfway through my contribution I had been advised the Hon. Ms Bressington was moving an amendment—

The Hon. A. Bressington interjecting:

The Hon. R.I. LUCAS: No, I said up until halfway through my contribution, that is why the Hon. Mr Dawkins took me aside. Up until halfway through my contribution I had been advised the Hon. Ms Bressington was moving an amendment and that the government and the member for Davenport were having discussions in relation to the amendment. I had no idea what the amendment was about in relation to it. I have not had a chance to have a discussion with the member for Davenport, but I have had a quick note that evidently the Hon. Ms Bressington is not moving it and, anyway, the government and the opposition were not going to support it.

So, Mr Chairman, until my engagement at 12 o'clock, I am happy to continue with questions in relation to the early clauses of the bill, but I am flagging that at 12 o'clock, if the minister will not agree to continue and to conclude the debate this evening, I will move that we report progress. I do not think it is an unreasonable position to put. We only commenced the debate on this yesterday afternoon in the Legislative Council. There is agreement between the government and the opposition in relation to the passage of the bill evidently by this week, but now the minister is insisting that it be done today. I am happy to comply with that as well, but I am just not in a position to be in the chamber from 12 o'clock.

Can I ask at the outset whether the minister would prefer to have some general questions at clause 1 in relation to aspects of the legislation that were raised in the second reading? Normally, the minister replies to questions at the conclusion of the second reading speech. I noted that he did not do so in relation to questions that I put. What is his intention, given that he did not reply at the end of the second reading? Can I seek a response from the minister, under clause 1, as to what he intends to do in relation to the questions?

The Hon. I.K. HUNTER: My position would be to pursue this legislation now, but given the commitments that the honourable member has, and given his indication that he is prepared to deal with the bill later today, we are happy to take general questions now and come back with those answers when we continue to deal with it later today.

The Hon. R.I. LUCAS: I thank the minister for his willingness to assist the passage of the legislation and I repeat the commitment. I have a general question, and I do not have the notes of

the member for Davenport with me, but as I understood it the minister in this house was going to give, on behalf of the government and the Attorney-General, some verbal commitment in relation to regulations which the member for Davenport had indicated. I note the minister has not given that commitment at the close of the second reading. Obviously, he does not appear to have that commitment for clause 1. Is the minister intending to do what the member for Davenport has outlined to me he is meant to do on behalf of the Attorney-General? If he is, is he prepared to do that at this stage?

The Hon. I.K. HUNTER: No, Mr Chairman. What I propose is that the honourable member put on record his questions and we will come back with that information, and answers to his other questions, later today.

The Hon. R.I. LUCAS: This particular question that I have just put is not a question for me; it is a discussion, as I understand it, between the Attorney-General and the member for Davenport and a commitment from the Attorney-General to the member for Davenport. The member for Davenport said to me we wouldn't be moving an amendment in this house because the Attorney-General had satisfied him that you would, on his behalf, give a commitment. If you are unwilling to do that then I will need to have a discussion with the member for Davenport, I guess, as to what our position should be. But as I understand it, this has been an agreed position between the Attorney-General and the member for Davenport.

The Hon. I.K. HUNTER: My advice is that the information the honourable member is requesting has been taken into account in discussions between the government and the opposition and will be addressed through an amendment standing in my name, at 130Y, at clause 4, page 21, after line 42.

The Hon. R.I. LUCAS: My advice is that the Liberal Party is supporting the amendments that the government is moving. The minister is saying that he does not believe that, over and above the amendments, there is any verbal commitment in relation to regulations that Attorney-General Rau has given to the member for Davenport. That is not the advice the member for Davenport has given me. He is saying that the amendments are one thing, but the reason why we are not moving an amendment in this place in relation to some issue in relation to regulations is that the minister, on behalf of the Attorney-General and the government, was going to give a commitment on the issue.

The Hon. I.K. HUNTER: My understanding is that a commitment on behalf of the government has been given to the member for Davenport. As I expressed earlier, I will address that issue when we come to consider the amendment to 130Y and I will give the explanation as to why that amendment has come about, and make some comments about regulations which have been agreed to between the government and the member for Davenport.

The Hon. R.I. LUCAS: Is the minister now saying that in the debate on that amendment he will be giving the commitment on behalf of the Attorney-General?

The Hon. I.K. HUNTER: My answer is yes.

The Hon. R.I. LUCAS: That was a long-winded way to go about it. If the minister had been able to say yes earlier we could have expedited the last four minutes of discussion. I am not sure whether the minister wants me to repeat these questions, which I raised in the second reading. One of the issues I raised was the issue in relation to auctions and to seek further advice from the minister later today, and that is, in relation to auctions, is it firstly correct that the value of the auction item, one would assume above the threshold of $200, needs to be included in the $5,000 disclosure requirement? If that is the case, what is the government's advice to candidates and to parties in relation to the striking of a value for some auction items?

I gave an example of one where there might not be a readily identifiable value. I am sure the minister and the Hon. Mr Maher, who have both had experience of administration within parties, would know the length and breadth of variety of donations that supporters might give you for auction items over the years, but the example I gave was where there is not a market for your property at Kangaroo Island, because you have never rented it out before, but you have said to somebody, 'I'm prepared, during the Christmas holiday period, to give you a week's holiday at the Kangaroo Island beach house,' or whatever it happens to be. How does the Kangaroo Island branch of the Liberal Party (or Kangaroo Island branch equivalent of the Labor Party) immediately, on a seven-day basis, strike a value that is defensible with the Electoral Commission for that particular auction item, if it is included in the $5,000 (and that is certainly the way I read the contribution from the member for Davenport)? I think the minister is taking my questions on notice.

The other issue then in relation to auction items—and I gave the example of a dinner for two with the Premier being one of the auction items—is where someone pays $1,000, so it is less than the $5,000 disclosure limit. Most people would probably say the value of the food to be had between the Premier and the donor would be less than that, $100 or whatever it might happen to be. Is it the intention of the disclosure regime that the net value of the donation, in essence, has to be accounted for as part of the $5,000 disclosure regime being implemented?

Clearly again, as the minister and Hon. Mr Maher would know, if that is the case, it would certainly add a degree of complexity, particularly when we are talking about seven-day turnarounds during the four weeks of an election period. The minister in charge of the bill in this house has regaled me in the past with some examples of donation arrangements in relation to his own party, and he has probably chuckled at some of the examples I had in relation to mine, and neither need go on the public record. Suffice to say that the arrangements under the new disclosure regime for 2018 will place considerable additional complexity and requirements on the responsible officers in the political parties. In his case it will be the state secretary and in our case the state director of the Liberal Party. Given that I have to go to an engagement at 12, they are the general questions. The others I am happy to raise during the committee stage of the debate this evening.

Progress reported; committee to sit again.

STATUTES AMENDMENT (POLICE) BILL

In committee.

(Continued from 26 September 2013.)

Clause 9.

The Hon. S.G. WADE: I would like to draw members' attention to the fact that I will not be moving [Wade-1], as [Wade-2] is the updated version of that set. I move:

Amendment No 1 [Wade–2]—

Page 6, line 10 [clause 9, inserted section 41B(2)]—Delete 'may' and substitute 'will'

There are two amendments but, basically, one is consequential on the other. The bill proposes that a member of SAPOL may be required to undergo alcohol and drug testing in any of the following circumstances:

- for cadets and officers, following a critical incident, that is, where a person is killed or suffers bodily injury while detained by SAPOL, or where a firearm or taser is discharged, or where physical force is used;
- following high-risk driving as defined in the police operational code;
- where there is a reasonable cause to believe recent consumption of alcohol or drugs is noticed while on duty; or
- where a police officer applies for a classified position, such as special tasks and rescue group, major crash, surveillance team, witness protection or a position on the APY lands.

A person who is applying to join SAPOL may also be required to submit to a drug and alcohol test.

SAPOL advise that, following a serious incident, it is already common for police officers to volunteer to be tested for alcohol and drugs to avoid any potential issues in the future. A drug for this purpose is defined under the Controlled Substances Act and details of the procedures relating to testing are determined in regulations.

I would ask the committee to note that other jurisdictions do provide for alcohol and drug testing of police officers, and they do so in the following circumstances. In New South Wales, it is mandatory in certain circumstances and there is random testing of any on-duty police officer, with approximately one in three officers being randomly tested each year. In Victoria, there is mandatory testing in certain circumstances and random testing of police officers in high-risk units. In Queensland, there is mandatory testing in certain circumstances and there has been ongoing consideration of random testing. In Western Australia, there is mandatory alcohol and/or drug testing in certain circumstances and the same situation applies in Tasmania.

The opposition's view is that, in the circumstances named in clause 9 and more specifically proposed in section 41B(2), these tests should be mandatory unless it is not possible to do so in

the particular circumstances. It should not simply be discretionary for these tests to be conducted. Accordingly, the amendment I have moved would replace the word 'may' with 'will'.

I refer members, in considering amendment No. 1, to consider amendment No. 2 because that provides the commissioner with the ability to determine that specified members or cadets should not undergo testing because it was not warranted for that incident. The second amendment is proposed in response to concerns raised with the opposition following consultation with the Police Association. The association expressed concern that some operations may involve a large number of officers in a range of roles, such as STAR Force, forward tactical and LSA commanders and their assisting staff, police cordons, traffic control, negotiators, crime scenes, CIB investigators, psychologists, dog handlers and welfare officers.

It is possible that proposed section 41B(2)(a) may be interpreted to say that all officers involved in an operation where a critical incident occurred would need to be tested, as opposed to those who were actually directly involved. In fact, we intend that the provision should apply only to those directly involved. We would suggest that the opposition amendment not merely raises the expectation towards mandatory; it also provides an appropriate focus in the testing. We do not need every person who has anything to do with the case to be tested; it is those who may be directly involved.

The opposition considers that these are reasonable amendments that promote accountability for making it the default position that officers directly involved should be tested, whilst limiting any unnecessary inconvenience and expense by allowing the commissioner to focus the testing.

The Hon. G.E. GAGO: The government rises to oppose this amendment. The government acknowledges that compulsory testing does exist in some other organisations and industries. Equally, in many industries testing is done on a random basis or, if it is as a result of an incident (perhaps an industrial accident, for example), only one or two persons need to be tested (for example, the actual plant operators involved perhaps).

For example, drug and alcohol testing is a requirement within the Rail Safety National Law Act 2012; however, its provisions merely require a rail safety worker to submit to a drug and alcohol test at the request of an authorised officer. In the event of a major incident occurring, which might involve many rail safety workers, the authorised officer can simply limit testing to those workers deemed appropriate. No compulsory testing applies; it is left to the discretion of an authorised officer.

Perhaps I can give you an example, if this amendment were to be successful, of the sorts of unintended circumstances it could result in; say, for instance, a siege is an example of a police action. Police instructions and procedures regarding the handling of operations such as these are comprehensive and require close adherence in an endeavour to ensure the safest possible outcome for police, the offender, victims and obviously any of the public who might be affected.

Consequently, many people can be involved: the special task force and rescue police at the immediate scene; forward tactical and local service areas commanders and their assisting staff; general police concerned with cordoning off and containing outer perimeters at the greater siege scene; specialist officers, including negotiators, crime scene forensic investigators, criminal investigators, psychologists, dog handlers, welfare personnel, general support staff. All of these police officers will be considered, if this amendment goes through, to be directly involved in a critical incident, as provided in section 41B(2)(a) of the bill.

Arguably, also having direct involvement, even though not at the immediate scene or environment, could be an overhead helicopter crew and police, communication centre personnel, for instance. If a person is killed or seriously injured at the siege, the imperative, in the proposed amendment, will oblige all of these people to be drug and alcohol tested. It may very often be unnecessary, impractical, inappropriate and not in the intended spirit of the bill to have all of the abovementioned people tested for every incident. By retaining the option 'may' in the bill the commissioner can provide flexible instructions that will better determine who should be tested, determine it on relevance and a case-by-case basis.

Another scenario in this category would be a search for an escapee or an offender in remote bushland. In total, several hundred police may be involved to varying degrees. If the proposed amendment were enacted and the pursued person was ultimately killed or seriously injured, all persons involved in the search regardless of their proximity to the offender's eventual death or injury would be compelled by this amendment to undergo drug and alcohol testing. This is

not considered necessary. It is considered to result in potentially inefficient practices, ineffective practices and very expensive practices.

The Hon. S.G. WADE: With all due respect, I thought the minister's comments were perhaps more relevant to the original set of the amendments rather than the current set.

The Hon. G.E. Gago interjecting:

The Hon. S.G. WADE: No, sorry; no, I am not trying to mislead. What I mean is that if I understand the minister's argument correctly, she is concerned that the mandatory testing catches a whole range of officers who are not directly involved in the operations. Our view is, and it may be that the minister still takes the view even with our revised amendment, that it still catches too many people. However, our view is that [Wade-2] 2 addresses the particular mischief the minister is referring to, which is that on a broad interpretation because it was mandatory and the provision would catch a whole series of officers who are not directly involved, therefore it is not appropriate that they be tested.

With that particular mischief in mind, the opposition developed [Wade-2] 2. I appreciate I am not moving that now but they are related amendments and I think they cannot be understood one without the other. The only reason we believe it is reasonable to move [Wade-2] 1, and therefore make it mandatory, is that [Wade-2] 2 provides a new subsection (3) which would allow the commissioner to determine in the case of an involvement in a critical incident that the involvement of a specified member or cadet (or a member or cadet of a specified class) is such that drug and alcohol testing is not warranted. In relation to subsection (b) it says that in any event mandatory testing would not be required if it were not possible in the particular circumstances to conduct the testing in accordance with the regulations. So we believe that putting the discretion in the hands of the commissioner, if you like, to identify the focus means that it is appropriate that we provide mandatory testing.

The minister quite rightly said that mandatory testing is not used in all circumstances and all industries, but I remind members of the point I made in my comments in moving the amendment. In almost every state of Australia there is mandatory testing of police. To suggest that mandatory testing is inappropriate in the police sector is not consistent with the legislative regimes in other jurisdictions. I actually think it supports police and the community's confidence in the police if it is mandatory, then in terms of those who are directly involved there are no questions asked and the testing would occur.

In that sense it makes it easier for the police officer's superiors to implement testing because there is not a question about whether there is any implication of wrongdoing or doubt on the part of those superior officers. They just say this is what is required by the legislation. As I said the commissioner can provide a focus, but for those who are directly involved there is no inappropriate or negative imputation by them being asked to submit to testing. I believe this supports community confidence in the police force. It supports appropriate management support. Our discussions with the Police Association were that they were much more comfortable with amendment 2 [2] rather than amendment 1 [2], but I appreciate that the Police Association does not speak for the police.

In any event, we would urge the council to look favourably on our amendment. My view is that it already provides the commissioner the power to provide the focus in terms of the testing to make it practical and not cost prohibitive. If there is an opportunity to empower the commissioner in a better way to provide that focus we would certainly be open to that, but we do believe that it is appropriate and helpful for the police for this element to be mandatory.

The Hon. G.E. GAGO: I thank the honourable member for his additional explanation. I have a question, which is: what is the difference between determining 'not warranted' and 'may'? It would seem that 'not warranted' is a discretionary component of the commissioner to determine if testing should be applied or not, which is exactly what 'may' does, it provides a discretionary component for the commissioner. So, can the honourable member explain what the benefit of 'not warranted' versus 'may' might be?

The Hon. S.G. WADE: In my simplistic world I see this as another version of 'opt in' or 'opt out'. Our amendment would have a mandatory condition with the capacity for the commissioner to exclude, if you like, an opt-out arrangement, whereas the government's proposal, which is to say 'may', means that you opt in. Basically, nobody will get tested unless the commissioner, or the relevant authority, insists that they should. We think it is better to start from the mandatory testing perspective and for the commissioner to exercise his discretion, rather than go the other way. Let

me stress again: every other state and territory has mandatory testing. Sorry, let me clarify that: a number of other states have mandatory testing.

The Hon. R.L. BROKENSHIRE: Sorry to the shadow attorney-general but I have just come back from a pair so I did not quite catch what he said.

The Hon. S.G. Wade: I could do a quick re-state, if you like.

The Hon. R.L. BROKENSHIRE: Yes. You did mention something about PASA. This is part of an enterprise bargaining agreement arrangement, I understand, so it was signed off by the government and the Police Association as part of the trade-offs that occur when you do an EB. I am just wondering what you said about the Police Association, for a start.

The Hon. S.G. WADE: The honourable member is taunting me to raise questions as to whether it is appropriate that industrial agreement between the police union and the police authorities should dictate what this parliament legislates in relation to how critical incidents should be managed. My view is very much that the accountability framework for the police is an appropriate area to be determined by the parliament and not by industrial negotiation. Having said that, I appreciate that right around Australia the EB arrangements were legislated, and we are not opposing this bill, we accept that we are going to do that in this context.

The shadow minister for police took the view and effectively persuaded our party that this was a limited suggestion to strengthen the bill. The honourable member may not have heard my comments when I said that the Police Association was not comfortable with our original proposal, they thought that it would catch far too many police officers who were not directly involved in an incident. The minister, in her comments, rightly pointed out that it would be costly and cumbersome to cast the net too wide. We humbly submit to the committee that our [Wade-2] 2 addresses that mischief by giving the commissioner the discretion to exclude officers where testing is not warranted.

As I was just suggesting to the minister, the mandatory testing with an opportunity to exclude officers who are not directly involved is a better approach than the carte blanche, 'We may do it, we may not.' I think it actually makes it easier for the police and management to say to officers, 'Well, you were directly involved. We are required to take drug and alcohol.' It avoids any imputation in relation to those officers, and our provision provides a focus whereby those who are not directly involved need not be tested.

The Hon. T.A. FRANKS: I would like to rise on behalf of the Greens and express our concerns that the amendment put forward by the opposition, in broadening, opens up the ability for there to be repercussions should an officer not be tested and then the courts hear a particular matter and that is raised. That was certainly a concern the Police Association raised with the Greens. Could the opposition respond to that concern?

The Hon. S.G. WADE: The shadow minister, Dan van Holst Pellekaan, the member for Stuart, did the detailed negotiations with the Police Association. That is not an issue that was raised with me, but my understanding is that the Police Association is comfortable with the current amendment in its revised form. That is my understanding; if I am advised otherwise, I will let the council know as soon as possible.

The Hon. R.L. BROKENSHIRE: I have just a point of clarification to the Leader of the Government handling the bill. I can understand the intent of the opposition, and I want to put on the public record that I, for one, and Family First would never just suggest that, because there is an enterprise bargaining agreement between a government, the parliament should rubber stamp. I would never suggest that. Notwithstanding that, I just made that comment on the public record because this is ratifying an agreement. The parliament can change it if it wants, but this is an improvement to what we have currently. I think we all agree with that.

My question to the Leader of the Government is: if this clause went through and was supported, would it have unintended consequences—where there is an incident initially in an area and the police are involved but then, as a result of that, there is a search for stolen goods kilometres away from that incident—and it may be even days later—and they are looking for particular evidence? Would that have the impact of actually wrapping all those officers in a search party into having to be tested?

The Hon. G.E. GAGO: You are asking the question of the impact of the Hon. Stephen Wade's amendment. The advice I have received is, no, it is unlikely, but really it is a question that is probably better asked of the Hon. Stephen Wade. It is his amendment. He obviously has an

intention in terms of what it should and should not capture, but the advice I have received is that, no, it is unlikely.

The Hon. S.G. WADE: I just make the point that it is at the commissioner's discretion. If there is an implication in the circumstances that an officer may need to be tested, the commissioner can exercise their discretion, but I do not disagree with the minister's answer that, no, probably not.

The committee divided on the amendment:

AYES (9)

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

NOES (12)

Brokenshire, R.L.	Darley, J.A.	Finnigan, B.V.
Franks, T.A.	Gago, G.E. (teller)	Hood, D.G.E.
Hunter, I.K.	Kandelaars, G.A.	Maher, K.J.
Parnell, M.	Wortley, R.P.	Zollo, C.

Majority of 3 for the noes.

Amendment thus negatived.

The ACTING CHAIR (Hon. G.A. Kandelaars): The Hon. Stephen Wade has amendment No. 2 to clause 9.

The Hon. S.G. WADE: That amendment is related to the one that was not supported by the committee, so I will not be moving it.

Clause passed.

Clauses 10 to 14 passed.

New clause 14A.

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

Amendment No 1 [Broke–1]—

Page 9, after line 33—Insert:

14A—Substitution of section 65

Section 65—delete the section and substitute:

65—Protection from liability for members of SA Police

(1) A member of SA Police does not incur any civil or criminal liability for an honest act or omission in the exercise or discharge, or the purported exercise or discharge, of a power, function or duty conferred or imposed by or under this Act or any other Act or law.

(2) A liability that would, but for subsection (1), lie against a member of SA Police lies instead against the Crown.

(3) A person (the *injured person*) who suffers injury, loss or damage as a result of the act or omission of a member of SA Police may not sue the member personally unless—

(a) it is clear from the circumstances of the case that the immunity conferred by subsection (1) does not extend to the case; or

(b) the injured person brings an action in the first instance against the Crown but the Crown then disputes, in a defence filed to the action, that it is liable for the act or omission of the member.

(4) Where a question arises as to whether the immunity conferred by subsection (1) extends to the case and the member of SA Police claims to come within the immunity so conferred, the burden of proving that the act or omission was dishonest lies on the party seeking to establish the personal liability of the member.

(5) If a member of SA Police is sued personally for an act or omission in the exercise or discharge, or purported exercise or discharge, of a power, function or duty conferred or imposed by or under this Act or any other Act or law—

(a) unless the Crown is alleging that the member is personally liable for the act or omission—the Crown must represent the member; or

(b) if the Crown does not represent the member and the member is found by the court not to have acted dishonestly—the Crown must indemnify the member for legal costs properly incurred by the member (but not exceeding 80 per cent of the Supreme Court scale of costs applying at the time the case is determined).

This amendment was circulated to colleagues on 26 September and is intended to incorporate the protections for police officers that already exist for firefighters in the Fire and Emergency Services Act 2005, for public servants in the Public Sector Act 2009, and for firefighters in Queensland in their Fire and Rescue Services Act 1990. It will provide the protection that I believe our police officers need to be able to act fearlessly in the performance of their duties without concern about potential litigation or prosecution for what they believe is the lawful exercise of their duties.

There was some material from the Law Society and also an opinion on that and on this amendment from the Hon. Marie Shaw QC which I trust colleagues have had a chance to have a look at. I am happy to speak more on this, if needed, when I sum up, but I would appreciate support from colleagues.

Clearly, if an officer is involved in a criminal activity in the course of their duty then they would not be eligible for this support, but where they are honestly going about their business and exercising or discharging their business, I strongly believe, and have for some time, that they should be able to get support. There have been occasions in the past when officers have done everything correctly and ended up having to defend themselves because a perpetrator tried them on. That can be quite a financial cost to them and their family and put a lot of stress upon their family unnecessarily.

As I say, for similar purposes and reasons, our firefighters and public servants have this protection, as they do in Queensland, so I would ask for support for this amendment.

The Hon. G.E. GAGO: The government rises to support this amendment. Essentially, whilst there are some differences, SAPOL maintains a view that it will create confusion. In particular and generally, there is inconsistent wording—words such as 'civil' and 'criminal liabilities', 'sue' and 'action' are used—and it is SAPOL's suggestion that one term should be used throughout. It is proposed that 'action' be the term that is most appropriate.

Secondly, and more specifically, SAPOL does not see the need to have 65(3)(a) at all in the amendment. This gives rise to an interlocutory-type dispute from the outset, with both sides saying that it is clear that the persons named acted/did not act honestly in the exercise of their duty. Removal of this section would then put onus on the Crown to come to a position as to whether they would be prepared to represent the members. If they decided not to represent, then it would bring into play 65(5)(b).

Thirdly, 65(4) again provides for pre-trial dispute over the honest actions or not of the member, and it seems that if this section is applied a person would be required to prove their case one way or another before the commencement of any trial.

Again, it is SAPOL's view that if 65(3)(a) were to be removed, then this section would become redundant. Ultimately, SAPOL is not philosophically opposed to the amendment; however, the wording, as I have outlined, they believe is unclear. However, in its current form, they are advising that the amendment should not adversely impact on operational policing, and therefore can be supported.

The Hon. S.G. WADE: I would certainly be interested in the minister's clarification in perhaps a subsequent contribution to the consideration of this amendment as to whether the government is intending in the House of Assembly to suggest alternative amendments that reflect some of the issues that SAPOL has raised, but I understood, from the spirit of the minister's remarks, that the government in principle supports the protection offered by the Hon. Robert Brokenshire's amendment.

On the opposition's behalf I rise, too, to indicate that the opposition supports the principle and intent of the honourable member's amendment. We believe it is very important to support police in their duty. Police, after all, put themselves in a situation of putting their physical safety and

well-being at risk in the pursuit of promoting the physical safety and well-being of the wider community. We do not believe it is appropriate that in doing that police should be at risk of losing their house or facing other legal proceedings.

I also think it is in the community's interest to provide some assurance to the police. Police work in an incredibly complex environment: they work under pressure, have to make decisions in an instant, situations can be often highly unpredictable, and often they have to make very significant decisions that might relate to complex areas of law and complex areas of fact, without the benefit of on-tap advice, whether that be legal or technical advice.

There is a strong public interest in supporting police to act to honestly, to act reasonably, but in so doing to give them the confidence that they can err on the side of acting. I would hate to think that, faced with a public safety situation, there was any suggestion that the police were being held back by a concern that they may be putting themselves or their family and their family's property in jeopardy. It is that sort of spirit that led this parliament to support the Fire and Emergency Services Act, in particular section 127, which, as the honourable member says, is directly analogous to this provision. As the honourable member said, there is also comparable Queensland legislation.

The honourable member appropriately referred to the advice provided to honourable members by Marie Shaw QC. I thought it might be useful to put a couple of her statements on the record, because I think they make clear that this is not the parliament suggesting that police should somehow be exempt from the rule of law, but rather that the law should be applied to police in the context of their particular circumstances. Allow me to quote her:

> 1. As already remarked, section 127 above was introduced and has been in operation for a number of years without any adverse impact upon operational performance, and community perceptions of operational performance.
>
> The proposed amendment does not grant a special privilege to break the law. To the contrary, it provides a police officer with an exemption from liability in limited and prescribed circumstances, namely only where the police officer acts honestly in the exercise or purported exercise of a power or duty recognised by law. If he is not acting honestly and not in the exercise or purported exercise of a power, function or duty conferred or imposed by law, he remains liable to criminal prosecution.
>
> 2. Secondly, for any member of the public or for any other entity who may suffer loss or damage as a result of an honest but erroneous exercise of a police officer's powers or duties, the citizen retains the ability to have recourse against the State (as in the Crown) to obtain precisely the same redress that would have been obtained if the police officer had criminal liability proven against [them].

