LEGISLATIVE COUNCIL

Wednesday 13 November 2013

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 11:01 and read prayers.

SITTINGS AND BUSINESS

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

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time, 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.

DISABILITY SERVICES (RIGHTS, PROTECTION AND INCLUSION) AMENDMENT BILL

In committee.

(Continued from 12 November 2013.)

New clause 3A.

The Hon. K.L. VINCENT: I move:

Amendment No 1 [Vincent–2]—

Page 3, after line 1—Before clause 4 insert:

3A—Insertion of heading

Before section 1 insert:

Part 1—Preliminary

Members are probably well aware of the intent of this amendment, given my explanation last evening and an explanatory email that went out to them last night. The version of this amendment that we have before us is a slightly amended one, given that parliamentary counsel thankfully picked up on a small administrative oversight last night that would have led to a report having to be tabled by the minister one clear day after being received. I agree that this is unworkable in many instances and so it now reads that the report must be tabled as soon as possible. That is the only change to this amendment.

Members are aware that the intent of the amendment is to clearly legislate the role of the senior practitioner so that their powers and objectives are clearly defined in legislation. It is my understanding that all other jurisdictions in Australia which have a senior practitioner have that role mandated in legislation, and I believe that we must afford the same protection to our senior practitioner.

The amendment defines the powers of the practitioner, defines when they are to table reports, but also importantly defines the types of restraint that they are to have jurisdiction over, including chemical restraint, meaning the administration of a chemical substance to a person for the primary purpose of subduing or controlling the behaviour of that person.

It is my understanding, from consulting with doctors on this issue, that this is a very common practice, where a person, particularly living in an institutional setting, will be brought to a doctor and have their support worker or other person say, 'Oh, their behaviour is escalating, they clearly need another dose of their medication', when in fact the person may be non-verbal, for example, and simply trying to express that they have a toothache.

To my mind it is completely unacceptable that we have people doped up to the eyeballs to subdue behaviours that are considered challenging when they could just as easily be managed with a more appropriate behaviour management plan. For example, a person might be taken for a walk if they begin to become agitated. It is really about challenging some of those ingrained thinking patterns in service provision.

It also deals with compulsory treatment, of course very important, since this bill seeks to move disability services into a human rights framework. It is important that we deal very clearly with

the issue of compulsory treatment. 'Mechanical restraint', meaning the use of any object or device for the primary purpose of restricting the free movement of a person, does not include the use of objects or devices for therapeutic purposes or to enable safe transportation of that person.

We are not talking about a seat belt in a car here—we are talking about the mechanical restraint such as tying a person's hand behind their back, or indeed a very pertinent example I have been given from professionals in this field, where service providers may put a person or a client in an armchair, for example, which the service provider is well aware that the person cannot get out of independently, as a way of managing that person's movement. So, physical and mechanical restraint are dealt with in that manner.

Broadly speaking, a 'restrictive intervention' means any intervention used to restrict the rights or freedom of movement of people with a disability, including restraint, as mentioned before, seclusion and segregation. As I said last night and for the past few weeks, I do believe it is very important that we have these definitions and the powers of the practitioner in legislation, because it is what is happening in other jurisdictions and because I do not want to see a case where a lack of a legislated role enables overzealousness or inaction.

We want a clearly defined role so that every person coming in and out of that role over time has the same mandate. If that mandate needs to be changed over time to add more definitions of restraint, and so on, then so be it—that is a duty of the parliament of that day, but I do not think that silence is acceptable on this issue in the meantime. I encourage all members to support this sensible amendment.

The Hon. I.K. HUNTER: I thank the honourable member for her amendments and indicate that the government will not support them. I will take a brief moment to explain why. The Hon. Ms Vincent has three amendments, I understand. The first two, I think, are technical and work is being done on the third part. I will speak to the whole of her structure.

In August this year the Hon. Tony Piccolo, Minister for Disabilities, announced the appointment of a senior practitioner for an initial 12-month period to provide an opportunity to assess the impact of the role and engage the response of the broader disability sector and disability advocates. The South Australian senior practitioner role is a focus on the provision of advice and guidance in the sector around the rights of people with disability, with a particular focus on restrictive practices.

In addition to this important advisory role, our senior practitioner will contribute to policy and guidelines in relation to restrictive practices and other and other safeguarding issues. The Hon. Kelly Vincent's amendments are, I am advised, almost a verbatim cope of part 3, division 5, of the Victorian Disability Act 2006. In comparison with the South Australian SA Disability Services Act 1993, the Victorian act is extremely detailed and long, with 10 parts over 243 pages.

There is an act that sets out not only the terms of office and powers of various positions, including the Victorian senior practitioner, but also detailed instructions about the rules, boundaries, expectations, appeal rights of every office holder, etc., board and programmatic instrument in the act. What this means is that those who are impacted by the functions and powers of office holders are clear about what rules there are that they must follow.

In the case of the senior practitioner, the Victorian legislation deals over several parts and literally dozens of sections with the rules for disability service providers and residential facilities, to conduct themselves in order to comply with the rules that the senior practitioner monitors. Part 7 of the act provides incredibly detailed instructions on restrictive interventions and part 8 deals with compulsory treatment—there are six incredibly detailed provisions. Importantly, the Victorian legislation provides their senior practitioner with significant powers within the context of important checks and balances. Not only are the rules laid out clearly, but there are also clear mechanisms for appeal and review of decision-making.

By taking one component of Victorian legislation, as the Hon. Ms Vincent is arguing, without the entire web that makes it a fair, reasoned, transparent and accountable measure, has the potential to create a range of perverse outcomes. Where the important checks, balances and safeguards do not exist for statutory positions holding significant powers, as proposed in the amendments, there is always the risk of poor decision-making and a lack of trust in the system by the community.

The Victorian Senior Practitioner has a policing, judgement and fine-imposing role. In South Australia we are seeking an advisory function. We do not have the scale of disability

restrictive practices context as has existed in Victoria. We have a sector that shows itself to be keen to pursue good practice and person-centred approaches.

The government wants to encourage the sector to seek the advice and guidance of a senior practitioner. We do not want to create a whole new bureaucracy around a senior practitioner so that a new policing, judgement and fining regime can spring up. In South Australia we would rather direct resources to early intervention, creating inclusive and accessible services, fostering person-centred approaches and helping people to do the right thing.

The Hon. Kelly Vincent is no doubt aware that Victoria's act was the product of a long and comprehensive consultation process. Its act is reflective of the express wishes of the Victorian disability community. In South Australia we have also undertaken a long consultation process over several years through the former social inclusion board and then the Department for Communities and Social Inclusion. More recently, minister Piccolo has undertaken further community consultation in relation to SA's disability legislation.

The social inclusion board's Strong Voices report did not recommend a senior practitioner. It actually recommended against such a position, noting the existing roles of the Public Advocate and the Health and Community Services Complaints Commissioner. There has never been a strong call for a senior practitioner in South Australia's consultations, I am advised. In the most recent ministerial consultation process, which determined the final form of the amendment bill that we are debating, the issue of a senior practitioner was not strongly argued for. Indeed, it was minister Piccolo who made the announcement of the position as an additional safeguarding initiative.

The most important flaw in the amendments we argue, proposed by the Hon. Kelly Vincent, is the complete lack of detail and context proposed for the senior practitioner and the regime that the position would be required to implement. That is a very dangerous proposition indeed, in our view. It is a position that none of us should be supporting.

In essence, whilst we do not disagree with the Hon. Kelly Vincent and what she is intending to do, we say these things: the context has not been picked up on from Victoria appropriately—a small part of Victoria's legislation is being pulled across in this amendment. This was not consulted on in terms of the South Australian community consultation process and we argue that it is not necessary because we already have statutory authorities—the Health and Community Services Complaints Commissioner, the Public Advocate, the principal community visitor and the Equal Opportunity Commissioner—who are all available to be appealed to in various circumstances. We argue strongly that the amendments should not be agreed to.

The Hon. R.I. LUCAS: I rise to indicate that the shadow minister for disabilities, the member for Morphett, either this morning or late last evening (probably this morning), has had a discussion with Mr Bruggemann to discuss the issue of legislation or not, and related issues. The member for Morphett advises me that Mr Bruggemann indicated that the Western Australian Senior Practitioner does not have legislation, but clearly there are, as I understand from what the Hon. Ms Vincent said, other jurisdictions which do. The minister has referred to the Victorian legislative experience to indicate that that is one.

I must admit that I have not had a chance to have a discussion with the member for Morphett, other than receiving the email from him just before we met this morning. His summary of the discussion he had with Mr Bruggemann includes the following, 'The Victorian Senior Practitioner has set aside his powers under the legislation to see how it goes.' I am not sure what that actually means, and I have not had a chance to discuss with the member for Morphett what Mr Bruggemann meant by that. I will certainly ask a question of the minister in a moment to see whether his learned adviser might be able to interpret that phrase for us.

Putting that to the side, clearly there are differing arrangements in other jurisdictions, and from the Liberal Party's viewpoint I think it is fair to say that on many things we are a broad church. There are some within our party who are interested to look at the notion of legislative backing for the position; there are others who believe that it is not required.

We are in the fortunate position in South Australia that we will be able to look not only at our South Australian experience but also at the experience of other jurisdictions which differ, as I understand it. Western Australia does not have legislative backing, so we are informed, and Victoria evidently does; from what the Hon. Ms Vincent says, perhaps there are other jurisdictions that do as well.

Our position, as advised by the member for Morphett, will be that we will not support the amendments being moved at this stage, but if elected in March 2012 we will review the position in 12 months' time to consider this issue again.

The CHAIR: It is 2014.

The Hon. R.I. LUCAS: What did I say?

The CHAIR: You said 2012.

The Hon. R.I. LUCAS: Did I? I am only two years behind. I am gently reminded by the Chair that it is March 2014; 12 months after that, if we are elected, we will review the position in relation to the experience in South Australia and in the other jurisdictions, as I said, some of which, I am informed, do have legislative backing and some of which do not.

We, as a party, are not locking ourselves into a position one way or another permanently on this particular issue. There will be the opportunity, should we be elected in March 2014, for all those views—those differing views not only within our party room but also amongst stakeholders, I would imagine, in terms of an appropriate course of action—to be put and, as I said, if elected, for us to consider a position after that particular review.

The Hon. D.G.E. HOOD: I do not normally speak when both opposition and government are of the same view on a particular amendment or bill, but on this particular one I will speak briefly just to register Family First's support for the amendment. We will support it on this occasion, although it looks like it will be defeated today; however, should it reappear at some future time, we would be likely to support it then as well.

The Hon. J.A. DARLEY: I rise very briefly to indicate my support for the Hon. Kelly Vincent's amendments and to commend her for her work on this issue. I understand the amendments are modelled on the provisions of the Victorian and Queensland legislation. In Victoria, the Senior Practitioner is generally responsible for ensuring that the rights of people who are subject to restrictive interventions and compulsory treatment are protected and that appropriate standards are complied with in relation to restrictive interventions and compulsory treatment.

The Senior Practitioner also has extensive powers to set standards and guidelines and to monitor and direct disability service providers in relation to the use of restrictive interventions and compulsory treatment. Such a proposal ought to be welcomed in this jurisdiction also. It is very fitting that the amendments be considered in the context of this debate, given that the bill before us relates directly to the promotion of the rights of people with disabilities and ensuring they are able to exercise greater choice and control over their lives.

The annual report of the Senior Practitioner in Victoria tends to suggest that some progress is being made in that jurisdiction in terms of alternative ways of supporting people with disabilities and assisting service providers in providing ways to reduce their use of restrictive interventions. At the very least, the legislation appears to enable the Senior Practitioner to implement standards and guidelines which service providers and medically trained people are required to follow.

This raises the question of exactly how is it that restrictive interventions are monitored in this state at present? I understand from the Hon. Kelly Vincent that the government has, on an informal basis, introduced a senior practitioner in this jurisdiction, with some resourcing attached. My questions are: what powers, if any, does that person have in terms of compliance and enforcement in this jurisdiction, and how can they perform their role effectively if their role is not enshrined in legislation?

The Hon. T.A. FRANKS: I rise on behalf of the Greens to indicate that we too will be supporting the amendment put forward by Dignity for Disability for the reasons put forward so far by other members of the crossbench.

The Hon. R.I. LUCAS: I have a question for the minister, albeit indirectly. I am just wondering whether the minister, through his learned adviser, can throw any light on the advice that the member for Morphett received?

The Hon. I.K. HUNTER: My apologies; I thought the honourable member indicated that he would be asking me that at a later stage. However, yes, I can. My advice is that the Senior Practitioner in Victoria has advised various people—I understand it is public knowledge—that he does not want to be using his enforcing powers. So, in reference to the phrase the Hon. Mr Lucas used about setting aside his powers, he sees them as not being desirable; rather, I understand, he has indicated that he wants to work with the sector in a way that our senior practitioner here wishes

to. I am also advised, tangentially, that the preference of the senior practitioner in South Australia, Mr Bruggemann, is not to have legislative powers. As I understand it he sees his role as working and encouraging the sector towards the goals that we set as a community and as a government.

The Hon. Mr Darley mentioned the Victorian situation, which seems to be improving somewhat. I would say to him 'Yes, and those improvements can all be done without legislative powers for a senior practitioner.' In fact, the situation is that the Senior Practitioner in Victoria is doing just that and setting aside, as the Hon. Mr Lucas said, his enforcing powers, not wanting to use them.

In terms of the question asked, I think, by the Hon. Mr Darley, of course the senior practitioner will use his moral authority in reporting to the agency in case of problems, and requiring them to be fixed, but, as I mentioned earlier, he can also refer situations to any of the statutory officers I mentioned to address the problem.

The Hon. S.G. WADE: My questions are, if you like, supplementary to the questions asked by the Hon. Mr Darley. In terms of supporting the authority of the senior practitioner in South Australia without legislation, has the government taken any action, or is it considering taking any action, to issue policies and guidelines for Public Service providers of disability services in relation to their relationship to the senior practitioner, and does it intend to insert, or has it inserted, any provisions in relation to service agreements with non-government service providers in terms of their relationship with the senior practitioner?

The Hon. I.K. HUNTER: I guess we will be. We do have restrictive practices policies and we will be revisiting those in light of the senior practitioner's guidance and adjusting them accordingly. I am also advised that the sector is, in fact, positively embracing the senior practitioner in his role. Rather than him having an issue trying to get access to different organisations, they are actually inviting him out to assist them in adjusting their own practices and policies.

The Hon. S.G. WADE: I was also wondering if the minister or his advisers were aware, considering that Western Australia is a non-legislated senior practitioner model, whether there are any other elements of the model in Western Australia that are used to support the role of the senior practitioner that we could consider adopting here?

The Hon. I.K. HUNTER: The answer is that, no, we do not have access to the details of the Western Australian model at that level with us now, but certainly we could expect that the agency would be looking at them.

The Hon. K.L. VINCENT: Just to sum up briefly, suffice to say that I am disappointed that my amendments will not be passing today. I would like to thank all crossbench members, in particular, for their support.

I am happy to continue to work on this issue with governments and parliaments, current and future, to ensure that the senior practitioner has appropriate powers and protection. However, I hasten to add also that the minister mentions the Health and Community Services Complaints Commissioner as a possible avenue for dealing with some of these issues. It would be remiss of me not to flag that not only was our previous commissioner, Leena Sudano, quite open about the fact that, due to a lack of resources, she felt she could not do her job as efficiently and as effectively as she would have liked to, but we now have Mr Tully who, to the best of my knowledge, is working reduced hours due to lack of resourcing.

So, I do not think that we can say that the HCSCC is quite ready to pick up the slack in these areas when it is clearly not dealing as effectively as it might like to with some of the jurisdictions that, in fact, it does have a mandate over. I guess that is an issue I would flag; that is, that before we expect these jurisdictions to pick up the slack, we need to make sure that they are properly resourced themselves.

New clause negatived.

The CHAIR: The Hon. Ms Vincent, you have two related amendments?

The Hon. K.L. VINCENT: Yes. I am happy to follow the view of the committee, but I am happy to regard those as consequential. I cannot see any reason why not.

Remaining clauses (4 to 13) and title passed.

Bill reported without amendment.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (11:28): I move:

That this bill be now read a third time.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (PROTECTION FOR WORKING ANIMALS) AMENDMENT BILL

In committee.

Clause 1.

The Hon. T.A. FRANKS: In my second reading contribution late last night I asked the government at what point they contacted and consulted with the RSPCA with regard to this bill. First, I wanted the date on which the RSPCA was contacted about this bill and what their feedback was. I also wanted to know what their response was to the Law Society's concerns that under current laws of the Criminal Law Consolidation Act 1935 there are also three offences that already cover this ground. I refer both the minister and members to sections 84, 85(3), 85(4) and 85A. I outline for members that these sections make it an offence, without lawful excuse, to damage another's property, which includes an animal intending to damage the property, i.e., the animal, or being recklessly indifferent as to whether the conduct so damages the property, and that has a maximum penalty of 10 years.

My question is twofold. In what capacity and on what date was the RSPCA consulted, and why were these particular sections of the Criminal Law Consolidation Act 1935 not seen as a more appropriate course of action, given that they have a higher maximum penalty?

The Hon. G.E. GAGO: In response to the question that the Hon. Tammy Franks asks in relation to consultation with the RSPCA, I have been advised that the RSPCA was not asked for its input in relation to this bill. While the bill obviously addresses harm to animals, it is not aimed at the type of long-term abuse or neglect of animals that the RSPCA is involved in preventing and prosecuting. The type of conduct being targeted by this bill is really of a different type of category. Prosecutions under this bill will be undertaken by police or the DPP, rather than the RSPCA undertaking prosecution of the offence, as commonly occurs with offences under the Animal Welfare Act. Therefore, consultation with the RSPCA was not considered necessary for this particular bill.

In relation to why this bill is not enhancing the Animal Welfare Act, whilst the Animal Welfare Act does have provisions that address the ill-treatment of animals, it does not distinguish between pets and animals used in various working roles. This bill creates a new category to cover police dogs, etc., and recognises their important functions, in particular the significant costs associated with their training and preparation. In order for these animals to be protected by the new provisions they need to have completed relevant training courses. I outlined costs last night of $25,000 for a police dog and up to $70,000 for a police horse.

These animals are exposed to an increased risk of harm due to the functions they perform and the service they provide in protecting the community, and others. The bill also increases the maximum term of imprisonment for those convicted under a new offence to five years. We have also included new provisions to allow the court to be able to make an order that a person found guilty of an offence is required to pay compensation, and I outlined last night that that could cover veterinary costs, etc. We believe that these provisions will act as a deterrent and will, as a consequence, provide additional protection to working animals.

The Hon. T.A. FRANKS: I will repeat my question to the minister: given there exists under the Criminal Law Consolidation Act 1935 three current offences with respect to harm to animals—section 84, section 85(3), section 85(4) and section 85A, which indeed have a maximum penalty of 10 years—why are they not being employed here in this current situation? Why is the government in fact diminishing the maximum penalty that could potentially be available by endorsing an approach where we take on the provisions of this bill rather than a range of sections which could currently be employed which have a maximum penalty of 10 years?

The Hon. G.E. GAGO: I am advised that the section the Hon. Tammy Franks refers to is property law and covers any property at all. I am advised that using such property law offences does not give specific recognition to working animals. Our bill also introduces things like the ability

to include compensation provisions, and I have outlined those, for vet treatment, rehabilitation, etc., that are not currently included in the property law provisions, as I am advised.

The Hon. S.G. WADE: I thank the minister for the answer to the Hon. Ms Franks, but it does raise in my mind the issue of whether or not a police dog is regarded as the property of the police officer, for the purposes of the Criminal Law Consolidation Act.

The Hon. G.E. GAGO: The honourable member is correct. For the purposes outlined, a working dog would be considered the property of—I do not know whether it is the officer or SAPOL generally, but it would be one or the other. However, as I have outlined, it was the intention of the government to give due recognition to the status and role of working animals and the important service they provide to the community and the increased risk to them that relates to the role they play. So, it was deemed that providing a separate piece of legislation to give that due recognition was an appropriate way to go. Also, as to the issue of compensation, it is easier to deal with the issue of compensation in a new piece of legislation than to try to patch up an existing provision. Basically, it was the judgement and decision of this government to give the due recognition it believes working animals deserve.

The Hon. T.A. FRANKS: Is the government comfortable that working animals deserve a maximum penalty of five years rather than 10 years? Will the government be pursuing that and indicating that that is the government's preferred course of action in these cases, which is obviously a diminution of the seriousness of this crime?

The Hon. G.E. GAGO: The maximum penalty of 10 years covered in property law considerations covers the most expensive property on the land—for instance, the *Mona Lisa*, and there are probably other property items that are worth more than that—so that the 10 years is a maximum penalty to reflect those properties that are of extremely high value, for instance. The government felt that a maximum of five years was relative and relevant for the particular responsibility or the particular penalties that we want to cover; that was our judgement. If the Hon. Tammy Franks wanted to move an amendment to make it a maximum of 10 years, she is quite at liberty to do that. The government would consider that but I think probably the DPP would think it is complete overkill, but that is up to the member.

The Hon. T.A. FRANKS: What parts of the Criminal Law Consolidation Act will be used in the case of Koda in relation to the perpetrator who is alleged to have stabbed this police dog? What particular charges have been laid in that case?

The Hon. G.E. GAGO: I have been advised that the charges laid against Koda's assailant, and the status of the prosecution in relation to that, are 11 charges, three counts of serious criminal trespass, four counts of theft, one count of failing to pay a taxi, one count of attempted robbery, one count of assaulting a police officer and one count of ill-treating an animal (which obviously would fall under the Animal Welfare Act). A count of property damage of the dog was withdrawn, and the charges are next before the Magistrates Court, I am advised, on 13 November.

The Hon. T.A. FRANKS: Just to clarify, because the minister was a bit softly spoken at the end there, there was indeed a property damage charge, but it has been withdrawn, and that was with regard to specifically the harm caused to the police dog Koda?

The Hon. G.E. GAGO: Yes, I am advised that a property charge was withdrawn.

The Hon. T.A. FRANKS: That does beg the question why, and why that particular charge was not pursued. Does it have any relevance for this bill before us in terms of charges of a similar nature facing similar barriers? It would be useful to the council to know why that charge was withdrawn, or those charges were withdrawn.

The Hon. G.E. GAGO: Those decisions generally relate to operational matters. It is a decision that would have been made either by the DPP or police to withdraw the charge of property damage. They are usually based on consideration of legal issues, evidence available, etc. They are based on operational matters, and that detail is never released, for obvious reasons.

The Hon. T.A. FRANKS: This is my final question on this section. That is useful information to have, to know that we have reverted to the Animal Welfare Act with regards to the specific case of Koda, although somewhat disturbing, given that the RSPCA has not been consulted. It has a great deal of expertise with regards to prosecution under the Animal Welfare Act. What I would say is, will any provisions in this bill be able to assist Koda? I understand that it is a matter that this bill will be an act to be proclaimed, so there is no retrospectivity. Is that

the case? Will there be any ability for this act, once proclaimed, to be used in the case of Koda the police dog?

The Hon. G.E. GAGO: The bill before us has no retrospective capabilities.

The Hon. S.G. WADE: I was wondering if the minister might be able to advise whether the government is aware of any past events—and obviously as the minister said, this bill has no retrospective effect—in other words, harm to police dogs, police horses and so forth, that might have been able to be prosecuted under this legislation if it had existed at that time?

The Hon. G.E. GAGO: I did address these matters in my second reading summary remarks, but, just for the benefit of the honourable member, we are not aware of those numbers, because the statistics are not collated in that way. The statistics around what type of animal or what capacity they are working in, for instance, are not recorded or collected.

The Hon. K.L. VINCENT: I have a number of questions and I will start them off by asking what is the government position on the Law Society submission to them, which stated very clearly that it is their opinion that this bill creates unnecessary complexity from a legal perspective. Why is it that this issue rises above what would appear to me to be good legal sense?

The Hon. G.E. GAGO: With all due respect to the Law Society, the government disagrees with it that this bill creates unnecessary complexity, and I have already made quite clear the intention of the government, namely, that it has chosen to put together designated legislation that reflects the value of working animals and the special role they fulfil in serving the community, and we chose this particular legislative path.

The Hon. K.L. VINCENT: Is the minister of the opinion that these amendments could be included in an amendment to the existing Animal Welfare Act, thereby circumventing some of the legal confusion? I suppose my question is: do they have to be in a separate act and, if so, why?

The Hon. G.E. GAGO: I am advised that anything is possible. Our parliamentary counsel are wonderful people and you give them a task to do and they can just about amend any piece of legislation to fulfil any outcome you want to achieve. The answer is, yes, there are a number of ways we possibly could have chosen to achieve these type of outcomes, but I have made very plain that this government does not believe this legislation creates unnecessary complexity. We believe it is quite a simple and straightforward piece of legislation. We have chosen to do it this way because we believe working animals deserve that level of recognition.

The Hon. K.L. VINCENT: I now have a number of questions as to a variety of animals that are not currently covered by the bill. I stated in my second reading speech last evening that guide dogs are indeed covered, but it is my understanding that, for example, a hearing assistance dog, or a dog assisting a child or person on the autism spectrum or with an intellectual disability, would not be included. I am interested to know the government's reasoning on this: why guide dogs and not other disability assistance dogs?

The Hon. G.E. GAGO: I am advised that the government has the ability to prescribe other animals to be working animals, and we understand that there are possibly a number of other animals that could be considered to be working animals, and we are happy to consider those if there is a need. If information can be presented, we are happy to look at that and to be advised by any groups that have specific needs and would like to draw them to our attention. There is flexibility within the regulation to be able to add additional working animals to these arrangements, if needed, and we would be happy to do that.

The Hon. K.L. VINCENT: The bill refers in section 83I(4)(b)(i) to death or serious harm that occurs related to the commission of an offence by the defendant of a person, or a person in the company of the defendant. In the event that the offending has been carried out by a person in the company of the defendant and there is no reference to the defendant having any knowledge of their companion's offending, is the government concerned that under these circumstances the bill leaves the public unable to know whether or not their conduct in dealing with a potentially aggressive animal is lawful?

The Hon. G.E. GAGO: I am advised that, no, we are not concerned. We believe that section 83I(3) deals with that. It states:

> In proceedings for an offence against subsection (1), it is a defence for the defendant to prove that he or she did not know, and could not reasonably have been expected to have known, that an animal the subject of the charge was a working animal.

In most instances we believe that it will be incredibly obvious: the police are often in uniform and yelling, 'Stop, desist,' or whatever, and it is obviously a mounted police horse. In most cases it will be quite obvious that it is a working animal. As I said, there is a defence clause and if a person is not able to reasonably know that it is a working animal then that will be a defence they could use.

The Hon. K.L. VINCENT: However, it is my understanding that 83I(4) could, in fact, remove the defence available under 83I(3). Could the minister provide clarity as to that?

The Hon. G.E. GAGO: I am advised that the only time that this provision would not exist is where a person was actively resisting arrest.

The Hon. K.L. VINCENT: But my question was with regard to a person in the company of the person committing the offence. That person in the company of a person committing the offence could not be resisting arrest because they are not in fact being pursued for the purposes of arrest. My question relates to the person in the company of a person committing an offence being able to defend themselves.

The Hon. G.E. GAGO: The circumstances that the Hon. Kelly Vincent outlines are highly implausible. I think what she is asking about is the case where the defence provision does not prevail is when a person is committing a crime and actively resisting arrest. You would have a police officer and a dog and the dog will be going at the person who is a resisting arrest and their attention and efforts would be targeted on the person resisting arrest.

They are highly trained animals that respond very well to very specific commands directed at very specific objects and people, so for the Hon. Kelly Vincent to suggest that there could be a person accompanying that person who is actively committing a crime and/or actively resisting arrest with a dog confronting their companion and that somehow the companion stabs the dog not knowing that the dog is a working animal is just bordering on the ridiculous really. As I said, it is highly implausible.

The Hon. S.G. WADE: Perhaps I suffer from an overactive imagination, but actually I do not find it implausible. What about a police horse? A police horse is involved in a public demonstration. There are all sorts of people involved, some actively, some inactively. What if a person was driving through that area and perhaps they hit the horse? I think that we just need to get out of the situation of thinking it is a police dog in pursuit of a suspect. I think the Hon. Kelly Vincent raises interesting issues in terms of particularly group contests, particularly horses and public demonstrations.

The CHAIR: I will take that as a comment.

The Hon. S.G. WADE: Yes.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

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

Amendment No 1 [Broke–1]—

Page 3, after line 6 [clause 4, inserted section 83H(1)]—

After the definition of *correctional services dog* insert:

customs dog means a detection dog used by the Australian Customs and Border Protection Service in relation to the operation and enforcement of the *Customs Act 1901* of the Commonwealth;

I was hoping to have a further amendment tabled that is on its way. I am alerting the house, particularly you, Mr Chair, to the fact that I do have a further amendment which just basically enshrines the police matter, but not the matter regarding the general community, when it comes to amendment No. 5 where it says, 'where the death or serious harm is caused by a police officer acting in the course of his or her official duties and functions'. I will be removing the further subsequent parts to that. I am just letting members know that and I will speak more to that clause in a while.

There are two key elements here. One is to further tidy up dogs and animals that should be prescribed within the legislation. The government has done some of that already when it actually brought in guide dogs, but I believe that there was some sense in describing some others. The key

to this is to enshrine in legislation those animals, rather than leave it to regulation for the reasons that I said last night. Too much is happening outside of the chamber in regulation, often with unintended consequences, often then having to be addressed through a disallowance or the like.

We are here as legislators to legislate and I believe the way to do that is to enshrine the description of the dogs in law and not rely on those good people in government to bring a regulation in that suits them at an appropriate time and may surprise the general community when we can describe these animals here now.

The Hon. T.A. FRANKS: I ask the mover of the amendment what consultation he has had and why he has decided to restrict the possible animals that will come under this legislation? Has he had feedback from various groups, and can he outline which groups they were and what those groups have said to him?

The Hon. R.L. BROKENSHIRE: I have probably done a little bit more consultation than the government has clearly done on this. I will probably get a tick for that. I have had consultation with a cross-section of the community as well. For personal reasons I do not want to disclose my constituent base and I do not believe I have to, unless the Chair overrules me and tells me that I am going into the cell if I do not. The bottom line is that the initial intent of this was to address a very tragic situation with a working dog, the police dog Koda. Straightaway, when the government announced that, it clearly had to bring in the mounted division as well.

There has been some broadening of it, but I think there are too many unintended consequences that could cause issues if we rely on regulation. So the short answer to my colleague, the Hon. Tammy Franks, is that, yes, I have had discussion with some sectors. I have a basic policy—which I will try to reinforce more next term, as one member—to, wherever possible, describe this stuff in the legislation. Alternatively, if disallowance of regulations is to occur then once you disallow that is it; not just reintroducing it. That is a key frustration of mine that I have harped on about for the last few years.

The Hon. T.A. FRANKS: In discussions in our office we wondered why military dogs have not been included in this legislation, so I am asking the mover of the amendment, the Hon. Robert Brokenshire, why military dogs have not been included in his amendment. Given that his amendment then shuts the door behind any other animal's inclusion in this legislation, what reason is there for not including military dogs?

The Hon. R.L. BROKENSHIRE: I have not put military dogs in there; I put the dogs in there that were raised with me through discussions with various organisations.

The Hon. G.E. Gago: Secret discussions.

The Hon. R.L. BROKENSHIRE: Cabinet-type discussions. The fact is that if members want to move other amendments to include other dogs, I am very happy to consider those.

An honourable member: Why don't you support the regulations?

The Hon. R.L. BROKENSHIRE: For the reason that I do not trust the government of the day with regulations. I have said that; I cannot be clearer than that. I have put in there the dogs that I think are most at risk. Someone can move an amendment if they want or, of course, we can always bring back legislation at another time with an amendment to further describe other animals—notwithstanding the fact that there has been a debate by some members in here who actually say that it is already covered under the Animal Welfare Act.

The Hon. T.A. FRANKS: With respect, I am not sure that the honourable member has been listening to the debate, given that the Criminal Law Consolidation Act already covers this area and has a greater penalty than the current law we are about to pass. However, further on from that point, why have hearing dogs not been covered in the honourable member's proposed amendments to this legislation (which, as I said, then shuts the door on any other animal's inclusion)?

The Hon. R.L. BROKENSHIRE: They are the animals that I requested parliamentary counsel describe in the amendments. The answer is as simple as that. If other members want to put other dogs into the debate, bring them in.

The Hon. G.E. GAGO: The government opposes this amendment. Customs dogs work under the Australian Customs and Border Protection Service, which is obviously a federal government agency. Any animals used by the Customs service to perform their function is the responsibility of the federal government, and it is not the responsibility of the South Australian

government to legislate for their protection. The federal government could, by all means, move to do the same thing for their animals, and should be encouraged to do so.

In any event, with the sorts of dogs we have included we have looked at issues around their training and other requirements. The skill and expertise needed and the investment in the animal are to be considered. The honourable member has not included any details around those things, details of any specific training courses, etc. That has not been provided; there is not a lot of detail there either. However, basically it is federal property.

The Hon. S.G. WADE: The opposition does not need any evidence that the Customs dogs are trained animals and that harm to them would be not only at the cost of the service they serve but also at the cost to the wider taxpaying community. We are a bit surprised at the narrow focus of the particular suggestion because, in the same work space in which Customs dogs are working, there are often AQIS dogs. I would not like to see this to be a case of the labradors discriminating against beagles!

Be that as it may, it is a disappointment to the opposition that we received these amendments after our scheduled party meeting on Monday afternoon. So, whilst we are not closed to the idea in a policy sense, we have not had the opportunity to enjoy the collective wisdom of our party room, and we will not be supporting the amendment.

The Hon. K.L. VINCENT: Dignity for Disability's position on this bill as a whole is well known by now, so it will surprise none to know that we also oppose this amendment. I wonder if at this time it would appropriate for me to ask some further questions of the mover. I did try to get your attention previously, Mr Chairman, but I was not successful. With your permission, sir, I would like to ask some further questions.

The CHAIR: You have the floor.

The Hon. K.L. VINCENT: The first question is: does the Hon. Mr Brokenshire consider that, by not allowing more animals to be added to this law by regulation, it could lead to a situation where we would, in fact, see more kneejerk responses where an animal not covered under Mr Brokenshire's definitions is harmed, there is a public outcry, and we then come back and amend the bill for that particular animal?

The CHAIR: The Hon. Mr Wade, do you have a point of order?

The Hon. S.G. WADE: It seems to me that the Hon. Tammy Franks and the Hon. Kelly Vincent are asking the Hon. Mr Brokenshire to justify an amendment he has not moved: he has not moved an amendment in relation to the regulations. If they want to challenge him on that point, that would be the appropriate place to do it. He has not had a chance to put his case yet.

The CHAIR: Well, he has moved his first amendment, and there has been a general broad discussion about that amendment, and that is how I see the Hon. Ms Vincent going.

The Hon. K.L. VINCENT: Your advice, sir: shall I proceed?

The CHAIR: Yes.

The Hon. K.L. VINCENT: Thank you. My first question for the Hon. Mr Brokenshire: can he foresee a situation where this lack of adding animals by regulation could lead to further knee jerking in that an animal not covered by his definition could be injured, we would then come back and amend the legislation for that particular animal, another incident occurs where a different animal again is injured, we come back to amend the legislation for that animal and so on? I guess to put it briefly, my question is: does the Hon. Mr Brokenshire concede that this process of restricting them by legislation could, in fact, hinder the process that he is, as I understand it, trying to make simpler?

The Hon. R.L. BROKENSHIRE: No, I do not concede that. I was listening to the debate, by the way, and I acknowledge the good intent of my colleague the Hon. Tammy Franks when she asked a question about penalties and so on under another act and why that act was more powerful from that point of view than this act.

I also acknowledge the Hon. Kelly Vincent, another colleague, and her comments yesterday, when she publicly said that she does not agree with what the government is doing. The issue, from my point of view, is that, after a tragic incident, the government did make a decision to introduce this legislation. The government has since broadened it as to what would be included and not included. I have attempted to broaden it further, and we will see what the numbers in the

committee finally work through. As I have said, I have done this because at least I will know that, if they are going to include some, the dogs I believe definitely should be included are included. I have no idea what the government may or may not include if the government does it through regulation.

The Hon. S.G. WADE: In relation to the debate about whether or not the honourable member is closing the door, that relates to a later amendment. However, I strongly believe that the Hon. Mr Brokenshire's proposed approach, which is to prescribe in legislation and to remove the regulation-making power, is actually the best way that this parliament can protect itself from a knee-jerk response. Cabinet can add an animal every time it meets; we can have one on Monday, one on Thursday and one on the following Monday, and we can keep going indefinitely. If this parliament wants to avoid a knee-jerk reaction, the best way is to support the Hon. Robert Brokenshire in his amendment to remove the regulation-making power.

The Hon. K.L. VINCENT: I think the Hon. Mr Wade raised a completely unnecessary lecture, but—

The Hon. S.G. Wade: I'm allowed to make points.

The Hon. K.L. VINCENT: You are, to the committee, not to me. Clear? Right. I have a further question of the Hon. Mr Brokenshire. He has made it somewhat clear that he is unwilling to disclose the exact individual groups with whom he has consulted on this issue, but I am interested to know whether he would be willing to change that position given that it is difficult to understand how the Hon. Mr Brokenshire has reached the position that the particular animals that he has selected to define in this definition are more important than the ones he has not. For example, how does the Hon. Mr Brokenshire know that the animals that he has selected are more important than a dog assisting someone in the autism sector or a hearing dog or a companion dog to someone with a psychiatric illness? On what grounds has he reached the decision?

The Hon. R.L. BROKENSHIRE: I have reached the decision based on the grounds that I have tabled before this parliament. If other members want to broaden that out, I encourage them to go ahead.

The Hon. S.G. WADE: I make the point to the committee that it was the government that chose to limit it to guide dogs. It was the government that chose to exclude other accredited disability assistance animals. I fail to see why the Hon. Mr Brokenshire has to justify why he has chosen to add a related animal, because this animal is actually related to law enforcement. A guide dog is not related to law enforcement. I would be interested to know in that sense why the government thought a guide dog needed to be specifically prescribed in the legislation and other animals did not. As I said, we will not be supporting the amendment but we certainly do not believe that the Hon. Mr Brokenshire needs to, if you like, provide a statutory declaration as to who is consulted on an amendment; after all, the government has not been asked to do that in relation to its listing of animals.

The Hon. T.A. Franks: Yes, it has. I did ask the government as well.

The Hon. G.E. GAGO: And I have answered the question. Let's get on with it. This is a circus; it is embarrassing.

The Hon. T.A. Franks: They're both lacking in consultation.

The CHAIR: Order! The Hon. Ms Franks.

The Hon. T.A. FRANKS: I indicate that the Greens will be supporting amendment No. 1 [Brokenshire-1] with regard to Customs dogs. Of course, with regard to regulations and the ability to add other animals, that is a completely different matter. However, it should be seen in the context of if we do add animals here, we need to consider whether or not we do, as I say, close the door on the ability to add other animals. Indeed, cabinet may well decide on a new animal every Monday and Thursday, but I would prefer to see that done in regulations, which are disallowable by this parliament, rather than having to debate this bill time and time again with a different name each time and a great new photo opportunity for a potential government.

With that, we support this particular amendment, but we certainly do not see them as consequential. We indicate just on our very scant consultation—which I suspect may be more substantial than other members' consultation processes, and I am not differentiating between the opposition, the crossbench, the Greens or the government on that because we really just have not had the capacity or the time to do that due diligence—that hearing dogs, military dogs and, indeed,

quarantine dogs are all possibly worthy and obvious examples, but I am sure there are many other examples.

Amendment negatived.

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

Amendment No 1 [Wade–1]—

Page 3, after line 35 [clause 4, inserted section 83H, definition of *working animal*]—After inserted paragraph (c) insert:

(ca) a dog used by, or on behalf of, a council (within the meaning of the *Local Government Act 1999*) for the purpose of enforcing council by-laws, conducting security patrols or protecting or guarding property in the council area; or

This amendment proposes to extend the definition of working animal to include a dog used by a local council to enforce council by-laws, conduct security patrols or protect property in the council area. These dogs are used by local councils for a range of law enforcement purposes and it seems logical to the opposition to include them in the definition of working animal and afford them the same protection as other law enforcement animals. This is particularly the case in many rural areas where, since 2008, the District Council of Ceduna and the Port Augusta City Council have operated security canine patrols.

The patrols are authorised officers of the council with the authority to enforce council by-laws. The patrols are supported by canine members. Their roles include the monitoring of city infrastructure against vandalism, to counter antisocial behaviour and assist police where possible. The canines are trained, as are police dogs and corrections dogs. They are specifically trained in obedience and also to respond towards aggression towards the handler. In that case, it puts them in the direct line of fire.

In the current bill, the definition of working animal is able to be extended by way of regulations but the opposition will be supporting the Hon. Robert Brokenshire's amendment to remove that power of regulation. The Liberal opposition wants to specifically prescribe council dogs in this list. The definition of working animals under the act, in our view, should be extended to include council dogs. The Attorney has already indicated the government's reluctance to support this amendment in the other place, but that he was willing to consider prescribing them in the regulations.

Considering that we are proposing that the parliament not give the government the power to prescribe animals without reference to this place, we propose to prescribe council dogs in the act itself. To do otherwise would not provide them with the protection that is accorded to similar dogs in similar law enforcement activities.

