LEGISLATIVE COUNCIL

Tuesday 26 November 2013

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

The PRESIDENT: We acknowledge that this land that we meet on today is the traditional land of the Kaurna people, and that we respect their spiritual relationship with their country. We also acknowledge the Kaurna people as the custodians of the Adelaide region, and that their cultural and heritage beliefs are still as important to the living Kaurna people today.

SITTINGS AND BUSINESS

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

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

Motion carried.

CRIMINAL LAW (SENTENCING) (SENTENCES OF INDETERMINATE DURATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 November 2013.)

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (11:05): This bill amends the sections of the Criminal Law (Sentencing) Act dealing with offenders who are unwilling or unable to control their sexual instincts. The bill seeks to amend the test for release of these offenders into the community to ensure that the safety of the community is the paramount consideration of the court.

A few members have asked about the government's intention in regard to the proposal for a prescribed authority to be responsible for nominating medical practitioners to undertake the reports required under the legislative scheme. As mentioned by the Hon. Mr Wade in his contribution on the bill, the government intends to prescribe the Director of Forensic Mental Health, Dr Ken O'Brien.

The Hon. Mr Wade also mentioned that some of the 10 offenders currently under a section 23 order are detained at James Nash House. The figure of 10 I understand is correct, but it is not correct that the offenders are detained at James Nash House. My advice is that these offenders have necessarily been convicted of a criminal offence and are, therefore, detained in a correctional facility.

I also wish to mention something about schedule 2. Schedule 2 does not require the DPP to make an application in every case. My advice is that the schedule vests the DPP with a discretion. It is my view that a person who has been authorised for release or, in fact, released on a licence should be subject to the new test in order that there is general consistency in the approach in dealing with these matters. With those few remarks, I conclude the debate and commend the bill to the house.

Bill read a second time.

Bill taken through committee 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) (11:08): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ELECTORAL (LEGISLATIVE COUNCIL VOTING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 November 2013.)

The Hon. M. PARNELL (11:09): It is a real shame that the next state election follows so closely on the heels of the last federal election because there appears to be a consensus that our electoral laws need fixing, but there is no consensus on what can be done quickly.

The Greens maintain that the best solution is to move upper house voting to a system of optional preferential voting and by that mechanism we would get rid of all party and group voting tickets. That reform would mean that all power to determine preferences would be put back into the hands of voters. There would be no-one other than voters deciding where preferences ended up. That is a Greens bill that we will be considering later, but I mention that to put it into context. The Hon. John Darley also has a bill which is very similar to mine and provides for optional preferential voting, the main difference being that his bill includes voting below the line as well as above the line—both methods to be optional preferential.

This bill does not address that issue, in fact it is best described as a tinkering with the current system. The objective of the government in this bill is to reduce the capacity of non-registered groups and candidates to get a prominent position on the ballot paper, to harvest preferences and thereby get elected, potentially, on a small primary vote. To quote the minister in the second reading speech:

> We believe that in the available timeframe, the minimalist approach taken in this Bill will address the problem to some degree, but will not be the ultimate solution.

I fully accept that it is a minimalist approach and I also accept that it does not fully address the concerns. I maintain that we are able to fundamentally reform the vote counting system, but that is not the bill that is before us at the moment.

There are six elements to this bill that I want to address. The first is the increase in the nomination requirements. At present, a person only needs two nominators in order to get a spot on the ballot paper. The bill will require that a potential candidate receives the support and signature of 20 electors to get on the House of Assembly ballot paper and a candidate for the Legislative Council will need 100 electors, as opposed to the current requirement for two.

The rationale is that in order to earn a spot on the ballot paper you must first show some degree of support in the general community. I guess the question that arises is how hard would it be—how onerous would that task be? When you look at section 53A(3)(a) of the Electoral Act it states:

> (3) A nomination paper must be in a form approved by the Electoral Commissioner and—
>
> (a) be signed by 2 electors enrolled for the relevant district;

In relation to the lower house of parliament that would mean someone in the relevant House of Assembly district. In terms of the Legislative Council, it would be the entire state. Currently, it is the signature of two electors.

I could not find any current forms on the Electoral Commission website because of course nominations are not open, so therefore, presumably, they have not seen the need to put the form up. But when you look at the Legislative Council candidate's handbook, it says, under the heading 'Nominator's details':

> The full name, enrolled address and signature of at least two nominators who are enrolled in South Australia must be supplied by non-party candidates.

So that question: how hard would it be to get those? I would have thought the answer would be: not that hard. Someone could set up a card table in Rundle Mall perhaps with appropriate signage and simply invite people to lend their name and their address, having ascertained first of all that they are on the electoral roll and that you have got them at the right address. So, 100 names, addresses and signatures probably is not that hard. There is no requirement for them to be in any way associated with the person; they simply need to lend their name and their signature to the person's nomination to be a candidate. I do not think that increasing the number of nominators from two to 100 is at all onerous, and the Greens will be supporting that move. I note that this was one of the quick fixes that Antony Green identified in his recent forum conducted by the Committee for Economic Development of Australia.

The second reform in this bill is that only registered political parties and certain groups may lodge voting tickets and therefore be above the line with their own voting square. The bill provides that, if candidates group together to be a voting group, they need to have the supporting signatures

of different electors. For example, if two or more candidates want to join together as a group to have an above-the-line square, they have to provide the 100 names, addresses and signatures, and they have to be different names, addresses and signatures, which effectively gets you up to the 200 level for a group, given that a group must have at least two members.

The main difficulty the Greens have with this approach is that it does not meet our threshold test of getting rid of above-the-line voting altogether—getting rid of group voting tickets. What it does do, though, is ensure that there is a limited range of parties and candidates who will be able to be above the line; it certainly will not be everybody. The individual Independent candidates will not be above the line, but a range of groups and parties will.

The third amendment is that, if an Independent candidate wants to run for the Legislative Council, they will not have a square above the line; therefore, to be able to vote for that candidate, electors will have to fill out every square below the line. That, I guess, is consistent with the approach as it is at present: if you vote below the line, you have to number every square. I should say that that amendment is consistent with the earlier amendment to limit the number of parties and groups that are above the line.

The fourth amendment is to reduce the number of descriptive words that may be provided adjacent to a candidate or a group name on the Legislative Council ballot paper from five words to two words. I note that the Hon. John Darley has an amendment to change the number to three words, which we will consider shortly.

I thought it would be appropriate to put on the record what the current law has resulted in in terms of candidates and their descriptions on the ballot paper. I have had a quick review of the last two state election ballot papers, and I will run through the list and members will be able to work out which of these would still be valid in a two-word scenario, a three-word scenario or a five-word scenario.

Running through them for 2006: Independent for Recreational Fishers—we do not count the word 'Independent'; I think it is just the other three words 'for Recreational Fishers'—would not be allowed under the government's model but would be allowed under the Hon. John Darley's model. We then have Independent Laury Bais No Drugs—four words there, so that is not in either model; Independent Nick Xenophon-No Pokie—presumably that is five words, so it would not be allowed in that form under either of the models; Independent Terry Cameron—he has just used his name, two words, so that would not offend either of the options; Independent Ralph Clarke Buy Back ETSA—five words there; Independent Hemp Help End Marijuana Prohibition, five words; Independent Animal Liberation Ban Live Exports. In fact, I will not do the word count for each of these; people can work them out for themselves.

Then we have Independent for Social & Environmental Justice; Independent Mick Dzamko; Independent for Aboriginal Representation and Reconciliation; Independent Principles People Reform Before Parties—I must admit that is one of my favourites in terms of its grammatical construct (we have the Hon. Peter Lewis to thank for that one), and it sounds a bit like, 'She sells sea shells by the seashore,' in that it does not roll off the tongue; and Independent Andrew Stanko for Community Action.

There was also Independent Savebabe.com. I will say that one of the very rare occasions when anyone has been able to offer information on the electoral system that Antony Green was not already aware of was when I was at an electoral reform conference in Brisbane recently: he admitted that he had no idea what Savebabe.com was and I was able to enlighten him. I do not think he gets out to the cinema as often as he would like and he had not seen *Babe*, the film about the pig—

The Hon. I.K. Hunter: Or the sequel.

The Hon. M. PARNELL: Or the sequel. Certainly, Savebabe.com raises an interesting question, as there is no space. Is Savebabe.com a single word or two words or does the dot count as a word? Again, the Electoral Commissioner will have some interpretive decisions to make. That was 2006. In 2010, we had Independent Mark Aldridge Change Is Necessary; Independent David Winderlich Communities against Corruption; Independent SA Fishing & Lifestyle; Independent Climate Sceptics; Independent Joe Ienco Motorsports Land Tax—again, I do not quite understand what the policy platform is there; Independent Joe Carbone MAGS 2010—

The Hon. S.G. Wade: It's about magazines.

The Hon. M. PARNELL: The Hon. Stephen Wade informs me that it is about magazines. I must admit I have never known because it is spelt in capital letters, M-A-G-S. I did not know if it was an acronym or what it was.

Then we have Independent SA Change; Independent Howard Frayne Coombe Ultra Progressive, in case 'ordinary progressive' just does not cut it; Independent Christians for Voluntary Euthanasia; Independent Social Environmental & Economic Justice; Independent Less Tax Stewart Glass; Independent Trevor Grace Save the Unborn; Independent—Legalise Voluntary Euthanasia; Independent Kelly Henderson Parklands and Heritage; Independent for Commission against Corruption; Independent Garry Mighall Water Environment Heritage; Independent Peter Panagaris C.A.R.S.; Independent No Desal No Dams; Independent Frank Williams Law and Order; and Independent Joseph Williams Indigenous.

They are the candidates from the last two state elections who have taken advantage of the ability to have the word 'independent' and then five words afterwards. Under the two models before us, whether it is two words or three words, probably about half or more of those would not be eligible to run under that name.

The next amendment in this bill is that the ballot paper will be required to list candidates and groups in an order that begins with the registered political parties and then goes to the independent groups above the line. The rationale for that, as I understand it, is to prevent the situation that currently exists where, under the current regime, a person need only provide $450 and the signature of their mother and father or any two other South Australians and they get the plum number one spot on the ballot paper and thereby secure a proportion of the vote simply by virtue of the luck of the draw.

The sixth amendment is actually not in the bill, but the government has made it clear that it is proposing to increase by regulation the nomination fee for single candidates from $450 to $2,000. Again, this was one of the reforms Antony Green had identified.

From a Greens' perspective, we are somewhat nervous about providing a very high economic bar for people to be able to engage in the democratic process. The Greens' approach has consistently been that when it comes to barriers to entry, we want barriers to entry to parliament, we do not necessarily want barriers to entry to the ballot paper, because in a democracy, people should have the right to be able to run for parliament, but a barrier to entry to being elected, I think, is quite a legitimate and reasonable thing to call for, and that barrier should be the level of public support that you have. If you do not have a level of direct public support, then you should not be elected to state parliament. So, that is where we believe the barrier should apply.

In relation to the various amendments that are filed, we will get to those when we get to the committee stage. I conclude by saying that the Greens still maintain that we can do better than this, and that we can get proper optional preferential voting. Whether it is the bill that I have before the house or the bill that the Hon. John Darley has before the house, I still believe that that is the best way to go, but we will certainly consider the minimalist approach and look forward to the committee stage.

The Hon. J.A. DARLEY (11:25): I have to apologise but at this late notice I have filed a consolidated list of my amendments to assist the chamber in the progress of the bill. As everyone would be aware, I still support the optional preferential system. I have concerns with the way in which this bill has been drafted because it addresses none of my concerns.

The Hon. K.L. VINCENT (11:26): Very briefly I will speak on behalf of Dignity for Disability against the second reading of this rushed and poorly thought out piece of legislation. As the Electoral Reform Society has pointed out in their submission on this bill, exactly 25 minutes was spent on this bill in the lower house from introduction to passing on 12 November. In what could only be described as an abuse of our democratic system, the Legislative Council is being asked to consider, debate and pass this bill this very week. I find it fascinating to say the least that this government claims that they consulted on this bill, yet I had not heard a thing about it prior to its abrupt introduction to the House of Assembly in the previous sitting week.

So determined to ram this piece of legislation through the parliament without the slightest concern for democratic process, this bill has now been bumped up the priority list further to number two. My office has not even been offered a briefing on this bill, and I am quite sure it is because the government is aware that this bill is a direct attack on minor parties such as mine. As also pointed out in the Electoral Reform Society's submission, this bill discriminates in favour of the major parties. That is all I am going to say at this point on the government's hurried attempt to eliminate

the diversity of minor parties from our parliament. I appreciate the Hon. John Darley and the Hon. Mr Hood have some amendments and I am still considering those very seriously. I also understand that there are government amendments but we have not seen anything solid on them yet, so I certainly cannot provide comment on them at this stage.

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

STATUTES AMENDMENT (NATIONAL ELECTRICITY AND GAS LAWS—LIMITED MERITS REVIEW) BILL

Adjourned debate on second reading.

(Continued from 31 October 2013.)

The Hon. R.I. LUCAS (11:30): I rise on behalf of Liberal members to support the second reading of the Statutes Amendment (National Electricity and Gas Laws—Limited Merits Review) Bill. The member for Waite who has had carriage of this bill for the Liberal Party has indicated publicly and also during debate in another place broadly the reasons for the Liberal Party's supporting the legislation. This bill proposes to make amendments to the National Electricity Law and National Gas Law by reforming the regulatory powers of the Australian Energy Regulator (AER) and the functions of the Australian Competition Tribunal (ACT) for determining energy network costs.

Specifically the bill seeks to remedy perceived weaknesses in the Limited Merits Review process that many have argued have led to extraneous costs being attributed to network service providers by the Australian Competition Tribunal. South Australia, as members would be aware, is the lead legislator for national electricity and gas laws, and this bill has therefore been brought forward to remedy what many people believe are regulatory weaknesses at a national level.

In summary, the Limited Merits Review process involves a cost determination process by the Australian Energy Regulator. After that process, the network service providers can seek a Limited Merits Review at the Australian Competition Tribunal to dispute the regulator's determination. In considering that review, the tribunal can resolve the determination was incorrect. It has been the view of the Standing Council on Energy and Resources of COAG that this process has not been working as intended and has been subject to gaming by the network service providers.

Since the Limited Merits Review process was introduced in January 2008, there have been 22 determinations which have been reviewed under the process which in the end have attributed an additional $3.3 billion to network service providers for reasons that were, in the view of many, legalistic technicalities rather than genuine errors.

The COAG body, the Standing Council on Energy and Resources, resolved to investigate the market mechanisms and regulatory framework of the Limited Merits Review regime in 2012. They established a review which was led by Professor George Yarrow, the Hon. Michael Egan (former treasurer in the New South Wales Labor government) and Dr John Tamblyn, who has had considerable experience with the New South Wales regulatory and the national regulatory authorities.

This review, called 'Review of the Limited Merits Review Regime', found that the act was not being enforced as intended by the AER and the ACT due to flaws in the legislation. The authors resolved to maintain the existence of the Australian Energy Regulator and the Australian Competition Tribunal but to broaden their focus and to strengthen their regulatory powers and functional capacity. They found that the merits review process was seen to be unduly narrow which created no-go areas for reviewers. They found that the legal process unfairly advantaged the network service providers due to excessive appeals activity with a focus on legal processes rather than the long-term interests of consumers. As a result of that, the bill proposes a series of technical changes to fix the Limited Merits Review process.

As I said, the member for Waite, who has had carriage of the bill for the Liberal Party, has indicated that the Liberal Party has considered the government's arguments for the legislation and has indicated that we are prepared to support the regulatory reform.

The only comment of a general nature I would add in relation to this whole debate about the network service providers is, I guess, a cautionary note that I have seen in some of the political comment, some of the advisory comment and in particular some of the media commentary on this whole regulatory regime. I think many have been dismissive, with some justification, about what

they refer to as the phenomenon of gold plating. That is, there is this argument that the network service providers have an interest in providing a Rolls Royce or gold-plated service with the inevitable increased costs to consumers. I think there is certainly an element of truth in that criticism.

Can I just issue a cautionary note. I think that many who comment on what they refer to as the phenomenon of gold plating, if and when at some stage in the future the system in South Australia and nationally at peak periods suffers either brownouts or blackouts, as a result of the system not being able to cope with the peaks, I suspect that at some stage, whoever happens to be in government, will have the accusatory finger pointed at them that they have not provided sufficient protections in terms of the network to ensure that at critical periods power continues to be provided to consumers in South Australia and nationally.

I think it is too easy to be dismissive that all the arguments in relation to what is claimed to be gold plating are dismissed as gold plating. I suspect in some cases there are good arguments for providing the additional security to the system that consumers will claim. Having lived through the experience of being the minister responsible for the electricity system in the late 1990s and early 2000s, I know that when the system breaks down, in terms of the distribution system or the network system, and power is unable to be provided and consumers suffer brownouts and blackouts, the attention of the media, in particular, and the politicians automatically turns to point an accusatory finger at whoever was in charge of the system, saying that there is not sufficient security and protection in the system to ensure that we do not suffer brownouts and blackouts at critical or peak periods.

I guess that is my cautionary note: I remind those who dismiss all the network upgrades as being gold plating—and there have been debates about replicating parts of the network to provide backup in the event that one connection breaks down and whether or not there is an alternative connection. There have been debates in the CBD in Adelaide over the years about the level of security in terms of the distribution system into the CBD being too reliant on just one particular, in essence, pipe or connection and what happens if that goes down. There have been various debates and arguments about whether or not in the CBD and areas like that that there ought to be backup. There have been debates with about those sorts of things forever.

Many will dismiss that as an argument for the network service providers to gold plate the system to provide an unnecessary level of security, and they will be the people who ask, when and if the system breakdown at some stage in the future, why did governments, regulators, policy advisers, etc., not canvass the issue of sufficient security in the system. I guess that is always the advantage of being either an observer from the sidelines, or in opposition, if you are in politics of the day, or you are in the media, where you have that capacity to second-guess everything from whichever particular perspective you want.

So, that is my only cautionary note, within the context of saying that the member for Waite has indicated that the Liberal Party has and will support the regulatory changes. In doing so, I think people need to reflect that sometimes network upgrades and security upgrades are not just about gold-plating the system to rip off consumers; they are about trying to provide a level of security that protects against brownouts and blackouts for consumers and industry at critical periods. I suspect that, at some stage in the future, we will have a debate from a different perspective, as I said, if we are confronted with those circumstances.