Later in the advice, the QC highlights that:

> b. Police remain accountable for honest but incorrect or excessive exercises of power. There are other legislative provisions that provide an avenue for complaint, prosecution, punishment and even dismissal for police conduct that does not fall within the limited circumstances prescribed in the proposed amendment. I refer to the legislation that governs the appointment, the code of conduct and disciplinary processes for police officers under the Police Act 1998 and the Police (Complaints and Disciplinary Proceedings) Act 1985.
>
> c. Hence, the police have always been and will remain accountable for conduct that may constitute an honest act or omission but nevertheless breaches the police Code of Conduct.

In citing that advice, the opposition reiterates its commitment to the principle of the amendment. We welcome the government withdrawing its longstanding opposition to providing protection of this ilk. This amendment will, if you like, make it clear that the parliament wants to provide more assurance to police officers. It may well be that we need to update police accountability provisions in the context of this new statutory provision, but we support the amendment and look forward to it being further considered by the parliament.

New clause inserted.

Remaining clauses (15 to 21), schedule and title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (12:43): I move:

That this bill be now read a third time.

Bill read a third time and passed.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 October 2013.)

The Hon. A. BRESSINGTON (12:44): I rise to speak to the Liquor Licensing (Miscellaneous) Amendment Bill 2013. This bill amends the act to better equip the Liquor and Gambling Commissioner, his staff and police to address problem drinking and alcohol-related violence. Greater responsibility will be placed upon licensees to prevent excessive alcohol consumption occurring on their premises. The commissioner's powers to take action against licensees for inappropriate management of premises and to place restrictions on the sale of liquor when necessary for public order, public safety, health or welfare grounds, will be strengthened, and the objects of the act will be amended to specifically address alcohol-related violence and property damage.

The bill also introduces amendments to the act to streamline administrative processes and to reduce red tape on both the liquor industry and the government, such as the requirement that a responsible person be approved will be made more flexible so that approval will apply industry-wide; notice requirements will be made less onerous; the requirement that separate entertainment approval be obtained for oversized television screens will go; companies limited by guarantee will be given the right to hold club licences; and the processes by which dry areas are declared and educational courses are exempt from the need to be licensed will be made less onerous. The bill also proposes a number of minor technical amendments to the act to improve the efficiency and effectiveness of liquor regulation and to address out-of-date references to commonwealth legislation.

I note that the Hon. Tammy Franks has proposed amendments to remove the definition of 'entertainment' and to remove previous entertainment consents, other than prescribed entertainment, and this would provide a level playing field in the area of non-prescribed entertainment and open up the live music scene in this state. I also note that the AHA is supportive of this bill and is also supportive of the Hon. Tammy Franks' amendments as well. Having come from the hospitality industry some time ago, I must say that it is probably refreshing to see that the AHA and the government have landed on agreement on this bill. At this point, I offer my support to the bill, and I look forward to the committee stage.

The Hon. J.A. DARLEY (12:47): On 26 August last year, Jason Lindsley was violently attacked at a city nightclub. He was taken to the Royal Adelaide Hospital with a serious brain injury and kept in an induced coma in a critical condition for two weeks. He spent a further six weeks recovering from the incident at the Hampstead Rehabilitation Centre. Even after his release, Jason required months of intensive rehabilitation for the brain injury he sustained. This included reinserting the portion of Jason's skull that had to be removed following the assault. Despite recently returning to work, Jason continues to require physical and psychological treatment. In many respects, Jason was one of the lucky ones; his injuries were not fatal.

Not so lucky was 19-year-old Christopher Hatzis who, on 4 August last year, was stabbed to death following an altercation at an Adelaide nightclub. Also not so lucky was Henk van Oosterom, aged 39, who, on 4 September last year, was beaten and died after trying to break up a fight outside a Gawler hotel. Just four weeks later, on 8 October last year, Clint Hislop, aged 28, also died from injuries sustained after being punched after a night out at Glenelg. On New Year's Eve, Lewis McPherson, aged 18, was shot dead whilst walking to a party at Warradale. These incidents all occurred within weeks of each other. They resulted in the senseless injury and death of young men who had everything to live for. They resulted in the ongoing heartache and pain the families of those young men continue to live with.

Of course, these are not the only cases that have resulted in such senseless loss and suffering. Sam Davis's death, which dates back some four years, seems, in many respects, to mark the beginning of a crisis point. Members would know that, on 4 May 2008, at age 17, Sam, a budding football star, lost his life after being king hit in the back of the head at a party. Sam's mother, Nat Cook, and dad, Neil Davis, established the Sammy D Foundation which, amongst other things, seeks to raise awareness about harm-causing behaviour. It is unclear whether alcohol was directly linked to all of these cases. Nevertheless they highlight an increasing problem which appears to be plaguing our communities. They all involve violent altercations resulting in serious injury and death which occurred on a night out on the town.

This problem is not unique to South Australia. Just last month *60 Minutes* aired a segment on the shocking death of 18 year old Thomas Kelly. Thomas was king hit and killed on his first night out in Sydney's Kings Cross. Thomas's death has also sparked outrage about how alcohol fuelled violence has spiralled out of control. Like Sam Davis's family, Thomas's mum and dad have also launched a foundation aimed at sparing other families from their grief.

There is no question that alcohol fuelled or alcohol related violence has reached a crisis point across Australia. Our doctors, our emergency services and our police have all confirmed that. Most of the cases just highlighted have confirmed that. The statistics have confirmed that. According to the South Australian government, there are approximately 12,500 hospital admissions and 600 deaths attributable to alcohol in South Australia each year; 53 per cent of injured persons presenting to hospital emergency departments between the hours of 10pm and 7am had consumed alcohol in the preceding six hours. In 2009 to 2010, alcohol was the most common principal drug of concern for which treatment was sought from Drug and Alcohol Services South Australia, accounting for 56 per cent of all treatment episodes.

According to the Australian Institute of Criminology (AIC), conservative estimates suggest that in 2004-05 the total costs attributable to alcohol related crime in Australia was $1.7 billion. The social costs relating to alcohol related violence, which excludes costs to the criminal justice system, was $187 million and the costs associated with the loss of life due to alcohol related violent crime amounted to $124 million.

In 2007 approximately one in four Australians were a victim of alcohol related verbal abuse, 13 per cent were made to feel fearful by someone under the influence of alcohol, 4.5 per cent of Australians aged 14 or older had been physically abused by someone under the influence of alcohol. The rates of physical and verbal abuse by a person affected by alcohol were more than twice the rate for any other drug types. Recent research using the AIC's National Homicide Monitoring Programs database concluded that about half or 47 per cent of all homicides in Australia between 2000 and 2006 were alcohol related.

Again, according to the Australian Institute of Criminology, licensed premises are a high-risk setting for alcohol related violence with a significant proportion of assaults occurring in or within close proximity to hotels and nightclubs. Drinking establishments have been linked with much higher rates of alcohol related aggression and violence, particularly among males, than any other setting with over 40 per cent of all assaults said to occur in or around licensed premises.

There is said to be a strong correlation between liquor outlet density and the incidence of multiple forms of social disruption including homicide, assault, and child abuse and neglect. Not all licensed venues are problematic with the research suggesting that in any given area, a small number of outlets can be responsible for a disproportionate number of incidents of alcohol related harm. However, hotels and nightclubs are highlighted as the most problematic licensed venues for violence, particularly those with extended or 24-hour trading. These are national statistics but there is no suggestion that they apply any less to the South Australian case study.

The Late Night Trading Code of Practice is aimed primarily at dealing with these very issues. There is no question that the introduction of the code has caused quite a bit of disagreement and that a large number of young revellers in particular are strongly opposed to it. Indeed, there is a whole Facebook page called 'The new SA liquor licensing laws suck' dedicated to this very issue.

In some respects it is easy to see why so many licensees and young people are opposed to the code, given that some of the requirements include: the presence of a drink marshal at licensed premises that trade after 3am and have more than 200 patrons on their premises; restricting late night entry into licensed premises at 3am; requiring the use of metal detectors and closed circuit television systems; restricting the supply of liquor free of charge and the sale of what are commonly referred to as 'shooters' after 4am; and restricting the use of glassware after 4am.

I am advised that at present New South Wales and Queensland have lockouts and the Northern Territory has also flagged its intention to introduce similar measures. In fact, Queensland is currently reviewing its legislation with a view to scrapping the 3am lockout and imposing earlier closing times in an effort to curb alcohol-fuelled violence. The Newcastle experience has certainly highlighted the benefit of that approach, so much so that the chairman of the Newcastle and Hunter Region Multicultural Drug Action Teams, Mr Tony Brown, is reported as saying there is no going back to what he refers to as 'the bad old days'.

According to an article in the *Newcastle Herald* written by Mr Brown, prior to March 2008 and the implementation of measures aimed at curbing alcohol-fuelled violence, Newcastle had the highest rate of alcohol-fuelled violence in New South Wales, the highest drink driving charges and one of the highest rates of assaults on emergency workers. At the time, Newcastle CBD was attracting approximately 20,000 preloaded young drinkers every week from up to 100 kilometres away.

That same month a mandatory 3am closure, a 1am lockout and a package of liquor supply preventative measures were imposed against licensed premises. The results of these measures were quite remarkable. According to Mr Brown, they included: a 33 per cent reduction in alcohol related non-domestic assaults; a 50 per cent reduction in night street crime; a 26 per cent reduction in related hospital emergency department admissions; a reduction in preloading, the primary predictor of alcohol-related assaults; and a reduction in binge drinking.

Obviously, the changes in Newcastle go much further than what the South Australian government is proposing and there is some evidence that tends to suggest that a lockout with a reduction in late closing times as not as effective. That said, given the controversy that this matter has raised, I think it is fair to say that if the government proposed that South Australia move to earlier closing in the first instance, we would have absolutely no hope of getting agreement.

Turning now to the bill itself, which complements, if you like, the late night trading code. The government has proposed amendments to the Liquor Licensing Act 1997 to better equip the Liquor and Gambling Commissioner, his or her staff and police to address excessive alcohol consumption and alcohol-related violence. At the same time, the bill introduces amendments to streamline administrative processes and to reduce red tape on both the liquor industry and government.

In relation to the first issue, as already mentioned, the bill proposes to allow a code of practice to impose special requirements with respect to the supplying of free or discounted liquor on licensed premises between midnight and 7am. The bill also extends the powers conferred on the commissioner with respect to imposing conditions on licences so as to include public interest grounds.

In addition, the bill proposes to deal with the issue of offensive and disorderly behaviour by including a definition of intoxication and creating a new offence for such behaviour in or around the vicinity of licensed premises. Under the proposed changes, licensees will also be subject to more stringent requirements aimed at preventing excessive alcohol consumption at their premises.

In relation to disciplinary actions, the bill proposes to amend section 119 to clarify that the fit and proper person test applies equally to trusts or corporate licensees and to amend section 119A in order to enable the commissioner to vary the trading of a licensee. Where the commissioner believes disciplinary proceedings are warranted the commissioner will also be able to impose a condition on a licence or vary or suspend a condition of a licence. So as to ensure consistency with other proposed measures, the bill also amends section 121 so that a condition imposed by the licensing court upon a disciplinary finding may vary the trading hours fixed by or under the act. Perhaps somewhat controversially, the commissioner will, in his or her absolute discretion, be able to issue public order and safety notices where considered necessary or desirable to address an issue or a perceived issue of public order and safety, or to mitigate adverse consequences arising from an issue or perceived issue.

In relation to the second issue, that is red tape reduction. There are a number of other changes aimed at streamlining administrative processes and reducing the regulatory burden on industry and regulators. These include changes to the approval to hold a club licence, the approval of responsible persons, the requirement to display a licence, the restrictions on entry of minors into licensed premises, the definition of entertainment, the requirements relating to the sale of liquor in the course of educational courses, as well as requirements relating to wine regions and dry areas.

There is no doubt the bill, together with the late night code, represents a significant shift in the way we have previously dealt with the issue of excessive drinking in licensed premises. There is also no doubt, in my mind at least, that such a shift is warranted. Having said that, I am extremely disappointed that the government considers it fit to exempt the Casino from the late night code of practice. I am sure it will come as no surprise to honourable members that I will be proposing amendments aimed at addressing this deficiency.

I am also extremely disappointed that there is nothing to prevent the commissioner from exempting, on a case-by-case basis, gaming machine venues from the 3am lockout. To that end I

will be proposing a further amendment aimed at preventing the commissioner from exempting gaming machine venues from specified provisions of the late night code of practice. I will also be proposing that the late night code of practice, and indeed any other code of practice that the commission establishes, be the subject of a review following the first anniversary of the commencement of those provisions, in order to enable this parliament to appropriately measure the effects of the changes.

I hope that the government, and indeed all members, will give careful consideration to my amendments. Members will note that there are two sets of amendments filed; I only intend to move the second set. I note that the bill and the code do not address the issue of the supply of energy drinks in licensed premises. As honourable members would no doubt be aware, there is a growing body of evidence to support the harmful, and in some cases lethal, effects that mixing energy drinks with alcohol can have. There is no question in my mind that this issue needs to be the subject of a review. During the consultation phase I did raise this issue with the Attorney, and I certainly hope that further consideration will be given to it.

In closing, I have given my commitment to the family of Jason Lindsley to do what I can to spare other families from the pain and suffering they have had to endure. There is no question that the alcohol-fuelled violence epidemic needs to be tackled head on and before it results in the senseless destruction and loss of any more lives.

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

[Sitting suspended from 13:03 to 14:16]

PAPERS

The following papers were laid on the table:

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

Coronial Recommendations regarding the Death of Shane Andrew Robinson—Report
Reports on actions taken following the coronial inquiry into the Death of Shane Andrew Robinson

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:17): I bring up the 34th report of the committee.

Report received.

The Hon. G.A. KANDELAARS: I bring up the 35th report of the committee.

Report received and read.

ABORIGINAL LANDS TRUST BILL

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:18): I bring up the report of the Select Committee on the Aboriginal Lands Trust Bill, together with minutes of proceedings and evidence.

Report received and ordered to be published.

The Hon. I.K. HUNTER: By leave, I move:

That the Aboriginal Lands Trust Bill be now reprinted as amended by the select committee and that the bill be recommitted to a committee of the whole council on the next day of sitting.

Motion carried.

CHILD PROTECTION

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:19): I table a copy of a ministerial statement relating to child protection made earlier today in another place by my colleague the Hon. Jennifer Rankine.

ANSWERS TO QUESTIONS

WORKCOVER

In reply to the **Hon. A. BRESSINGTON** (6 March 2013).

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

Mr Mericka, accompanied by a staff member from the office of the Hon. Ann Bressington, attended the Parliament House office of the Premier, while the House of Assembly was sitting. Mr Mericka attempted to serve a notice of charge on the Premier. The Premier's Chief of Staff met with Mr Mericka. He formed the opinion that service of court documents on the Premier within the precinct of Parliament while it was sitting was inappropriate. He advised Mr Mericka of this opinion.

It appears that the attempt to serve the notice of charge constituted a breach of Parliamentary privilege: see Erskine May, 24th Edition, page 248.

Subsequently that day, the Premier's Chief of Staff emailed the Hon. Ann Bressington to advise that he had arranged for solicitors to accept service of the notice on behalf of the Premier, and that those solicitors would contact Mr Mericka, care of the office of the Hon. Ann Bressington, to arrange service.

The notice of charge was served shortly thereafter.

ADELAIDE WELLBEING INSTITUTE

In reply to the **Hon. R.I. LUCAS** (21 March 2013).

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

1. No wellbeing strategy has been established. There is no 'pilot program between the Department for Education and Child Development (DECD) and the University of Adelaide involving online measurement tools'.

There has also been no 'development of a research unit delivering the middle year's development index' within DECD.

The commitment by DECD to the measurement of children's wellbeing commenced prior to the Seligman residency. The initial trialling of the Middle Years Development Instrument, in Australia developed by the University of British Columbia is been undertaken collaboratively between South Australia and Western Australia.

A total of $34,746 has been spent developing an online data collection module and purchasing the Middle Years Development Instrument licence ($5,000). All expenditure has been from within existing DECD budgets.

The Seligman Residency was 47 per cent funded by private sector partners including St Peter's College, PricewaterhouseCoopers, MindMatters, the University of Adelaide, the University of South Australia, Flinders University and the Australian Psychological Society.

2. DECD commenced work on a wellbeing initiative in 2005 and a Learner Wellbeing Framework was released in 2007. There has been neither specific work on wellbeing curricula in recent years nor any 'investigation building upon the work of the UK economist, Lord Richard Layard.'

3. Funding for Mt Barker High School and feeder primary schools to date has been $295,000 across two financial years:

- National partnership funds (federal government investment) $45,000 to establish governance arrangements across the Heysen Cluster Schools to improve student wellbeing.
- $150,000 from DECD to enable personnel from across educational settings and health to participate in PENN Resiliency Training in July 2012 and to release the Deputy Principal to oversee a cluster governance framework and community engagement strategy.

- $100,000 from DECD has been committed with the expectation the school will deliver a conceptual framework and processes that other localities can use, a collaborative model that enable clusters of schools and local agencies to work together to improve developmental outcomes for young people, professional learning approaches and programs drawing on positive psychology principles and evidence demonstrating improvement in wellbeing.

St Peters College Adelaide were also involved in the residency and hosted two fully subscribed public events with Dr Seligman on their campus. The school has made wellbeing and positive education a fundamental part of its strategic plan with a 3-5 year implementation window and a commitment to an evidence-based approach. They are already publishing globally on their progress.

4. The Science of the Imagination retreat and related public lectures were fully funded through sponsorship and private philanthropy.

QUESTION TIME

FORESTRYSA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:21): I seek leave to make a brief explanation before asking the Minister for Forests a question about the SA forests.

Leave granted.

The Hon. D.W. RIDGWAY: Last year's state budget ominously forecast the forward sale of our South-East forests. This was a multimillion dollar deal designed to prop up the government's ailing budget which was deep in deficit. The opposition has argued against the forward sale, but Labor didn't listen and now it emerges that it completely mucked up the sale process.

A conflict of interest declaration could not be provided to the Auditor-General—$9.5 million was paid to consultants for the sale process, the majority of which was a success fee. There was a lack of assessment of the success fee by Treasury to see whether the success fee represented fair value for money—$25.6 million of taxpayers' money was spent on the forests and lotteries sale.

In the rushed appointment of consultancies, the government approached five firms and only one responded which, according to the Auditor-General, raises value-for-money issues. Meanwhile, even after the forward sale of the three rotations, ForestrySA is still costing taxpayers money. It is contracted to do work for OneFortyOne Plantations but, sadly, is losing money on an ongoing basis. In fact there is a gap between the revenue they receive and what it costs to run ForestrySA. My questions to the minister are:

1. Why was a conflict of interest declaration not provided to the Auditor-General?

2. As the Auditor-General says, not even he with his trained staff and forensic skills can work out what impact this had on the sale process. Can the minister with her staff and forensic skills inform the people what the impact was?

3. Finally and most importantly, what is the annual shortfall between the revenue that ForestrySA gets from either OneFortyOne Plantations or the remnant forests and the actual costs of providing those services funded by the taxpayers?

The PRESIDENT: Minister for Forests, just ignore the opinion and the debate in the explanation and proceed with your answer.

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) (14:23): Thank you, Mr President, and I thank the honourable member for his most important questions. I just remind honourable members that we have designated a special hour for question time in relation to the Auditor-General's Report and notice has been given of that for 14 November, so I just remind members that we do have that time. In previous years the opposition has run out of questions during that time. It has always been a very sad and embarrassing occasion when the opposition run out of questions for us.

Members interjecting:

The Hon. G.E. GAGO: The next one is 14 November and last year they ran out of questions, and the year before that they struggled. Every year it has been a struggle for them; they struggle to scrape the bottom of the barrel to come up with all sorts of questions because, as I said,

they run out of questions year after year. Anyway, we will look forward to the 14th, but I am happy to give what information I can in relation to the A-G's report in relation to forestry.

Generally speaking, the A-G's report has raised some findings about forestry forward rotation sales. He has raised a number of issues. The specific question the honourable member has asked is in relation to the declaration of conflict of interest. I am advised that the Auditor-General noted that in one case there was insufficient documentation surrounding a declaration of a potential conflict of interest, although no conflict of interest actually arose in that case. The DTF agrees with the audit finding that better documentation should have been maintained, but no actual conflict of interest was identified or arose in that case that the Auditor-General has been talking about.

The Auditor-General found that there was a lack of clear documentation of detailed assessment of and actions to mitigate the risks arising from preliminary sales adviser being permitted to submit a bid for the sales adviser role. Although DTF considers those risks were in fact adequately addressed and mitigated, DTF acknowledges that the extent of the documentation on the treatment of the risk could have been more comprehensive, and obviously they have put measures in place to ensure that those sorts of processes are better addressed in the future.

FORESTRYSA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): By way of supplementary question as a result of the minister's failed attempt to answer—and I will repeat the third question.

The PRESIDENT: Order! The Hon. Mr Ridgway will ask his supplementary without comment.

The Hon. D.W. RIDGWAY: What is the annual shortfall between the money ForestrySA gets for its services to OneFortyOne Plantations and its other forestry operations and what it actually costs to provide that service?

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) (14:27): All of that information is in the budget documents and annual report.

The Hon. D.W. Ridgway: No, it's not.

The Hon. G.E. GAGO: Well, it is. This is chapter 5 of government business, Budget Statement 2013-14, page 95. The information is there on the public record—it's there in black and white.

The Hon. D.W. Ridgway: Tell me the shortfall—tell me, tell me what the shortfall is. If it's there—you read through another document you had, but you can't read that!

The Hon. G.E. GAGO: Such a lazy opposition! It's pathetic!

The PRESIDENT: Order!

The Hon. D.W. Ridgway: You spent the whole hour reading from that, now you won't read that much.

The Hon. G.E. GAGO: It's pathetic, Mr President.

The Hon. D.W. Ridgway: Grow up!

The PRESIDENT: Order!

The Hon. G.E. GAGO: I have even given him the page number, page 95. It's a waste of this chamber's time, it is a total waste of this chamber's time—

The Hon. D.W. Ridgway: No, it's not—put it on the record.

The Hon. G.E. GAGO: —a total waste of this chamber's time to be reading out budget documents that are on the public record. The reality is that the Hon. David Ridgway is not able to read a budget document, so he can't actually read this page 95 and understand what these figures are. He has no idea! It is there in black and white. Indeed, there is a shortfall, which is clearly documented on page 95, but the Hon. David Ridgway clearly can't read, can't understand, and clearly he didn't know it was there, otherwise he would not embarrass himself to come into this place.

During estimates, it was fascinating: the opposition only asked questions about the PIRSA forestry. They actually didn't ask any budgetary questions about ForestrySA. What an embarrassment! What an absolute embarrassment! The opposition didn't even know those budget documents existed. They failed to even know that those budget documents existed. Not one question on them, not one question! They are a disgrace of an opposition, an absolute disgrace. So, they need to get off their tail and look at what is on the public record. There is a shortfall, and there has been a shortfall in those forests for many years. There has been a shortfall—

The Hon. D.W. Ridgway: There hasn't been a shortfall because we've had forest products to sell every year.

The PRESIDENT: Order!

The Hon. G.E. GAGO: The Hon. David Ridgway is again wrong, embarrassingly so. He has no idea what's going on, he doesn't understand how the industry works and he can't read a budget paper—how embarrassing!

There have been shortfalls there in the past in relation to our Mid North and Mount Lofty forests. They are small forests. There has been a downturn in forestry products and those forests have been influenced by that, so there is a shortfall. We haven't hidden it; it's there on page 95. It is clearly there for everyone to see—anyone who can read a budget document.

The Hon. R.I. Lucas: You obviously can't.

The Hon. G.E. GAGO: Yes, I can read it. I know exactly what it is.

Members interjecting:

The Hon. G.E. GAGO: No, you are a disgrace. You are an embarrassment. I am going to make you go to this document that's been there—

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

The PRESIDENT: There is a point of order. The Hon. Mr Dawkins, do you have a point of order?

The Hon. J.S.L. DAWKINS: I think the minister has been here long enough to know that, when she refers to 'you', she is referring to you, Mr President—

The PRESIDENT: That's true.

The Hon. J.S.L. DAWKINS: —and I don't think that the President is a disgrace in any sense.

The PRESIDENT: Hear, hear! I notice that there are some children in the gallery who are much better behaved than most honourable members in this place. Welcome; we are not normally like this. Minister, you have got the call and I am out of order.

The Hon. G.E. GAGO: Also, these forests contain some of our public open forests that are not commercial operations: they are fabulous forests there for the public to enjoy. Those forests cost us money to maintain. We have little cabins and things like that there for people to come and enjoy.

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

The PRESIDENT: The Hon. Mr Dawkins will come to order!

The Hon. G.E. GAGO: So, those forests are very important to us. We have recently assigned an export arrangement in relation to one of those forests. As our dollar has improved, so too have our opportunities for improving our export of log products, so there are some very positive signs on the horizon that things are improving and that we should receive a better return in the future for these forests. But they will go up and down and, at the moment, they are down. Like all the forestry, it is at a fairly low spot but, as I said, there are some positive things on the horizon that would indicate that, hopefully in the future, we are going to do better.

FORESTRYSA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:32): A further supplementary, Mr President.

The PRESIDENT: A further supplementary without commentary, the Hon. Mr Ridgway. What is your question?

The Hon. D.W. RIDGWAY: I met with the chief executive of ForestrySA and asked him the same question. He said he was unable to tell me and I should ask the minister.

The PRESIDENT: What is the question, the Hon. Mr Ridgway?

The Hon. D.W. RIDGWAY: What is the difference between the revenue that's gained and the cost to taxpayers? In particular, the minister might like to refer to—

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: —what it costs—

The PRESIDENT: Order! The Hon. Mr Ridgway, just ask the question without commentary, debate and your own opinions.

The Hon. D.W. RIDGWAY: Thank you for your guidance, Mr President.

The PRESIDENT: Okay, so you are sitting down. Minister.

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) (14:32): The answer is there on page 95. It's obvious that David Ridgway is so embarrassed because he can't read a budget document.

BUSHFIRE PREVENTION

The Hon. J.M.A. LENSINK (14:32): I seek leave to make a brief explanation before directing a question to the Minister for Sustainability, Environment and Conservation relating to—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Ridgway, the deputy leader—

The Hon. J.M.A. LENSINK: —a strategic assessment of South Australia's fire zones.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Lensink, you may wish to start again.

The Hon. J.M.A. LENSINK: No, that's alright. The minister, I think, understood what I—

The PRESIDENT: Well, I missed everything that you said.

The Hon. J.M.A. LENSINK: You'd like to know? It was in relation to the strategic assessment of South Australia's fire zones.

The PRESIDENT: Are you seeking leave?

The Hon. J.M.A. LENSINK: I did.

The PRESIDENT: You did?

The Hon. J.M.A. LENSINK: Yes.

The PRESIDENT: And was leave granted?