The Hon. G.E. GAGO: The government rises to oppose this amendment. Firstly, paragraph (e) of the definition of a working animal allows for other animals or animals of a class to be prescribed by regulation to be included in the definition of a working animal and it is not necessary to include further animals in the bill. Secondly, the amendment may capture animals that are not intended to be covered by the definition. The government understands that this amendment is prompted by the use of specific dog patrols by the local councils in, particularly, Port Augusta and Ceduna. However, the definition is very wide and it would expand the definition to cover many more dogs. It is unknown how many animals would be captured and to what purposes they were being used for.

Relating to the second point, dogs captured by the amendment are not required to have any particular qualifications that we are aware of. Whilst the dogs used by the councils in Port Augusta and Ceduna may be highly trained dogs used by the councils, they are not a group defined by a particular qualification in the same way that guide dogs or police dogs are, to the best of our knowledge anyway. As the bill provides extra protection to working animals, it is important that animals that are included have some sort of qualification that identifies them as trained working animals. Dogs may even be used by subcontractors to councils where, again, it is more difficult to ensure quality control and to ensure that dogs are in fact trained and trained in appropriate ways.

Thirdly, some dogs captured by the amendment may not even work with a handler. Dogs guarding property in council areas may well include guard dogs left on their own to guard property, and it is clear that such dogs are not under the control of a handler in the same way as police dogs and guide dogs are; it is quite a separate category. The government feels it is not appropriate to include these animals within the definition of working animal.

Lastly, working animals are a special category of animal that deserve extra protection due to the nature of the tasks they undertake, and it is important not to dilute the category by including many other animals within that definition, otherwise the definition becomes meaningless. The government wishes to reiterate that it is possible to include other classes of working animals in the regulation should there be a demonstrated need. So, if those councils want to come to us and put forward an argument and a reason for those animals, we would be happy to consider them.

The Hon. S.G. WADE: Just in response to the minister's comments, could I clarify the wording of the amendment itself. The amendment itself says 'a dog used by or on behalf of the council'. In our view, those words in and of themselves exclude a number of the case situations that the minister suggested. It is not a dog working in a private security yard: it is a dog used by or on behalf of a council; for that matter, it is specified in the Local Government Act and it is also in relation to a particular task for the purpose of enforcing council by-laws.

The two councils that are specifically cited—Ceduna and Port Augusta—specifically employ the canine patrols to provide similar patrolling support that would otherwise be provided by police. My understanding is that they work cooperatively with police. In that sense, we would suggest that this does not significantly dilute the category or broaden the scope. Certainly, there is more similarity between what, shall we say, these council dogs do and what police dogs do than there is between what guide dogs do and what police dogs do.

The Hon. I.K. HUNTER: Can I ask the mover of the amendment: has he taken time to consult with Aboriginal communities in Port Augusta and Ceduna about the use of these dogs and how they would be captured by this amendment?

The Hon. S.G. WADE: This amendment was not my amendment; it was from the member for Stuart, Mr Dan van Holst Pellekaan.

The Hon. G.E. Gago: Who is the vessel?

The Hon. S.G. WADE: I'm sorry—

The CHAIR: Order!

Members interjecting:

The Hon. S.G. WADE: I would like other members to hear what I am saying, which does not seem to be possible.

Members interjecting:

The CHAIR: Order!

The Hon. I.K. HUNTER: I ask the mover of the amendment on behalf of the member in the other place whether he is aware of any concerns raised by Aboriginal communities that these dogs are used exclusively to police members of the Aboriginal communities and allegations that they are being used in unfair and demeaning ways?

The Hon. S.G. WADE: I am not aware, and if the government is aware of such allegations I trust that they have taken all relevant action with the police to ensure they are not misused in that way.

The Hon. R.L. BROKENSHIRE: I ask the minister who asked the question of the Hon. Mr Wade: what has the minister done to address that matter, given that it has been raised with him in his official ministerial capacity? What has he done to address the matter?

The Hon. I.K. HUNTER: I have not moved any amendments in this debate or the bill. The Hon. Mr Brokenshire might need to brush up on his standing orders instead of consulting Daisy and Maisy in secret conversations. I ask the mover of the amendment again—he obviously is not aware of any consultations with the Aboriginal communities about these dogs being put into the legislation—whether he thinks it is therefore appropriate that this amendment proceed without that consultation occurring?

The Hon. S.G. WADE: The honourable minister chooses to misrepresent my words. I made no comment as to whether consultation had or had not occurred. I presume that it has occurred, because the honourable member for Stuart is intimately involved in this community. In that regard, I specifically correct the record where the minister suggests that I am suggesting the consultation did not occur.

The committee divided on the amendment:

AYES (11)

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

NOES (8)

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

PAIRS (2)

Bressington, A.	Zollo, C.

Majority of 3 for the ayes.

Amendment thus carried.

The CHAIR: The Hon. Mr Brokenshire, do you see the next amendment, which goes to Customs dogs, as consequential?

The Hon. R.L. BROKENSHIRE: Yes, that will be withdrawn.

The CHAIR: Then you have amendment No. 4.

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

Amendment No 4 [Broke–1]—

Page 3, lines 37 and 38 [clause 4, inserted section 83H(1), definition of *working animal*, (e)]—Delete paragraph (e)

I have already foreshadowed the reason for this amendment, but if colleagues took the time to look back through a lot of debate I have been consistent in my argument about too much being done by regulation. There was clear and direct intent with what the government wanted with this bill, and I believe this is the right way to go, that it describes it at law and, if anything is to be done in future, they bring it back through the parliament.

The only other thing I would say is that, while one colleague said, 'Well, you've got a right to disallow,' disallowance has proven to be a joke, because even if you get the absolute majority of either chamber agreeing to the disallowance, before the ink is dry the government has brought back the regulation, and you sit there then with that regulation and no direct input from the parliament.

The Hon. S.G. WADE: I rise to indicate that the opposition strongly supports this amendment. I respect the honourable members who have concerns about this legislation, particularly the concern about a kneejerk response. As I humbly suggested earlier, and reiterate: I believe that actually putting it in the legislation is the best way for this parliament to ensure that further additions to the list are appropriately considered.

The Minister for Aboriginal Affairs has highlighted the sorts of issues that might come up when consideration is given to adding a person to the list. If this house is confident that government consultation is always impeccable, and that we can put it in regulation, assuming that matters are properly considered and not provide parliamentary oversight of the list, then you have to ask yourself: why did we start with a list in the act in the first place, why didn't we put them all in regulation? Personally I believe that the category of animals we are talking about, particularly animals involved in law enforcement activities to the extent that their own safety is at risk, is not a large category of animals and it is the sort of list you could expect to see enumerated in legislation.

It is also the sort of list where other issues might arise, and the Minister for Aboriginal Affairs has kindly highlighted issues in that regard. The Hon. Tammy Franks was suggesting that subdelegated legislation could be disallowed. I reiterate the concern this council has had year after

year in relation to the risks of subdelegated legislation. In fact, there is a piece of legislation that passed this place without a dissenting voice, other than that of the government in the House of Assembly—it has not been considered by the House of Assembly—specifically to remove the risk to which the Hon. Robert Brokenshire alluded, namely, the day after a regulation is disallowed for a fresh regulation to be promulgated.

The Hon. Mark Parnell, for example, in speaking in support of the Subordinate Legislation (Miscellaneous) Amendment Bill on 6 June 2013, said:

> In a nutshell, the Greens have been as disappointed as, I think, a majority of people in this chamber have been that we have not had the ability either to disallow only part of a regulation or to amend a regulation, and we have not been able to stop the government using the shenanigans of the calendar to simply reintroduce exactly the same regulation a short time after it has been defeated in this chamber.

The Hon. Mark Parnell made similar comments on 6 June 2011; he spoke on the 2009 bill. The consistency of the Greens in relation to the need to increase government accountability in terms of legislation is well established on the record. The Greens are not alone in that view within this chamber.

What is actually the standout is the low standards of this parliament. If you look at the other parliaments around Australia, most of them have some sort of safeguards. Either you are allowed to amend it or the government cannot reintroduce it the next day. I would suggest to honourable members that the best way to avoid a kneejerk reaction, the best way to provide accountability and greater assurance for community consultation is by adopting the amendment by the Hon. Robert Brokenshire and removing the right of the government to issue a regulation Monday, Thursdays and the Monday after.

The Hon. G.E. GAGO: The government rises to oppose this amendment. I have to say I find it quite incredible listening to the Hon. Stephen Wade's response in terms of the need for legislative response rather than regulatory to enable community consultation. Here we have a piece of legislation in front of us and the previous amendment where he failed to consult with a major stakeholder in terms of the impact of his amendment. It's a joke; he's just a joke.

The government opposes this particular amendment that removes the ability to prescribe further animals or classes of animals by regulation to be working animals, and it is necessary to have the flexibility to include further animals within the definition should it become necessary. We need the ability to include further types of working animals if it is demonstrated that they require the extra protection that this bill provides.

The Hon. T.A. FRANKS: I rise on behalf of the Greens to oppose this amendment in this particular case. Where the Greens are on record is in calling for greater scrutiny of this parliament, and certainly calling for partial disallowance of delegated legislation is a flexibility we believe this parliament should have. My honourable colleague, Mark Parnell, has rubbed off on me because I cannot help but use the pun, 'This is a dog's breakfast of a piece of legislation.' We support it begrudgingly. We support it knowing that it has not been well consulted but knowing that there is the ability to fix it up with these particular regulations.

As a council, we have just voted down the inclusion of Customs dogs but we voted up the inclusion of the somewhat controversial security patrol dogs used in Ceduna and Port Augusta. All members of this council should be aware that the Aboriginal Legal Rights Movement (ALRM) has called these dogs part of a racist and Gestapo-like presence. They are controversial in their use and yet we have just elevated them above Customs dogs and, indeed, we will not be including hearing dogs without the ability to correct this regulation under this particular act, should it pass.

The Hon. I.K. Hunter: They've turned it into a dog's breakfast.

The Hon. T.A. FRANKS: It is a dog's breakfast. The Greens absolutely advocate for parliamentary reform and better ability, as I say, to not just have an all or nothing argument when you are given a list under a regulation, there should be the ability to strike out parts of a regulation and there should also be respect where one house of parliament has indicated that, and those regulations not to be installed the very next day. That is the reality of the current system, however.

The reality of this bill—and the opposition well know this—is that I do not think anyone with a straight face would go out and argue that this bill has been well consulted, well thought through and covers the whole ground. So, without regulations it will be more of a dog's breakfast than it currently is. With that, that says that I am opposing this particular amendment, but certainly the Greens are very firmly supportive of better reforms for our democracy, better ways of having

delegated legislation, and having these debates not necessarily in this chamber, but ensuring that the consultation and the correct democratic processes are actually followed before we get into this sort of a debate in this council.

The Hon. R.L. BROKENSHIRE: I will just make a few points. Members of the Legislative Council or indeed members of the House of Assembly, as individuals, or even as parties, other than if they are the government, and subsequently cabinet, have no chance of input or alteration to regulation. I just want to put that clearly on the record.

Secondly, the moment that the government actually sit around the cabinet table and the Premier signs off, and then the Governor in Executive Council, and it is gazetted, those regulations are law immediately irrespective of unintended consequences and other issues that we see all the time with regulation.

The third point is that, unless the government are brave enough to come back into this house in February, then the bottom line is that we will have a regulation put to this legislation in relation to which none of us will know what is involved in that regulation, and for at least six months, when they shut this house down, we will have no chance for disallowance anyway.

The final point is the government say that they may want to include something else down the track through regulation. I say that they can do that at any time as a government by bringing an amendment into the house.

The committee divided on the amendment:

AYES (11)

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

NOES (8)

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

PAIRS (2)

Bressington, A.	Zollo, C.

Majority of 3 for the ayes.

Amendment thus carried.

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

Amendment No 5 [Broke–1]—

Page 4, after line 33 [clause 4, inserted section 83I(2)]—After paragraph (f) insert:

(fa) where the death or serious harm is caused by a police officer acting in the course of his or her official duties and functions;

The reason for having this in there is that, sadly, there is the possibility that in a difficult set of circumstances a situation may arise where a police officer has no choice but to take a serious defensive course of action to protect themselves, partners or the community.

The CHAIR: Just to make it clear, you are moving only paragraph (fa)?

The Hon. R.L. BROKENSHIRE: Only (fa).

The Hon. G.E. GAGO: The government opposes this amendment. It sees paragraph (fa) as completely unnecessary, and struggles to see what actions the amendment is aimed at addressing. If a police officer harms another person's working animal—a guide dog or a correctional services dog—in the course of their duties it would be either in defence of themselves

or another, or accidental. It is already lawful to act in self-defence if the animal were attacking a person; if the harm was to their own animal that would be an internal police disciplinary matter. I do not know whether the honourable member can give us an example of the sorts of actions that would come within the provisions of his amendment.

The Hon. R.L. BROKENSHIRE: I could give some examples, but I would prefer not to because I do not like talking about circumstances where a police officer may encounter a situation that leaves them with no other choice. However, if members have ever been out with police officers in certain situations, they would know that police officers, alone, are faced with making split second decisions that, fortunately, the rest of the community—

The Hon. G.E. Gago: That would be in the course of their duty, though. You are talking about actions taken in the course of their duty; we are talking about actions outside of that. Their actions are already protected.

Members interjecting:

The CHAIR: Order, minister. The Hon. Mr Brokenshire has the call.

The Hon. R.L. BROKENSHIRE: Thank you for your protection, Mr Chair. Yes, they are doing this in the course of their duty but, again, because of unintended consequences and because of the whole way this bill has been developed by the government, I believe we cannot afford to have any potential risk factors on the clarity of a situation where a police officer may encounter this. For that reason I am trying to absolutely clarify it in a piece of legislation—which, I understand, is legally appropriate for me to include as an amendment.

The Hon. G.E. GAGO: I am gobsmacked. The honourable member cannot give an example of the sorts of actions that would be protected. The actions of an officer that are performed in the course of their duties are already protected, if a working animal is harmed either accidentally or intentionally. Those actions are already covered. So, we are not talking about an officer in the course of the performance of their duty. It would have to be an officer in actions outside of the course of their duty. I am just gobsmacked. The honourable member has no idea. He is not able to explain or able to give even one example of the sorts of actions that would need this measure to provide protections that are not already in place for officers who are in the course of performing their duties.

The Hon. S.G. WADE: Reluctant as I am to get in the way of the minister, who is engaged in a filibuster, I remind the committee that I have already indicated that the opposition has not been able to take these amendments to our party room, and we will not be supporting them without having properly considered them. The government already knows that the opposition is not going to support them. If the government is trying to persuade us to support the Hon. Robert Brokenshire, I can assure you that will not happen because we are committed to consulting our party room.

The Hon. G.E. GAGO: That is outrageous! This is the committee stage. I have asked reasonable questions of a mover of an amendment, and the mover is not able to give a simple explanation. I have not only every right to do that, I have a responsibility to do that, irrespective of whether or not the opposition is supporting us in this amendment. This is not just about having the numbers. We do not just debate those issues—

Members interjecting:

The CHAIR: Order!

The Hon. G.E. GAGO: —where we have the numbers. If that was the rule of this house, every other member in this place has breached it many times. This is about the integrity of open debate. Goodness gracious me!

The Hon. S.G. WADE: The minister does raise an interesting possibility, and that is that, if the minister is asking the opposition to support the Hon. Robert Brokenshire's amendment so that we could keep it alive, so that we could consider it when this house next resumes, what would happen is that we would support it in this place, the government presumably would not support it in the other place, and we could have a fuller debate again. If that is what the minister wants, she can make that clear and I will consult my colleagues as quickly as possible. But it is not the intention of the opposition to support this amendment unless the government wants to make it a cause célèbre.

Amendment negatived; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (12:58): I move:

That this bill be now read a third time.

Bill read a third time and passed.

PUBLIC CORPORATIONS (SUBSIDIARIES) 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) (12:59): 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 seeks to make amendments to the *Public Corporations Act 1993*.

The 'Southern Select Super Corporation' was established as a subsidiary of the Minister for Finance pursuant to the *Public Corporations (Southern Select Super Corporation) Regulations 2012* and is the trustee of Super SA Select, the State Government's taxed superannuation scheme. There is currently no external independent dispute mechanism in respect of the decisions of the board of directors of the Southern Select Super Corporation. This is because the *Public Corporations Act 1993* does not provide for the regulations establishing a subsidiary of a public corporation to confer jurisdiction on a court to review a decision of that subsidiary.

It is imperative that current and former members of superannuation schemes have access to an appropriate external dispute resolution process as a means of resolving complaints with fund trustees as quickly as possible, in a fair and economical way. It is also important to note that in terms of the external dispute mechanism for the main State Government superannuation schemes, the *Southern State Superannuation Act 2009*, the *Superannuation Act 1988* and the *Police Superannuation Act 1990* currently confer jurisdiction on the Administrative and Disciplinary Division of the District Court with respect to the decisions of the Super SA Board and Police Superannuation Board.

Therefore, the legislation contained in this Bill, if enacted, will enable regulations establishing a subsidiary of a public corporation to confer jurisdiction on a court to review decisions or activities of that subsidiary. This amendment will enable a consequential amendment to be made to the *Public Corporations (Southern Select Super Corporation) Regulations 2012* to provide specifically for the Administrative and Disciplinary Division of the District Court to hear an appeal against a decision of the Southern Select Super Corporation.

The other issue covered by this Bill relates to the Schedule to the *Public Corporations Act 1993*, which sets out the provisions applicable to subsidiaries. Clause 2 provides that a subsidiary is subject to the control and direction of its parent corporation. As a result, it follows that the Southern Select Super Corporation is subject to the control and direction of the Minister for Finance, as the parent corporation. However, there are two main problems with this provision in the context of a subsidiary with a trustee role. Firstly, in terms of trustee duties, the trustee will commit a breach of trust if it fails to exercise honestly its judgement as to whether it should do a particular act or not. Having regard to this principle, it is inappropriate for a trustee to be subject to control and direction of its parent in respect of its trustee functions. This is because a direction could place the trustee in a conflicted situation where compliance with that direction could result in it breaching its trust obligations. Secondly, the direction and control of a parent corporation over the decisions of a subsidiary with trustee functions is not consistent with Commonwealth superannuation legislation, which provides that the governing rules of a superannuation entity must not render the trustee subject to the direction of a third party.

The Bill therefore seeks to amend clause 2 of the Schedule to the *Public Corporations Act 1993* to clarify that even though a subsidiary is subject to the direction and control of the board of its parent corporation, such direction and control will not apply in relation to the performance of that subsidiary's functions as a trustee (if any). The intention of the amendment is not to remove general oversight of, or accountability to, the parent corporation in respect of decisions of subsidiaries, but to ensure that where a subsidiary makes decisions in the capacity of trustee, the subsidiary is not bound to follow a direction but can exercise those trustee functions independently. Such a limited power of control and direction appears in other legislation, including section 6 of the *Public Trustee Act 1995* and section 21 of the *Superannuation Funds Management Corporation of South Australia Act 1995*.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

The Bill does not include a commencement clause and will therefore come into operation on the day that it is assented to by the Governor (in accordance with section 7(1) of the *Acts Interpretation Act 1915*).

Part 2—Amendment of *Public Corporations Act 1993*

3—Amendment of section 24—Formation of subsidiary by regulation

Section 24 of the *Public Corporations Act 1993* provides for the establishment by regulation of bodies corporate as subsidiaries of public corporations. This clause amends subsection (2) of section 24 so that regulations establishing a subsidiary may confer jurisdiction on a court to review decisions or activities of the subsidiary.

4—Amendment of Schedule—Provisions applicable to subsidiaries

The Schedule sets out provisions applicable to bodies established by regulation as subsidiaries of public corporations. Clause 2 of the Schedule provides that a subsidiary is subject to control and direction by the board of its parent corporation. Under clause 2 as amended by this clause, if a subsidiary is to perform functions as a trustee, it will not be subject to control or direction in relation to the performance of those functions.

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

ELECTORAL (LEGISLATIVE COUNCIL VOTING) AMENDMENT BILL

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

COMMUNITY HOUSING PROVIDERS (NATIONAL LAW) (SOUTH AUSTRALIA) BILL

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

CHILDREN'S PROTECTION (NOTIFICATION) AMENDMENT BILL

Received from the House of Assembly and 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) (13:01): I move:

That this bill be now read a second time.

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

Leave granted.

The Bill I present to the House today seeks to meet the Government's stated intention to work expediently to enact the recommended legislative amendments which were set out in the *Royal Commission 2012-2013 Report of the Independent Education Inquiry* prepared by the Hon Bruce Debelle AO QC.

The amendments proposed in this Bill address recommendations 26 and 27 of Justice Debelle's report and will enhance the current mandatory notification provisions in section 11 of the *Children's Protection Act 1993*. This section currently requires a mandated notifier who forms the view that a child has been, or is being, abused or neglected to report this suspicion to the Child Abuse Report Line (CARL).

The amendments in the Bill before you will create defence provisions for mandated notifiers in relation to their obligation to make a report in particular circumstances. In line with the Royal Commission recommendations, a defence will be established when a mandated notifier has failed to notify a reasonable suspicion of neglect or abuse of a child because:

- the person became aware of such circumstances as a result of information imparted to them by a police officer [recommendation 26]
- the mandated notifier became aware of the child's situation from another mandated notifier who has already made a report in respect of the situation [recommendation 27]

In the context of setting out recommendation 26, Justice Debelle expressed the view that the very fact that police are investigating an allegation of child abuse or neglect demonstrated that a child had been identified as being at risk, which was the purpose of the police investigation. Justice Debelle stated that '[t]here is an element of circularity, if not absurdity' to require a mandated notifier to make a report to CARL in circumstances where they learn of the allegations of abuse or neglect from the police in the course of the conduct of such an investigation.

The circumstances considered by Justice Debelle in making recommendation 27 related to the responsibilities of teachers as mandated notifiers and accordingly, and was framed to relate only to *teachers in an educational institution*. However, in Justice Debelle's report, he raised the question as to whether teachers should be the only class of mandated notifiers considered in implementation of his recommended exemption from notifying CARL in circumstances where a fellow employee passes on information about the abuse or neglect of a child.

The proposed amendment addresses this point by extending a defence to all mandated notifiers prescribed in section 11 of the *Children's Protection Act 1993*. By expressing the amendment as a defence provision, rather

than an exemption, the requirement to report child abuse remains the default position, and does not prevent a number of notifications being made in respect of the same child.

I implore Members from all sides of politics to support this Bill—for the sake of police officers, doctors, nurses, teachers, social workers and other mandated notifiers. This Bill, enacting recommendations made by Justice Debelle, will make the jobs of these essential workers easier so that they can focus on the things that matter, that is, the protection of children in this State.

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 *Children's Protection Act 1993*

4—Amendment of section 11—Notification of abuse or neglect

This clause amends section 11 of the principal Act to insert two defences to charges against subsection (1). First, new subsection (2a) applies where the defendant only formed a suspicion because he or she is informed of the suspected abuse or neglect by a police officer acting in the course of his or her official duties. Second, new subsection (2a) applies where the defendant's suspicion was due solely to having been informed of the suspected abuse or neglect by another mandatory notifier, and the defendant believed on reasonable grounds that the other person had given a notification in respect of the suspected abuse or neglect.

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

[Sitting suspended from 13:02 to 14:17]

PAPERS

The following papers were laid on the table:

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

Reports, 2012-13—
- Office of the National Rail Safety Regulator
- South Australian Rail Regulation
- Technical Regulator—Electricity
- Technical Regulator—Gas

Report on Work Health Safety Codes of Practice, November 2013

Government Response to the Inquiry into New Migrants: Thirty-Fourth Report of the Social Development Committee

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:18): I bring up the 37th report of the committee.

Report received and read.

The Hon. G.A. KANDELAARS: I bring up the 38th report of the committee.

Report received.

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

The Hon. G.A. KANDELAARS (14:22): I bring up the 2012-13 report of the committee.

Report received.

ANSWERS TO QUESTIONS

WUDINNA SKILLS AND WORKFORCE SUMMIT

In reply to the **Hon. J.S. LEE** (2 May 2013).

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

A total of $125,000 has been committed by the state through the Workforce Development Program administered by the Department of Further Education, Employment, Science and Technology. In addition to this, the Skills for All program and a range of other funding initiatives will be triggered by this initiative which will continue until June 2014.

QUESTION TIME

AGRICULTURE AND NATURAL RESOURCES MANAGEMENT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): I seek leave to make a brief explanation before asking the minister for whatever he is, sustainability, environment and—

The PRESIDENT: Sustainability, environment and conservation.

The Hon. D.W. RIDGWAY: All of that; thank you—a brief explanation about the agriculture and NRM action plan, Working Together.

Leave granted.

The Hon. D.W. RIDGWAY: At the start of September this year the government announced Agriculture and NRM: Working Together, billing it as a 'landmark agreement' that would 'strengthen the bond between South Australia's agriculture sector and the natural resources management system'. In actual fact, it is a blatant admission by the government that the NRM has lost its way and is out of touch with local communities and regions. The action plan states that each region will review their relationship with farmer stakeholders at a regional level and 'take at least one concrete action to improve relationships'. My question is: what is the definition of a 'concrete action'? The policy also states that this could take the form of a 90-day change policy. What does this 90-day policy entail and is it ever to be implemented?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:25): I thank the honourable member for partially getting my ministerial portfolio correct, Mr President, and being corrected by you, as we all are from time to time. I do reject the premise of his question, or certainly the explanation he offered to the council. The NRM is a fantastic policy initiative of this government and certainly of a previous minister, John Hill, in that it actually brings together the community impacted by government decisions. It brings together a number of boards that used to work and operate on their own and actually pushes the responsibility and the ownership back out to local communities.

For too long in governments, particularly under the previous Liberal government, decisions were made in Adelaide without due recourse to local communities in the regions and rural South Australia. It took a Labor government to understand that the best decisions are made by communities and government working together, giving responsibilities back to local communities and listening to local communities.

The NRM board system has been borne and brought to fruition by this government and is working exceptionally well right across the state. Local communities have regular input into the decision-making process, which is done, of course, through the legislative process. Consultations are exhaustive and local communities have many avenues of involvement with NRM and their board decisions.

I have to say, the quality of candidates for NRM boards goes up year on year. We have more applicants usually than there are positions available, and we are getting outstanding candidates standing for board and chair positions. I can only say I think that indicates very strongly what local communities think about the NRM boards. They are doing a fantastic job and people want to be part of that process.

In terms of the 90-day change policies, led by the Premier, these are a suite of changes that the Premier institutes every three months to address intractable problems with interagency issues. He has identified with agencies and impacted communities issues that need to be addressed, breaking down the barriers across agencies to come to realistic, pragmatic possible solutions and outcomes. I have to say, one of them is a bill that we are dealing with tomorrow, the motor vehicle drivers licence amendment bill for the APY lands. This is a problem that has been

going on for many years, neglected by the Liberal government when they were in power, never able to do anything about it. It took Jay Weatherill's Labor government and the 90-day plan, the 90-day change policy, to drive this change through the chamber, and I hope honourable members in this place will see the sense of this wonderful policy initiative and support it tomorrow.

AGRICULTURE AND NATURAL RESOURCES MANAGEMENT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): I have a supplementary. The minister failed to answer the first question: what is the definition of a 'concrete action'?

The PRESIDENT: Once again, minister, you will ignore the opinion. There is a supplementary question there somewhere.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:27): Once again, the honourable member has no substantial question to ask. It is some vague definitional issue, when he should be addressing the issues about what NRM boards can do for our state.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Ridgway, I will be taking concrete action.

The Hon. I.K. HUNTER: What is the concrete action the Liberal Party in this state is offering South Australia? They have secret plans they will not release to the community, secret plans about getting rid of public servants—that is their secret plan. Once again, we remember the concrete action the Liberal Party took when the Hon. Isobel Redmond led that party and told the community what she was planning. What did they do? They necked her—they necked her! She told a truth to the community. The Liberals said, 'That's not the way we operate. We aren't open and transparent with South Australia.' And they removed her; they removed her. That's their definition of concrete plans.

FRUIT FLY

The Hon. S.G. WADE (14:28): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question relating to the recently announced fruit fly sterile insect facility.

Leave granted.

The Hon. S.G. WADE: In the 2013-14 budget, the government announced a $1 million investment over four years to boost fruit fly surveillance, border controls, monitoring and public education. The minister advised yesterday that this $1 million is being reallocated to a new $3 million facility in the Upper Spencer Gulf, which will develop male sterile Queensland fruit flies to combat the threat of a fruit fly outbreak. The minister clarified that the Qfly sterile insect technology program will cost $15 million to run over five years. Given the minister's statement that the government is spending $5 million per year on fruit fly surveillance, border controls, monitoring and public education, given that an additional $1 million is being reallocated to the facility, and given the minister's statement that South Australia is taking the lead and has committed $3 million towards the facility, I ask the minister:

1. Is the $3 million capital funding for the facility being transferred from the $5 million recurrent expenditure the minister referred to, or is it an additional budget allocation over and above the extra $1 million?

2. What fruit fly surveillance, border controls, monitoring and public education will not occur as a result of the redirection of the $1 million budget allocation?

3. If the $3 million is being reallocated from the existing recurrent expenditure, what surveillance, border control, monitoring and public education programs will need to be cut to fund this?

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) (14:31): I thank the honourable member for his questions. The simple answer is that no programs will be cut or stopped to facilitate the funding of this new state-of-the-art facility, with which South Australia has taken the lead nationally to do something about ensuring we protect our horticulture sector—which is very important to us here in South Australia—and protecting our credentials.

We are the only mainland state to remain fruit fly free. The Weatherill government intends to keep it that way, so we have taken a lead on this initiative after some of our neighbours have let us down. Two of our neighbours have allowed the fruit fly infestation to become endemic in those states, and they have removed eradication programs except for, I think, one of the Sunraysia fruit fly free areas. It has become endemic, increasing the risk here in South Australia.

South Australia has taken the lead on this. We have committed $3 million to a capital spend in relation to the building of this new facility in the Upper Spencer Gulf—probably Port Augusta.

The Hon. R.L. Brokenshire interjecting:

The Hon. G.E. GAGO: I gave that information to you yesterday, but the Hon. Robert Brokenshire never listens. In terms of the $15 million, that is industry funds that we have managed to leverage. Again, I put all of that on record yesterday, but I am happy to do it all again. The main partners are HAL (Horticulture Australia Limited) and CSIRO—two of the key players. They are using industry funds to put together a package of $15 million over five years for the operational expenditure of the facility. So, the $3 million that the state government is contributing is largely for capital spend.

We have decided that the $1 million we made available in the last budget to put towards new and additional fruit fly protection measures was an ideal example or project of a new fruit fly protection initiative, so we have invested that $1 million, with an additional $2 million, to make up the $3 million. This project will not make any difference to the current expenditure in relation to public awareness and information campaigns, our border protection, and such like, and our grid systems. The funding of this particular project will not make any difference to the existing funding for those other projects.

As I said, we are very pleased to see South Australia taking the lead on this. Once again, South Australia punches way above its weight. When you look at what the horticultural industry must be worth in some of those other jurisdictions—I am an old Goulburn Valley girl; I was born and bred there in Victoria.

Members interjecting:

The Hon. G.E. GAGO: My first political act was to give out how-to-vote cards for the National Party with my father. My parents were staunch National Party members. I think I was five at the time. They probably call it child exploitation now but I used to love it; I used to love getting out there with dad. He was a great father, indeed.

Members interjecting:

The Hon. G.E. GAGO: They taught me to be an activist and they are very proud of the path that I have chosen, although our politics do vary at some levels. It always makes discussions at Christmas time interesting. Nevertheless, we—

The Hon. D.W. Ridgway: Wasn't your dad treasurer of one of the branches?

The Hon. G.E. GAGO: I don't think he was ever treasurer but he probably held many other positions—and my mother did as well; she was very active as well. Both my parents are strong political activists and they taught me to be politically active, and I am very proud of that. Our kitchen was strewn with National Party tea towels from fundraisers—strewn. That was a favourite fundraiser for the Nats.

Back to the leadership that we are showing with this fabulous initiative: I have outlined in detail the funding arrangements and the fact that they will not impact on the programs that exist currently.

FRUIT FLY

The Hon. S.G. WADE (14:36): I have a supplementary question. Could the minister indicate whether any other interstate funding has been contributed—what I am referring to here is other state government funding—in relation to either the capital cost or the recurrent cost of the project?

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) (14:36): Not at this point but, my goodness, we intend to make sure that we approach other jurisdictions. We have spoken already at an officer level with

one of our neighbours and those discussions will continue. We believe that other jurisdictions should be encouraged to enter into partnership with this initiative. After all, it has national benefits and so we will be pursuing those negotiations with a great deal of gusto.

O'LOUGHLIN, MR D.

The Hon. J.S.L. DAWKINS (14:37): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the status of the current Local Government Association president and state Labor candidate for Adelaide, mayor David O'Loughlin.

Leave granted.

The Hon. J.S.L. DAWKINS: On 4 October this year, mayor David O'Loughlin sent a letter to all member councils of the LGA advising of his preselection by the Australian Labor Party to be its candidate for the state electoral district of Adelaide. There had been some obvious community concern about the compatibility of his two roles, a fact mayor O'Loughlin recognised in his letter when he stated:

> ...it is only natural there will be some concerns voiced about whether an endorsed political candidate for the ALP will be able to fight for Local Government issues with the incumbent Labor Government or negotiate the best election promises with the Liberal Opposition in the lead up to the State Election, particularly as the election draws closer.

Mayor O'Loughlin then went on to state—and I remind the council that this was on 4 October—that he intended, on 21 November, to seek a leave of absence from the LGA board until 15 April to contest the state election. The board meeting will be more than six weeks after mayor O'Loughlin's preselection as an ALP candidate. My questions to the minister are:

1. Will the minister explain how over the period since mayor O'Loughlin's preselection as an ALP candidate, the LGA could maintain its absolute political independence and effectively represent the interests of local government to both government and opposition?

2. Given that it will be more than six weeks from mayor O'Loughlin's ALP endorsement to the day on which he may be granted leave by the LGA state executive, has the minister at any stage raised potential conflicts of interest or issues relating to his political impartiality with mayor O'Loughlin?

3. Given that mayor O'Loughlin has continued to fully exercise his duties and responsibilities in his role as LGA president, will the government continue to consult with the LGA through mayor O'Loughlin as its president until he leaves office, given that political impartiality and transparency cannot be assured?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:40): I thank the honourable member for his important questions. In fact, I have already indicated in this place that due to machinery-of-government changes, my responsibilities for local government pertain to regional development issues, and those matters to do with codes of conduct and conflict and other matters to do with the Local Government Act, which I am no longer responsible for, rest with the Attorney-General. The member is quite at liberty to take those matters up with the Attorney-General.

There are a couple of things I would like to say in relation to this, even though it is outside of my purview, while I am on my feet. I have to say what a remarkable candidate David O'Loughlin is. He is an excellent candidate and, in terms of my working with him in my role as state/local government minister, particularly when I had broader responsibilities when he first became president—

Members interjecting:

The PRESIDENT: Order! I want to hear this.

The Hon. G.E. GAGO: —I have to say he was wonderful to deal with, very professional, a very smart man and a very strategic thinker. I always welcome my dealings with him.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: He has done a great job. In relation to encouraging members of the public to take up political activity, including running for political seats, I encourage any member of the public to think about that, to contemplate that and encourage them to run, to put themselves forward for preselection and run for politics, irrespective of what party that might be. I think that is an incredibly important thing that we do that underpins the integrity of our very democracy. Just because a person is in public office does not, and should not ever, preclude them for running—

The Hon. J.S.L. Dawkins: I wonder what you would have said if he was a Liberal?

The Hon. G.E. GAGO: There are plenty of Liberals in public office who have run for parliament, so that is just a nonsense. There would be no-one in this chamber who would say that just because you hold a public office you cannot run for politics. That is antidemocratic.

I have only read this in the paper, but I understand that David O'Loughlin has indeed mapped out the length of his stay in office and when he is going to stand down from that. He has made that publicly available, and if the honourable member believes that he is in breach of anything then put in a complaint to the Ombudsman. I very much doubt that. I know that David O'Loughlin, as I said, conducts himself in a very professional way. He is a man of extremely high integrity, but if the honourable member has an issue, why doesn't he do something about it?

O'LOUGHLIN, MR D.

The Hon. J.S.L. DAWKINS (14:43): Supplementary question: does the Minister for State/Local Government Relations have any official contact with the Local Government Association?

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) (14:44): Of course I do, in relation to regional development matters. That is what my role is and I have outlined those machinery-of-government changes several times. I am no longer the minister responsible for the state Local Government Act. I know that members have a lot of trouble absorbing this—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —but I am no longer responsible for the state Local Government Act. The Attorney-General is responsible, so those matters relating to codes of conduct, conflict, and other matters that might—

The Hon. D.W. Ridgway: That's because you stuffed up Burnside so badly they wouldn't give it back to you.

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

The Hon. G.E. GAGO: —pertain to those provisions are the responsibility of the minister responsible for the act, and that is the Attorney-General. It is not rocket science. It is very simple, and I have outlined it several times in this chamber.

O'LOUGHLIN, MR D.

The Hon. R.L. BROKENSHIRE (14:45): I have a supplementary question.

The PRESIDENT: The Hon. Mr Brokenshire has a question, without comment or explanation.

The Hon. R.L. BROKENSHIRE: How does the minister justify that she is the Minister for State/Local Government Relations when she does not even have responsibility for the act?

AGRICULTURE INDUSTRY

The Hon. CARMEL ZOLLO (14:45): I seek leave to make a brief explanation before asking—

Members interjecting:

The PRESIDENT: The Hon. Ms Zollo has the call. Start again, because I did not hear any of that.

The Hon. CARMEL ZOLLO: Mr President, I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about agriculture.

Leave granted.

The Hon. CARMEL ZOLLO: Many areas of endeavour have been affected by new technology, and the all-consuming passion that a lot of us have for the allure of the new, and for the convenience of carrying in your pocket, on your smartphone, access to a wealth of information. However, publicised advances in agriculture, horticulture and farming often seem to be those brought about through the slow but steady and consistent work of breeding new lines with attributes that provide advantages in our conditions. My question is: can the minister advise the chamber of some of the other developments in agriculture?

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) (14:46): I thank the honourable member for her most important question, and I am very pleased to have the opportunity to answer this. I also note that I understand that Glenn Docherty, the mayor of Playford, and Damien Pilkington, a councillor from Salisbury council, are both running for the Liberals in the next election. I find that very interesting, the double standards that go on in this chamber.

Back to more important things, it is true that the headlines often seem to be taken up with advances in breeding new varieties of our important crops, and agriculture could be seen as traditional rather than high-tech. While the traditional nature of research in agriculture is obviously the backbone of our industry, and the improvements made are significant for our $14 billion a year food industry, it is not just through traditional means that our performance in grains production, in particular, can be strengthened. This area can often benefit from new smart technologies.

This is why I am very pleased to advise the chamber that our research and development institute, SARDI, is working on a range of advanced technologies which, when applied, will help our important industry to detect pests and diseases earlier in one of South Australia's particular strengths, broadacre crops. Through a $5.5 million, five-year research project SARDI, with its collaborators—including the Plant Biosecurity Cooperative Research Centre and the GRDC—in a $1 million project 'New tools for field grains surveillance', will investigate new and existing technologies for early warning of exotic pests and diseases that would threaten our grains industry.

This project is working to find the best use of technology and to provide early warning of pest and disease incursions in these important crops. Advanced technologies will also support the early warning of outbreaks of exotic pests and diseases in a bid to significantly reduce the loss of crops and loss of access to export markets, and to safeguard our biosecurity integrity. I understand that there are a wide range of possible interventions under consideration, including things such as sensors, both above and below the soil.

Technologies include the use of near infrared lighting, as well as lasers, and I understand that acoustic and biosensor detection are being applied to a range of industries and that agriculture, fisheries and environmental management are all set to gain as a consequence of the rollout of these technologies. The sophistication and development of sensor technologies, in particular, are growing at a very impressive rate; they are even considering the use of drones.

The potential for high-tech testing is also applicable to improving farm productivity and counter-negative impacts such as drought and weather extremes, in addition to pest and disease monitoring. One example developed by SARDI and collaborators is to apply sensing technologies to rapidly assess whole-of-orchard stresses in tree crops, which can be caused by drought, extreme heat and high soil water salinity.

Testing of emerging technologies for application in our key primary industries helps to safeguard trade and to maintain productivity and global competitiveness. New-age sensor, web-based and wireless technology and even unmanned aerial vehicles or drones are among options being considered for early detection of pests and diseases in South Australia and Australia's broadacre cropping systems.

This project, started in July 2013, to harness advanced technologies to support the early warning of incursions of exotic pests and diseases aims to significantly reduce crop losses and to safeguard the biosecurity of grains in export markets. The two-part project will initially undertake a review of limitations to pest and disease surveillance and potential technologies which make surveillance more robust and cost effective. This part of the work is currently underway. Once this

technology assessment stage is complete, the second part of the project will focus on the most promising technologies, which will be then trialled and adapted where necessary and delivery pathways for the technologies identified.

The Hon. R.L. Brokenshire: Sounds exciting.

The Hon. G.E. GAGO: The Hon. Robert Brokenshire is excited. I am very pleased to hear that interjection which, of course, I will ignore. The government is contributing just under $1 million to this five-year project to support South Australia's premium food and wine from a clean environment priority. Using sophisticated sensor technologies, which are developing at an impressive rate, makes sense and will improve productivity. These new automated digital sensor systems, sensing platforms and data transmission systems have the potential to take the testing for broad-scale pests and diseases into the field on a landscape basis, improving cost efficiency, timeliness and delivery on the ground. So, it is a great initiative.