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) (11:40): I do not believe there are any further second reading contributions. I thank the Liberal opposition for their indicated support for this piece of legislation. This legislation is about improving governance arrangements of the Australian energy sector, not just for the benefit of South Australians but for all of Australia, and I look forward to this being dealt with through the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: Mr Chairman, I am wondering whether the minister's advisers are in a position to know whether or not there are any Australian Energy Regulator determinations currently on foot that are the subject of any challenge or process as we speak?

The Hon. G.E. GAGO: I have been advised: none that we are aware of.

Clause passed.

Remaining clauses (2 to 35) and title passed.

Bill reported without amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (11:43): I move:

That this bill be now read a third time.

Bill read a third time and passed.

PUBLIC CORPORATIONS (SUBSIDIARIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November 2013.)

The Hon. R.I. LUCAS (11:45): I rise on behalf of Liberal members to support the second reading of the Public Corporations (Subsidiaries) Amendment Bill. This is a relatively simple bill for which the member for Davenport has indicated Liberal Party support in debate in another place. The government's second reading outlines the background to the need for this legislation, that is, that 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.

The government advises that 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.

For the reasons that the government has outlined in its second reading, as I said, the member for Davenport has indicated we accept the justification and need for this particular technical amendment bill and will be supporting it through all proceedings today.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (11:46): I rise to conclude the debate. In closing, I wish to thank members for their remarks and contributions regarding the bill. In setting up the Super Select scheme, the government set up a superannuation vehicle that sits outside the constitutionally protected framework under which Super SA usually operates. In this light, there are certain things that need to be done, not least of which is giving trustees the freedom to operate in their role of trustee without risking conflict of interest and allowing those who are members of the scheme to have access to a court to settle disputes should they be dissatisfied with decisions of the board.

I would like to take this opportunity to remark that, in passing this bill, this government will be providing the dispute resolution process expected of a government superannuation scheme, which will work to the benefit of not just current members but also future people who join the Public Service or people who are currently members of the Public Service and who transfer across to the new scheme. With that, I commend the bill to the house.

Bill read a second time.

Bill taken through committee 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) (11:49): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SURVEILLANCE DEVICES BILL

In committee.

Clause 1.

The Hon. S.G. WADE: I understand that consideration of clause 1 of this bill is likely to be longer than normal because of the intervening events. The bill was tabled in the House of Assembly on 5 September 2012—basically, 15 months ago—and I will explain its journey since then.

I remind the committee that the bill basically provides for cross-border protection of recognition of police surveillance operations, improvement in the process for police to access surveillance equipment, and more stringent regulation of the way citizens use surveillance devices. It is that last aspect that has drawn the most attention in the consideration of the bill. The law enforcement-related aspects were as a result of a series of interjurisdiction working groups, and throughout this process they have not been significantly controversial.

The third aspect—the aspect in terms of the regulation of the way citizens use surveillance—has been controversial. It really highlights the balancing of privacy concerns with the concerns for the capacity of citizens to both freedom of speech and protection of their lawful interests. The bill itself is not explicitly focused on privacy, but of course, historically, the control of listening devices and the expansion by this bill in relation to other surveillance devices reflects the desire of parliaments in the past and this parliament to make sure that the use of surveillance devices does not inappropriately infringe on people's privacy.

The motivation of the bill in that regard was testified to by the Attorney-General when he appeared before the Legislative Review Committee in the middle of this year. He specifically saw this bill in the context of the evolving debate on privacy. In recent weeks, the Australian Law Reform Commission has issued an issues paper on serious invasions of privacy, and the Legislative Review Committee adverted to that report in both its report and recommendations.

I now return to the history of the bill. The bill passed the House of Assembly on 20 September 2012—three sitting days after the opposition had been briefed on the bill. To facilitate community consultation and parliamentary consideration, the Liberal Party sought a select committee of the Legislative Council to consider the bill, and by November the government had agreed to a parliamentary committee process.

On 30 January, I received a letter from the Attorney-General proposing amendments to the bill and the amendments were filed that day. The Legislative Review Committee, in the hearing on 7 August 2013, learnt more of the origins of these amendments when Mr Peter Campbell, a partner at Kelly & Co, and a leading Adelaide media lawyer, appeared before the committee. As a member of the committee, I asked Mr Campbell:

> In your submission, if I can quote it, your previous submission to the Attorney-General's Department in respect of the draft bill, on page 6, says:
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> 'As a result of...submissions made by other parties, e.g. FreeTV, it was proposed by the AGD to make amendments to the Draft Bill to address a number of issues raised in this letter (including by way of the reinstatement of the public/lawful interest exceptions).'

My question to Mr Campbell went on to say:

> Could I just clarify: has the government agreed to insert the public/lawful interest elements back into the bill?

Mr Campbell, in his response to that question, said:

> Yes. What had happened was that there were discussions along the lines that we are having, I suppose, at the moment, and there were meetings with the Attorney-General and with his advisers. What was put back to us was a version of the bill which reinstates lawful interest and public interest on the basis that it was considered appropriate that those matters come back in, because, as I said before, the main purpose of the amendment was aimed at ensuring there was a greater power in the hands of investigative authorities, and perhaps some of the consequences were unintended to prevent other people being able to have some lawful use of surveillance devices.

The public debate that took place, particularly at the end of 2012 and particularly on the program of Leon Byner, on FIVEaa, highlighted the range of contexts in which private citizens use surveillance devices to protect their lawful interests. Following that debate, by late January 2013, the government had agreed a set of amendments with the industry to put back public interest and lawful interest.

The Legislative Review Committee met through 2013 and received submissions from a range of stakeholders, and the committee reported on 13 November 2013. The majority report sought to support the reintroduction of lawful interests. Recommendation 2 states:

The Surveillance Devices Bill 2012 be amended to allow a party to a private conversation to covertly use a surveillance device in order to protect their lawful interests.

The committee had a number of other recommendations, particularly in relation to proposed changes to the regulation of investigation agents, and also it had a proposal for the partial reinstatement of the public interest test; that is reflected in recommendations 4 and 5. The government response was offered to me in a letter dated 13 November from the Attorney-General, which reads:

I refer to the report of the Legislative Review Committee on its inquiry into the Surveillance Devices Bill 2012.

I have read the report and its recommendations. I have instructed Parliamentary Counsel to draw up amendments to the Bill to implement the recommendations of the Committee. I write to give you notice that I intend to move as fast as possible to file these amendments with a view to bringing on the debate and passing the Bill in the remaining days of sitting.

I interpose at this point to say that my understanding is that those government amendments are yet to be filed, even though we are, as the Attorney-General adverts, in the final days of sitting. The letter goes on:

Consistent with that intention, I seek the indulgence of the Legislative Council to so far suspend standing orders as to allow the opening up of the Security and Investigation Agents Bill. Should that not be possible, I intend to proceed with the amendments to the Surveillance Devices Bill 2012 in any event.

Again, I interpose to say that my discussions with the Attorney indicate that, having explored that option, he has decided to pursue the security investigation agents amendments at a later date. The letter goes on:

I also want to give notice that the amendments proposed to the Bill will contain two further proposals that have been brought to my attention. Firstly, it is a hardy perennial that constituents write to me or their local member (or both) to complain of the use of surveillance cameras by their neighbours to invade their privacy and the privacy of their homes. I intend to deal with this.

Second, it has been brought to my attention by the Department of Planning, Transport and Infrastructure that it uses, or intends to use, certain devices to control traffic that might technically count as tracking devices under the Bill but that, nevertheless, do not constitute any invasion of privacy. It may be that the only way to deal with this is by regulatory exemption.

I trust that we can now move the Bill through its remaining stages once the amendments have been filed.

Yours sincerely,

John Rau.

By way of footnote to the letter, it certainly is the opposition's intention to facilitate consideration in the remaining days of sitting. We are yet to see the government amendments. We have filed amendments this morning, so we appreciate that members will not be in the position to consider them today, but I see no reason why consideration of this bill cannot be concluded this week.

To return to the journey, if you like, the majority report of course did require significant drafting by the government to incorporate them into a set of amendments to present to this house. As the Attorney indicated, he wants to take the opportunity to deal with neighbourhood privacy, if you like, and also some transport department issues but, as of today, the government amendments are not available.

The committee report was tabled in the middle of the last sitting period and the level of angst has been quite striking, particularly from the media in relation to the recommendations of the report. I and other members of the opposition have received either directly, jointly or severally representations from the following media outlets: the ABC, the APN News & Media, ASTRA Subscription Television Australia, Commercial Radio Australia, Fairfax Media, Free TV, Media Entertainment and Arts Alliance, News Corporation Australia, SBS and Sky News. The concerns of these media outlets focus on three recommendations of the report—recommendations 3, 4 and 5. To summarise their concerns, I will quote Free TV which expresses it this way:

Taken together these recommendations would effectively prohibit the media from acquiring and communicating surveillance device material where there is a public interest. This is not an approach which recognises the role of the media in the '5th estate', and the need for a free flow of information to the community on matters of public concern.

In particular, recommendation 3 related to the circumstances in which a person could communicate material obtained through the covert use of a surveillance device.

Not every stakeholder commented on every recommendation but I think it would be fair to summarise their views as that they regarded this recommendation as very narrow. On its face, a person would not be able to tell a friend or a family member, a member of parliament or a government authority including the ICAC, excluding only the police in relation to criminal matters. If an individual's lawful interests are being infringed by a government agency, they may not feel confident in engaging with another government representative. Free TV asserts that:

> ...material acquired by an individual for the purposes of protecting their lawful interests should be allowed to be communicated or published if there is a public interest in doing so...In many cases, the publication of material by the media and subsequent public attention improves the situation of the individual whose lawful interests are jeopardised, and encourages other individuals in similar situations to act to protect their own interests.

Another recommendation that raised concern was recommendation 4. Recommendation 4 says that the Surveillance Devices Bill should be amended to allow an individual to covertly use a surveillance device if the circumstances are so serious and urgent that the use of the device is in the public interest.

I should mention at this point that a surveillance device in the context of the bill could include anything from a television camera or an iPhone to a windscreen-mounted video camera. Its use is covert if it is not used with consent, explicit or implicit. In terms of those devices, let's pause and think of the range of people who might be caught.

Obviously, the media outlets are particularly concerned about their employees using television cameras for news gathering, but I am also concerned about the impact on ordinary members of the public using an iPhone, an iPad, or a whole range of devices—for that matter, a camera with perhaps a filming capacity to record events of everyday life. This legislation is written so broadly that it would criminalise a whole range of activities.

The view of the committee was that we could rely on prosecuting authorities to prosecute wisely but, in my view, it is incumbent on us as politicians to draft legislation that is clear on its face and does not overreach, that the legislation in itself can attempt to balance the interests of our citizens and not simply rely on prosecuting authorities. If the committee's approach were taken to its logical conclusion, we would simply be as a parliament issuing broad instructions to government agencies and authorities and leaving it to them to do what is reasonable.

We as a parliament have a responsibility to put in place legal frameworks that are clearly understood, if nothing else so that members of the public, media outlets and so on can undertake their day-to-day operations without fearing whether or not a prosecuting authority may take umbrage at what they are doing and act against them. In relation to this recommendation, News Corporation, for example, stated:

> ...a public interest exemption will be subject to discretionary judgement, and is likely inaccessible. The effect of such is that news gathering is stifled due to the subjective and restrictive nature of the public interest exception. We do not support such vague and nebulous concepts which undermine freedom of communication.

The third of the recommendations which media organisations have objected to is recommendation 5, which proposes that the bill:

> ...be amended to prohibit a person from communicating, publishing or allowing access to information or material derived from the covert use of a surveillance device in the public interest unless they obtain an order from a judicial authority.

Even where a surveillance device is used in the public interest in a serious and urgent situation, the recommendation suggests that communication or publication should be prohibited unless a judge has given their approval, even if it is serious or urgent. In relation to this recommendation, Free TV asserts:

> In all practicality, a system that provides for pre-approval of surveillance activities effectively operates to prevent them taking place.

Further on, they say:

> We strongly oppose the introduction of such a system in South Australia. It would be a serious diminution of the media's existing capacity to report matters of public concern to the community in a timely way.

I was remiss in my comments, in that I did not declare that I submitted a dissenting report which specifically focused on the issues of public interest. Perhaps the best way to express it is to quote it; it is not long. My minority report states:

> I agree with the Committee that South Australian law has limitations and the protection of individual privacy from covert surveillance

However, consistent with recommendation 1, I consider that legislation aimed at providing further remedies to persons who have privacy interests affected by the covert use of a surveillance device without their consent should draw on the work of the Australian Law Reform Commission's current inquiry into Serious Invasions of Privacy.

Section 7 of the current Act allows a party to a private conversation to use a listening device and publish the material without the consent of the other parties, if it is in the public interest.

The Committee proposes that to use the surveillance device, it needs to be only in the public interest, but the circumstances need to be 'serious and urgent'. I think that that is too vague a test and is too likely to discourage information gathering which is in the public interest.

The Committee proposes that the law be drawn wide, with narrow exceptions, and that we should rely on prosecutorial discretion to excuse minor actions, such as children using a mobile phone to film a friend.

I consider that the law is more likely to foster good practice if it is drawn more narrowly, is more readily understandable and enforceable.

In my view surveillance should be allowed where it is in the public interest.

I do not support pre-approval of the use of surveillance devices in the public interest as it is likely to damage legitimate information gathering. However, I consider that pre-approval of publication of surveillance material should be further considered.

Any regime proposed to restrict the use of surveillance devices and the publication of material from these devices needs to be practical and enforceable.

With the benefit of the bill, with the majority report and the minority report, the opposition has considered its position on this bill and, following a meeting yesterday, I have filed a set of amendments. In the opposition's view, the government bill and the committee majority report take the legislative controls on surveillance devices to support privacy too far. In our view, such an unfocused protection of privacy could have a negative impact, not only on the freedom of the press but also the rights of citizen generally.

The opposition has filed amendments which seek to restore the protection of lawful and public interests and they are based on the amendments that the government itself agreed with media stakeholders in January. We have taken the opportunity to enhance those amendments and I humbly look forward to the contribution of members so that we can perhaps enhance those and other amendments that might be filed with a view to the parliament having the best bill possible.

I propose now, if I may, to put some questions on notice. I appreciate that normally I might raise some of these at the clause stage but I think considering that we only have three sitting days left, it might delay the consideration of the committee stage. If the government is agreeable, I will place those on the record now.

In relation to tracking devices (clause 6), I ask two questions. On 16 January 2013 the Rundle Mall Management Authority announced it would be investigating the use of technology to track the mobile phones of people in the mall to chart traffic, target dead spots and alert shoppers to discounts and sales. The tracking apparently did not require the consent of patrons. Would such marketing be illegal under the provisions contained in this bill? Secondly, I refer back to the Attorney-General's letter of 13 November in which he said it had been brought to his attention that the Department of Planning, Transport and Infrastructure uses or intends to use certain devices to control traffic that might come under this bill. What tracking device is the Attorney-General referring to?

I also understand that there are devices operating in New South Wales in relation to the transport authorities tracking traffic movements by the use of number plate recognition technology. I would be interested to know the government's view on whether that form of technology would come under this legislation. I also question whether the point-to-point speed cameras might also come under this legislation. One of the challenging aspects of surveillance is that in a rapidly developing technological environment it is difficult for legislation to be both broad enough to accommodate emerging technologies but also to avoid stifling what are healthy developments in community services. In relation to clause 7, subclause (1) provides:

Subject to this section, a person must not knowingly install, use or maintain a data surveillance device to access, track, monitor or record the input of information into, the output of information from, or information stored in, a computer without the express or implied consent of the owner, or person with lawful control or management, of the computer.

'Data surveillance device' is defined in the bill as:

(a) a program or device capable of being used to access, track, monitor or record the input of information into, or the output of information from, a computer; and

(b) any associated equipment (if any);

I ask whether website cookies would collect information about the identity and behaviour of the user to improve the experience of site users, and that they are used by most websites. Would the provision effectively mean that any website that installed a cookie on a person's computer without their consent be committing an offence?

I ask how many South Australian government websites currently use cookies. Is the minister aware, for example, that the Department of Primary Industries and Regions apparently uses cookies? Would the government effectively be undertaking activities which would be illegal if they were undertaken by the private sector? Websites such as Google often record the IP of the computer address to locate a person by region and to customise search responses. Such activity may well be illegal under these provisions, unless consent is specifically given. Has the government consulted with technology providers such as Google in relation to the impact of those provisions and, if so, what was the response?

I note that *The Advertiser* newspaper recently launched a new website that retains information on its users to restrict and customise access to content each time a person visits the site. I also wonder if that information, too, would technically be in breach of this provision. The definition of 'data surveillance device' is very broad. For example, it talks about a device being capable of being used to access information on a computer. I ask whether that effectively criminalises, with a potential penalty of three years' imprisonment, any unauthorised access by a person of another person's computer, and what issues that might raise for parents or for employers and, for that matter, potentially criminalising relatively minor behaviour of one student to another student. With those comments at clause 1, I thank the council for its indulgence and conclude my remarks.

Progress reported; committee to sit again.

STATUTES AMENDMENT (ELECTRONIC MONITORING) BILL

Adjourned debate on second reading.

(Continued from 14 November 2013.)

The Hon. S.G. WADE (12:19): I rise on behalf of the Liberal opposition to indicate our support for the passage of the Statutes Amendment (Electronic Monitoring) Bill 2013. The bill amends the Correctional Services Act, the Criminal Law Consolidation Act and the Criminal Law (Sentencing) Act. The bill seeks to extend the circumstances in which relevant authorities can impose an electronic monitoring device on offenders and other persons, as well as expanding the use of electronic technologies available to do this.

Currently, electronic monitoring is a vital tool that corrections authorities use to monitor offenders serving the last part of their prison sentence on home detention, in relation to court-ordered intensive bail supervision, or as a condition of a release imposed by the Parole Board. The bill extends the circumstances in which authorities can implement electronic monitoring devices to include: firstly, a prisoner participating in approved activities outside of prison; secondly, a defendant released to the community on a supervision order by the courts; and, thirdly, a person released on licence by the courts. It also proposes that the Parole Board must consider the use of electronic monitoring on release of a prisoner who has been imprisoned for child sex offences.

This bill was born out of the Hon. Ann Bressington's private member's bill, entitled Correctional Services (GPS Tracking for Child Sex Offenders) Amendment Bill 2012. I join the government, in its second reading contributions, in acknowledging the work of the honourable member—at least I am more courageous than the government: I am willing to name her. The Hon. Ann Bressington brought this bill before the parliament and was supported in this place.