The Hon. J.M.A. LENSINK: That's up to you, isn't it?

Leave granted.

The Hon. J.M.A. LENSINK: The new Coalition federal government environment minister (Greg Hunt) has flagged what he has described as the 'paralysis' of strategic assessment zones under the former Rudd/Gillard/Rudd government as one of his priorities, which was reported recently. He was quoted as saying:

> 50 projects had been left stranded by the former federal government without a decision on whether they even needed to be assessed under bipartisan legislation.
>
> Renewed urgency will be given to South Australia's strategic assessment of fire management policy for land under the care of the SA Minister projects.

My questions for the minister are:

1. What representation has the state government made on this issue to the federal government?

2. Does the lack of assessment present any threat to South Australia for the upcoming fire season?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:35): I thank the honourable member for her most important question, which is really in two parts. I will deal with the later part of her question first and come back to the first question at the end. The fire management activities of the Department of Environment, Water and Natural Resources extend across land under my care and control as the Minister for Sustainability, Environment and Conservation. This includes land under the National Parks and Wildlife Act 1972, the Wilderness Protection Act 1992, and the Crown Land Management Act 2009.

The department is a registered bushfire brigade of the South Australian Country Fire Service and responds in support of the CFS to bushfire incidents across the state. The department provides the CFS with experienced and trained incident management personnel, firefighters and equipment. The department is playing an increasingly important role in supporting the CFS at bushfire incidents, particularly those of a prolonged nature. In particular, I am advised that the department's involvement plays a valuable role in reducing the burden on CFS volunteers, as I outlined to this place yesterday.

The department's fire brigade consists of 530-odd brigade members, with more than 350 firefighters, 81 firefighting appliances and I think 150 support staff. The department's firefighting resources are available for response across the state, interstate and internationally. The Department of Environment, Water and Natural Resources prepares for public land comprehensive fire management plans designed to provide strategic direction for fire management activities. Fourteen fire management plans have been adopted across the state, covering approximately 49 per cent of parks and reserves managed by the department, I am advised, roughly equal to about 154 parks and reserves.

A further five fire management plans are being developed currently. These plans will cover the South Para area of the Mount Lofty Ranges, Central Eyre Peninsula, Northern Flinders Ranges, Dudley Peninsula on Kangaroo Island, and the AW region in the Far North-West of the state, the Alinytjara Wilurara. I have been advised that the department has successfully gained funding through the federal Natural Disaster Resilience Program to develop the Phoenix bushfire simulation model for South Australia to assist with modelling fire spread, impacts and risks.

In tandem with the description of prescribed burning I gave yesterday in a ministerial statement, I can say that we are as well prepared as we possibly can be for bushfire risks. In tandem with our prescribed burning program, we are taking the lead in spring and autumn to try to reduce the fuel that has sprung up with the good winter rains, and we intend to do that through the window to certainly late November and, hopefully, a bit through December as well.

In relation to discussions with the new incoming federal government, I can say that I have had discussions of a general nature with minister Hunt over the phone, and I have also had a face-to-face meeting with parliamentary secretary Simon Birmingham on other matters. The strategic assessment zone issue was not raised in those discussions.

RABBITS

The Hon. S.G. WADE (14:38): I seek leave to make a brief explanation before asking the Minister for Environment a question relating to the rapid increase in feral rabbit numbers.

Leave granted.

The Hon. S.G. WADE: For many years, South Australian landholders have been fighting feral rabbits, which cause severe damage to the natural environment and agriculture. They compete with native wildlife, damage vegetation and degrade land, causing millions of dollars in crop losses. The last two seasons, in particular, have seen massive increases in the number of rabbits due to a combination of factors, such as high rainfall, large quantities of available food and ideal breeding conditions.

The task of landowners, in some cases, is exacerbated by the failure of landholders of adjoining properties to manage feral rabbits on their properties. I understand that there is currently no legal requirement for landowners to eradicate feral rabbits on their properties. My question to

the minister is: will the government look at putting a legal onus on landowners to contain feral rabbits on their properties?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:39): I thank the honourable member for his most important question. As we all know, rabbits cause quite severe damage to the environment and primary industries. They can prevent the regeneration of native plants, they compete with livestock for pasture, and they increase soil erosion. Nationally, rabbits are estimated to cost agriculture over $200 million per annum, I am advised.

Rabbit haemorrhagic disease was introduced as a rabbit biological control in 1995. It was highly effective in arid areas, but not as effective in cooler areas, moist areas and coastal areas. I am advised that over the last five years rabbits have started developing resistance to calicivirus, with numbers recovering to high levels in some areas. The benefits from calicivirus to both the environment and primary industries are being eroded as rabbit numbers increase.

Recent good seasons across South Australia have produced plenty of food for rabbits and extended their breeding season, I am told. Consequently, natural resource management boards have increased efforts to encourage land managers to use conventional rabbit controls (such as warren ripping and baiting) where economically feasible.

Landholders have a duty of care obligation to protect the environment and their own primary industries. Rabbits are declared for control under the Natural Resources Management Act, and Biosecurity SA is currently collaborating with international and interstate researchers at the Invasive Animals Cooperative Research Centre to extend the benefits of calicivirus and to investigate the potential for new biological control agents for rabbits.

Biosecurity SA is also collaborating with researchers on a project funded by the Australian government to develop a system to monitor rabbit control and the benefits this may have for native vegetation, but at this stage we are not looking at putting in place any compulsory requirements on landowners to control rabbits. We believe it is better to work with them, educate them through the NRM process and encourage them to look after their own land.

SEAFOOD INDUSTRY

The Hon. G.A. KANDELAARS (14:41): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about seafood.

Leave granted.

The Hon. G.A. KANDELAARS: Our seafood sector is a significant one for the state's economy and this strength builds on a basis of applied research. Ensuring South Australian seafood meets consumer requirements and is able to access premium markets is important for our continued success and future growth. Can the minister advise how recent research is assisting the pipi industry to improve access to premium food markets?

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) (14:41): I thank the honourable member for his very insightful question, and I know that he has a great interest in our fabulous seafood. Pipis, which are also known locally as Goolwa cockles, are a shellfish which has multiple uses: as bait for commercial and recreational fishers and as an integral part of many traditional cuisines, particularly Pacific island.

Our seafood industry is a significant one. In 2011-12 the Food ScoreCard showed that $383 million in farm gate value resulted in overseas exports of $272 million and a net interstate trade of $109 million. It is very pleasing that SARDI and the South Australian pipi industry have taken the opportunity to find a solution to one of the limitations of this mollusc in the marketplace, and that is around extending the shelf life of the product. Members will well understand that pipis do not have a very long shelf life. I understand it is around about five or six days, so you have to eat them basically as soon as you collect them.

To help improve its market access, the South Australian pipi industry, with funding assistance from the state government's Innovation Voucher Program, contracted SARDI to investigate new packaging options to extend this limited shelf life. The industry and SARDI also recognise the importance of making it an easy choice for a consumer to select pipis from a wide

range of seafood available. In this regard, understanding consumer needs and also the barriers to using a product is a very important part of reaching a market.

SARDI's seafood technology team developed and tested six new pipi packaging formats, which were designed both to maintain pipi quality and to meet consumer demand, far more conveniently packaged, and obviously we have focused on premium local seafood. The basic requirement was a sealed package to contain leakage and to increase shelf life. Packaging options included modified atmosphere packaging, blast freezing and blanching. The new packaging formats were also tested for product integrity from a food safety and product eating quality perspective.

Importantly, tests also include comparisons of consumer preferences between fresh and frozen pipis. The frozen and fresh products gained equal consumer acceptance scores, which I was a bit surprised about. Being able to freeze pipis without losing consumer appeal obviously provides a product that keeps longer than fresh seafood and consequently provides a wider range of domestic and export market opportunities. For busy households, it is great to have frozen products there ready at hand.

This is obviously very exciting as it opens up a range of new markets. The industry is now exploring ways to implement the new packaging formats and to maximise the benefits from research outcomes. The pipi industry believes the new packaging will also help reduce waste in the fishery and increase the sustainability of harvests. The South Australian government has recognised the opportunity to build on a significant strength by focusing our efforts in the premium food from a clean environment priority. It is very gratifying to see the industry work with our scientists to make the best use of premium product which is grown in pristine waters. It is an important opportunity for the pipi industry and supports the South Australian manufacturing strategy as well as the premium food and wine from a clean environment strategy.

I also advise the chamber that recent scientific advice on the health of the resource has affirmed that the pipi industry has turned the corner. Again, it is further good news. That is, of course, due to good fisheries management. It is found that it is sustainable and has a bright future. The pipi industry is part of the Lakes and Coorong fishery which is one of the only two South Australian fisheries to obtain independent sustainability accreditation from the Marine Stewardship Council (MSC). This highly sought after accreditation from this international not-for-profit organisation of marine fisheries and related habitats means that the fishery meets the MSC environment standard for sustainable fishing which has quite a lot of kudos in the fishing industry. Once certified, fisheries can use that distinctive MSC ecolabel to gain economic advantages to the marketplace. Through certification and ecolabelling, the MSC accreditation works to promote and encourage better management of our world fisheries. It is a great accolade.

It is good news that not only have there been some new advances in extending markets for pipis through packaging improvements but also the latest reports show that our pipi industry has been well maintained and has a reasonably bright future.

NATURAL GAS

The Hon. A. BRESSINGTON (14:48): I seek leave to make a brief explanation before asking the minister representing the Minister for Mineral Resources and Energy questions about domestic gas reservation.

Leave granted.

The Hon. A. BRESSINGTON: The minister on 14 October 2013 said the state will not prop up domestic natural gas supplies on the east coast at the expense of the export industry. Speaking at the Australian Pipeline Industry Association Conference in Adelaide, Mr Koutsantonis said that South Australia is well placed to grow from exports in natural gas. He said that some east coast markets have caused shortages and price hikes for natural gas by refusing to exploit their own resources. He said that he will not make companies back out of export deals. On ABC he also said:

> They do have the same reserves, they just choose not to exploit them because of concerns with the Green movement or their own Liberal Party members. Australia's energy independence is important. South Australia can deliver that energy independence but what we won't do is risk that investment because of a few recalcitrants in New South Wales.

I have done some reading on this and it seems that we are heading to triple the price of natural gas in this state. My questions to the minister are:

1. Can the minister please outline what steps this government intends to take to protect industry and private residents in South Australia from a wholesale sell-off of South Australian gas to export markets?

2. Does the minister intend to develop a domestic gas reservation policy and protections for domestic gas pricing from the export markets?

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) (14:49): I thank the honourable member for her most important questions and will refer those to the Minister for Mineral Resources and Energy in another place and bring back a response.

HERITAGE

The Hon. CARMEL ZOLLO (14:50): My question is for the Minister for Sustainability, Environment and Conservation. Will the minister inform the chamber about how the government is assisting in the conservation of South Australian heritage places?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:50): I thank the honourable member for her very important question and, of course, her ongoing commitment to conserving our state's heritage. I am pleased to advise that today I have announced that the 2013-14 round of South Australian heritage fund grants has been released. A total of 17 applications have been approved, totalling, roughly, $150,000. This money will be spent on the maintenance or repair of places either listed on the South Australian heritage register or places within a state heritage area. These grants are made on a match dollar for dollar basis and can provide up to $10,000 per project.

The nature of SA heritage places vary quite greatly around the state, some are privately owned whilst others may be churches, for example, or owned by local government or community organisations. The maintenance issues that these old places face can also vary greatly. This grant provides a versatility the owners or carers of these places need to ensure that their place or building is kept in as good a shape as possible. For example, some of the grants this year were awarded for important stabilisation works, roof repairs or salt damp treatments.

The places that have been awarded funding have been both in the city of Adelaide and regional South Australia. Examples include the Morgan Railway Station and stationmaster's house, where grant money has been awarded to repair and replace gutters and also design an underground stormwater catchment system, or the Gawler Institute, where the library and ground floor will be receiving important maintenance work as well as exterior conservation works around the building. The full list of grant recipients is available on our government website.

There is no doubt that South Australia has a very rich legacy of heritage places right across our state and maintaining and repairing these buildings would not be possible without the hard work and dedication of community groups and volunteers. I would like to acknowledge, therefore, those people who play such a very important role in preserving our state heritage and I want to wish all of those who have been successful in this year's round of grants all the best with their maintenance repair work and encourage those who missed out to reapply next year.

APY LANDS, DISPUTE RESOLUTION

The Hon. T.A. FRANKS (14:52): I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question regarding dispute resolution on the APY lands.

Leave granted.

The Hon. T.A. FRANKS: On 23 September in this place I asked the minister when a panel for conciliation would be appointed to address issues of conflict resolution on APY lands. That position has currently been vacant since 2010. The minister in his response said, 'I am currently in the process of appointing a conciliation panel right at this very minute'. My questions to the minister are: when did you commence the process of appointing a conciliation panel; when will you announce the conciliation panel; and how will Anangu be able to access these conciliators and facts?

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

(14:53): I thank the honourable member for her very polite and important questions. At least it did not lead off with a claim of dereliction of duty this time, which I am very grateful for. I am aware of a request for the appointment of a conciliator under sections 35 and 36 of the APY act to appeal against three resolutions.

The Hon. T.A. Franks: You are aware. What about Caica and Portolesi, were they aware?

The Hon. I.K. HUNTER: The honourable member wants to answer her own questions, so perhaps I will sit down and let her do so.

Members interjecting:

The Hon. I.K. HUNTER: Well, if the honourable member likes to take that advice, Mr Ridgway, I will be very pleased. I can advise the council, as I have done previously, that the process I entered into has now been finalised. I have now made offers of appointment to five people to be conciliators. Those people were endorsed by an executive meeting of the APY executive, I think on 9 October. That panel of five conciliators includes two females and three male members, and I signed those letters, I believe, yesterday. The APY panel of conciliators include the Hon. Dr Robyn Layton, Ms Louise Sylvan, Mr Grant Niemann, Mr Greg Rooney and Mr Simon Lane. I am advised that all have extensive experience in mediation and also in Aboriginal affairs.

APY LANDS, DISPUTE RESOLUTION

The Hon. T.A. FRANKS (14:54): A supplementary. I sought clarification on when you commenced the process of appointing the panel, not when you finalised it only.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:55): I can advise the honourable member I commenced the process sometime before answering her previous question.

LOCAL GOVERNMENT, REGIONAL MEETINGS

The Hon. J.S.L. DAWKINS (14:55): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question regarding state government departmental attendance at regional Local Government Association meetings.

Leave granted.

The Hon. J.S.L. DAWKINS: At recent meetings of regional local government associations, at which I have been in attendance, there has been significant disquiet regarding the continuing lack of attendance of state government departmental officials at meetings of these bodies. I refer to an answer given by the minister to a similar question, in her previous stint as local government minister, on 7 April 2009 when I raised the same issue in this chamber—over four years ago. The minister stated on that occasion:

> I am not aware of any dropping off in commitment or support and assistance by my office to regional local government associations. I am not aware of and quite surprised by the information the honourable member has provided to the chamber. I am not sure at all that it is, in fact, correct.

Also, another former local government minister, the Hon. Bernard Finnigan, stated in response to another question I asked on 10 February 2011 during his short stint as the leader of the government in this place that:

> I would have thought it would not necessarily be essential for the good functioning of local government that there be a representative from the state government there on every occasion.

The Hon. Mr Finnigan then went on to say:

> What is important is the overall relationship between state and local governments.

More than four years have passed since I first raised this issue and several state/local government relations ministers have come and gone and come again, but the problem of poor attendance or lack of any attendance of departmental representatives at regional Local Government Association meetings remains. My questions to the minister are:

1. Will the minister commit to ensuring departmental representatives are sent to regional Local Government Association meetings as often as is possibly practical?

2. Will the minister confirm which agency is responsible and will actually represent the government at regional Local Government Association meetings, given the recent transfer of responsibilities of the Office for State/Local Government Relations to other portfolios?

3. Will the minister commit to communicate any new arrangements for departmental representatives to attend regional LGA meetings to the respective bodies as soon as possible?

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) (14:58): I thank the honourable member for his most important questions. I, too, believe it is completely unnecessary to be having government officers sitting around for meetings that often go for many hours if it is not relevant and not needed and does not produce any positive outcomes. The Hon. John Dawkins knows that there have been well publicly reported machinery of government changes to local government arrangements and it would depend—

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

The PRESIDENT: Order! I'm trying to hear the leader.

The Hon. G.E. GAGO: Well, if you would stop interjecting and actually listen to my answer you might learn something. It would depend on what is on the agenda. It would depend on what issue that regional group wanted to particularly discuss or have the agency involved in. If it was a planning issue that that particular meeting wanted to deal with, obviously they would be inviting someone from planning. If it was to do with transport, then you would be inviting someone from transport, so it would depend and that is the thing with local government.

It is a very broad organisation and is required to address a wide range of different policy areas and those policy areas cut across different government agencies. Different meetings usually want to highlight different issues. There are usually hot issues for that meeting, so it would be up to that particular region, with the chair and the chief executive from that region determining what is a priority for that meeting. Where they felt they needed to have a government official present, then they would need to invite the appropriate agency along. That is the current arrangement under the new machinery of government.

In terms of the overall local government forum—and, of course, regional issues are also discussed there—the forum now comes under the responsibility of the Premier and coordinated through Premier and Cabinet and the same thing applies there: the agendas are drawn up and where the relevant minister or agency officers need to attend and report, they do, but it is in relation to particular and appropriate agenda items. We don't just have, as I said, government officials sitting around hour after hour listening to meetings that are of no relevance to their particular agency or their activities.

The forum is another mechanism that allows for regional issues to be discussed and for appropriate ministers and agency officials to address and specifically identify issues. The South Australian Regional Organisation of Councils meets regularly, and if they want to identify particular issues and invite people along, I would encourage them to do that. There are regional meetings and there is also the central meeting that is conducted through the LGA. I have attended those meetings and I have attended other regional forums that the LGA has put on as well. Where there are issues around regional development and relating to my regional development portfolio, I obviously attend; where they are other portfolio matters, those relevant ministers and/or agency officials should be in attendance.

LOCAL GOVERNMENT, REGIONAL MEETINGS

The Hon. J.S.L. DAWKINS (15:02): A supplementary question: will the minister commit to communicating to the regional local government associations the information that she has just presented here, because clearly they are not aware of the detail of those arrangements?

The PRESIDENT: The Hon. Mr Dawkins knows there is no commentary in supplementary questions.

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): They have already been informed. When there was a machinery of government changes, all of those matters were outlined, so I think the only person who doesn't get it is the Hon. John Dawkins.

RECREATIONAL FISHING

The Hon. R.P. WORTLEY (15:03): I seek leave to ask the Minister for Agriculture, Food and Fisheries a question about fishing.

Leave granted.

The Hon. R.P. WORTLEY: South Australia is well known for its fabulous fishing from rocks, boats and beaches, with a wide range of species and opportunities to cast a line for flathead—it's a bit like 'fruit fly'—

Members interjecting:

The Hon. R.P. WORTLEY: salmon trout, tommy ruffs—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Wortley will stop entertaining the opposition!

The Hon. R.P. WORTLEY: Sorry, Mr President. South Australia is well known for its fabulous fishing from rocks, boats and beaches with a wide range of species and opportunities to cast a line for flathead, salmon trout, tommy ruffs, King George whiting or to sink a lobster or yabby pot. It is a pastime which many people enjoy. Can the minister advise of a new development to help recreational fishers in South Australia?

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) (15:04): Thank you, Mr President, and I am sure you have already downloaded your free SA Fishing app?

The PRESIDENT: You're about to help me.

The Hon. G.E. GAGO: Yes, it is fabulous, I'll show you mine. It is a wonderful app, Mr President, and very easy to follow too. I thank the honourable member for his most important question. The member maybe aware that, with such a wonderful array of habitats and species in our waters, there is a fair bit of information that can help fishers make the most of their time with their rod and line, pot or whatever. South Australia's fish species are obviously a very precious resource, with the number of rules and regulations in place to ensure the sustainability of those very precious fish stocks. So, it is important that fishers can access relevant matters like size, bag limits on species and closure times throughout the year, and they need that information at their fingertips.

I am pleased to tell members that I have released a new free smartphone app to provide fishers with easy and convenient access to a wide range of information, including SA fishing rules. This is the department's first fishing-related smartphone app, and this state-of-the-art app provides fast and easy access to the state's fishing rules, regulations, area closure, size and bag limits. It also provides a one-stop shop for recreational fishers to access information on fishing in South Australia.

In addition to checking rules using the app, fishers are able to report things they see, like suspicious or illegal fishing activity, straight to Fishwatch, there and then on the spot, as well as report things like shark sightings, again there and then on the spot, and also to provide information around catch reports, which help inform our fish stock and fish locations.

Education is obviously a very core component of PIRSA's fisheries and aquaculture activity, and while there are already a variety of ways, such as through the department's website and various printed material for fishers to access, this app obviously provides a quick and easy alternative. I am advised that there are around 236,000 fishers—men, women and children—who enjoy fishing each year in our waters.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: SA fishing—it's a little green fish app.

The Hon. D.W. Ridgway: SA recreational fishing?

The Hon. G.E. GAGO: If you just go into apps and SA fishing—it's green. He can't read a budget paper and he can't download an app either, but anyway. Bring it over here!

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: So, that's a very large cohort who—

Members interjecting:

The PRESIDENT: Order! It's question time, not the comedy hour. The honourable minister's got the call.

The Hon. G.E. GAGO: —need information. With smartphones increasingly being the default source information, which we call carry around with us, this app is a convenient and highly accessible way to provide that information. It is also an attractive way to engage with young fishers.

The app provides the state government and PIRSA with the ability to send out direct alerts to subscribers, making it easier to advise on immediate rule changes or timely reminders, such as seasonal closures and opening times. South Australia's premium seafood products are not only highly sought after domestically but also around Australia and internationally. We have this great reputation, in part because South Australia is recognised as a world leader in fisheries and aquaculture management, with policy and legislation in place to protect and manage our aquatic resources, including rec fishers.

The state government's strategic priority, premium food and wine from a clean environment, enhances this reputation by capitalising on the increasing global demand for premium products, including seafood. That is why recreational fishing for some species varies on a seasonal basis. Things like area closures have been put in place, as have gear restrictions. The app even gives you pictures of gear, which is very helpful, measurement, size, etc., and bag, boat and possession limits in force. Not only does it contribute to the sustainability of the state's seafood supply but also the future of the recreational fishers, so that they can continue to follow their fabulous passion of fishing.

RECREATIONAL FISHING

The Hon. K.J. MAHER (15:09): By way of supplementary question: despite the Hon. David Ridgway's difficulty using this technology—

Members interjecting:

The PRESIDENT: The Hon. Mr Maher will get to his question.

Members interjecting:

The PRESIDENT: I've called him to ask his question, the Hon. Mr Dawkins—I don't need your assistance.

The Hon. K.J. MAHER: Does it surprise the minister that this app has been referred to by Matthew Abraham today on Twitter as 'a terrific SA recreational fishing app—well done to SA government public service fishos'?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:10): I thank the honourable member for his most important supplementary, and no, I was not aware.

MARINE PARKS

The Hon. D.G.E. HOOD (15:10): My question is to the Minister for Agriculture, Food and Fisheries. Minister, has the government yet determined the total budgeted amount to be allocated as compensation to commercial fishers as a result of them having to either partially or fully surrender their licences following the introduction of the marine parks and so-called no-take zones? If so, what amount has been agreed upon?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:10): I think I have addressed this matter in this place previously as part of other information in relation to answering other questions. We have not divulged the amounts. What we have said is that we will negotiate fishery by fishery, because different fisheries have different market values at a given time, and on a case-by-case basis.

What we have said is that we will give a fair market price. Obviously, the absolute amount is something that we hold as commercially in confidence, and that's because, if we go out there and let people know what we are prepared to pay, you can bet your bottom dollar that they will not

only be asking that but probably for a bit more than that. So, we need to keep that confidential for the time being, but we have made it clear that it will be at fair market prices.

I can reassure the honourable member that those negotiations are going extremely well. We have been overwhelmed by the fisheries, on a voluntary basis, coming forward and looking for sale of, if not of all their licence, part of their licence, I think for a range of reasons, so that's been very positive. Across most of the fisheries, we have received far more offers than we need so, obviously, we will continue with those negotiations, and they are being finalised pretty much as I speak.

The PRESIDENT: The Hon. Mr Darley, do you have a supplementary?

MARINE PARKS

The Hon. J.A. DARLEY (15:12): Thank you, Mr President. Can the minister advise on what principles the fair market value has been determined for those fishing licences?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:12): It's fair market value. The current market price in a given fishery—different fisheries are worth different values at any particular time—so we will look at that and give a fair price accordingly. These are negotiations that are occurring with the industry. If the industry doesn't like the price that we are offering, they won't accept it—it will be as simple as that. They are not forced to surrender: it's something that's voluntary.

I can absolutely assure the member that, if we didn't ask a fair price, they wouldn't accept it. I can assure the honourable member that there are a lot of takers and a lot of interest, and I don't think we are going to have any problems at all meeting our commitments in relation to displaced effort.

APY LANDS, ELECTRICITY INFRASTRUCTURE

The Hon. T.J. STEPHENS (15:13): I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation questions about electricity on Aboriginal homelands.

Leave granted.

The Hon. T.J. STEPHENS: After a recent trip to the APY lands, a number of residents raised the issue of the maintenance of the electricity infrastructure on the lands, particularly their homelands. I have had correspondence raising concerns to this effect and have asked the minister about this issue on a number of occasions. Unfortunately, he has handballed this issue to the Minister for Energy in another place. My questions are:

1. Has the minister received a response from the Minister for Energy?

2. Does the minister think it appropriate that nothing has been done in the 12 months since I last raised the issue?

The PRESIDENT: Minister, you will ignore the usual bits.

Members interjecting:

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:14): The usual bits.

The PRESIDENT: The opinion and debate, for you, the Hon. Mr Stephens.

The Hon. I.K. HUNTER: Thank you, sir, for that guidance. I thank the honourable member for his most important question. To my knowledge, I have not seen a response to the honourable member's question, but I am sure the Minister for Energy in another place is working assiduously on getting a response for him. I am not sure that I accept the premise of his second question.

COORONG AND LOWER LAKES

The Hon. K.J. MAHER (15:15): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the chamber on how the Department of Environment, Water and Natural Resources is building stronger relationships and partnerships with the Ngarrindjeri communities of the Coorong and the Lower Lakes?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:15): I thank the honourable member for his very important question and for his ongoing advocacy for the Coorong and the Lower Lakes and, of course, the greater south-east of our state. I have spoken in this place many times about the importance to our state of the Coorong and Lower Lakes as an ecosystem. It is also important to acknowledge that a lot of the work the Department of Environment, Water and Natural Resources performs in that area would not be as successful as it is if it were not for the input and collaboration of the traditional owners for a significant part of that region, the Ngarrindjeri people.