BELAIR RAIL LINE

The Hon. K.L. VINCENT (14:53): I seek leave to make a brief explanation before yet again asking the minister representing the Minister for Transport Services questions regarding the safety line markings at pedestrian crossings on the Belair train line.

Leave granted.

The Hon. K.L. VINCENT: Mr President, as you and other members are well aware, I have repeatedly asked questions in this place, written letters to the Minister for Transport Services and spoken in the media in the past 12 months regarding safety issues on the Belair train line in particular. I have continued to ask who is responsible for getting a tin of paint and marking the safety lines at pedestrian crossings on the western side of the track.

This matter came to light again recently when an adolescent boy was hit by a train at the Lynton station on the Belair line on 4 October; its being one of the Belair line stations that had line markings only on the eastern side. Since the minister has not yet written back to me or answered my questions without notice or clarified this issue in the media, I wrote to the Australian Rail Track Corporation (ARTC) myself in an attempt to sort out this very important safety issue.

I have now had a response from the ARTC, and I am happy to share that correspondence with the minister if she requires clarification over who is responsible for providing safety line markings. As there has been no explanation nor clarification from the minister's office, it suggests that they might already know this themselves. My questions to the minister are:

1. Is the minister aware that the Australian Rail Track Corporation is responsible for the line markings on the western side of the track of the Belair line and the Department of Planning, Transport and Infrastructure for the eastern side, and could she explain why this is?

2. If the minister is aware of this, why had she not sought to contact them and ask them to rectify the absent safety line markings on the western side of the Belair line so that commuters on the Belair line can be safe?

3. Is the minister aware that there is currently negotiation occurring between the Department of Planning, Transport and Infrastructure and the Australian Rail Track Corporation over the interface agreement that determines who is responsible for which facility?

4. If the minister is aware of these negotiations, what attempts will she be making to provide better clarity over who is responsible for safety line markings?

5. How will the electrification of our train lines impact on the agreements that DPTI has with the ARTC?

6. Does the minister believe that safety will be more of an issue with electric trains given that they are quieter and more difficult to hear from a distance, particularly when there are corners on lines such as the Adelaide Hills?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:56): I thank the honourable member for her most important questions and for her persistence in what is a very important issue. I undertake to take those further questions to the Minister for Transport Services in the other place and seek a response on her behalf.

The Hon. K.L. Vincent: If we can actually get one this time, it would be great.

The Hon. I.K. HUNTER: They're coming.

NATURE PLAY SA

The Hon. G.A. KANDELAARS (14:56): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the council about the recent announcement of nature play SA, a not-for-profit organisation aimed at getting South Australian children playing in, and engaging with, the outdoors?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:56): I thank the honourable member for his outstanding question. I was hoping that someone would ask me that question this week. I am very pleased—I just have some information at hand—to answer such a question. It is, of course, an unfortunate truth that today Australian children spend less time outdoors in nature on average than at any other time in our history. Indeed, it has been noted that the average Australian child spends less time outside per day than a maximum security prisoner.

Children in South Australia spend an average minimum of 4.5 hours a day in front of a screen. Of course, over the last few decades we have also seen increasing rates of obesity amongst children. One in every four children aged five to 17 is overweight or obese, I am advised. This government has taken action already to address these issues. Rates of childhood obesity are starting to stabilise, but more can and should be done.

In response to this increasingly indoors-based lifestyle our children are experiencing, the South Australian government will establish a new non-government organisation called nature play South Australia. Announced by the Premier just last weekend, this new body will be based on the highly successful Western Australian model, Nature Play WA. Nature play SA will increase the time South Australian children spend in unstructured play outdoors and in nature and, like Nature Play WA, it is founded on the understanding that unstructured play outdoors, or nature play, is fundamental to a full and healthy childhood.

Most members of the chamber, I am sure, particularly those from regional areas of our state, will have quite fond memories of playing and engaging with the environment outside, riding bikes and climbing trees, skimming stones across water and camping under the stars, some of the activities that will be promoted by nature play.

The body will be established under the Associations Incorporation Act 1985, and targeted organisations from the health, education, environment and recreation sectors will be invited to become founding members. The state government will provide seed funding of $500,000 per annum from 2014 to 2017 to assist the establishment of nature play South Australia. Nature play SA will then transition to independent funding beyond those years.

An across government partnership has already been established to support the nature play initiative and early formative programs of the body are in the pipeline. For example, a nature play SA passport to an amazing childhood will be created, a document that sets age-appropriate missions for young people to complete, such as climbing a tree or visiting a national park. It is expected that at some stage this will be integrated online so that they can share their achievements with their friends, as they currently do, I understand, with things called PlayStations. Also, they may be able to take on board active information put to them about what sort of tree they might be climbing, for example, or what animals exist in the environment they are currently in. So, this online aspect will provide a one-stop nature play website where children, parents and teachers can get information about what to do and where they can go.

In support of this particular initiative, I am also pleased to advise that the state government will be including one free family pass to one of our 13 iconic South Australian parks in 2014-15 for families to use as part of that nature play experience. This announcement is part of the government's healthy and strong children policy, which also included an investment of $439,000 to double the number of schools participating in the Stephanie Alexander Kitchen Garden Program. That program gets students out into a productive veggie garden and a home style kitchen as part of their everyday schooling, learning how to grow and cook fruits and vegetables. This sets good examples for students, which influences and forms them for the rest of their lives and is designed to be intriguing and fun, unlike it was for me when I was told to get out into the garden and do some weeding after school.

This announcement is the most recent in a series of government policy announcements which have taken place over the past two months. These announcements set out this Labor government's vision to build a stronger South Australia.

Members interjecting:

The Hon. I.K. HUNTER: The Hon. Mr Ridgway talks about Liberal Party concrete actions again. The only concrete action they are interested in is pouring concrete boots around the feet of their leaders as they throw them off the Glenelg pier. But sleeping with the fishes is what Liberal leaders end up doing eventually in the Liberal Party of South Australia.

These announcements set out this Labor government's vision to build a stronger South Australia. These announcements continue this government's commitment to policy founded on a solid evidentiary basis. These announcements are about supporting South Australians to create a stronger state for the benefit of all South Australians, not just a few.

Let us compare that to those opposite who continue to refuse to come clean to the people of South Australia about their plans for this state. When they have made policy announcements they have been superficial, filled with empty motherhood statements, no substance, no evidentiary basis, no evidence whatsoever to back them up. Like their federal colleagues, the Liberals opposite are seeking to fly under the radar in South Australia and hide behind a flimsy action plan which is neither action nor plan.

We are forced then to look at what they do, not what they say. Look at their actions. When last in government those opposite did not care about our children's development. In fact, our colleague the Hon. Mr Rob Lucas, I think I said in this place the other day that he closed 45 or 55 schools. I must correct the record, because when I looked at it he actually closed 67 schools, when you take into account those that were closed through the amalgamation process. This is what the Liberals stand for: closing down crucial public services, closing schools. These are the people who stand behind the new Leader of the Opposition Mr Marshall, who no-one knows anything about. No-one knows anything about their plans, except—

The Hon. G.E. Gago interjecting:

The Hon. I.K. HUNTER: Exactly right; they are out there on YouTube explaining their policies, which are nothing like policies and there is certainly nothing to back them up. As we all know, if those opposite win government next year (in March) there will be 25,000 fewer Public Service members delivering essential services to those who most need them and a $50 million payroll tax cut to their mates in big business. That is what is going to happen. They are going to sack 25,000 public servants who provide crucial services to the people of South Australia and give a $50 million payroll tax handout to the big end of town—big business, not small business, big business. That is their plan.

They take their lead in this issue from the federal Liberal government, who just recently said, 'We are going to give a huge win to the top end of town, those people earning more than $2 million and their superannuation. We will take the tax off them. By the way, we're not going to give those people earning less than $37,000 a year the tax break the Labor government promised,' they are going to take that away from the low income earners and will reward the rich. That is what this mob will do. That is what this mob will do in the future: sack public servants, close down more schools; just like the Hon. Mr Lucas has done in the past, that is what they will do again.

The Hon. D.W. Ridgway: You'll blow a valve going on like that.

The Hon. I.K. HUNTER: And I haven't finished yet.

The PRESIDENT: You've got a supplementary to your own answer.

The Hon. I.K. HUNTER: This Labor government has a vision to build a stronger South Australia, and I am proud to be involved in the creation of nature play SA. I have no doubt that nature play will go some way in making going out to play in nature an every day part of childhood again. When the South Australian people throw this mob out and they lose their seats they will be out playing in nature for a long time to come.

HOSPITAL PARKING

The Hon. J.A. DARLEY (15:05): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation, representing the Minister for Health and Ageing, questions regarding parking at hospitals.

Leave granted.

The Hon. J.A. DARLEY: I have recently been contacted by a number of constituents who have raised issues regarding hospital car parking, particularly around the Women's and Children's and Calvary hospitals. My constituents are worried that staff safety is being compromised as there is no parking available nearby resulting in staff having to walk some distance to get their vehicle, often alone and at night. Further to this, patient safety has been compromised because some staff are parking in time-limited spots and they repeatedly leave work in order to purchase another ticket or move their vehicle.

My constituents are particularly concerned about parents who either have to wait in line to enter the car park or leave their children unattended at the hospital while they go and find a park. There is a real concern that a child could be seriously hurt or even worse. My questions to the minister are:

1. What measures if any has the government taken to improve the parking situation around hospitals?

2. Has the government considered issuing parking permits to staff for on-street parking?

3. Can the government provide an assurance that this problem will not continue to be a problem in the future on days when the Adelaide Oval is being utilised for games and matches?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:07): I thank the honourable member for the very important questions about these very important matters. I understand, from memory—and I could be wrong—that the Minister for Health and Ageing in the other place said that his department is in negotiation currently with the city council about parking permits for nursing staff, of course applying to the Women's and Children's Hospital in the first instance. I do not think he has responsibility for Calvary Hospital, but I see no reason why a similar situation would not apply to private hospitals as well.

In terms of improving parking for staff, patients and visitors to the hospitals, this government of course has a vision for South Australia. We build South Australia and we are building a stronger South Australia now. It was this government who recognised that the future of the Women's and Children's Hospital would be better placed in the new health and science precinct that we are building on North Terrace at the western end, and it is this government and this Minister for Health and Ageing who recognise that the Women's and Children's Hospital will prosper closer to the new Royal Adelaide Hospital and the new science centre.

It is this Labor government that plans for the future, it is this Labor government that builds South Australia and builds a stronger state for our people, and it is this Labor government that will continue to do so long into the future.

DESALINATION PLANT

The Hon. J.M.A. LENSINK (15:08): My question is to the Minister for Water and the River Murray. What are the triggers for turning on the desalination plant?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:09): I thank the honourable member for her most important question. The triggers are environmental.

DESALINATION PLANT

The Hon. J.M.A. LENSINK (15:09): Supplementary question: can the minister be more specific, such as particular drought conditions or lack of flows down the Murray, or anything of that nature?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:09): SA Water has always said, and the government concurs, that the decision around turning on the desal plant will really depend on water available to South Australians at the time, and that of course will depend on how much water is in the Murray, how much is coming downstream from our arrangements with the Eastern States. It will depend on how much water is in our reservoirs and it will depend on the climatic conditions and the environmental conditions of the day.

We have always said that we will make a decision based primarily on using the cheapest source of water we can, and that, of course, is always going to be what is in our reservoirs. The next cheapest option is to pump from the river, but of course that requires using electricity, which is not cheap, to pump water from the Murray up and over the Hills and into our collection reservoirs.

They will be the prime conditions, but there will be a time again when we face significant long drought in this state. There will be a time when we do not have access to water in our catchment, because we all know that even when the reservoirs are full, there will only be sufficient water to get us partially through a hot and dry summer, for example, not enough for one year's supply, certainly. We need to top that up with water from the Murray, but if there is no water in the Murray, if there is no water coming down the Murray because of environmental conditions, then of course we will use the desal plant, because that is exactly why we built it—to give this state, South Australians, security over water into 2050.

The PRESIDENT: The Hon. Ms Lensink has a supplementary question.

DESALINATION PLANT

The Hon. J.M.A. LENSINK (15:10): So which takes priority? Is it environmental as in the minister's first answer, or is it the cost, as in his second answer?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:10): The two work together. The cost of delivering water from our reservoir system is the cheapest when there is water in the reservoirs. You have to understand, when the environmental conditions are such that there is no water in the River Murray and the water in the reservoirs has been drawn right down, that is when we will need to use the desal plant. It is the environment and the climate at the time and we will make the decisions based on that.

FOOD AND WINE INDUSTRY

The Hon. K.J. MAHER (15:11): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about food and wine.

Leave granted.

The Hon. K.J. MAHER: The state government continues to support and showcase South Australia's quality food and wine, as the Hon. David Ridgway often acknowledges in this chamber and quite frequently indulges in. My question is, will the minister inform the—

Members interjecting:

The Hon. K.J. MAHER: He's a very big supporter of our state's wine and food industry and I think that's to be commended. Will the minister inform the chamber of a new policy that supports our local food and wine sectors?

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): This government is committed to building a stronger food and wine sector in South Australia. We have made premium food and wine from our clean environment one of this government's seven key strategic priorities to secure South Australia's position as a producer of premium food and wine from a clean environment—clean air, clean water and clean soil—and to capitalise on the increasing global demand for premium products.

We have launched an action plan that establishes a framework of activities and seeks to address the challenges and grow the opportunities in the food and wine industry. We are not sitting around thinking about an action plan, like Mr Steven Marshall, who thinks he might put an action plan together. We already have one, we are rolling it out and we are producing actions on the ground. We are delivering on the ground, not thinking about devising an action plan. We have done it. We are rolling it out and we are producing the goods on the ground, in every area.

Last week, I announced with the Premier a number of new policies that support our food and wine initiatives, part of this government's series of policies aimed at building a stronger South Australia. One of those we have talked about today, the sterile insect technology. Another is a new 'buy local' policy. This policy will give preferred status to local food, wine and beverages at events and functions where catering is provided and it is feasible and reasonable to do so.

The state government wants to support and showcase South Australia's quality food and wine as occasions arise, and this policy will be put in place for all government agencies and ministers' offices to promote the use of local produce at functions and through the many sponsorship events that we assist with.

To support the policy, a toolkit will be developed by Primary Industries and Regions SA (PIRSA) that will help guide government agencies in how to buy local. The toolkit will utilise the government funded Food Users' Guide and will provide support to help establish whether selecting South Australian produce is possible and how to identify and promote local products at sponsored events.

As I have said in this place before, the food and wine industries employ one in five workers, generate $16 billion in revenue each year, and account for 42 per cent of merchandise exports and are working towards a globally preferred supplier status in key local, interstate and overseas markets. This is exactly the sort of initiative that will help farmers, as the Hon. Robert Brokenshire just stated. This is exactly the sort of thing that assists our local farmers, who benefit from buying local because it means we are buying their produce, which is a great thing for their markets.

It is great for the environment, too, because these things can help us reduce our environmental footprint through reducing the transportation needed to access foreign markets. So, it is a real win-win for everybody. Our farmers love this and are very supportive of these types of programs. Formalising this policy is just another way the government is showing its support to this important sector. South Australia has some of the best produce in the world, and this policy will help ensure that attending a government-related event means they will get to experience our premium food, wine and beverages.

I acknowledge that not all items or ingredients can be local, as availability and price will be factors in selection, but encouraging the use of South Australian produce will lead to benefits for local companies and our local farmers, local communities and, of course, our regions, because most of this activity actually happens out in regions. For example, the Adelaide Convention Centre spends $4.3 million annually on food and beverages currently, and 98 per cent of that is sourced locally. They do a fabulous job there, meaning manufactured, owned or supplied by a South Australian company. They also have the fabulous worm farm, so they are very good at recycling.

The Hon. D.W. Ridgway: You'd know a lot about worms—you hang around with a fair few.

The Hon. G.E. GAGO: Yeah, I sit and look at one each day across the chamber, Mr President, for example.

The PRESIDENT: Order!

The Hon. G.E. GAGO: I also was incredibly pleased to see this policy welcomed by the Local Government Association, and I note the comments by the president of the South Australian Regional—

The Hon. D.W. Ridgway: Yes, David O'Loughlin, a Labor stooge!

The PRESIDENT: The Hon. Mr Ridgway! There is only one stooge in here.

The Hon. G.E. GAGO: He is a joke. I note the comments by the president of the South Australian Regional Organisation of Councils, Wakefield mayor James Maitland.

An honourable member: Good man.

The Hon. G.E. GAGO: He is a good man, too. I quote James:

> Primary producers and secondary food and beverage industries would receive a welcome boost from this initiative, which would have whole of regional community benefits.

That is the president of the South Australian Regional Organisation of Councils, mayor James Maitland. Once the toolkit is developed, opportunities will be explored for expanding the policy beyond state government, for example, to local government and major function venues. I notice that the LGA came out and gave support to this campaign, and is considering doing similar things.

This government is getting on with the job of doing all it can to protect our food and wine from threats, to boost productivity and to make sure that the world knows that buying South Australian means buying high quality, premium produce with, of course, fabulous environmental and biosecurity credentials.

FOOD AND WINE INDUSTRY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:19): I have a supplementary question. Will the minister assure the chamber that the Premier will not be serving Queensland barramundi in his suite at Clipsal, as he did last year?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:19): This policy impacts on all future contracts. In the past, as a state government, we have always encouraged to buy local, and we have gone that step further and have now put a formal policy in place. All future contracts will be required to consider, wherever reasonably possible to do so, that local produce is purchased.

FAMILY AND COMMUNITY DEVELOPMENT PROGRAM

The Hon. M. PARNELL (15:20): I seek leave to make a brief explanation before asking a question of the Minister for Sustainability, Environment and Conservation, representing the Minister for Communities and Social Inclusion, a question about the Family and Community Development Program.

Leave granted.

The Hon. M. PARNELL: The Family and Community Development Program is the flagship early intervention program administered by the Department for Communities and Social Inclusion, and it provides funds for a range of family, youth and low-income support programs. Funding was cut in the 2010 budget but was restored after a campaign by the community sector led by SACOSS. I understand that the department undertook an internal review of the program and that new guidelines for funding were developed earlier this year. This process took some 18 months, following which a three-week tender process was commenced which was later extended to five weeks.

My information is that, despite the tender being for a relatively small amount of money (about $9 million), it was massively oversubscribed and there were over 500 applications. I also understand that it has taken many months to assess these applications and still no decisions have been announced which has resulted in further extensions to the existing contracts for organisations who still cannot tell their staff and clients if the programs will be continuing. This is leading to massive uncertainty in the sector. My questions to the minister are:

1. How many hours of departmental staff time has gone into the tendering process and the assessment of applications for funding in the Family and Community Development Program after the completion of the program guidelines?

2. What proportion of the total funds available for the program will be eaten up in administrative costs, including the tender process?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:22): I thank the honourable member for his most important questions, although I have to say at the outset that I cannot accept at face value some of the information that he has provided to the chamber. Of course, that will be checked by the minister in the other place. I do not accept the premise—he may be right, he may not be—and we will need to have a look at those arguments that he has put forward in his brief explanation.

However, may I just say that I was partly responsible for this program whilst I was minister for communities and social inclusion. I was partly responsible, along with the treasurer at the time, the Hon. Jack Snelling, for the government having a change of heart, basically at the urging of the Premier, of course, who has a very sensitive radar and is very supportive of childhood development. He is very sensitive to childhood development because his two young daughters show him what is required to be raised in a healthy, productive home life and what is required to help South Australians do exactly the same thing for their children.

Hence my announcement today about his policy launch last week about Nature Play. We understand that not everybody has the ability or the resources to bring up their children—there may be single-parent families, families where parents are both working—and they need help to try to encourage their children away from their screen time and get out into nature and enjoy themselves.

This Premier, Jay Weatherill, understands what it takes to have a healthy childhood and understands that it is a role of government to assist parents when they need it to help their children

get away from TV time, screen time and PlayStation time and get outdoors and enjoy getting dirty and playing with friends in nature.

May I just say that it was at Jay Weatherill's behest that the government changed its position on the Family and Community Development Program funding and reinstated the funding. The Hon. Mr Weatherill, Premier of South Australia, understands how incredibly important these organisations are to families and their children.

MATTERS OF INTEREST

BRAZILIAN ETHNIC SCHOOL

The Hon. CARMEL ZOLLO (15:24): I was pleased to have the opportunity last month to be a guest speaker and formally open our state's newest ethnic school, the Brazilian Ethnic School. I represented the Minister for Education and Child Development and the Minister for Multicultural Affairs, the Hon. Jennifer Rankine MP, on the evening.

The inauguration of South Australian's first Brazilian school is a very special milestone for the Brazilian community and our state. The Brazilian Ethnic School has opened its doors to people of all ages and backgrounds. This school welcomes a wide cross-section of students with one common goal—whether the pupils are five or 55, they all want to learn more about Brazilian culture. What a wonderful thing! I know we would all agree that understanding other cultures is at the centre of a harmonious society, but understanding our own culture can be pivotal to our personal happiness and success.

From speaking with many migrant families, particularly grandparents, I understand one of their biggest joys is seeing their children and grandchildren embrace their culture, especially their language. It goes both ways. Children love being able to speak to their grandparents and parents in their native tongue.

I am certain all honourable members will agree that language, indeed, is the custodian of culture. The Brazilian language is, of course, Portuguese. As was told to me, children who had already been attending the school for a short while had already learnt a few words and sentences and were starting to have conversations with their parents and grandparents, much to the excitement of the whole family.

The state government recognises the valuable role our ethnic schools play in our education system and our community. Testament to this is the government's commitment to enter into a new three-year funding agreement with the Ethnic Schools Association of South Australia, which will enable the association to continue to provide valuable support to ethnic schools.

Schools are the centre of our communities in South Australia. They are places to learn, to meet people and to feel included and supported. The Brazilian Ethnic School is no exception. It seems the only problem for the school's students so far has been breaking up for the holidays. When term 3 finished I was told one little fellow was not too pleased. He just wanted to keep going. What dedication! It is that kind of testimonial that augurs well for the future of this school and our whole community.

I would like to place on record the government's and the community's acknowledgement and thanks to all those who made the establishment of the school possible. In particular, thanks go to Andrea Hughes, the principal of the Brazilian Ethnic School, and Marina Ribeiro, the president of the Brazilian Association. So many people are involved in seeing such successes.

I am certain all would agree with me that we are so fortunate to live in this nation and great state where we can, within the laws of our land, celebrate our ethnicity, language, culture and traditions alongside many others and be so enriched and, at the same time, also celebrate everything we have in common as Australians.

Also present on the evening were the Honorary Consul for Brazil, Mr Peter McMillan, and another very interesting speaker in the form of linguistics expert, Professor Ghil'ad Zuckermann from the University of Adelaide. I should also place on the record that the school is hosted by the Burnside Primary School.

The number of people of Brazilian ethnicity in South Australia has grown in recent years to nearly 1,000, and they add a valuable contribution to our state in all areas of society. I know how proud the Brazilian Australian community is to have opened the state's first Brazilian Ethnic School and it really is the beginning of an exciting new era for them. I congratulate all involved.

LABOR PARTY

The Hon. R.I. LUCAS (15:28): I want to talk about the division and disunity openly occurring within the Labor government and amongst Labor MPs as we near the end of this four-year term and lead into the March 2014 state election. I refer, in particular, to a recent article by Mr Michael McGuire who, of course, Labor MPs will know was a former senior Labor adviser and insider who knows Labor MPs and staffers very well. This particular article starts:

> One calls it 'bizarre', another calls it 'amateur hour'. It's the response by two senior Labor MPs who, like many of their colleagues, are perplexed by the litany of political mistakes and stuff-ups by Premier Jay Weatherill in his response to a terrible case of sexual abuse at a western suburbs primary school. *The Advertiser* has spoken to many Labor MPs, across the factional divide, who are now questioning Mr Weatherill's judgement and his tactics over the past year, concluding he has made a bad situation immeasurably worse, giving the issue a momentum and media focus it did not need to have and turned it into a problem that may end up costing the government March's elections.
>
> Many of his colleagues felt when the rape was exposed 12 months ago that Mr Weatherill needed to 'blow up' the Education Department, deliver a mea culpa for himself and his government and promise to fix things up. Instead, he responded by saying 'ultimately the decision-making process fell to a school council, which was informed about the matter.' 'This could all have been nipped in the bud very early,' one said—

this is an MP—

> 'Jay and his office have handled this appallingly and now it's not going to go away.'
>
> The mistakes listed by Labor MPs include Mr Weatherill's decision not to sack his personal staff, which has now been interpreted as a double standard after a ministerial staffer was suspended this week when accused of leaking an election strategy. Then there was his initial deflection of blame, his handsoff approach to a dysfunctional Education Department, declining to front up to the select committee investigating the matter, allowing the perception to build that the government was hiding something and the lack of any apparent strategy to solve the problem.
>
> Added to the mix was Mr Weatherill's public advice to staff not to attend the select committee hearings, even though they could be compelled to turn up and did so yesterday, and Attorney-General John Rau's letter to the committee warning it could be in breach of an obscure 1917 law if it criticised findings of the royal commission, headed by former judge Bruce Debelle, which investigated circumstances surrounding the rape at the western suburbs school.
>
> Along the way Mr Weatherill has also alienated many powerful members of the Labor caucus. For a variety of reasons in the past year he has fallen out with Jack Snelling, Paul Caica, Russell Wortley, Patrick Conlon and his one time closest ally in state parliament, Grace Portolesi. There is no suggestion caucus would move before the election, but Mr Weatherill is fast running out of [his] friends. 'If we lose, at five minutes past six on election day he will be gone,' one MP said.

The Hon. Mr Wortley, who has joined us now, will know, because he is one who is openly critical of Mr Weatherill—publicly and privately. Anyone who visits the cafes of North Adelaide will run into people who have had discussions with the Hon. Mr Wortley where he has been very unfavourably disposed towards Mr Weatherill. The corridors of Parliament House are rife with reports of conversations with the Hon. Mr Wortley, and indeed with the others in that particular list as well. However, the Hon. Mr Wortley talks—and talks often—in relation to his views on the Premier.

This is the dysfunction, the disunity that we have within the Labor government at the moment. We have Labor MPs openly briefing former Labor staffers and journos in *The Advertiser* about their disunity, about the dysfunctionality of the government under Premier Weatherill, and the fact that they say that if he loses, at five minutes past 6 o'clock he will be gone and out of here. This is the supposed government that is asking the people of South Australia to trust it, to re-elect it for, in essence, a 16-year term; another four years on the base of these past 12 years.

These MPs hate each other so much, their staffers hate each other so much, that they are openly rebelling in relation to these issues. The *Sunday Mail* and the media named Mary-Lou Corcoran, a Labor staffer, as a source of the leak openly intended to cause grief to Premier Weatherill. That was almost five or six weeks ago now, and there has been no mention yet as to what has happened. Is she still on leave on full pay? Has she resigned? Has she been sacked? What are the circumstances? That is the dysfunction that we have. As you would well know, Mr President, if you cannot run yourselves as a party you cannot expect the people of South Australia to vote for you to run the state of South Australia.

SOUTH AUSTRALIAN RAILWAYS

The Hon. D.G.E. HOOD (15:34): I wish to speak about something a lot less controversial—

Members interjecting:

The PRESIDENT: Order! That wasn't controversial. The Hon. Mr Hood.

The Hon. D.G.E. HOOD: —although it has been the source of some controversy over the years, sir, and that is the South Australian Railways.

Members interjecting:

The Hon. D.G.E. HOOD: That's right; you can hear the chamber shudder as I mention that topic. There have been great changes to South Australian railways since the 1920s, and I would like to outline in a bit of detail the effect that these have on us today. South Australia has a unique and very colourful railway history; indeed, it is unique in the world. It was the first iron rail railway in Australia between Goolwa and Port Elliot, back in 1854. It was initially horse drawn, of course, and moved goods between Port Elliot and the River Murray paddle steamers. The railway between Adelaide and Port Adelaide, which opened in 1856, was the first government built and owned steam railway in the entire British Empire.

From the 1860s, tracks started expanding throughout country areas, initially for mining and agricultural produce. This was done with cheaply-built track that could carry only very small trains with light loads. Each track extension was approved and financed by parliament through a specific bill in each case. This process continued through to the early 1900s. It was often said that a particular member of parliament insisted that railways be extended to their local electorate. Indeed, the rivalry between different members of parliament was such that the commissioner for railways was constantly under pressure from the ever-changing views of different majorities in parliament. The railways simply did not function efficiently as a result and by 1920 they had decayed to the point of imminent collapse.

Such was the frustration that parliament itself agreed that there was a need to appoint a commissioner with sufficient power that he or she (he at the time) would not have to endure constant interference from parliament. In 1922, William Alfred Webb was appointed the new commissioner for railways. He was from the United States and had been the general manager of operations with the Missouri-Kansas-Texas railroad and had advised the US government on railways during World War I.

William Alfred Webb's authority was such that he later built a new Adelaide railway station with neither parliamentary approval nor the correct appropriation of money, it is claimed. In fact, it cost three times the estimates. The files were subsequently lost, and no-one has ever been able to find out who actually authorised the construction.

Upon William Alfred Webb's appointment, he made immediate changes to every aspect of the railways. His mantra was that income from goods trains was by ton miles and expenses were by train miles; therefore, it was essential to have big trains in order to turn a profit. He introduced modern signalling, strengthened tracks and straightened curves. A new tunnel with dual tracks was built between Lynton and Eden Hills, replacing two smaller tunnels that can still be seen today; they are now used for growing mushrooms.

For Webb, 'big' was a universal adjective: big locomotives, big wagons and big railway stations. Plans for new locomotives were sought through contacts he had in the USA. Alco, an American manufacturer of locomotives, very generously provided detailed plans and drawings for large locomotives, even though it was apparent that Australian sentiment was such that the tender for construction would have to be granted to an English company rather than an American one. The locomotives were manufactured in England, but the American style can be clearly seen.

The locomotives started arriving in March 1926 and, with a carefully stage-managed presentation, they captured the public imagination to an unprecedented extent. The most impressive were the 500 class 'mountain' engines, which at that time were the largest locomotives in Australia. They burned coal at such a rate that they had a screw-pile automatic coal feeder. A 500 class locomotive and many other magnificent machines can still be seen at the National Railway Museum in Port Adelaide.

Family First pays tribute to the many volunteers who maintain and operate the various historical railways throughout South Australia. All the historical railways have large volunteer workforces; they simply could not existing without them. The Pichi Richi Railway Preservation Society operates narrow-gauge historical trains between Quorn and Port Augusta, and it provides a spectacular trip through the very steep terrain in that region. SteamRanger runs steam and diesel trains between Mount Barker and Victor Harbor, and trains include the popular Cockle Train along

the mid south coast. The Steamtown Heritage Rail Centre at Peterborough is a static display of historical railway items and includes Australia's only triple-gauge turntable.

In conclusion, South Australia has a very unique rail history, one that is not something many people, including myself, know much about. I take this opportunity to pay tribute to the very large number of volunteers who make it possible for us to still enjoy today that aspect of our heritage.

FREEDOM OF SPEECH

The Hon. S.G. WADE (15:39): Australia is one of the most free countries in the world. We have been entrusted with the English common law tradition and we have built our own constitutional law, including the implied right to political communication. The incoming federal Abbott Liberal government has lost no time in reaffirming our commitment to preserving and enhancing this tradition by acting on its election promise to protect and preserve fundamental rights. In his first piece of legislation, Senator George Brandis is introducing a bill to the federal parliament to repeal the controversial section 18C of the Racial Discrimination Act, a section that says that speech that is found to be merely offensive and insulting can constitute grounds for unlawful racial vilification.

There has been widespread concern that the threshold for racial vilification under this section has been set too low, in that it applies to conduct likely to offend, insult, humiliate or intimidate. This bill is a first step by the government to reaffirm fundamental democratic rights. The federal government is drawing up terms of reference for an Australian Law Reform Commission inquiry into statutory infringements of traditional rights and freedoms and will appoint a freedom commissioner to safeguard and protect traditional rights.

As Liberals, we are committed to respecting the basic freedoms of thought, worship, speech, association and choice. Freedom is essential to a healthy diverse liberal society, but of course freedom cannot be absolute or unfettered. The rights of any individual are limited and constrained by the equal rights of others.

In the recent street preachers case, the High Court found that even though an Adelaide City Council by-law restricted free speech, the council could exercise its power in creating a by-law to maintain public order. In another case, a radical Muslim cleric, Sheik Man Haron Monis, was charged under the commonwealth criminal code with using the postal service to harass the families of deceased service personnel. The judges were split 3-3 as to whether Monis' offences were a reasonable limitation on the right to political communication.

These cases demonstrate that there is a fine line between restricting freedom of political discourse out of fear of offending some people, and restricting political opinion itself. Laws which restrict the expression of political views can effectively penalise the holding of those views that politicians have deemed unattractive or objectionable in mainstream society.

There is a risk that, in the process of individuals exercising their right to freedom of political communication, others may be offended. That is a fact of life of living in a free society, and freedom of speech and expression should be embraced as an affirmation of our diverse and multicultural society. To quote John Stuart Mill, one of England's greatest political philosophers and economic theorists:

> The acts of an individual may be hurtful to others, or wanting in due consideration for their welfare, without going the length of violating any of their constituted rights. The offender may then be justly punished by opinion, though not by law.

In Mill's view, the best response to the pen is the pen. Later he went on to say:

> There are many who consider as an injury to themselves any conduct which they have a distaste for, and resent it as an outrage to their feelings; as a religious bigot, when charged with disregarding the religious feelings of others, has been known to retort that they disregard his feelings, by persisting in their abominable worship or creed. But there is no parity between the feeling of a person for his own opinion, and the feeling of another who is offended at his holding it; no more than between the desire of a thief to take a purse, and the desire of the right owner to keep it. And a person's taste is as much his own peculiar concern as his opinion or his purse.

Feelings of collective outrage or offence in the community, in my view, are a vital part in developing and reaffirming the shared values of our communities. It is important in a rapidly evolving technological society that open and free debate provides us with the opportunity to reaffirm our shared values.

For example, the controversial Piss Christ display, or exhibition, by Andres Serrano generated enormous criticism from the religious community for its depiction of a small plastic crucifix submerged in a glass of the artist's urine. The incredible controversy that Piss Christ generated demonstrated and reaffirmed the importance of religious symbols within the Catholic community. Such is the virtue of a democratic society, one in which a free and open discussion can take place. Through it, we become stronger, freer and more enlightened.

PUBLIC CONSULTATION

The Hon. M. PARNELL (15:44): I rise today to speak about public participation in government decision-making. As everyone here would know, when Premier Weatherill took over from premier Rann, one of the changes we were told would be a big part of the new regime was that the old model of 'announce and defend' would be ditched in favour of a new model called 'consult and decide', but did anything actually change?

There are many examples over the last couple of years, since the new premier took office, where the government has failed to consult with communities over important issues or has ridden roughshod over other parts of government, most particularly local councils. Many of these examples are in the field of planning, but other portfolios exhibit similar behaviour. The classic example is one that I have mentioned here before, and I think it falls into the category of an own goal on the part of the government, which is the approval of the Mayfield development in Sturt Street some two weeks before the public meeting at which the development, and others like it, were to be discussed.

I describe that as an own goal because residents who turned up, in good faith, having made written submissions and ready to have their say, were, quite rightly, outraged that one of the most important decisions affecting their neighbourhood had already been made and was irreversible. When the government announced the expert panel review into planning, it made it clear that key questions the panel would be looking at were questions such as: the rules that govern planning, the criteria against which planning decisions were made and the identity of the decision-maker. Yet, we see all three of those being changed ad hoc and at the whim of government to this very day without consultation with local people, which I think makes the job of that expert panel very difficult.

People are approaching that exercise in good faith but what they are seeing happening around them is the government making decisions that ought properly be part of that process without putting it through that process. The example that I have used recently was in relation to the government deciding that developments of five storeys or more in some of the city fringe councils would not, in future, be assessed by local councils, as they had been previously. The ability to assess and approve those projects would be taken away from councils and given to the Development Assessment Commission. Yet, that was not flagged during the consultation.

According to media reports, at least two mayors only found out that their councils were to lose their powers when informed by the media. Certainly, mayor Lachlan Clyne from Unley said that he was very unhappy and expressed his view that councils were best placed to assess development. When I have raised that issue in this parliament, for example, during question time, the response from the government is to express some surprise that the Greens are not happy with the outcome. I think that just shows that the government does not get it, because this is not a matter of the ends justifies the means. There are a number of decisions that the government could make that the Greens and others would support, but they would miss the point if they make decisions without talking to local communities, effectively treating those communities with no respect.

The government has introduced, in the last little while, a number of other major changes to planning which radically affect the number and type of people who are consulted about development applications and the rights those people have. This chamber has passed two planning bills in recent times, and there are another three that we will be looking at this afternoon, which I will not go into now. Yesterday, we found the government playing a cruel hoax where they introduced these Greens' planning reforms into the lower house in government time as priority items of government business.

I was hoping against hope that the government had had a change of heart and perhaps was going to approve them, but it was simply a tactic to wedge the Liberals and try to point out some inconsistencies that they were said to have made in their public utterances. So, that was a cruel hoax. Whether the government manages to salvage any credibility in relation to its public

consultation behaviours before the election is a matter for the voters to determine. My plea is that the government, even if it is a last minute conversion, will learn something from these cases.

Time expired.

MOUNT GAMBIER PRISON

The Hon. G.A. KANDELAARS (15:50): Recently, I attended the opening of Mount Gambier Prison's new groundbreaking accommodation facility, which was officially opened by the Minister for Correctional Services, the Hon. Michael O'Brien. Other guests included the chief executive of the Department for Correctional Services, Mr David Brown; the Commissioner of Corrective Services New South Wales, Peter Severin; the Deputy Commissioner of SAPOL, Grant Stevens; the Mayor of the District Council of Grant, Richard Sage; the member for Mount Gambier, Mr Don Pegler MP; the member for MacKillop, Mr Mitch Williams MP; the federal member for Barker, Mr Anthony Pasin MP; and the acting CEO of the City of Mount Gambier Council, Mr Grant Humphries.

Strangely, the Mayor of Mount Gambier, Mr Steve Perryman, chose to not attend the opening, despite the positive economic impact that the expansion of the Mount Gambier Prison has had and will continue to have on Mount Gambier and its surrounding districts. The $22.9 million expansion created a significant number of jobs during its construction. Not only that, but more than 30 new positions have been created to meet the day-to-day operational requirements of the expansion, and around 20 new jobs will be created as part of the new 60-bed expansion that was announced in this year's state budget. Contrary to Mr Perryman's view, the occasion was certainly not a party. The prison's new expansion has been named the Waawor Unit, which in the language of the traditional owners, the Boandik, means blue lake.

The new prison accommodation is the first of its kind here in South Australia and uses modular containers. The new unit can accommodate up to 108 prisoners. The expansion includes 20 12-metre containers that are fitted with prison-grade fittings to a medium security standard. This building method is much faster and less expensive than traditional building methods. The modular accommodation is approximately $40,000 cheaper per bed compared to a traditional build. The modular style of accommodation is not new; it has been used by our defence forces and in other prisons around the country for over a decade.

Mount Gambier is the largest prison expansion in South Australia in a quarter of a century, since the opening of Mobilong Prison in 1987. We are an ageing population and our prisoners are a part of that population, and they too are ageing. In addition to the standard accommodation, part of the new facility has been specifically designed for elderly and infirm prisoners and those with mobility issues. The prison's high security perimeter has been extended and a new industrial kitchen has been built to meet the increased capacity. When the planned 60-bed unit is completed, Mount Gambier Prison will become the third largest prison in the state.

The Mount Gambier expansion is part of a suite of expansions and upgrades that are being rolled out across the state to ensure the government can meet any demand imposed by growth in prisoner numbers. In 2011 the Port Lincoln Prison was upgraded. Last year, the government opened and 90-bed unit at Port Augusta Prison, and earlier this year a new high-tech, high security gatehouse was opened at Yatala Labour Prison. This is in addition to a new 20-bed accommodation unit at the Adelaide Women's Prison (due to come on line early next year) and the high dependency unit and health centre at Yatala Labour Prison in 2015.

All this construction means jobs for local businesses, contractors and subcontractors and also, importantly, jobs in Corrections. The Mount Gambier Prison extension was an opportunity for me to see first-hand the implementation of the modular container-type of construction here in South Australia. The Waawor Unit at Mount Gambier Prison represents best practice in safe, secure and humane treatment for our prisoners.

FOUNDATION TO PREVENT VIOLENCE AGAINST WOMEN AND THEIR CHILDREN

The Hon. T.A. FRANKS (15:54): I rise today to speak about the Foundation to Prevent Violence Against Women and their Children. This is a new national organisation which is charged with progressing the important business of raising awareness across the community and engaging individuals, groups and organisations, and indeed state and territory governments, to take action to prevent violence against women and children.

Sadly, we know that in fact violence is all too prevalent in our society. I think all members would agree with me that violence in our community in any form is unacceptable, but in particular

violence against women and children is a large challenge for us, because the biggest risk factor for becoming a victim of sexual assault, domestic or family violence, is being a woman.

The foundation does not seek to duplicate the work of others in this space of working to end violence against women and children. It certainly, I think, is an organisation that is much needed and will add a strong voice, and I hope we will see great cultural change and systemic and programmatic change as a result.

Many of you would be aware of the foundation, but it is still in its infancy, so I will outline its structure. It has a part-time chair, who is the former senator and former leader of the Australian Democrats, Natasha Stott Despoja. I was privileged to hear her speak on this foundation last night at the Working Women's Centre of South Australia's AGM. I also play tribute to Natasha's longstanding commitment to equality for women and ending violence against all people, but particularly women and children.