This bill seeks to have similar outcomes to the Hon. Ann Bressington's bill, notwithstanding two key differences: firstly, this bill vests the discretionary power upon relevant authorities to impose the electronic monitoring devices based upon assessments of risk, rather than the type of offence committed; and, secondly, relevant authorities are able to use any electronic monitoring device, thus encapsulating the use of any future technologies that may be developed. This bill seeks to impose supervisory conditions on people who have served their initial sentence based upon an assessment of risk that their behaviour poses to community safety.

The opposition has received concerns about this bill from people who advocate on behalf of the public's civil liberties. The Liberal Party understands where these concerns arise. We, as a party, are committed to upholding the rights of citizens, but we consider that this bill does represent an appropriate balancing of rights. We note that the power is discretionary and that the power is to be applied on a risk basis. These provisions are a way for the Parole Board and other authorities to in fact provide additional liberties for offenders; for example, the Parole Board, with this facility available, may feel that it is more comfortable allowing a prisoner to leave the facility with the monitoring support.

With those comments, I reiterate the opposition's support for the Statutes Amendment (Electronic Monitoring) Bill 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) (12:22): I would like to thank honourable members for their second reading contributions and the indicated support for this bill. The legislation is good legislation; it is sound and will contribute to public safety by extending the use of electronic monitoring for some prisoners and offenders who would benefit from this type of monitoring.

We already monitor some offenders in this way on home detention and on bail. The Parole Board also has the power to make it a condition of parole that a parolee be monitored in this way, and some young offenders are already subject to electronic monitoring. We know that it is a good tool, so we would especially acknowledge the Hon. Ann Bressington.

You may recall that in 2012 the Hon. Ann Bressington previously introduced a bill which could be considered to be very similar to this. The bill sought to provide GPS tracking of child sex offenders in the community and on approved release from prison. The major differences from that bill are that the present bill provides for both current and future technologies to be used for monitoring prisoners and offenders and it also does not limit or specify an offence type, so it can be used not only for child sex offenders but also considered through a risk-based approach. The government undertook at the time to go further, and this bill does exactly that. I commend this bill to you, Mr President.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (12:26): I move:

That this bill be now read a third time.

Bill read a third time and passed.

LAKE EYRE BASIN

Adjourned debate on motion of Hon. I.K. Hunter:

That this council—

1. Recognises the significance of Lake Eyre to South Australia's Aboriginal, pastoral and tourism communities and its dependence on water flows from the Cooper Creek, Diamantina and Georgina rivers;

2. Expresses concern that the Queensland government has continued to refuse to consult with South Australia and other affected states regarding their plans to remove the legislative environmental protections of the Lake Eyre Basin rivers;

3. Calls on the Queensland government to maintain the current quantity and quality of water flows from the Lake Eyre Basin rivers into South Australia's rivers flood plains and wetlands in the Lake Eyre Basin; and

4. Calls on the Queensland government to formally consult with South Australia, as a co-signatory to the Lake Eyre Basin Intergovernmental Agreement, regarding any proposal which has the potential to impact flows into our state.

(Continued from 12 November 2013.)

The Hon. J.M.A. LENSINK (12:27): I rise to indicate Liberal Party support for this motion, which is consistent with previous positions that have been expressed on this matter by the advocates on our side of the chamber, particularly the current member and the former member for

Stuart. The current member for Stuart (Mr Dan van Holst Pellekaan) earlier this year on radio station 639 made the following comments:

> The position I take is very much on behalf of the people that I represent in the electorate of Stuart. I am completely opposed to any irrigation upstream in any of these rivers. You never have a situation where irrigation just works for one small operation and I think if you put one pump into any of these rivers so that irrigation can take place, you really will open the floodgates.

The former member for Stuart (Hon. Graham Gunn) in 2009 moved the following motion in the House of Assembly:

> That this house calls on the Queensland government not to permit further irrigation from the Cooper Creek or allow existing water licences to be activated and that this motion be sent to the Speaker of the Queensland Legislative Assembly by the Speaker of the House of Assembly.

The motion was passed with an amendment that this matter be referred to the Lake Eyre Basin Ministerial Forum for further consideration.

This motion, since the minister moved it—and I am sure he will make some comments in relation to the consultation items 2 and 4—may have moved on. I am not sure whether he thinks the form of consultation has been satisfactory but I do note that the Lake Eyre Basin Ministerial Forum met on 6 November. I think there still remain some concerns as a result of that.

I would also like to acknowledge at the outset my thanks to the member for Stuart for his input into providing background information; the minister's office; Queensland minister Cripps' office (which has provided us with its side of the story); local pastoralists; and the Wilderness Society which has telephoned me on a regular basis to determine what the status of this motion is. I thank them for their persistence and their input into this. They contacted me several months ago—I am sure they contacted the minister as well—and were sounding warning bells then. Hopefully the passing of this motion by this place will demonstrate that South Australia supports the protection of the western rivers in a multipartisan way.

I understand that there has been a Lake Eyre Basin process which has been established for some 13 years with an agreement between the commonwealth, Queensland, South Australian, and Northern Territory governments. Those jurisdictions have signed off on that and the agreement provides:

> ...for the sustainable management of the water and related natural resources associated with cross-border river systems in the Lake Eyre Basin to avoid downstream impacts on associated environmental, economic and social values.

There is also a Lake Eyre Basin Advisory Committee and a Scientific Advisory Panel and I understand that both of those committees have concerns with the Queensland government's proposal.

In 2005 the then Queensland Labor government established the Wild Rivers Act which prohibits irrigation from certain rivers including this particular river system which feeds into the Lake Eyre Basin. Anybody who is an avid reader of *The Australian* would have noted Mr Noel Pearson who has campaigned himself long and hard against the wild rivers legislation and its impact on Cape York.

During the 2012 Queensland election the LNP gave a commitment to repeal the wild rivers declarations for Cape York and work on appropriate environmental protections for the western rivers. The Queensland Minister for Natural Resources and Mines, the Hon. Andrew Cripps, formed a Western Rivers Advisory Panel 12 months ago to seek community input on the potential impact of small-scale irrigation in the Lake Eyre Basin. This committee handed down its final report in May 2013. Recommendation 7.0 states:

> In regard to 'small scale irrigation', the WRAP recognises the diversity of views held by stakeholders and producers within the Basin, and that reaching a consensus view was not possible. However in recognition of fragility and unique natural assets of the Basin, the WRAP takes the view that:
>
> - there should be no further take over and above that which exists in current water plans for irrigation development in the Cooper Creek catchment and Lake Eyre Basin.
> - there should be no increase in the reserves of unallocated water for irrigation in the existing Water Resource Plans for the Basin.
> - any future water trading regime in the Basin should consider robust modelling of the location and quantity of water that can potentially be taken by existing licences.

- if water licences in the Basin were to be transferred upstream, the volumes of extraction must be reduced and the extraction thresholds must be increased.

The Queensland LNP government has indicated that it supports small-scale irrigation. However, there does not seem to be a clear definition on what size water licence would be classified as 'small'. Indeed, I note that small flows are important for breeding events, growth phases and to maintain waterholes, so I think that those events are actually quite significant.

It is also a completely inland system, so while it has been compared with the situation in the Murray-Darling Basin, which is where we have a freshwater system which is expelled to sea, clearly the flora and fauna that exist in that area have developed, taking into account that none of that water, in a natural sense, would be extracted.

There are considerable pastoral operations that are located within this river system, and there is a large amount of organic beef production, so it is obviously an issue that pastoralists in the area are very concerned about. I note that two LNP members of parliament, Bruce Scott and member Vaughan, are both on the public record opposing any changes to the current regime.

Often we have in the environment space, arguments about science, but I understand that there has been a lot of science that has been undertaken over the years, including by the University of Queensland, Griffiths University, Sydney University, as well as our local universities. One of the members of the scientific advisory panel, Dr Steve Morton, is the second in charge at the CSIRO. There are concerns that the waters may be used to be traded upstream and used for mining operations. Clearly, that is something that the pastoralists feel some conflict about.

Consultation is always a very important part of this process. I am sure that the Queensland government will argue that it has consulted adequately. I have been advised that the consultation has not been through the proper channels, although that might have changed since the meeting last November. The government's response was to establish its own western rivers advisory committee. As I have read onto the record, they are certainly concerned about what the proposal might entail. With those brief words, I indicate that the Liberal Party is supporting this motion, consistent with our previous position. I commend the motion to the house.

Motion carried.

FIREARMS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 November 2013.)

The Hon. K.L. VINCENT (12:38): I will speak very briefly in support of the second reading of the bill before us. I would like to thank Brendon Beh and Paul Ralphs, both from SAPOL, and Kaes Cillessen, from police minister O'Brien's office, for the comprehensive briefing my staff were provided with on this bill. It certainly helped to clarify some of the issues that had been raised with me by various licensed gun owners.

I think that there has been a good deal of misinformation circulating amongst responsible gun owners who shoot for recreation and sport. I understand that now this will have no negative impact on their ability to lawfully go about their business and their hobby. Certainly, hearing about what can be bought on the internet and delivered to South Australia for use by criminal elements is concerning. Apparently, they buy their stuff on what is called the 'dark' internet, a concept I find much more exciting and positive sounding than it is. I am told it is not something used by superheroes but is, in fact, a very concerning element where people can buy some very scary equipment for criminal use.

I would like to encourage the government to let responsible pistol and gun owners and clubs know more about what these laws effectively mean, so that we can have an honest and open discussion about what we are actually trying to achieve here. My understanding is that we are simply trying to restrict people who are wanting to buy very dangerous equipment for very untoward purposes that most of us—I hope, all of us—would not support in their community, but as there is a great deal of misinformation out there (if the contact that my office has had is anything to go by) I would encourage the government to engage with responsible gun owners and clubs in particular so that they can help address that misinformation. With those brief words, I will indicate my support for the bill.

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

VISITORS

The PRESIDENT: Before I call the minister, I draw honourable members' attention to the presence in the gallery of the Hon. Ms Diana Laidlaw. Welcome.

Honourable members: Hear, hear!

CIVIL LIABILITY (DISCLOSURE OF INFORMATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November 2013.)

The Hon. S.G. WADE (12:41): I am glad that the President had the opportunity to honour a very esteemed former member of this place and a much-loved former minister for transport.

The Hon. J.S.L. Dawkins: I'm not sure she's listening to you either.

The Hon. S.G. WADE: I am afraid that, as is often the case, the Hon. Di Laidlaw is renowned for having opinions and being keen to share them, and even the President's greeting could not disturb her from sharing her views.

The Hon. J.S.L. Dawkins: She never listened to the whip when she sat next to the whip.

The Hon. S.G. WADE: It is bringing back memories for the whip, as well. Nonetheless, I shall return to the matter before us. The Civil Liability (Disclosure of Information) Amendment Bill 2013 has been introduced in typical Labor government style.

At two minutes to midnight, the government announces that its culture of secrecy is a thing of the past and they will now throw open the doors of government to the public for all to see. Well, not quite. At the last possible opportunity they have brought this bill into the parliament and they have made it their lowest priority. When announcing this policy on 4 September, the Premier was quoted in an article in *The Advertiser* as saying:

> 'People have to be accountable for what they spend on public money.' Mr Weatherill said the public would be 'cynical about government if they think it's being used for the wrong purpose, including for private benefit. I want people to be confident about government because I want to run a progressive, reformist government. I can't achieve what I want to achieve if people are cynical about government.'

The reason why people are cynical about the Weatherill Labor government is because they continue to go out announcing policy and then failing to deliver. The Premier says the credit card spending of ministers, their staff and departmental chief executives will be released 'as soon as possible', yet here we are almost three months later and the legislation to enable that release is the lowest priority on the government's agenda.

The bill seeks 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 kinds of materials listed in the relevant Department of the Premier and Cabinet circular are:

- details of credit card expenditure for all cards held by ministers, ministerial staff and chief executives;
- details of ministers' overseas travel arrangements;
- details of costs relating to mobile phones held by ministers, ministerial staff and chief executives;
- details of expenditure relating to hosting and attending functions by ministers, ministerial staff and chief executives;
- details of consultants engaged and cost to the agency;
- agency gift registers;
- details regarding procurement within government departments; and
- a list of capital works projects including a description and expenditure.

I am advised that the government has not drafted the intended regulations. However, it claims that it anticipates the regulations will prescribe only three classes of information. Firstly, 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.

Secondly, it is understood the regulations are intended to cover submissions on government policy initiatives. Thirdly, the regulations are intended to cover 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.

Of course, by the time the government has actually prepared the regulations, the parliament will be well and truly in the non-sitting phase of the calendar. Whether we will in fact actually see any documents or information disclosed by this government under this legislation remains to be seen. Like so many other things this government has promised, they have left it to the last possible minute when it may not have any bearing on them at all, depending on the outcome of the election. One of the barriers to agencies proactively disclosing information outside the FOI Act is that they are not able to rely on the protection of section 50 of the FOI Act, and publication of information could give rise to a cause of action against the Crown.

Under the Public Service Act, public servants are personally protected from civil liability when exercising official functions and powers. The Crown has some protection from defamation in respect of documents issued by agencies for public information purposes. However, the Crown has no general immunity from civil liability in respect of the release of information outside of the FOI framework. Under section 50 of the Freedom of Information Act, the Crown has immunity from civil liability for defamation and breach of confidence in respect of the granting of access to documents under that act.

The opposition is of the view that the breadth of that immunity is sufficient for what the government is trying to achieve. We do not think that the full breadth of immunity that they propose in this bill is appropriate, especially since it is not extended to all the South Australians who may produce the material they release. For example, if the government releases a submission it received from the public, the public servant will receive protection, but the person who wrote the submission will not. That is explicit in proposed section 75A(2). That is regardless of whether the material submitted to the government was intended for public consumption or not. If the media did exactly the same thing as the government is proposing to do, they would carry full liability.

The opposition accepts that full liability may present a barrier to the transparency that we would all seek. However, we also consider that full immunity is a step too far, so I will be moving on behalf of the opposition to limit the immunity in the bill to the extent which is currently provided in section 50 of the Freedom of Information Act, namely for defamation and breach of confidence. It is our view that if that level of protection is appropriate for freedom of information purposes, then it should also be appropriate for this sort of disclosure. I seek honourable members' favourable consideration of the amendment and look forward to the committee stage of the bill.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (12:49): I do not believe that there are any other second reading contributions to this bill. I thank the opposition for its indication of support and look forward to this being dealt with in the committee stage on the next day of sitting.

Bill read a second time.

FIRST HOME AND HOUSING CONSTRUCTION GRANTS (ELIGIBILITY CRITERIA) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

STAMP DUTIES (OFF-THE-PLAN APARTMENTS) AMENDMENT BILL

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

SPENT CONVICTIONS (DECRIMINALISED OFFENCES) 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) (12:51): 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 amends the *Spent Convictions Act 2009* (the SC Act) to ensure that historical convictions for offences constituted by homosexual acts (that are no longer criminal offences) can be spent.

In late 2012 the President of the Senate, the Hon. John Hogg, wrote to the Premier informing him of a resolution agreed to by the Senate on 22 November 2012. The resolution was as follows:

That the Senate—

(a) *notes:*

(i) *homosexual acts were decriminalised in Victoria in 1981 but that convictions prior to that date can still appear on a Victorian person's police record; and*

(ii) *that the United Kingdom (UK) recently enacted legislation to expunge historic convictions for homosexual acts which were imposed prior to the decriminalisation of homosexuality in the UK; and*

(b) *calls on all Australian states and territories to enact legislation that expressly purges convictions imposed on people prior to the decriminalisation of homosexual conduct.*

In response, the Bill has been drafted to make amendments to the SC Act to facilitate the spending of such convictions. In its resolution, the Senate referred to the United Kingdom legislation to expunge historic convictions for homosexual acts.

The legislation in the United Kingdom does not provide for any automatic spending of these historical convictions, but rather, under the provisions of the Protection of Freedom Act 2012, the Home Secretary may disregard certain convictions for decriminalised consensual sex offences. The provisions commenced on 1 October 2012.

Under these provisions in the United Kingdom, individuals can apply to the Home Secretary for a formal disregard of the convictions. The application form requires the applicant to provide personal details as at the date of the conviction, details of the convictions and a statement confirming that the convictions related to an offence committed by two or more consenting parties, who were, at the time of the offence, aged 16 years or over.

Applicants are asked to provide any documentation or material to support their application.

The Bill makes amendments to the SC Act taking a similar approach.

Under the SC Act certain criminal offences automatically become spent (for most purposes) after a qualification period of 10 years provided that the individual has not been convicted of any further offences other than a minor offence in which there was no penalty or the only penalty was a fine not exceeding $500.

Under the SC Act there are some offences that can never be spent.

Serious offences (where the person was sentenced to more than 12 months gaol, or in the case of a youth, 24 months detention) are never spent.

In addition, a sex offence can only be spent by order of a qualified Magistrate. However, only an 'eligible sex offence' can be spent. A sex offence is considered to be an 'eligible sex offence' if the penalty upon conviction did not include imprisonment (whether suspended or not).

A spent conviction does not appear on a police check and need not be disclosed if the person is asked about past convictions, for instance in a job interview, with some exceptions.

Under the SC Act, spent convictions can be disclosed if disclosure is for one of a number of excluded purposes. These exclusions are listed in Schedule 1 to the SC Act.