The Ngarrindjeri were, of course, one of the first Aboriginal peoples of South Australia to interact with European settlers. There is a record of the Ngarrindjeri residing in the area for thousands of years before that first interaction. As a result, the history of that area, both pre-settlement and post-colonial settlement, is rich and quite extensive, and we can thank the Ngarrindjeri for being custodians of that history and sharing that history with us.

The Department of Environment, Water and Natural Resources recognises that this history and this cultural knowledge and their culture has much to offer our task in conserving our natural environment but also ensuring its sustainability and productivity into the future. A healthy River Murray and a healthy Coorong are just as important to the Ngarrindjeri as it is to our economy, our state and our prosperity.

Perhaps nowhere else was the full impact of last decade's drought, low flows and heightened salinity experienced more than at the Murray Mouth and in the Coorong, and the Ngarrindjeri were very well aware of that fact. The Ngarrindjeri believe that the health of their people depends on the health of the waters. So, when the drought was at its peak and the water level in the Lower Lakes plummeted and the Coorong's South Lagoon went hypersaline, the Ngarrindjeri community suffered, as did the broader community.

The River Murray Operations Branch of my agency has, of course, had a longstanding relationship with Ngarrindjeri through the Living Murray program. Together, they have worked for many years to achieve improved ecological outcomes in the Lower Lakes, the Coorong and the Murray Mouth icon site, and the Living Murray programs have also provided employment and training opportunities for many Ngarrindjeri people.

In recognition of this relationship, just a few weeks ago it was my great pleasure to participate in a cultural awareness exercise, entitled My Coorong Rules, organised by my department. That might be a reference to some TV program on a commercial site, which I don't watch, of course, Mr President. This was a great opportunity for a number of city-based staff to get out into the regions, meet their colleagues and members of the Ngarrindjeri community at Raukkan and members of the Ngarrindjeri Regional Authority.

Amongst the serious business of catching up on the various projects in the area, we were also treated to a number of informal events, including a historical walking tour of the Raukkan township, which, of course, has plenty of history on show, including the famous church which appears on our $50 notes. It also included a tour of the Teringie wetland and an opportunity to participate in a basket weaving session led by Ms Ellen Trevorrow at Camp Coorong, which I declined to participate in but I did watch with some amusement. Being all thumbs myself, I didn't want my expertise, or lack of, on show.

As many honourable members would know, no visit to the Coorong region is complete without some fantastic Coorong mullet for lunch. Indeed, we treated this exercise as a bit of culture sharing. Whilst the Ngarrindjeri community put on some Coorong mullet and some kangaroo tail for our benefit, members of the DEWNR community who participated, who enjoy some international ancestry, decided to join in and provided us with some lovely Polish dumplings, some fantastic Italian pizza—

The Hon. G.E. Gago interjecting:

The Hon. I.K. HUNTER: It was fantastic—and some other wonderful dishes. I am afraid that I had to restrain myself from eating too much for the remainder of that day to make up for that calorific intake. These sort of activities are a great way not only to engage with out stakeholders as a department but also to establish long-lasting relationships between city-based staff and those in the regions. It has been my experience that the really best outcomes come when government develops really long-lasting and good relationships with individuals and local communities. Those personal relationships deliver a lot more value to government and to the local communities when

we actually spend time getting to know each other, listening to each other's issues and trying to work together in a collaborative way. I have seen that time and time again in my position and I really value it. I think my department values it highly as well.

I also had the opportunity to visit one of the sites of our Ruppia Translocation Project, a project I have spoken about in this place before, where important revegetation of the Coorong seagrass stocks is taking place. The Ngarrindjeri have been part of this, just like so many other projects in the region. Around 12 Ngarrindjeri are working on the Ruppia Translocation Project, and I am pleased to advise that the project is now reporting early signs of success, the seeds planted earlier this year having now germinated, and an estimated 12 million shoots of ruppia are now growing across the Coorong.

Having the plants grow is the first important step. We need good flows of water down the River Murray over summer, but the early signs are quite encouraging. Not only do we need the flows, we need the level of the Coorong to be maintained as well so that the plants set seed and replenish the seed bank. My Coorong Rules and the Ruppia Translocation Project are great examples of different communities coming together for the betterment of our environment, sharing knowledge, sharing culture and working together for success, and I congratulate the team and the Ngarrindjeri community for that wonderful day.

MATTERS OF INTEREST

FINANCIAL ADVICE REFORM

The Hon. R.P. WORTLEY (15:21): I rise to draw members' attention to the future financial advice reforms. As I have said before, as parliamentarians we strive to serve the best interests of the community and I believe that a big part of that ethos of service is an obligation to convey important messages to the public. I have done this in regard to a variety of physical and psychological health issues and today I am focusing on another sort of health: financial health.

I am here to deliver the message that, regardless of the fact that these reforms spring from the federal jurisdiction via the last parliament, the intentions of the FoFA laws and their benefit to every South Australian right now and into the future should be acknowledged in this place. Making informed choices about money during your working life and into retirement is vital for our financial health, individually and collectively, especially in an environment where superannuation funds now manage trillions of dollars.

In fact, according to the *Financial Review* on 17 August last year, our super industry now represents the world's fourth largest pool of managed funds, and that is not even counting the $5 billion plus held in self-managed super funds. Add to this an ageing population and increasing pressure on the pension system, and we can see why reforms to the financial planning sector I am discussing are of such value.

The intention of these laws is to improve the quality of advice consumers receive and to augment consumers' access to affordable financial advice. The FoFA reforms became law on 1 July last year, when the financial industry was given 12 months to transition to the new system. Consequently, compliance with the FoFA laws by financial advisers and financial product advisers became compulsory on 1 July this year. Where formerly advisers could profit from advice given to clients, for example, by receiving incentive payments from financial product providers, as of now a best interest duty requires advisers to act in the best interests of clients and not to compromise advice with their own pecuniary interests.

Furthermore, the FoFA laws introduce a ban on monetary and non-monetary benefits that could reasonably be expected to influence advice dispensed by advisers. Advisers are now required to give all clients paying ongoing advice fees an annual statement showing the fees paid and the services received and to seek the consent of such clients to those continued charges every two years.

Finally, the FoFA reforms support provision of scaled advice about a specific area of financial need, for example, insurance, or about a finite number of issues. This means that consumers now have access to a low cost advice option that focuses on a specific area or areas and the benefit of these reforms are manifest. Consumers can now trust that the advice they receive is not compromised by the payment of commissions to advisers.

Greater transparency with regard to fees means that the advice environment is more competitive because advisers have to compete for clients based on cost. Advisers now are obliged

to unambiguously explain initial ongoing product and administration fees to clients. Product fees similarly become more competitive over time because financial product providers can no longer pay advisers to recommend their products. The scaled advice gives consumers greater access to low cost advice.

These laws now in place encourage all Australians to obtain financial advice and support consumers' confidence and trust in that advice. On that point, the reforms will shake out those financial advisers who have lined their pockets with the hard earned life savings of people whose trust they have abused. That is a real win for the community. I commend these laws and the enhanced financial benefits that they provide our people whatever their stage of life because, to return to my theme, I contend that financial health (or its obverse) can have a pretty significant impact on our physical and psychological health, both immediately and in the long term.

INSPIRE EXHIBITION

The Hon. J.S. LEE (15:26): I rise today to speak about Mary Cheung's *Inspire* photography exhibition. I was honoured to be invited by *Sameway Magazine* to be their guest speaker for this exhibition which was held on Monday 30 September 2013. The *Inspire* photography exhibition was proudly organised by *Sameway Magazine* in conjunction with World Vision Australia and co-hosted by Confucius Institute at the University of Adelaide.

Sameway Magazine, which is a Chinese magazine catering for the growing Chinese community in Australia, signed a partnership agreement with World Vision Australia to do fund-raising and raise awareness about children, families and communities that are experiencing poverty and injustice. I congratulate and thank Raymond Chow, Sam Yu, Christiana Yu and the team at *Sameway Magazine* for organising this meaningful event and for bringing an inspirational presenter like Mary Cheung from Hong Kong to Adelaide. Special thanks also to Professor Mobo Gao, Director of Confucius Institute, and his team for sponsoring the venue and hosting us at the University of Adelaide.

Let me tell you something about Mary. Mary Cheung's background is both inspirational and fascinating. Mary is widely recognised as one of the most successful women in Hong Kong and an incredible philanthropist. In 1987 she launched a charity campaign and raised more than one million Hong Kong dollars.

With her remarkable achievements one would never guess that she was brought up as an orphan. Mary was born in Hong Kong in 1952. Sadly, her parents divorced when she was nine years old and she was sent to an orphanage because her parents would not care for her. Despite her early struggles and living in poverty, Mary graduated from the school of business at the Hong Kong Polytechnic University and she went on to become a Miss Hong Kong pageant winner, a successful radio host and the managing director of an award-winning public relations company.

Some of the awards that she had won included Hong Kong Ten Outstanding Women, Women of the 21st Century, Hong Kong Most Successful Women, Education Achievements Award, One Hundred Outstanding Female Entrepreneurs in China, and Quality Life Award, just to name a few. In addition to all her business accomplishments, Mary is also a passionate photographer, painter and author. Mary has published over 20 photography books, many of them capturing images of children living in third world countries. Her culmination of work has enabled her to put together a photography exhibition which is called *Inspire*. The *Inspire* exhibition has travelled the world, including China, France, Canada and New Zealand and, most recently, it has reached Australia.

We are very fortunate to have someone of her calibre to come to Adelaide to give her talk through the photography exhibition. I became very inspired and very grateful to be part of the event. When I was asked to be guest speaker for the exhibition, the organiser wanted a female leader who was community minded, someone who has a strong connection with the Chinese community of South Australia. What they did not expect was my direct association with World Vision. I guess this can be described as serendipity. *Sameway Magazine* did not realise that I have been involved in the child sponsorship program for World Vision for more than 25 years.

It was very humbling to be able to contribute my personal experience for the event. It was a great honour indeed to meet Mary Cheung in Adelaide. She is a beautiful and amazing human being. I have invited her to come back to visit Adelaide again, perhaps for her to take part in next year's OzAsia Festival because I believe many people will benefit from hearing her story and seeing her outstanding contribution to society.

Once again, congratulations to *Sameway Magazine* and the Confucius Institute for putting together and organising a wonderful and generous event supporting World Vision. Today, honourable members, be inspired.

FOOD AND WINE INDUSTRY

The Hon. CARMEL ZOLLO (15:30): Today, I would like to take the opportunity to talk about one of the government's seven strategic priorities: premium food and wine from our clean environment. As a former convenor of the Premier's Food Council, I follow the progress of this strategy with interest. In a chamber like ours where we represent the whole state, I believe it goes without saying that all of us recognise the important contribution this sector makes to our economy. Indeed, it generates some $16 billion in revenue annually and employs one in five people. Minister Gago is strongly committed to regional South Australia and its economic success.

Our credentials as a producer of premium food and wine from our clean environment, clean air and clean soil are very sound. It is the edge that not only sees us capitalising on the increasing global demand for premium products but that also enables us to promote a lifestyle destination when attracting tourists to our state.

Honourable members would be aware that an action plan for premium food and wine from our clean environment was released last month. The plan to develop and expand South Australia's food and wine industry is not just aimed at the local and interstate markets, but to our key overseas markets. The minister has, over recent parliamentary sitting weeks, advised the chamber of several initiatives that see us being promoted at important overseas markets.

The three themes of the action plan are: build our brand, grow our capacity and secure production. Needless to say, further developing markets, driving innovation and maintaining our biosecurity, amongst other initiatives, are pivotal to the success of the plan. As to be expected, the plan was developed in response to an extensive and wideranging consultation with the food and wine sectors, to allow the best possible opportunity to address any concerns and challenges facing the industry.

During my involvement, the partnership between government and the sector was a strong one and I am pleased to see the plan bringing together projects that are being delivered by both parties. I understand minister Gago has said that there are more than 70 projects and has provided the chamber with some examples of those projects. She has advised the chamber in the past of the opportunities in China for food, wine and capability development. I think it also makes perfect sense to see a food manufacturing hub located at the University of Adelaide's Waite Campus to support innovation in the food manufacturing industry.

Without doubt, the Waite Campus of the University of Adelaide is respected world wide for its research and excellence in the science of food and wine research and innovation. In partnership with industry, there have been a variety of initiatives evolving over the years which have led to the development or assisted in the development of this action plan. As well as community forums, the minister has committed herself to three industry forums this month across the state to hear about the opportunities and challenges the sector faces. The government has committed itself to updating the plan regularly to reflect the progress made in responding to the ongoing work between the government, industry and the community.

During my responsibilities on the then Premier's Food Council, we talked about paddock to plate. Whilst there are so many avenues to promote our clean food and wine, I was particularly pleased to see the new concept of the premium food and wine trail at the Royal Adelaide Show this year. This year, the show provided the opportunity for everybody to sample the best of our state's lifestyle and quality of life in South Australia with superb food and wine. 'Why focus on food and wine?' is asked in the pamphlet promoting premium food and wine from our clean environment. I believe the pamphlet sums it up well:

> Food and wine are pivotal to South Australia's prosperity and central to its identity. The food and wine industries employ one in five workers and account for around 45 per cent of the state's total merchandise exports. The industries encompass primary producers such as growers, farmers and fishermen; packers and processors; wineries and food manufacturers; wholesalers, marketers and retailers; and food service enterprises, such as restaurants, cafes and bars.

I commend the government and minister Gago on this important action plan.

DISABILITY ARTS

The Hon. K.L. VINCENT (15:35): Today I would like to speak about an exciting upcoming event of importance to both the Adelaide arts and disability communities. Members may recall the multi-award winning stage production by No Strings Attached Theatre of Disability, *Sons and Mothers*, which first appeared in the 2012 Fringe Festival to wide acclaim. The cast is comprised of the men's ensemble of No Strings Attached and each of these men use the show to write a love letter to their own mother. For some of them the relationship with their mother may be the most intimate or the most tumultuous they have ever known.

Members are probably aware that the production is returning to Adelaide this month, and I want to make sure that they are also aware of the accompanying documentary, which will be making its world premiere on 20 October as part of the Adelaide Film Festival. The documentary, produced by local company POP Pictures, follows each of the seven men of the men's ensemble, plus writer/director Alirio Zavarce, throughout the development of the production as they share with each other and with the audience the tales of how they met their mothers. Some mothers have passed on, others are still full or part-time carers for their son's and all make their presence felt as their sons lay bare the way in which these women have shaped their paths. Some of the surviving mothers also share candid accounts of the challenges and joys of raising a child with a disability.

Some of the sons we meet throughout the documentary include the gentle giant and part-time punk, Ryan; the theatre-mad Kym; the ethereal dancer, Ricky; the class clown, Damien; and the musically gifted Abner, who says:

> My mother was a radical feminist separatist lesbian before her father died, and she never did explain to me why she divorced my dad, but I guess it was because she was a separatist lesbian.

Others include the concise and witty Duncan, and Ben who, when asked the question 'What makes a woman a mother?', gives a response that is at once subtle and profound: 'She just is.' We also gain insight into the life of writer/director Alirio who returned to his native Venezuela in 2004 so that his mother, who had cancer, could die in his arms. It would be upon his return to Adelaide that he would begin work on this production.

As members can see, this documentary offers up a wide range of personalities and experiences to be enjoyed. I would like to thank the men's ensemble for being so willing to share so much of their lives throughout this project and, in particular, I would like to thank producer Louise Pascale and director Chris Houghton for their respect in allowing the sons and the mothers to tell their own stories for, as anyone who like me has already seen the film can tell you, they do that very well.

Following the screening of the documentary, I, as patron of No Strings Attached, will be moderating a panel discussion about the role and place of disability arts with some very accomplished panel members, both local and imported. These include local theatre designer Gaelle Mellis; UK-born writer and performer Julie McNamara; and Sam Charles and Matthew Wauchtope of the Sit Down and Shut Up Film Festival.

This promises to be an engaging, emotional and thought-provoking afternoon of cinema and discussion for which I hope members would join us. Tickets, including access to the panel discussion, are just $18 full price or $14 concession. I hope to see all members there with the film screening starting at noon on Sunday 20 October at the Regal Cinema. This will be the only screening at this time, so I hope members will make an effort to attend. For further details, of course, members can see the Adelaide Film Festival program or website, and I hope to see all members there at this very important and exciting event.

MINISTERIAL TRAVEL

The Hon. R.I. LUCAS (15:39): I want to refer to minister Bignell's love of taxpayer-funded overseas travel and the Tour de France. On 12 October, the headline in *The Australian* reads 'MP's $30,000 cycling trip' and the article notes:

> Stays in a French mansion and five-star hotels, $1000 in car hire and a black-tie international cricket function were features of a 14-day overseas trip by South Australia's tourism minister and an adviser that cost nearly $30,000.

The article and another article also refers to the fact that the trip also covered the Tour de France and there is a photo of the minister with Australian cyclist Stuart O'Grady. Minister Bignell has form in relation to taxpayer-funded overseas travel and the Tour de France, and I referred to this issue previously, before Mr Bignell became a minister, on 14 September 2011.

I want to refer to two emails dated 22 February 2005 from Ms Sharon Curtis in PIRSA to Mr Leon Bignell, who was then a staffer to minister Conlon. It says:

> Leon
>
> I refer to your overseas trips back in June and July 2003—

I note there were two overseas trips—

> where you received a travel advance from PIRSA to travel with Minister Conlon—

and an unnamed officer—

> on the first trip and the second trip was on your own (where you spent the unspent travellers cheques from your first trip).
>
> You advised me some time ago that you didn't have any receipts for your second overseas trip however you were going to send me through your itinerary and as much information as possible about the trip.
>
> I have been asked by PIRSA's accounts section to have this finalised as soon as possible as it refers to a previous financial year.
>
> Can you please either call me or send me an email with the appropriate information from your second overseas trip in July 2003 at your earliest convenience.

That was February 2005 and Leon Bignell responded on 22 February:

> Hi Sharon,
>
> Thanks for the email.
>
> I did have receipts for the second trip and forwarded them through our office manager. My understanding was the amount of the unspent travellers cheques (from the June trip) was deducted from the amount I was reimbursed.
>
> We'll chase it up this end to clarify the situation.
>
> Thanks again, Leon

Follow-up FOIs that I conducted in 2004 and certainly for the duration of 2003 indicate that there is no further reference to any follow-up, at least in the FOI information provided to the Liberal Party in relation to this particular issue.

Other information indicates that this second trip was dated from 21 July to 12 August. It is clear from the documentation that a ministerial adviser, Mr Bignell, was travelling alone overseas at least for the first week or so. It does not appear that minister Conlon arrived on the scene until 30 July, some nine or so days later after Mr Bignell left.

The FOI information indicates that on 21 July, Mr Bignell flew out from Perth to Paris. On the 22nd he went from Paris to Pau, and fortuitously, the Tour de France just happened to be in the city of Pau on that particular day. It would appear he then followed the tour to Biarritz, and on 23 July he then flew from Biarritz to Barcelona. As I said, minister Conlon does not appear to have joined the trip until 30 July—more than a week later.

The Tour de France in that period was from 5 July to 27 July. I note that whilst Mr Bignell was minister Conlon's ministerial adviser, minister Conlon was not the minister for recreation and sport and he was not the minister for tourism at the time. He is listed as being minister for energy, infrastructure and emergency services.

The questions that minister Bignell must now answer to not only the constituents of Mawson but also to the people of South Australia as a minister are:

1. Why was he travelling alone for at least nine days as a ministerial adviser and what approvals did he have for that travel?

2. Why did he attend the Tour de France, and what business or work was he undertaking on behalf of the taxpayers of South Australia for that period?

3. What was his itinerary, and did he submit the itinerary as required to PIRSA and any further information?

4. What receipts (if any) did he submit to PIRSA for the expenditure incurred from taxpayers for his trip to the Tour de France and then subsequently to Barcelona; and if he submitted receipts, when did he submit them?

If minister Bignell continues to refuse to answer these questions, the electors in Mawson will be suspicious that Mr Bignell has something to hide about overseas travel rorts.

AGRICULTURAL FIELD DAYS

The Hon. R.L. BROKENSHIRE (15:45): I rise in this matter of interest debate to put on the public record my appreciation and congratulations to the Yorke Peninsula Field Days Committee and the Riverland Field Days Committee for the magnificent work they do in promoting field days for agriculture in South Australia. I say at the start that, again, I place on the public record my disappointment that this government is not showing sufficient commitment to rural and regional South Australia and agriculture.

I wrote to minister Conlon last year and said, 'Look, the Yorke Peninsula field days are coming up on 24, 25 and 26 September, there's a large constituency there, it would be good for members of parliament to be able to visit the field days,' and I asked whether he would please look at scheduling the sitting week around the field days. Well, I get no response from minister Conlon and, at the end of the day, guess what? While the Yorke Peninsula field days were being conducted we were all sitting here in parliament. However, the week before and the two weeks after that we were not sitting in parliament. And, when the Festival of Arts and all the other events occur in 'Mad March', the government goes out of its way to ensure we do not sit for weeks so that members can go and visit the Festival of Arts. That is all very fine, but at the end of the day I remind the government that the strong economic engine room, with the best growth potential into the future, is agriculture and value-adding that agriculture.

To get back to the field days, unfortunately I was not able to go to the Yorke Peninsula event. My family attended and said it was a huge success. I congratulate Mr Paul Browning, the president, and the very large team of committed volunteers that put the 2013 Yorke Peninsula field days together. I also wish to put on the public record that Australia's oldest field day, established in 1894, was Yorke Peninsula field day. It started out near my daughter and son-in-law's Price family farm towards Alford, on a property owned for along time by the Bruces. Those people have been innovative and forward thinking in developing agricultural opportunity for a long time, but this government cannot see the importance of the event. Sadly, whilst I know the minister for agriculture wanted to go, she was not even able to attend.

One that I was able to attend was the Riverland field days, the 56th, starting in 1958, and that again was a magnificent field day that has grown from small things to very big and significant field days with hundreds of exhibitors. They have their own facilities there, as well as the Yorke Peninsula and Cleve field days and many others. I place on the public record my appreciation to the chairman, Ashley Chabrel and all the hardworking volunteers and support staff who helped put the Riverland field days together, including the secretary/administrator, Tim Grieger.

We have in the House of Assembly a wheat sheaf and a wine grape. That is there because this state built its foundation on agriculture and primary production. It is tough out in the economy at the moment, and manufacturing is suffering immensely, and this wind again today and the hot weather we have had is not good for the completion of absolutely bountiful crops. However, the reality is that right across the state, even though unfortunately spring has gone dry again, we have seen what will be potentially a bumper harvest. When that money starts to come into South Australia, it will filter its way through the regions and into Adelaide, and it will help the government and the economy generally, because we are to see billions of dollars worth of grain, dairy, wool and horticulture coming through the farm gate and through the processes, and ultimately taxes and other charges will benefit the whole state.

I do not apologise one little bit for the fact that I am extremely disappointed that this government is not focused enough on agriculture. I will have more to say about it in the near future, but if you look at two areas that have had incredibly outrageous and unfair cuts on them since this government came to office, it is the primary industries department, PIRSA, and tourism. Guess what? Both of those are paramount not only to the rural regions of South Australia but to the economic growth and stimulation and future opportunities for our state. I call on the government to revisit its policies—

The PRESIDENT: Time.

The Hon. R.L. BROKENSHIRE: —and look at agriculture as a priority.

The PRESIDENT: Order! The Hon. Mr Kandelaars.

OPERATION FLINDERS

The Hon. G.A. KANDELAARS (15:50): Recently, I had the opportunity to tour the Operation Flinders Foundation's Yankaninna Station in the Northern Flinders Ranges. I met with the executive director, John Shepherd AM, and other Operation Flinders staff and volunteers and discussed what the organisation is all about.

Operation Flinders is a South Australian charitable organisation that provides a unique program for young people who are at risk. The program that Operation Flinders provides is unique. It consists of an eight-day trek through Yankaninna Station in the Northern Flinders Ranges, which is located 65 kilometres east of Leigh Creek. The purpose of the program is to offer young people who have been identified as being at risk a chance to improve their perceptions on life, their self-esteem, their teamwork skills and responsibility, so that they may better contribute to society and the community.

Each team consists of between eight and 10 young men and women, a team leader who is skilled in wilderness survival and navigation, an assistant team leader and two counsellors who provide additional support. The total distance for the trek varies from program to program depending on the challenges and tasks the group has to accomplish along the way; however, the average distance sits at around 100 kilometres over eight days.

Over the eight days, each participant is required to carry all their own gear, from spare clothes to shelter to sleeping gear, weighing up to 15 kilograms. Food, water and cooking equipment are supplied and delivered to night stop locations throughout the trip; however, food preparation and shelter assembly are the responsibility of the participants.

Throughout the hike, the participants are faced with problems that need to be solved before they can proceed. These problems range from working together to abseiling down rock faces. Whilst on that, I did participate in some abseiling and, at one stage, ended up upside down, but that is another story.

Teamwork and support are essential to complete these tasks. The participants learn to work as part of a team and rely on each other's strengths and help support other's weaknesses. The program also teaches them how their decision-making and behaviour not only affect them but their peers and teammates as well.

Being in the middle of nowhere, participants are not able to turn around and run away from these difficult situations: they are forced to face up to them head on. It is the intention of the program to teach and show these young people that they are indeed capable of facing these issues and living full and productive lives while providing a safe and fun environment in which to learn.

The Operation Flinders program costs around $1.6 million a year to operate, most of which comes from council grants, fundraising and donations. Unfortunately, even this, at times, is not enough. This year's program has received incredible interest from parents and groups across South Australia and, sadly, has already been fully booked, with already 130 people booked in next year's program.

In 2002 and 2004, an independent review stated that the program was leading the world in positive outcomes and that young people who were initially considered to be at risk were significantly more likely to take the skills they had learnt and apply them to their day-to-day lives restoring faith in themselves. This year the Operation Flinders program has had more than 400 participants.

I would like to thank John Shepherd and his team for giving me the opportunity to see Operation Flinders in action. It was also great to see and hear from a number of the young participants. I would also like to take the time to thank the many volunteers who use their precious time, away from their families and lives, to assist in running the trek that helps so many young participants. Finally, I would also like to thank everybody who has assisted and donated to keep this remarkable organisation going.

NATURAL RESOURCES COMMITTEE: ANNUAL REPORT 2012-13

The Hon. R.P. WORTLEY (15:56): I move:

That the 88th report of the committee be noted.

The 12 months to the end of June 2013 has again been very busy for members of the Natural Resources Committee. The nine members appointed after the March 2010 state election continued

their work on the committee with just one change, and that was in January 2013, when I was appointed to the committee in place of the Hon. Gerry Kandelaars MLC. There were no changes to staff during the reporting year.