Natasha Stott Despoja is working with a small start-up staff team and they are currently hunting for an inaugural chief executive officer, so the job is open there for anybody across the country who would like to step up and take on this challenge. I think it is an incredibly worthy challenge. They would be working with a chair who is incredibly impressive and a board which certainly inspires confidence.

That board includes: Professor Bamblett from Victoria, who has a strong track record in advocating for the rights of Aboriginal children and young people and their families; Rosemary Calder, who is well versed in issues impacting upon women as a former head of the commonwealth office for the status of women; Alan Cransberg, who is a Western Australian and involved with Alcoa (his experience and indeed sporting connections will be most valuable); Anne Edwards, our own South Australian, who is also chair of Australia's first National Centre of Excellence to Reduce Violence against Women and their Children; and Phil Lambert, a White Ribbon ambassador, who has a strong educational background and who is from New South Wales.

This foundation is currently in a three-month-long consultation process, and that consultation has included in South Australia both Adelaide and Port Augusta. It has reached a really broad cross-section of the population, particularly those communities where women and their children are especially vulnerable to violence.

The foundation is bringing together work that is being done across the country from both not-for-profit and government spheres, and is keen to involve all governments, state or territory, in their work. Much good work has been done in this area, and it takes as its framework or model the *beyondblue* experience. We saw that initiated by Jeff Kennett, and I am sure members would agree that *beyondblue* has done an enormous amount to raise awareness particularly in the areas of anxiety and depression within mental health. If members think of this as the new *beyondblue*, but in terms of working on the area of violence against women and their children, they will get the picture.

Beyondblue was fortunate enough to be sponsored by both the commonwealth and the Victorian governments for its inception, and the national foundation is now currently supported and enjoying the funding of the commonwealth and Victorian governments, which have invested a total of $6.5 million over two years to kickstart the foundation and to drive initial projects.

I know that the foundation's chair has met both with the Weatherill Labor government and the Marshall Liberal opposition representatives in this state, and I would dearly love to see our long history of bipartisanship and priority to addressing the scourge of violence against women and their children addressed here, not just standing up with the words, but stumping up the cold, hard cash. I hope that this will be a top election priority for all parties contesting the March election.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE: STOLEN GENERATIONS REPARATIONS TRIBUNAL BILL INQUIRY

The Hon. R.P. WORTLEY (16:00): I move:

That the report of the committee on its inquiry into the Stolen Generations Reparations Tribunal Bill 2010 be noted.

The Stolen Generations Reparations Tribunal Bill was introduced into this place by the Hon. Tammy Franks in July 2010. In June 2011 the bill was withdrawn and referred to the Aboriginal Lands Parliamentary Standing Committee for inquiry and report. I recommend this report to the council, and it is only fitting that the Hon. Ms Franks rise and speak to the issues that have been raised.

The Hon. T.A. FRANKS (16:00): I rise to speak to the report of the inquiry into the Stolen Generations Reparations Tribunal Bill 2010. As the Hon. Russell Wortley noted, that bill was introduced into this place by me back in July 2010, and on 9 July 2011 the bill was withdrawn from this council and referred to the Aboriginal Lands Parliamentary Standing Committee for inquiry and report.

The bill offers reparations to those Aboriginal people who were removed or, in essence, stolen from their families under state government policy practices that were in place until the 1970s. By offering reparations, the state is also acknowledging that the practices of the past caused emotional, physical and cultural harm to Aboriginal people.

To offer some historical perspective on this proposed legislation, this bill is the result of recommendations of the report of the Human Rights and Equal Opportunities National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families or, as it is more commonly referred to, the Bringing Them Home report, which identified the scope and depth of the issue of the forced removal of Indigenous children from their families, and thus the term 'stolen generations' was coined at that time.

That 1997 report concluded that an estimated 10 to 33 per cent of all Indigenous children were removed from their families under government policy practices up until the late 1970s in our nation. The Bringing Them Home report made 54 recommendations, and to date a number of the recommendations have been implemented at the commonwealth and state levels, including the acknowledgment of the stolen generations issue, which led to the formal apology by then prime minister Rudd on behalf the Australian government in recent years, as well as formal apologies by various states and territories.

I note that the Hon. Dean Brown, on 28 May 1997, he at the time being the minister for Aboriginal affairs, was instrumental in South Australia's role as the second state to make a formal apology to the stolen generations. It is a milestone of which we should be proud. However, it is one where we must not rest on that laurel, for there is more work to be done.

A further response called for in the Bringing Them Home report was the establishment of a reparations tribunal to deal with the reparations for stolen generations individuals. Successive governments have rejected the idea of reparations and have then had to deal with a number of civil cases brought by members of the stolen generations individually through the courts. One case defended by the government had legal costs of over $10 million for the Australian government. The only successful civil case for compensation was in the South Australian Supreme Court, where there was an award of $525,000 to Ngarrindjeri man Bruce Trevorrow. He had been removed from his family at the age of 13 months, and I note to the council that the legal cost of that case was nearly $2 million.

While both commonwealth and state governments have made formal apologies, Tasmania stands as the only jurisdiction to yet offer reparations to stolen generations. To be fair, the commonwealth and states have provided significant financial resources to address the inequality gap between Indigenous and non-Indigenous Australians. While those closing the gap initiatives have shown to improve the lives of Indigenous Australians, those programs do not address the stolen generations issue specifically.

Some other states and territories have, in the past, provided recompense for wages that were withheld, also referred to as the 'stolen wages'. I acknowledge that there is often some confusion between the 'stolen generations' and 'stolen wages' issue in the mainstream coverage of this issue. Those stolen wages were from Aboriginal workers between 1900 through to the 1980s. Wages were taken from Aboriginal people by state governments, often without their knowledge, and placed in a state-controlled trust account to be paid at a later date—and then never paid.

Queensland, Western Australia and Tasmania have also introduced legislation for redress schemes offering ex gratia payments for Aboriginal children as well as non-Aboriginal children who were found to have suffered physical, sexual, emotional or psychological abuse experienced while in state care. There are a number of benefits for establishing a stolen generations reparations tribunal to provide these reparations to members of the stolen generations. This proposed draft legislation in the report would allow those Aboriginal people of the stolen generations to receive both reparation and recognition for the emotional, physical and cultural harm that they were subjected to as a result of policies and practices of past state governments.

The proposed assessment process would be quick, with a suggested time limit of months for applicants to make application, and a suggested assessment period of not more than one year.

The committee heard during the inquiry that although the receipt reparations in the form of an ex gratia payment would not preclude the recipient from pursuing compensation through the courts, a satisfactory resolution through a tribunal process would likely limit the number of cases pursued through our courts, particularly in cases where the liability for harm that might have been caused by the removal would be difficult to establish. This has also been the evidence in Tasmania and, as I say, Tasmania is the only jurisdiction to make reparations to stolen generations in Australia to date.

The operation of a tribunal would also reduce the cost to both the state and the members of the stolen generations and certainly be cost efficient compared with the state defending against litigation that could currently be taken by individuals through the courts and, indeed, they would still have that option open to them but the evidence and the experience has shown that this is a better way. A tribunal process would also reduce the trauma experienced by members of the stolen generations given that that process is not adversarial, unlike court proceedings.

Although not legally binding on countries, the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law—commonly referred to as the van Boven principles—is considered the agreed framework for offering redress to victims of violations of law through the concept of reparation, and that has been reflected in this bill. By applying the van Boven principles through a stolen generations tribunal, our state would be acknowledging the practices of the past and laying the foundations for reparation in an internationally-recognised framework.

During the course of the inquiry the Aboriginal Lands Parliamentary Standing Committee held 10 hearings, took evidence from 16 witnesses and received 11 formal submissions. This of course came in addition to the extensive body of knowledge established through the work that had come before and, most specifically, through that of the Bringing Them Home report. I thank those who took the time, many of whom were bravely sharing their personal experiences, and certainly those of us on the committee were deeply moved by many of the witnesses' experiences and evidence.

Others presented that there are options open to us for redress that remove not only the personal burden on those wronged under past government policies of removal but, indeed, ease the expensive, slow and onerous administrative legal burden that is borne by both the individual and the state. That burden is the way we are currently operating but there are better ways and, indeed, this committee has identified this as a better way forward.

As a result of the inquiry, the committee agreed that it supported the intent of the bill. However, it recommended that it be simplified from its original form to only provide reparations in the form of ex gratia payments to South Australian Aboriginal people who were removed or stolen from their families as children, using the Tasmanian Stolen Generations of Aboriginal Children Act 2006 assessment and tribunal process as a framework for South Australian legislation.

This will reduce the administration costs and the time to complete the assessment process as well as remove the need to prove abuse and neglect in order to qualify for an ex gratia payment as was proposed in the initial bill. The Tasmanian Stolen Generations of Aboriginal Children Act 2006 provides a proven framework for the stolen generations reparations bill. The Tasmanian government made provision for a $5 million fund and provided for the appointment of an independent assessor to assess the eligibility of applicants. A total of 151 claims were received and of those 151 claims, 106 were found to be eligible for payment which comprised 84 people who were stolen generations and 22 who were the children of stolen generations victims who had died. Forty-five claims were rejected. The 22 children of stolen generations victims shared $100,000 and the remaining $4.9 million was split equally amongst the 84 living applicants who were removed. That gave them approximately $58,000 each.

Even though not all the claims were successful, the eligibility assessment process was considered fair and reasonable. Similarly, the payment amounts were considered appropriate. In South Australia it is estimated that up to 300 Aboriginal people could receive an ex gratia payment in accordance with the proposed eligibility criteria. The amount provided to each person would be dependent on the number of applicants found to be eligible and the size of the fund made available. The cost to the state of providing a stolen generations fund to make ex gratia payments must be compared to the cost to the state of individual stolen generations cases pursued through the South Australia courts and, as I said, one such case resulted in a compensation payment of $525,000 and legal costs of nearly $2 million.

In conclusion, the Aboriginal Lands Parliamentary Standing Committee supports the Stolen Generations Reparations Tribunal Bill and recommends:

1. That the Stolen Generations Reparations Tribunal Bill 2010 be redrafted to provide a simplified framework to make ex gratia payments to South Australian Aboriginal people who were removed or stolen from their families as children based on the Tasmanian Stolen Generations of Aboriginal Children Act 2006.

2. That the redrafted Stolen Generations Reparations Tribunal Bill 2010 be reintroduced to the Legislative Council for consideration at another time.

I welcome members' contributions in this place and thank the Hon. Russell Wortley again for his words and, indeed, for his current role on the Aboriginal Lands Parliamentary Standing Committee as acting presiding officer. I look forward to contributions from members in the next, and possibly last, sitting week of this session and I would particularly like to thank all of the members of the Aboriginal Lands Parliamentary Standing Committee past and present for their dedication and support to deliver this inquiry report to this place.

In particular, I thank the Presiding Member, the Hon. Ian Hunter; the previous presiding member and former minister, the Hon. Paul Caica; and previous members Ms Zoe Bettison; Dr Susan Close; the Hon. Kyam Maher; our very own President, the Hon. John Gazzola; the member for Florey, Ms Frances Bedford; and the Leader of the Opposition, Mr Steven Marshall, the member for Norwood, for their contributions to the committee.

I acknowledge the current members of the committee for their ongoing efforts, including, of course, the Hon. Russell Wortley; the Hon. Lyn Breuer, the member for Giles; the member for Reynell, Ms Gay Thompson; the member for Morphett, Dr Duncan McFetridge; and the longest standing—along with me—the Hon. Terry Stephens.

Finally, I would like to thank all of the Aboriginal people and the support organisations for their input and support for this inquiry, and their willingness to share those personal stories and knowledge with us as a committee. Some of those stories were confronting and heartbreaking for us as committee members. I can only begin to understand the impact they have had on those individuals, families and communities. We cannot undo the damage done here, but we can redress the ongoing harm and anguish now. With that I commend the report to the council.

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

NATURAL RESOURCES COMMITTEE: UPPER SOUTH EAST DRYLAND SALINITY AND FLOOD MANAGEMENT ACT REPORT 2012-13

The Hon. R.P. WORTLEY (16:14): I move:

That the report of the committee, on the Upper South East Dryland Salinity and Flood Management Act 2002, 2012-13, be noted.

Members of this chamber will be aware that a bill to extend the life of the Upper South East Dryland Salinity and Flood Management Act—otherwise known as the USE act—was defeated in parliament in late 2012. As a consequence the act has expired. Management of the drainage and flood mitigation infrastructure and associated programs has devolved to the South Eastern Water Conservation and Drainage Board, under the South Eastern Water Conservation and Drainage Act, with the Department of Environment, Water and Natural Resources retaining an oversight role.

Another bill, the South Eastern Drainage System Operation and Management Bill—or SEDSOM bill—was introduced into parliament in October 2012. This bill would have repealed the South Eastern Water Conservation and Drainage Act and enabled future infrastructure works, including the South-East Flows Restoration Project. However, the SEDSOM bill has yet to be passed by parliament.

The South East Flows Restoration Project includes a controversial new drain connecting the Lower South-East scheme to the Upper South-East scheme to restore natural flows to the Coorong. The drain is opposed by neighbouring landholders, who believe it will exacerbate the existing problems of highly saline and alkaline water entering wetlands.

The member for Mount Gambier, Mr Don Pegler, who is a member of the Natural Resources Committee, proposed amendments to the SEDSOM bill in late 2012 to enable a staged development of the restoration project. These amendments were supported by the House of Assembly but the bill itself was defeated, due mainly to concerns about the proposed route of the

new drain. What the defeat of the USE extension bill means for the SEDSOM bill is unclear at the present time, as is the future of the new drain proposed under the restoration project.

The Department of Environment, Water and Natural Resources ceased providing quarterly reports to the Natural Resources Committee at the end of 2012, but stated that it would continue to provide informal briefings as and when required. Operation and maintenance of existing drains and floodways will be continued by the Drainage Board, and provisions in the USE act relating to compensation for landholders affected by the construction of the drains and floodways continue until all claims have been settled.

In the meantime the committee has maintained its watching brief over the program, and I am pleased to inform members that, following significant rainfall this winter, fresh water was released into the West Avenue watercourse, filling the Parrakie Wetlands. I do qualify this news with a caution that it was the first significant water in the wetlands in five years, and without regular wetting in the future it is likely the ecology of the wetlands will be compromised.

When the Hon. Gerry Kandelaars MLC noted the 2011-12 Upper South-East report, he said that the committee had formed the view that it was too early to decide whether the Upper South East Dryland Salinity and Flood Management Program was a success. Now that successful watering has finally been made possible for the West Avenue wetlands, I believe there may yet be hope for the program, and it is on this positive note that I note this report of the Natural Resources Committee on the Upper South East Dryland Salinity and Flood Management Act.

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

The ACTING PRESIDENT (Hon. G.A. Kandelaars): The Hon. John Dawkins.

The Hon. J.S.L. DAWKINS (16:20): Thank you, Mr Acting President. You would remember, sir, from your service on the Natural Resources Committee, I am sure, some of the evidence that was given to us in relation to the Upper South East Dryland Salinity Flood Management Act and the associated works. I think, sir, you were also on at least one of the trips we did to the South-East to have a look at the extensive nature of works that make up that whole scheme. Over my lifetime, well before I came to this parliament and well before I was a member of the Natural Resources Committee, I think that there has always been some local controversy about the benefits of the various drain schemes in the South-East of this state.

The ACTING PRESIDENT (Hon. G.A. Kandelaars): Much controversy.

The Hon. J.S.L. DAWKINS: Thank you, Mr Acting President: much controversy. It varies not just from region to region but, in many cases, from district to district. The Hon. Mr Ridgway is far better acquainted with many of those issues than anyone else in the chamber.

Overall, I support this report, and I support the words of the Hon. Mr Wortley. It is an overall issue that will never satisfy every resident of the South-East or residents of those particular regions affected. Certainly, we have had in recent times significant amounts of water in the South-East. Only a week ago, I flew by commercial aircraft to Mount Gambier, and it is extraordinary to see how much water is still laying on the ground in the South-East of the state and how green it still is compared with where we are now.

I think that I have made comment before in this house about the fact that, when I went on a trip with fellow agronomy and agricultural college students in the South-East of South Australia in 1975, it was so wet that the great majority of the properties we visited we can get onto only by getting off our bus on the bitumen road and getting onto a tractor and a trailer to get onto those properties. So, we do know that the South-East can get very wet.

I think that the drains, in my general estimation, have overall been of benefit to the South-East, but there are obviously some areas within it where there is great controversy. As the Hon. Mr Wortley said, the committee will continue to monitor the effectiveness of the drains, and that will vary, I think, due to climatic conditions from one year to the next. With those words, I support the motion.

The Hon. R.P. WORTLEY (16:23): I thank the Hon. Mr Dawkins for his contribution. The Hon. Mr Dawkins is a very good contributor to the Natural Resources Committee, and I always look forward to his supporting speeches. I look forward to the council endorsing this report.

Motion carried.

NATURAL RESOURCES COMMITTEE: MOUNT LOFTY RANGES FIRE MANAGEMENT

The Hon. R.P. WORTLEY (16:24): I move:

That the report of the committee on Prescribed Burning, Fire Management in the Mount Lofty Ranges, Fact-Finding Visit, 7 June 2013 be noted.

The Natural Resources Committee has maintained an interest in fire management in the wake of its 2009 inquiry into bushfires. This inquiry produced an interim report, tabled in November 2009, followed by a final report, tabled in July 2011. Since then the Natural Resources Committee has requested regular updates on bushfires and has undertaken a number of fact-finding visits.

A previous fact-finding visit to Mitcham Hills on 17 February 2012 with the member for Davenport considered areas of high fire risk. The committee prepared a report based on the evidence collected that day, which was tabled in September 2012. The committee received a further briefing at Parliament House from officers of the fire management branch on 12 April 2013, when committee members were invited to view a prescribed burn.

While conditions did not allow members to observe an actual burn, members were still able to visit the Black Hill Fire Operations Centre on 7 June 2013 and view sites both recently burnt and subject to future prescribed burns in and around Cleland Conservation Park. The aim of prescribed burning is to reduce fuel loads in parks, reserves and other public lands.

Members heard that in recent years the Department of Environment, Water and Natural Resources has been largely successful in reducing the incidence of large destructive fires by implementing a schedule of prescribed burns that build a mosaic of vegetation of differing age and density within a whole-of-landscape context. This mosaic reduces the chance of a fire spreading to neighbouring residential areas and farmland. Reduced fuel loads lower the intensity of a bushfire and also the likelihood of spot fires which are caused by embers igniting bark and thick understory vegetation. The mosaic pattern burns also benefit wildlife, stimulating new growth and producing a range of different habitats.

Department of Environment, Water and Natural Resources officers responsible for preparing fire management plans for the state's eight NRM regions and implementing the prescribed burning program greatly impressed the committee with their knowledge and experience. It was acknowledged that even with appropriate safeguards, sometimes mistakes could be made and prescribed burning operations could go wrong. Some burns have clearly broken through control lines. However, it was clear that the majority of prescribed burns (97 per cent we were told) were successful in reducing bushfire risk and increasing biodiversity.

Members heard that some residents are opposed to prescribed burns because they consider the ecological and aesthetic impacts to be greater than the benefits of a reduced fire risk. The Department of Environment, Water and Natural Resources has responded to such opposition through community engagement, the success of which was demonstrated to committee members at Crafers West, where initial opposition was extinguished once residents witnessed the benefits of a textbook low-intensity prescribed burn.

This burn cleaned up the country, left native vegetation intact, increased biodiversity and removed bark, weeds and excess fuel loads. More of these highly visible demonstrations seem certain to improve community acceptance of prescribed burning over time.

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

The Hon. J.S.L. DAWKINS (16:28): I rise to support the motion moved by the Hon. Mr Wortley and commend him for the words he has just delivered to this council. I will be very brief. The Natural Resources Committee, I think, has for some period of years shown a consistent

interest in, and concern for, issues relating to bushfires across the state, particularly in the Mount Lofty Ranges. The committee continues to pursue those issues in a range of ways.

Obviously, our concern about these issues has been replicated in our continuing support for the establishment of a natural disasters committee. Very recently this council supported my bill without dissent before sending it down to the House of Assembly.

The Natural Resources Committee, I think, has benefited from a number of site visits. As a member of various committees over a number of years, I think site visits are always valuable in determining the position. You can get evidence, you can see maps, you can have a look at things on the internet, but seeing is believing and the committee has been prepared to do a lot of that work. With those few words, I support the motion.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE: SURVEILLANCE DEVICES

The Hon. G.A. KANDELAARS (16:30): I move:

That the report of the committee on issues relating to surveillance devices be noted.

On 5 September 2012, the Attorney-General the Hon. John Rau MP introduced the Surveillance Devices Bill 2012 into the other place. On 19 September 2012, the bill was transmitted to the Legislative Council. The purpose of the bill was to facilitate the use of surveillance devices by law enforcement agencies during cross-border investigations. The bill also proposed to regulate the use of surveillance devices by individuals generally and to recognise the advancements that have been made in relation to surveillance device technology. This was achieved through the regulation of a wider range of devices compared to the range of devices that are currently regulated by the Listening and Surveillance Devices Act 1972.

On 21 February 2013, in light of amendments proposed to the bill, the Legislative Review Committee was directed to inquire and report into the legislative amendments required to address several important issues. Those issues were: firstly, the need to protect a person's individual privacy from covert use of surveillance devices; secondly, the circumstances in which persons should be able to covertly use a surveillance device in order to protect their lawful interests; thirdly, the circumstances in which it may be in the public interest for a person to covertly use a surveillance device; and finally, the circumstances in which communication or publication of information or material derived from the covert use of surveillance devices should be permitted.

The committee received 11 written submissions and heard oral evidence from 12 witnesses during the inquiry. The submissions received by the committee concentrated on the anticipated impact of the bill on the use of surveillance devices by private individuals, the media and the private investigation industry. The key issues that were raised in the submissions and in the evidence received during the inquiry related to the fact that the bill did not reintroduce the current lawful interest or public interest exceptions that presently allow a person to covertly use a listening device during a private conversation, it did not include a broad lawful interest or public interest exception to allow a person to covertly use an optical surveillance device and it did not contain an exception to allow a person to communicate or publish information or material derived from the use of a surveillance device when it is used in a manner which contravenes the bill if the communication or publication was for the protection of the person's lawful interest or in the public interest.

The committee therefore investigated and heard evidence that related to the interpretation and application of the lawful and public interest exceptions, as they were found in the current act. The committee was informed that courts had declined to concisely define the expressions, stating that they are best left to be applied on a case-by-case basis and evaluated in relation to the particular facts and circumstances.

However, the committee was informed that courts have indicated that they are more likely to find that the covert use of surveillance devices will come within the lawful interest exception if the conversations relate to a serious crime, or a serious allegation of a serious crime, or resisting an allegation. Similarly, the covert use of listening devices may come within the public interest exception if the conversation relates to the commission of a serious offence. The committee also considered the current legal framework surrounding privacy protection and how it may be used to protect an individual from harm arising from covert surveillance. This led the committee to conclude that both the common law and information privacy laws have limitations in their ability to protect

individual privacy from covert surveillance. The committee also considered how many other Australian jurisdictions regulate surveillance devices.

Overall, the submissions and evidence received served to highlight the tension between harms and/or benefits arising from covert surveillance. Many of the submissions concentrated on the negative impact that covert surveillance can have on individual privacy. Conversely, the benefits of covert surveillance were stated as including the enforcement of laws and ensuring individuals' safety, particularly in situations involving domestic violence.

In light of the terms of reference and the evidence received, the committee made 12 recommendations. The first was that, in the context of the Australian Law Reform Commission's current inquiry into serious invasions of privacy, the Attorney-General considers developing legislation aimed at providing further remedies to persons who have had their privacy interests affected by the covert use of surveillance devices. The basis of this recommendation was the fact that the committee considers that the current privacy laws are limited in their ability to protect individual privacy from covert surveillance.

In relation to the covert use of surveillance devices during private conversations, the committee recommends that individuals should be able to covertly use surveillance devices during private conversations to which they are a party in order to protect their lawful interests. The committee considers that such an exception is important as it would allow individuals to covertly use a surveillance device in situations in which, as an example, they may be a victim of domestic violence.

The committee recognises that harm will often arise when material obtained from covert surveillance is used in a certain manner. The committee therefore recommends that an individual should be prohibited from communicating or publishing information or material derived from the covert use of surveillance devices when used by an individual to protect their lawful interests except if the communication or publication of the information or material is made to a member of South Australia Police, or is in connection with a criminal offence, or is made in the course of or for the purpose of legal proceedings, or is made in connection with a situation involving violence to a person, or an imminent threat of violence to a person.

In relation to covert surveillance and the public interest, the committee is of the view that there is a distinction between matters that are in the public interest and matters that merely interest the public. That is a very important point. As I said, there is a distinction between matters that are in the public interest and matters that are merely of interest to the public. It is for these reasons that the committee considers that the public interest exception should be drawn narrowly, so as not to undermine the protection that the bill aims to provide against the harms arising from the use of covert surveillance.

The committee therefore recommends the bill should be amended to allow an individual to covertly use the surveillance device if the circumstances are so serious and the matter is of such urgency that the use of the device is in the public interest. The committee recommends that as a safeguard the bill be amended to prohibit a person from communicating, publishing or allowing access to information or material derived from the covert use of surveillance devices in the public interest unless they obtain an order from a judicial authority.

Turning to the issue of covert surveillance and the private investigation industry, the committee considers that the detection of insurance fraud arguably represents the most significant use of covert surveillance by licensed private investigators. The committee recognises that evidence relating to whether or not an individual has a legitimate insurance claim may be of public interest, but may also serve to protect a person's lawful interests.

The committee therefore recommends that licensed agents should be able to covertly use the surveillance device in the public interest and/or in order to protect a person's lawful interest when undertaking investigation work for insurers. The committee recommends that as a safeguard this should be dependent upon the agent having obtained an authorisation to conduct covert surveillance from the relevant licensing authority.

The committee also recommends that a code of practice should be developed in order to assist licensed agents to determine the circumstances in which covert use of a surveillance device may be in the public interest and/or may serve to protect an individual's lawful interests. The committee recommends that a licensed agent should be able to give information or material derived from the covert use of surveillance devices to insurers when that licensed agent is contracted to undertake covert surveillance on the insurer's behalf.

As a safeguard, the committee recommends that a range of penalties should apply to licensed agents for the misuse of information or material derived from covert use of a surveillance device. Furthermore, the licensed agent should be required to comply with record keeping, reporting, documentation inspection and documentation destruction as required.

Finally, the committee recommends that the relevant clauses of the bill, which regulate surveillance for the purpose of law enforcement, should be passed in their current form. Before I conclude my remarks, I indicate to the council that I have had discussions with the Attorney-General, the Hon. John Rau, and he has indicated that he has instructed parliamentary counsel to draft amendments to the Surveillance Devices Bill 2012 in line with the majority report of the committee. He hopes these amendments will be available for this council's consideration shortly.

In conclusion, on behalf of the committee I thank all those who made submissions and gave evidence to the inquiry. I thank the members of the committee: the Hon. John Darley MLC, the Hon. Stephen Wade MLC, Mr Lee Odenwalder MP, member for Little Para, Ms Isobel Redmond MP, member for Heysen, and Ms Gay Thomson MP, member for Reynell. I also thank the staff of the committee who did an excellent job—Mr Adam Crichton and Mrs Jennifer Fitzgerald—and for their work in relation to this report. I commend the report to the council.

The Hon. S.G. WADE (16:45): I rise briefly also to support the motion of the Hon. Gerry Kandelaars that the report be noted. I, too, join him in thanking Adam Crichton and Jennifer Fitzgerald for the sterling support they gave to the committee throughout this inquiry, and I also commend him as chairman for the way the committee went about its task.

To me this report may well be an example of what we might aspire parliamentary committees and the Legislative Council to do in the future. It was not a direct referral of a bill, but was a referral of the issues in relation to a bill. In areas where a range of interests are involved, often the chamber is not the best place to receive and digest evidence. I think committees often lend themselves well.

I know the committee would hope to have had the report back in the hands of the council earlier, but along with the Hon. Gerry Kandelaars and the Attorney-General it is my hope that we will be able to consider the amendments coming out of the committee's report before the house rises at the end of this year. In that context I humbly submit to the council that the amendments that will come forward will enhance the bill, and this is a good example of legislative practice.

Debate adjourned on motion of Hon. Carmel Zollo.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: URBAN DENSITY

The Hon. CARMEL ZOLLO (16:48): I move:

That the final report of the committee on urban density be noted.

As a member of the ERD Committee in this chamber I rise to make some comments on the tabling of the final report on urban density. As will be placed on the record in the other place by the chair, on 2 December 2010 the Environment, Resources and Development Committee on its own motion sought to inquire into the effects of increasing urban density in South Australia. At this time it was evident to the committee that there were concerns in some sections of the community about increasing urban density as a way to tackle urban sprawl, and we felt it appropriate, given the functions of this committee, that we examine the issue in more detail.

I think all honourable members would agree how timely is this inquiry, given the many emails, correspondence and media interest this issue generates. We all appreciate the interest in this area. Housing needs have changed greatly in the last 20 years, and it is important for us as a society to reflect on those needs, be they in the type and mix of housing or what has happened to our transport corridors and arterial roads. What is of great concern to people is that the changes are sympathetic to their surroundings, but the challenge is always to ensure that any compromises to be made are not of such threat to what people are prepared to accept. Nonetheless, change of course can be threatening to a lot of people.

The committee set itself broad terms of reference for the inquiry which was for the committee to inquire into and report on desirable social, health, environmental and economic outcomes of increased density, sustainable living in South Australia and appropriate strategies for achieving those outcomes. Given the interest in this inquiry at the public and political level, the chair will be placing on the record that the committee was keen to ensure that its investigation was able to explore more deeply the effects of increasing urban density.

Therefore, in addition to its terms of reference, we also included a comprehensive list of issues of interest that allowed the evidence to speak in detail to a wide array of topics. In total, the committee finalised 15 separate issues of interest. The list included the interplay between increasing urban density and other social issues such as demographic changes, health and lifestyle needs, public, community and affordable housing, and community engagement in the planning process, as well as covering elements relating to the impact of increasing urban density on the environment and implications for infrastructure planning.

The committee was provided with a wealth of information so that every issue of interest was sufficiently explored. In addition, the committee's site visits and external research ensured that the report which was laid on the table provided a comprehensive overview of urban density in South Australia. I also agree that, whilst the evidence and research considered in this report was diverse, there was however a shared and resolute consensus: South Australia does need to increase urban density in order to protect the lifestyle, environmental and productive assets of our state.

The committee understands that South Australia's changing urban landscape is an issue close to the hearts of many in this state. As I have already mentioned, there are some who are not entirely in agreement with the premise of increasing South Australia's urban density. The committee, nonetheless, welcomed all opinions throughout its inquiry. However, as the report explains, the evidence clearly shows that increasing urban density in this state is vital if we are to ensure vibrant, sustainable and affordable housing and livability options for the people of South Australia.

I believe that as a society we should exercise a collective social conscience to ensure that as many people as possible who face difficulties have the means to live their lives with dignity in affordable housing. It is imperative that any increase in urban density does have that good mix of housing options. What is interesting is that urban sprawl was consistently identified in the evidence as highly problematic and as perpetuating a range of problems from obesity and traffic congestion to housing affordability and poor utilisation of resources.

Increasing urban density, meanwhile, was acknowledged as a solution to many of these problems, but the committee heard that there are still misconceptions and apprehension in the community regarding this approach. To address this, a key recommendation stemming from the inquiry is for the government to engage in a widespread educational campaign to inform the community of the adverse effects of urban sprawl and the benefits of increasing urban density.

Those who are interested in this important issue may well have read the article in *InDaily* last week which made the observation that Adelaide's urban density has barely changed since 1981. Indeed, we are told that our rate of densification is the slowest of the six largest Australian cities, including Canberra. However, according to a local expert, the data may not represent a complete picture of what is going on in Adelaide. George Giannakodakis, the managing director of InfraPlan and vice-president of the Planning Institute of Australia, SA chapter, believes that by trying to take a general average of the entire city the data missed important nuances, especially the increasing density of the inner city in the last decade. Mr Giannakodakis dubbed it 'a tale of two cities'. He believes that, whilst Adelaide continues to expand its metropolitan boundary, at the same time density in the inner city is increasing.

Our planning minister, John Rau, pointed out that the government's recent changes to zoning around the city allow for a greater mix of housing options close to the CBD where services and infrastructure are already in place. I notice that several other prominent community members made comment as to our culture of large homes on our blocks which has, of course, been a long trend in South Australia.

Ultimately, as in all changes, people need to understand how the changes will work and how it affects them and the neighbourhood they live in. The committee ensured that it heard evidence on ways to facilitate more community engagement in the planning process and a range of ideas and principles were presented to us.

I am pleased to place on the record here, as will the chair in the other place, that two practical approaches which resonated with the committee and which have formed part of our recommendations were for the government to consider the use of development notices on sites to inform local residents of forthcoming changes and to engage in a public consultation process to identify vistas and site lines that are considered valuable by the community so that a planning

strategy to protect them can be implemented. The committee was informed that this has been a successful process in London, Montreal and Vancouver.

Even when developments do not directly affect people, as in perhaps being next door, when one values their neighbourhood and is proud to be a member of it, being kept informed by a notice on site is good public relations and empowers that community. Similarly, people often buy because of the view and natural light that flows into their homes, and having that taken away does not augur well for public relations.

Another key recommendation includes that the government drafts a set of design principles based on best practice models which can be used as archetypical benchmarks to guide and assess positive examples of increased urban density. It became clear to the community that these principles need to encapsulate the essence of good design and allow for flexibility so that they do not operate as a set of prescriptive and unyielding criteria. With increasing urban density, apartment living is likely to become more common in Adelaide and, as such, the committee was keen to ensure that a range of lifestyle and liveability needs are catered for.

As a politician, I know from listening to a few concerns that strata living can throw up some problems when it comes to consensus decision-making. In order to facilitate this, the committee has recommended that government reviews the strata management system, examining ways to streamline the current legislation and consider establishing a conflict resolution agency specialising in property management.

The committee has also recommended that current restrictions, such as drying washing on balconies and pet ownership, be re-examined so they do not become deterrents to strata living. I believe there would be nothing worse than someone who has lovingly been a pet owner all their life having to give up that pet because of changed living circumstances. In many cities in the world pets are automatically allowed in restaurants and make wonderful companions for the elderly. I am certain we all know how therapeutic they can be. Indeed, many nursing homes know that and will often have a pet program for their residents. The fact that people choose to live in an apartment should not preclude them from owning a pet.

We heard evidence that in one Adelaide apartment the dog leash is left where everybody can use it to walk the dog. I am certain that the added benefit of exercise for the owner would not go astray either. Also, blocking out a section of the balcony so one cannot see through it, but still get good ventilation, is not difficult.

Again, as will be placed on the record by the chair in the other place, the committee was pleased to have heard from a broad spectrum of the community, from individuals and group representatives to academics, business people and planning experts. I am not surprised that the inquiry was able to attract so many participants and I add my thanks to those who provided their time and expertise to participate. They contributed crucial information and guidance to the committee and we are all appreciative.

I believe this inquiry to be a very important one and one which involves taking Adelaide to the next step in terms of growth. I know that all committee members will agree that, thanks to the quality of the information provided, the committee was able to draw informed conclusions and we are confident that the final 24 recommendations reflect the issues that arose in the evidence while balancing the diverse needs of the wider community.

I extend my thanks to fellow committee members for their contribution to this inquiry: the Presiding Member Ms Gay Thompson, Mr Lee Odenwalder MP, Mr Tim Whetstone MP, and the Hon. Michelle Lensink and the Hon. Mark Parnell in this chamber. I should also make mention that the Hon. Michael Atkinson was also a member of the committee until earlier this year, as was the Hon. Patrick Conlon for a short while and, of course, longstanding member Mr Ivan Venning MP, who was also a member of the committee when the reference actually commenced.

The Hon. J.S.L. Dawkins: He was a former chairman.

The Hon. CARMEL ZOLLO: I think he was, in a former parliament; yes. Also, I would like to thank committee staff Phil Frensham, Debbie Bletsas, Susie Barber and Leah Skrzypiec for their assistance. As far as I am aware, Dr Skrzypiec wrote the final report for the committee, and I especially thank her and wish her the very best for her future.

I believe this report will positively contribute to the ongoing debate about South Australia's urban future and, like everyone else, I look forward to the minister's response. I commend the report to the council.

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

CONTROLLED SUBSTANCES (CULTIVATION OF CONTROLLED PLANTS) AMENDMENT BILL

The Hon. D.G.E. HOOD (17:00): Obtained leave and introduced a bill for an act to amend the Controlled Substances Act 1984. Read a first time.

The Hon. D.G.E. HOOD (17:01): I move:

That this bill be now read a second time.

I say at the outset that, whilst I am aware I am moving a bill with only two sitting weeks remaining and that it will not pass the parliament in those two sitting weeks, I flag to members that should I have the privilege of being returned to this place after March I will move a similar bill in the very early stages of that parliament and will pursue that to a vote.

I am introducing today the Controlled Substances (Cultivation of Controlled Plants) Amendment Bill to rectify two areas where, in my view, the law concerning illicit drugs is in need of reform. The first area concerns the unrealistically light maximum penalties that apply to the cultivation of controlled plants, specifically cannabis plants. The bill increases the penalty. The second area concerns the fact that the cultivation of one cannabis plant has effectively been decriminalised in this state, and the bill removes the provision requiring an expiation procedure to apply to the offence of the cultivation of a single cannabis plant.

I will explain the amendments proposed in the first area. At present, a person who cultivates, without hydroponics, up to 19 cannabis plants not intending to sell them faces a maximum penalty of just $2,000 or two years' imprisonment, or both. In fact, as we know, the courts never impose a penalty of imprisonment for cultivating up to 19 plants, so effectively that makes the penalty $2,000 for cultivating up to 19 plants. That is the maximum penalty. For up to five plants the penalties are only $1,000 or imprisonment for 6 months, or both.

For completeness, I should add that if there are 10 plants or more there is a presumption—in the absence of proof to the contrary—that they are being cultivated for sale. This presumption can be displaced by the defendant stating that the plants were not, in fact, cultivated for sale. In the absence of any evidence to the contrary—that is, of recent sales by the accused or if there is any other reason to doubt the statement of the accused—such a statement would presumably have to be accepted by a court, and the charges would proceed on the basis of no intention of sale.

As you would be aware, sir, courts reserve the maximum penalty for the worst type of offence in that category committed by an offender with the worst criminal history and least contrition. Penalties ordinarily imposed for this offence are therefore substantially less than the maximum penalty of $2,000. If we consider the value of 19 cannabis plants, opinions will vary as to what an appropriate amount is. Common estimates are that each cannabis plant is worth between $2,000 and $4,000 on the street, and many people claim it may be $5,000 or even higher. However, if you pick an average of, say, $3,000 per plant, 19 plants would be worth about $57,000—or let us say $60,000 in round figures—on the street.

It is obvious that if a person wants to make some easy money then the prospect of earning up to $57,000, or roughly $60,000, by risking a fine of perhaps $500 or, at the absolute worst, $2,000, gives a very strong incentive to commit that crime. The whole purpose of the criminal law, of course, is to act as a deterrent to criminal behaviour, not an encouragement to commit a crime. If deterrence is completely lacking, the criminal law is simply not performing its function, as it clearly is not in this case. Why would anyone even be slightly concerned about a $500 fine, or at the absolute worst a $2,000 fine, when they stand to make in the order of $60,000?

The modest increase in the maximum fine from $1,000 to $2,000 to $10,000 provided in this bill means that the actual fines imposed are likely to still be only around $2,000 to $4,000 or something in that order. Even with this amendment I am proposing here, there is still very little deterrence but somewhat more deterrence, considering the profits that can be made. Perhaps the amendment is more symbolic than effective in some ways, but it is, at the very least, symbolic and it is a start. With the commercial realities as they are, I cannot see how anyone could oppose this amendment on the grounds that it is too harsh.

The second purpose of this bill is to change the law that applies where a person has cultivated just one cannabis plant. As mentioned above, one cannabis plant is probably worth between $2,000 and $4,000, although on some estimates in excess of $5,000. The cannabis comprised in the plant can be used by the offender or shared with his or her friends, of course, or sold if he or she so desires.

The law presently provides that where only cultivation is proved, such an offender must be given an expiation notice requiring payment of $300, together with a victims-of-crime levy of $60, making a total of $360 to be paid. No conviction at all is recorded. This offence can be repeated and the same provision applies. Whilst the police do issue on-the-spot fines, the amount of paperwork required compared to the seriousness of the penalty must make this seem rather pointless.

The point where I disagree with decriminalising the offence of cultivation of one cannabis plant is that decriminalisation is a step towards the legalisation for personal use, which is something I oppose. Looked at rationally, either illicit drugs are harmful and should not be legally permitted or they are not harmful and should be permitted. It is simply inconsistent to say that for cultivating one cannabis plant an offender cannot be prosecuted but for cultivating two cannabis plants prosecution is appropriate.

I mention briefly several recent research reports about the harm caused by cannabis, but before I do so I should point out again that the maximum penalty for cultivating one plant is $360, including the victims-of-crime levy. That plant is worth somewhere between $2,000 and $5,000 on the street and there is no conviction recorded. So, if someone is caught growing a cannabis plant, they are hit with a fine of $360, yet they stand to make something in the order of $2,000 to $5,000. Again, where is the disincentive for them to continue doing that over and over again, with no conviction recorded?