Of relevance to the Bill, Schedule 1 provides that the provisions contained in Part 3 Division 1 of the SC Act (which state that spent convictions do not have to be disclosed and are protected) does not apply:

- in relation to care of children being:
    - any administrative, judicial or other inquiry into, or assessment of, the fitness of a person to have the guardianship or custody of a child, or access to a child; or
    - any assessment of the fitness of a person undertaking, or seeking to undertake, (including without any fee or reward) work or any other activity that directly involves;
        - the care, control, supervision or instruction of children; or
        - otherwise working in close proximity with children on a regular basis; or
    - any assessment of the fitness of a person undertaking, or seeking to undertake, (including without any fee or reward) work or any other activity that directly involves acting as an advocate for children in legal proceedings; or

- without limiting a preceding paragraph, a disclosure required or permitted by or under another law (including a law of another jurisdiction (including a law of an overseas jurisdiction)) in relation to a person who works, or who is seeking to work, with children; or
- any—
  - disciplinary or fitness inquiry or investigation; or
  - enforcement action or proceedings (including for the suspension or cancellation of a registration, licence, accreditation or other authorisation or authority), associated with a person within a preceding paragraph (Part 6 of Schedule 1);

- in relation to care of vulnerable people being:
  - any administrative, judicial or other inquiry into, or assessment of, the fitness of a person to have the guardianship of an aged person or persons with a disability (including an intellectual disability), illness or impairment; or
  - any assessment of the fitness of a person undertaking, or seeking to undertake, (including without any fee or reward) work or any other activity that directly involves;
    - the care of aged persons or persons with a disability (including an intellectual disability), illness or impairment in legal proceedings; or
    - otherwise working in close proximity with aged persons or persons with a disability (including an intellectual disability), illness or impairment; or
  - any assessment of the fitness of a person undertaking, or seeking to undertake, (including without any fee or reward) work or any other activity that directly involves acting as an advocate for aged persons or persons with a disability (including an intellectual disability), illness or impairment in legal proceedings; or
  - any—
    - disciplinary or fitness inquiry or investigation; or
    - enforcement action or proceedings (including for the suspension or cancellation of a registration, licence, accreditation or other authorisation or authority), associated with a person within a preceding paragraph (Part 7 of Schedule 1);
- in relation to activities associated with a character test, being:
  - any assessment of whether a person who, pursuant to statute, has obtained, or is seeking, registration or enrolment, or a licence, accreditation or other authorisation or authority, in or in relation to an occupation, profession, position or activity, is a fit and proper person or a person of good character;
  - any—
    - disciplinary or fitness inquiry or investigation; or
    - enforcement action or proceedings (including for the suspension or cancellation of a registration, licence, accreditation or other authorisation or authority), associated with a person within the preceding paragraph (Part 8 of Schedule 1).

Under the current provisions, once a conviction is spent (either automatically or for an eligible sex offence by order of a qualified Magistrate) a further application may be made to a qualified Magistrate under section 13A of the SC Act that the spent conviction is not disclosed one or more of the following three excluded purposes:

- care of children (Part 6 of Schedule 1);
- care of vulnerable people (Part 7 of Schedule 1); and
- activities associated with a character test (Part 8 of Schedule 1).

Under the Bill, this system is adapted for the purpose of spending of historical homosexual offences.

Under the Bill, the SC Act is amended so that the definition of 'eligible sex offence' is expanded to include a 'designated sex-related offence'.

The term 'designated sex-related offence' is defined as a sex offence that is constituted by consenting adults engaging in (or procuring another adult to engage in) sexual intercourse or activity that no longer constitutes an offence. In addition, this definition includes the capacity to prescribe other offences as 'designated sex-related offences'.

This means that a person who was convicted of a homosexual offence (that is no longer an offence) can apply to a qualified Magistrate for their conviction to be spent, even if they received a sentence of imprisonment,

If the qualified Magistrate finds that:

- an offence is a 'designated sex-related offence'; and
- the offence has ceased, by operation of law, to be an offence,

then the conviction is spent for all purposes.

Under amendments made by the Bill, these types of convictions are spent for all purposes and are no longer be disclosed in any police history check, no matter the purpose of the check (including care of children). This is only appropriate. The conduct is no longer an offence, the application of the law to this behaviour an historical anomaly and, any such historical conviction is now irrelevant.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Spent Convictions Act 2009*

4—Amendment of section 3—Preliminary

This clause inserts various definitions that are relevant to the amendments to be effected to the other provisions of the Act. It is important to note that the definition of *eligible sex offence* is now to include a *designated sex-related offence*, which will relate to certain sex offences involving consensual sexual activities or otherwise prescribed by the regulations.

5—Amendment of section 5—Scope of Act

This amendment will allow a conviction for a designated sex-related offence to be capable of becoming spent under the scheme of the Act.

6—Amendment of section 8A—Spent conviction for an eligible sex offence

These amendments relate to the ability to obtain an order from a qualified magistrate that an eligible sex offence is spent. In the case of a designated sex-related offence, the qualified magistrate may proceed to make such an order if satisfied that the conduct constituting the offence has ceased, by operation of law, to be an offence.

7—Amendment of section 13—Exclusions

The exclusions from the operation of the Act will not apply with respect to designated sex-related offences in relation to which an order has been made under section 8A (as amended by this measure).

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

CRIMINAL LAW CONSOLIDATION (PROTECTION FOR WORKING ANIMALS) AMENDMENT BILL

The House of Assembly agreed to amendment No 2 made by the Legislative Council without any amendment and disagreed to amendment No 1.

MOTOR VEHICLES (LEARNER'S PERMITS AND PROVISIONAL LICENCES) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

VETERINARY PRACTICE (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

[Sitting suspended from 12:53 to 14:18]

STATUTES AMENDMENT (YOUNG OFFENDERS) BILL

His Excellency the Governor assented to the bill.

HEALTH PRACTITIONER REGULATION NATIONAL LAW (SOUTH AUSTRALIA) (RESTRICTED BIRTHING PRACTICES) AMENDMENT BILL

His Excellency the Governor assented to the bill.

MAJOR EVENTS BILL

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO) BILL

His Excellency the Governor assented to the bill.

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

His Excellency the Governor assented to the bill.

DISABILITY SERVICES (RIGHTS, PROTECTION AND INCLUSION) AMENDMENT BILL

His Excellency the Governor assented to the bill.

MINING (ROYALTIES) AMENDMENT BILL

His Excellency the Governor assented to the bill.

HEALTH PRACTITIONER REGULATION NATIONAL LAW (SOUTH AUSTRALIA) (PROTECTION OF TITLE—PARAMEDICS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (SMART METERS) BILL

His Excellency the Governor assented to the bill.

MOTOR VEHICLES (LEARNER'S PERMITS AND PROVISIONAL LICENCES) AMENDMENT BILL

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (OCCUPATIONAL LICENSING) BILL

His Excellency the Governor assented to the bill.

ANSWERS TO QUESTIONS

The PRESIDENT: I direct that the following written answer to a question be distributed and printed in *Hansard*.

PUBLIC SERVICE EMPLOYEES

93 The Hon. R.I. LUCAS (29 November 2012). For the period between 1 July 2011 and 30 June 2012, will the Minister for Education and Child Development list—

1. Job title and total employment cost of each position with a total estimated cost of $100,000, or more, which has been abolished; and

2. Each new position with a total cost of $100,000, or more, which has been created?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): The Minister for Education and Child Development has been advised:

1. Within the Department for Education and Child Development, 21 positions (12 Education Act and 9 Public Sector Act) with a total employment cost of over $100,000 were abolished between 1 July 2011 and 30 June 2012. The total value of these salaries is $2,512,170.54.

Public Sector Act Positions—Department for Education and Child Development

Position Title	Total Employment Cost
Director, Early Childhood Programs & Services Development (*)	$142,355.09
Team Leader, Children's Services (#)	$102,602.60
Project Manager, Technical Infrastructure (#)	$112,661.60
Senior Adviser, Strategic Asset Planning (#)	$112,661.60
Senior Policy Adviser (#)	$102,602.60
Speech Pathologist (#)	$105,068.70
Principal Policy Adviser (#)	$121,597.60
Manager, Criminal History Screening Unit (#)	$121,597.60
Manager Central Coordination (#)	$123,807.60

Position Title	Total Employment Cost
TOTAL (9 positions)	$1,044,954.99

(*) This position was abolished due to a restructure within the unit.

(#) These positions were abolished as the incumbents accepted a TVSP.

Education Act Positions—

Non-School Based Positions—Department for Education and Child Development

Position Title	Total Employment Cost
Director, Future SACE Off and SACE Com's (1)	$146,074.17
Program Manager, New SACE Innovation (1)	$113,098.40
Manager, Early Childhood Strategy (2)	$153,528.48
TOTAL (3 positions)	$412,701.05

(1) These positions were abolished as a result of the establishment of the SACE Board.

(2) This position was abolished due to a restructure within the unit.

School Based Positions—Department for Education and Child Development

Position Title	Total Employment Cost
Teacher (3)	$104,591.30
Teacher (3)	$104,591.30
Teacher (3)	$104,591.30
Teacher (3)	$104,591.30
Teacher (3)	$104,591.30
Principal, Charles Campbell Secondary School (4)	$166,430.00
Principal, Campbelltown Primary School (4)	$136,614.00
Principal, Salt Creek Primary School (5)	$114,257.00
Principal, Tarpeena Primary School (5)	$114,257.00
TOTAL (9 positions)	$1,054,514.50

(3) These positions were abolished as the incumbents accepted a TVSP.

(4) These positions were abolished to form one new school.

(5) These positions are due to the closure of the respective schools.

Note: The rates for school-based positions are based on the standard salary rates of the positions that includes leave loading, superannuation, payroll tax, workers compensation and long service leave on-costs.

2. Within the Department for Education and Child Development, 29 positions (24 Education Act and 5 Public Sector Act) with a total employment cost of over $100,000 were created between 1 July 2011 and 30 June 2012 in the Department for Education and Child Development. The total value of these salaries is $4,209,407.94.

Public Sector Act Positions

Position Title	Total Employment Cost
Director, Service Remodelling	$190,173.80
Executive Director, Early Childhood Services	$241,133.50
Chief Executive, Office for Non- Government Schools & Services	$309,529.40
Manager Business Intelligence & Data Warehouse (FSA)	$102,893.82
Manager, Workforce Development (FSA)	$102,893.82
TOTAL (5 positions)	$946,624.34

Education Act Positions—Non-School Based Positions:

Position Title	Total Employment Cost
Director, New Media, Policy & Coordination	$169,675.40
Director, Pedagogy and Leadership	$150,603.00
Program Manager, Secondary Australian Curriculum Implementation	$145,934.50
Program Manager, Leadership for Learning	$126,244.90
Program Manager, Teachers Learning	$127,403.10
Program Manager, Language & Cross Curriculum Priorities	$126,244.90
Manager, Parent Complaint Unit	$120,766.80
Senior Site HR Consultant	$113,098.40
Transitional Director, SA Registration Authority for ECE and Care and SAC	$163,500.00
Program Manager, LNNP	$126,244.90
Industry Skills Manager, Resource & Energy	$106,524.60
Project Leader, KPMG & WorkCover Evaluation	$119,064.60
Project Director, ISIO	$195,454.80
Project Manager, ISIO	$148,129.30
Project Manager, ISIO	$139,820.60
Project Director, ISIO	$127,403.10
Program Manager, Special Education	$119,668.90
National Partnerships Literacy Manager	$125,981.70
National Partnerships Literacy Manager	$120,766.80
National Partnerships Literacy Manager	$138,332.90
Program Manager, Australian Curriculum Policy & Project Coordination	$132,904.60
Strategic Program Coordinator	$119,668.90
Regional Leadership Consultant	$126,244.90
TOTAL (23 positions)	$3,089,681.60

School Based Positions:

Position Title	Total Employment Cost
Principal, Charles Campbell College	$173,102.00
TOTAL (1 position)	$173,102.00

Note:

- The above position is the result of the amalgamations of the Charles Campbell Secondary School and Campbelltown Primary School.
- The rates for school-based positions are based on the Standard Salary Rates of the positions that includes leave loading, superannuation, payroll tax, workers compensation and long service leave on-costs.

In the subsequent period between 1 July 2012 and 18 April 2013, DECD has achieved an overall reduction in positions with a total employment cost of over $100,000 of 57 positions equivalent to an estimated saving of $6,839,910 in salaries.

This figure is a result of the 104 positions with a total employment cost of over $100,000 that were abolished between 1 July 2012 and 18 April 2013. The total value of these salaries is $13,782,112. In comparison, only 47 positions with a total employment cost of over $100,000 were created between 1 July 2012 and 18 April 2013. The total value of these salaries is $6,942,201.

PAPERS

The following papers were laid on the table:

By the President—

Reports, 2012-13—
Corporations—
Unley

West Torrens
District Councils—
Flinders Ranges
Kimba
Mount Barker
Robe
Tatiara
Wattle Range

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

Reports, 2012-13—
ANZAC Day Commemoration Council
Department of the Premier and Cabinet
Hydroponics Industry Control Act 2009
South Australian Fire and Emergency Services Commission
South Australian Rock Lobster Industry Primary Industries Funding Scheme
Veterinary Surgeons Board of South Australia
Witness Protection Act 1996
Regulations under the following Acts—
Land Agents Act 1994—Real Estate Reform Review and Other Matters—Indemnity Fund
Land and Business (Sale and Conveyancing) Act 1994—Real Estate Review and Other Matters—Miscellaneous
Liquor Licensing Act 1997—
Dry Areas—
Beachport—Robe—Two Wells—New Year's Eve 2013
Woodside Area 1—December 2013
Motor Vehicles Act 1959—Rounding of Fees and Refunds
Public Corporations Act 1993—Lifetime Support Authority
Superannuation Funds Management Corporation of South Australia Act 1995—Prescribed Public Authorities

By the Minister for State/Local Government Relations (Hon. G.E. Gago)—

Outback Communities Authority—Report, 2010-11

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

Reports, 2012-13—
Animal Welfare Advisory Committee
Australian Children's Education and Care Quality Authority
Board of the Botanic Gardens and State Herbarium
Central Adelaide Local Health Network Health Advisory Council Inc.
Coorong Health Service Health Advisory Council Inc.
Dame Roma Mitchell Trust Fund for Children and Young People
Education and Care Services Ombudsman, National Education and Care Services FOI and Privacy Commissioners
Education and Early Childhood Services Registration and Standards Board of South Australia
General Reserves Trust
Hills Area Health Advisory Council Inc.
Kingston/Robe Health Advisory Council Inc.
Mount Gambier and Districts Health Advisory Council Inc.
Naracoorte Area Health Advisory Council Inc.
Northern Adelaide Local Health Network Health Advisory Council Inc.
Penola and Districts Health Advisory Council Inc.
Port Augusta, Roxby Downs and Woomera Health Advisory Council Inc.
South Australian Ambulance Service Volunteer Health Advisory Council Inc.
South Australian National Parks and Wildlife Council
South Coast Health Advisory Council Inc.
The Council for the Care of Children
The Murray Bridge Soldiers' Memorial Hospital Health Advisory Council Inc.

Veterans' Health Advisory Council Inc.
Women's and Children's Health Network Health Advisory Council Inc.
Regulations under the following Acts—
Passenger Transport Act 1994—Miscellaneous Variation
Radiation Protection and Control Act 1982—Non Ionising Radiation—Commercial Cosmetic Tanning Services
Rates and Land Tax Remission Act 1986—Water Rates—Council Rates
Adelaide Convention Centre Corporation Charter, June 2013

SELECT COMMITTEE ON MARINE PARKS IN SOUTH AUSTRALIA

The Hon. D.G.E. HOOD (14:25): I bring up the report of the committee, together with minutes of proceedings and evidence.

Report received and ordered to be published.

SELECT COMMITTEE ON COMMUNITY SAFETY AND EMERGENCY SERVICES IN SOUTH AUSTRALIA

The Hon. R.L. BROKENSHIRE (14:26): I bring up the report of the committee, together with minutes of proceedings and evidence.

Report received and ordered to be published.

SELECT COMMITTEE ON ST CLAIR LAND SWAP

The Hon. J.M.A. LENSINK (14:26): I bring up the interim report of the committee, together with minutes of proceedings and evidence.

Report received and ordered to be published.

SELECT COMMITTEE ON MATTERS RELATING TO THE INDEPENDENT EDUCATION INQUIRY

The Hon. R.L. BROKENSHIRE (14:27): I bring up the interim report of the committee, together with minutes of proceedings and evidence.

Report received and ordered to be published.

NATURAL RESOURCES COMMITTEE

The Hon. R.P. WORTLEY (14:28): I bring up the report of the committee on bushfire preparedness of properties in bushfire risk areas.

Report received.

The Hon. R.P. WORTLEY: I bring up the report of the committee on the Whyalla region fact finding visit on 23 and 24 October 2013.

Report received.

SOCIAL DEVELOPMENT COMMITTEE

The Hon. R.P. WORTLEY (14:28): I bring up the interim report of the committee on its inquiry into the sale and consumption of alcohol.

Report received and ordered to be published.

The Hon. R.P. WORTLEY: I bring up the report of the committee on a visit to Newcastle, New South Wales in relation to the committee's inquiry into the sale and consumption of alcohol on 9 to 11 October 2013.

Report received.

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. CARMEL ZOLLO (14:29): I bring up the report of the committee 2012-13.

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

The Hon. G.A. KANDELAARS (14:30): I bring up the report of the committee on an inquiry into occupational health and safety responsibilities of SafeWork SA.

Report received.

EDUCATION POLICY

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) (14:30): I table a ministerial statement by the Premier, Hon. Jay Weatherill, on quality education policy.

WATERLOO WIND FARM

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:31): I rise to inform the chamber that today the Environmental Protection Authority released its report on the Waterloo Wind Farm Noise Study. This study, undertaken during the months of April and June this year, considered the concerns raised by a number of residents about the alleged noise emanating from the wind farm and whether they were breaching South Australian standards.

I am pleased to advise that the study has shown that the Waterloo wind farm is operating within the EPA's guidelines. Other findings include:

- infrasound levels were found to be below the internationally accepted thresholds for human perception;
- the noise frequencies at which turbine blades pass the tower was not shown to be significant at Waterloo; and
- in many cases, analysis of audio records was unable to demonstrate associations with events described in noise diaries by residents and in general, where some association was found, amplification of that sound was required for it to be perceived by the human ear.

It is important to note that at no time while the study was being conducted has the EPA disputed the concerned residents' experience of a noise event. However, this report shows that whatever these residents are experiencing, it does not relate to the Waterloo wind farm.

This is an important development and one that I hope will enable the concerned residents of Waterloo to move ahead with their lives. I can advise that the EPA met with a number of these residents this morning and briefed them on the report's findings before its release to the public. In brief, the study has two components: a noise weather monitoring component, and a community diary component of which about 25 residents participated on a weekly basis, and another 25 residents who participated on a less regular basis.

The owner and operator of the wind farm, Energy Australia, has cooperated fully with the study and has assisted in the inquiry by providing operational and meteorological information to the EPA. They have also cooperated by conducting six separate shutdowns of the site at times when the plant would normally operate to also assist in the scientific process.

Peer review of the study was undertaken by the New South Wales EPA and I can advise that they found the study to be of a high technical standard. Whilst the study was not intended to look at any perceived health impacts of wind farms, this data and report will be provided to health authorities upon request.

I would like to acknowledge the residents of the area who took part in the study as their own noise diaries were an essential part of the research. I would also like to acknowledge the support of Energy Australia whose commitment to this undertaking I outlined earlier.