In the reporting period, the Natural Resources Committee undertook 27 formal meetings, totalling 70 hours, and took evidence from 85 witnesses. Thirteen reports were drafted and tabled in the reporting period. These were the annual report for 2011-12; seven reports into natural resources management levy proposals for 2013-14; a review of NRM levy arrangements; an interim Eyre Peninsula water supply inquiry report, Under the Lens; the annual report on the Upper South East Dryland Salinity and Flood Management Act for 2011-12; Water Resource Management in the Murray-Darling Basin, Volume 3, Postscript Report, The Return of the Water; and a report on foxes, Hunting the Right Solution.

Of the five fact-finding visits undertaken in 2012-13, three related to the committee's Eyre Peninsula water supply inquiry, including visits to Ceduna, Streaky Bay/Robinson Basin, Port Lincoln and the southern basins, and the Musgrave Prescribed Wells Area, including the Polda Basin.

The committee was also fortunate to be able to undertake a tour of the northern part of the APY lands, including Umuwa, Indulkana and Coober Pedy. A day trip to Black Hill and Cleland conservation parks to learn about DEWNR's prescribed burning program was also very informative. The committee's inquiry into the Eyre Peninsula water supply was ongoing at the end of the reporting period, although it has since been completed.

I acknowledge the valuable contribution of the committee members during the year, that is, Presiding Member, the Hon. Steph Key MP, Mr Geoff Brock MP, the Hon. Robert Brokenshire MLC, the Hon. John Dawkins MLC, Mrs Robyn Geraghty MP, Mr Lee Odenwalder MP, Mr Don Pegler MP, Mr Dan van Holst Pellekaan MP, and the Hon. Gerry Kandelaars MLC. I thank them for the cooperative manner in which they have all worked together, and I look forward to a continuation of this spirit of cooperation in the coming year. Finally, I thank members of the parliamentary staff for their assistance. I commend the report to the house.

The Hon. J.S.L. DAWKINS (15:59): I rise to endorse and support the comments made by the Hon. Mr Wortley.

Members interjecting:

The Hon. J.S.L. DAWKINS: I make no comment about the pronunciation. I support the comments of the honourable member and note that he has returned to the committee in this second half of the year which this report covers. The Natural Resources Committee is a very active committee, as I have mentioned before. There are nine members and I think most, if not all, members are very active and committed to the work of the committee. It is sometimes difficult to get all nine together. I have illustrated in this place before my concern about the imbalance in the numbers between the two houses, and I still think that is something that should be addressed in the future, that we should not have a committee that has double the number of members from the lower house as against this one.

I think the Hon. Mr Wortley has covered the fact that we do have a wide-ranging area of responsibility. We work very hard to cover the large number of NRM boards right across the state and we will be furthering that work from the reporting period when we went to the APY lands. We will be going out to the Maralinga Yalata lands for the lower half of the AWNRM board next month. Once again I would like to thank the Hon. Mr Wortley for his words, particularly about the staff and the role that they play in our work and also, obviously, the chairmanship of the Hon. Steph Key, who manages the multipartisan nature of our committee very well. I commend the report to the council.

Motion carried.

WORK HEALTH AND SAFETY CODES OF PRACTICE REVIEW

Adjourned debate on motion of Hon. K.J. Maher:

That this council urges the Minister for Industrial Relations—

1. To refer for further review the codes of practice under the Work Health and Safety Act 2012, made on 20 December 2012 and laid on the table of this council on 19 February 2013, viz.:

    Construction Work Code of Practice;

Preventing Falls in Housing Construction Code of Practice; and

Safe Design of Structures Code of Practice

to the Small Business Commissioner.

2. To ensure that the review includes further consultation with relevant groups of the construction sector including the Housing Industry Association, the Master Builders Association and small builders.

3. To require a report to the minister containing recommendations to improve the above-mentioned codes and to table such report in parliament as soon as is reasonably practicable.

(Continued from 25 September 2013.)

The Hon. R.I. LUCAS (16:03): The genesis for this particular motion was a motion I moved some time ago now that various codes of practice under the work health safety legislation be disallowed. The government, through the Hon. Mr Maher, has moved this motion that they be referred to the Small Business Commissioner for advice, rather than disallowing. The cynics in the community would suggest that this was a device by the government to, in essence, prevent a final decision or vote on the disallowance of the codes of practice, because the government ministers and advisers knew that, if they could put off a vote on the disallowance motions, we only have now another 11 sitting days, unless the government takes up the optional week. I guess it is highly unlikely, given the current political climate, that the government will take up the optional sitting week.

So, in those 11 sitting days, if ultimately there has been no response from the Small Business Commissioner prior to that last week, then those members who still have to form a view about the disallowance motion would be none the wiser. The Small Business Commissioner and the government would still be considering it and there would be no opportunity to disallow the codes of practice. The Clerk's advice to members is that when the parliament is prorogued for an election, the opportunity for the parliament to disallow the codes of practice disappears if it has not been voted on prior to that last opportunity on the last Wednesday of sitting.

It is clear the government was quite aware of that and this was a device or an attempt to refer it off to the Small Business Commissioner and then ultimately, if the parliament wanted to express a stronger view to the government to say that these particular codes are too onerous, they are unacceptable in their current form and need to be removed and offensive provisions deleted, then they can be brought down in an amended form. Of course, that is the only option available to the government.

There is nothing in the Hon. Mr Maher's motion which requires the government to take any action as a result of the report from the Small Business Commissioner. The government has to table such a report as soon as reasonably practicable but, of course, if the parliament is prorogued, that will mean that it will not be tabled until the parliament first sits after the next election which might be in normal terms in April or May of next year.

The Hon. Mr Darley has flagged a sensible amendment which in essence is, rather than giving the government a blank cheque to say as soon as reasonably practicable, he has indicated that the government's intention through the Small Business Commissioner is to bring back the results of this particular investigation no later than Wednesday 13 November. That will then allow those members who are still to form a view in relation to these codes of practice to consider the advice of the Small Business Commissioner, any further advice from the government, and I suspect also advice from industry associations and stakeholders in relation to the merit or otherwise of the codes of practice, and then the disallowance motion which I am leaving on the books—and I will not move that until the last Wednesday of sitting. We will have an opportunity then to test the feeling of the Legislative Council in relation to whether or not there is support or otherwise for the codes of practice.

I must say that the government's approach is in my view a silly approach because if there had been a position where the codes had been disallowed the government could have remade the codes after further consultation and promulgated new codes of practice if it so chose and there would still have been plenty of time for some further consultation and discussion prior to the parliament being prorogued just prior to the next election. Anyway, that is the government's choice. They have chosen to go down this particular path, so on behalf of Liberal members I indicate that we will be supporting the Hon. Mr Darley's amendment; that is, to put in a specific time and if that is amended, we will be quite happy to support the motion. As I said, we will leave our disallowance motion for determination on the last Wednesday of sitting.

The Hon. J.A. DARLEY (16:09): I move to amend the motion as follows:

In paragraph 3, leave out 'as soon as is reasonably practicable' and insert 'by no later than Wednesday, 13 November 2013'.

As the Hon. Rob Lucas has mentioned, the purpose of the amendment is to give the council time to receive the recommendation of the commissioner and if we are not satisfied with that, or the actions of the government, we still have time to disallow the regulations.

The Hon. K.J. MAHER (16:10): Just briefly, I rise to indicate that the government will be supporting the Hon. John Darley's amendment. I wish to place on the record my appreciation and thanks to the Hon. Rob Lucas, who is sensibly supporting the government's motion as amended.

Amendment carried; motion as amended carried.

NATURAL RESOURCES COMMITTEE: EYRE PENINSULA WATER SUPPLY

Adjourned debate on motion of Hon. R.P. Wortley:

That the final report of the committee on Eyre Peninsula Water Supply be noted.

(Continued from 25 September 2013.)

The Hon. J.M.A. LENSINK (16:11): I rise to make some remarks in relation to this particular report, which is some two years in the making and was instigated by the member for Flinders, Mr Peter Treloar, after many years of difficulties with water supply on the Eyre Peninsula. I think the number of submissions made to this report indicates the depth with which a number of the local residents feel about the issue, the number of stakeholders involved and the fact that this very important water supply has been mismanaged by various government agencies over the years.

I would like to commend the committee, and we heard a contribution previously from one of its members, the Hon. Russell Wortley, talking about the value that many people feel of the work of the Natural Resources Committee. It is one of, if not the, best committee operating in the parliament, and I think that is a credit to its members and staff, so I commend them for the work they have put into, in particular, this report. It is an example of how the committee system should be utilised, where there is a genuine issue that deserves attention and can be looked at in a bipartisan, even multipartisan, way to come up with some form of consensus, which is not always able to be achieved through the committee system, but certainly this committee has reached a consensus on its recommendations and findings.

This issue has gone on for some time and it is something that the former member for Flinders, Liz Penfold, raised many times. As anybody who has spoken to her even as recently as this year would know, she is still on the case and very concerned about that community. So, all of the people who have been responsible for the creation of and contribution to this report are to be commended.

I am not going to speak in detail about the matter. It is quite complicated hydrogeologically. As I often say to people in the community and when I meet with anybody who has a lot of experience in their particular area: we come to parliament and we become jack of all trades and master of none. So, I will not attempt to blind anybody with my understanding of the issues. They have been canvassed in the other place, in the House of Assembly, on 25 September by members of the committee who have spoken in great detail or more detail than I am capable of having not participated in the evidence.

Just a few remarks to say that clearly the aquifers have been under stress and have become degraded and, in that sense, they are not able to provide water security for that region as has been required and will be required into the future, particularly given that a number of mining companies are looking at establishing operations on Eyre Peninsula. There is going to be a need into the future to provide greater water security. The state government agencies deny that it is through actions, and actions that they have allowed, that those things have taken place, and I am pleased that the committee has been able to put the finger on that, if you like, to say that mistakes have been made and that that needs to be acknowledged.

I think that the report provides a way forward in looking at a number of areas where future actions need to be undertaken and I think, for that reason alone, it is very useful. They did seek independent advice from the CSIRO and they have made a number of recommendations that I think are going to be very useful into the future. I think clearly all options need to be canvassed, particularly desalination options for the West Coast because the existing water resource may be

able to supply drinking and stock water for the current population and current needs, but I think that, going forward into the future, additional resources will need to be looked at. I commend the report and am happy to support the motion.

The Hon. R.P. WORTLEY (16:16): I would like to thank those who have contributed to the debate and recommend the report be adopted.

Motion carried.

ELECTORAL (OPTIONAL PREFERENTIAL VOTING) AMENDMENT BILL

The Hon. M. PARNELL (16:17): Obtained leave and introduced a bill for an act to amend the Electoral Act 1985. Read a first time.

The Hon. M. PARNELL (16:18): I move:

That this bill be now read a second time.

This bill is designed to end, once and for all, the dodgy backroom preference deals that blight our election process and deliver perverse election outcomes that clearly do not reflect the will of voters. This is overwhelmingly a problem with the upper houses of Australian parliaments that use proportional representation, above the line voting and party voting tickets, and this includes the South Australian Legislative Council.

We have just experienced a federal election where the result in the Senate has most Australians scratching their heads in disbelief. In Victoria we have a candidate who received 0.5 per cent of the vote, yet was able to be elected to the Senate by leapfrogging 10 other candidates, all of whom had more popular support. In Western Australia, depending on the result of the recount, it is possible that a candidate with 0.2 per cent of the vote could be elected to the Senate.

The relevance of the Senate voting system to our state is that the Legislative Council voting system is, to all intents and purposes, identical. That means that we are just as likely to end up with perverse outcomes. Nobody in this chamber needs any explanation of how the voting system for the Legislative Council works, but for the benefit of others listening to this or reading it later in *Hansard*, I offer the following.

Every four years 11 of the 22 places in the Legislative Council are put to an election. With a statewide franchise and proportional representation, candidates are elected on the basis of quotas, with a quota worth approximately 8.3 per cent, or roughly 83,000 first-preference votes out of the million or so formal votes cast in this state. Around 5 per cent of eligible voters fail to vote.

Voters can vote above the line or below the line. If you vote below the line, you must allocate a preference for all candidates. If you vote above the line, you can only vote for one party or group and that party or group then decides how your remaining preferences are distributed. They do this via voting tickets that have been previously lodged with the Electoral Commission.

More than 96 per cent of voters vote above the line and less than 4 per cent below. This means that most voters leave it to their first choice party to decide where preferences go and nearly all of those people have no idea where that is. One solution to this problem is what is known as 'optional preferential voting' and that is what this bill seeks to introduce in relation to Legislative Council elections.

Before outlining the mechanism of the bill, I want to address some of the contradictions that are inherent in Australian electoral politics. When we think about democracy and how democratic our voting system is, there is a tendency to consider the merits of individual MPs. If we like them then we tend to think they deserve to be there. A classic case in point is Senator Nick Xenophon who is clearly now hugely popular in this state but was first elected to the Legislative Council back in 1997 on 2.9 per cent of the statewide vote. Even Senator Nick Xenophon acknowledges that reform of the voting system is necessary and he supports a form of optional preferential voting. So, this is not about pragmatism: it is about democratic principles.

Another contradiction is that, on the one hand, many Australians express support for upper houses containing a range of members reflecting the diversity of Australia and they seem to like the fact that it is not dominated by the major parties. That is how Australians routinely vote. Around a third to a half of voters routinely vote for other than the major parties in upper house contests.

On the other hand, Australians do express concern when the result of an election does not fit their view of what is a democratic result. I am yet to find anyone who believes that the election of

a Motoring Enthusiasts Party senator on 0.51 per cent of the vote (0.035 of a quota) is a reflection of the will of the people of Victoria. Senator-elect Muir got up over 10 other parties that secured higher first-preference votes. His party did not secure enough votes to get their deposit back or to get public funding, but they got a senator. It is also worth noting that in Victoria, the Liberal Party got 2.8 quotas but only two senators, and the question is whether that is where the final spot should have gone.

Of course, the only reason someone can be elected on such a tiny primary vote is through second and subsequent preferences. In my mind, the election on preferences of a candidate with a relatively small primary vote could still be described as democratic if those were the preferences of voters, but they are not. They are the preferences of the parties and the groups themselves, stitched up, negotiated or wrangled in backroom deals in what the ABC election analyst Antony Green has described as like a children's' game of 'Keepings off'.

Antony Green has written extensively about this for many years. On one of his online blogs he refers to a candidate in the 1999 New South Wales Legislative Council election, Malcolm Jones of the Outdoor Recreation Party, who obtained preferences from 21 other parties to win election despite his party receiving only 0.19 per cent of the vote—or less than a 20th of a quota. That was the impetus for law reform in New South Wales, which was championed by my colleague Lee Rhiannon MLC (now Senator Rhiannon), who has been a driving force for democratic reform in this country for many years.

Another home truth that rarely gets discussed (but needs to in this debate) is that the game of thrones, or the game of preferences, is played differently by the major parties, the medium-sized parties, and the micro parties. The major parties only care about one thing: preferences in marginal lower house seats, because that is where governments are formed and those are the seats that decide the results of elections. In exchange for a favourable ranking on another party's how-to-vote card, the major parties offer smaller parties the gift of preferences in the upper house. These deals are done primarily with medium-sized parties who have the ability to contest both upper and lower house elections and who are likely to have volunteers handing out how-to-vote cards on election day.

Micro parties on the other hand only care about one thing: preferences in the upper house because that is the only chamber that they are contesting. In resolving where their preferences go, despite protestations to the contrary, the overwhelming considerations are pragmatic: the lamb will lay down with the lion. An atheist party candidate elected on Christian party preferences is just as elected as if the preferences all came from like-minded parties. Larger parties tend to be more principled because their supporters demand it, but there is always a pragmatic element in the ranking of smaller parties or groups, none of which have sufficient support to be elected in their own right but given the lottery of upper house voting all of which have some chance of being elected if the cards fall the right way for them. The results can be quite perverse, such as Family First's Steve Fielding being elected to the Senate in Victoria in 2004 on ALP preferences.

The solution to the problem of undemocratic election results is to get rid of group voting tickets and to put all preference decisions back into the hands of voters. This bill does just that through the introduction of optional preferential voting for the South Australian Legislative Council. My model has the following elements: first, it retains the split ballot paper. Below the line I am proposing no change, in other words, compulsory full allocation of preferences. However, I am open to suggestions about whether that onerous task could be relaxed. In New South Wales you have to number at least 15 squares below the line, but that is a requirement peculiar to their constitution. In fact, you have to number at least 15 above the line if the parties you vote for do not have 15 candidates, which means that all parties have 15 candidates—that is just the way it works there.

In my bill, in relation to above-the-line voting, the new system is for optional preferential—you number as many or as few squares as you want. When you do vote for a party or a group above the line, your preferences are for that group in the order in which they are listed by that group. If you are not happy with the order that the parties have provided, then you go below the line and you allocate your own preferences.

My objective in this bill is threefold: first, to get rid of party or group voting tickets (there is no place for them in this model, they are unnecessary, they are gone); secondly, I want to give voters the power to decide where all their preferences go, but without the onerous obligation of numbering every square, and that is why it is optional preferential above the line; and, thirdly, I

thought it prudent to introduce a minimal number of changes to help avoid confusion and to reduce informality. Under my model, even if you did not know that the voting system had changed, even if you missed all the Electoral Commission's advertising and voted in the old way, then it would still be a valid vote; it is just that your vote would exhaust once all the candidates in your preferred party were elected or excluded.

When it comes to electoral reform, it is always difficult to convince the public that the motivation is principle rather than self interest. I will say at this point, in relation to the Greens, that the proposed model in this bill would represent swings and roundabouts. There are some seats we would have missed out on and there are others we would have won in various states and various elections using this model.

The question is: does the model favour bigger parties? The answer is: probably yes, but then you have to ask: why are they bigger parties? The answer is: because more people vote for them. The next question is: will it make it harder for very small parties to get elected? The answer to that is also yes, unless the voters themselves allocate preferences to those parties. At a forum yesterday put on by the Committee for the Economic Development of Australia, discussing this very topic, former senator Chris Schacht asked a question from the floor and, as part of a longer general rant about over government and the evils of upper houses, he did raise the spectre of somebody from the happy birthday party being elected to the Legislative Council on 15 March next year.

My response is that I am more than happy to accept such a result, provided it is the will of the people expressed through the ballot box and the deliberate allocation of preferences by voters. I am not happy if that result comes from a handful of gaming enthusiasts in back rooms doing deals to which the public is oblivious.

What is the alternative? What do we have in store for us in South Australia if we do not reform the voting system? I think the answer is that we will see a repeat of the famous New South Wales 'tablecloth' ballot paper from 1999 because hundreds of prospective candidates in this state will see what has just happened at the federal election and will hand over $450 for effectively a lottery ticket to have their name and a five-word slogan put before one million South Australian voters. It is, in fact, the cheapest advertising around.

To remind members, the 1999 New South Wales upper house ballot paper measured over one metre long by 700 millimetres deep. It had 264 candidates and 80 groups. If we were to be honest about the current electoral system, it is probably best described as part election and part lottery, and we may as well draw the last few seats out of a hat.

I appreciate that we are nearing the end of the parliamentary sitting year, so I intend to bring this to a vote at the earliest opportunity. I know that other parties are interested in exploring law reform and I am happy to consider amendments that are put forward, provided they meet the threshold test of getting rid of group voting tickets and making our system more democratic.

I know that the view has been expressed that such fundamental reform should not be rushed and there is no way that we could introduce it in time, but I remind members that we have known about this problem for a very long time. It has been discussed for decades, we know that it is working well interstate and I do not think we should use as an excuse the fact that this is some radical reform and that our state would be a guinea pig state—that is not the case. I really think this does deserve our consideration and I would love to see it implemented before the next state election. I commend the bill to the house.

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

NATIONAL POLICE REMEMBRANCE DAY

The Hon. S.G. WADE (16:32): I move:

That this council—

1. Notes that 29 September 2013 is National Police Remembrance Day;

2. Pays tribute to the 61 members of the South Australian police force who have paid the ultimate sacrifice whilst performing their duties as police officers; and

3. Acknowledges the dangers facing the men and women who serve in our police force to provide us with a safer and more secure community.

The 24th National Police Remembrance Day was celebrated on Friday 27 September 2013. The member for Stuart, Mr Dan van Holst Pellekaan (the shadow minister for police, community safety and correctional services), moved a motion in the House of Assembly on 26 September to commemorate the day.

I move this motion so that this council can also pay its tribute to the 61 members of the South Australian police force who have died in the course of their duties. It is apt that, earlier today, in considering the Statutes Amendment (Police) Bill, this council took the opportunity to acknowledge the dangers that members of the South Australian police force face every day as they provide us with a safer and more secure community.

National Police Remembrance Day was instigated in April 1989 during the conference of the commissioners of police of Australasia and the South-West Pacific region. It was unanimously agreed that the service would be held on 29 September—the feast day of St Michael the Archangel, the patron saint of police. St Michael, according to the tradition of the church, is recognised as the patron saint of police as he protected God from the rebellious and disloyal angel Lucifer.

The main ceremony for South Australia Police was held this year on 27 September at Fort Largs Police Academy, with other ceremonies held across the state. National Police Remembrance Day is a significant day of commemoration where people can reflect on each individual police force and each officer's contribution to the service of both their vocation and their communities.

The most tangible expression of the commemoration of the service of the police is the National Police Memorial in Canberra, which was completed in 2006. This year will see the list of officers named in the national memorial reach 754 since Constable Joseph Luker of Sydney became the first police death on duty in Australia in 1803. The most recent police death in Australia happened in New South Wales on 6 December 2012 when Detective Inspector Bryson Charles Anderson was stabbed at a siege.

National Police Remembrance Day is a day not only to remember those who have suffered death but also to honour the living. The police serving today repeatedly risk death to serve their communities. It is a day to recognise the outstanding work of each and every police officer in the country. It is also an opportunity to reflect on the sacrifice of the family and friends of those who have died in action and for the ongoing stress that the families and friends of current serving officers experience knowing the risk that their loved ones take each day. Currently, in Australia there are over 56,000 current serving police officers, and in South Australia approximately 4,500 police officers.

I would now to like reflect particularly on the South Australian component of the honour role. Sixty-one police officers in South Australia have made the ultimate sacrifice in the line of duty since the police force was established in 1838. Of course, this year is the 175th anniversary of the formation of the force. The force was established in 1838. The first death in action was not until 1847, but since that death there have been 61 police officers who have died.

Some of the causes of death over that period perhaps also tell us something of the evolution of the force itself. For example, the first five deaths within the South Australian police force were actually death by drowning, whereas in more recent years, death in motor accidents has been much more prevalent. Perhaps also indicative of the changing nature of policing, and hopefully the more effective nature of police equipment, is that, in 1883, John Charles Shirley, and, in 1907, Charles Patrick Johnston both died of exposure.

Other clearly tragic events include the death in 1928 of Cyril Fletcher Clayton, who died on Christmas Day 1928. The service provided by police and all of our emergency services is highlighted by the cluster of three deaths, all on 19 January 1951, from police officers involved in a bushfire on that day. They were Mervyn George Casey, Colin Roy Kroemer and Cecil William Sparkes.

Over the 175 years of service of the South Australian police force, as I said, there have been 61 deaths on duty. That is about one death every three years. Thankfully, there have been no officers killed on duty since Bogdan Josef Sobczak died instantly in 2002 after colliding head on with a motor vehicle on a highway near Tungkillo in the Adelaide Hills whilst riding his police motorcycle. I hope that this is an indication that occupational safety for our police is improving, but the reality is that no amount of equipment or procedures can remove the risk completely. Policing is, by its nature, a very trying and risky task.

Our sympathy goes out to the families of all police officers who have been killed in the line of duty. To try to highlight that each one of those 61 stats is a real person and a real family, I would like to mention one case in more detail. In July 1990, Senior Constable David Thomas Hill Barr was serving. He had joined SAPOL in 1976 and had provided 14 years of diligent and ethical service before, on 26 July 1990, he was involved in responding to the reports of a man threatening a woman at the busy Salisbury bus interchange.

Whilst on a routine uniformed patrol duty, his junior partner, Constable Jamie Douglas Lewcock, was threatened. Senior Constable Barr approached the scene after Constable Lewcock had arrived to find a man wielding a knife at his junior. Barr drew his baton and approached the man, seeking to divert his attention away from his junior partner. However, the offender turned and commenced to menace Senior Constable Barr with a knife, ignoring repeated calls to put down the weapon. Senior Constable Barr attempted to arrest the offender, but was fatally wounded in the process. The offender was arrested, charged with murder, convicted and sentenced to life imprisonment.

Senior Constable Barr left behind a wife and two young daughters at the time of his death. His story illustrates how a seemingly routine police task can have the most tragic consequences. Senior Constable Barr's courage in the face of extreme danger highlights the bravery of the South Australian police. His story demonstrates how a routine policing task can confront police officers with the most challenging of tasks. He and his partner were fittingly awarded the Australian Bravery Medal in 1991.

Senior Constable Barr's story is one of 61 stories, stories that we honour in the South Australian police roll of honour, which in turn is part of the national roll of honour. The ultimate sacrifice in the course of their duties is commemorated by National Police Remembrance Day, and through this motion I would invoke the council to add our tributes and appreciation not only to those who have fallen but to those who continue to serve and those who care for them.

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

CROWN LAND MANAGEMENT (LIFE LEASE SITES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 May 2013.)

The Hon. G.A. KANDELAARS (16:42): The government opposes this bill. The bill seeks to amend the Crown Land Management Act 2009 to provide for long-term tenure arrangements. These arrangements would apply to shack sites on crown land currently held under life tenure crown leases. In 1994 the Liberal government introduced a shack site freeholding policy that aimed to enable lessees to purchase their holiday shacks on crown land. It was also the Liberal government that was surprisingly responsible at the time and made the decision to assess shack sites before determining if they were suitable for freeholding.

Again being surprisingly responsible, the criteria set in determining the outcome for shacks included public health requirements, in particular effluent disposal, adequately addressing flooding and erosion issues, provision for legal access to the site, and consideration of environmental issues and continued public access to waterfront. Those shack sites that were deemed suitable for freeholding were sold to the occupants. The occupants of any site that did not meet the criteria were offered life tenure leases which expire on the death of the last remaining lessee.

It is those shacks that were considered unsuitable for long-term occupation that this bill now seeks to provide for. This bill seeks to provide long-term arrangements to the occupants of shack sites who currently hold a life tenure lease. This is a key example of the Liberal Party either having amnesia or just grandstanding based on irresponsible policy for election purposes.

I understand the bill also seeks to transfer the responsibility for the management of shack leases to local government. The bill requires that any lease entered into by a council must contain conditions relating to access to the site, infrastructure, management of environmental issues, effluent disposal, the built form of structures on the site, and safety and security. This is not universally supported by councils with concerns that they would be responsible for the management and risks associated with shack sites for very little benefit.