Again, I will return to some of the research in relation to the harm caused by cannabis. In February last year, researchers at Dalhousie University in Halifax, Canada completed a review of nine studies of some 50,000 people worldwide who had been in serous or fatal crashes. They concluded that drivers who use cannabis up to three hours before driving are twice as likely to cause a collision as those not under the influence of drugs or alcohol. This is because cannabis impairs the brain and motor functions needed for safe driving.

At around the same time as this study, a peer-reviewed study published in the *British Medical Journal* gave the results of a survey of almost 2,000 young people. They were interviewed initially, then 1.6 years later, 3½ years later and 8.4 years later. The study found that of those exposed to cannabis 14 per cent reported some psychotic symptoms compared with 8 per cent for those not exposed.

In August last year, a combined team of US, British and New Zealand researchers recruited 1,037 teens aged 13 and tested their IQ and brain function. They then interviewed them at ages 18, 21, 26, 32 and 38 (quite a substantial period of time) and performed more brain power tests at the final interview. They found that study members with more persistent cannabis dependence showed greater IQ decline. Those diagnosed as cannabis dependent at three or more interviews were found to have a reduced IQ score equivalent to the loss of six IQ points, taking them down from an average of 99.68 to 93.93. An IQ of 100 is considered average, thus making them well below average.

Research by a joint US and Canadian team published in August this year concluded that there was strong evidence that early cannabis use puts some teens at risk of developing addiction and mental health problems as adults. A co-author of the report said that this is because in adolescents the brain is still fine-tuning how different areas, such as learning and memory, interact, and it appears that cannabis use alters the process.

There can be no doubt that cannabis use, especially by adolescents, is a dangerous thing. Whilst I do not wish to make criminals of young people, we would be failing in our duty if we continue to permit low-end cannabis cultivation with virtually no penalty whatsoever; indeed, with a financial incentive to continue the practice.

This proposal does not affect the expiation procedure for possession. I make that absolutely clear. It does not affect anyone who is expiated for possession or use of small amounts of cannabis, cannabis resin or cannabis oil. It only addresses the cultivation of a cannabis plant. It is a small change in the right direction.

In summary, there are some in our community who see cannabis as a harmless social drug. The current law on cultivating one cannabis plant gives some official sanction to that view. In light of the research I have outlined and much, much more that I have not but could have, the truth is that cannabis is a harmful drug, particularly for adolescents. Adolescents often receive conflicting information about drugs and could easily see the present scheme of decriminalisation as official confirmation that the research I have referred to is wrong.

I urge members to support this modest reform. As I say, it will not be taken to a vote until the next parliament, but I urge members to support it because, at the moment, we have a financial incentive for people to cultivate cannabis in this state.

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

HEALTH INFORMATION TECHNOLOGY PROJECTS

The Hon. R.I. LUCAS (17:11): I move:

That this council notes with concern the government's management of IT projects within Health.

As we near the end of this four-year Labor government term, the Jay Weatherill Labor government term—and one would hope the end of a 12-year term of Labor government, since 2002—I rise, sadly, to outline the very significant problems that either a re-elected government or a newly elected government will confront in terms of South Australian Health and its management of IT projects and processes.

What we see evolving within Health at the moment is a financial scandal of untold proportions. We are looking at a multimillion dollar disaster area, blowouts of tens of millions of dollars, and possibly hundreds of millions of dollars eventually. Key staff have already resigned or left the project and more are threatening to leave various IT management projects within Health.

Very significant probity issues have been raised by employees and tenderers in relation to the management of IT tendering processes and, sadly for South Australian taxpayers, minister Snelling literally has no idea what to do. He is desperate to keep a lid on the growing scandals within the IT function in Health or to try to keep them secret until after the March 2014 election. What decisions he is taking are geared towards keeping these issues secret or keeping a lid on them until after the March election and, as I will outline in my contribution, this is costing (and will cost) taxpayers many millions of dollars. Again, very sadly, it is typical of the financial mismanagement and incompetence of minister Snelling and the Jay Weatherill Labor government.

As we look at some of these projects, I will turn very quickly to the EPAS project, the Enterprise Patient Administration System project. In that particular project, and other IT projects, we are already seeing key personnel, such as change directors, operation directors and other senior executives within that particular project, as I said, either resigning or having left the project or threatening to leave the management of that particular project.

The management or mismanagement of IT within Health was so parlous that one of many consultancies, in this particular case Ernst & Young, was employed earlier this year and recommended the appointment of another senior person, a director of eHealth projects. A Mr Long from Canada was appointed in May of this year, but I am told that his contract was only to take him through until November of this year. He has been prevailed upon, I am told, to now extend his contract to February of next year, just prior to the state election, but the problems within IT in Health remain, remain significant and will remain long after Mr Long, who was evidently brought in to try to resolve some of these issues in a six or nine-month period.

If I turn quickly to the first project and the biggest project of the lot, which is EPAS. Questions have been asked in this place and in other places about this particular project. It was originally intended to cost $408 million. That has already blown out by $14 million to $422 million because the minister and the government forgot to put the normal CPI inflator into the project, given that it will take a number of years to roll out. Someone omitted to put a price inflator index into the costs for the project and that will cost taxpayers an estimated extra $14 million.

We have already seen very significant further blowouts in the cost of this particular project and significant delays in relation to the rollout of the project. A confidential minute that went to the EPAS project board in September of this year indicated that, if you looked at the blowout on an apples for apples comparison; that is, if one looks at the rollout of EPAS to the first site, which was the Noarlunga site—it went live in August, it was originally meant to go live early this year; the previous estimate had been March, but that was delayed until August of this year—and you look at

how much of the budget was meant to have been expended by the time of arriving at the rollout of the first site, that apples and apples comparison, which was an analysis done by another consultant, indicated a blowout of $14.7 million in the EPAS cost to roll out to that particular first stage.

That confidential minute to the EPAS project board in September indicated that at that stage the estimated cost of the rollout to the next hospital, which was to be the Repatriation Hospital, the estimated blowout in cost by the time they got to that, which was going to be late this year, was a blowout of $24.7 million. So, this particular project was originally meant to be—as we speak, more information is being supplied from within the health department about this particular issue.

I have been momentarily diverted. I was referring to the leak documents provided to the September meeting of the EPAS project board and what that indicates, as I said, for Noarlunga. I think I had gotten to the stage of saying that the original scope of this EPAS project was originally to roll out to all hospitals, 72-odd hospitals, big and small, throughout South Australia. Because of the blowout in cost, that was reduced in scope to just 12 hospitals, most of those being in the metropolitan area and a small number in regional South Australia. The blowout, just to rollout the first of those hospitals, has been $14.7 million.

The estimate in September of the blowout to the second of the 12 hospitals is $24.7 million. Members should bear in mind that the first of these two hospitals in particular was selected because it was deemed to be the easiest and least expensive hospital to rollout EPAS to. For the more complicated hospitals, such as the Flinders Medical Centre, the Lyell McEwin, the Royal Adelaide, etc., one can only guess at the extent of the potential blowout later on in the rollout schedule.

We are already seeing very significant blowouts. There is an increase in the contingency budget of up to $49 million. Reports to the EPAS project board in September indicate that virtually all of the $49 million contingency budget had been allocated. That is, in the very first stages of the rollout, virtually all the contingency budget had been allocated, most of that being taken up by the very significant delays in the project.

What is referred to as the 'burn cost' for every month of delay is at least $3 million. So, for every month delay in the rollout of the EPAS project, it is costing taxpayers an extra $3 million. For every month delay $3 million is taken out of the contingency. Once that contingency is fully utilised, the taxpayers are going to have to dip into their pockets to further provide that burn cost of $3 million a month to keep this particular project going.

The original cabinet approvals, once the scope had been reduced to 12 hospitals, indicated that prior to the March election EPAS would be rolled out to a number of hospitals and hospital sites. It will be rolled out, at the very least, to the Noarlunga Hospital, the Repatriation General Hospital, the Lyell McEwin Hospital and the Port Augusta Hospital, together with some GP Plus sites as well. As I said, the first rollout site was Noarlunga, which was only achieved at the end of August.

As of last week, I have been advised, the most recent schedule—which the minister, I am advised, in question time today was not prepared to fess up to—that has been authorised is to wind that back completely so that it will only be rolled out before the March election into the Port Augusta Hospital (which is obviously a regional hospital, away from Adelaide), some GP Plus sites (which are very small and obviously less complicated than complex sites), and a 15-bed ward in the Repatriation General Hospital.

Only two or three weeks ago the minister told parliament the supposed rollout to the Repatriation General Hospital would happen before the end of the year. He is now being told that it is only going to rollout not to the whole of the Repat Hospital but just to a 15-bed ward, a palliative care ward, quite simple and specific, but one small component of the Repatriation Hospital, and it certainly will not be rolled out to the Lyell McEwin Hospital prior to March. I am told the next stage of the rollout schedule has now been put back to May 2014; that is, two months after the March election.

What we have seen with the EPAS, then, is a very significant reduction in scope from 72 down to 12 hospitals. Some community mental health facilities, which were in the original scope, have been removed as well. We have had very significant issues in relation to the security of the system, which we will be asking further questions about this week and in the remaining week of parliament. At this stage I will just summarise that the original scope which had been approved had

a security of what was called 'twin factor authorisation'. Given the sensitive nature of the information—all the clinical information for patients would be included in the system—what would be required to access the system would be not only a swipe card but also a separate pin number.

That is twin factor authorisation, but the government and the ministers removed that twin factor authorisation to try to stem the haemorrhaging of the blowout in EPAS, and instead of having that twin factor authorisation security level they have now included just the use of a username and password. That is just a single factor, and the IT experts within the department are indicating and warning the minister and the government of very significant security issues in relation to the operation of EPAS.

This is clearly one of the reasons why minister Snelling is desperate to keep a lid on this particular issue until after the March election, and why he is desperate not to roll this out to all the hospitals he promised to do prior to March, because if he does and if the security breaches occur that he has been warned about, then clearly he will be embarrassed and the Jay Weatherill Labor government will be significantly embarrassed in the weeks leading up to the March election. Hang the cost, hang the expense of the project, the minister is desperate to ensure that that information does not get out and does not become public.

That is why I can indicate that, in terms of preparation of this particular contribution and questions we have been asking over the last couple of months, six separate persons with access to information from the IT function within SA Health have spoken to me about their concerns at the mismanagement within SA Health and the minister's mismanagement, not only of the department but also of the IT function within Health.

This is not just a single person; these are six separate people, and as I indicated earlier, just as I commenced my contribution today, a copy of further information from another complainant about the IT function within Health has been provided to me to have a look at.

The Hon. J.S.L. Dawkins: They are queueing up.

The Hon. R.I. LUCAS: As my colleague the Hon. Mr Dawkins says, they are queueing up at the moment to complain about the way this minister, this government and the department are mismanaging IT projects and processes within SA Health. They are looking for a voice in terms of expressing their concerns. They have raised the issues within SA Health, in some cases for nearly two years, only to run into a brick wall or no response from this minister and previous ministers and senior executives within SA Health. When all else is lost, some of these people have taken the brave step of raising the issues with members of parliament (in one case with the Auditor-General), to try to have their concerns listened to in terms of the minister's and the department's mismanagement.

I talked earlier about how decisions the minister has taken are geared towards trying to keep all of this secret until after the March election. As I said, the delay in the rollout to these hospital sites until after the election is costing taxpayers $3 million a month in terms of the burn cost of the project. These are all considerable; up to 200 employees are working on some of these projects within SA Health. We need to keep these particular employees, if we can, because some of the key people are now leaving or have resigned and do not want to continue to be associated with what they see as the mismanagement of the project.

I am told also, if I can give some examples, that one of the reasons for EPAS being introduced is to get rid of some of what are called legacy systems. There are many of those, but I will give two examples: HoMER and CHIRON—two legacy systems which were meant to be removed to allow EPAS to come in and supposedly provide a more efficient service. Because this project for EPAS was meant to have been concluded by 30 June 2014, what is happening is that the very earliest that even the minister is now conceding it will be rolled out will be late 2015, so a 12 to 18-month delay. I am told that that is the best possible case. The worse possible case is that this project might be delayed until late 2016 or early 2017, which would be a delay of some 2½, possibly three, years. That is the worst possible case. If it is somewhere in between the best and the worst, we are looking at a blowout in delay of around two to 2½ years or so. At $3 million a month in terms of burn costs, you can do the sums.

The vendors of these legacy systems know that they are being replaced and they now have SA Health over a barrel because they are saying, 'You're getting rid of us, and you said you'd get rid of us by June of next year—we're no longer going to service our particular legacy systems within SA Health.' They are saying, 'Well, now you're coming to us and saying that, because of your incompetence, you want us to continue to provide a service for another 12 or 18 months or two

years,' and they then have the department, the government and the taxpayers over a barrel. They say, 'Look, we'll do it, but here's our price,' and they are now talking extraordinary increases in prices just to maintain the existing legacy systems which were meant to have been removed by June next year when EPAS would come in and replace them.

It is these sorts of extra costs (at this stage I do not have a number on those extra costs—it has not been provided to me and I am not sure whether it has been calculated yet) which minister Snelling is saying, in essence by his actions, that he could not give a continental about. He is seeking to delay the exposure of these problems until after the March election next year. He is delaying the roll-out, incurring the costs and, if he is not there in March 2014, it will not be his problem but the problem of a newly elected government and some new health minister who will have to manage the mess he will have left.

The other issue in terms of costs, I am told, is that the costs of EPAS are predicated on the local area health networks making significant savings in staffing, as well as removal of their legacy systems. Given the delays, I am told that some of the local area health networks are saying to the minister and the chief executive, 'With the savings that were in the original business case, all of them are no longer available because we have already made savings in some of those areas; that is, a particular person might have been working on an IT project, but that person was also working on something else and we have removed that person to achieve another saving that the government wanted us to achieve, and therefore that person is no longer available in terms of a business case offset for the costs of the EPAS project.'

There is an almighty stoush going on at the moment at the EPAS Project Board between the chief executive of SA Health and the managers of the area health networks in terms of trying to ensure the delivery of the assumed savings within the area health networks to offset the costs of EPAS. What we also have with EPAS at the moment is a massive legal dispute. We have lawyers at 40 paces between the government and SA Health and the vendor in relation to EPAS which is a company called Allscripts. The government has taken action saying, 'Okay, we're blaming you for the delay and we're therefore seeking millions of dollars from you towards the increased costs of the project.' I am advised that Allscripts has said, 'Well, hold on: we are blaming you for the delay and we don't accept responsibility,' and they are talking about a counterclaim of millions of dollars against SA Health—because it is blaming them.

For those members in this chamber who sit with me on the desalination select committee, I remind you that this sounds very similar to the lawyers at 40 paces between SA Water and the consortium who are building the contract. There was the government saying, 'There were delays and you owe us millions of dollars.' The consortium came back and said, 'Hold on, we are counterclaiming millions of dollars against you.' Of course, what happened there—and I guess we will discuss that at another committee—was that, in the end, the government did not get the money, as we all know. The government ended up paying tens of millions in incentive payments and did not impose any penalties at all.

The record of this government taking on big multinational corporations, companies or consortia in terms of legal disputes has not been an encouraging one. Again, whoever is elected after March 2014 I suspect is going to inherit this mess of lawyers at 40 paces with multimillion dollar claims against each other in relation to who is to blame for the delays in the rollout of EPAS.

Related to this issue—and the minister has had to concede this today; we had a question asked in the House of Assembly—is that some time ago now a senior executive of SA Health felt so strongly about this particular issue that that senior executive wrote a strongly-worded letter of concern and complaint to the state's Auditor-General about the way a $90 million federal grant to the state of South Australia had been handled, a grant which was intended for IT and EPAS.

Those sorts of decisions are not taken lightly by senior executives within government departments and agencies. You do not do those sorts of things if you are trying to win friends and influence people within government. Clearly, you only do those sorts of things, I would imagine, when you feel frustrated and angry at the way departments and ministers have been managing money on behalf of taxpayers, managing the processes and responding to concerns and complaints being raised, that any senior executive would take the decision to write separately to the Auditor-General to raise those concerns.

One of the many sources that has assisted me in putting this together today has information in relation to the audit function within the Auditor-General's office and certainly has confirmed, prior to us asking the question of the minister, that, indeed, a complaint had been

lodged. Again, I am informed today that the minister has acknowledged that he is aware that a complaint had been lodged by a senior executive some time ago in his own department in relation to the government and the department's handling of this $90 million federal grant on these issues. That is the EPAS project.

The second project I want to talk about is the Oracle project. There has been a lot of debate about this, so I will not go into as much detail, but if I can just summarise the problems in relation to Oracle. Here is an IT project which was originally budgeted to cost just over $20 million which ended up costing the budget over $60 million—a $40 million blowout in the budget cost of the Oracle project. That was a combination of both a blowout in the cost and the nonachievement of savings that were meant to be achieved by the introduction of Oracle.

That is a very similar story to that which is unfolding in relation to EPAS—a blowout in the cost, but what looks like being a very significant nonachievement of the savings that were meant to be achieved by the introduction of EPAS. How can you have a $40 million blowout in budget costs on a $20 million project? Only ministers like minister Snelling and minister Hill and governments like the Jay Weatherill Labor government could manage to achieve that sort of a blowout on a $20 million budget cost.

It did not end there, of course. The government then had to spend almost $1.7 million to pay consultants PKF to help fix some of the problems. Remember the problems of unreconciled accounts a year or so ago. The taxpayers had to put their hand in their pocket to the tune of $1.7 million for the consultants to come in and help fix those particular problems.

Disturbingly, again from a separate leak from within SA Health which was the subject of a release a bit over a month ago, we highlighted what would be the reported accounts payable performance by SA Health compared to all other government departments and agencies. Even with this massive new IT system, SA Health's performance remained in 2012-13 appalling compared to most other government departments and agencies. Many of the other government departments and agencies were paying well over 90 per cent of their accounts on time. On recollection, I think the equivalent figure in SA Health was about 70 per cent were being paid on time, even with this very expensive new system which had been implemented. That is enough said on Oracle because that has been spoken about at length, and I just summarise that as a second example of the problems in health.

The third category of issues I want to raise this afternoon relate to significant probity issues. I am still receiving information on this, so I will seek leave to conclude my remarks in two weeks. Suffice to say that in three separate projects—one in relation to a tender process for desktop services, one in relation to the ESMI project (Enterprise System for Medical Imaging) and one in relation to the EPLIS project (Enterprise Pathology Laboratory Information System); they are not catchy titles but, nevertheless, they are the ones that SA Health uses—I have received significant complaints from persons associated with those particular projects about probity issues, and I want to briefly place on the record the complaints. I have significantly more detail which, if there is no progress from the minister in the next couple of weeks, I will place on the record at that particular time.

The first complaint about probity relates to a recent tender for desktop services. I am advised—and I must admit I was amazed that SA Health has 30,000 desktops or laptops—that about every nine months or so they go out to what they call an RFQ (request for quotation), so there is a constant process of going out to tender, or an RFQ, within SA Health. This is an ongoing issue in terms of managing the replacement of these 30,000 desktops, laptops and peripherals which are associated with these particular pieces of equipment. As recently as about August this year, I think, the latest one of those processes was concluded. At this stage I will not name the successful tenderer, but a tenderer was successful in relation to the procurement task for desktop services.

The specific probity or conflict of interest complaint that has been raised with me—and bear in mind, as I said, that this happens every nine months or so—is that because an employee in the position of manager of Desktop Refresh was going on maternity leave, for some reason SA Health just employed, on a short-term, six-month contract, an employee from one of the successful tendering companies to manage procuring tasks for desktop services within SA Health.

So here is one of the successful companies, which, on a nine-month basis has to tender against other companies for very significant contracts, and, when an SA Health employee goes on maternity leave, SA Health employs a consultant from that particular company on a six-month

contract. I am told that SA Health is paying that company $90,000 every three months, or $360,000 a year, for the services of this particular person in their function of managing Desktop Refresh.

The concern that has been raised, not just with me but also with senior managers in SA Health, is that this particular person will have access to very sensitive competitor pricing information within SA Health as well as other commercially sensitive information about the structure and nature of the tenders from competitor companies. It is claimed to me that this person will have, for whatever period—three months or six months, or however long they are within SA Health—access to this very sensitive pricing information.

It is not just pricing but also other commercially sensitive information in relation to the management of the RFQ process, the tender process, and other processes and procedures within SA Health. When that person returns to their particular company, they will return armed with that information, which obviously places them in a very advantageous position.

Obviously there are significant concerns from other tenderers within the industry about this set of circumstances. There is also concern within SA Health about the way this has been handled, and about how the perceptions of conflict of interest and probity issues have been handled. Those issues have been raised, but at this stage it would appear that nothing has occurred as a result. That is the first of the probity concerns.

The second relates to the ESMI project, or the Enterprise System for Medical Imaging project. Again, I have much more information, but at this stage I will not mention companies or individuals. Clearly, the minister and the department would be well aware of the concerns because there has been a probity complaint raised with Ms Kate Phillips, who is the Probity Director of the ESMI project—and not just in relation to this issue. One of the specific concerns that has been raised is that a consultant or a contractor working for SA Health on that ESMI bid was a close personal friend of a senior executive in the company that was ultimately successful.

Secondly, the claim that has been made to me is that the closeness of that relationship between the consultant or contractor working for SA Health on that project and the senior executive of this particular company is evident in a series of text messages between not only those two people but at least three other people who were involved or associated with the tender process.

Concern is being raised in industry circles and elsewhere and also within SA Health in terms of probity issues that have been raised, I understand, not just in relation to that issue but also other probity issues that have been raised with the probity director, Ms Kate Phillips, in relation to that particular project. As I have said, I have significantly more information, including the names of the companies and individuals, but I am choosing not to put them on the public record at this stage.

Similarly, in relation to the EPAS project, I am told again that a probity complaint has been lodged with the probity director for this project, who is again Ms Kate Phillips, in relation to some significant probity concerns with the management of the EPAS project within Health. Again, I have significantly more details, including names of the companies and individuals concerned, but at this stage I will not put those on the record.

I raised both of those issues in a general nature with Mr David Swan and other senior executives in the Budget and Finance Committee some two or maybe three months ago, and there has been no response from those executives. We are in the last two weeks of parliament, and clearly a waiting game is being played by the minister and SA Health in relation to these issues.

I have had the questions asked now of the minister today, and he indicates the Sergeant Schultz defence: 'I know nothing.' That seems extraordinary because he has officers who attend the Budget and Finance Committee. I would not say that he has loyal members of the backbench on the committee, but he has a couple of members of the backbench on the committee, one from his faction and one not. You would think that the loyal one, the one from his faction, might tell him, 'Hey, you'd better have a look at this,' but I would not expect Mr Maher to do it.

These issues were raised in the Budget and Finance Committee, yet the minister, some two or three months later, in the house says that he knows nothing about it. Whether it is that he puts his hands over his ears and his eyes, and he does not want to see anything or hear anything until March 2014, but it seems extraordinary that he has his chief executive and his own backbench members, and government staff members sit in the audience of the Budget and Finance Committee, yet he stands up in the house and says that he knows nothing about these issues. I am hoping that, in the next two weeks, we might be able to flush out the minister or the chief executive

to indicate what the government is doing about some of the probity complaints that have been raised about these issues.

In wrapping up the probity issues, let us bear in mind that Ms Kate Phillips, who is the probity director, already has access to lawyers, I am told, to provide advice to her on the probity issues. I am told that the chief executive, Mr David Swan, is so concerned about the probity issues in the department being raised in the Budget and Finance Committee and now obviously in the parliament that, in the last few weeks, he has appointed his own lawyer to act as his own adviser on probity issues within SA Health.

I am told that Mr Geoff Kendall has been appointed by the chief executive to that particular position. I am also told that the chief executive has, in the nicest possible way, I am told, tried to read the riot act to his officers within the department, indicating that if his butt is going to be on the line in Budget and Finance and other fora, he intends to take the particular officers who are managing these projects with him in the future so that they can answer some of the questions that are being put in relation to probity issues.

As I said, there is much more information in relation to this, because this is a multimillion dollar disaster area. As I said, we are looking at blowouts of tens of millions of dollars, and possibly hundreds of millions of dollars eventually, and there are very significant probity issues that we are confronting. I am hopeful, as I said, that in the next two weeks of parliament we can flush the minister out to answer some of these questions; if not, when I conclude my remarks, I will put on the record further detail in relation to some of these concerns. I seek leave to conclude my remarks.

Leave granted; debate adjourned.

RETAIL AND COMMERCIAL LEASES (MISCELLANEOUS) AMENDMENT BILL

The Hon. J.A. DARLEY (17:57): Obtained leave and introduced a bill for an act to amend the Retail and Commercial Leases Act 1995. Read a first time.

The Hon. J.A. DARLEY (17:58): I move:

That this bill be now read a second time.

The proposed bill was first drafted in 2010, and there is no question that it has been the subject of some long and ongoing discussions since then. To her credit, the minister responsible for this portfolio at the time agreed to consider my bill. Unfortunately, soon after negotiations began, minister Gago was moved on to a new portfolio and so the discussions had to start all over again with a new minister, this time minister Koutsantonis.

Unfortunately, some time later, he too was moved on from his portfolio and I was back to square one with the current minister, Tom Kenyon. This matter certainly did not benefit from the fact that there have been three changes of ministers since September 2010. Nevertheless, I am pleased to say that minister Kenyon has been giving some long overdue consideration to this matter and I certainly hope that this will translate to support for the bill.

For the benefit of all honourable members and by way of background, on 14 November 2010 I moved a motion to disallow regulations under the Retail and Commercial Leases Act as gazetted on 26 August and tabled on 14 September. The changes took effect from 4 April 2011. Prior to the regulatory changes, the Retail and Commercial Leases Act explicitly prevented lessors from passing on land tax to their tenants, except in instances where the rent payable under the lease exceeded $250,000 or, if a greater amount was prescribed by regulation, that other amount.

If the rent payable under a lease exceeded $250,000 then the land tax payable for the premises could be passed on to the lessee. The effect of the variation under the regulations was to increase the rent threshold from $250,000 to $400,000. That is an overnight increase of $150,000. As a result, lessors who had previously been able to pass on land tax under existing lease arrangements with a rental over $250,000 but under $400,000 were no longer able to do so, at least not in an open and transparent manner.

The variation brought with it many unresolved issues. In fact, it resulted in more questions than it did answers. For instance, it was the government's intention that the variation would only relate to leases entered into on and from 4 April 2011, yet this was not reflected in the regulations. The regulations also failed to address whether the prescribed rent threshold was inclusive or exclusive of GST. There was no clear guidance in relation to what would constitute a new lease.

There was uncertainty as to whether a lease renewal would constitute a continuing lease or a new lease. There was uncertainty as to whether a lease that operated prior to 4 April and required payment of annual rent in excess of $250,000 would be captured by the variation. There was uncertainty as to whether a lease which was captured by the act on its commencement date could cease to be governed by the act during the term of the lease because it exceeded the rent threshold.

Similarly, there was uncertainty as to whether a lease which was not governed by the act on the lease commencement date could later become governed by the act due to a change in circumstances. There were no transitional provisions regarding the implementation date at all. It is for these reasons that I tried to have the regulations disallowed at the time that they were introduced, but even that would have potentially created difficulties in that it would have impacted leases entered into in the interim period.

The variation inevitably resulted in a court challenge dealing with some of the very questions that we were raising at the time of the change. In the landmark case of WST Pty Ltd v GRE Pty Ltd & Ors the Full Court of the Supreme Court considered whether the lessee of the Buffalo Motor Inn was liable to pay to the lessor land tax assessed against the lessor from 22 May 2011 and for the remainder of the 10-year term of the lease and any renewal thereof. In that case the plaintiff had entered into the lease in 2006 (prior to the variation) for a period of 10 years, with a right of renewal for a further 10-year period.

Counsel for the plaintiff argued that the legislative scheme should not have been construed in such a way that would erode or take away the accrued or vested right that the lessor obtained at the time of entering the lease. In effect, they argued that the land tax should continue to be payable despite the increase in threshold. The court rejected this argument. It held that the lessee was not liable to pay the land tax claim by the lessor because at all relevant times the lease was and remained a retail shop lease to which the Retail and Commercial Leases Act applied.

In answer to the question of whether the lessee was liable to pay land tax to the lessor from 22 May and for the remainder of the 10-year term of the lease and any renewal, the court found that the answer depended on the amount of rent payable during any particular period and the relevant threshold as fixed by section 4(2)(a) of the act and the accompanying regulations. If at any time the annual rent exceeded the then applicable threshold, the lessee would be liable to pay land tax assessed on the land. That meant that, in the event the annual rent payable under the lease in question exceeded the $400,000 threshold, the lessee would be liable to pay land tax.

The decision was regarded as a significant win for lessees, particularly as it provided a protection under the act to all lessees with an annual rent of less than $400,000, regardless of when the lease was executed. However, according to some legal commentators, there remains a great level of uncertainty because the court did not consider all the questions that I referred to earlier.

Turning now to the bill itself, I am proposing that we do away with thresholds altogether in so far as they relate to land tax liabilities and instead allow retail shop leases to pay the amount of land tax that would be payable based on what is known as a single holding rate. Where the shop in question is the only premises owned by the landlord, the single holding rate is an amount equal to the amount of land tax payable in relation to the shop.

Where the landlord owns more than one premises, the amount to be paid will be an amount equal to the amount that would be payable were the shop the only land owned by the landlord; that is, it will not be based on the aggregated taxable value of all of the landlord's premises. This is intended to ensure that tenants are not footing the bill for more than they have to.

The bill also contains transitional provisions which make it clear that the legislative changes would not apply to leases entered into before the commencement of any relevant provisions. It is important to bear in mind—and I know this has certainly been raised with me—that this is a cost neutral proposal in terms of any revenue impact. In practice, RevenueSA will calculate the total tax payable for the premises in question and it will be the owner's responsibility to apportion the tax to the appropriate tenancy. Details concerning apportionment for each tenancy are available on request from the Valuer-General. This is not a new concept; it is a service that the Valuer-General's office has been providing since 1979.

I would urge the government and the opposition to give serious consideration to the bill. There is not a landlord in the state who is not in one way or another passing on land tax indirectly to their tenants. The reality is that, rather than creating a more open and transparent system, the

increased threshold has forced more landlords to pass land tax liabilities on to tenants as rental increases. This does nothing to help people who are trying to run a business. They need to know what their true outgoings are so they can make sound business decisions. This bill is about ensuring that all cards are laid on the table and that the costs associated with running a business are presented in an open and transparent manner.

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

[Sitting suspended from 18:09 to 19:47]

ELECTORAL (PREFERENTIAL VOTING REFORM) AMENDMENT BILL

The Hon. J.A. DARLEY (19:48): Obtained leave and introduced a bill for an act to amend the Electoral Act 1985. Read a first time.

The Hon. J.A. DARLEY (19:49): I move:

That this bill be now read a second time.

This bill is designed to introduce an optional preferential voting model in South Australia. It is in many respects similar to the bill introduced by the Hon. Mark Parnell a couple of weeks ago. I commend the Hon. Mark Parnell for the work he has done on this issue, but I think if we are going to have optional preferential voting then it ought to be full optional preferential voting which applies both above and below the line on the ballot paper. That is the main difference between the Hon. Mark Parnell's bill and the bill that I am proposing.

I should point out at this stage that, given the Hon. Mark Parnell intends to bring this bill to a vote today, I will be moving amendments to his bill that are in line with my proposal. In short, this bill would allow a voter to indicate his or her preference for as many or as few candidates as he or she wishes both above and below the line on the ballot paper.

If a person chooses to complete only one box above the line, then any surplus votes will be distributed according to the preferences indicated by the party or group. If a person chooses to complete more than one box above the line, then any surplus votes will be distributed according to the order that they, as voter, have indicated. The same would apply for below the line votes. A person may, for instance, want to indicate their preference for two, three or even 10 candidates and that would be perfectly acceptable.

The bill also contains a number of additional provisions aimed at reducing the rate of informal votes. The benefit of this model is simple: it removes the ability for parties to concoct backroom deals in exchange for preferences and puts voters directly in control of how their preferences are distributed. Importantly, it does so without requiring them to complete all the boxes below the line. As candidates from a group or party are either elected or excluded from the count, a person's vote becomes exhausted: that is, it will no longer be able to be transferred to other candidates (whether they be Independents or from political parties or groups) based on preference deals. This will result in a reduction in the number of microparties who set up purely on the basis of favourable preference deals.

As the Hon. Mark Parnell discussed in relation to his bill, the results of this year's Senate election have left many Australian voters in utter disbelief. As we all know, the most obvious example of the impact that backroom preference deals can have involves the election of Ricky Muir of the Australian Motoring Enthusiast Party, who was elected to the Senate, ahead of Liberal senator Kroger, as a representative for Victoria with just 0.051 per cent of the primary vote.

An article printed in *The Australian* last month illustrates how, courtesy of preference deals negotiated on the advice of political consultant Glen Dreury, Mr Muir managed to get over the line having received only 17,083 first preference votes, a tiny proportion of the 483,076 quota required. According to the article, Mr Muir's first big gain came from the Fishing and Lifestyle Party's elimination, giving him 97 per cent of its 16,404 votes and taking him from 15th to 11th spot, resulting in candidates from the Katter, HEMP and Shooters and Fishers parties being eliminated before the Australian Motoring Enthusiast Party.

Mr Muir then got 88.1 per cent of HEMP's 21,679 votes, taking him to seventh, past the Animal Justice, WikiLeaks and Rise Up Australia candidates. He then got 94.8 per cent of the Shooters and Fishers' 29,009 votes, moving him to fifth spot, followed by 71.3 per cent from Family First's 70,379 votes, which moved him to third spot.

After the Greens' Janet Rice secured fifth spot, Mr Muir received 97.7 per cent of the Palmer party's 165,092 votes, and 86.6 per cent of the Sex Party's 202,741 votes to reach the quota ahead of senator Kroger, who received 388,178 votes after receiving surplus votes from the two Liberals elected earlier in the count. These are rather astonishing results.

The election for Western Australia's senators also demonstrates the effect preference deals can have, with the initial count showing a result of Zhenya Dio Wang for Palmer United and Louise Pratt for Labor being elected. However, after a recount, Wayne Dropulich for the Australian Sports Party and Scott Ludlam for the Greens have been officially announced as the successful candidates, despite the fact that nearly 1,400 ballot papers were declared missing at some stage between the first count and the recount. The recount was prompted by the extremely close result which, at one point, had the distribution of preferences turning on a margin of just 14 votes.

The case of the missing ballot papers has obviously complicated matters in Western Australia, with the matter looking as though it is headed towards a High Court challenge. As we know, preferences are not always directed to where the voters think, or sometimes even assume, they may go. For example, in Western Australia the Australian Independents' preferences went to the Shooters and Fishers, yet only 17 people who voted below the line mirrored this preference. Similarly, Family First's preferences went to the Sports Party before the Australian Christians.

In the election for Tasmanian senators, Jacqui Lambie from the Palmer United Party, widely known for being pro mining, was elected largely due to preferences from Labor and the Greens. It is not only voters who make assumptions about preferences. The Australian Democrats, Sex Party and Liberal Democrats were widely anticipated to do quite well in the election due to the preference deals struck before the election. However, it was anticipated that voters would take matters into their own hands and vote below the line, which negated the preference deals.

The distribution of preferences in South Australia also provides interesting reading, with the Palmer United Party, again pro mining, assisting the Greens and the Greens, together with the Help End Marijuana Prohibition Party, assisting Family First. In terms of primary votes, Family First and the Greens candidates were successful in gaining seats with 0.26 and 0.49 of a quota respectively, while Labor and the Nick Xenophon Group candidates were unsuccessful with 0.58 and 0.74 of a quota respectively.

These are the facts of how the current system operates. Yet, there is no question that some of these results have left many Australian people scratching their heads and questioning how it is that our electoral system can allow these results to occur. I am extremely mindful of the fact that many people will argue that it was preference deals that enabled my predecessor, Nick Xenophon, to enter parliament back in 1997, but I think we all appreciate that the issue of backroom preference deals or preference harvesting was not as prevalent then. There certainly were not the same sorts of numbers of microparties setting themselves up at the time and ballot papers were certainly not growing to the length of a tablecloth. I think we just have to accept that it is time to move on.

This brings me to the feedback I have received from the government and the opposition regarding the implementation of an optional preferential voting scheme prior to the March election. The Electoral Commissioner has indicated that, in her view, it would be virtually impossible to achieve this end in the time frame available. I think the Hon. Mark Parnell would agree with me in saying that this is simply not the case. As alluded to by the honourable member, we are not proposing sweeping reforms that have not been contemplated in the past, nor are we talking about issues that cannot be overcome.

In closing, there is certainly an appetite for change, not only in this jurisdiction but across Australia and I would urge honourable members to give serious consideration to this matter. I am more than happy to work with honourable members to come up with an appropriate solution in the time frame available. Let us not place this issue in the too-hard basket. South Australian voters deserve better than that. With that, I commend the bill to the council.

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

ELECTORAL (OPTIONAL PREFERENTIAL VOTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 October 2013.)

The Hon. S.G. WADE (20:00): I rise to speak on the Electoral (Optional Preferential Voting) Amendment Bill 2013. On 16 October, the bill was introduced into this council by the Hon. Mark Parnell. I stress to the members of this house that that is less than a month ago. What consideration has been given to the bill? We have had talkback discussions; we have had a CEDA workshop. In fact, come to think of it, I think this CEDA workshop might have actually been before the tabling of this bill.

I am not aware of any committee consideration. There have been no briefings or discussions about what seems to be a scepticism expressed by the Hon. Mark Parnell and the Hon. John Darley in relation to the practical logistics of its implementation. I just stress at the very start of my contribution that we are talking about significant reform with less than a month's consideration in this council.

Even the most basic bill in this place usually sits for months. Some of the legislation that the Hon. Mark Parnell is asking us to debate tonight has been on the *Notice Paper* for the best part of a year, and yet, here we are, entrusted not only with the laws of this state but also to be custodians of the democratic processes of this state. We are rushing through this bill with half-baked consideration.

The bill proposes a form of optional preferential voting in the Legislative Council and the Legislative Council only. I know there are members of the Labor Party who are keen to introduce optional preferential voting to the House of Assembly and we as the Liberal Party would be happy to have those discussions with them. In fact, I think it is audacious that John Rau says, 'It's good enough for you; it's not good enough for us.'

The point is that this bill only applies to the Legislative Council. It would only apply above the line and would still require full preferential voting below the line. Again, surely if we had had proper consideration, we would be saying, 'Well, why should you be able to have a choice above the line and not below the line? If choice is valuable, then it should be in both places.'

The bill would make it optional for a group or party that nominates groups together under section 58 of the act to have an above the line group voting square. In other words, rather than this occurring by default, it would be on request. I have never heard it suggested that it should be on request. Where did that come from? What is the justification for that? Again, we have not had a proper consideration. The bill has not even been with us for a month, and yet the honourable member suggests that he wants it to go through all stages tonight.

The Legislative Council groups would no longer be able to lodge a voting ticket under section 63, meaning that voters who only nominated a 1 above the line would only be expressing a preference for the groups they nominate, firstly, in order of the candidates listed for that group and then for subsequent groups in order of the candidate listing.

I know the Hon. Mark Parnell and the Attorney-General have tried to calm nervous folk by suggesting that this is nothing novel, that this is what happens in New South Wales. Well, it does not. In New South Wales, you cannot do intergroup transfers. What is the impact of intergroup transfers? We cannot have the New South Wales software off-the-shelf, as the Hon. Mark Parnell has been known to say publicly, because New South Wales does not have intergroup transfers.

Moving on, by removing the option for candidates to submit voting tickets, it also means that candidates are not able to lodge split tickets directing their preferences between two different candidates or groups, such as the Xenophon group and the Democrats have done previously for the major parties, and I seem to remember the Hon. Mark Parnell advocating split tickets in an earlier bill this year. Again there has been no discussion as to the pros and cons—the cost, really—of removing the opportunity for split tickets.

I stress again: this bill has only been in this place for less than a month, and yet we are going to ditch well-entrenched reforms, a well-accepted voting system, the voting system that is the most similar to the Australian Senate of any state in Australia. I for one, as a democrat, do not believe that we should minimise the chance for formality. The worst thing that we can do for a voter is to make the electoral system a trap, to lead them into the ballot box and think they are casting a valid vote and they do not.

Informality has been a constant problem in this country and in this state, and yet here we are next March, with next to no time for the Electoral Commissioner to implement the system, let alone to educate the electors about this change in the system. This bill, proposed by a party that suggests that it is a democratic bill, could actually disenfranchise thousands of South Australian

voters, people who just do not get it. What they will get is a very different voting process from what they have got now.

It is not as though we are saying to them, 'Above and below the line you have got choice, go as far or as little as you like.' What we are going to tell them is, 'You can have your choice up above, but make sure you fill in every square below the line.' It is not even a fair dinkum reform: it is half baked. Again, it goes back to the point: why the inconsistency? If optional preferential voting is such a virtue then have it above and below the line.

Let's move to electoral administration. A fully preferential ballot with ticket voting has resulted in about 96.8 per cent of voters voting above the line for a registered group. At the 2010 election, with 23 groups with registered tickets, the Electoral Commission could fully distribute 96.8 per cent of the votes by following preregistered voting tickets; that is 926,287 votes. With this simple change—so-called simple—proposed by the Hon. Mark Parnell tonight, he will turn that simple task of sticking those numbers into the computer to a manual count for every single vote, because every voter will have the option of going optional. For the 96.8 per cent who go above the line, even if they still place a 1 in the box, the Electoral Commission will have to manually enter each one—926,287 votes. A much smaller number—3.2 per cent—voted below the line and, of course, each of these had to be individually scanned and entered.