ANSWERS TO QUESTIONS

APY LANDS, COURT FACILITIES

In reply to the **Hon. T.J. STEPHENS** (9 June 2011) (First Session).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): As the Minister for Aboriginal Affairs and Reconciliation I have received this advice:

1. $717,000 in interest (accrued on Commonwealth money of $4.5 million) went towards the Family Wellbeing Centres—a total budget of $5.217 million.

2. No funding was spent on court facilities.

3. The new police complexes at Amata, Pukatja and Mimili, include facilities that can be, and are, used as court facilities.

4. Commonwealth funding of $5,217,000 ($4.5 million plus $717,000 interest) was allocated for the Family Wellbeing Centres which are located at Mimili, Amata and Pukatja.

PUBLIC SERVICE, FAIR WORK PRINCIPLES

In reply to the **Hon. R.L. BROKENSHIRE** (1 March 2012).

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

Section 56 is an important power and it is inherently sound. It is substantively identical to previous powers to require independent medical examination in the *Public Sector Management Act; Government Management and Employment Act and Public Service Act 2009*. Furthermore, similar powers exist in other public sector legislative schemes (e.g. the Education Regulations).

As a result of concerns being raised about the use of Section 56, the Commissioner for Public Sector Employment has issued a guideline to inform public sector agencies and assist them in their decision making in relation to this issue.

Where an employee feels aggrieved by a decision to require them to undergo an independent medical examination under section 56, such an employment decision may be reviewed internally by the agency and if necessary, externally reviewed by Public Sector Grievance Review Commission.

APY LANDS, FOOD SECURITY

In reply to the **Hon. T.J. STEPHENS** (28 June 2012).

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

The Commonwealth Government is continuing to fund Mai Wiru whilst a sustainable business model for their community stores is being finalised.

WEAR IT PURPLE DAY

In reply to the **Hon. K.L. VINCENT** (20 September 2012).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): The Minister for Education and Child Development has been advised:

The Department for Education and Child Development (DECD) takes the issue of the use of derogatory terms very seriously.

Through the Brighter Futures initiative, the department is developing a Charter for Inclusion. The DECD Charter for Inclusion will enshrine a set of principles for equity of access to education.

The charter will demonstrate our commitment to inclusive education practices which will create preschools and schools, where all members of preschool and school communities feel valued and where all members of the school community have the opportunity to participate fully in preschool and school life. The charter will reiterate the principle that students with disabilities have the right to education in an environment that is free from discrimination caused by harassment and victimisation (including name-calling) on the basis of their disability.

Under the Disability Standards for Education, DECD needs to have strategies and programs to prevent harassment and victimisation of learners with a disability and to take reasonable steps to ensure that staff and students understand their obligations not to harass and victimise learners with a disability.

To this end, all sites are required to develop and implement policies to address harassment and bullying for all students.

In addition, under the National Partnerships: More Support for Students with Disabilities, SA is implementing an e-learning program for teachers concerning the use and implementation of

the Disability Standards in Education. This online professional learning program has been undertaken by 3,118 SA educational leaders and teachers to date. This online course highlights the obligations of education providers to uphold the right of students with disabilities to participate in education or training in an environment that is free from discrimination caused by harassment or victimisation on the basis of their disability.

BUSHFIRE PREVENTION

In reply to the **Hon. A. BRESSINGTON** (14 November 2012).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): As the Minister for Sustainability, Environment and Conservation I have received this advice:

1. The Country Fire Service is the responsible agency for coordinating bushfire risk assessments in South Australia. The Country Fire Service, the Department of Environment, Water and Natural Resources and the Natural Resources Management Council are represented on the State Bushfire Coordination Committee, the statutory body overseeing South Australia's bushfire readiness.

The Country Fire Service, the Department of Environment, Water and Natural Resources and the Natural Resources Management Boards are also represented on Regional Bushfire Management Committees. The Department of Environment, Water and Natural Resources is responsible for bushfire planning and preparedness on land under my care and control and works closely with the Country Fire Service in implementing mitigation strategies to reduce the impact of bushfires.

2. The Country Fire Service is the qualified and authorised agency responsible for giving directions to farmers on bushfire preparedness. Farmers seeking advice about bushfire preparedness should visit the Country Fire Service website at www.cfs.sa.gov.au, or call the Country Fire Service Bushfire Information Hotline on 1300 362 361, or contact their nearest Country Fire Service Regional Office.

3. Only NRM officers that are authorised under the *Natural Resources Management Act 2004* can serve a notice to remove weeds proclaimed under the Act, which would serve to reduce fire risk.

I am advised that the plant in question, *Acacia paradoxa*, is indigenous to South Australia and other parts of southern Australia and is not a noxious weed. *Acacia paradoxa* is often confused with *Acacia nilotica* which is a noxious weed and is also commonly referred to as Prickly Acacia.

4. I am advised that one of the most important actions for maintaining water quality is to keep stock out of watercourses, and to have properly managed and maintained stock watering points away from natural watercourses so that physical damage and impacts on water quality are minimised.

5. Fencing is not compulsory, unless Chapter 7 of the *Natural Resources Management Act 2004*, which relates to the management and protection of water resources, is breached.

6. Landowners are encouraged to develop Bushfire Survival Plans and are responsible for their own bushfire preparedness. The Country Fire Service is currently undertaking an extensive Bushfire Management Area Planning process, which aims to identify the bushfire risk in each Bushfire Management Area and put strategies in place for reducing that risk. This will include identifying appropriate fire water access points and ensuring that access to rural properties by fire appliances is maintained.

7. NRM officers possess a variety of formal training in land management, bush management, watercourse management and animal and plant pest control.

FAMILIES SA

In reply to the **Hon. A. BRESSINGTON** (1 May 2013).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): The Minister for Education and Child Development has been advised:

1. Paternal access is determined on a case by case basis.

2. The *Children's Protection Act 1993* states that any child who is placed in alternative care must be allowed to maintain relationships with their family and community, to the extent that such relationships can be maintained without serious risk of harm. Where a serious risk is identified, access does not occur.

3. Paternity has been established in the case in question.

4. In 2012, these matters were raised directly with SAPOL, the outcome of the SAPOL investigation is unknown at this time.

WATERPROOFING WHYALLA

In reply to the **Hon. J.M.A. LENSINK** (24 September 2013).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): As the Minister for Water and the River Murray I have received this advice:

SA Water has met all of its contractual obligations.

SA Water has more than enough supply to meet the daily irrigation demands of the City of Whyalla and the Whyalla Golf Club. The water suppled from the Whyalla Water Reclamation plant meets all criteria set by the Department of Health and Ageing.

SA Water will continue to work with council to assist it resolve issues experienced in the operation of its expanded recycled water system.

HOUSING SA SMOKE ALARMS

In reply to the **Hon. J.A. DARLEY** (25 September 2013).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): The Minister for Social Housing has received this advice:

1. Housing SA has always met the requirements of the Development Act which calls up the Building Code of Australia (BCA). Current requirements require hardwired smoke alarms for new construction and allow battery powered alarms in properties built prior to the BCA introducing the requirement of hardwired smoke alarms in 1995.

Approximately 6,000 of the 41,300 properties owned by the South Australian Housing Trust have hardwired smoke alarms.

2. Housing SA does not have a program to install hardwired smoke alarms in its properties which have only battery-powered smoke alarms.

3. The current policy allows either Housing SA or the tenant to replace the battery when the alarm indicates the battery is low. Housing SA is now using alarms which have inbuilt batteries. A new smoke alarm unit is provided when the unit reaches the end of its life. It is anticipated that the unit life will be approximately 15 years.

DOG FENCE

In reply to the **Hon. J.A. DARLEY** (15 October 2013).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): As the Minister for Minister for Sustainability, Environment and Conservation I have received this advice:

The 28 kilometres of new dog fence constructed at Parakylia and Mundowdna, in the state's north, is of wire netting construction.

QUESTION TIME

NORTHERN ZONE ROCK LOBSTER FISHERY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:36): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the northern zone rock lobster fishery.

Leave granted.

The Hon. D.W. RIDGWAY: In 2007, the Labor government released a management plan for the northern zone rock lobster fishery. On the PIRSA website, there still remains the most recent management plan applicable to the northern zone. The purpose of this plan was to strike the right balance between 'minimising the risk to sustainability objectives and minimising the risk of lost opportunities'. The management plan recommended that:

> Improved spatial management will ensure that one region of the fishery is not propping up another region, particularly during periods of low recruitment.

It goes on further to say:

> A strategy should be developed in the first two years of the management plan to further refine spatial management within the fishery.

My questions to the minister are:

1. Why was the advice in the plan ignored and spatial management not adopted for the northern zone rock lobster fishery?

2. The South Australian Rock Lobster Advisory Council has also undertaken its own research, which outlines that the current reductions to quotas due to sanctuary zone offsets are not enough and will result in overfishing of the other areas. Is the minister aware of this research and, if so, what does she plan to do about it?

3. Has the minister consulted with the northern zone rock lobster fishers about their fears and what has her response to those fishers been?

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) (14:37): I thank the honourable member for his questions. Indeed, the Fisheries Council of South Australia prepared a draft management plan for the northern zone rock lobster fishery, with the assistance of the Rock Lobster Fisheries Management Advisory Committee. The northern zone rock lobster fishery industry is represented on that advisory committee and certainly has been very much involved in the development of that plan at all stages.

That draft was released for public comment from November 2012 to February 2013 to allow for industry, community and conservation input and the like, and a public meeting was held. The management plan has a number of provisions to allow for review of the plan, including the TACC setting process if characteristics of the fishery change.

The management plan has a term of five years, with the harvest strategy to be reviewed after three years. The harvest strategy, which sets out the TACC setting process, included in the management plan was developed and endorsed by industry, through representatives on the working group, and also the Rock Lobster Steering Committee.

In 2012-13, the TACC for the northern zone rock lobster fishery was determined in September, and that was then extended from November 2012 to 31 May 2013. In terms of questions around consultation, extensive consultation at all levels has been involved. In terms of some of the views about the effects of marine parks and the level of displacement, there have been disagreements around that.

I have met with those rock lobster fishery representatives—and a wide range of others as well—fairly extensively over the last two-year period. I have met with them. The issue has been that their view is that there should be more displaced effort than has been calculated. They have been invited to supply us with detailed information as to what is actually being fished. Our officers have shown them the way that calculations for displaced effort have been made and the principle that that has been based on. As I said, we have worked very closely with industry to determine what is actually happening by industry and we have certainly taken that into consideration.

The northern rock lobster fishery industry has not been able to demonstrate any further information that would warrant the recalculation of the displaced effort, so although they disagree with the level that we have calculated, they are not able to, in fact, provide us with evidence that would indicate that we would need to shift that. Our calculations are based on an average and, if I recall, it is over something like 15 years—or it might be somewhere between 12 to 15 years—of actual take from the fishery averaged over that period of time, so it is over quite a lengthy period of time that we cast our net, so to speak.

This fishery wants us to take a far more conservative level and of course the problem with that is that we could be, in fact, by our calculations, removing fishing licences from the industry that

do not need to be removed and that means that people's businesses, family members and community members located in regional areas could be impacted on. We have used the same calculation for this fishery as we have for others. It is based on averages and it is over a long period of time. We believe it is an accurate reflection of the level of displaced effort and, as I said, the northern rock lobster fishery has not been able to provide us with any additional information that would indicate that we need to go back and revise those calculations.

The PRESIDENT: Supplementary question, the Hon. Mr Ridgway.

NORTHERN ZONE ROCK LOBSTER FISHERY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:43): Has the draft management plan that the minister spoke of—I think, 2012-14—been adopted? If so, is it on PIRSA's website?

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) (14:43): I would have to take that on notice. I am just not too sure whether or not I have finalised that, but I am happy to take that on notice.

NORTHERN ZONE ROCK LOBSTER FISHERY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:44): As a supplementary, that would mean that the 2007 management plan is the current management plan for the northern zone rock lobster fishery.

Members interjecting:

The PRESIDENT: Minister.

Members interjecting:

The PRESIDENT: Right. The Hon. Ms Lensink.

MURRAY RIVER

The Hon. J.M.A. LENSINK (14:44): My question is to the Minister for Water and the River Murray. Can the minister explain just how South Australia is reducing its take from the River Murray as a result of 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) (14:44): I thank the honourable member for her most generous question—a very important question. It allows me to put on the record some comments and concerns about ill-informed statements made in the media in recent times by federal Liberal senators and then very quickly hopped into by a couple of members of this parliament, of course, without adequate information before them, but that is why, I guess, they asked the question. I am about to enlighten them, and let's hope it works.

Senator Ruston has apparently made some fairly outrageous claims about the use of the desalination plant, I am advised, and the claims were then very quickly echoed by a Liberal member in the Legislative Council the Hon. Michelle Lensink and the Liberal member for Chaffey, Mr Tim Whetstone, in a media release. Their calls to use the desalination plant—and I think they used the word 'activate' in their press release—to protect irrigators are clear evidence that the Liberals are actually gearing up for a policy to charge South Australians more for water.

We are of course already using the desal plant. It has so far produced over 56 billion litres of drinking water that we are drinking here in Adelaide every day. The water on your desks is probably partially desal water. In terms of future use, this government has always said that we will use the cheapest source of water available, if that water is available. That is the prudent course. The desalination plant is intended to be an insurance policy for our state and a method of securing our drinking water during inevitable future dry periods.

Honourable members opposite seem to have absolutely no collective memory of the drought we have just been through. They have no understanding of the pressures that put the community under—the irrigator communities, and our Adelaide metropolitan water consumers. They don't recall what it was like and how close we came to having to provide bottled water to communities. They have no clue, and yet here they are now wanting to run the desal plant at full tote and charge people for it.

What those opposite seem to want to do is to use the desal plant even when other cheaper sources of water are available at cost to South Australians, unless what they are proposing is that they run the desal plant and use that water for metropolitan Adelaide, and they will want to charge irrigators even more. That is also an alternative policy; they haven't elucidated that yet. They are keeping South Australia in the dark about what, in fact, they are going to do. But for future dry periods, this government is already developing an allocation framework for low water resource availability for the River Murray.

A revised River Murray allocation plan will need to take into account all the various circumstances that may occur into the future. As part of developing this framework, consideration will need to be given to the availability of alternative water sources, like desal and water from the Mount Lofty Ranges catchment. I understand that a paper on the proposed allocation framework is being prepared for consultation with key stakeholders, including the River Murray Advisory Committee and the broader community. It is important that we don't rush this very important process—not when it impacts on the whole state.

Those opposite haven't told us when and how they will use the desalination plant. They haven't explained to South Australians how their policies will hit the hip pocket of water consumers in this state. They haven't told us if they are going to remove statewide pricing on water, forcing country customers to pay more for their water, which is greatly subsidised by all other water users, or perhaps they are going to raise water prices for everyone just to use more expensive water sources. Perhaps they are going to privatise the desal plant, and then we will be in a situation where private companies will need a guarantee from government about their take.

Private companies, to buy the desal plant, will want a guarantee from this mob over here if they ever get into government about what take they are going to be given under contract, and then, and only then—because they probably won't take this to an election, and they probably won't fess up to the South Australian community that they have a secret plan to privatise the desal plant. What that will mean is that they will have to enter into a contract to guarantee the level of take. That will deliberately and cold-bloodedly drive up the price of water. It will drive up the cost of water for all South Australians.

This government is more than aware of the importance of our irrigation communities to South Australia and the impact they experienced at the last drought. It was only this government that stood up for the irrigator communities in South Australia. It was only Jay Weatherill standing up for the irrigators of this state that delivered the results for them. That mob over there, this joke that calls itself an opposition, would not stand up to their eastern state Liberal colleagues. They would not stand up for South Australia. They would not stand up at all for a better deal. It was this government and this Premier who drove that very hard fight, uniting the communities of South Australia, and made sure—

The Hon. R.L. Brokenshire: Sir Thomas Playford started fixing the River Murray.

The Hon. I.K. HUNTER: Yes—Jay Weatherill, the Premier in the other place, was the one who made sure that South Australia got all the water it required for the health of our river communities.

The government has to ensure that critical human needs are met for South Australian communities and protect the ecological health of the river to ensure that it is sustainable in the long term for everyone. That is why it fought so hard for the basin plan, a fight that won an additional 450 gigalitres that has to be recovered in a socioeconomically neutral or beneficial manner.

The 100-gigalitre desal plant, together with other measures, means that Greater Adelaide will have sufficient water to provide for growth in demand arising from increased population and associated economic growth to 2050 and beyond. This will be done without having to increase our take on the River Murray and, as Greater Adelaide's population grows over time, this will reduce its proportional reliance on the Murray. The desal plant ultimately reduces our draw on the River Murray regardless of any agreement. The 56 billion litres it has produced to date is water we have not had to source from the Murray.

As part of the agreement to expand the plant, the South Australian government has also agreed to return water to the River Murray. In particular, it has agreed to secure a six-gigalitre high security entitlement to be used for environmental purposes every year—purchased and being held by the South Australian government for environmental purposes—as well as an additional amount of 120 gigalitres over a 10-year rolling period, to be used for the same purpose, and this water is to

be available to offset South Australia's sustainable diversion limits and will be the subject of an appropriate purchasing program.

Importantly, in terms of sustainable diversion limits under the basin plan, these amounts will contribute to 'bridging the gap' and therefore lessen the need for water recovery from other South Australian water users—a very important point. The agreement on the desalination plant also enables SA Water to offer for sale 20 gigalitres of high security water, purchased during the drought, to the commonwealth as part of its environmental holdings. When and if the offer is accepted, this will contribute to 'bridging the gap'.

The South Australian government is absolutely committed to driving a better deal for SA Water customers, our Riverland communities and our irrigators. It is the people of South Australia who are looking in vain at the Liberal opposition and asking, 'Why won't you stand up and support and fight for us?' It is only the Labor government that has; it is only the Labor government that will.

DESALINATION PLANT

The Hon. J.M.A. LENSINK (14:53): I have a supplementary question arising from that delusional answer. Does the minster anticipate that if there were a drought in the future, as severe as the millennium drought, the desalination plant would be required to be used?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:53): The honourable member invites me to gaze into her crystal ball and predict what the environmental conditions will be into the future. As I said, the desalination plant is there as security for our water security into the future. If the conditions require it, the desalination plant will be used. I have been through this before. We will use the cheaper source of water first, but there will come a time when we are faced with an equal, if not worse, drought than we saw early this millennium—in the first 10 years, the first decade—and, of course, we have water security through a desal plant now for Adelaide and for South Australia.

DESALINATION PLANT

The Hon. J.M.A. LENSINK (14:54): I have another supplementary question. Does the minister believe that if there were very similar or same conditions Riverland irrigators would have their entitlements reduced again, rather than using the desalination plant?