The Liberal Party would be happy to pass this responsibility onto local councils, contradict their own previous policy and take away public access to prime waterfront land. The bill removes safeguards in the Crown Land Management Act in relation to the public waterfront land. The

current legislation requires consultation when exclusive use of this land is proposed, recognising that waterfront land is an important public asset to be enjoyed by everyone. The bill removes this requirement from these shack sites. This gives shack lessees additional preferential treatment when compared to anybody else wishing to occupy waterfront crown land. This is what the Liberal Party will do. They seek to benefit a few people to the detriment of many. This bill should be unanimously opposed and the Liberal Party should be ashamed of their poor policy, their contradiction of past policy and their lack of care for the public at large.

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

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order!

The Hon. R.P. WORTLEY (16:47): The government opposes this bill which is the Liberal Party at their privatising best. Ms Lensink wants to hand out prime chunks of crown land to benefit a select few. The Liberal Party should be ashamed of this blatant electioneering which not only contradicts their 1994 policy that resulted in life tenure leases but also shows a clear lack of care for the environment and the public at large.

In 1994 the Liberal government introduced a shack site freeholding policy that enabled lessees to purchase shacks occupying crown land if they were suitable. Their suitability depended on public health requirements, continued public access to the waterfront, flood and erosion issues, and planning requirements. Sites that met that criteria were sold to the occupant and those who did not meet the criteria were issued with life tenure leases. This was their policy, but now it appears that they have forgotten this.

It appears that with this bill the Liberal Party had a random idea. Mr Brokenshire had a thought bubble, the Liberals got a random idea that they haphazardly turned into a bill—a random idea that not only stands in contradiction to themselves but also stands as a risk to public health and the environment. The bill removes safeguards in the Crown Land Management Act in relation to public waterfront land. The current legislation requires public consultation when exclusive use of the land is proposed, recognising that waterfront land is an important public asset to be enjoyed by everyone. This bill removes this requirement for the shack sites. This gives shack lessees additional preferential treatment when compared to anyone else wishing to occupy waterfront crown land.

This is what the Liberals would do. They seek to benefit a few people to the detriment of many. This same concept has also been taken up in the National Parks and Wildlife (Life Lease Sites) Amendment Bill, also introduced by the Hon. Michelle Lensink. This bill would allow parts of our park system to be turned into private real estate at the cost of the public benefit and enjoyment. It is essentially a step towards privatising our national parks. This is incompatible with the intent of the National Parks and Wildlife Act 1972. This bill before us should be recognised for what it is: inconsistent, ill thought out and deplorable policy, so I oppose the bill.

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order!

The Hon. J.A. DARLEY (16:49): I rise very briefly to indicate my support for this bill and to commend the Hon. Michelle Lensink for continuing to campaign so passionately on this issue. At the outset I foreshadow that I am seeking advice as to whether it is possible to move amendments to the bill that would provide a further option of freeholding shack sites for a reasonable market price where they satisfy infrastructure requirements. I would also be proposing that there be an agreement from the majority of lessees in a given area before council proceeds down the path of what is being suggested by the bill. I have flagged these amendments with the Hon. Michelle Lensink and look forward to further discussions with her on these issues.

The history of shack sites in our state began during the Depression era, when people camped alongside coastal areas and riverfronts. Shacks were modest and progressively built from scrap building materials, such as timber, iron and kerosene cans. This provided a cheap and affordable getaway for many families. Up until the late 1970s, the Crown issued annual licences to shack owners. From the late seventies onwards, annual licences were converted to terminating miscellaneous leases. Coincidentally, the termination date of many of these miscellaneous leases usually fell at about the same time as a state election. Shack leases were usually renewed without delay to avoid politicising the issue and therefore offset any electoral landslides.

Up until the late 1980s, the philosophy of the then government was that shacks were depriving the public of access to the waterfront and they should be removed. This policy abruptly

changed to one of environmental considerations. However, around 1989, as the state election loomed, the government of the day afforded life tenure leases to lessees, together with a once-off opportunity to add other names to the lease. Once again, this avoided any public electoral damage and provided a bandaid solution to the shack lease issue for the time being.

Following the election of a Liberal government in the early nineties, a decision was made to offer freeholding to shack lessees when it could be shown that any environmental problems could be appropriately addressed and resolved. A special shack committee was established to review all shack locations and recommend where freeholding would be appropriate.

Since 2009, the government has revised the rentals of these sites based on a report prepared by a valuer from the private sector, which I believe to be both flawed and inaccurate. I have formally objected to the rentals and argued with three ministers about this issue continuously and believe that the private valuer's advice set rentals at least 30 per cent in excess of private market rentals. The government now accepts my position on the rental, however, has refused to adjust rentals retrospectively.

The bandaid that was applied in the late eighties is now beginning to peel off. In many cases, generations of families who have had the enjoyment of using the shack are required to pay exorbitant and incorrect rentals and to remove the shacks at their own expense when the last remaining lessee dies.

There is no question that the outrageous increases in rent most lessees have experienced since 2009 have compounded the problems around shacks. There is also no doubt that lessees are unhappy with the government's management of the leases. This was clearly shown today by the demonstration out the front, which attracted a couple hundred people, many of whom travelled great distances to lend their support.

I note that the South Australian Tourism Commission's Best Backyard campaign has recently launched a video which highlights the Yorke Peninsula as a holiday destination and encourages South Australians to holiday within the state. The video tells the story of a young family who go down to a shack at Black Point. Shacks have played a big part in creating South Australia's identity, so much so that the government highlights that point as part of this campaign. It beggars belief then that at the same time another government department is trying to get rid of shacks altogether. The government is trying to have its cake and eat it too. The government has failed to recognise the historic significance of these shack areas.

The bill proposed by the Hon. Michelle Lensink proposes to allow the government to transfer control of shack areas to the relevant local government authority, subject to satisfying environmental requirements. This is a positive step and, once again, I commend the Hon. Michelle Lensink for her initiative.

As at 2013, there are still about 450 Crown shacks, of which 150 are situated in national parks. With the improved technology solutions available today, there is no question that the 300 shack sites on Crown land may be able to be freeholded, providing additional revenue to the Crown, reducing compliance costs and also stimulating the building industry in those cases where the lessee decides to rebuild their shack. This would also seem to provide a reasonable addition to the proposed scheme and I look forward to hearing the views of all honourable members on this issue. The government should make no mistake about it. I will continue to do my part on this issue and ensure that the issue of shacks is resolved once and for all. With that, I support the second reading of the bill.

The Hon. R.L. BROKENSHIRE (16:54): I will be brief, but I want to put on the public record Family First's position regarding the Hon. Michelle Lensink's bill. Simply summarising it, we support the bill, endorse the bill, and congratulate the honourable member for putting the bill forward. I declare that my family do have a holiday home ourselves, but ours is not in a precarious position when it comes to tenure. In a democratic society I believe it is only fair and reasonable, apart from where there are extreme circumstances where you would not be able to guarantee long-term tenure, that these people, their children and future generations—grandchildren and so on—have the right to know they have some permanency of tenure. With that, we will be supporting the bill.

The Hon. J.M.A. LENSINK (16:56): I am not going to speak at length. I did speak in some detail when I introduced this particular bill and also in relation to the sister bill, the National Parks and Wildlife (Life Lease Sites) Amendment Bill, but I would just like to make a few additional remarks.

I would like to thank all honourable members who have made contributions on this bill and particularly endorse the contribution by the Hon. John Darley which I think outlines the history very well. I acknowledge his ongoing interest in this and the invaluable service that he has provided to a number of lessees in advising them on valuations and those sorts of matters that he understands better than most of us.

We had a rally today and I think we had well over 100 people. They came from the West Coast, so some of those people would have had a six to eight hour journey; we had people come from Mount Gambier at the other end of the state, so they had a 5½ hour journey; and that bus trip even included people who came from across the border from Casterton in Victoria who came to support the rally. I would like to thank all those people who have made the effort to express their democratic right to protest on the steps of the parliament and to commend the newly formed Shack Owners Association, in particular, president, Mr Geoff Galasch, and vice-president, Mr Brenton Chivell, because they have got themselves organised, as they necessarily need to do, in order to demonstrate how important this issue is to them.

One of the comments I made on the steps related to a series which I think has been produced by the ABC and has been on the History Channel. It is a show called *Building Australia*, which is narrated by John Doyle, and it talks about all the different forms of housing that have been unique to Australia. It devoted an entire episode to something called the weekender, and that features shacks. It also features some properties that are in national parks. People might not be aware, but if you happen to stay in a ski property on Australian ski slopes, you would be staying in a crown lease that is in a national park. I have not heard too many suggestions that all those properties should not be there, or that it is a dreadful thing that enterprises are there and people are making money out of them, but I might be straying from my speech.

In that episode I note that one of the unions in New South Wales set up a whole lot of shack sites because they recognised that families needed cheap holidays, and that was one way to accommodate them, so these shacks do form a part of our heritage and our history, and I think the attempt to blatantly just say, 'They shouldn't be there,' for reasons outlined by the Labor government, are wrong.

I would like to respond to some of the comments made by the two ALP speakers. I am not sure why they needed two, but that is up to them. They are correct in saying that local government does not universally support this measure, but it is a measure that enables councils to opt in, with the amendment that I understand will be moved by the Hon. John Darley, in conjunction with a ballot to be taken by the shack lessees to opt into this model.

I would be the first person to acknowledge that there are some questions that remain in relation to this bill, but there is a whole lot of other legislation that does not explicitly prescribe everything in great detail. It is almost like providing the opportunity for a contractual arrangement. Contract law is well understood through the centuries and that parties come together and reach an agreement that obviously will be for their mutual benefit. Some of those details are to be worked out.

I get very tired of hearing some of the arguments put forward by this Labor government and, indeed, some of the members of the department about exclusive waterfront land and lack of access. I would urge members to go and have a look and talk to some of the people who own these shacks. I cannot think of a single example where people are excluded from access to the beaches or the riverfront. I may have mentioned it previously, but within the Coorong there would not be access to Williams Beach if it were not for the shackies. They clear the path because there are no park rangers to do that work anymore. The shack lessees care very deeply for the environment. They go there because they appreciate it, and they keep the place tidy. They have often cleaned up vandalism and they look after those areas because they take great pride in it.

I did not actually hear the word 'elitist' used in one of the Labor member's speeches, but I hear the tones of it and I make the comment, why should anybody have a property on the waterfront at Glenelg, West Beach, Tennyson or anywhere else along the coast of South Australia? I do not quite see how these shacks are doing anything in particular that gives them exclusive rights. In any case, there are many environmental issues that will be addressed in terms of upgrading the amenities.

This is not some sort of random idea or amnesia, as I have been accused of by the Labor Party. This has been around since 2005 when Mitch Williams and I think even the leader here, the

Hon. David Ridgway, advanced this bill in a very similar form. So, the Liberal Party has a longstanding support for shacks.

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! There is too much conversation in the chamber.

The Hon. J.M.A. LENSINK: I also understand that in relation to when the Liberal Party last lost office there may have been proposals for further freeholding which was not signed in time for the election, unfortunately, and therefore some of these areas have missed out. But I do wish to congratulate all the shack lessees who have taken the time to participate. We wish them good health. Some of them are hanging on, given that they may well be the last person on the lease, but if there is a change of government next year, they will have our full support.

Bill read a second time.

FOOD (LABELLING OF FREE-RANGE EGGS) AMENDMENT BILL

In committee.

Clause 1.

The Hon. T.A. FRANKS: I rise to refresh council members' memories that I undertook to provide answers at clause 1 in committee to questions raised in the second reading debate, and I have those responses. I was intending to address those questions and provide answers to those questions raised and then move on to discussing my amendment.

In response to the Hon. John Darley's question, 'How many free-range egg producers are there in South Australia?', according to information I have received I can advise that of the 80-plus egg producers registered with PIRSA, 60 or so produce eggs labelled as free range. Of these, 38 are small-scale producers for small customers and roadside stalls, accounting for about 5 per cent of the market. Further, 22 or so producers are commercial scale, defined as being with more than 200 hens. Of these, 15 or so are what I would call genuine free range, stocking at 1,500 birds per hectare or less.

This means that there are currently seven producers in South Australia who are using the barnyard or barn systems, but are calling their eggs 'free range' on their labels, as they are currently legally allowed to do. This sector of the industry accounts for some 20 per cent of South Australian produced eggs. Of the approximately 420,000 hens in South Australia, therefore, around 150,000 or 35 per cent are genuine free range, produced at stocking densities of less than 1,500 birds per hectare. This bill is not about stopping these producers producing eggs tomorrow the same way as they do today; it may mean, however, that they do need to label them differently, that is, remove those words 'free range' from their cartons.

In response to the Hon. Kelly Vincent's questions of how this bill will interact with national food labelling standards and marketing, given that we operate in a national food market, this bill will require all eggs sold in South Australia that are labelled as free range to be produced at stocking densities of 1,500 birds per hectare or less. If interstate eggs comply, they can be labelled as free-range eggs and sold as such in South Australia. If they do not comply, they can still be sold here in this state but not labelled as free range.

'How will eggs from interstate be labelled?' was another of the Hon. Kelly Vincent's questions. The response I have received to that is that eggs from interstate, if produced at stocking densities of less than 1,500 birds per hectare, will be labelled as free range. Eggs produced in cage or battery systems, where hens are crammed into cages, with little more than an A4 piece of paper size space each, can and should be labelled as cage eggs. Whilst if they are neither cage eggs but produced at densities of greater than 1,500 birds per hectare, then they can be labelled as barn-laid eggs or barnyard eggs. This categorisation is in fact in line with what a number of genuine free-range producers I have consulted with have supported.

Information I have received from industry sources suggests that, whilst approximately 35 per cent of South Australian eggs are in fact genuine free range, and produced at stocking densities of less than 1,500 birds per hectare, the situation with eggs imported from interstate is quite different. I have been advised that less than 5 per cent of eggs from interstate, currently sold as free range, are indeed from genuine 1,500 birds per hectare or less free-range egg producers, and indeed mostly organic.

The vast majority, some 95 per cent plus, in fact come from barn and barnyard production systems that are misleadingly but currently allowably labelled as free range. It is this very situation that the government's voluntary code will not and cannot address, leaving genuine SA free-range producers at a competitive disadvantage. They will have the higher production costs compared with interstate barnyard producers who label their eggs free range, and they will have the added impost of having to pay towards the cost of administering the compliance, enforcement and monitoring of the government's voluntary code.

I reiterate that this bill is not about enforcing producers to change their methods of production or to reduce the number of eggs available, or to drive producers out of business or to drive prices up to unavoidable levels. It will, in fact, do the opposite; that is, it will assist genuine South Australian free-range producers to stay in business and prosper by ensuring that they do not face unfair competition from producers producing eggs at densities above that specified by the model code and, in my view, incompatible with appropriate animal welfare standards and incompatible with consumer expectations. I remind members that the ACCC has already ruled against the Egg Corporation's attempt to increase permissible stocking densities to 20,000 birds per hectare in the face of overwhelming consumer opposition.

The Hon. Kelly Vincent also asked: could this proposed law disadvantage SA free-range egg producers? The short answer is no for the reasons I have already given. Genuine producers will no longer be undermined by unscrupulous producers seeking to cash in on the consumer goodwill and willingness of ethically-minded consumers to pay a premium price for a product produced with higher animal welfare standards.

I do not expect that this will increase the cost of eggs in South Australia. Indeed, unlike the government's proposed voluntary code, producers will not be forced to shell out the extra money to pay to be part of a government certified scheme, while simultaneously other producers, including interstate producers, will still be able to label their eggs (potentially at a much higher density in barnyard/barn systems) as free range and not be subjected to this impost.

The Hon. Ms Vincent also asked: what is the expected cost of passing these laws in South Australia? There will be some relabelling required for companies that are currently selling eggs that are produced at stocking densities higher than the 1,500 hens per hectare. These eggs would no longer be able to be called free range, so companies which do produce the eggs at higher densities than the model code and which this legislation would allow for will have to put them in differently labelled cartons, and that may have some slight one-off costs for those particular producers. I do not expect this one-off cost to be a significant burden on the small number of producers it directly affects.

The Hon. Kelly Vincent also asked: will the cost point for free-range eggs increase if producers such as Days Eggs choose not to produce eggs at 1,500 hens per hectare? The response is: I do not expect that there will be a significant cost increase for genuine free-range eggs. As I have said previously, these genuine producers will not have to change anything about their operations as they are already in compliance with the legislation and there will be no change to their cost of production. In fact, it will be cheaper for them than it would be under the government's voluntary code, where they will be liable for the additional costs.

As far as the consumer's point of view goes, whilst there will not be a reduction in the overall number of eggs available, there may be a temporary reduction in the number of eggs available that are to be labelled free range; however, I am confident that the market will respond appropriately. If producers currently producing at higher than 1,500 birds per hectare wish to command the same premium price that genuine producers achieve and deserve, then they will have to adjust their production systems accordingly. If they do not wish to change their operations, that is also fine. They can keep producing eggs and label them something like 'barnyard' or 'barn laid' or, indeed, 'cage eggs', if that is more appropriate.

To reiterate, this bill will not see a reduction in overall numbers of eggs produced here in South Australia, and it will not see a proliferation of substandard eggs imported from foreign countries like the Philippines, as has been suggested by some in the media. Indeed, federal quarantine laws prevent this due to biosecurity concerns, so that is a complete furphy. It will not affect our state's food security and South Australian children will not go hungry for lack of affordable eggs.

A side effect of this legislation will be that it will be easier to prosecute unscrupulous producers who deliberately engage in egg substitution—labelling cage eggs as free range, for

example—and profit from deceiving consumers by cashing in on consumer goodwill for ethically produced eggs produced with those higher animal welfare standards. I believe there is no such place for operators like those in this state, and I would be pleased to see those prosecutions given the support to be implemented. Indeed, the penalties in this bill will send a strong message of that kind; that is, unconscionable behaviour will not be tolerated and will be appropriately met.

The Hon. Russell Wortley also raised the concern that, under mutual recognition provisions, we could not prevent interstate producers from selling their eggs produced at stocking densities of greater than 1,500 per hectare in South Australia while still labelling them as free range. The legal advice that I have previously circulated to members from N.G. Rochow SC (formerly of Howard Zelling Chambers) states that this is not the case. For the benefit of members who have not had the opportunity to examine that advice, I will briefly repeat the relevant part of his advice, which notes as follows:

> 4. The potential challenges in contemplation involve questions of whether the Bill, if passed into law, would potentially infringe section 92 of the Constitution or be inconsistent with provisions of the Mutual Recognition Act 1992...[of the commonwealth]. There is also the question as to whether there is other federal legislation with which it may be inconsistent, and the extent of any inconsistencies be rendered invalid under section 109 of the Constitution.

He advises:

> 5. As discussed, I am conscious of the decisions of the High Court in Cole v Whitfield, Castlemaine Breweries and Betfair concerning what constitutes reasonable regulations so as not to impose a burden on interstate trade that would render State legislation invalid under section 92. I am also conscious of the provisions of sections 9, 10 and 11, Mutual Recognition Act 1992...[of the commonwealth] and in particular paragraphs (a) and (b) of section 10.
>
> 6. On the reading I have been able to undertake of the bill and Ms Hamade's note:
>
> 6.1 I respectfully agree that there would appear to be no section 92 issue since the Bill imposes no burden on interstate trade but rather addresses the preconditions of claims that might be made at the point of sale;
>
> 6.2 I also respectfully agree that there is no apparent conflict with the provisions of sections 9, 10 and 11, Mutual Recognition Act 1992...[of the commonwealth] and in particular paragraphs (a) and (b) of section 10;
>
> 6.3 I consider that the proposed legislation is consistent with provisions of the Australian Consumer Law in that the Bill's requirements may be regarded as an articulation of the manner in which sale claims may be made in order to avoid their being otherwise misleading and deceptive, consonant with the intent of sections 18 and 29 of the Law.

He concludes:

> ...I do not currently consider that the Bill stands to be inconsistent with any relevant federal law for the purposes of section 109 or invalid under section 92 of the Constitution.

Members might also be aware that mandatory egg labelling legislation has already been implemented in the ACT, with their Eggs (Labelling and Sale) Act 2001, which clearly differentiates between cage, barn, aviary and free-range eggs and makes it unlawful for producers to sell eggs without labelling their products in accordance with these defined terms.

The legislation also makes it an offence to incorrectly label their products with identifying terms having to be 'conspicuously displayed' on the packaging and different production systems separated at point of sale into different sections or shelf space, with signage naming the production method and describing the method of production using those definitions.

It was also suggested by the Hon. David Ridgway that perhaps putting stocking rates on the cartons may be a better way to go. I would suggest (and I believe that the research conducted by consumer watchdog Choice confirms) that this further complexity does not benefit consumers. In fact, it may be counterproductive, with some consumers being confused by the numbers and assuming that higher numbers were, in fact, better.

The plethora of alternative labelling options in retail outlets from cage, cage free, barn laid, barnyard, free-range, open-range, organic, grain fed, range eggs, vegetarian, bred free range, biodynamic, eco-eggs, etc., is already confusing enough. What consumers want and deserve is legislative clarity that will assist them to make the choice appropriate to their circumstances. Such legislated clarity will also directly benefit South Australian producers and give us a marketing edge over our competition from other states. As the only state with a legislated limit, South Australian free-range eggs will become the gold standard that other states—I apologise for this; I did not write this—will scramble to catch up with.

A further side effect of the bill will be the improvement in animal welfare standards, as at the 1,500 birds per hectare density birds are much less likely to have their beaks trimmed and will be able to exhibit natural behaviours, such as spreading their wings, preening, foraging, dust bathing and perching. The successful passage of this bill would also put pressure on other states to follow suit and assist in the pressure for national uniform laws overall.

The other point I would like to finally address, which has been raised previously, is the situation in Queensland. Whilst Queensland did, in fact, specify 1,500 birds per hectare stocking density, this was only for birds on the outdoor part of the range. Well-placed industry sources advise me that this is why Queensland producers were content with that system for such a long time. They were able to have their cake and eat it too, producing at a higher stocking density whilst claiming a high moral ground of a legislated 1,500 birds per hectare limit, with the fine print revealing that, in fact, much higher densities were being utilised. With that contribution, I look forward to further debate during the committee stage.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

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

Amendment No 1 [Franks–1]—

Page 2, lines 11 to 25 [inserted section 22A]—Delete the clause and substitute:

Amendment of section 22—False descriptions of food

Section 22—after subsection (2) insert:

(3) For the purposes of this Part, eggs produced by chickens are falsely described as *free-range* unless—

(a) the number of egg producing chickens kept or housed per hectare does not exceed 1,500; and

(b) any other requirement prescribed by the regulations has been complied with.

The amendment takes on board the concern raised by the Law Society with regard to the wording to be used and simply tightens that up. Members who may feel that this amendment no longer carries the penalty within the body of this bill should be aware that the penalties within the Food Act will come into play with the much neater wording of the amendment that I move.

The ACTING CHAIR (Hon. J.S.L. Dawkins): We are just clarifying something. The actual amendment that we have for the new clause 4 does not have the number 4 on it and we will need to note that. I just thought we would make sure the committee is aware of that.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. T.A. FRANKS (17:23): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE (PRESIDING MEMBER) AMENDMENT BILL

The Hon. T.J. STEPHENS (17:24): I move:

That this bill be now read a second time.

This bill was introduced by the member for Morphett in another place where it passed on 26 September. The member for Morphett along with myself, the Hons Tammy Franks and Russell Wortley from this place, and the members for Giles and Reynell from another place and the honourable minister make up the Aboriginal Lands Parliamentary Standing Committee.

This bill seeks to remove the Minister for Aboriginal Affairs and Reconciliation from the position of chairperson and restore authority to the committee itself. I am sure honourable members are aware that one of the burdens of being a minister of the Crown is having very little

spare time. Unfortunately in recent years the minister (of which we have had many) has struggled to attend meetings of the committee. This hamstrings the committee in terms of quorum and dealings with operational business. This is conspicuous during deliberations on the annual report which must be signed off by the chairperson.

As well as the practical reasons just mentioned, from a legal and philosophical point of view having a minister of the Crown, a member of the executive branch chairing a parliamentary committee, of the legislative branch, raises questions regarding the separation of powers. This is probably inappropriate and definitely inhibits the committee's ability to exercise oversight. Executive oversight should be one of the major roles of the committees of this place of which the Aboriginal Lands Parliamentary Standing Committee is one, given our function as a house of review.

I acknowledge that the government is wholeheartedly supportive of this bill and I thank them for that, as is the minister whose own position he will dissolve when he presumably votes in favour of this bill. I applaud him for this magnanimous act. I think he realises that this is the most sensible way to go for the future of this—

The Hon. I.K. Hunter: It's a sacrifice, Terry. It's a sacrifice.

The Hon. T.J. STEPHENS: —great committee. I do acknowledge that it is a great sacrifice, minister. This committee does a lot of good work, visiting Aboriginal communities across the state as well as hearing from people at the forefront of issues in this challenging portfolio. Ultimately I think all in this parliament want the best outcomes for Aboriginal people in this state and the best way to achieve this is through multipartisan actions and having a committee which is completely unencumbered and has all members committed in word and deed.

For those members who are not aware of this issue, since its inception the minister has actually been the chairman. We have the ridiculous situation where the committee—and I think it is a very good committee—resolves to write to the minister, so we have the presiding member of the committee being the minister writing to himself, the minister. It is probably time that we freed up the minister and got on with doing the good work.

With those few words, I commend the bill to the council. If it is not too presumptuous of me, given that I seem to have indications of support from most people, I would like to call for a vote on this on the next Wednesday of sitting. If there are any members who have any concerns, I would be more than pleased to address them and, if someone needs more time, that is fine too but we really would like to get this through so that it can be in effect when the next parliament resumes.

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

ELECTORAL (FUNDING, EXPENDITURE AND DISCLOSURE) AMENDMENT BILL

In committee (resumed on motion).

Clause 1.

The Hon. I.K. HUNTER: The first issue raised in questions by the Hon. Mr Lucas relates to the operation of disclosure provisions. The Hon. Rob Lucas has voiced strong concerns in relation to the complexity of the scheme. This is a detailed piece of legislation, undoubtedly, but not unnecessarily so, in our view. There are a number of ways that electoral legislation in other jurisdictions have failed to adequately capture the fundraising activities of political participants. In the government's view, this has been considerably minimised by the approach taken in this bill.

There will obviously be implications for the internal financial reporting structures of political parties, the two major parties in particular, and changes will need to be made to ensure that those structures are appropriate to meet the new reporting obligations, but the outcome—that is, the level of political transparency and accountability that will be achieved through these reforms—is worth it, in the government's view.

In relation to the specific questions about auction arrangements, I am advised that the definition of a gift in clause 4 defines gift to include any disposition of property, this includes any transaction where the value of a person's own property is diminished and another's is increased. In the example given by the member, the value of the donated item intended to be auctioned would indeed need to be determined and disclosed.

Perhaps there will be times when the value of an item is not immediately clear, and the honourable member raises this, but I draw the honourable member's attention to new

section 130A(2), which specifically allows the regulations to specify, if necessary, a set of principles for determining the value of gifts received. The extent we need to determine a set of principles and what those principles should be will, no doubt, be the subject of future discussions between the government, opposition and crossbenchers.