The Hon. Mark Parnell is not going to save us any time there; that will be full preferential. Again, it is a big informality risk. I will probably get the figure wrong, but my understanding is that one out of four people who try to vote below the line fail. What the Hon. Mark Parnell's bill proposes to do is to add to those thousands of votes, which would probably be, if that figure is correct, about 8,000 people who are informal below the line. He wants to add tens of thousands above the line, because in a half-baked, rushed reform he wants the people of South Australia to have to face the March election with a voting reform which the commission itself does not believe it will be able to achieve, let alone properly educate the electorate. If an optional preferential voting system was used, all of the ballots, as I said, would have to be individually entered.

So that I cannot be accused of misrepresenting the Electoral Commissioner or scaremongering, I am going to read on to the record a letter that I have received from the Electoral Commissioner in relation to this bill. Let me remind honourable members before I do that that, a matter of two months ago, I was suggesting a fairly simple reform; that is, if the government wanted to do what it wanted to do, which was to ban political parties distributing postal vote applications, and if that was going to happen, the Electoral Commissioner should be required to distribute postal vote applications. And what did we have from the government members? We had outrage. 'How can the parliament dare to direct the Electoral Commissioner? It is outrageous; never been done before.' I did refer to the Electoral Act and I mentioned numerous places in it where the Electoral Commissioner had been directed; but what hypocrisy. The government expresses an interest in this bill and in the face of very clear advice from the Electoral Commissioner which I am about to read.

As is my practice, I send bills to relevant stakeholders at the earliest opportunity. The Hon. Mark Parnell's bill was tabled on 16 October. I wrote to the Electoral Commissioner on 22 October and asked for her views on this bill. Her letter back to me, dated 5 November, reads:

Dear Mr Wade

Thank you for your correspondence on 22 October 2013 seeking my views on the *Electoral (Optional Preferential Voting) Amendment Bill 2013* introduced by the Hon. Mark Parnell, MLC. I provide the following comments from an operational perspective and begin by saying that I have significant concerns with substantial legislative change this late in the election cycle.

Method of Voting

The Bill provides for a mixture of Optional Preferential Voting (OPV) with multiple preferences possible above the line and proportional representation below the line. I am concerned that with limited time for debate, this Bill will fail to make all the necessary changes to the provisions of Part 10 of the Electoral Act (the Act) which refer to the scrutiny. The legislation must be clear on how to treat ballot papers in all situations that may arise.

Formality

I have concerns that there are no formality provisions included in the Bill. All robust electoral systems incorporate rules of formality to conform with best practice to provide electoral officials, scrutineers and the Courts with clear guidelines when considering ballot papers. Having read the Bill, I presume that repeated numbers (eg 1, 2, 2) would be considered formal for the first preference and would then exhaust. Similarly, where there are non-consecutive numbers used (eg 1, 3, 4) the first preference will be formal and then the ballot paper would exhaust. This must be expressed in the legislation to provide clear guidance.

The Bill proposes to delete section 92 of the Act and substitutes provisions relating to OPV. There is no reference as to how to determine ballot papers which are marked both above and below the line. I am of the view that the formality and scrutiny provisions need more attention to ensure the system is robust and incorporates all the relevant aspects.

Computer Counting

The count software we use for the Legislative Council ballot papers is owned by the Australian Electoral Commission (AEC). ECSA has a license agreement to use the software but changes would need to be effected by the AEC as they own the intellectual property. The current version of the count software has been accredited by the Australian National Audit Office (ANAO). This satisfies the requirements of section 96B(3) of the Act and I have therefore approved the use of software in previous elections.

A key element of electoral administration is that any computer count programs used are fully audited and tested to ensure that it would produce the same results as it would if the count was conducted manually.

The timing of this proposed legislative change (November 2013) would not allow a proper audit of any changes to the count software to happen prior to the State Election in March 2014. The AEC have confirmed that there would be considerable changes to coding required and it would take some months for the ANAO to certify the system.

As Electoral Commissioner, I would not be comfortable using a system that did not comply with best practice. If a full audit and testing regime is not conducted on any count software, I would not approve it for use. In the absence of an approved program, the Act requires a reversion to a manual count. Any manual count would significantly delay the results for the Legislative Council and may be subject to a recount; unlike the use of an approved count program.

Whilst electoral legislation is often very similar across Australia, each jurisdiction has unique provisions. For this reason there is no 'off the shelf' model available and all systems must be programmed according to the specific provisions of the relevant legislation.

Community Awareness & Education

Proportional representation was introduced as the voting system for the Legislative Council in 1973 and first used at the 1975 election. Electors in South Australia have used this method for voting for 10 elections and this system is aligned with the method used for the Australian Senate. Given the changes proposed in the Bill, a substantial education campaign will be required to make electors aware of the changes and to provide information on making a formal vote.

I would need to realign the advertising campaign and strengthen the focus to account for the new voting provisions as there is a risk that with a reform of this nature close to the election, electors may be confused and the risk of disenfranchising electors is of grave concern to me.

Variation of the voting system would impact all permanent and election staff with the development, production and delivery of appropriate training systems and materials. This will come at a significant cost.

Furthermore, all those involved in the election process including party officials, candidates, and scrutineers will need to become familiar with the new requirements. From an operational perspective, ECSA can publish materials about the new provisions, however it would be up to the parties and candidates to ensure their scrutineers etc fully comprehend the changes. There is a risk of delayed results if the Returning Officer has to explain processes or if there are excessive challenges to ballot papers.

All ECSA advertising, information brochures, manuals for Returning Officers and polling officials have been developed ahead of the 15 March 2014 State election based on current requirements. Many of these have already been printed.

In addition, there are currently 17 translated versions of the Legislative Council count process underway for CALD electors.

I pause to indicate that CALD electors are culturally and linguistically diverse electors. The letter continues:

Translating materials takes considerable time to ensure that the translations are accurate.

Increased resources would be required to achieve these educational and community awareness activities.

Other matters

The Bill proposes to display how to vote cards by poster only which creates operational difficulties as there is limited capacity to display such a large poster in many of our polling places. The booklet for how to vote cards was introduced for operational reasons.

I have not had the opportunity to consult further with experienced electoral officials and there may be other operational impacts which I have not fully considered. As Electoral Commissioner, I have grave concerns for any significant change to our voting system when debate is frustrated by tight parliamentary sitting schedules.

ECSA is a small office and to incorporate such a significant change to operational proceedings will be in my view an unreasonable burden on staff, regardless of how many additional resources are provided.

The current experience in the federal arena is severely impacting on the professionalism of the electoral industry and hastily formed amendments are likely to create more risks of error which opens up the process to challenge in the Court of Disputed Returns.

Yours sincerely

K Mousley

Electoral Commissioner

The commissioner took the opportunity to provide a copy of that letter to the Hon. John Rau, Attorney-General, and the Hon. Mark Parnell. On the following day, I had the opportunity to be briefed by the Electoral Commissioner, and I took the opportunity to be clear on what she was saying. For example, her comments in relation to her need to approve a computer program raised issues for me in relation to what her intention was.

Let me remind members of the relevant provisions of the Electoral Act, namely, division 3, section 96B—Approval of computer program, subsection (1):

The Electoral Commissioner may approve a computer program to carry out steps involved in the scrutiny of votes in an election.

That is step 1, completely at the discretion of the Electoral Commissioner. No Attorney-General and no Greens member of the Legislative Council can force the commissioner to grant that approval. Section 96D(1) states:

An approved computer program may, if the Electoral Commissioner so determines, be used in the scrutiny of votes in an election.

'May'—completely at the discretion of an independent statutory officer who cannot be bullied by the Attorney-General, cannot be bullied by a Greens member of the Legislative Council.

So, faced with those statutory provisions, I asked the Electoral Commissioner what was her intention. The commissioner advised me that she does not consider that she has the time to develop, to test and to accredit any new computer program before the 2014 election and indicates that she would not approve a program or its use in the scrutiny of the 2014 election. Is that surprising? It is not. First, she does not even own the program. The program in a proprietary sense is owned by the Australian Electoral Commission.

The AEC has confirmed, according to the commissioner's letter, that considerable changes to the coding would be required and that it would take some months to certify. What is not explicit there, and was not clarified in the briefing, was whether AEC would even approve its software being recoded. I was advised by electoral officials at the briefing that the coding itself was a big task. To make a concession to the rabid reformers, there was advice that the issue was not the software, nor was the issue the hardware. If you like, the relevant software was as transportable as an Excel spreadsheet (that was not the word used, but that is the way I understand these things), but the issue was the coding.

Every system is different; there is not an identical OPV system around Australia to what is being proposed, so we have to code, and I am advised that that is what takes time. It takes time to code and it takes time to test. If we were changing the coding, changing our computer system from one system to another, we would actually be able to test it relatively easily because we would have the data from the last election, the primary votes, we could feed it into the system and, if it spurts out the other side and gives us the same answer as the last election result, we can be pretty confident it is working.

But what the Electoral Commissioner highlighted to me was that, with this, where is your benchmark? You have all this data: how do you test your codes? You put in all this data, and we have these vague counting rules but we do not even know where the double counted second preferences go. So, you have all these vague counting rules. If it passes in its it current state, goodness knows how they would code it.

Even if we did manage to have a properly considered bill, even if we did manage to give it more consideration than less than a month—let's say we actually gave them a bill that could actually work—they have to code it. We are told that that would take months, and then the testing would take months. According to the Electoral Commission. the accreditation by the ANAO would also take months.

Those who are urging that we adopt the OPV, half-baked or not, might be willing to run the risk of a dodgy election result: the Liberal Party is not. We have made it clear—and I reiterate

tonight—that we are open to OPV. We are open to look at any credible reform opportunity to strengthen our democracy. But can you imagine the damage we would do to our electoral system and our democracy if we went into an inconclusive result, if we forced the Electoral Commissioner to use computer software with which she did not feel comfortable? We could have humiliation akin to the pregnant chad affair in the United States. We could have the embarrassment of the events in Western Australia for the electoral administrators there.

So, I urge members, no matter how keen you are on OPV as a concept—and I assure you there are people in the Liberal Party party room who are rabid for OPV, but our party room is united in that what is more important is a system that does not fall over. What credibility would we have as a parliament if we rushed through this bill with less than a month's consideration?

The Electoral Commissioner has shown numerous concerns about the legislation and has said very clearly that she does not even believe she has been able to do due diligence on it. She specifically says that she has not had the opportunity to talk to other electoral officials about operational issues that they have experienced in relation to their systems. That is the sort of due diligence that you would expect a commissioner to do in terms of supporting a parliament in orderly reform. So, we are not sure about how it is going to work on the ground.

It is very clear that we would have real risks in introducing it in terms of a computer-based scrutiny. The advice from the Electoral Commissioner to me was that any optional preferential voting system or other scheme that would usually require computer counting could only be used at the 2014 election with a manual count. The reformers say, 'Great, we will go for a manual count.' Think again. We have 928,000 ballot papers to input—goodness knows how long that takes—and then we have to count them. The advice that I have from the Electoral Commissioner is that it would take four to eight weeks to count.

The practice of this parliament is that we usually convene within around a month of the election occurring—but that is not the end of it. With a manual count, unlike the computer system, you have an increased risk of error. With a computer-based count, my understanding is that every ballot paper is inputted twice. I will not test my maths by saying if you input 928,000 twice, how many is that; I imagine it is around 1.8 million—that is an awful lot, putting them in twice.

Let us remember, 96.8 per cent of them at this stage are one above the line. The Hon. Mark Parnell wants us to input all of them, and we would input them twice. But, in a manual count, you have got the same number of ballot papers that would need to be processed, and in a manual count, the advice of the Electoral Commissioner is that it significantly increases the risk of the need for a recount.

With a computer, you have inputted it twice, and if there is a discrepancy the computer itself alerts you to the problem. However, with a manual count, there is no computer screen flashing; you significantly increase the risk of a recount. It would take four to eight weeks for the count, and four to eight weeks for the recount. Are we serious? Are we thinking that the next parliament and the government that it chooses should be delayed by up to four months because this council wants to play with a toy?

We have had less than a month to consider one of the most dramatic reforms—sorry, one of the most significant: I will save 'dramatic' for the Saint-Laguë method; 'dramatic' is Saint-Laguë and this one is just—

Members interjecting:

The Hon. S.G. WADE: I have the call, thanks; you can have your turn in due time—I am certainly modest in calling it significant. Even the honourable member would surely call it significant. But in less than a month we are, allegedly, going to put through legislation that would introduce this reform half-baked. I must confess that I have suggested amendments to this council that would ask the Electoral Commissioner to do something: to send out an application for a postal vote to electors—shock of horrors.

What we have got is a government and honourable members who want to push this legislation through, and what they are basically saying is that the Electoral Commissioner is not—well, I will choose my words carefully, even though I am in the safety of parliament—that the Electoral Commissioner is not giving us facts that we can rely on; let me be as gentle as that. I do not believe that. I believe the Electoral Commissioner. With the benefit of a letter, and with the benefit of a conversation with both the Electoral Commissioner and her most senior officer, Mr Gully, I found them incredibly convincing.

Those members who want to rush this half-baked reform through the parliament, having been on the table for less than a month—if they want to say, 'No, no, no, no, I am sure that she was just gilding the lily,' I would ask them: on what basis? I have confidence because I have received a letter, I have analysed and I have sat down with the relevant officers and discussed it with them.

I personally am not willing to take the risk of a manual count. I am not willing to take the risk that the next parliament and the next government would have the first four months of its time taken away from it. After all, we only get four years. The Legislative Council might be happy for the House of Assembly to convene because they know their writs will be able to be returned. They will be able to convene and do a pile of bills for us. But what mockery of the parliamentary process if this bill was to be passed and we were willing to run the risk of a manual count and recount and a delay of up to four months.

Let's remember, we are not just accusing the Electoral Commissioner of gilding the lily if we pass this bill tonight. We are also accusing the Australian Electoral Commission of gilding the lily when it told us of the difficulties in terms of coding and certification and so forth. I certainly believe that one should test the advice—one should not take it blindly—but it is my considered view and that of my party that, on the best available advice, the only responsible approach is to save this reform, to talk about it in the next term of parliament and, if it stacks up, to do it.

One of the key benefits, in my view, of pausing and allowing time is to maintain harmony. In the Electoral (Miscellaneous) Amendment Bill that the government put to us earlier this year, one of the key elements was to increase harmonisation. On behalf of the President, it would be disorderly for me to recognise the Chief Magistrate in the gallery; I am trying to avoid being disorderly. Where was I?

The Hon. T.A. Franks: The Chief Magistrate.

The Hon. S.G. WADE: All due respect to the Chief Magistrate—

The PRESIDENT: You were about to wind up, I think.

The Hon. S.G. WADE: No, I can assure you I was not about to wind up. I might be about to wind up in terms of reiterating the points ever more strongly. The key point I am trying to make is that a manual count in 2014, with a significantly increased risk of a recount, is a risk that we cannot afford to take, not only for our electoral system, but also for our parliament and for our government.

In terms of community awareness, I would like to remind honourable members of that task. Honourable members might be willing to waste tens of thousands of votes by the clearly increased risk of informality, but let's remember what task they are putting on our most vulnerable members in the community. There has been a lot of work done to try to improve community awareness and education, and yet the advice that we have from the Electoral Commissioner is that, if we pass this bill, she has—and I will quote the whole paragraph:

> I would need to realign the advertising campaign and strengthen the focus to account for new voting provisions as there is a risk that, with a reform of this nature close to the election, electors may be confused and the risk of disenfranchising electors is of grave concern to me.

So, the Electoral Commissioner has grave concerns about disenfranchising electors. What she said to us is that she has already translated 17 versions of the Legislative Council process for culturally and linguistically diverse electors. Now, this can't be tweaked. This is not material where you can stick a label and change a spelling error. This is a significant change in the way the electoral system would run.

In an orderly preparation for a state election, it is not surprising that in the November/December before the election—we only have 120 or 130 days before the election—the Electoral Commissioner has already translated this material and she has already got it printed. So, what the honourable member and the government are proposing is that, not tomorrow but once the house has considered it in two or three weeks; time, with even less time available before the election, the Electoral Commissioner will have to set about translating 17 versions for culturally and linguistically diverse electors.

For those who are concerned that the Electoral Commissioner is gilding the lily, it is not just a matter of Google translating and popping it up on a photocopier; these documents need to be checked and double-checked. The fact of the matter is that with important government documents we need to have clear information readily accessible to all electors. For those of us who are as young as the Hon. Rob Lucas and I, we remember the by-election of Norwood—I think it was

in 1981—when a Liberal candidate used language to a culturally and linguistically diverse community which threw into question the whole election.

Considering that we have thousands of electors in South Australia, this bill proposes that with less than a month for consideration of the process, with at least two or three weeks yet before the parliament can finalise its considerations, we would then ask the commissioner to set about translating material for thousands of voters. This is not 17 voters who need this material: this is 17 translated versions for thousands of voters. The risk of a disputed election—let us remember that in the recent Western Australian Senate contest, one of the election steps on my understanding—it was only 14 voters separating it. So, without a properly considered set of materials, without a properly considered process, I think we significantly increase the risk of a Court of Disputed Returns in relation to an election for this house.

That is the aspect in relation to the culturally and linguistically diverse communities, but let us think about the electoral staff themselves. All ECSA advertising, information brochures, manuals for returning officers and polling officers have already been developed for the next election—again, not surprising: the Electoral Commissioner has had four years to prepare. You do not pass a bill in the dying days of a parliament. We have, what, four sitting days left? You do not pass a bill of significant electoral reform with four days left in the sitting period and expect the Electoral Commissioner to introduce it at the next election. You would have thought that a parliament might have actually put electoral legislation early in the process. If you cannot do it properly, do not rush. My view and the view of my party is that if we hastily put through reforms such as this, we will repent at our leisure.

The Electoral Commissioner has highlighted in that aspect merely the material needs; in other words, the stationery, the information brochures, the advertising, the manuals, if you like the support material, but let us consider the people. The Electoral Commissioner states:

> ECSA is a small office and to incorporate such a significant change to operational procedures will be in my view an unreasonable burden on staff, regardless of how many additional resources are provided.

As far as I know nobody has ever suggested that the Electoral Commission is over resourced. They are facing a general election for all 47 House of Assembly seats and for half of this house. They already have a big task in front of them, and we have people seriously suggesting that the Electoral Commissioner is gilding the lily and suggesting that she cannot get her staff to get heads down and significantly change the electoral system with slightly over 100 days to achieve it.

The Electoral Commissioner, if you like, takes a wider view. She does not just look at the material that she needs to produce for electors, the material she needs to produce for her officials: she also looks at the challenge for party officials. She states:

> ...all those involved in the election process including party officials, candidates and scrutineers will need to become familiar with the new requirements. From an operational perspective, ECSA can publish materials about the new provisions, however it would be up to the parties and candidates to ensure their scrutineers etc fully comprehend the changes.

With all due respect to those who believe that we can pass a bill which has been on the table for less than a month and implement it with just over 100 days, our party has thousands of volunteers who are actively involved in the campaign and we would rather have them out there engaging with constituents and persuading them of the benefits of voting for a Liberal government. However, what this bill would have us do is to take it to a volunteer-based organisation that would have to rapidly develop briefing materials and add to what is already a challenging task.

The Hon. John Darley has suggested that there are improvements that could be made to this bill. We have a series of amendments from the Hon. John Darley to the Hon. Mark Parnell's bill. It would not surprise me if, when we come to the committee stage of this bill—if the house is willing to take it to that stage—that we would be asked to consider not just a bill that has been sitting on this table for less than a month, but we are going to be asked to consider amendments that we have had for less than four hours.

With all due respect, I have not read a word of them. I have just read 'The Hon. John Darley MLC' and the date, which is yesterday's. My understanding is that they were not filed until a little while ago. I would like that clarified by the Clerk. I am not sure what status they have. I am not sure if they have been filed or not. I can assure the council that I have not seen them and certainly my party room has not considered them.

We are being asked to consider a bill that has been on the table for less than a month and three pages of amendments—goodness knows how significant they are. We already have

significant concerns with the Hon. Mark Parnell's bill—goodness knows what concerns we have about the Hon. John Darley's amendments. Yet I have indications that this council is interested in rushing this bill through tonight. I humbly suggest to this council that if we take our role seriously there is hardly a privilege that we hold more precious than the democratic rights of our electors. If we are serious about legislation of this significance—okay, it is not dramatic; it is certainly significant and offers significant risks to the next election—I would be very disappointed and I believe that this council would deserve significant criticism.

Optional preferential voting is an idea that is worth considering. It is not an idea that is worth sullying by rushing it through and giving it a bad name by an election that goes wrong. The Liberal Party has made it clear, and I state it again tonight: we are committed to positively engaging consideration of optional preferential voting for the Legislative Council in the next election. If the Labor Party is so keen about it we are happy to consider it for the House of Assembly as well. However, neither for that house nor this, do we believe it is appropriate to rush this legislation through tonight.

The Hon. G.A. KANDELAARS (20:43): I rise to speak on the Hon. Mark Parnell's Electoral (Optional Preferential Voting) Amendment Bill 2013 and put the government's view. The government, like many others, has the view that there is a need for some reform in this area. The Attorney-General introduced two bills this week in the House of Assembly that address this issue. The Hon. Mark Parnell's bill is another way to address this issue.

We acknowledge that there are real concerns expressed by the Electoral Commission about the ability to have in place prior to the election computer software needed to count the vote in the system suggested by the Hon. Mark Parnell. Today the government will be voting to allow discussion to continue. The government reserves its ultimate position on this bill today to keep the options alive and allow for further consideration and discussion between the houses. The government will not oppose this bill.

The Hon. K.L. VINCENT (20:45): I will speak this evening very briefly on behalf of Dignity for Disability to support the second reading of this bill. I will not rehash the issues that have led to the Hon. Mr Parnell moving this bill, for they are well known, nor some of the matters that have resulted in a flurry of activity from the Attorney-General in this space, and also the Hon. Mr Darley. We are certainly considering those members' suggestions very seriously as well.

Suffice to say, there has been a lot of discussion from major and micro political parties, media commentators, psephologists, political junkies, and academics since the 7 September general election. In fact, I was on the radio about this very issue just this morning. I think that even some of the general electorate have twigged that their own votes are ending up in bizarre locations as a result of preference deals done through clever wheeling and dealing by some new and not-so-new players on the political block.

I appreciate that the Hon. Mr Mark Parnell has been consistent in his attempts to reform voting systems in this place, but I would like to note at this point that I have received the Electoral Reform Society of South Australia's discussion paper of November this year and they feel that Mr Parnell's bill goes not nearly far enough and amounts to tinkering around the edges. I would also note that it is my understanding that the Hon. Mr Parnell himself would prefer a more comprehensive reform, but is aware that a state election is upon us and we have only a few sitting days left.

One question that I would like to ask of the mover of this bill at this point, similar to an issue that the Hon. Mr Wade just raised, is how will this work if it is implemented for the 2014 state election? I understand that the Electoral Commission of South Australia uses a particular type of licensed software based upon our current electoral set-up. How would the provisions in the bill be implemented in terms of the computer systems that we need to count votes?

I add that I have also received that correspondence from the commissioner and I thank the Hon. Mr Wade for forwarding that to my office. It certainly has provided food for thought. I would like to restart the debate by putting that question to the Hon. Mr Parnell to answer at a later time. With those comments, and broadly speaking, I commend the bill to the chamber.

The Hon. D.G.E. HOOD (20:48): I was not prepared for this level of debate. I had anticipated from the advice I got from the government that they would not be supporting this bill tonight, so I had not expected that we would be in the position that we are in. Nonetheless, I think it is appropriate that Family First have the opportunity to put a few thoughts on the record about this particular bill.

I state at the outset that Family First does not oppose the concept of optional preferential voting. Indeed, it is something that we would look at closely, and I must commend the Hon. Mr Wade on his impassioned speech. Essentially all the issues that I would raise in any retort of this bill I believe he has raised with the exception of one, and that is that not only does the Electoral Commissioner herself and her department find this impossible—I believe it would not be inappropriate to use that word—to implement in the time that we have remaining between now and the next state election, but no less an authority than Antony Green also agrees with her.

A number of members in this chamber were present at the CEDA luncheon a few weeks ago when he made quite a definite and impassioned position clear that he did not believe that it was possible for such a substantial change in the electoral system to be in place properly, appropriately and, might I say, prudently in time for the 2014 state election. When I consider people of the ilk of Antony Green, somebody who I think everybody in this chamber would respect, and somebody who I think everybody would regard as completely impartial—I think none of us would have a clue who he votes for and that is probably entirely appropriate—he made a clear case that day that, in his (I would say) learned opinion, it is not possible to appropriately implement the changes that have been proposed tonight in the time frame before us.

I say to my colleagues in the chamber—and I know that members move bills such as this with the right intentions, and I am not critical of the Hon. Mark Parnell for his intention—that I do believe that it is foolhardy of this chamber to support a bill which the Electoral Commissioner herself, Antony Green and, indeed, others—I heard Clem Macintyre on radio today—view as being impossible to be implemented in the time frame available to us. In fact, I am yet to hear of anyone, other than a politician with self-interest, claim that it is possible to implement what is being proposed tonight in an appropriate, methodical and careful way.

I would say to the chamber tonight that caution is appropriate when it comes to very substantial changes in the Electoral Act. I know the Hon. Mr Parnell has presented similar bills in the past and it is something that he has pursued for some time but, for whatever reasons, and I have discussed this with the Hon. Mark Parnell, either those bills have not come to a vote or, if they have, they have been defeated, but the truth is we are now facing a situation where this bill is likely to pass.

The government has changed its position in a very short time frame. I spoke to the Attorney-General on Monday night and I asked him a direct question: 'Will the government support the Hon. Mark Parnell's bill?' His answer to me was no. That was Monday night. Here we are Wednesday night—and it is roughly about the same time of the evening that I spoke to him, so roughly 48 hours—and we have seen a very substantial change in the government's position, despite the advice of the Electoral Commissioner, people like Antony Green and Clem Macintyre—if I am not misquoting (I do not believe I am, I heard him say it on the radio today). I do not think it is in the interests of this chamber to place at risk an election, where results were not clear, for example, or where they were disputed, or where there was a situation that created further undermining of trust in our current electoral system.

If that is a situation that members feel they can support, I am afraid I simply do not agree with them. I think it is a difficult situation that we would place the public in. There will be a lot of debate about this particular issue in the ensuing months and there will be a real situation where we face a level of confidence in the electoral system that just will not be present. People will wonder if what they are actually voting for is what they are going to see because there will be no confidence in the Electoral Commission's capacity to be able to produce, audit, monitor and declare the results as confidently as they would if there were either no change to the current system or very minor change.

There are many ways to skin a cat, if I can put it that way. The Hon. Mark Parnell has put forward one model tonight and I would say that this is not an unworthy model. This is a model that probably does deserve genuine debate but, frankly, two sitting weeks is not enough time for genuine debate on such a substantial issue. We are talking about the democracy of the great state of South Australia. I genuinely believe that this is something we should take slowly, carefully and methodically. As I said, there are many ways to skin a cat.

What gave impetus to this sort of rush to the line, if you like, about changing the electoral system was the federal election where we saw—and it has been mentioned in comments tonight—the Motoring Enthusiast Party in Victoria and the Sports Party in Western Australia (and the Western Australian result is not yet determined) appearing to get senators elected on very low votes. From Family First's perspective, that is not a good outcome. It is not the outcome that people

would expect, and for that reason it should be reviewed and, of course, that is exactly what the Senate is doing.

The Senate will have a proper review of the current voting system for the Senate, and they will make some recommendations in good time. I think that this parliament, this chamber in particular, should then have a very close look at the recommendations from the Senate and, frankly, probably adopt them if they are reasonable, and I am sure they will be. We cannot commit to adopting them because we have not seen them at this stage, but I think that would be a methodical process which would produce some recommendations which are likely to be appropriate, well thought out and able to be implemented in time for the next election.

However, there is one way to fix this in the very short term, and that is one small amendment to the Electoral Act to put in place a minimum threshold, if you like, whereby any party, group or individual, or whatever it may be, that records under a certain level—let's say it is 1 per cent, 2 per cent, 3 per cent or 4 per cent, whatever the number is—by law simply would not be able to form a quota. That would prevent the so-called harvesting of preferences of the very small groups, parties or individuals that at some time have misused the system and, as a result, we have seen some strange results. As I have said, in the case of a couple of parties elected, most people would regard it as an unusual result.

One very simple and clear way of dealing with that is to say, 'If a particular individual, party or group achieves a primary vote of less than 2 per cent in the Legislative Council at that election, they simply can't be elected.' Simple as that. It is one small change to the Electoral Act. My understanding of the Electoral Commission's position on that particular change is that that is something they can handle comfortably within the time frame we have available. It is clear to everyone; everyone in the electorate would understand what has happened there.

Furthermore, I think that there would be very strong general support for that position because people understand what happened in the Senate election that has just passed and there is a little bit of discomfort in the community about what has happened. It varies, of course, amongst individuals, but I think that it is fair to say that there is some discomfort about it.

The simplicity of the change, I think, is what is appealing. If there is a threshold put in place, whether it be 1 per cent, 2 per cent or 3 per cent, whatever the chamber decides, that creates a situation that is absolutely crystal clear to all—and the voting public can understand it. They do not need to be re-educated; they just need that explained to them. It is not particularly hard to understand: if you achieve less than X per cent, you cannot be elected. Furthermore, I think that it would have very strong, widespread support throughout the electorate.

What we are doing here tonight is we are rushing to a different form of electoral system and, as the Hon. Mr Wade explained well, it is an electoral system that has not genuinely been thoroughly scrutinised. Furthermore, we have our own Electoral Commissioner saying that, in her view—and she is the expert—she does not believe that this can be implemented appropriately in time.

It is an extraordinary situation, I think, for this chamber to decide to disregard the Electoral Commissioner's opinion completely when her opinion is supported by the likes of Antony Green, Clem Macintyre, from what I heard on radio, and no doubt others I have not heard about—people I have always regarded as absolute experts in this field. What we are doing, if this chamber passes this bill tonight, is saying that out opinion is more valid than theirs. Whilst they are so-called experts in the field, we know better. I do not accept that.

In the circumstances, my understanding of optional preferential voting as proposed by the Hon. Mark Parnell's bill is that our party is likely to be elected under this system anyway. It does not make a great deal of difference to Family First, frankly. That may change on the day, but equally it could change under any other system; nothing is certain in this business, we all accept that. Our modelling of the system that is being proposed here is that Family First would secure a seat in the Legislative Council after the election.

This is not self-interest talking; this is a genuine attempt at ensuring that we do not create chaos or, at the very least, a situation that can be disputed or challenged at the next election. Does anyone in this chamber really believe that politicians are so well respected—that we have created a situation where we have so much trust in the public arena—that we can create a mess at the next election and the people will not think even less of us and this great institution of the Parliament of South Australia? I do not think that any of us believe that—and unfortunately, I believe that is what we are creating tonight.

I know that is not the Hon. Mr Mark Parnell's intention, and I am not saying it is. I believe that his intention is to fix what he sees as a problem; I respect that, but there are other ways to fix this. That is my point: there are simpler ways to fix this. There are ways to fix this that are supported by the Electoral Commission and by the other so-called expert commentators. I appeal to members tonight: please, consider what you are doing.

I understand that we have only a few weeks. The next election will come. I think it is likely that we will not see one of those very minor parties elected. If we really are absolutely concerned about that, we can create a minimum threshold of 1, 2, 3 or 4 per cent or whatever the number is. I will commit tonight, subject to the detail, that Family First would be prepared to support something along those lines, given that the Electoral Commission has said it is comfortable with that sort of approach. If we had to do something, that is the obvious path to head down, but I urge caution to members tonight. It is a very substantial change to a system that has served the public of South Australia very well.

If you think about it, sir, we have had some very good members elected to this chamber I do not believe would necessarily be elected under what is being proposed tonight. I think of Senator Nick Xenophon, for whom I have a good deal of respect. Whatever people may say about Senator Xenophon, he has created a situation where one in four people in South Australia voted for him, and that in itself is commendable. Indeed, what we saw at the last federal election was historic, and I communicated that to him shortly afterwards.

Under the electoral system being proposed tonight, I do not believe we would see the likes of Senator Xenophon, who would have been the Hon. Nick Xenophon at the time, elected to this chamber at all. I do not believe we would see the Hon. Kelly Vincent elected under this particular system. I could be wrong, and I do not mean any disrespect to the honourable member, but that is our running of the numbers. If this bill should pass, certainly from what Dignity for Disability polled at the last poll they would not be elected under what is being proposed tonight, and I think that would be a shame, frankly.

Those are my thoughts. I urge members' caution. I think that this is a very substantial change and that wise heads should prevail. We need to pump the brake a few times, if I can put it that way, and think clearly about what is really happening here. I think whoever forms government after the next election, whether the current government hangs on or we see a new government from the other side, should commit to having a good hard look at this. Assuming Family First have two members in this chamber, we will do the same, I would presume the Greens would do the same, and we could have a genuine look at this issue, fix it once and for all, do it properly and do it with the endorsement of the Electoral Commission and people like Antony Green, etc. That is the choice we have tonight, and I urge members to think carefully.

The Hon. R.I. LUCAS (21:02): I agree with much of what the Hon. Mr Hood and the Hon. Mr Wade have said. I have had longer in this chamber debating electoral issues than anybody else, and I say at the outset that I cannot recall any debate on our electoral system potentially being rammed through in an equivalently short period of time as is being contemplated by this chamber and this parliament this evening. If that is what occurs, I think it will be a disgrace and a shame on our parliamentary system.

The electoral system, as other members have said, is one of the foundation stones of our democracy and the way our bicameral system operates here. We have had over the years long and intensive debates in the parliament. There were debates before any of us were in the parliament in relation to the franchise for the Legislative Council and the changes from the regional systems to the whole-of-state system for the Legislative Council.

We have seen monumental changes over the years, and on every occasion every member, every party and every interest have been given ample opportunity, knowing full well what was up for grabs, to have that particular debate, to have that particular discussion, to argue their case out and, inevitably, a decision was taken.

We have heard already of the duplicity of the Attorney-General in relation to this issue. Clearly, he has been telling different people in different parties different things, as would suit his purpose. As has been indicated as little as 48 hours ago when asked the explicit question by the Hon. Mr Hood as to whether he was supporting this bill, he indicated he was not. Then, suddenly, over the dinner break, some deal has been done somewhere and he is now indicating (to use the words of his spokesperson), 'We are going to keep open the option and will not be opposing it.' In other words, they are going to support the bill this evening.

I think that is a word of warning to everybody who has been doing the deals or having the discussions with the Attorney-General and the government on this issue. The Attorney-General and the government have been running around to anyone prepared to listen, offering all sorts of propositions, not just support for this particular bill. They were very keen to make some administrative changes to ensure that groups such as the Nick Xenophon Group could not be listed in a voting square or a ticket above the line and trying to garner support for that sort of change. That could easily have been done in a deal between the government and the opposition if the opposition had chosen to go down that path.

The Attorney-General, the Premier and the government's representatives have been running around saying various things to various people and doing deals—attempting to do deals—in relation to this and, clearly, have been saying different things to different people and changing their position as it suits them. I think if you smell a rat, then trust your instincts and trust your smells. When I listen to the language of the representative of the government in this place tonight, I smell a rat. The government is seeking to establish a position for itself in relation to all these bills, and I do not think members who might be attracted to supporting the government's position perhaps realise what the government is up to.

Note the words of the Hon. Mr Kandelaars on behalf of the Attorney tonight: 'We are not going to oppose this bill this evening. We are going to keep this option alive.' The intention would appear to be to ram this bill through with the support, potentially, if they can get it, of enough members this evening (and I want to discuss that later as well) and then, of course, they have their alternative bill, or bills, up their sleeve where they will be able to seek to negotiate however one pronounces the Sainte-Laguë (S-L) bill—not S&M but S&L bill.

I have followed electoral issues as closely as any member of parliament over the years, and I had never heard of S-L until last Thursday, when I think the Hon. Mr Wade told me the government's approach with this proposition. I said, 'What are you talking about?' I think this was Friday of last week. With six sitting days to go, we heard of this bizarre new option that exists in outer Afghanistan, Mongolia, Iceland, New Zealand, or some equivalent country, because the Attorney-General and some other bright spark have decided there is some marginal advantage in it for them to have a look at that particular proposition.

The intention, clearly, is to try to get this through and then start to negotiate and say, 'Okay, if you don't take our preferred position, which is the S-L bill, we are going to have this particular bill. You have a choice: you negotiate on this or that.' Let the buyer beware in relation to all this. If members are going to choose tonight, contrary to all the conventions of this place, to jam this thing through in one form or another, all bets are off because the government is going to be coming around and trying to do deals with everybody they can on their preferred course of action—S-L or maybe a deal to keep Xenophon above the line, or whatever it might happen to be. If the two big parties want to get together to jam it through, then the two big parties have the numbers to jam it through both houses, if that is what they want to do.

So, if that is the sort of ball game that we are going to open up, I am just saying that we have had the evidence tonight. Do not trust what the Attorney-General is saying to each and every one of you because he is saying different things to different people in relation to this particular issue. They are not locked into this particular version. Note their words. All they are doing is improving their negotiating position. They will have this one in their back pocket in some form or another and then they will come around looking to see whether they can improve their position. A little bit of S-L, if they can get it, maybe banning Xenophon from being above the line or any non-party from being above the line, whatever it is that they can do, if they can get the numbers for it, if it can improve their position, if it can improve the prospects of getting the Hon. Mr Maher across the line at No. 4 on the ticket, then that is what they will be seeking to negotiate.

I think, in relation to this, and the Hon. Mr Hood put it very politely, have a look where people are coming from in relation to this. People have said to us, 'What is the driving influence in relation to the debate from the Senate and what's now occurring in the Legislative Council?' The driving influence is essentially a position which says, 'We want to keep microparties, or very small groups, out of the upper house.' That is essentially the position.

A number of people (and some of those are the Attorney-General) have come to us in the Liberal Party, because we are one of the two big parties, and said, 'It's in the interests of the two big parties to keep the microparties out. You will get more people elected under this particular model.' So too will the government under this particular model. This is the option that we can have a look at. That is what is driving this whole debate.

So, if the Liberal Party is looking at this from the point of self-interest, if you believe what people say, and it has not just been the government, there have been others who have said to us, 'Why don't you, the Libs, support this because we think you will actually get an extra person elected?' That might be true. I have no idea. I know the Hon. Mr Hood says that his people have done the modelling and the Labor Party people say they have done the modelling, everyone has done the modelling, but to do the modelling you have to make some huge assumptions.

Under this particular proposal of the Hon. Mr Parnell's, or the S-L proposal, or whatever it happens to be, you have to make huge assumptions. I had no idea that this had any chance of getting up tonight so I had not studied this bill that closely, other than having listened to it tonight and having had a quick look at it. Essentially, as I understand it, you can put a 1 in the square above the line and then that is it.

The Hon. M. Parnell interjecting:

The Hon. R.I. LUCAS: Yes, but you can just put 1 in one square if you want to. If you want to choose the option of putting 1 in a square above the line then that is what you can do. Of course, in the Senate and the Legislative Council, for a long period of time now, people have been educated and encouraged to do that. It is normal for them to put a 1 above the line. As I understand it, if people follow that particular process, even if the party ticket, for example, says, 'Put a 1 in the box for the Greens, and 2 for the Labor Party, and 3 for the Socialist Party,' or whatever it happens to be, a lot of people have been educated over a long period of time to just put a 1 in a box.

As I understand the Hon. Mr Parnell's system, it will be 1 in the box for the Greens, if that is all they do, and that will exhaust after you have voted 1 to (whatever it is) 4 Greens candidates, or whatever it might happen to be. There will be no preference allocated at all. I would love to know, in all this modelling that everyone is doing, what is their assumption in relation to what percentage of votes exhaust just with the particular party ticket? I would love to know what their assumptions are in relation to what the Liberal Party and the Labor Party would do; tell me because we have not made a decision. We have no bally idea what we would do because it is not an issue that we have addressed.

Would we, as a big party, in essence, put out a ticket which has, '1, Liberal Party; 2, Family First; 3 National Party; 4,' whatever it is, and go right through to 15 or 16, or just go through to 5 or 6? Would we see it as a competitive disadvantage for us if every other party, including the Labor Party, just has a simple 1 in the box above the line and theirs looks a much simpler ticket, so that when the punters come to the voting booth at the polling place, everybody else has just got a 1 in a box and the Liberal Party has 1 through to 14 or something in the box? Trust me: there are a lot of people who do not think too seriously about how they vote on the election day, and people make judgements about the attractiveness of the ticket or the simplicity of the ticket or whatever it might happen to be.

Will all of us be encouraged, ultimately—because of the process—just to put a 1 in the box? That is, every one of our votes is going to exhaust after they have just voted for our candidates. I love hearing everybody tell me and my party that we have done the modelling and we will do well out of this and why do we not vote for it? And, look, they might be right. I have no idea, but I challenge anybody, and I have spent more time on electoral issues, I can say, than anybody in this chamber over my period of political life.

I spent 10 years prior to coming to parliament working for a party organisation where my job essentially was to do all these sorts of things on behalf of my party, so I have had 40 years playing around with electoral systems and numbers. I would at least pride myself on knowing a little bit about the voting and electoral systems, etc., so I love it when people tell me that, under this particular model, it is going to favour the Libs or the Labor Party or such and such a party or whatever it happens to be.

But I know what is driving the process: the process is being driven by the fact that the big parties and others are saying—and there are some people who, I accept, on the basis of democracy, think—that having too many small parties or microparties represented in the upper house is anti-democratic. Government should have the numbers to govern and it is therefore anathema to them to have too many minor parties. They would have said that about Mr Xenophon when he first came in or the Greens or Family First, the Hon. Mr Darley or others, and I can understand their view, but essentially what is driving this is the big parties seeing the microparties and the smaller parties taking seats away from them.