The PRESIDENT: It is seeking your opinion, minister, but—

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:55): Mr President, the honourable member didn't listen to my answer at all. She would have heard, if that was the case, that we are currently working on a plan with the communities about how we would face those triggers into the future. I have said before, and I will say it again for the honourable member's benefit and those opposite, it will depend on the environmental conditions of the day. Those decisions need to be made on that evidence before us.

DESALINATION PLANT

The Hon. R.I. LUCAS (14:55): A supplementary question: why did the Jay Weatherill Labor government increase water prices to the tune of $38.7 million over three years as a result of its decision to require 100 per cent renewable energy for 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) (14:55): My understanding is that was a requirement of the federal government to contribute to the funding, but let me just drive—

The Hon. R.I. Lucas: It was not. That is just untrue. You know it is untrue as well.

The Hon. I.K. HUNTER: The Hon. Mr Lucas is casting—

The PRESIDENT: It's alright, minister, I'm listening.

The Hon. I.K. HUNTER: The Hon. Mr Lucas is the paragon of virtue in this regard. This is a man who is well known for his unfortunate terminological inexactitudes in this place. He gets away with it time and time again. All I can say is I won't be following his lead.

DOMESTIC VIOLENCE

The Hon. S.G. WADE (14:56): I seek leave to make a brief explanation before asking the Minister for the Status of Women—

Members interjecting:

The PRESIDENT: Order! The Leader of the Opposition, I can't hear the Hon. Mr Wade.

The Hon. S.G. WADE: —a question related to the funding for services and interventions for victims of personal and domestic violence.

Leave granted.

The Hon. S.G. WADE: The opposition has received a copy of a cabinet committee submission dated 15 November 2012 in relation to a 2013-14 budget bid. The submission states that:

> ...limitations in funding have greatly compromised the intended operation of the [Intervention Orders (Prevention of Abuse)] Act (2009).

The leaked budget bid calls for an additional $12.2 million in funding to make available victim support services, assessment and intervention programs, and to make them more available including outside the metropolitan area; to respond to the impact on service delivery agencies due to the dramatic increase in workload due to the information sharing provisions in the act; and thirdly, to ensure there is appropriate IT infrastructure to support the transfer of sensitive information about the protected persons between departments. The submission goes on to say that:

> ...assessment and intervention programs can currently only be accessed in the metropolitan area by high risk male perpetrators who are offending in a heterosexual relationship and facing substantive criminal charges.

The report goes on to note that this leaves the government '...open to the criticism that the programs are discriminatory.' My questions are:

1. Has the government provided the $12.2 million in funding requested?

2. Can the minister assure the council that responsible agencies have the resources necessary to process notifications and determine what action should be taken?

3. Does the government consider that it is acceptable that services are limited to the metropolitan area and only a certain class of victims?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:58): I thank the honourable member for his most important question. Indeed, this government is a reformist government and we are very proud of our track record. One of the areas that we have led in a considerable way is in the area of domestic violence, not just in terms of reviewing our sexual assault and rape legislation but also in terms of the introduction of intervention orders as well as significant public education and awareness campaigns.

Indeed, the intervention orders provisions were a reformist initiative. In the past we had a situation where police were typically called to the household of a domestic violence incident where their only course of action available to them was, if they believed the woman and children were at risk, to remove the woman and children from the family household and to hide them away in a safe house somewhere, leaving the perpetrator in the family home.

Well, intervention orders turned that around—and did many other things as well, but particularly addressed that issue—and turned it completely on its head in that it enabled the police to have powers to be able to address these incidents by removing the perpetrator from the family home and, if you like, ensconcing the woman and her children safely into the family home. We aligned that with assistance packages which enabled women to have, for instance, the locks on the doors changed, light sensors put in place and gardens trimmed back, if needed, and to put in place whatever was needed to ensure that the woman and her children remained safe.

They were able to do that in the family home. We know that putting families in safe houses can lead to a fracturing or dislocation of that woman and the children, not only from their families and friends when they often need support the most, but also children often have to be relocated to different schools away from their friends and teachers that they know, so it can be very traumatic.

We introduced intervention orders that commenced in December 2011, allowing police to issue on-the-spot intervention orders under particular circumstances, and where those circumstances are not met the alternative method available to a victim is for police to prepare the paperwork for a court application, act for that victim in court and request that the court issue an order. The victim can also apply directly to the court to issue an order.

As part of the legislation, one of the conditions the court can put in place is mandating defendants to attend abuse prevention programs, and such like—again, other really important reform changes. The abuse prevention program is part of the intervention response model, which includes the women's safety contact program, which aims to increase the safety of women and protected persons. This was an incredibly important initiative put in place. Initial funding for the program was December 2011 to 2013. The Attorney-General's Department has provided a homelessness strategy within the Department for Communities and Social Inclusion, with further funding at the same levels for a further three years. Women's safety contact programs were put in place, and a whole raft of other measures as well.

So, specific funds were made available at the time to assist particularly the police in implementing these changes and for the training necessary to take place. In terms of regional areas, the initial model of the program was only available to metropolitan regions due to funding limitations. However, with funding extended for a further three-year period, a new service model was developed to allow expansion into Port Augusta, Whyalla and the Port Pirie region within the same funding level, and opportunities for further expansion are being explored as well.

Data is being collected to monitor the needs in each region. The family safety framework is being expanded, and I think this week or maybe last week it was extended to the very last region, the Fleurieu Peninsula, which means the family safety framework has now been rolled out to every region right throughout South Australia, an incredible achievement. I acknowledge all those agencies, in particular SAPOL, involved in assisting with the rollout of that very successful strategy. The uptake of the intervention orders has been high; it is obvious that these are very accessible and much more simple to use than the old restraining order system. We continue to monitor the use and the resources that might be needed to continue with that good work.

FAMILY SAFETY FRAMEWORK

The Hon. R.P. WORTLEY (15:05): On the same topic, Mr President, I seek leave to make a brief explanation before asking the Minister for the Status of Women a question regarding the family safety framework.

Leave granted.

The Hon. R.P. WORTLEY: The South Australian government works tirelessly to ensure that services to families most at risk of violence are available through the family safety framework. My question to the minister is: can the minister update the chamber about the family safety framework initiative?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:05): I thank the honourable member for his question. It is incredibly timely, considering the last question, and in answering this question it gives me an opportunity to outline in more detail some of the work that we have achieved in relation to the family safety framework.

A Right to Safety, the second phase of our women's safety strategy, is led by a chief executives group and chaired by me. This group includes the chief executives of the Department of the Premier and Cabinet, Attorney-General's Department, Correctional Services, Health and Ageing, Communities and Social Inclusion, and Education and Child Development. The Commissioner of Police, and the Executive Director, Aboriginal Affairs and Reconciliation, are also members of this group. So, you can see it has significant cross-agency support.

Since its inception in 2011, the group has worked on numerous initiatives that tackle violence against women, from early intervention work through to community education. One such project has been the implementation of the family safety framework. The family safety framework is an initiative that seeks to ensure that the services to families most at risk of violence are dealt with in a more structured and systematic way through agencies sharing information about high-risk families and taking responsibility for supporting these families to navigate the services that are available to them—they are often quite complex, Mr President.

The family safety framework includes family safety meetings, held at the local level, focusing on individual high-risk cases and common risk assessment, to ensure consistency in the assessment of high-risk cases. Initially trialled at Holden Hill, Noarlunga and Port Augusta policing boundaries in 2007, on 21 November, a family safety framework meeting was held in Victor Harbor for the Kangaroo Island and Fleurieu Peninsula region.

As I stated, I am extremely pleased to be able to announce that, with that meeting, we have now completed a statewide rollout of our family safety framework. Every region of South Australia now has a family safety framework network implemented and in place. The model has been so successful that it has gone beyond state borders and has also been implemented in Alice Springs, with family safety meetings commencing there in July 2012.

The South Australian Office for Women provided support and training to the Northern Territory Department of Justice and a range of agencies involved in this work in Alice Springs, and I certainly congratulate them on their work and their leadership. This collaborative work with the Northern Territory supports the National Plan to Reduce Violence against Women and their Children. The national plan sets out a key objective of improving cross-jurisdictional mechanisms to protect women and children. In working with the Northern Territory, we are fostering partnerships and enabling consistency in service provision right across the states.

I am also advised that New South Wales has modelled their proposed safety action meetings on our family safety framework model, and that South Australia has raised the family safety framework meetings in Western Australia at a conference of women's domestic violence services, and in particular around the Warburton area of Western Australia. This area is part of the NPY region—the remote tristate cross-border area of Western Australia, South Australia and the Northern Territory. I am advised that discussions are soon to be held with relevant agencies in that region.

The completion of the rollout marks the conclusion of what have been years of extremely hard work and persistence by officers and stakeholders involved, who are all committed to ensuring South Australians, regardless of location, have access to support services when most needed. I certainly thank them for their contribution, support and ongoing commitment and passion to helping protect women and children against violence, and I thank them for helping to keep South Australian families safe.

GOVERNMENT CONTRACTS

The Hon. D.G.E. HOOD (15:10): I seek leave to make a brief explanation before asking a question of the minister representing the Minister for Finance concerning the granting of government contracts to interstate and overseas companies.

Leave granted.

The Hon. D.G.E. HOOD: My political party certainly supports free markets and strong competition but, following the printer cartridge scandal last year, the government negotiated a whole-of-government contract for the supply of stationery with interstate suppliers, much to the disappointment of local suppliers in most cases, who had not received any complaints from the government up to that point, they have claimed.

The annual report of the State Procurement Board, released a week or so ago, has shown that 49 per cent of the total value of all government contracts have gone to interstate or overseas companies. The total value of all contracts concerned was $4 billion. Thankfully, the percentage of value going to interstate and overseas companies has dropped from the high point of 70 per cent in the 2010-11 financial year to 49 per cent, still well above the 29 per cent average for the six years from 2004 to 2010. As to the percentage of numbers of contracts going interstate or overseas, the 2013 figure of 35.8 per cent is the second highest in at least the last nine years. My questions are:

1. Does the government regard it as satisfactory that 49 per cent of the total value of its contracts in South Australia (or approximately $2 billion worth of work) in one single year is granted to interstate or overseas companies?

2. What effect would it have on the local economy and local employment if, say, half of the contract value presently going interstate could go to South Australian organisations instead?

3. Does the 49 per cent of contract value going interstate and overseas indicate a lack of confidence in South Australian companies or the products they make?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:12): I thank the honourable member for his important questions and will refer them to the Minister for Finance in another place and bring back a response.

MURRAY-DARLING BASIN

The Hon. CARMEL ZOLLO (15:12): My question is to the Minister for Water and the River Murray. Will the minister inform the chamber about the outcome of the Murray-Darling Basin Ministerial Council meeting he previously advised the chamber he was attending on 15 November 2013?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:13): I thank the honourable member for her most important question and her ongoing interest in the topic of the River Murray and its health and the health of its communities. Unlike Liberals opposite, the Hon. Ms Zollo has been a strong supporter of Riverland communities for a long time.

As the honourable member said, on 15 November this year I attended the Murray-Darling Basin Ministerial Council meeting in Canberra—probably, for my long sins. There I pushed the case for the continued commitment of and investment by all parties to the Murray-Darling Basin Authority, particularly that of New South Wales which has reduced funding by 60 per cent in the past few years and capped funding over the coming years.

Members may also recall that during the last sitting week of parliament the Hon. Michelle Lensink asked a question of me that implied the South Australian government was attempting to pass the buck on these issues when, in fact, we are doing the exact opposite—but, again, that is not unusual for those opposite. The fact of the matter is the state of New South Wales has outlined massive cuts and, if we were to continue our funding at similar levels, we would be subsidising infrastructure and projects on their side of the border—but that seems to be the view that the Liberal Party in this state seems to want to run with: we should be supporting New South Wales and cutting their funding for the authority, and South Australian taxpayers should be stumping up a subsidy for New South Wales. That is the inference I draw from the Hon. Michelle Lensink's question of the day.

It is rather bizarre, I think, that we should be subsidising the state of New South Wales—the state that draws the most water (about 47 per cent of the take is taken by New South Wales), a state that is far more populous and, of course, a state that has done very well over the last few years, thanks to our continued funding of the authority, in spite of their limits. It is absolutely nonsensical for the Liberal Party in this state to say that we should be running along with New South Wales and continue to fund our share but not insist that New South Wales fund theirs.

The Hon. J.M.A. Lensink: Everybody should pay.

The Hon. I.K. HUNTER: Yes, well, the Hon. Michelle Lensink has said that everybody should pay, but of course the answer is that we are and New South Wales isn't.

The Hon. J.M.A. Lensink: You're not. You big fibber! You're cutting it. You're halving it.

The PRESIDENT: Order!

The Hon. I.K. HUNTER: The Liberal Party should be using their connections and calling on their colleagues in New South Wales to share the burden instead of cutting their contributions to the authority—but they won't do that. They never stand up to the eastern state Liberals. They never stand up to the federal Liberals. You have never ever heard the leader of the Liberal Party in this place taking on the issue for South Australia against the New South Wales Liberal Party, the Victorian Liberal Party, or the federal Liberal Party. They never have and they never will.

Cosying up to their political mates in New South Wales must be a bigger priority for the Hon. Steven Marshall in the other place than getting a fair deal for this state. Well, I can assure the chamber that this approach of theirs stands in quite stark contrast to the work of this government, and on 15 November I continued the fight in this regard.

This meeting of the Murray-Darling Basin Ministerial Council was the first since the election of the new federal Liberal government, and the meeting included a number of items which will have a significant impact on the management of the basin and on the people of South Australia. As I have said before, I publicly put New South Wales on notice that I would be raising the issue of

funding cuts to the Murray-Darling Basin Authority, but I also went to tell the council that if the state of New South Wales reverses its decision to cap its funding to the authority at $8.9 million South Australia will maintain our previously agreed proportion of funding.

This could not be further from passing the buck. We, unlike those opposite, will not give up on the River Murray. New South Wales' position is quite simply a terrible outcome for every Australian who relies on the river for their way of life, no matter what side of the border they are on. This decision by New South Wales puts South Australia in a very difficult position. It would mean South Australian taxpayers subsidising the state of New South Wales. It is an outrageous proposition for anyone who purports to have South Australia's best interests at heart and a particularly outrageous proposition for a political party whose election mantra that runs on TVs across our state includes claims such as 'restoring efficiency' and 'ease the cost of living'.

I suppose they are partially correct in some respects: they will certainly ease the cost of living, but only for New South Wales' citizens. They will actually increase it because they are asking the South Australian taxpayers to subsidise New South Wales' contributions to the Murray-Darling Basin Authority. So, just those people will benefit—those on the wrong side of the border. The taxpayers and state government of New South Wales will benefit from the state Liberals' propositions here.

The River Murray is perhaps Australia's most important natural resource, and it is time New South Wales and those opposite began treating it as such. The state government, under the leadership of Jay Weatherill, fought hard for a basin plan which would ensure the health of the Murray-Darling Basin, and we are committed to the work being undertaken by that authority. We have fought to get the additional 450 gigalitres of the river water so sorely, even though those opposite told us, Mr President, if you recall, 'Let's settle for less.'

They said, 'No, don't fight for the extra 450 gigalitres, don't rely on the best available science of the day.' They said, 'Take 2,200, that's all we need. We don't need 3,200, we don't need more than that. Let's take the 2,200 that New South Wales is stumping up and we won't get anything more out of it than that. Take the water and run. Settle for second best.' That is the Liberal Party way: South Australia deserves second best—that's all they stand for.

We are committed to the communities of the river and committed to the ecosystems of the river. I am disappointed to report that New South Wales did not come to the table and agree to follow our lead. New South Wales has refused to pull its weight and wants South Australian taxpayers to continue to subsidise the New South Wales government. Nevertheless, despite the outcome of the meeting, we in South Australia will not give up the fight. We will not give up the fight like those opposite have and do time and time again.

It is time for the state Liberals to realise the error of their ways and join us. There is always a spot for you on our side. When you are willing—as we are—to put aside politics and fight for the state of South Australia together, come and join us. Come and join us and fight for South Australia—not for the taxpayers of New South Wales.

MURRAY-DARLING BASIN

The Hon. J.M.A. LENSINK (15:20): I have a supplementary question. What happened to the Jay Weatherill Labor (or whatever moniker of government you're using at the moment) '4,000 gigalitres and not a drop less'?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:20): How many times do we have to educate this sorry lot about science? We said that we will rely on the best science available to us to bolster our case—and, when the science comes down with a number, that's what we go with.

We don't make up numbers like they do. We don't pretend to have all the wisdom ourselves. We rely on science to inform our decision-making, and we use the figures that science gives us. We use the information that we get from the best available science, and that's what informs our policy. That, I think, is the way to form public policy: not make up figures, not pretend to know yourselves, but to use the science that is available to you. That is the way you make good public policy.

MURRAY-DARLING BASIN

The Hon. J.M.A. LENSINK (15:21): I have a further supplementary. Well, what was the source of '4,000 gigalitres and not a drop less'?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:21): This mob just doesn't get it. On one hand, we have them in here today calling for us to activate the desalination plant, yet they don't say what that means to ordinary SA Water customers. What it means is that they want to activate the desalination plant to charge people more for water. That's the Liberal Party plan: they want to charge South Australians more for water while, at the same time, they want to let New South Wales taxpayers off the hook.

They want South Australian taxpayers to pay their way, that's what these people would do. God help us all if they ever get their hands on the treasury bench! We will need every bit of assistance because these people have no idea about science. Federally, they are sacking science ministers, they are sacking climate councils. They are sacking anybody who would give them information to inform public policy because that's not what they do: they just make it up.

BORDERLINE PERSONALITY DISORDER

The Hon. K.L. VINCENT (15:22): I seek leave to make a brief explanation before asking the minister representing the Minister for Mental Health questions regarding the provision of services in South Australia for people with borderline personality disorder (BPD).

Leave granted.

The Hon. K.L. VINCENT: As you well know, Mr President, I have spoken in this place before more than once about borderline personality disorder (BPD) and the woeful lack of services and support we provide to people with BPD and their family carers in this state.

As these pleadings seem to have gone unheard, I would now like to point out that it is nearly two years since the state government's expert reference group on borderline personality disorder reported, yet we are still waiting for the Minister for Mental Health to publish the recommendations the expert reference group made. They reported in January 2012.