As for the amount received from the auctioning of the gift, the relevant amount required to be disclosed should, in the government's view, be the difference. I imagine that calculating the difference may unnecessarily contribute further to the complexity of the scheme, requiring the conciliation of gifts received and sold. Perhaps in some circumstances an overestimation of the value of the gift may therefore be made. In any event, should some clarification be necessary as to what amount should be disclosed, this can also be addressed via regulation. I can confirm that the member's statement in relation to relevant events, or dinner donations as he has referred to it, is correct. If a ticket to a relevant event is sold and the difference is over $200 this will count inevitably toward the aggregated threshold.

In relation to the penalties for failing to submit a return, I draw the honourable member's attention to section 130ZZE of the bill. I particularly note that subsection (1) provides a maximum penalty of $10,000. I note that the penalties contained in the bill are consistent with a range of penalties in the act, none of which attract a term of imprisonment. I also draw the member's attention to section 130ZZD of the bill, which does allow for returns to be amended. The bill is not designed to be harsh or inflexible in its application. The objective is transparency: the provision of information which can be made available to the public. If by some unfortunate oversight certain information has failed to be disclosed or some other error is contained in the return, a request may be made to the commissioner for permission to amend the return.

Finally, the operation of expenditure caps in relation to political parties is intended to provide some flexibility. Section 130Z sets out an applicable expenditure cap for each participant. With respect to a political party contesting seats in the House of Assembly, $75,000 multiplied by the number of seats contested is allocated; that is, $75,000 per lower house party candidate. The applicable expenditure cap for the party candidate is derived from this amount. The political party is required, under subsection (3)(l), to allocate an amount to each candidate.

The amount it can allocate is flexible, as a member has indicated, but can be no greater than $100,000. I am referring to section 130Z(3) in that matter. The party candidate's expenditure cap is therefore an amount agreed between the candidate and the agent or relevant party. If no agreement can be reached, the legislation provides an automatic amount of $40,000. Written notice of the agreement must be provided to the commissioner so she is able to administer all caps on expenditure; however, the agreed amount can be modified throughout the expenditure period through lodgement of an updated agreement.

The Hon. K.L. VINCENT: I speak in favour of the Electoral (Funding, Expenditure and Disclosure) Amendment Bill 2013. The initial intent of this bill is a good one. Most other states and territory jurisdictions have had public funding for some time. The principles of providing public funding, limiting election expenditure and providing greater transparency for all political donations within our electoral system are noble ideals.

I would say, however, that Dignity for Disability is not at all impressed with the fashion that this particular change is being brought on for rapid debate this evening. I understand that, again, the major parties have forced debate to be brought on because they are in agreement with each other. Well, isn't that nice! I do not know why the Attorney-General expressed concern that this legislative agenda is stifled by the good and honest debate of this Legislative Council yesterday when really all he has do to ram legislation through this chamber is combine with the opposition when he feels so inclined. It might be undemocratic, it might deny the many South Australians who voted for something other than the major parties to have their views represented, but, hey, it does not matter, the government can drill on with their panicked legislative agenda.

I find all of this quite ironic when the title of Premier Jay Weatherill's press release of Tuesday 10 September 2013 announcing this bill is 'Integrity'. I am not entirely sure, personally, how much integrity is involved in the directors and key players of the two major political parties holding high level discussions in relation to this bill, excluding the Independent and minor parties in discussion on this bill by urgently bringing on this debate.

I thank the Attorney-General's office for providing a briefing on this bill and for their attempts to provide up-to-date information, despite the fact that they are probably struggling to keep up with the Attorney-General's latest discussions. I would acknowledge that I have received

the submission from the Electoral Reform Society of South Australia via their secretary, Deane Crabb, on this bill. The first serious concern the Electoral Reform Society raises is why this bill is being dealt with in such a hurried fashion. That is a very good question. It seems to be on a long list of urgent legislation we have been asked to pass in the next 11 days, as if this government did not have the last 11½ years to push through its agenda. Anyway, perhaps I am digressing just a little.

The Electoral Reform Society suggests that, given we are one of the last jurisdictions to put public electoral funding into operation, we should be doing so after consideration of a select committee. As this bill is not implementing public funding until the 2018 election, with some measures to be in place from 1 July 2015, the society queries the need for this bill to pass this week. Could the government please explain the reason for this urgent rush? Is the only possible moment that the major parties can agree on this issue today? Have the stars aligned in a way that I do not seem to understand and could the government please explain this?

The society also points out that the funding should be provided whether voting reaches 4 per cent or not. I know that interstate this does not occur, but the society argues that every vote should be given the same value so funding should be allocated accordingly whether a candidate achieves one vote or 250,000 votes. Why is this not the case in this legislation?

In summary, the society feels that if taxpayers are to pay for the privilege of there being fair and transparent election in this state, there also needs to be fair and transparent legislation, and I certainly agree with that concern. This process is not giving that impression, with discussion and deals being done behind closed doors.

The Hon. I.K. HUNTER: I will respond very briefly to some of the concerns raised by the Hon. Ms Vincent. I am advised that the 4 per cent threshold was adopted for South Australia to have the state in line with other jurisdictions in Australia, and indeed the world, where a 4 to 5 per cent threshold is common, I am told. I am advised that this matter was discussed in negotiations between the government and the opposition and this was the agreed outcome.

In terms of the Hon. Ms Vincent's concerns about undue haste, can I say that the government through the Attorney-General in the other place, and the opposition through the member for Davenport in the other place, have been working extensively on this reform for the best part of a year. Furthermore, I understand that the member for Davenport reports having worked on this for more than five years. These efforts have been carefully considered over a significant length of time, and while it is true that the legislation will not come into effect until July 2015, there is value in completing this bill now.

There is a need for a significant lead-in time for these measures to come into effect, and I think the Hon. Mr Lucas addressed those issues in some detail in relation to his party. Political parties and operatives, as well as the Electoral Commission, require time to adjust their operations, certain in the framework that will become the law. These changes are wide ranging and the more time members, candidates and organisations have to amend their operations to ensure they are compliant, the better.

While the government has originally sought to stagger the implementation of the legislation, there are some provisions commencing in time for the next election. In the original bill (as introduced) negotiations have led to the government accepting the need to provide a lead-in time for the commencement of the legislation as a whole.

The Hon. R.I. LUCAS: Just before returning to the issues that I addressed earlier today—and the minister has provided some response—I will respond briefly to the comments from the Hon. Ms Vincent.

I am sympathetic in part to some of the concerns that the Hon. Ms Vincent has raised. Whilst the minister has indicated that the Attorney-General and various representatives of government, and the member for Davenport and various representatives of the Liberal Party have engaged in debate on these issues for a considerable period of time, I suspect that has not been the case for the Hon. Ms Vincent and Independents might have—

The Hon. K.L. Vincent: That is precisely my point.

The Hon. R.I. LUCAS: I was just expressing some sympathy.

The Hon. M. Parnell interjecting:

The Hon. R.I. LUCAS: No, I am not losing it; I still express some sympathy because these are complex and complicated issues. From our viewpoint, if the minister and the government chose to extend the period of time for discussion, we would be entirely comfortable with the decision that the minister took in relation to that.

My instructions on behalf of my party are such that there has been an agreement between the member for Davenport and the Attorney-General in relation to these issues, so if the government is prepared to allow further time, then certainly I cannot imagine that we would have any concerns either. I do note that at least the government's priority listing for this week did indicate that these bills were priorities for discussion this week. They did not actually indicate necessarily when—either Wednesday morning or Wednesday evening—they said 'this week'. That is an issue for the minister in this house and the Attorney-General to handle as managers of government business.

Can I go back to the specific issues that I raised. In conclusion the minister's advisers provided him with information to quote section 130ZZD to say, 'Look, this is not going to be too onerous. In the end if you make mistakes, you can always correct the record and come back to it.' I do note that I suspect there is a very similar provision in relation to travel allowance arrangements at the federal level in relation to that, where if you do make a mistake as a federal member—or your staff do, in many cases—at the federal level, you are entitled to go back and correct the errors, make adjustments and repay amounts, or whatever it might happen to be.

The Australian media and the Australian electorate are a very unforgiving lot in relation to the issues of expenditure and members of parliament and political parties. Whilst it is kind of the minister's advisers to quote section 130ZZD, let me just refer the minister's advisers to publicity in recent times and years in relation to corrections of travel allowance and entitlements at the federal level. I suspect that it will be very much the same—that if a political party, member or candidate makes an error and then corrects it, there will be significant publicity, whether they have corrected it or not, frankly, in relation to those issues.

To come back to the specific issues, the first was in relation to auctions, and the minister has clarified the understanding that, first, someone will have to put a value on some of these gifts (or 'auction items', I guess, is how we would commonly refer to them), and I gave the example of a week's accommodation in your house in the country, on an island or whatever it might happen to be.

These issues will have to be done very quickly during that period leading up to the March election date. Earlier in the period, you will have more time, but as you get closer to the election your time becomes much more restricted and, certainly in the frenetic nature of the four-week election period, the current arrangements (which I have indicated perhaps on review might need to be reconsidered) are for weekly accountability mechanisms to be provided by the responsible officer and by the political parties, candidates and members. Someone will very quickly have to put a value on it, and there is a whole variety of issues.

I will not prolong the debate, as the complexities are apparent to anyone, and the minister I am sure is aware of the complexities of this issue as a former senior officer in his party. It will be difficult, and I will not belabour that particular point, other than to say that I think the fact that it has been delayed means that perhaps further work can be done on these particular aspects.

The second example I gave was just as tricky, that is, the issue of the common auction item in both the Liberal Party and Labor Party (I do not know whether it exists in the Greens and Family First) of dinner for two with the Premier, or dinner for two with minister Hunter, or not having dinner with the Hon. Kyam Maher, something along those lines.

The Hon. K.J. Maher: You couldn't put a price on that.

The Hon. R.I. LUCAS: Well, exactly—priceless! But let's take the common one of dinner for two, four or six with the Premier; some dinners might be at Parliament House or at a friendly donor's place, but the issue is how you put a value on dinner for two with the Premier. Clearly, you cannot value the goodwill and that sort of thing; I assume you will just have to put the value of the food and whatever it is. The reality is, as you know, that you do not really know what the value of that is until the blighters actually sit down, eat and drink, and finish the meal. Some are non-drinkers and therefore the cost of your, in essence, auction item is much less than if someone comes along and is quite partial to a bottle or two of red wine.

The dinner that you provide in the first instance might cost you $200, yet in the second instance, the dinner for four, might cost you $400 or $600, particularly if they hang around after dinner and you provide them with a port or two as part of that dinner. At the time, with less than seven days' notice, the responsible officer in the Labor Party and the Liberal Party will have to put a number on whatever the value of the dinner is going to be. Of course, that has to be aggregated because, if Ben Smith is the person who purchases the dinner with the Premier and pays $1,500 to have dinner for four with the Premier, you have to take down his name and address and all that sort of stuff and it has to be aggregated with every other donation Ben Smith has made in any part of the Labor Party for the last 12 months to make sure it does not go over $5,000.

Somebody has to value the dinner at either $200, $400, $600 or whatever it might happen to be. So someone strikes a value which may or may not be accurate ultimately—that is the only way this is going to work—and then someone has to do a calculation quickly as to the differential. I am assuming that, if Ben Smith has paid $1,500 for a $400 meal with the Premier, then the extent of Ben Smith's donation is $1,100, and that goes into his running account in terms of his 12-month aggregate, which, if it adds up to over $5,000 then, bang, the responsible officer in the Labor Party or the Liberal Party is going to have to declare that.

There are all those sorts of complexities. I guess, at this stage, without wanting to again go through interminable examples, if I could just get the minister's adviser's clarification that, in essence, for the dinner, which is a common one for many of us, that is essentially what will have to be done. Someone is going to have to guess the value of the dinner—and it will probably be right or wrong—and then the difference will have to be declared and disclosed.

The Hon. I.K. HUNTER: I understand the complexities raised by the Hon. Mr Lucas. They are issues that have been grappled with in interstate jurisdictions, I understand. I guess, essentially what will happen is the parties will adapt. The parties will adapt to the regulations and the requirements of the act.

They may well, in terms of the dinner situation, for example, say the dinner is going to be the food, and if you want to have wine, then the Premier can chip in out of his own pocket for it—that will be an easier way of actually valuing it. I am sure all sorts of situations like that will be considered by the parties, and they will make the decisions based on their best interests and the regulations that we put in place. I am pretty sure the parties will adapt—they have interstate—and hence the long lead-in time for the bill and its processes.

The Hon. R.I. LUCAS: I am just asking the minister if he or his advisers can clarify that, in the example that I have given, in the event that someone has paid $1,500 for dinner with the Premier and a value of $400 has been put on it, for the purposes of declaration does the responsible officer have to declare immediately the $1,100?

The Hon. I.K. HUNTER: My advice is yes.

The Hon. R.I. LUCAS: There are interminable other examples of that which I am not going to waste the time of the committee on. I just wanted to give those two, and particularly the dinner one because it is such a common example, to indicate the complexity of this. I will certainly be interested, given we do have some time, to see how the other jurisdictions have actually determined that. Again, with the passage of time, if it can be improved, I am sure that whoever is in government after March next year will be anxious to see whether or not we can improve that.

One of the other issues I raised related to expenditure caps. The minister has given some answers, but I am really wanting to go on to the Legislative Council. Our colleagues in the House of Assembly concentrated on the House of Assembly. I am a bit interested in how this is going to work in the Legislative Council.

In relation to the House of Assembly, can I just clarify? The minister confirmed that, with agreement, it can go up to $100,000 in a particular electorate and, with agreement, it can go down. However, is it possible that, with the agreement of the candidate and the responsible officer for the Labor Party or the Liberal Party, you can spend zero in a particular electorate?

The Hon. I.K. HUNTER: My advice is the answer is yes, although I cannot imagine any situation where that could be the case. For instance, you still have to pay for how-to-vote cards.

The Hon. R.I. LUCAS: I concede that. But, in essence, there may well be political parties in their safer seats, for example, rather than zero or zippo, might spend only $5,000 or $10,000 or whatever it might happen to be. What the minister is confirming is that the political party, with the agreement of the candidate, can reduce that expenditure to almost nothing. Then it can have, with

the agreement of the candidate, as many $100,000 seats as it wants as long as it does not go over its 47 x $75,000, which is approximately $3½ million total expenditure cap. Is that how the minister's advisers would indicate a political party could operate within the terms of that cap?

The Hon. I.K. HUNTER: That is correct.

The Hon. R.I. LUCAS: As I have said, I am particularly interested in how the Legislative Council cap is going to operate. There was not much debate on this in the House of Assembly, unsurprisingly, but on my reading, it seems to indicate that the expenditure cap is $500,000.

Just as we have gone through the process with the House of Assembly, can the minister indicate what the similar process in relation to the Legislative Council would be? The Liberal Party has tended to run bigger teams in recent years than has the Labor Party. The Liberal Party has tended to run teams of potentially seven; I think this time we might even have eight on our ticket. The Labor Party is struggling to get even No. 4 up, I suspect, according to the Hon. Mr Maher, anyway.

I think that the Labor Party might only have a ticket in the end of, say, five or six or something on some recent occasions—whatever it is; between six and eight people on a ticket. Can the minister explain, as we have just been through the House of Assembly process, what the refinements are in terms of parties deciding to spend and how it spends this $500,000 cap on the Legislative Council?

The Hon. I.K. HUNTER: My advice is that the political party's cap is $500,000 for a Legislative Council campaign. So, putting aside the House of Assembly candidates, for the Legislative Council it would be $500,000, and that would be for a political campaign. If a Legislative Councillor incurs expenditure, that expenditure, I am advised, will be subtracted from the $500,000 from the political party cap.

For example, if candidate No. 3 on a ticket incurs some expenditure themselves for their campaign and goes out and advocates for one vote for No. 3 (I cannot imagine they would), that expenditure would be subtracted from the Legislative Council campaign cap of $500,000. Unlike the House of Assembly candidates, there is no specific cap per candidate in the Legislative Council group of money.

The Hon. R.I. LUCAS: In relation to the Legislative Council, in the Liberal Party, we have eight candidates as part of our team. There is no per candidate cap, so one candidate could spend the whole $500,000 (not that they would) and the others nothing, or it can be any combination between that, and there is no limit on a particular candidate.

I cannot imagine this would be the case, but one candidate, and the party would have to agree, could go out and publicise only one particular candidate in the team, and the whole $500,000 could be spent on that individual without any reference to anybody else, and that would comply with the terms of the legislation.

The Hon. I.K. HUNTER: My advice is yes, or it could be spent in its entirety by a statewide campaign by a political party. If a political party makes the decision that the entirety of the money is to be spent on one candidate, they can do so.

The Hon. R.I. LUCAS: In relation to the provisions of the legislation, I am wondering if the minister can indicate the particular clauses that cover this.

The Hon. I.K. HUNTER: The relevant clause is 130Z, Expenditure caps: 130Z(1)(b)(ii), for example, relates to Legislative Council candidates.

The Hon. R.I. LUCAS: The question I have in relation to the Legislative Council, for example, concerns what is actually going to be permitted. Clearly, very old-style campaigning, which some may remember, with posters for Legislative Council candidates which are erected and which say, 'Vote for the Labor Legislative Council team', or 'Liberal Legislative Council team', or advertise for that, etc., would be covered in terms of the expenditure. However, given that the Legislative Council represents all electorates, is there anything in the legislation which prevents Legislative Council candidates, as part of their expenditure cap, in essence campaigning on statewide election issues?

A House of Assembly candidate is entitled to say, 'Vote for Vince Tarzia in Hartley because he's a fantastic candidate and he supports Steven Marshall's infrastructure SA campaign, the Productivity Commission and a variety of other initiatives the Liberal Party has.' On my understanding, and to be fair I assume, there is nothing that prevents—as part of the

$500,000 expenditure cap—any one of the eight Legislative Council candidates (or six, in the Labor Party's case, or whatever it is) or all of them saying, 'The Labor Legislative Council team supports Jay Weatherill and Jay Weatherill's team,' or whatever it is, and his particular policy, whatever the policy might be, or the equivalent for the Liberal Party. Is that the government's advice in relation to the way these provisions would operate?

The Hon. I.K. HUNTER: My advice is that it basically leaves it up to the determination of the political party. I think my attention was been drawn to 130Z(5) on page 23. I think that goes to the question you asked.

The Hon. R.I. LUCAS: In essence, the minister's reference to that as political expenditure is the very broadest definition of political expenditure—that is, it is up to the political party. For example (and the minister will be familiar with this), both parties have Legislative Council members who have been paired, as mentors or pairs, with lower house seats. I have copies of then backbencher Hunter's newsletter circulated in the state electorate of Adelaide urging people in that electorate to support the Labor government on whatever it was.

The Hon. I.K. Hunter interjecting:

The Hon. R.I. LUCAS: I have a copy of one—on water issues or whatever it happens to be, those sorts of things. I do not single out the minister on that because many upper house members do the same thing. I am assuming on the basis of the reference to subsection (5) on page 23 that for the purposes of this cap, given that is political expenditure, minister Hunter could endorse Grace Portolesi in Hartley and her campaign for getting rid of playgrounds or saving playgrounds in Payneham, for example, or whatever it might happen to be.

The Hon. I.K. HUNTER: My advice is that matters that are pursued by Legislative Council candidates that may be general or relating to their election would be counted towards the political party cap, but if a matter were to be circulated which could go to a local candidate in a lower house seat, then that could contribute to the cap for the lower house seat. That is captured, I understand, at 130ZB(3) on page 23.

The Hon. R.I. LUCAS: 130ZB(3)? Maybe I have the wrong copy of the bill; I do not have a subsection (3) to 130ZB. Let me just check. I have a photocopy. Sorry; I do not know what I have. I must have an old version. I thank the minister for that. The minister's advice is that 130ZB in essence says this would ultimately be a decision for determination, I suspect, that it might be argued that doing that might be caught by that, but having looked at that it might be argued that it might not be.

I guess that will be an issue that ultimately would have to be determined by legal advice to the political parties in the first instance and then ultimately there will be a determination by somebody—the commissioner, I guess—as to whether or not it is caught. I think it is obviously an important issue for certainly the two major parties to consider, given the passage of time, to have a look at what the rules of engagement are going to be in relation to all of this. Both the government and the alternative government have similar arrangements in relation to pairing, where members of the Legislative Council are paired and do assist in particular areas.

Even if the strictest interpretation of 130ZB(3) ruled that that could not be done, if there were an issue of importance in the electorate of Hartley or Norwood, for example, you could campaign on that issue. On my reading of that, it would be hard to say that a Legislative Council candidate who represents the whole seat could not argue either for a playground to be saved in Norwood or a road to be widened in Norwood—whatever it might be—without mentioning either the Labor or the Liberal candidate in that area.

As I said, in looking at the debate in the House of Assembly, understandably, there is precious little discussion about the impact of this particular element of the legislation on the activities of members of the Legislative Council. One of the reasons we have a Legislative Council is to look at things that might have been missed by the House of Assembly but, also, I think, to take into consideration what the particular impacts will be.

I do not know about the Labor Party but, certainly within the Liberal Party, there have been varying views over the years about the notion and advisability of campaigns where real money is spent on upper house (either Senate or Legislative Council) campaigns. I note in recent times in relation to the state the paucity of advertising about the Legislative Council team for the Labor Party in South Australia and, probably, there have been the same debates within the Labor Party

that, if you have got any money, it ought to be spent in the marginal seats in the House of Assembly.

Clearly, the way this has been drafted is that a not insignificant chunk of money is there for a Legislative Council campaign (that is, $500,000) which I can assure members from the Liberal Party's viewpoint is significantly above anything that has ever been contemplated or spent on a Legislative Council campaign in South Australia's history. I suspect it would be the same in relation to the Labor Party.

It may well be that there are precedents interstate as to why this has occurred, but the two secretaries have been up to their armpits in discussions in relation to this so I am assuming there was some reason why this particular sum was selected as part of the $4 million expenditure cap—or perhaps it was just something picked up from another jurisdiction and made pro rata for the South Australian circumstance.

I think the Hon. Mr Parnell has some questions on this aspect as well and I do not intend to prolong this aspect of the debate now but, in raising it, I urge minister Hunter (if he is still a minister after March 2014) and the Hon. Kyam Maher (if he is still in the parliament after March 2014), as people who have had engagement within their organisations, that they further reflect on these particular aspects of the legislation and, even if they are in opposition, I think there needs to be further discussion in terms of what these provisions in practice actually mean and how they might be interpreted, and there is probably the capacity to further clarify how they might operate.

The Hon. M. PARNELL: I want to pursue this line of questioning a little bit further because, as the Hon. Rob Lucas alluded to, upper house campaigning plays second fiddle with the major parties but I have to say it is at the heart of our concerns and I think it is probably fair to say that most of our campaigns have been focused on the upper house.

So that I understand how these caps will work, under section 130Z, if you have 47 candidates at $75,000 each, there is your $3.5 million, then you have another $500,000 for the Legislative Council, effectively (provided you have five candidates), so there is the $4 million that people have been talking about. My assumption was that a generic ad calling for a vote for your party on television, presumably, would just be averaged out over all of those seats. Do you have to work out the extent of television coverage? If you advertise on FIVEaa, do you have to work out which seats FIVEaa reaches? Do you take into account people with very powerful antennas who might be able to receive FIVEaa in Coober Pedy, whereas someone else might not?

I have been working on the assumption that your global amount of, say, $4 million, could pretty much be spent wherever you want if it was statewide and that the main limitation was that if it was aimed at a particular lower house candidate and it was just, for example, literature letterboxed to that area, then a cap would apply to that; but, provided you did not mention that candidate's name, you could do as much advertising as you wanted on television, radio and in print, provided you kept it generic to the party. Have I understood that correctly?

The Hon. I.K. HUNTER: My advice is if it is a generic advertisement—for example, to benefit a party—and it does not mention a specific individual candidate, then the honourable member is right. The honourable member might wish to run a generic TV advertisement with all of his candidates and then it would still also fall under that purview. You come into the individual caps when you are dealing with lower house candidates and lower house seats in terms of local areas, in particular in terms of circulation of newspapers, etc.

The Hon. M. PARNELL: That was my question. A typical Greens piece of election literature letterboxed in an area would be, say, a double-sided A5 with an upper house candidate's photo on one side and a lower house candidate with a bio on the other side. Would we be limited to a statewide spend of $500,000 if that was in fact the style of literature that we put out?

The Hon. I.K. HUNTER: My advice is that you would look to 130ZB(3) and you would ask yourself the questions under (a), (b) and (c). Who is it communicated to? Does it mention one candidate or other candidates? Is it meant to communicate with electors outside the district or not? They would be the reasons you would base your interpretation on.

The Hon. M. PARNELL: And that is exactly what I have been looking at—130ZB. It seems that leaving aside advertisements which say 'Vote Green' or even if they just say 'Vote Green in the Upper House', anything that has a photo of an upper house candidate on it, even if it is mixed with other material, is it bound by that $500,000 cap? I wouldn't have thought so but it is quite important from my party's perspective.

The Hon. I.K. HUNTER: My advice is that in this situation—and in many of these situations—the decision will be based on the specific facts of the circumstances contained in the matter that you are circulating. Section 130ZB(3), of course, relates to House of Assembly elections, so if you had a piece that was directed to them, you would make a decision—and again I come back to the point about how the party would adapt—so that you did not go over the cap in terms of the House of Assembly seat. If it was related to a general statewide approach for electing Greens in the upper house, then you come back to 130Z(1)(b)(ii).

The Hon. R.I. LUCAS: I am just clarifying. I am assuming that, under this legislation, it is not possible for one piece of material costed at, say, $5,000 to count towards two caps at the one time.

The Hon. I.K. HUNTER: That would be perverse and, no, that is not the intention.

The Hon. R.I. LUCAS: Because in the example that the Hon. Mr Parnell is talking about, where it is advertising both for House of Assembly and for the Legislative Council, in the end the government's advice appears to be that there will have to be a decision by the parties (and ultimately by the independent umpire) as to whether, on balance, it was for the House of Assembly cap or for the Legislative Council cap. It is not going to be able to be attributed by the independent umpire so that half of it was to the value of the Legislative Council candidate and half was to the value of the House of Assembly and therefore it will be allocated half to a Legislative Council cap and half to a House of Assembly cap.

The Hon. I.K. HUNTER: My advice is that it would not be shared: it has to be one or the other and you would ask the questions again that are outlined in 130ZB(3)(a), (b) and (c) and make a determination whether it is in fact primarily directed towards the House of Assembly campaign and you would adjust your campaign strategy accordingly.

The Hon. M. PARNELL: Just so I understand this, if a campaign says, 'This election: Vote Green' full stop, how is that allocated to either upper or lower house?

The Hon. I.K. HUNTER: If that is the message, that would be allocated under the party cap.