I do not claim to be as pure as the driven snow. In previous electoral systems, trust me, I am in there batting for my party as best I can in terms of what I see as being advantageous, but in relation to this particular debate, what I am genuinely saying is, I have no idea whether this is going to advantage us or not. In general terms, in theoretical terms, I can accept the argument that it is more likely to advantage the Liberal and the Labor Party than the minor parties and the microparties, but in the end it is going to depend on some huge assumptions about how people are going to act and how people are going to vote, ultimately, under this particular system.

We do not come to this debate, as I said, arguing one thing or another, so that is why I am amazed at the attitude of some of the smaller parties potentially in relation to this particular issue. If, in the end, this gets jammed through—and it is an option on the table for the government—as I said, let the buyer beware, because I know the government is going to be seeking to do other deals in relation to the SL bill, potentially getting rid of Xenophon above the line, a threshold issue that they have already talked to the Hon. Mr Hood and us about in terms of whether it should be 4 per cent or 2 per cent. It is not just 2 per cent they have talked about. They have talked about numbers as high as 4 per cent in relation to those sorts of issues.

This is all going to come to a conclusion in the last couple of days, even if we jam this through tonight. If everyone decides they are going to jam this through, it will not be with our support, I can tell you. I am not going to be supporting jamming this thing through tonight, but if it gets jammed through tonight, in the last couple of days of the last sitting week, the government is going to be running around with its alternative bill, seeking to get the numbers. If it can get a better deal for itself out of us or some group of minor parties or Independents, it will take the better deal that it can get, but if you agree with it, the government will have this in its back pocket to say, 'Okay, we'll settle for this particular version of the bill.'

From our viewpoint, as the Hon. Mr Wade has said, we are genuinely open to having a serious discussion about this in relation to whether it is thresholds or whether it is SL or whether it is optional preferential or whatever it might happen to be, but in a proper and considered way as has occurred in the past with every other electoral bill that I have ever been involved with.

If something is going to be jammed through in the next week—and I do not speak on behalf of the party—potentially all bets are off. If people are going to jam this one through and say, 'Take it or leave it, this is where it is', and the government is going to come around doing the deal, then we are going to have to look at what we might do in those particular circumstances. Who knows where it all ends up? Who knows who gets disadvantaged in that particular process?

All I am going to say is that if people are going to jam it through tonight, then do not come squealing in here in the last couple of days of the session saying we have not had long enough to consider this particular variation on the theme. As the Hon. Mr Wade said, none of us came here tonight thinking that this was going to get through, because the Attorney-General was telling everyone he was not voting for it and neither were we; so when you add up Liberal and Labor it was not getting through, so we were not going to do that.

Being tabled tonight are the amendments of the Hon. Mr Darley, which we have not seen and which we have not debated. As I understand it, they are probably the same as the bill that the Hon. Mr Darley has introduced, although I have obviously not had a chance to check. However, if that is the case, that bill was introduced and spoken to only tonight. So the Hon. Mr Darley would understand with his bill, as with ours, that having only introduced his bill and his ideas tonight, he has never in the past insisted on that particular thing being jammed through on that particular night without giving all other parties an opportunity to consider those ideas. It is certainly my very strong view that if he is going to be moving his amendments, which were exactly the same as this bill, to this Hon. Mark Parnell bill, again, we are in the same position: we have not had an opportunity to debate that issue at all.

If the numbers are there tonight for the government and other Independents and minor parties to jam something through all stages tonight, then it will be over my dead body, and I am assuming it will be the same thing in relation to our party. At the very least, what I would be asking those minor parties and Independent members is that, if the bill goes to the committee stage and we are going to be debating the amendments of the Hon. Mr Darley, which are completely new in relation to this, those members should at least have the good grace to support reporting progress at that stage.

You can report progress and continue to the next day of sitting if you so choose, if the numbers are there and if you do not want to delay it until the next Wednesday of sitting. That at

least keeps your bill and your idea alive without finally signing off, whether it is the Hon. Mr Darley's amendments to the Hon. Mr Parnell's bill, whether it is the Hon. Mr Parnell's bill, or whether there are some other amendments that the government might have up its sleeve that it seeks to jam through tonight without giving anyone else a chance to see them either.

My fervent plea to the Hon. Mr Darley, the Hon. Ms Vincent, the Greens and Family First is that, at the very least, if the bill goes into committee, they accept at least a modicum of the conventions that we have abided by here, that something as significant as this does not get jammed through all stages and that you report progress. You can do that if you so wish, either to the next Wednesday, which is normal, or you can report progress to the next day of sitting as long as there is a majority in the chamber. The final point that I make in relation to tonight's debate is that there is at least one member who is missing, sick, who obviously has no idea that this is all going on.

The Hon. M. Parnell: I gave notice; I gave notice ages ago that this was coming to a vote tonight.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: But there was no notice that the Hon. Mr Darley will move a whole package of amendments. The notice that you have given, that you are going to vote on it, we accept.

However, given the government was telling everyone they were not voting for it, except maybe for Mr Parnell—maybe they were telling Mr Parnell one thing and the Hon. Mr Hood and the rest of us something different—no-one was assuming this was going through. No-one has seen the Hon. Mr Darley's amendments until tonight. Whichever way you want to spin it, Mr Parnell, all of the conventions we normally abide by in relation to something as significant as this in terms of the Hon. Mr Darley's amendments are that people are given an opportunity. I am only adding to the point that there is a member missing who does not even know the Hon. Mr Darley is moving a package of amendments because they were not tabled until tonight.

The Hon. J.S.L. Dawkins: There's actually two missing. Finnigan's missing too.

The Hon. R.I. LUCAS: So the Hon. Mr Finnigan is missing too in relation to the issue, so he has not seen the amendments either. In terms of the conventions of this house, as I said, if the bill gets through the second reading and into the committee stage, then I would hope that there would be enough members from the minor parties and the Independents prepared to at least support the notion of reporting progress in the committee stage, and that may be tested in the committee stage to see whether you are prepared to do that and that can then be adjourned on a day-by-day basis until eventually enough of you have the numbers to jam it through in whatever form you wish.

The Hon. J.S.L. DAWKINS (21:26): I will be brief. I support the comments of the Hons Mr Wade, Mr Hood and Mr Lucas who I think have covered enormous amount of territory in relation to this matter, but there was one issue that I do not think has been covered and I want to do that briefly.

I am generally concerned about the process here. I have kept an eye on the possibilities of optional preferential voting for some time and have been keen to explore those matters, but to explore them in a timely fashion. I am concerned about what we are contemplating doing here because I can see, and noting the comments of the Electoral Commissioner, that there is a real prospect of a long delay in counting and of court challenges.

We all know what has happened in Western Australia. We know also that the Legislative Council is not blessed with what the Senate has, so there is a 10-month window from the Senate election in Western Australia until those people actually take their seats. We do not have that 10-month window here; sometimes it is not 10 months but on this occasion it was 10 months. We do not have that 10-month window.

I am concerned that this could lead to a long delay in the formation of the new Legislative Council next year, and indeed the new parliament. We could be in a situation where for some months we are not able to form a government, whether it be a re-elected Labor government or a Liberal government, and that really concerns me. As I said earlier, I have always been pleased to look more at the potential for optional preferential voting and the majority of my colleagues strongly share that view, but we believe it should be done after the 2014 election.

The Hon. J.A. DARLEY (21:28): I would like to make some comments about the whole thing. I think we all agree that the process is flawed and needs to be fixed. I have to say that my amendments were filed yesterday. It has taken us a while because we consulted with the experts and we were not in a position to file them until yesterday.

The Hon. S.G. Wade: They didn't arrive until today. They didn't arrive until this evening.

The Hon. J.A. DARLEY: No, well, I understand there was an administrative problem there but they were filed yesterday.

The Hon. S.G. Wade: It doesn't help us.

The Hon. J.A. DARLEY: No. I respect the view of the Hon. Rob Lucas and if you recall I think it was the last time we met I supported the opposition in their concern about having to vote on amendments when they had only seen them for about a week. I supported that view and I still support that view. I certainly cannot support the Hon. Mark Parnell's bill in its current form but I will say that I will not be moving my amendments tonight, but I can foreshadow that I could call my bill to a vote on 27 November.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (21:29): I certainly will not repeat the comments that some of my colleagues have made. In relation to the Hon. Mark Parnell's bill, I have some questions I would like him to address in his summing up, and other questions that were raised by the comments by the Hon. Mr Wade, the Hon. Mr Hood and the Hon. Mr Lucas.

I am sure the Hon. Mark Parnell has had discussions with the Electoral Commissioner. I am sure he has met with the Electoral Commissioner and discussed things such as the cost of the changeover, the cost of the education program, the cost of the translation—and given that it has already been done, the cost of repeating that. There is the education program for the community the Hon. Mr Lucas spoke about, where the vast majority of people have been used to putting one in the box. Let's face it, a large number of people do not take much notice of what is going on until they walk into the polling booth.

There are issues such as the licensing of the software. Has the Hon. Mark Parnell spoken to the Australian Electoral Commission to see whether that change of the software could be accommodated? The staff training: what is the cost for all the electoral commission staff to be retrained? There is the manual count that the Hon. Stephen Wade spoke about. The Electoral Commissioner has advised him in writing, or maybe in the meeting that he had with her, that it could be between four and eight weeks. What is the additional cost to the Electoral Commission in relation to that particular exercise? If it is as much as eight weeks and we need to have a recount, then we are talking 16 weeks of presumably a large number of people who are on the payroll, not just casuals who are there for a couple weeks after the election.

I am pleased that the Hon. Mr Darley has made his comments, because I was going to ask the Hon. Mark Parnell whether he would ignore the long-held convention. I accept they were probably filed yesterday, but we have only seen the amendments today and this chamber knows the long-held process of the Liberal Party. We have a meeting on a Monday (in fact, some years ago it was a Tuesday). We have a meeting, we discuss the legislation, and we form a party position. These amendments, even if they had arrived yesterday, would have arrived too late for us to go to that process.

I remind members, if they wish to keep the option alive and continue the debate we could easily report progress and adjourn this. We do have an optional sitting week. The government has put it in the system to have an optional week. If this chamber is so inclined—aside from the government, the crossbenches and the opposition have the control and the numbers here—we could sit for another week. We could actually give ourselves an extra three days to discuss this. If the government of the day is genuinely serious about keeping its options open, Premier Weatherill will concede that we should have the optional sitting week in the House of Assembly.

I would like the Hon. Mark Parnell to answer those questions, if he is able to, as to what discussions he has had with the Electoral Commissioner in relation to the costs and all the issues that have been raised in the letter that the Hon. Stephen Wade read onto the record, about the mechanics of it. If he is not able to answer it, does he simply not believe the Electoral Commissioner? With those few words—although I have presently got four conversations going and nobody is listening to me, which is not unusual, I know—I will indicate that I will be joining with my colleagues in voting against the bill.

The Hon. M. PARNELL (21:33): Let me start by thanking the Hon. Stephen Wade, the Hon. Gerry Kandelaars, the Hon. Kelly Vincent, the Hon. Dennis Hood, the Hon. Rob Lucas, the Hon. John Dawkins and last, but by no means least, the Hon. David Ridgway for their contributions. There were more contributions than I had anticipated on this bill—I think one had been notified on the whipping sheet—which is a really interesting observation. When people think that a Greens initiative is about to go down in a screaming heap, no-one bothers to talk about it, but all of a sudden now it is alive.

I will start with an observation that a number of the opposition members made, that the driving force behind this move must be self interest. That has effectively been alluded to. I am just making the point that the bill I have introduced is the longstanding policy of my party. I have introduced it before, and I am going to talk about that shortly. Bob Brown introduced it into the Senate, and its something we have been trying the achieve for a long time.

The best way for me to summarise the contributions of the Liberal members is that they doth protest far too much. I will say at the outset that, whilst I could have leapt to my feet on a point of order during the Hon. Stephen Wade's contribution, I decided to let him go, but I reject absolutely any suggestion that I am bullying the Electoral Commissioner. He mentioned that he does not want to see the Attorney-General and the Greens bullying the Electoral Commissioner. I reject any bullying of the Electoral Commissioner. If the Electoral Commissioner has any complaint in relation to my very few number of contacts with her, then I expect that she would contact the President, but I absolutely reject any suggestion that we are bullying the Electoral Commissioner.

The Hon. S.G. Wade: Show me where I used the word once—I didn't use the word once.

The Hon. M. PARNELL: The Hon. Stephen Wade interjects that he did not use the word 'bullying' once. When we see the *Hansard* tomorrow morning, we will have a look and see whether that is in fact the case. It is certainly not the notes I took as he was speaking.

The other thing I would say is that, if we had a dollar for every time one of the Liberal members talked about jamming this bill through and not having a chance to think about it, we would all be very wealthy. I remind honourable members that this provision in this bill was introduced into the Legislative Council in May 2010, and it was on the table for a year and a month. Then in June 2011, if I have my dates right here, the opposition responded to it. I will make sure I have the dates right here. My second reading speech was on 26 May 2010, and the Liberal Party, one year and one month later, responded with five lines in *Hansard* to say that they were not supporting the bill. Because it is only five lines, it is very easy to refer to it.

The Hon. Stephen Wade said that he would speak very briefly—he did that. He said that 'it is a bill put forward by the Hon. Mark Parnell with a range of, shall we say, stimulating suggestions'. He then goes on, in a matter of a handful of sentences, to say that this needs to be considered when the report from the Electoral Commissioner on the 2010 election has been handed down, and there was a committee looking at the dodgy how-to-vote cards. Ultimately he said, 'We do not believe that this bill should be supported, but rather these matters should be considered when the Electoral Act is open at an appropriate time.'

Well, guess what: we have opened it up at an appropriate time. No-one in the Liberal Party can say they are taken by surprise by an optional preferential voting bill introduced by the Greens. It has been our longstanding policy, you had it for a year and a month, you chose not to think about it or engage in it, you now have it before you and you think your throats are cut because you are being asked to consider it. All I have done is apply the protocols of the house, I have introduced the bill, I have given people notice, so that is why we will proceed. We will see how we go tonight.

I want to address the things the Hon. Stephen Wade talked about. He mentioned the rush, and I have dealt with that. One of the questions would be that, whilst this has been longstanding policy, one of the things we find in debates here is that, unless people have concrete examples, reform is difficult. We now have classic, concrete examples. We have a person elected to the Senate, using the same vote-counting system as us, on 0.2 per cent of the vote. We have someone elected on 0.5 per cent of the vote, and the opposition did not really refer to any of that. The Hon. Dennis Hood mentioned it: he talked about people getting a tiny proportion of the vote being elected, but the opposition does not seem to get that those people were not elected because of the democratic will of the people; they were elected because people in back rooms did deals and the votes of ordinary voters ended up in places they never expected. My driving ambition in this is to get rid of party and group voting tickets; that is what I am trying to achieve. Get rid of those tickets, get rid of the deals, and put all the preferences back into the hands of the voters.

The Hon. Stephen Wade gave the statistics, rounded up, that 97 per cent of people vote above the line (96.8 to be exact) and 3 per cent below the line. My expectation is, on the basis of optional preferential voting systems used interstate, that the figures are pretty much the same: most people still vote above the line. The Hon. Stephen Wade lamented that we will not be able to lodge split tickets. Well, guess what? We are not lodging any tickets, split or otherwise. That is the purpose of the bill: to get rid of voting tickets. He railed against the spectre of massive informality—

The Hon. S.G. Wade: Yes.

The Hon. M. PARNELL: —in the vote, but the point is—and he clearly has not been paying attention—that there will be no higher level of informality under this system than under the present system. That is because even if a person does not realise that the voting system has changed—even if they do exactly what they have done for years and years and years; that is, vote one number only above the line or every square below the line—that is a valid vote under this system. It is not going to lead to some tsunami of informality; that is just rubbish. Therefore, it is not going to disenfranchise thousands of voters.

The argument seems to be that people will be so confused that they will get it wrong. The Liberals have said people do not pay attention anyway, but clearly enough of them are going to pay attention to get it wrong. Most people will probably behave the same way; the parties will probably advise their supporters to behave the same way. The Hon. Rob Lucas asked the question, 'Well, what will this mean?' It will mean exactly what it means in New South Wales; that is, that most people (I think it is over 90 per cent) will still just vote 1 above the line.

In relation to questions that have been put on notice, I will have to consider some of them, but I have some of the answers now. How will they count the votes? They will put the bits of paper into piles like they do at the moment. They will be stacked into piles in order of who the No. 1 is; it is not that hard.

Mention was made by a number of members about the letter from the Electoral Commissioner. I presented that letter to parliamentary counsel and said, 'There are some technical issues here.' Parliamentary counsel said, 'Fair enough,' they drafted some amendments, and they have been tabled. I drew them to the Hon. Stephen Wade's attention in an email saying, 'These are the amendments that parliamentary counsel have drafted to deal with the Electoral Commissioner's technical concerns,' so I think that has been fixed up.

Questions were asked in relation to computer counting and the difficulty of it. Certainly, I accept that the commentary has been how hard it is. I am not a computer programmer, but I know enough about computers and I know enough about electoral systems to know that the task of modifying a voting system is not impossible. No-one has actually suggested it is impossible. The Hon. Stephen Wade said it is all about getting it properly accredited, tested and audited to make sure that it all works okay. The point is: for the vast bulk of votes, the vast majority of the 1.1 million votes will be single figures above the line, they will be pieces of paper put into a pile and they will be counted by hand as they are at present. There is no difference in relation to that.

Questions were asked in relation to whether I have talked to the Australian Electoral Commission about whether they are prepared to licence or modify their software. No, I have not, but I have to say: what state is our country in if the federal Electoral Commissioner, like some kid protecting their homework from the child sitting next to them, says, 'You can't use our software; that is our intellectual property.' What rubbish! Similarly, the cooperation—

The Hon. D.W. Ridgway: You wouldn't know, you haven't spoken to him; how would you know?

The Hon. M. PARNELL: If the Hon. David Ridgway seriously suggests that the Australian Electoral Commission—

The PRESIDENT: He's out of order, as well.

The Hon. M. PARNELL: —would deliberately frustrate the wishes of the South Australian parliament if this were to go through, and the Electoral Commissioner who is tasked with implementing the will of parliament, I just find that an outrageous suggestion. The Hon. Stephen Wade also asked, 'How long would it take to certify and how long would it take to code?' and—

The Hon. S.G. Wade: It's what the commissioner told us.

The Hon. M. PARNELL: The Hon. Stephen Wade refers to the commissioner—

The Hon. S.G. Wade: Just read the letter!

The PRESIDENT: Order!

The Hon. S.G. Wade: Read the letter!

The Hon. M. PARNELL: I am going to go back to one sentence here—

The PRESIDENT: The Hon. Mr Wade, you were heard in silence, so allow the same courtesy to the mover of the bill.

The Hon. M. PARNELL: I am not here to bag the Electoral Commissioner. I think she has chosen her words, and here are her words—and the Hon. Stephen Wade read this out:

> ECSA is a small office and to incorporate such a significant change to operational proceedings will be in my view an unreasonable burden on staff—

this is a sentence that I have to say I struggle with—

> regardless of how many additional resources are provided.

In other words, is the Electoral Commissioner saying that it does not matter how many extra staff, how much money, how much computer programming—

An honourable member: She said it.

The Hon. M. PARNELL: I know she said it. I am inviting the council to reflect on her words. If what she is saying is that it is impossible under any circumstances, regardless of the amount of resources put to this issue, to actually come up with a computer voting system or a manual voting system, or whatever it might be, I personally struggle with that. Members will make up their own mind. 'Regardless of how many additional resources are provided' I find a remarkable statement, but the commissioner has made it and she is entitled to her view.

The point is, of course, that the job of the Electoral Commissioner is to implement the will of the parliament. People are getting very excited about computer programs. We managed to have elections before computers, but I do not think that this is such an onerous task because there will not be many preferences at all to have to enter manually. There just will not be. That is the experience everywhere else where these types of voting systems have been brought into place.

Questions were asked about translations, that they cannot be tweaked. Part of the reason for me introducing the bill as I have, which is no change below the line and a simple change above the line but not influencing anything else in the electoral system, is that it is not actually that difficult to move from the system we have to the one we want. If they are saying that they cannot possibly find someone who can come up with some Thai or Vietnamese sentences which now say, 'Number as many or as few squares as you want above the line,' I find that difficult. Yes, there are resources involved and, yes, there is a task involved, but I do not accept the suggestion that that somehow makes democratic reform impossible.

All the contributions from the Liberal members did not refer to the evil we are trying to overcome, which is that people get elected to our parliament without any popular support on the basis of people gaming the system and doing backroom deals. Not one member of the Liberal Party has said, 'It's actually fair enough that someone gets one-fifth of 1 per cent of the vote and gets elected to a parliament.' They have not said that that is a good outcome, and yet they resisted it back in 2011—Stephen Wade, five lines in *Hansard* saying, 'We reject this'—and they are rejecting it again now. So, I am struggling with how they are going with this and the idea that they somehow need a bit more time not to accept the Hon. John Darley's amendments, which they are not going to support anyway because they are not supporting the bill.

I will make an observation on the Hon. John Darley's bill. I have had a number of conversations with John and his staff and, as the honourable member said, his bill and mine are pretty close. The only difference is that he has optional preferential below the line as well as above the line. I think that is an acceptable outcome, as well. It is not as simple as my bill. It involves more changes than mine, which is why I have gone for a more simplistic model. I have certainly heard what people have said and, whilst it was my intention to, as I notified all members in good time, take this to its final conclusion tonight, I will now ask the house for leave to conclude my remarks.

Leave granted; debate adjourned.

VISITORS

The PRESIDENT: Before I call the Clerk, I also notice in the gallery the presence of the member for Schubert, the almost honourable Mr Ivan Venning MP. Welcome, and I hope you enjoy your stay in the Legislative Council and enjoy the debate. I would avail yourselves of Mr Venning's hospitality while he is offering it.

DEVELOPMENT (DEVELOPMENT PLAN AMENDMENTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 September 2013.)

The Hon. CARMEL ZOLLO (21:51): I rise to speak about the Development (Development Plan Amendments) Amendment Bill 2013. The bill seeks to introduce two additional mechanisms by which development plan amendments can be considered by the Development Policy Advisory Committee established under the Development Act 1993. While the scope and the work of the committee is a matter for consideration, the government believes that this is best done in the context of broad reform and, as such, opposes the bill at this time.

As members know, the government appointed the Expert Panel on Planning Reform in March 2013 to undertake a major review of the planning system. The panel has canvassed and considered a wide range of views on a large number of matters, including this important issue of development plan amendment processes. The panel has heard from over 800 people in 36 community and stakeholder workshops, and has also had additional briefings, meetings and information sessions, and many written submissions and online comments have been received. This work should consider the functions of the committee and, as such, the government does not support this bill at this time.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (21:52): I also will speak briefly. As members are aware, we have a number of private members bills that we are dealing with tonight. It is the second last Wednesday; we could have that optional week so we could have a third Wednesday. I will speak briefly on this bill and the second one. They are two relatively simple bills introduced by the Hon. Mark Parnell. Obviously, I was the shadow minister for planning and urban development for some time, particularly throughout the Mount Barker fiasco, so I am well versed in the functions and inefficiencies of the development process, particularly as it relates to the Development Policy Advisory Committee.

As Mr Parnell has stated, the only trigger for that committee to consider the effects of planning and rezoning changes is if the minister asks for advice. Mr Parnell proposes that two further triggers be added: when a local council asks or when DPAC deems it necessary. I have made no secret of the fact that I believe the system under which DPAC operates is flawed.

I believe that the community has little or no faith in the function of the committee. I also think that has been exacerbated by the way the Hon. Mark Parnell often encourages people to come to public hearings knowing full well that the Development Policy Advisory Committee can only judge the rezoning or the issue that has been proposed against the planning strategy. It has no capacity to do anything other than that. So, while the community has little faith in it, it is fanned and encouraged by the Hon. Mark Parnell because, of course, it often serves his political benefit when he has 400 or 500 people at a public meeting who are disappointed with the process; but, of course, he never really told them what the process was.

However, I am of the view that there is a far more fundamental issue with our planning system and that is the process by which the state government actually formulated our planning strategy. That document is where the buck stops. It is clear under the Development Act that the mandate of DPAC is to provide advice to the minister on developments, but that advice centres on how any given development fits with the planning strategy. While Mr Parnell's bill has its merits with these so-called new triggers, they are just a bandaid solution.

Ultimately, the council and the community was left out of the planning strategy process so as long as DPAC's advice is founded on that document we have a more serious problem. Further, I noted Mr Parnell's comments throughout the debate on the recent Urban Renewal Bill where he commented that further planning reform should not occur until Brian Hayes QC's report on our planning legislation was complete.

I indicate that the opposition fully concurs with those comments. We believe that these bills should not be put into force until we have the findings of that expert panel. Undoubtedly, Mr Hayes

and his panel will look into the transparency issues with DPAC regarding their advice to the minister and whether that should be publicly available as proposed in the Hon. Mark Parnell's bill. With those few words, I indicate that the opposition will not be supporting the Hon. Mark Parnell's bill.

The Hon. M. PARNELL (21:55): I thank the Hon. Carmel Zollo and the Hon. David Ridgway for their contributions. It does not surprise me in the least that the old parties are not supporting a bill that was developed over a period of years through consultation with community groups and, in particular, the groups that comprise the Community Alliance.

The government's excuse, which the opposition has now leapt onto, is that it is premature to be talking about any changes to the planning system without it going through the expert panel on planning reform chaired by Mr Brian Hayes QC, a committee that will report in December 2014.

I am not going to divide on this. I accept that we do not have the numbers tonight. I just say again how disappointed I am that when the government decides that it wants to change the decision-maker, change the rules, change the ability for people to participate in planning, they just—what are the words the Liberals have been using for the last hour? They 'jam it through', and the community can just lump it.

The community, through this bill and subsequent bills, has spoken. It says this is a reform that would put people back into planning. That is the catchcry of the Community Alliance. I would urge other members to support this bill, but I am disappointed that the major parties will not be.

Second reading negatived.

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

Adjourned debate on second reading.

(Continued from 11 September 2013.)

The Hon. G.A. KANDELAARS (21:57): I rise to speak on the Parliamentary Committees (Membership of the Environment, Resources and Development Committee) Amendment Bill 2013. The amendment seeks to replace the role of the House of Assembly in providing and determining the presiding member of the Environment, Resources and Development Committee of parliament with the Legislative Council.

It will be no surprise that the government opposes this bill. If there is value in such reform it should be part of a broader package that balances the needs of all aspects of the planning system—but I go further: it should also consider the issue of parliamentary committees in a broader sense as well. To do this piecemeal is nonsense, to be honest. I will conclude my remarks at that point.

The Hon. S.G. WADE (21:58): In relation to the bill introduced by the Hon. Mark Parnell in the Legislative Council on 11 September, I thank the honourable member for giving us so much time to consider it. Considering that we are now in the middle of November, that is quite generous really for a parliamentary committee bill of relatively small duration. We had less than a month to consider a serious coalition with the government and the Greens to try and ram through electoral reform, but at least with the parliamentary committees bill we have had more time. I must admit that the Liberal Party did not need quite so long with this one.

The Parliamentary Committees Act 1991 currently provides that the Environment, Resources and Development Committee is to consist of half members from each house of parliament. The House of Assembly is to provide the chair, and the chair has a casting vote. The bill put forward by the Hon. Mark Parnell seeks to promote independent parliamentary oversight of planning schemes by the Environment, Resources and Development Committee by shifting the committee to be a committee of the council. The bill substitutes the words 'House of Assembly' with 'Legislative Council' wherever occurring in the Parliamentary Committees Act.

I certainly concur with the Hon. Mark Parnell and the Greens that we need to utilise the independence of this chamber to strengthen our parliamentary committee system. No member of this house needs to be reminded that no government has controlled a majority on the floor of this council since the reforms in the mid-1970s. If parliament aspires to truly keep executives accountable, a Legislative Council controlled committee, I believe, has significantly enhanced prospects of maintaining accountability.

I should show due deference to committees in the other place and particularly chairpeople of committees in the other place, because it is my understanding that House of Assembly government controlled committees, with a chair who takes their role in the spirit in which it is meant, can maintain appropriate accountability. I have heard very good reports about the work of Heini Becker in the Public Works Committee in the nineties—it might not have been the nineties, but previous parliaments—which kept Liberal governments on their toes. I have also heard positive comments about the work of Labor chairs of committees even in this parliament. I could be wrong, but I think I have heard positive reports about Steph Key's work.

The Liberal Party does believe that we should, if you like, take advantage of the independence of this chamber to also strengthen our parliamentary committee work. That is no basis for a tweet even, because the Hon. David Ridgway in this place on the 4 July put on the record the fact that our party is already actively considering parliamentary committee reviews. Let me quote him. My leader said on 4 July:

> The opposition thinks that the committee structure here in this parliament probably needs some review...We have a subcommittee of our party room looking at the structure of committees—and I said that we have the Budget and Finance Committee here and a range of other standing committees—because it is our view that it is probably appropriate to have a look at the committee structure.

He went on to say later:

> We actually think it is time to take a big deep breath, look at the committee structure and make sure that the structure we have going forward represents the industries that are important to the South Australian economy, and also to make sure that the community and the environment are represented and the state's finances are well and truly aired in a sensible, open and transparent way.

Let me assure you, Mr Acting President, and the council as a whole, the Liberal Party is actively considering how to strengthen this parliament by strengthening its committees. I can assure you that the issue of whether or not a particular committee could be best chaired by a legislative councillor, and therefore have an increased prospect of a parliamentary perspective which would actually challenge the executive, will be considered in our review and in our policy consideration.

It is not the first time this issue has come up today. In noting the surveillance devices report by the Legislative Review Committee, I noted that—and this is a personal view, it is not a view that has been formally endorsed by my party room—there is an opportunity for increased, perhaps, structured consideration of legislation by parliamentary committees. I had better leave the further exposition of that theory to the policy processes of our party, but hasten to say the Liberal Party will not be supporting this bill, not because we do not think that this particular committee could benefit from that change but, as the Hon. David Ridgway said in the context of a previous debate, I think last week, this is very late in the life cycle of this parliament.

Any change that we would make would not be implemented before the formation of a new parliament. By that time, I can assure you, that the Liberal Party would not only have finalised its review of the committee structure, it would have released a policy on that issue, received the verdict of the people and be in a position to implement that at an election. This bill highlights an issue that is worthy of consideration but we believe that, shall we say, a piecemeal reform such as this is not to be preferred over a more substantial review of the work of committees.

The ACTING PRESIDENT (Hon. G.A. Kandelaars): The Hon. Mark Parnell to sum up.

The Hon. M. PARNELL (22:05): Thank you, Mr Acting President, and I thank you and the Hon. Stephen Wade for your contributions. Let me say it does not take me by surprise at all that this bill will suffer the same fate as the previous one, and I am not going to repeat all the same things I said but the same arguments apply. Again, borne out of years and months of discussion with community groups all around South Australia in terms of the problems they have had with the planning system, this is one of them and we are trying to fix it up.

It does not surprise me in the least that the Liberal Party, when they get their turn in office, do not particularly want accountability. I know the Hon. Stephen Wade and the Hon. David Ridgway have said that they will look at the whole committee system when they win office, but it seems to me that if the Environment, Resources and Development Committee, under the heading of 'parliamentary scrutiny' has not rejected a government planning scheme in 19 years, they are hardly likely to after 15 March next year so, whilst I appreciate that the Liberals have put on the record a commitment to reform the committee system, I am not holding my breath for anything.

The Hon. Stephen Wade again referred to the lateness of things and doing things late into the session. I have been trying to hold my tongue with this but who could forget that, as the budget

was being announced a number of years ago, a bill was introduced and voted on immediately. The moment it was introduced it was voted on to give members of parliament increased superannuation. Remarkable. When there is some pain to be had then the conventions are all out the window.

Certainly this bill does not infringe any parliamentary protocols. It has been on the table since 11 September. I gave plenty of notice that it was coming to a vote but, again, I am disappointed that the government hides behind its review that will not report until December next year, and they use that as an excuse to stop any private members' reforms but it has no impact at all on their own very widespread reforms that are very unpopular in the community, so it is a classic case of double standards. Again, given the lateness of the hour I will not divide, but I am disappointed that we cannot progress this sensible reform.

Second reading negatived.

DEVELOPMENT (PUBLIC CONSULTATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 September 2013.)

The Hon. CARMEL ZOLLO (22:08): I rise to speak about the Development (Public Consultation) Amendment Bill 2013 on behalf of the government. This bill essentially contains three amendments to public notification procedures for development applications under the Development Act. While the proposal may have some merit, the government opposes the bill at this time.

As previously mentioned in speaking to an earlier bill, the government appointed the Expert Panel on Planning Reform in March this year to undertake a major review of the planning system. The panel has canvassed and considered a very wide range of views on the role and extent of public consultation of development applications. The panel has heard from over 800 people in 36 community and stakeholder workshops, as well as additional briefings, meetings and information sessions, and many written submissions and online comments have been received.

Again, the panel is due to release an issues report on 9 December 2013 and, given that there is such a wide range of views on the issue of public notification and the importance attached to it by many respondents and submitters, the government believes that this matter is best considered in the context of broad reform.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (22:10): I rise on behalf of the opposition to speak to the Development (Public Consultation) Amendment Bill. I raised a whole range of issues in the previous bill I spoke to, so I will not repeat them.

The Hon. Mr Parnell proposes that the development regulations or a development plan be able to list a form of development as a category 3 development. At the moment, it is a remnant category, so it comprises of any form of development that is not category 1 or 2. Category 3 is the only category which involves general public notification in the print media. As we know, most complying developments are category 1, a very small number are category 2, but they can never be category 3. The Hon. Mr Parnell would like it to be possible for certain developments to be listed as category 3.

Again, we are well aware that the issue of public notification is a divisive one, and we have no doubt that it will be an area of focus of the review. As I indicated before, we will await the findings of the Hayes review to decide which course of action best suits the public and the state. I have forgotten the cost of the review (we have been told) but it was a significant cost. While we are not opposed to review and reform, we think that support of this bill tonight is premature and we believe that we should wait for the final report of that expert panel.

The Hon. M. PARNELL (22:12): I thank the Hon. Carmel Zollo and the Hon. David Ridgway for their contribution. In responding to what the Hon. David Ridgway said about the category 3 developments, it is clear to most people who have studied this system that the number and type of developments that are able to be challenged by communities, individuals or groups has been shrinking year by year. I recently managed to get the figures out of the Environment, Resources and Development Court and, over the last six or so years, the number of third party appeals has dropped by over a half; in fact, it is closer to two-thirds.

Mind you, the number of developer appeals has also dropped, which I think is largely because they are getting more approvals and there is less need for them to appeal. Some people might think that this more an indication of economic downturn, but we know that it is getting harder

and harder for people to challenge developments. It is also getting harder for people to find out about development.

The amendment included in this bill that provides for a sign to be placed on the land is a reform that I have not heard anyone disagree with. In fact, for my education, I sat in the other house the other day and I heard the minister say that this was a very meritorious idea. I have heard frontbench members of the Liberal Party, including the shadow minister, say similar things. But, again, everyone is hiding behind the fact that there is a review underway that will report in a year's time; therefore, no planning reform should be considered until that is done—unless, of course, it is a radical government planning reform that undermines community participation and the ability of the public to engage in these planning decisions. Again, I am disappointed that this community alliance bill will not go any further this time.

Because this is the final of these bills, I put on the record that, as far as the Greens are concerned, we are not giving up on these. When the new parliament is formed after March, these ideas, which have been so long in the gestation, are not going to become worse ideas with the passage of a few months, and we will certainly be pushing them again next year. But for now, I can see that the numbers are against us. I see the will of the house is that this bill not proceed any further tonight; nevertheless, I will not be dividing.

Second reading negatived.

PETROLEUM AND GEOTHERMAL ENERGY (HYDRAULIC FRACTURING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 June 2013.)

The Hon. R.P. WORTLEY (22:15): Safeguarding the environment is not the preserve of the Greens, despite their rhetoric. Labor has a long tradition of commitment to sustained and sound management of our state's natural resources. We have done this in a way that does not undermine the expectation of South Australians that we also safeguard the prosperity of this state, and we will continue to do so. The best safeguard a government can employ is a robust regulatory framework, one that is built on science and not fads. For these reasons, the government strongly opposes this bill.

Our state is currently experiencing an energy revolution. It is an energy revolution that is happening right here and now, one that will flow from the Cooper Basin to the homes of all South Australians. Billions of dollars have been invested across our state as local, national and international players are drawn to South Australia not just because of our vast oil and gas reserves but because of our world-class quality regulatory system.

A strong government working with strong business, backed by a strong community, is on the threshold of a golden age of oil and gas development in South Australia. It is a golden age that brings with it investment, jobs, prosperity and opportunity. This bill is designed with one purpose in mind, and that is to frustrate oil and gas companies. It does so by introducing unnecessary restrictions and duplication. A moratorium simply says to those companies, 'We don't trust you.' There is nothing in this bill that is not already being achieved by the existing regulatory framework—that is, if your intent is to safeguard the interests of landowners and the environment.

How can we be sure that our state's interests are being protected? For a start, we have more than 40 years of experience in using the technologies that this bill seeks to ban. Hydraulic fracturing technology has been used safely and without adverse impact for four decades. With 685 wells, more than 1,415 fracture stimulation stages have been carried out within the robust regulatory framework that has been in place in this state.

All potential impacts with relevance to hydraulic fracturing are already clearly outlined in publicly documented environmental impact reports, which all licensees are required under the act to have completed before they can do anything on the ground. The act requires statements of environmental objectives to be prepared on the basis of these reports, and these clearly state that contamination of surface waters, shallow groundwater resources, aquifers or soil must be avoided. They also state that there is to be no uncontrolled flow to the surface and that cross-flow between separate aquifers or hydrocarbon reservoirs must be prevented.

These are the standards to which these activities adhere, and it can be demonstrated that these objectives have been achieved. As I said, the objectives are designed as the result of detailed environmental impact reports that must be completed for all activities. This is required by

the Petroleum and Geothermal Energy Act. The report covers a broad scope of potential impacts, as the term 'environment' in the act includes not only the natural environment but also the social and economic environment and so includes aspects such as health and wellbeing, and existing uses of land. These reports are required as a matter of course by all licensees and exceed the requirements of the report proposed in the bill.

Reports can cover the potential impact and management strategies of a range of activities proposed, or they can be specific. In fact, last year an environmental impact report and statement of environmental objectives were thoroughly consulted on and completed specifically for hydraulic fracturing. I reiterate that the documents were made available for an extended period for public comment before they were finalised.

The other intent of this bill is to prevent hydraulic fracturing activities in certain areas. This government recognises the importance of the establishment of clear and effective multiple land use frameworks aimed at minimising conflicts. Above all else, this government recognises the need to provide a shared commitment by government, industry and community to multiple and sequential land uses. Clear multiple land use frameworks are vital in achieving better outcomes for community and industry through increased transparency, enabling more effective and targeted engagement with communities on land use change and potential benefits. These clear frameworks allow government and industry to better inform public discourse to ensure greater outcomes for communities and landholders.

The petroleum industry in South Australia has a long history of compatibility with other land uses and, under the act, landowners are consulted early and involved in the setting of the environmental objectives. Landowners who, by definition, also include native title holders and claimants, concurrent licence holders, lessees and, in fact, anyone with an interest in the land, must be provided early with good information so they can make informed decisions.

They have the right to object to activities on their land. There are also clear processes for working together and bringing matters to court. For some areas where activities are not compatible—including in some protected areas—such activities are already prevented under the existing provisions of the act.

Hydraulic fracturing is used in conventional and unconventional wells, and preventing its use would limit an industry that has enormous potential to provide immense benefits to South Australia. Security of supply, jobs and other flow-on benefits would all be at risk. In essence, hydraulic fracturing has been undertaken safely here for many years and is already regulated under the existing act.

What is new is the hysteria being generated in the Eastern States in relation to shallow coal seam gas. Trying to import that 'close the gate' hysteria here demonstrates a fundamental misunderstanding of our state's geology. Shallow coal seam gas is very different to the deep gas resources that are being developed in South Australia. Our gas resources have much smaller surface footprints and, as they are much deeper, there are thousands of metres of rock between the resource where the hydraulic fracturing would occur and the shallower potable or beneficial aquifers.

The existing regulatory framework operating in the state is robust and built on decades of practical experience. One of its key objectives is to protect the environment, and the public, from any potential risks and impacts from petroleum and geothermal activities. The bottom line is: science should be our guide in this matter, not uninformed hysteria. This government strongly opposes the bill.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (22:22): I rise to speak on behalf of the opposition to the Petroleum and Geothermal Energy (Hydraulic Fracturing) Amendment Bill. The bill seeks to place a moratorium on the practice of hydraulic fracturing for two years on any land used for primary production, residential zones, environmentally protected zones and any other zone deemed necessary by regulation. The bill also seeks to ensure that the minister provides a report to parliament into the possible impacts of fracturing on water quality, soil health, climate change and local economies.

There are two primary forms of unconventional gas prospects in Australia—coal seam gas and shale gas, and they are the two types of gas that will be accessed by this fracturing. Coal seam gas is formed along coal deposit beds. This is the form of unconventional gas that has received negative media attention and prohibitive regulations in the Eastern States. Currently,

fewer than five per cent of all Australian coal seam gas projects have required hydraulic fracturing, although this is expected to eventually involve 30 per cent of all projects.