It is now November 2013, and we have no report, nor is there implementation of any clinical guidelines for BPD, no specialist services for BPD added to South Australia Health's repertoire, no opening of the specialist clinic similar to the one they have in Victoria (called SPECTRUM), and no easing of waiting lists for dialectic behavioural therapy. More than 15 years ago, the only ward available at the Glenside campus of the Royal Adelaide Hospital that was appropriate for treating BPD was closed.

In addition to there being no government response to their own expert reference group's guidelines, we have seen no official response or adoption of a commonwealth report in this area, either. This Australian government report was published in February of this year by the National Health and Medical Research Council, and it is a comprehensive guide, titled Clinical Practice Guideline for the Management of Borderline Personality Disorder. There is a BPD prevalence in our population of about 1 to 2 per cent, so having adequate mental health services available in our community is essential. Accordingly, my questions are:

1. Does the minister intend to publicly publish this expert reference group's report on BPD services in South Australia now that it is 23 months since his office was furnished with the report?

2. When does the minister intend to open a specialist service for BPD services, treatment, education, training and information in South Australia?

3. Why does the South Australian government continue to source BPD experts from interstate to manage severe BPD cases in this state rather than using our existing experts already present here?

4. When will the minister expand the availability of dialectical behavioural therapy service for South Australians with BPD?

5. What additional training do ER doctors, nurses and health practitioners receive to effectively and compassionately manage people with BPD presenting to emergency departments at our state's hospitals?

6. When will SA Health adopt the recommendations listed in the National Health and Medical Research Council's 'Clinical practice guideline for the management of borderline personality disorder'?

7. Has the government or SA Health done a cost-benefit analysis to assess the cost of establishing a specialist BPD service (similar to SPECTRUM in Victoria) versus the current cost of people with BPD presenting to resource-intensive ERs?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:25): I thank the honourable member for her most important question on borderline personality disorder and expert reference groups. I cannot of course answer that question on behalf of the Minister for Mental Health and Substance Abuse, so I will pass it on to him and seek a response, but I need to put on the record, of course, this government's commitment to the people in our community who are the most vulnerable.

It is this government that has gone forward with the most comprehensive reforms in the disability area that this state has ever seen. It is this government that has made the biggest investment through the budget in addressing the needs of people in our community with disabilities. It is this government that has driven significant mental health reforms through the system. We have rebuilt the hospital and a brand-new mental health service out at Glenside. We have taken the best services in regard to mental health out into the country areas.

It is this government that has actually announced today—or was it yesterday?—that we will be partnering with Treetops to have an autism-specific school and it is this government that has made all the big reforms in terms of our most vulnerable people in our community, be it mental health issues, be it disability issues or whatever. It is this government that has taken up the challenge. It is this government that has delivered and this government will always focus on those people who need the support of government the most.

The PRESIDENT: Supplementary, the Hon. Ms Vincent.

BORDERLINE PERSONALITY DISORDER

The Hon. K.L. VINCENT (15:27): Can the minister clarify exactly how the opening of an autism-specific school, which we have also supported in Dignity for Disability, will assist people with borderline personality disorder or is he not aware of the difference between the two conditions?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:27): Mr President, I shake my head as well, frankly. This chamber should be, I think, welcoming of this government's commitment to deal with these issues in the areas of mental health and disabilities in our schools and education systems and, whilst sometimes you may not want to hear about these wonderful commitments and success stories, I can assure you, I will always tell you.

The Hon. K.L. Vincent: My question was: what does that have to do with BPD?

The PRESIDENT: Do you have a further supplementary? No; you are finished. The Hon. Mr Lucas.

ENTERPRISE PATIENT ADMINISTRATION SYSTEM

The Hon. R.I. LUCAS (15:28): I seek leave to make an explanation prior to directing a question to the minister representing the Minister for Health on the subject of the IT project EPAS.

Leave granted.

The Hon. R.I. LUCAS: Members will be aware of significant concerns being raised about the minister's and SA Health's management of the $422 million EPAS IT project within SA Health. In recent times—approximately May or June of this year—the minister and SA Health appointed a new senior bureaucrat, Mr Michael Long from North America, at $3,000 a day to provide oversight for SA Health's eHealth projects.

There are significant concerns still being expressed to the Liberal Party about the EPAS project direction and Mr Long's management of those projects. I note also Mr Long's schedule now to leave SA Health in February next year when his original term was meant to expire in November of this year. My questions to the minister are:

1. Have any SA Health employees associated with the EPAS project written to SA Health CEO David Swan or Mr Long himself indicating that they do not support the new direction of the EPAS project and, if so, how many employees have done so, and what was the response from SA Health CEO or Mr Long to those concerns?

2. Has any person written to SA Health CEO Mr Swan indicating a lack of confidence in Mr Long's abilities to manage the eHealth programs in SA Health and, if so, what was Mr Swan's response to that concern?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:30): I thank the honourable member for his most important questions but really, again, he comes into this place asking the wrong questions. He comes into this place asking questions about EPAS—I think he said—when he should be asking questions about how this government has rebuilt every public hospital in the city. It should be a question about—and not from the man who actually privatised a hospital, let's get it quite clear, not from this person over here who closed down 45 schools, and privatised a hospital, and he comes in here with the effrontery of asking a question of the Minister for Health and Ageing.

He should be asking questions about how we've rebuilt Noarlunga; how we've rebuilt Flinders Medical Centre; how we've rebuilt the Lyell McEwin Hospital; and how we are rebuilding the new RAH, the biggest most important improvement in the health system that we have seen in this state in 100 years. He should be asking questions about the great achievements that this government will have in the health portfolios but, no, the man who comes in here, who privatised hospitals—that is what he did, he privatised hospitals—doesn't get it.

WHITE RIBBON DAY

The Hon. G.A. KANDELAARS (15:31): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question regarding White Ribbon Day.

Leave granted.

The Hon. G.A. KANDELAARS: White Ribbon is the world's largest male-led movement to end men's violence against women and is recognised annually on 25 November around the world. Can the minister inform us of the White Ribbon Day breakfast held on Monday 25 November and the White Ribbon Day events that were held across South Australia?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:32): I thank the honourable member for his most important question. The White Ribbon campaign began in Montreal in Canada in 1999. The United Nations General Assembly declared 25 November as the International Day for the Elimination of Violence against Women, with a white ribbon as its iconic symbol.

The campaign is a global initiative that aims to recognise the significant and positive role that men have in preventing violence again women. The campaign is aimed at encouraging men to take on leadership roles in prevention of violence. The White Ribbon campaign works on the principle that most men are not violent, and that by encouraging men to take a public stand on violence, our communities can effectively and safely challenge the minority of men whose attitudes or behaviours condone violence against women.

White Ribbon Australia is Australia's only national, male-led primary prevention campaign to end men's violence against women. Particular to Australia's recognition of White Ribbon is the White Ribbon oath: never to commit, excuse or remain silent about violence against women, an oath I understand that many honourable members in here have taken along with their commitment as White Ribbon ambassadors. I would like to recognise yourself, Mr President, as an ambassador and also the Hon. Ian Hunter, Hon. Russell Wortley, Hon. John Darley, Hon. Mark Parnell, Hon. Stephen Wade, Hon. Robert Brokenshire, Hon. John Dawkins; and the Hon. Gerry Kandelaars who I know was at the breakfast yesterday—it was so early, it is easy to think it was a week ago—and his ongoing commitment to this very important issue.

I was pleased to again be able to attend the annual White Ribbon Day Breakfast. I am not too sure why we do not make it a lunch—I think I might put a motion forward—my goodness! It was hosted by the Adelaide White Ribbon Breakfast Committee, and we heard an address from Michael Hourigan. Mr Hourigan is a former South Australian crown prosecutor whose work has taken him to Rwanda, Eastern Europe and Iraq where he has investigated war crimes, trafficking and

institutional rape and torture. His speech was, I have to say, a very confronting reminder that Australian women are not immune to the violent atrocities perpetrated against women that are witnessed globally.

I was also incredibly moved, as were honourable members also in attendance, to hear from Arman Abrahimzadeh. It was a very moving address and I am positive that other honourable members felt the same. Arman is just one of too many children in Australia who have lost a parent to domestic violence and witness to the excruciating trail of devastation that domestic violence leaves in its wake. Today Arman is a remarkable young man who has turned his experience into a passion for advocating for improving legislation, policy and procedures to deal with domestic violence in South Australia. He showed enormous courage and strength of character in being able to do that.

Outside metropolitan Adelaide I am aware that numerous South Australian communities and organisations came together to recognise this most important day, including Whyalla, Ceduna, Mount Gambier, the Riverland, Port Augusta, Murray Bridge, Victor Harbor and Goolwa, with many hosting events for schools and families. It is heartening to see that every year more and more events are being held across the state to raise awareness about this important issue. They highlight the commitment of South Australian people to eliminate once and forever the scourge of our society that involves violence against women which knows no class, no boundaries and no economic status.

The South Australian government has worked tirelessly to ensure that we are creating a society that will one day be free from gender-based violence. I have spoken in this place about the numerous and comprehensive initiatives that we have rolled out to help to end violence against women, such as our intervention orders legislation which is designed to make it easier to obtain an order by giving police particular powers.

It has also assisted in enabling women and children to stay in their homes, as I have talked about before, and our family safety framework, which I have talked about today as well. These highlight some of the government's initiatives. Obviously we do not take violence against women lightly; we do not tolerate it. It is never to be tolerated and we will not stop until we end up with a society that is violence free.

CHILDREN'S PROTECTION (NOTIFICATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November 2013.)

The Hon. J.S. LEE (15:39): I rise on behalf of the opposition to speak to the Children's Protection (Notification) Amendment Bill. The bill seeks to enact recommended legislative amendments which were set out in the Royal Commission 2012-13 Report of the Independent Education Inquiry prepared by the Hon. Bruce Debelle AO QC. As the shadow parliamentary secretary for education and child protection, I believe this is an important reform. As indicated by my colleagues in the other place, the opposition will be supporting this bill as these two amendments to the Children's Protection Act are two of the 43 recommendations suggested by the Justice Debelle inquiry.

For the benefit of the council, the amendments proposed in this bill will 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).

Reports of child abuse are an extremely serious matter, and it is important that the South Australian system acknowledges the seriousness of such cases and introduces measures that will improve the system that will protect our children. Of course, they are one of our most vulnerable constituents. We need to protect our future generation from predators and these recommendations, as suggested by Justice Debelle, are definitely a step in the right direction.

I place on record my appreciation for the work that the South Australian Association of State School Organisations (SAASSO) has done. SAASSO is an organisation we supported last time we were in government because we have a strong belief that parents play an important role in their children's education. This parent body represents those very governing councils that sit in all our schools here in South Australia. The role, of course, of those governing councils is to assist in the governance of the school, and they work very closely with school principals.

I congratulate them for presenting important matters about the school community openly and I commend them specifically on a couple of articles they wrote for their monthly magazine, the *School Post*. Danyse Soester has made a significant contribution in the term 2, 2012 edition where she listed a chain of events with a time line of what actually happened. The summary captured the intimate details at which points members of parliament and the department have been involved. SAASSO witnessed an outpouring of anger from parents, unprecedented in the last decade. If you want to know more about it, the member for Unley has already outlined those details and you can refer to his speech in *Hansard*.

Today, Tuesday 26 November 2013, marks the 149th day since the Debelle inquiry was handed down and, unfortunately, over the past year South Australians have continued to see the education department lurch from crisis to crisis on Premier Weatherill's watch. It has been over 12 months since the member for Unley, shadow minister for education and child protection, David Pisoni, first raised the case of a sexual assault of a child at a western suburbs school.

Since then, a number of other cases have come to light causing conflict within the education department as well as the Labor caucus. The new emerging cases reveal that there are further breakdowns between departmental and ministerial advisers, and it appears that lessons arising from the Debelle inquiry might not have been observed by the government. Even though one year may have passed since the first case was raised, South Australians are still faced with more questions than answers, especially in regard to the government's handling of this issue and about the education department in general.

Knowing that the Weatherill government is taking action on the recommendations suggested by Justice Debelle will hopefully provide some form of confidence for South Australian constituents, the opposition believes that such recommendations should have been introduced earlier and not left until the last month of the Fifty-Second Parliament, Second Session.

The amendments in the bill will create defence provisions for mandated notifiers such as police officers, doctors, nurses, teachers and social workers in relation to their obligation to make a report in particular circumstances. I indicate that the Liberal opposition believes that these amendments will strengthen our system of protection for our children and we support this bill wholeheartedly.

The Hon. R.L. BROKENSHIRE (15:44): I rise briefly to advise the house that Family First will support the government on this bill, for the reasons the Hon. Jing Lee highlighted, so there is a defence mechanism there for mandatory reporters. Notwithstanding that we agree in principle with that, there are some very serious issues, some of which could have been addressed in legislation before the government got up for the election and which could have strengthened enormously the protection of our children in this state. In fact, today we have tabled an interim report with three key findings in it and a lot more work to be done by the select committee.

Whilst we support this, we are disappointed that there are not much harsher and more severe amendments to legislation before the parliament to be able to further address the issues of protection of children from child abuse. We did have an optional sitting week next week, I believe, and we could be coming back to do that. We have time in February to come back to parliament.

Finally, we are concerned that, potentially, at least 12 of the Debelle recommendations may not be implemented by 31 December, as the government said would be the situation. With those few words, we support the government's bill.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:46): The bill before the house today sets out to meet the government's stated intention to work to enact the recommended legislative amendments set out in the Royal Commission 2012-13 Report of the Independent Education Inquiry, prepared by the Hon. Bruce Debelle AO, QC.

The bill, as passed in the other house with unqualified support, I am advised, will 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 follows a range of other measures the government has taken to protect children, including legislation already passed, which implement recommendations 28 and 29 of the Justice Debelle report, to amend the Child Sex Offenders Registration Act 2006 and the Summary Offences Act 1943.

The amendments in the bill before us will create defence provisions for mandated notifiers in relation to their obligation to report a suspicion of abuse or neglect in particular circumstances. The defence will be established when a mandated notifier has failed to notify a reasonable suspicion of neglect or abuse of a child because, first, the person become aware of such circumstances as a result of information imparted to them by a police officer (recommendation 26); or, secondly, the mandated notifier become aware of the child's situation from another mandated notifier who has already made a report in respect of the situation (recommendation 27). It is important to note that the inclusion of these defence provisions does not remove the obligation to notify a reasonable suspicion of the neglect or abuse of a child.

The requirement to report suspected child abuse remains an obligation for all those people who work with children, who are mandated notifiers under the act, and these amendments do not prevent a number of notifications being made in respect of the same child. The amendments will allow for common sense to prevail in a situation, such as detailed in Justice Debelle's report, that was included in the second reading speech—where a mandated notifier's suspicion of abuse or neglect is due solely to having been informed by a police officer or knowledge that another mandated notifier has made a report with the same information, then a defence is provided.

All mandated notifiers will still be required to report any additional or different facts or suspicions. For example, if two teachers are team teaching and, based on observations of a child, one forms a suspicion of abuse or neglect and the teacher tells the other teacher that they have made a notification to the Child Abuse Report Line and the other teacher has no other information, this teacher could use the defence provision if their failure to report was called into question. However, if either has additional information, both teachers would make a report.

All mandated notifiers will be advised of the new provisions as part of the ongoing training and updated information they are provided with regularly in the best interests of protecting our children. These are sensible amendments that still place the protection of children above all else. Currently, 26 of the 43 report recommendations, all of which the government has accepted, have been completed.

Notably, recommendation 25—that Families SA extend its existing processes of electronic notification to enable more people to make electronic notification—has also been addressed. I am advised that there are now 4,118 electronic notifiers registered, which is an increase from 260, as reported in the Independent Education Inquiry report, with 4,061 notifications having been received as at 26 November 2013. Enacting the amendments in this bill will ensure another two of Justice Debelle's recommendations are implemented. The government is committed to implementing the remainder of Justice Debelle's recommendations, and I commend this bill to the house.

Bill read a second time.

Bill taken through committee 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) (15:51): I move:

That this bill be now read a third time.

Bill read a third time and passed.

CONTROLLED SUBSTANCES (OFFENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 October 2013.)

The Hon. R.I. LUCAS (15:51): I rise on behalf of Liberal members to indicate support for the second reading of the legislation. The member for Morphett has had carriage of the legislation and indicated the party's support in the House of Assembly debate. In brief, this legislation has come about as a result of the increasing number of synthetic drugs being produced that mimic what can be considered normally available illicit drugs, such as amphetamines.

This bill proposed by the government introduces a number of offences that control the intentional manufacturing of drug alternatives, control the promoting of a controlled drug alternative, and allows for police officers to restrict the activities of people who are found to be selling or promoting these synthetic drugs.

The member for Morphett has advised that under the bill the Attorney-General has the power to declare a substance to be an interim controlled drug, and that can be declared in the *Gazette*. That interim notice will operate for a period of not more than 12 months, and it is not necessary to have an organic chemical make-up of that drug; it can be identified by its trade name or in any other manner that is found to be suitable. Once a substance has been declared an interim controlled drug, the substance is treated in the same way as a controlled drug. For the reasons outlined by the member for Morphett in another place, the Liberal Party supports the second reading of the legislation.

The Hon. D.G.E. HOOD (15:53): It is a sad reflection on modern society that there seems to be an insatiable demand for illicit drugs that are known to cause harm—known, well studied and proven. In the past, illicit drugs gained an appearance of being fashionable at some stage because some rock stars and film stars were known to use them, and they often openly admitted to doing so in media interviews; some even recorded songs promoting cocaine, heroin, marijuana and the like.

More recently, the mood has changed somewhat, as data has become increasingly available that shows that these substances are increasingly proven to be harmful. Indeed, Eric Clapton now refuses to perform the song *Cocaine*, as I understand. On the odd occasion that he has performed it, he has added words that suggest it is actually an antidrug message these days. We have other examples in our society, of course: the AFL is a notable organisation, as well as many other sporting codes that now have official policies that strongly oppose not only performance enhancing drugs but, specifically, illicit drugs.

Despite this change, the demand for drugs in our society is strong and possibly increasing, and more and more we see people—especially young people—who are resorting to illicit drugs. Modern drugs are much more potent than those available in past decades in many cases. Clearly, it is necessary for authorities to give a clear and firm anti-drug message at every opportunity and, hence, this bill.

One particularly important message that should be emphasised to the public is that those who manufacture these chemical cocktails are not pharmacists who have the interests of consumers or patients at heart. Indeed, they are people who probably have little or no pharmaceutical knowledge and are certainly not interested in or concerned at all about the welfare of those who happen to take or use the drugs that they manufacture.