The Hon. M. PARNELL: If a party is running 47 lower house candidates and a team in the upper house, so that their cap is $4 million and their message is 'Vote for our party', and you do not specify a particular candidate, you just say 'Vote for our party', then $4 million is the cap and it does not matter where geographically that message was spread—whether it is a corflute in Coober Pedy or a radio ad in Adelaide; is that correct?

The Hon. I.K. HUNTER: I will attempt this answer: the answer is, yes, but you would need then to allocate a certain amount to each of your candidates in the lower house seats to come to your cap. Under 130Z(3) there needs to be an allocation of the political party's funding to lower house candidates, so the cap may not be $4 million for a statewide generic: it will be $4 million minus the allocation to lower house candidates.

The Hon. M. PARNELL: I am going to ask a very basic question out of an abundance of caution, just so I am clear about it. Section 130Z talks about $75,000 per lower house candidate and the number of candidates as at the end of the capped expenditure period. Then, when you go to the definition of 'capped expenditure period' it seems to me that it basically is a month after the election. Can I just clarify that that effectively means the number of candidates that you actually ran and that there is no sort of minimum period before an election in which candidates have to be endorsed? I think I have understood it but I need to clarify it because if it was actually at the start of the capped election period you would have to have all of your candidates endorsed 8½ months out from the election in order to build up your 47. So, it is effectively the number of candidates you actually ran times 75,000.

The Hon. I.K. HUNTER: Feel comforted, your original interpretation is correct, I am advised.

The Hon. R.I. LUCAS: This has certainly been a very beneficial discussion, might I add as someone who has followed this probably more closely than many others. I am still not clear: in response to one of the minister's replies based on advice in the last five minutes, when the minister was taking advice earlier and referring to the 'party cap' was he actually referring to the Legislative Council cap?

Let us take the Labor Party and the Liberal Party, where you are running both Legislative Council teams and 47 candidates in each of the House of Assembly seats, if in the end you decided not to spend, for whatever reason, the maximum amount in the House of Assembly seats; that is, you spend only $10,000 in a lot of safe seats, you spend only up to the $100,000 and you end up only getting up to $3.2 million, or something, out of $4 million, does the Legislative Council cap for the Labor Party or the Liberal Party in those circumstances then become $800,000? Can they adjust within the $4 million the amount they spend on the House of Assembly; that is, by reducing the House of Assembly spend down to $3.2 million can they then notionally spend for the Legislative Council campaign $800,000?

The ACTING CHAIR (Hon. J.S.L. Dawkins): I call the minister's attention to the hour of the day. We have a number of messages. I call the minister.

The Hon. I.K. HUNTER: My advice is: no. If a party wants to spend more than $500,000 on the Legislative Council campaign they can.

The Hon. R.I. Lucas: They can?

The Hon. I.K. HUNTER: They can, up to the limit of the party cap. What this mechanism does at 130Z is allocate a notional split, but parties may alter that if they so wish, within the limit.

The Hon. R.I. Lucas: Within the $4 million?

The Hon. I.K. HUNTER: Yes. With that, I think it might be an ideal time to report progress.

Progress reported; committee to sit again.

WORKCOVER CORPORATION (GOVERNANCE) AMENDMENT BILL

Second reading.

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) (18:30): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill proposes amendments to the *WorkCover Corporation Act 1994*.

This Bill aims to build upon the amendments made to this Act in 2008 which replicated part of the governance arrangements used for other statutory authorities subject to the *Public Corporations Act 1993*.

A strong focus of this Bill is a move towards a professionally focused Board of management which, as far as practicable, reflects the competencies of a publicly listed corporation. Changes to the WorkCover Board will:

- Reduce the required number of members from nine to seven and the quorum threshold from six to four to streamline and focus the Board.
- Provide for the Minister to recommend suitable Board member and Chair person appointments to the Governor.
- Remove the existing rehabilitation and occupational health and safety representation requirements and the requirement to consult with employee and employer stakeholder associations for four of the positions on the Board. These provisions are replaced with the requirement of relevant qualifications or experience to unite Board members with a business focus rather than often opposing stakeholder views. The Government will continue to consult with relevant stakeholders when considering appointments.
- Increase Board member accountability by enabling the Minister to recommend to the Governor the removal of a Board member for any reasonable cause.
- Require the Minister to approve the formation of any remunerated Board Committees to ensure WorkCover's existing exemption under the Department of the Premier and Cabinet Circular 16—which allows Board members to be paid for each subcommittee they are a member of—is used prudently.
- Dissolve the existing Board membership upon commencement of the relevant transitional provisions to enable the recommendation of a new Board to the Governor based on these new provisions.

Other key changes within this Bill will:

- Bring WorkCover closer in line with other public corporations by applying sections 7 and 8 of the *Public Corporations Act 1993* to it. These sections govern provision of information and records to the Minister and provide for a representative of the Minister or Treasurer to attend Board meetings. This formalises the arrangement that has existed for a number of years, where an observer from the Department of Treasury and Finance attends meetings of the Board.
- Require WorkCover's Chief Executive Officer to be available directly to the Minister as well as the Board to enable closer Ministerial scrutiny of WorkCover's operations.

These proposed amendments, in conjunction with the recently reviewed *WorkCover Corporation Charter*, provide the Government with greater oversight and control over WorkCover.

These powers will be used to ensure the operational changes required by the Charter are implemented by WorkCover and its claims agents, as envisioned.

I commend the Bill to Members.

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 *WorkCover Corporation Act 1994*

4—Amendment of section 4—Continuation of Corporation

This amendment provides for the application of sections 7 and 8 of the *Public Corporations Act 1993* in relation to the Corporation. Under section 7, a public corporation must, at the request of the relevant Minister, furnish the Minister with such information or records in its possession or control as the Minister may from time to time require. Under section 8, the relevant Minister or the Treasurer may appoint a person to attend (but not participate in) any meeting of the board of the public corporation to which the section applies, and such a person will also be entitled to have access to any papers provided to members of the board.

5—Amendment of section 5—Constitution of board of management

The membership of the board of management of the Corporation is to be reduced from 9 to 7. The members will be appointed by the Governor on the recommendation of the Minister. The Act will no longer specify particular qualifications or criteria for board membership but a provision is to be inserted into the Act that will provide that a person appointed to the board must have such qualifications, skills, knowledge or experience as are, in the Minister's opinion, relevant to ensuring that the board carries out its functions effectively. It will also be expressly provided that a person appointed to the board must at all times act professionally and in accordance with recognised principles of good corporate governance.

6—Amendment of section 6—Conditions of membership

It will now be possible to remove a member of the Board from office on the recommendation of the Minister on any other ground that the Minister considers to constitute a reasonable cause.

7—Amendment of section 11—Proceedings

The quorum of the board is to be reduced from 6 members to 4 members given the reduction in the size of the board.

8—Amendment of section 13—Functions

This clause amends section 13 to replace the word 'disabilities' with 'injuries' so that the terminology is consistent with the *Workers Rehabilitation and Compensation Act 1986*.

9—Amendment of section 14—Powers

This clause removes a redundant provision.

10—Amendment of section 16—Committees

The Corporation will be required to obtain the approval of the Minister before it establishes a committee that will include 1 or more persons who will be paid for their participation as members of the committee.

11—Amendment of section 21—Chief Executive Officer

The Corporation is to be subject to the statutory requirement to ensure that its CEO is reasonably available to the Minister in order to assist the relevant Minister or Ministers in the administration of this Act and the *Workers*

Rehabilitation and Compensation Act 1986, and to ensure that the CEO complies with any reasonable request by the Minister to provide information about the operation or administration of either Act.

12—Amendment of section 28—Regulations

It is proposed that the regulations under this Act will be able to require the collection and collation of information that is relevant to the functions of the Corporation under an Act, and to require the provision of reports to the Corporation, or by the Corporation to the Minister.

Schedule 1—Transitional provision

1—Transitional provision

All current board positions will be vacated on the commencement of this schedule.

Debate adjourned on motion of the Hon. R.I. Lucas.

EVIDENCE (IDENTIFICATION EVIDENCE) AMENDMENT BILL

Second reading.

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) (18:31): 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.

Labor's Strengthening our Police Service Policy 2010 said:

> 'Line ups' require substantial police resources often requiring up to 10 police officers and up to 60 hours of police time to arrange. A re-elected Rann Government will amend legislation that will allow identification of a person suspected of committing an offence via photographs or video (including still or moving digital images) in lieu of physical 'line ups'. Police will be able to use technology such as PowerPoint presentations or mobile data terminals located within vehicles to present photographs to victims and witnesses. These changes will increase the efficiency of police investigations; relieve victims of the trauma of having to see the offender again and most importantly free up valuable police resources. Any changes to the legislation and procedures will ensure that the use of identification evidence in criminal proceedings will not be compromised.

This Bill is the Government's third attempt to implement this policy. The first two attempts failed in the Legislative Council. The Government has listened to the concerns expressed by members of the Legislative Council about the content of the first two Bills and, as a consequence, has included new provisions in this Bill in an attempt to address these concerns. Further comments on the particular provisions follow.

A properly conducted identification parade has been regarded traditionally as giving rise to the most confidence in a reliable identification. As was explained by Gibbs J in *Alexander* (1981) 145 CLR 395 at 401, *'The safest and most satisfactory way of ensuring that a witness makes an accurate identification is by arranging for the witness to pick out from a group the person whom he saw on the occasion relevant to the crime.'* Identification by means of an identification parade is preferred to other alternatives, such as from photographs, at least when a named suspect is reasonably known to the police (though the High Court accepted in *Alexander* that photographs were unobjectionable and probably unavoidable in the investigative stage when a suspect was not known).

Alexander has been followed in South Australia. In *Deering* (1986) 43 SASR 252, King CJ said: *'Where there is a clear and definite suspect or where an arrest has been made the proper procedure to be followed is for the police to arrange an identification parade if the suspect or arrested person is prepared to participate in such a parade. If that procedure is not followed it gives rise to a discretion in the trial judge to exclude the evidence of identification by other means and that discretion will be exercised having regard to all relevant factors including, of course, the public interest in ensuring that persons who have committed crimes are convicted and punished for those crimes. It may be necessary to present photographs to an alleged victim of a crime at a stage of the investigation at which no person has been arrested and at which there is no definite suspect, in order to provide an opportunity for the victim to pick out the offender.'*

The traditional assumption favouring identification parades also gives rise to the potential for comment or warning to the jury by the trial judge that the weight of the photographic identification, whilst admissible, is inherently inferior to that of an identification parade. Such comments are open to criticism as confusing, unnecessary and even plain wrong.

However, it is clear that, notwithstanding *Alexander*, photographic identification evidence is routinely adduced at trials in South Australia. The practice of the courts has moved away from *Alexander* and toward the routine use of photographic identification evidence. It is widely accepted in practice as relevant and admissible evidence. It appears that local defence lawyers routinely advise their clients (perhaps unwisely) to refuse to take part in an identification procedure, therefore requiring the police to resort to photographic procedures. It appears that, notwithstanding *Alexander*, identification parades are already comparatively rare in practice in South Australia.

The traditional assumption that identification parades are a superior form of identification was accepted by the Australian Law Reform Commission in the 1980s and was incorporated into the *Uniform Evidence Act* which has been enacted in New South Wales, Victoria, the Commonwealth and the Australian Capital Territory (though not on this point in Tasmania). However, that assumption has come under increasing challenge over recent years on account of practical considerations, psychological and academic research and technological advances. Other jurisdictions, notably Western Australia (by judicial ruling) and England have explicitly departed from the preferred use of identification parades and recognise the benefit of identification by means of photographs or a video.

The West Australian Court of Appeal in 2007 in *Western Australia v Winmar* [2007] WASCA 244 considered the available research and 'firmly rejected' any suggestion that the identification from a photoboard was 'inherently inferior' to identification from an identification parade. The court observed:

> The court should not, as some past authority may tend to suggest, attempt to discourage the use of the digiboard [the West Australian term for a photoboard] for identification, either by requiring trial judges to warn juries specifically about the dangers of that process as compared to an identification parade, or by requiring trial judges to suggest that the process is inherently flawed, or by suggesting that trial judges should be readier in the exercise of their discretion, to exclude digiboard identification than they might be to exclude evidence of identification by other means.

There has also been research, notably by Professor Neil Brewer at Flinders University, that highlights that traditional identification parades are not as reliable as was commonly supposed. It has been found that witnesses have a tendency to compare the appearance of each person in the identification parade to each other. They do this as part of a strategy to find the person who most closely resembles the culprit. The process of comparison means that a witness is likely to make an identification, although not necessarily the correct one. A further problem that arises is that the 'simultaneous' format (where the witness views everyone at once) associated with traditional identification parades has been found to increase the risk of false identification. Professor Brewer and others have found that a sequential form of identification (where the witness views the images one at a time) produces a substantially reduced rate of wrong identification.

Identification evidence has long been regarded as inherently problematic by the criminal justice system owing to the well documented risk of a mistaken identification by even honest witnesses leading to the real risk of a wrongful conviction. The difficultly in cross examining confident but wrong identification witnesses has long been recognised. The common assumption is that human memory is an uncomplicated photographic like process but, as jurists and researchers note, the reality is that identification evidence presents its own real dangers. The potential unreliability is due to the subconscious frailties of observation and memory. To try and alleviate the dangers associated with identification evidence, the courts have long insisted that the jury must be warned as to the dangers of relying on identification evidence, both in general terms and in specific terms appropriate to the facts of the particular case (see *R v Turnbull* [1977] QB 224 and *R v Domican* (1992) 173 CLR 555). It is not proposed to dilute or remove this warning. This warning applies to all forms of identification evidence without discrimination and should remain.

The core proposal of this Bill is, therefore to put photographic means of identification on an even footing with an identification parade. A bad photographic identification is just as bad as a bad identification parade - and a good photographic identification is just as good as a good identification parade. The form of the proposed amendment is designed to be technologically neutral.

As stated earlier, the Government introduced similar Bills in 2011 and 2012. The Legislative Council defeated both Bills due to a concern that the Bill should also include a statutory 'safeguard' to ensure that identification processes are adequate. This Bill includes such a safeguard by replicating the procedure set out in Part 17 of the *Summary Offences Act 1953*, namely, that the evidence will be inadmissible unless an audio-visual record of the identification process is made. Evidence that does not conform to this requirement may only be admitted if the interests of justice require it.

The Bill also includes a clause that will insert a Schedule in the *Evidence Act 1929* requiring the Minister to cause a review of any orders and directions issued by the Commissioner of Police to support the operation of the new section. This clause is an attempt to address the concerns of members in another place.

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 *Evidence Act 1929*

4—Insertion of section 34AB

It is proposed to insert a new section after section 34A of the principal Act.

34AB—Identification evidence

The new section provides that, in a criminal trial, evidence of the identity of a person alleged to have committed an offence is not inadmissible, and is not to be excluded, merely because the evidence was obtained other than by means of an identity parade involving a physical line-up of persons. The new section further provides that, in a criminal trial, evidence of the identity of a person alleged to have committed an offence obtained by means of an identity parade is to be excluded unless—

(a) an audio visual record of the identity parade is made and kept in accordance with the regulations; or

(b) the judge is satisfied that, despite the failure to comply with paragraph (a), the interests of justice require the admission of the evidence.

If evidence of the identity of a person alleged to have committed an offence is admitted in a criminal trial where the person's identity is in issue, the judge must inform the jury—

(a) of the need for caution before accepting identification evidence; and

(b) of the reasons for the need for caution, both generally and in the circumstances of the case.

In giving any such information, the judge is not required to use any particular form of words but may not suggest that identification evidence obtained from an identity parade by any means other than by a physical line-up of persons is inherently or intrinsically less reliable than evidence obtained by such means.

To avoid doubt, a provision is included in the section that provides that the section does not make evidence admissible that would otherwise be inadmissible or affect the court's discretion to exclude evidence.

An *identity parade* is defined for the purposes of this section as a contemporaneous presentation, whether by a physical line-up or by means of images, of a number of persons to a witness for the purpose of identifying a person.

5—Substitution of Schedule 1

It is proposed to repeal the current Schedule and substitute a new Schedule which makes provision for the Minister to cause a review to be carried out of any orders and directions issued by the Commissioner of Police to support the operation of new section 34AB. A report of the review must be provided to the Minister who must table the report in each House of Parliament.

Debate adjourned on motion of Hon. R.I. Lucas.

CONTROLLED SUBSTANCES (OFFENCES) AMENDMENT BILL

Second reading.

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) (18:32): 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 *Controlled Substances (Offences) Amendment Bill 2013* (the Bill) amends the *Controlled Substances Act 1984* (SA) (the CS Act) to tackle the blight of synthetic drugs in our community.

The provisions contained within the Bill will provide South Australia Police (SAPol) with a new weapon to combat the trade in synthetic drugs.

Under the current provisions of the CS Act, the process of adding newly discovered harmful substances to the list of controlled drugs can be a lengthy one. There are also no provisions to prevent persons marketing potentially unsafe products as legal alternatives to illicit drugs.

This reform tackles the issue of synthetic drugs from a different angle.

Interim Controlled Drugs

The Bill has been drafted to amend the CS Act so that the Attorney-General has the power to declare a substance to be an 'interim controlled drug'. Under the proposed amendment, the Attorney-General may, if he or she is of the opinion that a substance may be of exceptional danger to human, declare the substance to be an 'interim controlled drug' by notice in the Gazette.

The notice operates for a period of not more than 12 months and may be varied or revoked at any time by the Attorney-General. The notice may refer to a substance by its trade name or in any other manner.

Once a substance is declared to be an 'interim controlled drug' that substance is treated in the same way as a 'controlled drug' (with one exception set out below), meaning the existing offence provisions concerning controlled substances contained in Part 5 of the CS Act will apply to that substance.

However, given that:

- these drugs are often sold to people on the basis that they are legal; and
- the purpose of these reforms is to target those persons who profit from creating and selling these dangerous substances with no concern to people's safety and well being;

the possession and consumption offences contained in section 33L of the CS Act will not apply to the interim controlled drugs.

This new mechanism attacks creative chemists who use the internet to either import, or obtain instructions for creating, new substances that are not yet identified as 'controlled drugs'. This section ensures the legislation is able to keep up with the speed at which these new substances are produced.

New offences

The Bill also creates a number of new offences to target the way these substances are manufactured, marketed and sold. The offences apply regardless of whether the substance has been proven to be dangerous.

These new offences target the practice of marketing products as legal alternatives to illegal substances, and/or marketing products as having the same or similar effect to illegal substances, with absolutely no regard as to whether the products are safe for human consumption.

The first new offence is the intentional manufacturing of a controlled drug alternative.

Under the proposed new section 33LD, a person who manufactures a substance intending that the substance:

- will have pharmacological effects similar to those of a controlled drug; or
- will be a legal alternative to a controlled drug;

is guilty of an offence.

The maximum penalty is a $15,000 fine or imprisonment for 4 years, or both.

The term 'manufacture' in relation to controlled drugs means undertaking any process by which the drug is extracted, produced or refined or taking part in the process of the manufacture of the substance.

For the purposes of the CS Act, a person takes part in the process of the manufacture of a controlled drug if the person directs, takes or participates in any step, or causes any step to be taken, in the process of sale, manufacture or cultivation of the drug or plant.

For the purposes of the CS Act, a step in the process of manufacture of a controlled drug includes, without limitation, any of the following when done for the purpose of manufacture of the drug:

- acquiring equipment, substances or materials;
- storing equipment, substances or materials;
- carrying, transporting, loading or unloading equipment, substances or materials;
- guarding or concealing equipment, substances or materials;
- providing or arranging finance (including finance for the acquisition of equipment, substances or materials);
- providing or allowing the use of premises or jointly occupying premises.

These provisions are replicated with respect to the new offence of intentionally manufacturing a controlled drug alternative substance.

The Bill contains another new offence of promoting a controlled drug alternative.

Proposed section 33LE provides that any person who promotes a substance:

- as having pharmacological effects similar to those of a controlled drug; or
- as being a legal alternative to a controlled drug; or
- in a way that is intended, or likely, to cause a person to believe that the substance:
    - is a controlled drug; or
    - has pharmacological effects similar to those of a controlled drug; or
    - is a legal alternative to a controlled drug,

is guilty of an offence.

The maximum penalty is a $10,000 fine or imprisonment for 2 years, or both.

Unlike other offences, there is no need under section 33LE to prove that the product is harmful.

For the purposes of this new offence, a person 'promotes' a substance if the person takes any action that is designed to publicise or promote the substance, whether visual or auditory means are employed and whether the

substance is directly depicted or referred to or symbolism of some kind is employed, and includes taking any other action of a kind prescribed by regulation.

This definition of 'promotes' includes advertising, issuing pamphlets, information on a website and any verbal instructions given at the time of sale or supply.

This provision is designed to control the conduct of advertising or packaging a substance in a way to promote it as being a legal alternative to an illegal drug. This conduct is captured whether the person doing the advertising or promoting is selling the drug themselves, or whether they are doing it by reference to a product available elsewhere.

Proposed section 33LF creates the new offence of manufacturing, packaging, selling or supplying a substance promoted as a controlled drug alternative. This offence requires persistent conduct.

Under section 33LF, if a police officer reasonably suspects that a person intends to manufacture, package, sell or supply a substance that is being, or is to be, promoted in a manner prohibited under section 33LE, the officer may give the person a notice (containing any particulars prescribed by the regulations) warning the person that if he or she manufactures, packages, sells or supplies the substance he or she will be guilty of an offence.

The notice may be revoked at any time by further notice given to the person by a police officer, and must be revoked if a police officer is satisfied that the substance to which the notices relates is not being, and is not to be, promoted in a manner prohibited under section 33LE.

A person who has been given such a notice and who subsequently manufactures, sells or supplies the substance specified in the notice is guilty of an offence. The maximum penalty is a $15,000 fine or imprisonment for 4 years, or both.

With respect to each of these new offences, a court can be satisfied that a person has committed an offence in relation to a substance despite any usage instruction concerning the substance (given in any manner, way, medium or form) that indicates that it is not a controlled drug or that it is not a legal alternative to a controlled drug or that it is not intended for human consumption.

This provision is designed to ensure that retailers cannot avoid these provisions simply by packaging and labelling product as a 'bath salt' or as not for human consumption, whilst verbally or via the internet promoting the product for human consumption.

The Bill also creates a new type of court order where conduct of a person can result in their shop, retail outlet or business being ordered closed by a court. This should act as a deterrent to persons who continue to sell and market products contrary to these new provisions, as well as those who sell and market substances declared under the CS Act as controlled drugs.

Under proposed section 33T, on the application by a police officer, if a court is satisfied that:

- a person has been convicted of 1 or more offences against Part 5 of the CS Act committed in the course of carrying on a business; and
- the making of the order is reasonably necessary to ensure that the person does not engage in further conduct constituting an offence against Part 5;

the court may make an order in relation to the person prohibiting them from:

- engaging in specified conduct; or
- carrying on a specified business or a specified kind of business,

at specified premises or in specified circumstances.

A court making an order under section 33T may also make any ancillary orders that the court considers appropriate, and may, by subsequent order, vary or revoke an order made by the court under section 33T.

The aim of this proposal is to discourage genuine retailers from taking the risk of selling these products and to get these products off the shelves.

By including these provisions in the CS Act, the usual seizure provisions of the CS Act will apply. SAPol officers have the power to search and seize anything that constitutes evidence of a breach of the provisions, which could include any substance or promotional material.

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 *Controlled Substances Act 1984*

4—Amendment of section 4—Interpretation

This clause amends the definition of controlled drug to include interim controlled drugs and inserts a definition of interim controlled drug.

5—Insertion of section 12A

This clause inserts a new section as follows:

12A—Interim controlled drugs

This provision allows the Attorney-General to declare interim controlled drugs.

6—Amendment of section 33L—Possession or consumption of controlled drug etc

This clause excludes interim controlled drugs from the possession offence.

7—Insertion of Part 5 Division 4A

This clause inserts a new Division as follows:

Division 4A—Offences relating to controlled drug alternatives

33LC—Interpretation

This section includes interpretative provisions for the purposes of the Division.

33LD—Intentional manufacture of controlled drug alternative

This section creates a new offence of intentional manufacture of a substance to have pharmacological effects similar to those of a controlled drug or to be a legal alternative to a controlled drug. The maximum penalty is $15,000 or imprisonment for 4 years, or both.

33LE—Promoting controlled drug alternative

This section creates a new offence of promoting a substance—

(a) as having pharmacological effects similar to those of a controlled drug; or

(b) as being a legal alternative to a controlled drug; or

(c) in a way that is intended, or likely, to cause a person to believe that the substance—

(i) is a controlled drug; or

(ii) has pharmacological effects similar to those of a controlled drug; or

(iii) is a legal alternative to a controlled drug.

The maximum penalty for the offence is $10,000 or imprisonment for 2 years, or both.

33LF—Manufacturing, packaging, selling or supplying substance promoted as controlled drug alternative

A police officer who reasonably suspects that a person intends to manufacture, package, sell or supply a substance that is being, or is to be, promoted in a manner prohibited under proposed section 33LE, may give the person a notice warning the person that if he or she manufactures, packages, sells or supplies the substance he or she will be guilty of an offence. Breach of the notice is punishable by a maximum penalty of $15,000 or imprisonment for 4 years, or both.

8—Amendment of section 33S—No accessorial liability for certain offences

This clause amends section 33S (consequentially to the extended definition of *manufacture* in proposed section 33LC).

9—Insertion of section 33T

This clause inserts a new section as follows:

33T—Power of court to prohibit certain activities

Under this section a court may make an order prohibiting a person from engaging in specified conduct or carrying on a specified business or a specified kind of business if the person has been convicted of 1 or more offences against Part 5 committed in the course of carrying on a business and the making of the order is reasonably necessary to ensure that the person does not engage in further such offending.

10—Amendment of section 63—Regulations

This clause amends the regulation making power to ensure that the power to make exemption regulations would extend to substances covered by the proposed provisions.

Debate adjourned on motion of Hon. R.I. Lucas.

HEALTH PRACTITIONER REGULATION NATIONAL LAW (SOUTH AUSTRALIA) (RESTRICTED BIRTHING PRACTICES) AMENDMENT BILL

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

NOT-FOR-PROFIT SECTOR FREEDOM TO ADVOCATE BILL

The House of Assembly agreed to the bill without any amendment.

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

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

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed not to insist on its disagreement to amendment No. 12, agreed to the alternative amendments to amendments Nos 4 and 14 without amendment, made by the Legislative Council; no longer insisted on its alternative amendment and agreed to the alternative amendment without amendment to amendment No. 7, made by the Legislative Council.

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

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

STATUTES AMENDMENT (POLICE) BILL

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

CRIMINAL LAW CONSOLIDATION (PROTECTION FOR WORKING ANIMALS) AMENDMENT BILL

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

At 18:37 the council adjourned until Thursday 17 October 2013 at 11:30.