Coal seam gas is usually pursued on smaller tenements with multiple drill holes at a shallower depth of generally no deeper than 1,800 metres and, often, as a secondary product to coal production. Exploration of coal seam gas in South Australia is very much in its infancy and production is unlikely in the short to medium term, as operators are likely to pursue coal in the first instance at these sites.

Shale gas is found within finely grained sedimentary rock, often found layered deep in stable geological structures. Shale deposits require hydraulic fracturing. Extraction has a much higher operational cost than conventional or coal seam gas due to its greater depths, high geological density and, therefore, more energy-intensive processes. Shale gas is typically extracted at depths of one to four kilometres. The low permeability of shale rock and the depth of the gas deposits mean that the potential effect on water resources is substantially lessened.

'Upward migration' of fluid and contaminants from hydraulic fracturing 'does not appear to be physically plausible'. Shale gas production does not require groundwater to be pumped to the surface. Shale gas has far less impact on land use compared with coal seam gas, as much of the activity occurs below the surface. Productive shale gas reservoirs tend to be more substantial and are only cost feasible for larger operators.

Hydraulic fracturing encompasses a range of different extraction techniques for unconventional gas and geothermal energy. The process invariably requires a series of steel pipe well casings sealed with concrete to mitigate gas and water migration. Through the well a combination of pressurised water, sand and a marginal portion of chemicals is blasted at strategic points to extract unconventional gas and oil. Poor casing is often cited as the likely cause of environmental damage.

Nationally, water management for coal seam gas has been of particular concern. The CSIRO has stated that, 'Groundwater contamination from coal seam gas operations is considered a low risk.' Much concern is made of the chemical component of different hydraulic fracturing practices. However, the CSIRO has also stated that, 'Most of the chemicals are of low inherent toxicity, undergo considerable dilution, and the majority (60 to 80 per cent) are understood to be removed during flow back of the hydraulic fracturing fluid to the well from the coal seam.'

The case of the Tara region in Queensland has received considerable media attention in particular. Many of the claims that were promulgated in the media about health concerns were comprehensively rejected by the Queensland health department's study into the region. Similarly, the American EPA's progress report into the effect of hydraulic fracturing on water has so far found no cases of contamination resultant from such operations. The international academic journal *Science* recently published a comprehensive literature review into the impact of shale gas on water quality, which concludes that, 'These technologies are not free from environmental risks,' however, 'the incidence rate of seal problems in unconventional gas wells is relatively low (1 to 3 per cent).'

It is important to reiterate that there are substantial differences between South Australia's geology and resources compared with overseas and interstate. Some of the sources the Hon. Mark Parnell cites are questionable. The first source he cites in his second reading speech is the American polemic documentary film *Gasland*, which has been widely criticised for selective information and staged falsifications. Second, he cites that the CSIRO and the National Water Commission have concluded that environmental concerns about hydraulic fracturing are still poorly understood. While research is continuing, the prima facie case for a blanket ban appears very weak. He also fails to acknowledge the CSIRO's determination that the risk of water contamination is low.

In a briefing from the Hon. Mark Parnell to the opposition, he also cited a report from Southern Cross University into methane emissions from coal seam gas. This research is incomplete and still under peer review process. The scientific evidence for the Greens' position is otherwise scant.

In Queensland, the former Labor government allowed unconventional gas developments without going through the proper planning and environmental impact processes. Coal seam gas projects were allowed to proceed without proper community consultation and development of the resource was mishandled. As a result, there was considerable community opposition. Since then, the Newman government has fixed the mess created by the former Labor government.

The federal Coalition resources spokesperson Mr Ian Macfarlane has informed the state opposition that some 3,000 farmers have now signed up to unconventional gas activities on their land. Improved remuneration to farmers has been an important instrument in this process. We are advised that as a consequence of the developments in Queensland, young people who had moved to the Queensland coast to take up jobs in other industries are now moving back to the country because they see a future on the family farm and a reliable drought-resistant income that was hitherto missing. Country communities in Queensland are now looking at growth after several years of uncertainty.

South Australia has an established history of hydraulic fracturing of shale gas in the Cooper Basin in the north-east. In addition, Beach Energy and other explorers are currently considering options for shale gas in the Otway Basin region of the South-East. Energy resources and unconventional gas is a particularly important export growth industry for South Australia. Domestic supply of gas is also crucial for our state, as approximately 52 per cent of our electricity supply is provided by gas. Limits to supply would have a flow-on economic effect on exports, utility prices, industry and manufacturing.

I turn my attention to the bill. The bill seeks to place a moratorium on the practice of hydraulic fracturing for two years on any land used for primary production, residential zones, environmentally protected zones or any other zone deemed necessary by regulation. Such a moratorium would immediately prevent energy resource production across the state. Of the $268 billion of resource development investment in Australia, $205 billion is in unconventional gas and oil.

The second measure the bill requires is that the minister provide a report to parliament into the possible impacts of fracturing on water quality, in additional to soil health, climate change and local economies. Such a measure ignores the considerable amount of government and academic research being dedicated to this technique and does not require legislative enforcement. DMITRE has been particularly proactive in regard to their unconventional gas roadmap to address these environmental concerns.

Currently, energy resource project development requires ministerial approval in accordance with the Petroleum and Geothermal Energy Act 2000. It is incumbent upon the energy resource project proponents to provide an environmental impact report that identifies the risks and impact mitigation strategy, including to water resources.

The minister maintains a discretion to revise environmental objectives as it relates to the environmental impact report or the Development Act for high impact activities. Failure to comply with this range of requirements under the environmental impact report can cause penalties of up to $120,000 and six months' imprisonment for each individual offence. This proper process works well and defies the proposition in the bill that there should be separate ministerial reports to parliament.

Obviously after tabling the bill, the Hon. Mark Parnell indicated that he needed to amend the bill. He needed to remove the retrospectivity so that it only applies to future activities, not existing wells, and exempt fracking for the purpose of geothermal energy exploration or production. As you would appreciate, the contamination of groundwater issues are very different for hot rocks energy extraction than for methane. These changes are illustrative of the Hon. Mr Parnell's misunderstanding of hydraulic fracturing.

The necessity for retrospectivity is due to the current hydraulic fracturing activities in the Cooper Basin. It is apparent that Mr Parnell was unaware that the practice had already been employed in the region for many decades. I will add that the member for Hammond, Adrian Pederick, in his younger days was a fracking pump operator in the Cooper Basin. The Greens' media release that accompanied this private member's bill somewhat inaccurately described the measure as a ban on coal seam gas, rather than on hydraulic fracturing.

As aforementioned, only 30 per cent of coal seam gas requires hydraulic fracturing. Despite the removal of retrospectivity the bill would still seriously impinge on the current operations of the industry in the Cooper Basin as exploration and investment in the region would decline. The cost effectiveness of the operations is dependent on an inferred economy of scale that will make the region attractive for investment and joint venture from larger partners such as Chevron, in the case of Beach Energy.

The second amendment that the Hon. Mark Parnell proposes to his private member's bill is for geothermal, which requires an even larger quantity of highly pressurised water to be injected into hot dry rock areas. Research into hydraulic fracturing required for geothermal energy is in fact

much further behind the methods used for unconventional gas. Again, the amendment illustrates the Greens' ideological preference for geothermal energy and its simplistic opposition to the hydrocarbon industry, rather than genuine concerns about the practice of hydraulic fracturing.

We consulted with a number of stakeholders but one that is particularly dear to my heart is the relatively newly-formed Primary Producers SA who indicated that they had some concern over hydraulic fracturing, particularly in the South-East—and I will come back to the South-East—and the Otway Basin. However, they would prefer that the projects were managed diligently by the department in accordance with proper process already in place rather than a blanket moratorium.

Members would know that I have been farming in the South-East at a place just out of Bordertown, and twice in my life there have been major proposals not of extraction of gas but of mining coal that exists below the aquifer. Both times, with great fanfare, companies have come in and both times they have been unsuccessful because they could not guarantee, with the existing rules in place, the integrity of that water resource. So, I have seen firsthand an example where the rules and regulations we have in place have protected that resource.

I have made it very clear that, while we will not be supporting the Hon. Mark Parnell's bill here this evening, as a farmer, and I think the only person probably ever in this parliament whose entire income prior to entering parliament was derived from water extracted from that aquifer, I know how very important it is.

Nonetheless it has been protected in the past and I know that the two proposed exploration wells near Robe are some 4,000 metres deep. The aquifer around Robe is actually quite shallow but I will use my example. The aquifer was at about 30 metres below the surface and then there was 80 metres of water and then you go into a whole range of other rock formations, so we are talking about 110 metres, yet the shale that they were trying to fracture is some 3,890 metres deeper into the earth, if it is at the same level. With those few words, I indicate that the opposition will not be supporting the Hon. Mark Parnell's bill.

The Hon. R.L. BROKENSHIRE (22:35): I will be brief because plenty has been said about this already. It is clear that both major parties, for reasons that they have outlined, will not be supporting this bill. Because of the composition of the bill, some briefings that we have had, and the differences between mining practices for the proposals in even a very sensitive area like the South-East compared to what has been incredibly damaging in parts of the United States, as one example, we are confident that the practices for this type of mining in South Australia will be totally different to that. We have had two if not three detailed briefings on this matter. Having said that, we will keep a close eye on what is happening in the South-East.

I respect what the Hon. Mark Parnell is trying to do with respect to the protection of an important region for the state. Indeed, we argue that three other areas need to be brought into legislation as well to protect prime farming areas. One is obviously proper mapping and zoning of mining per se in our most productive food bowl areas. The second is the right to farm legislation, and the third is some alterations generally to the Mining Act that give farmers more power than they have at the moment.

As we have often discussed in this house, we tried to make the Mining Act better and stronger for farmers in 2010 and did not succeed—just like the Hon. Mark Parnell probably will not succeed at this point—in giving farmers a more balanced opportunity to put mechanisms in place in the act that, where relevant, protect them and prevent them from having to go through what is occurring at moment. The reality is that, whenever you try to do anything with the Mining Act per se, SACOME in particular seems to have a much stronger voice than farmers.

Thermal energy is one thing that we hope will have some success in South Australia. I had a brief look at that in Innamincka some time ago. It is unfortunate that it has not been successful thus far, but, hopefully, for South Australia's clean, green energy supplies in the future thermal will be an opportunity. We would not want to prevent that at this time, that is for sure. As far as a blanket moratorium goes, we just think that it is too broad, but we will watch very closely what is occurring and if anything adverse occurs in the event of exploration.

We have also had a briefing from the major exploration company down there, and there are still a lot of question marks around whether or not they will ultimately go into mining practices in the South-East. However, if those approvals and practices do at some point in the future become adverse to that community, we would join forces with the Hon. Mark Parnell and anybody else in the parliament who wanted to bring in some legislation to ensure additional protection or prohibition. As the Hon. David Ridgway has already said, there are quite a lot of checks and

balances within the existing act, and there are plenty of people who are watching very carefully what is happening down there.

We are not anti-mining at all costs, but we are arguing that mining should occur where appropriate and not occur where inappropriate. Obviously this government is not going to do it, but we would like to see the continuation of the concept of proper mapping and zoning for our mining areas in a comprehensive and scientific way and have relevant economic analysis done to have zoned-in areas for farming and zoned-in areas for mining. Perhaps a future government, maybe a new government next year, will do that. With those few remarks that puts our position in the *Hansard* at the moment. We will be watching very closely as things may or may not proceed, particularly in the South-East, with fracking.

The Hon. M. PARNELL (22:40): I thank the Hons Russell Wortley, David Ridgway and Robert Brokenshire for their contributions and I am disappointed that none of the Labor Party, Liberal Party or Family First will be supporting this legislation. I want to quickly put on the record, the Hon. David Ridgway referred to it, but the nature of debates in this place will not show the amendments that I circulated some time ago. Just so that it is on the record, if this bill were to get to committee stage, and I think it is unlikely, the amendments would ensure that the bill was not retrospective and did not apply to geothermal energy. The reason is fairly obvious. You do not have the same leakage of methane, and in fact hot rocks are not fossil fuels that damage the climate, so we do not need to impact on that renewable energy industry.

The Hon. Russell Wortley put all his faith in what he described as the robust regulatory framework. I have to say that my experience with this robust regulatory framework over a period of decades is that it is not in the least robust. I think I might have mentioned here before I attended an inquiry into mining accidents in the early 1990s and it was clear that the mining companies up in the Cooper Basin were breaching the law in relation to the pollution of land by hydrocarbons. Having drawn it to their attention, the mining department's response was the law must be wrong. It was not 'these mining companies are doing the wrong thing,' but the law must be wrong. They promptly proceeded to change the law to validate their dodgy polluting practices.

The Hon. David Ridgway again has faith in these robust regulatory frameworks. He says there is nothing to worry about. He talks about the depth to which the wells are sunk and of course he is a great believer in concrete, and he referred to the fact that these are concrete lined wells. We know that these wells leak and fracture and they are compromised and they do not retain their integrity—in some cases, not for very long at all—but there is plenty of evidence of wells being compromised and collapsing and therefore leaking. So, the idea that all of the gas will neatly come out of the pipe and everything will be captured and there will be no fugitive emissions I think is fanciful.

To say that the Southern Cross University studies have to do a bit more work—and it is pretty clear from the work they have done that there are fugitive methane emissions which, given the climate forcing potential of methane, are far more serious a climate change agent than simple carbon dioxide.

The Hon. David Ridgway talked about the Greens' 'simplistic opposition to hydrocarbons'. What the honourable member should do is pay attention to climate science, pay attention to the International Panel on Climate Change and the Climate Commission and other bodies who all agree that we have to leave most of the remaining fossil fuels in the ground if we are to avoid dangerous climate change. If they have to be left in the ground, is it that we just leave someone else's in the ground and we will dig all ours out? That is what is inherent in this argument. As soon as you find it, you dig it up!

I think the 'Fossil Fuel Party' (the Liberal Party)—and as a segue, $400 million taken off renewable energy just today. That is Mr Abbott's contribution to climate change. The 'Fossil Fuel Party' sees no merit in protecting farmland, protecting conservation land or protecting urban land. Their colleagues interstate do; their colleagues interstate have introduced exactly the same type of amendments that the Greens have introduced. The best the Hon. David Ridgway can see is, 'We're different. South Australia is different. Our geology is different. Our wells are different.' We could not possibly have any of these problems that occurred in New South Wales and the 'lock the gate' people are just scaremongers. A farmer-driven campaign against the damage to farmland is just scaremongering, clearly. That is the opposition's view. I am disappointed that this bill will not go any further today.

Certainly, I know that the community sector in South Australia, conservation groups and a new group that has been established fairly recently under the name of CLAW—Clean Land and Water—are paying attention to what this industry is doing. They do not accept the robust regulatory framework. They will be watching very carefully what goes on.

The Hon. J.M.A. Lensink: And you are going to be emailing them as soon as you get to your office.

The Hon. M. PARNELL: The Hon. Michelle Lensink is encouraging me to email community groups, and I can do nothing other than take her advice. What I will say is, I will be down in Mount Gambier. The Greens strongly believe in protecting regional economies and regional communities. I will be down in Mount Gambier talking to local farmers about what is coming their way.

Farmers down in the South-East are worried about what is coming. They have every right to be worried, and the Greens will be doing what we can to support our food growers against this industry which is a blight on the landscape. It is an additional forcing pressure for climate change, and we really do need to proceed very carefully. That is why the Greens have moved for the two-year moratorium and the permanent protection of conservation land, farming land and urban land.

Second reading negatived.

NATIONAL POLICE REMEMBRANCE DAY

Adjourned debate on motion of Hon. S.G. Wade:

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.

(Continued from 16 October 2013.)

The Hon. K.J. MAHER (22:46): I rise to support the motion of the Hon. Stephen Wade. In 2013, National Police Remembrance Day was held throughout Australia and the South Pacific on Friday 27 September. National Police Remembrance Day is traditionally held on 29 September, that being the feast day of St Michael the Archangel, the patron saint of policemen. National Police Remembrance Day is a significant day of commemoration, when people can reflect on each individual police force and remember those officers killed on duty. In South Australia it is no different, and this year we again commemorate officers who have been subject to violence, which has cost careers and lives.

National Police Remembrance Day is the perfect opportunity to honour the sacrifice made by SAPOL officers. Sober commemoration of the past will also help ensure that the work of SAPOL officers is better appreciated. Our police force is not external to society. It is such a fundamental part that without it our society would cease to function properly.

The 61 SAPOL officers killed in the course of service since records have been kept are deeply missed and very much appreciated by South Australians right across the community. They remind us that although technology improves society, the dangers to the officers remain the same. This number contains not only the barest traces of the tragedy of the statistics, but speaks to people who will be sadly missed.

I commend the shadow minister for police for the amount of historic research that went into his speech recently. In the past 12 months, of the three Australian officers killed in service, fortunately none were from SAPOL, but as we commemorate National Police Remembrance Day with reverence we hope there is an ever-dwindling set of names to add to the memorial.

The Hon. S.G. WADE (22:48): I also thank the Hon. Kyam Maher for his contribution on behalf of the government and note that the motion is supported across the chamber. Since I moved this motion, I have had the opportunity to discuss police history with a senior police officer. Let's just say that he is in the SAPOL executive. I took the opportunity to reflect on the comment I made in my speech in moving this motion, which was to note how many officers in the 1800s died of drowning. Being as ignorant as I am, I speculated that that might have been in relation to police

boats, but he clarified that in fact it is a well-established fact in terms of police safety on the job that training in swimming is a very important factor in preserving the lives of police officers on duty.

I thought it was a useful reminder that one of the ways that we as a parliament and as the executive can support our police is to make sure they get the resources, not just merely the equipment but also the training, that help them to stay safe on the job. I thank the government for its support and commend the motion to the council.

Motion carried.

DEVELOPMENT (REGULATED TREES) AMENDMENT BILL

In committee.

Clause 1.

The Hon. M. PARNELL: Just briefly, members will recall that we took this to a second reading vote on the last private members' day and, whilst it did not have the support of government, the opposition supported the second reading but made no commitment to support the third reading, so I thought I would at least keep it going for another couple of weeks and see whether the opposition changed its mind. I understand that it has not, so I do not propose to have any detailed committee debate, but we are in committee and I urge all honourable members to support the bill, but I do not propose to make any further remarks on it.

The Hon. D.G.E. HOOD: I will be brief as well, given the hour, but I would like to place on record that Family First will not support the bill. It was originally our bill that passed the chamber that substantially changed the regulated tree legislation, and we are very proud of that change that was made in the law at that time. I think it has freed up the issue surrounding regulated trees and all the restrictions that are placed on them.

I can understand what the Hon. Mark Parnell is doing here. There have been some what I would call 'teething problems' with the legislation, but I understand the government has been dealing with those by regulation and through the local government sector, so we are satisfied with the law as it currently stands.

The Hon. J.M.A. LENSINK: The Liberal Party is not satisfied with the law as it currently stands, but we are not convinced that the Hon. Mark Parnell's amendments actually improve it; in fact, in some ways I think some of his proposals might actually make it worse, so we will not support the third reading.

Clause passed.

Remaining clauses (2 to 5) and title passed.

Bill reported without amendment.

The Hon. M. PARNELL (22:56): I move:

That this bill be now read a third time.

Third reading negatived.

CROWN LAND MANAGEMENT (LIFE LEASE SITES) AMENDMENT BILL

In committee.

Clause 1.

The ACTING CHAIR (Hon. G.A. Kandelaars): This consists of five clauses and no amendments have been lodged. Do I have any contributions at clause—

The Hon. J.A. DARLEY: Mr Acting Chairman, there were two amendments; one cannot proceed because that is treated as a money bill, but the other one can.

The ACTING CHAIR (Hon. G.A. Kandelaars): We have a bit of a procedural issue, because I understand the amendments have not been lodged. Is the honourable member proposing to report progress?

The Hon. J.A. DARLEY: I was going to suggest I can withdraw it.

The ACTING CHAIR (Hon. G.A. Kandelaars): Well, there is no withdrawal required; no amendment has been lodged.

Clause passed.

Remaining clauses (2 to 5) and title passed.

Bill reported without amendment.

The Hon. J.M.A. LENSINK (23:01): I move:

That this bill be now read a third time.

Bill read a third time and passed.

RIGHT TO FARM BILL

Adjourned debate on second reading.

(Continued from 28 March 2013.)

The Hon. R.P. WORTLEY (23:02): The government supports the right of farmers to have a level of certainty in the operation and management—

Members interjecting:

The ACTING PRESIDENT (Hon. G.A. Kandelaars): The Hon. Russell Wortley has the call.

The Hon. R.P. WORTLEY: The government supports the right of farmers to have a level of certainty in the operation and management of existing farming activities. The government believes, however, that this bill is not the appropriate mechanism to achieve this outcome. Elements of the bill are considered to have some merit, but the appropriate way to ensure the measures are implemented is in an effective and supported way through the expert panel's work to improve the state planning system. The government therefore does not support the bill at this time.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (23:03): I rise on behalf of the opposition to speak to the Hon. Robert Brokenshire's Right to Farm Bill. I indicate that the opposition has always supported the rights of farmers, and I guess it is in the context of existing land use. I just make a couple of observations, and we have seen it in the wind farm select committee and the debate on wind farms where one landowner has done something on his property that impacts on the neighbour's property.

I have always been of the long-held view that I should be able to do whatever I like on my property as long as it does not impact on the way that my neighbour goes about his or her daily business. So, we have often seen some conflict, and certainly we have seen that with the wind farm debate. It comes about when you have a change of land use, and I know that there are some concerns up in areas where grapes are often planted.

It has been raised with me by people who have lived on the periphery of the Barossa Valley where there has been a change of land use from broadacre agriculture to horticulture, yet the landowner who has not changed to horticulture and has not planted grapes is required then to have a 300-metre buffer zone, I think, for the use of certain herbicides. So the neighbour has changed land use, maybe to a higher value, but then they are required to have a buffer. It is the same for urban development. It is the Liberal Party's view that it should actually be the developer or the owner of the land on which there is a change of land use who should provide that buffer, rather than the existing landowner.

I am also reminded—and this is probably an ancillary activity to farming—that in my old home town of Bordertown houses were much cheaper on the north-eastern side of the local saleyards because of the smell every week of the sheep and cattle in the saleyards. Trucks would be—

The Hon. R.L. Brokenshire: A beautiful smell.

The Hon. D.W. RIDGWAY: The Hon. Robert Brokenshire says 'a beautiful smell'. It is a smell that only a dairy farmer could love. Every week there would be noise, smell and occasionally a bit of dust. You would get residents who had bought a house because it was cheap, a good buy, who within a matter of weeks would complain and petition the council to put controls on the local saleyards. Often we see this when people move into a rural community. I have had it explained to me in McLaren Vale where small subdivisions have happened right next to a vineyard: new house owners complaining about grape harvesters and other machinery and activities that are happening on neighbouring properties.

We will go a step further than the government in the sense that we will support the Hon. Robert Brokenshire's bill, but on the basis that we think there does need to be a long hard look at the interface between farmers and other activities. We have heard the debate on Yorke Peninsula with mining and farming. The two have to coexist. This state has been built on agriculture and it has a significant mining past, so the two have to coexist. I know that it is the view of Primary Producers SA that those two activities have to coexist. In fact, every activity in South Australia has to coexist.

We will support the Hon. Robert Brokenshire's bill on the basis that we think we need to have a closer look at it. If we are fortunate enough to win government at the next election, it is something that I then, as the minister for agriculture, will have a close look at: how we can make sure that industries and different land uses coexist for the betterment of our community.

The Hon. R.L. BROKENSHIRE (23:07): I will try to be brief at this late hour that the Legislative Council is sitting again, compared to other houses. I thank the Hon. Russell Wortley for his contribution. He is a great local member, but I just do not understand what he is saying on behalf of the government, because the government is saying that it supports the right to farm but, in the next breath, it is saying that it cannot support my bill, which is a bill to protect the right to farm. I think the government is trying to have a quid each way and frankly does not genuinely want to support farmers. I also thank the shadow minister for agriculture, food and fisheries and Leader of the Opposition in this place, the Hon. David Ridgway, for his contribution.

I explained the intent of this bill during the second reading debate on 14 and 28 March last year—during 2012, the Year of the Farmer. I remind honourable members that a similar bill under my name passed this place on 18 November 2009, before the last state election.

One illustration of why we need right to farm is that when we do not have right to farm we get situations like we saw in the Barossa, where broadacre farmers are very frustrated about the character preservation legislation. I met with them, as I understand the Hon. Mr Darley and I think the Hon. Mr Ridgway did; certainly Mr Peter Treloar did. They would have had no reason to be concerned if we had good right to farm legislation. Indeed, Mr Jeff Kernich and his family were quoted in *The Leader* newspaper on 27 June 2012. He said that the preservation bill prevented him from upgrading his dairy farming operation at Greenock because he did not have right to farm protections.

I want to read from the New South Wales Greater Hume Shire Council's local government policy on right to farm. The policy states that they will not support action to interfere with legitimate agricultural use of land, including: logging and milling of timber; livestock feedlots; piggeries or poultry farming; dairies; dogs barking; noise from cattle or other livestock; intensive livestock waste disposal systems and ponds; burning of stubble; clearing and cultivation of land; growing crops including those that may produce aromas or pollens like canola or lucerne; bushfire hazard reduction burning and firebreaks; constructing dams and drains; fencing; using tractors, chainsaws, motorbikes, etc; pumping and irrigation; spraying herbicide and pesticide (including aerial spraying); animal husbandry practices, including castration and dehorning; driving livestock on roads; fodder production; construction of access roads and tracks; slashing and mowing vegetation; planting woodlots—and it goes on and on.

That is what this bill is about—protecting farmers from complaints about these activities on their farms. That New South Wales council has done great work but the state has to take the lead on this and not leave it to individual councils. Farmers need consistent application of these principles across the state—but has the government taken a lead here? The answer, sadly, is no.

I acknowledge that on 5 March 2005, Mr Don Page, National Party Minister for Local Government and Minister for the North Coast in the current O'Farrell Liberal New South Wales state government, tabled a private member's bill during the life of the former Labor government called the Protection of Agricultural Production (Right to Farm Bill) 2005 which, in part, is similar to my bill in that both require notices to be imposed on land purchasers about the rural land uses that happen around the land, and that then limits rights of complaint by that landholder in future about legitimate farming activities. To quote Mr Page on the defeat of the bill by the then Labor government, the now minister said in a Ballina publication:

> Increasingly, we are finding more and more people in coastal areas in New South Wales and indeed in large regional centres wanting to go to rural areas to experience the pleasantries of a rural lifestyle, but then complain about the legitimate and legal activities that are occurring on the farm next door.

There was an interesting development in the USA this year: Missouri will now vote in elections on their latest right to farm bill in November 2014, a bill that amends their constitution to provide a guarantee to farm land. How good would it be to farm over there in Missouri where you have a government that is going to enshrine it in legislation and so to provide a guarantee to farm land which allows them to raise livestock, protects farmers from red tape, and includes guarantees of reasonable consumer prices?

They already have right to farm legislation but, if passed, Missouri will join North Dakota as the only states with constitutional guarantees for farming. Just as an aside, if you would like to google it and have a look at what is happening in North Dakota, it is possibly the richest state for economic growth and wealth of any state in the US. They are the only states with constitutional guarantees for farming.

In conclusion, we are falling behind. There was a lovely, glossy taxpayer-funded document No. 7 from the Premier this week on clean, green food production which was published to make people feel warm and fuzzy but this government will not even support the fundamental right to farm. What would have really marked 2012, the Australian Year of the Farmer—what would have really made farmers sit up and take notice—is if this state parliament had supported right to farm legislation.

Let's look at the Newspoll. The first ever Rural Pulse survey released on 15 May shows that the number one concern of farmers (at 76 per cent) was government regulations and farmer concern about right to farm. It is interesting to note that the same survey indicated that only 14 per cent of city people thought that farming was environmentally damaging. So 86 per cent of people do not see it that way—that is, they do not see it as environmentally damaging—so why are our farmers hit time and again with more red tape?

We need statewide right to farm legislation. Every North American state or province has a form of this legislation and some are now putting it in their constitutions. I urge the council to send a message to its farmers that they are valued and protected at law from nuisance complaints—nuisance in the legal sense and in a practical sense—and have this state's backing to press on doing their very good work and economically advancing South Australia into the future.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. R.L. BROKENSHIRE (23:16): I move:

That this bill be now read a third time.

Bill read a third time and passed.

MEMBER'S REMARKS

The Hon. S.G. WADE (23:17): I seek leave to make a personal explanation.

Leave granted.

The Hon. S.G. WADE: By way of interjection in the second reading of the OPV bill, I challenged the Hon. Mark Parnell's assertion that I characterised the behaviour of the Attorney-General and himself towards the Electoral Commissioner as bullying. I have taken the opportunity to check the record. I did use that term. On reflection I remain of the view that their behaviour can be characterised as bullying.

ADELAIDE UNITED FOOTBALL CLUB

Adjourned debate on motion of Hon. T.J. Stephens.

That this council—

1. Recognises—

   (a) That Adelaide United Football Club represents Adelaide and South Australia in a national sporting competition;

   (b) That Adelaide United Football Club represents Adelaide and South Australia in an international sporting competition outside of our national league;

   (c) The social, health and economic benefits that Adelaide United Football Club contribute to our state; and

2. Condemns the state Labor government for its current lack of support for Adelaide United Football Club.

which the Hon. Carmel Zollo has moved to amend by leaving out paragraph 2 and inserting—

2. Recognises the state Labor government for its support for Adelaide United Football Club.

(Continued from 20 September 2013.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (23:19): I rise to support the motion of my colleague the Hon. Terry Stephens. South Australia has always been a state which rallies behind its sporting clubs. Our passion for the Crows, the Power, the Redbacks, the Thunderbirds and many others is infectious and I believe it sets us apart from the rest of the nation. No other state has united behind their teams and our supporters are known for their passion and dedication. The Crows have even named their supporters the 19th Man, such is their commitment.

Adelaide is a sporting-mad city with some of the most fiercely supported teams in the country. Adelaide United is no different; in fact, I would almost go so far as to say that United's fans, the Red Army as they are known, are some of the most passionate supporters you will find. Witnessing thousands of fans holding aloft the team's scarf and chanting the song in unison is an awe-inspiring sight.

Many have heard the Reds' call and many have answered. Adelaide United has an average live attendance at home games of around 12,000 so far this year, and its community programs reach upwards of 87,000 children throughout South Australia. In the 2012-13 season, total crowd attendance was some 289,411 fans. This season, they hope to reach 10,000 financial members.

This year is the club's 10th anniversary, and what an incredible decade it has been. Many of our achievements include minor premiers in the 2005 inaugural season, being finalists in the AFC Champions League in the 2007-08 season and reaching the AFC Champions League quarter finals in 2012. Our efforts have seen Adelaide United maintain a presence throughout Asia that remains unmatched by any other A-League club. In many Asian nations, some of them being our largest trading partners, Adelaide United is a household name. In fact, the Reds are now in the top 20 all-time successful clubs in Asia, even though they are less than a decade old.

You only have to look at past World Cups to see the galvanising power of football in full effect. No other sport can capture the feeling of an entire nation being united by one team and one cause—the quest for the holy grail of the football world, the FIFA World Cup. When a World Cup match is on, the entire country comes to a standstill, streets are deserted, pubs are packed and families cluster around the television screen. The nation watches with bated breath, hanging on every slick pass, every curving shot and every diving save. It does not matter if you do not follow football or even care, for that matter; it is impossible not to get caught up in the euphoria football creates. Put simply, there is nothing else like it in the world of sport.

Knowing this, it is a bright future for football and for Adelaide United in South Australia. The game of soccer will only continue to grow. Soccer, or football, is ranked as the most popular organised team sport in South Australia, with 4.4 per cent of the community participating. The AFL is ranked at only third, with 3.8 per cent. Football is growing at the highest rate in all structured competitive sports, at 7.7 per cent biannually, and it is clear to me that future sporting trends will be towards the growth of football and that we need to plan ahead for when soccer is one of the dominant players in Australian sport.

Yet, despite all that Adelaide United does for the state, and despite how passionately supported by the public it is, support from current government has been truly abysmal. During the 2012 AFC Champions League, Adelaide United was without a major sponsor and so approached the government to seek sponsorship. Such a partnership would have been greatly beneficial to both parties; instead, they were outright ignored. Phone calls went unanswered, written submissions were overlooked and, despite a range of requests, the government gave them nothing.

Adelaide United played out their match against the huge Japanese club, Nagoya Grampus, without a main sponsor. The Adelaide United shirts were completely blank. An audience of some 35 million people watched that game—35 million people watched Adelaide United down one of the powerhouses of Japanese soccer one-nil. Furthermore, Adelaide United was the only Australian club left in the competition at that point, so the entire nation, not just South Australia, was watching, yet their shirts were blank because our government ignored them.

South Australia could have jumped on board the team that represents them in the world game. The sponsorship would not have been a massive sum, certainly not compared with the $6 million the government recently handed out for tourism ads. We could have focused on KI, with a logo or a silhouette of the island splashed over the shirts and broadcast to the millions across Asia. The television exposure in Asia is immense; with an audience of 35 million people for one game, the mind boggles and the opportunities were simply endless. A partnership with Adelaide United would have had a huge return on investment.

The Reds are currently sponsored by Veolia, one of the world leaders in environmental, water and waste management which also sponsors FC Lyon, one of the elite European clubs. FC Lyon were the champions of France for seven consecutive years, from 2001 to 2008. They are one of the biggest teams in Europe, and Veolia has chosen to sponsor only them and Adelaide United. Obviously, this still is not a good enough reason for our government to jump on board.

Other sponsors include Stratco, which had to drop key sponsorship deals, including Adelaide United in 2012, but returned to the sponsorship fold as the exposure the club gives was too good to pass up. Harvey Norman now sponsors every free-to-air Friday night A-League game and say they are already seeing a significant return on their investment. These companies have recognised the huge opportunities Adelaide United and football offer; it is unforgivable that our own government does not.

I commend the Northern Territory government for its alertness in signing on to sponsor our team. It showed initiative and was proactive in seeking out an agreement. I only wish that our own Tourism Commission had as much insight to recognise the potential benefits to be realised from such a landmark partnership. I have no doubt that Tourism NT will profit greatly from such an arrangement, but it should be South Australia's logo on the back of the Adelaide United shirt.

The state government should be recognising that Adelaide United represents Adelaide and the state of South Australia in national and international sporting competitions. Every time the players walk onto the pitch they are broadcasting South Australia around the globe. Adelaide United is the team for all South Australians. It is the team to truly represent us in one of the world's most popular games.

Other states support their clubs. Destination NSW is one of the primary sponsors for the Sydney Football Club. I condemn the current Labor government for its supreme lack of support for Adelaide United and for abandoning them when they came seeking an agreement. Now that opportunity has well and truly gone.

Adelaide United represents us, and its success is our success. If we want to have a thriving sport and tourism scene, the state government needs to support our teams in their growth. We should recognise the social, health and economic benefits that Adelaide United contributes to our state, whether it be grassroots participation, community involvement, sponsorship or simply promotion of South Australia as a fit and active destination.

Steven Marshall, the Leader of the Opposition, and I were guests at the season launch recently, and it was interesting to note that there was not one government representative at that launch. Adelaide United does much for South Australia and will do much, much more in the future. It is disappointing that our government does not do anything for them.

The Hon. R.L. BROKENSHIRE (23:27): I will be brief, but this is a very important motion moved by the Hon. Terry Stephens. I commend him for moving the motion, and I acknowledge his interest in all sporting codes. Family First is proud to support this motion. The Adelaide United Football Club has done a dynamic job for South Australia in soccer. My own legal and policy adviser, an avid soccer fan and soccer coach, is forever telling me about what happens when he goes to watch one of Adelaide United's matches at the Hindmarsh Stadium.

We will be supporting this motion, but we absolutely cannot support the amendment by the Hon. Carmel Zollo, as we personally like her, because the amendment is on behalf of the government. This government cannot have it all ways. I can remember when this government tried every trick in the book as an opposition to try to condemn the former government for the upgrade of the Hindmarsh Stadium.

That stadium came in on budget at about $28 million, from memory—and that $28 million investment allowed the success of a premier soccer club such as the Adelaide United Football Club. When you consider that we are now seeing $43 million being spent just on a footbridge

across the River Torrens and the Hindmarsh Stadium upgrade was done for $28 million, in real terms, I know which was the better value investment.

I also note that the former premier, amongst all of his other attire he would have on the back parcel shelf of his car, such as two or three SANFL teams (Centrals and South were two of them), he had his Adelaide United stuff there as well if he was going to an Adelaide United match. He would run out there—and it would not be on this occasion 'Go Panthers': it would be 'You beaut! Great Adelaide United Soccer Club.' He would go out there on the pitch and present to them, and they would boo him—but he still continued to go out there.

You cannot have it both ways. You cannot try to capitalise on a soccer club and then jack up the rent by $7,000 a game—when they are on the oval and on the pitch, it is about $80,000 a year, according to my learned friend the Hon. Mr Stephens—and then expect to get accolades from soccer. You cannot have it both ways, and this government needs to learn that. With those few remarks, I indicate that we will be supporting the Hon. Terry Stephen's motion.

The Hon. T.A. FRANKS (23:29): The hour is late, so I will keep it brief. I rise on behalf of the Greens to support the Reds. Therefore, in doing so, we will oppose the government amendment. We will support and stand united behind the motion of the Hon. Terry Stephens.

Amendment negatived; motion carried.

YOUNG OFFENDERS (RELEASE ON LICENCE) AMENDMENT BILL

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

STATUTES AMENDMENT (ELECTRONIC MONITORING) BILL

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

CIVIL LIABILITY (DISCLOSURE OF INFORMATION) AMENDMENT BILL

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

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (23:32): 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.

For more than 20 years the Freedom of Information Act has provided the public with a legally enforceable right to access information held by State Government, Local Government, and the three State Universities. The FOI Act is well utilised by members of the public, including Members of Parliament and the media, with 12,328 applications made to government agencies in the 2011-12 financial year, of which 85 per cent of information was released in full or in part.

FOI access comes at a cost. In the 2011-12 financial year the estimated total cost of administering the FOI Act was reported as $10.4 million. Agencies only recovered some $222,000 of this through application fees and charges. This cost, which is considered a conservative estimate, has progressively increased since 2002. This, in part, reflects the increasingly broad and complex nature of FOI applications received by some agencies.

Although the FOI process is often described as the option of 'last resort' and the objects of the Act clearly state Parliament's intention that disclosure should be favoured over non-disclosure, some applicants report difficulties in obtaining information they have requested, including time delays and prohibitive costs. Government agencies administering the FOI Act report a culture of risk aversion and a reluctance to release information outside of the FOI Act.

One of the barriers to agencies proactively disclosing information outside of the FOI Act is the lack of protection from legal liability, meaning the proactive publication of information could give rise to a cause of action against the Crown.

Section 50 of the FOI Act provides the Crown with immunity from civil liability for defamation and breach of confidence in respect of the granting of access to a document under that Act.

While public servants are themselves protected from civil liability when exercising (or purportedly exercising) official functions and powers by the Public Sector Act, and the Crown has some protection from defamation in respect of documents issued by agencies for public information purposes, the Crown has no general immunity from civil liability in respect of the release of information outside of the FOI framework.

Understandably, this lack of protection weighs heavily on the minds of public servants when considering whether to release information proactively.

The Civil Liability (Disclosure of Information) Amendment Bill seeks to address this.

The Bill amends the *Civil Liability Act 1936* to provide the Crown with immunity from civil liability in respect of the release by or on behalf of government agencies of information, but only in respect of the publication of information of a prescribed kind, or in respect of the publication of information in circumstances prescribed by regulation.

The need to prescribe the kinds of information, or the circumstances of release, will limit, through Parliamentary scrutiny of the regulations, the scope of the immunity.

I expect that the list of prescribed kinds of information or prescribed circumstances will, at least initially, be quite limited. While the kinds and circumstances of release are yet to be finalised, the Government anticipates the regulations will prescribe only:

- general information about government agencies and their operations, being the type that is commonly sought and released under the FOI Act, such as details of credit card expenditure, travel, mobile phone usage and entertainment expenditure by ministers, their advisers and senior public servants, and information about consultancies, gifts received and agency procurement practices;
- submissions on government policy initiatives;
- information released in accordance with government-wide disclosure policies and information of a non-personal nature that has already been sought and provided to an applicant under the FOI Act.

I should make clear that the Government has no intention of prescribing information of a personal or sensitive nature or information that is commercially sensitive.

Further limiting the immunity provided by the new provision is that the civil liability of the author of the information (for example, the person who provides a document to a government agency) or a person or organisation who re-publishes information released by a government agency (for example, a media organisation) will not be protected by the immunity. It is the Crown and the Crown alone that is protected.

This amendment will not require a government agency to release information or documents. Rather, it will provide the Crown with a degree of legal protection where information or documents is or are released proactively. In so doing, this reform is aimed at encouraging greater proactive release of information by government agencies, thereby reducing the number of freedom of information requests received by government agencies and protecting the Government, and, by extension, the taxpayer, from civil liability arising from the proactive release of information by government agencies.

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 *Civil Liability Act 1936*

4—Insertion of Part 9 Division 12A

This clause inserts new Division 12A into Part 9 of the Principal Act.

That Division contains new section 75A, excluding all civil liability (whether in tort, contract, equity or otherwise) of the Crown arising out of the publication by, or on behalf of, the Crown of information of a kind, or in circumstances, prescribed by the regulations.

The new section does not affect the civil liability of the original author of the information, or a person or body other than the Crown who publishes the information.

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

At 23:33 the council adjourned until Thursday 14 November 2013 at 11:00.