The demand for illicit drugs, especially by younger groups in our community, has resulted in more suppliers entering the market and manufacturers becoming more innovative in their endeavours to avoid police detection and prosecution. Part of the strategy has been to produce products that are not strictly illegal whilst being chemically similar to illegal drugs. The differences are such that they are not within the definition of 'controlled substances' as defined by the law and are, therefore, strictly speaking, not illegal, although the impact of them can be quite similar, obviously.

These chemicals can have unpredictable effects on the human mind and body. Indeed, they can have lethal effects on the human mind and body. We have all seen media reports about some people who have taken these drugs. One that concerned me, in particular, was the story of a Sydney high school student, reported in June this year, who took a synthetic drug that mimicked the effects of LSD. It was said that the drug purchased by this individual could be purchased over the internet for as little as $1.50. As a consequence of taking the drug, this individual jumped to his death from a balcony at his home, despite his mother and sister trying to stop him repeatedly.

That case clearly illustrates the need for strong legislation to combat the trade and manufacture of drugs that try to emulate what you might call the 'normal' drugs that we have known to date. We can only speculate about the extent of the long-term harm that is being done to those who take any of these varieties of drugs that are now so readily available. This bill provides machinery to combat that trade.

First, the Attorney-General can declare a substance to be an interim controlled drug and, thus, illegal. This is a simple process that does not require new regulations as such. Secondly, separate new offences are created of manufacturing and promoting any drug that has a similar effect to that of a controlled drug. A drug manufacturer does not have to be declared for this offence to occur; that is, they do not need to be specifically named.

Thirdly, the definition of the word 'manufacture' is strengthened so that it captures any person involved in the drug manufacturing process at any stage. Fourthly, a procedure is prescribed whereby a police officer may give notice to a person warning him or her not to

manufacture, package or sell a particular drug. A breach of that warning is an offence under this bill.

Fifthly, a person is convicted of committing one or more of certain drug offences in the course of business. If they are convicted of that, the bill gives power to the court to prohibit the person so convicted from engaging in specified conduct or from carrying on a specified business or specified kind of businesses. It is clear that all of the changes proposed by this bill are beneficial to our community, and they have the full support of Family First.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:58): I would like to thank members for their contributions to the debate on this bill and also their indications of support. This bill is designed to tackle synthetic drugs in our community. Under the current provisions of the Controlled Substances Act, the process of adding newly discovered harmful substances to the list of controlled drugs can be a lengthy one. There are also no provisions to prevent persons marketing potentially unsafe products as legal alternatives to illicit drugs. This is going to change.

This reform tackles the issue of synthetic drugs from a different angle than current laws. First, the Attorney-General will be able to act quickly, acting upon specialist advice such as the advice of police, Forensic Science SA and the Department for Health. The Attorney-General will be able to declare a new substance to be an interim controlled drug provided he or she is of the opinion the substance may be of exceptional danger to humans. This declaration can be made very quickly by a notice in the *Gazette*. Once a substance is declared to be an interim controlled drug, most of the provisions of the Controlled Substances Act will apply to that substance as if it were already a controlled drug.

Secondly, the bill creates a number of new offences that will target the way new synthetic drugs are manufactured, marketed and sold. The bill makes it an offence to manufacture, sell or market any substance as a legal alternative to an illicit drug. New powers given to a court to close down businesses also provide great disincentives to any shop owners and businesses who demonstrate a disregard for people's safety by profiting from the sale of new and untested substances that could be deadly.

Overall, these combined measures tackle the problem of synthetic drugs head on and provide the comprehensive multifaceted approach that is needed for this problem. With the passage of the bill, the government is sending a very clear message to the community that we are prepared to take whatever steps are necessary to tackle this problem to protect the community, in particular our young people, and I commend the bill to the house.

Bill read a second time.

In committee.

Clauses 1 to 9 passed.

New clause 9A.

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

Amendment No 1 [AgriFoodFish–1]—

Page 6, after line 23—After clause 9 insert:

9A—Amendment of section 56—Permits for research etc

Section 56(1)—delete 'poison, controlled drug, controlled precursor, controlled plant, medicine' and substitute 'substance'

This amendment replaces the words 'poison, controlled drug, controlled precursor, controlled plant, medicine' with the word 'substance' in section 56. This amendment assures that a researcher who wants to manufacture a substance that has pharmacological effects similar to those of a controlled drug is able to do so in accordance with a permit.

The bill highlighted an existing inconsistency between section 31(1)(ag) and section 56. Section 31(1)(ag) provides an exemption to the offence provisions including the new offences being inserted by the bill in cases where a person is manufacturing, selling, supplying, administering or possessing a substance in accordance with the permit issued by the minister. However, under section 56 the permit can only be issued in regard to a substance that is a controlled drug, plant, precursor or a poison. Other substances are not covered, therefore

section 56 had to be amended so that the minister can issue permits in regard to a substance that might be caught by new offences being inserted by the bill.

The Hon. R.I. LUCAS: The member for Morphett advises that the Liberal Party will be supporting the amendment.

New clause inserted.

Clause 10.

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

Amendment No 2 [AgriFoodFish–1]—

Page 6, line 25—Delete 'or medical device'

Amendment No 3 [AgriFoodFish–1]—

Page 6, line 27—Delete 'or device'

These amendments are to correct a drafting error. The bill makes amendments to section 63 and the second amendment as drafted where the word 'medical device' was replaced with the word 'device'. That change is not necessary. The term 'medical device' is defined in the act and there is no need to disturb this reference.

In terms of the amendment No. 3, the bill makes amendments to section 63. Again it is the same thing—'medical device' which is defined in the act.

The Hon. R.I. LUCAS: The member for Morphett advises that the Liberal Party will be supporting the amendments.

Amendments carried; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:05): I move:

That this bill be now read a third time.

Bill read a third time and passed.

WORKERS REHABILITATION AND COMPENSATION (SAMFS FIREFIGHTERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 September 2013.)

The Hon. R.I. LUCAS (16:06): I rise on behalf of Liberal members to support the second reading of the Workers Rehabilitation and Compensation (SAMFS Firefighters) Amendment Bill. The government has introduced this bill following its commitment to reverse the onus of proof under the WorkCover scheme on full-time firefighters who develop certain cancers. There has been a long and detailed debate in the House of Assembly on the issue.

The government's original bill did not include CFS volunteers, but the government has now drafted amendments which would include the CFS volunteers in the scheme. The government's amendment would reverse the onus of proof under the WorkCover scheme for CFS volunteers who have attended more than 175 fires over a five-year period and who develop certain cancers. The amendment does not include retained MFS workers.

The Liberal Party's position, I think, would be best summarised if I can quote a press statement released today by the member for Bragg (the shadow minister for emergency services) and the member for Morphett (the shadow minister for volunteers). Under the heading of 'CFS volunteers call for cancer cover', those two members say:

The State Liberals will today receive a petition signed by 10,000 volunteers calling for CFS volunteers who contract cancer while working to be provided the same protection as paid firefighters.

The Country Fire Service Volunteers Association will present the petitions to Shadow Minister for Emergency Services Vickie Chapman and Shadow Minister for Volunteers Duncan McFetridge on the steps of Parliament House at 12...o'clock.

'The State Liberals support volunteers and we have supported proposed changes to bring volunteers in line with paid firefighters,' Ms Chapman said. 'Unfortunately the Weatherill Labor government has failed to support volunteer firefighters but hopefully this petition makes them wake up.'

Dr McFetridge said that CFS volunteers who risk their lives across the State must be supported. 'We need to ensure our thousands of volunteer firefighters receive the same protection as our hard working paid firefighters,' Dr McFetridge said. 'Cancer does not discriminate between volunteers and paid firefighters.'

As I said, the statement from the member for Bragg and the member for Morphett, on behalf of the Liberal Party, summarises the Liberal Party's position on the legislation.

There are a series of amendments to be considered in the committee stage of the debate. We will address those amendments when we get to the committee stage of the debate, but I indicate at this stage that the Liberal Party supports the second reading of the legislation.

The Hon. T.A. FRANKS (16:09): When we think about victims of fire, our thoughts usually turn to those who tragically lose their life as an immediate consequence of smoke inhalation or heat exposure. What we often do not think about are the less immediate and obvious victims who may be affected by cancer decades after these events through exposure to the toxic carcinogens released through fire. Firefighters have a higher rate of cancer than the general population. According to the current scientific body of knowledge, this can be attributed to their exposure to carcinogens found in both structural and environmental fires.

This government bill seeks to ensure that we as a state have better WorkCover protection for career firefighters. I note that the government has begrudgingly tabled an amendment in this chamber, which it did not put forward in the other place, to give some protections for CFS firefighters but certainly not on a parity with career firefighters.

The Greens note that it is important to protect all firefighters. We need better protections not just for career firefighters but also for volunteer firefighters. That is why we have previously put up a private member's bill on this issue and why in this debate we move to amend the government bill to protect not just some but all firefighters. They will fall under the strict criteria set by the schedule in the bill.

There are no illusions here that somebody signs up for the CFS one day and then the next day qualifies for the provisions in this bill. Indeed, there are periods of service as a firefighter for a minimum of five years—but in some cases and for some cancers a maximum barrier of 25 years—to qualify for these particular presumptive protections. We do not believe that the schedule should discriminate between paid and unpaid, career and volunteer. We do not believe that there should be additional barriers put in front of CFS firefighters as the government amendment to its own bill seeks to do.

This bill before us, of course, has as its forerunner the federal act which began as the Greens member for Melbourne Adam Bandt's Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill. The Greens' bill at that commonwealth level drew on the substantial scientific body of evidence based on the examination of firefighters across the world. The accompanying and extensive senate inquiry recommended that Australian firefighters should have the same coverage as firefighters in other jurisdictions overseas, most notably Canada and the US.

It is well recognised that the science has advanced to support this contention and that this particular schedule of cancers that is outlined in this bill are those that have been proven to have causal links to the act of firefighting. I note that they are exactly the same as the schedule of cancers in my own private member's bill, which passed this place some time ago. The science connecting these particular cancers to the act of firefighting has significantly progressed over past decades. We have a very large body of knowledge that links these cancers identified in the schedule with the act of firefighting.

Indeed, it is the very science underpinning the legislation that is pivotal to its justification. It is science that the government has accepted. However, it has taken a long time for the government to accept that the science applies to somebody who receives a pay packet as well as to somebody who does not. On 5 November 2012, the Weatherill government acknowledged the science when it made its compensation announcement at the MFS 150th birthday celebrations. Premier Jay Weatherill said at the time:

We will join the Commonwealth and become the first state in only the third country in the world to recognise and compensate firefighter cancer. Our MFS firefighters are often exposed to dangerous chemicals and fire hazards in the course of their daily employment. Scientific studies across the world have demonstrated that firefighters are at

greater risk of developing certain types of cancers through direct exposure to materials as part of their job. If those firefighters develop those types of cancers they should be rightly compensated.

Indeed I agree, as should volunteer firefighters. For those members who may need further convincing beyond the words in this government-issued press release of the science, I refer those who may question the science to the Senate Education, Employment and Workplace Relations Committee review of presumptive legislation, which concludes that:

> ...a link between firefighting and an increased incidence of certain cancers has been demonstrated beyond doubt.

The international studies investigated by the committee noted that the science has become progressively more sophisticated, and policymakers are now able to access several large-scale studies which conclusively show that there is a link between firefighting and cancer.

In fact, it has often been stated that firefighting is the most studied occupation in the world when it comes to cancer. There are literally dozens of major studies spanning over 20 years that have made definitive connections between firefighting and elevated cancer risks. These conclusions were indeed used to inform Manitoba's presumptive legislation—the first of its kind in the world—and subsequent presumptive legislation in other jurisdictions in Canada and the US.

Other studies have confirmed a link between more than just brain cancer, bladder cancer, kidney cancer, non-Hodgkin's lymphoma and leukaemia and firefighting, as we certainly address in this bill before us. Following that research, Manitoba expanded its list of recognised occupational cancers, from their original five to 14—indeed, more than we have before us today.

Following the research, there was also a study of professional firefighters in New Zealand. I use the word 'professional' acknowledging that all firefighters engaged in South Australia are indeed professional, be they paid or unpaid. It followed a cluster of testicular cancers that was detected in Wellington in the 1980s. The study looked at those particular cancers in a cohort of firefighters and compared them to the incidence in the general population using data obtained from the New Zealand Health Information Service.

As a result of that study by Bates, the following was quoted in the Senate committee with regard to the commonwealth legislation:

> [It] put the scientific world on its heels. They found that the level of testicular cancer for New Zealand firefighters—I believe they looked at 4,800 New Zealand firefighters within about three decades—was upwards of five times that of the general population.

When Mr Alex Forrest, President of the United Firefighters of Winnipeg and Canadian Trustee of the International Association of Fire Fighters, presented to the Senate committee in Australia as a witness, he said:

> When this study came out I read it and said: 'Five times the level—it just cannot be true.' Almost immediately different epidemiologists—

a word I always have difficulty saying—

> around the world took on the challenge of discrediting the study out of New Zealand. A gentleman by the name of Jockel out of Germany looked at all firefighters in Germany. What he found surprised him. His study almost exactly replicated the results—the rate of testicular cancer in New Zealand was the same as the rate in Germany. That just shows you the global aspect of this.

There was another large meta study confirming these results in 2006, where researchers, led by Grace LeMasters, looked at 110,000 firefighters and replicated the rate of testicular cancer. So, there you have three studies—one from New Zealand, one from Germany, one from the United States—all showing these same elevated rates of cancer for firefighters.

The Senate committee heard that most overseas jurisdictions with similar legislation currently in place to that which we debate today have moved substantially beyond the original five cancers, originally covered in the Manitoba legislation in 2002. Certainly, the large volume of scientific research has supported every province in Canada moving towards covering 14 cancers. We are some way behind in that work. We certainly do not yet have presumptive legislation in this state, and we only have 12 cancers in this bill before us today.

In summary, the cross-party Senate committee was confident that there was compelling evidence for a federal bill as well as for states such as ours to enact similar presumptive legislation. When, on 5 November 2012, the then treasurer, Jack Snelling, and Premier Jay Weatherill announced that South Australia would be the first state to support firefighters with presumptive

cancer legislation, and then disappointingly failed to give that due recognition to the volunteers of the CFS who put their lives on the line to protect people in this state, it was a bittersweet pill to swallow for those current 13,500 firefighters and, indeed, their families and loved ones.

In 2012, Tasmania also announced its scheme and has since become the first Australian state to introduce presumptive legislation. I note that Western Australia, too, has recently announced that its scheme is to proceed in that state. From the outset, it is important to observe that the current Workers Rehabilitation and Compensation Act already applies to CFS volunteer firefighters. They are already prescribed under regulation 17 as 'volunteers' for the purposes of section 103A of the act. I strongly refer members in considering this bill, and in considering my amendment, to review that section of the act.

There is no need for this bill to have specifically covered MFS career firefighters. Had it simply addressed firefighters, the CFS would have been assumed to be part of the cohort to be continued to be treated on a parity, as they are now under WorkCover provisions. I note that in the bill before us the work of a firefighter is defined and, quite rightly, it ensures that MFS employees who are not firefighters are not captured by the provisions. Appropriately, the bill provides:

> ...a worker is taken to have been employed as a firefighter if fire fighting duties made up a substantial portion of his or her duties.

It does not cover somebody in the MFS who only answers the phones or does reception or perhaps promotional or other work with the MFS: it covers firefighters.

This is an understanding already echoed by the government on this issue. I note that there is actually nothing new in this bill in terms of WorkCover compensation available to either CFS or MFS firefighters. What it does is reverse the onus of proof for a firefighter who has contracted one of the stated 12 primary site cancers on the schedule.

That is certainly not the position we would want to be putting to somebody who has devoted five, 15, or up to 25 years of service as a firefighter who has contracted cancer. At that time, we should be offering them support and not putting up barriers to their accessing compensation through WorkCover. They have contracted a cancer and they are possibly looking at a life-threatening illness; they are certainly debilitated and they deserve respect, not a battle and asked to prove at which fire they contracted the cancer.

That a firefighter's work has caused the firefighter's cancer will apply for those diagnosed from July this year—indeed, the date when the bill was meant to have already been implemented by this government as per the original promise by Premier Weatherill at the 150th MFS anniversary celebrations. I note that, once this bill is passed through this parliament, it will be retrospectively applied not only from that date in July this year but will apply for firefighters who have provided service, as per the schedule, prior to this year. It will simply give recognition to the science we have known for many decades and, finally, it will keep the promise the Premier made at the 150th anniversary celebration.

If this bill is passed into law, and it has the Greens' amendments, it will ensure that a career or a volunteer firefighter will not actually have any specific new rights to compensation but they will not be required to go through the arduous process of battling to prove the causal link between their work as firefighters and the particular fire where they contracted the cancer.

The cancers that are relevant to this debate, as I have said previously, do not include, for example, lung cancer—one of the most common and, indeed, one that many would argue is causally linked to firefighters. Specifically, there are 12 cancers: primary site brain cancer and primary site leukaemia, for which the qualifying period of service of a firefighter for those two cancers will be five years; for primary site breast cancer and primary site testicular cancer the qualifying period will be 10 years; for primary site bladder cancer, primary site kidney cancer, primary site non-Hodgkin's lymphoma, multiple myeloma, primary site prostate cancer, primary site uterine cancer and primary site colorectal cancer the qualifying period will be 15 years; and, for primary site oesophageal cancer, it will be 25 years. These are not easy barriers to qualify—they are significant periods of service to this state as a firefighter—in the unfortunate event of contracting one of these devastating cancers.

I note that previously in this council we debated this issue and, when my private member's bill was before this place, I note the words of the Hon. Kyam Maher. On behalf of the Weatherill government, he said that they were waiting for the Monash survey. At the time, he said:

Monash University is conducting a study of cancer, mortality and other possible health outcomes in South Australian and New Zealand firefighters, including how to best consider career and volunteer firefighters with respect to their exposure. The government will consider this, along with other science-based evidence.

Indeed, I think it has been shown to be a stalling tactic. The Weatherill government had already accepted the science of this issue when it issued that 5 November 2012 press release. Indeed, had they meaningfully communicated at any stage with the Monash survey before putting that position to this council, they would have been in no doubt that that position was a red herring in the debate.

Given the Monash survey was then being held up by the Weatherill government as a key reason for opposing the private member's bill that has been languishing in the lower house since May this year, I wrote to Associate Professor Deborah Glass and Professor Malcolm Sim who are currently working on the study. I read from the letter, dated 3 June 2013, I received from them and I quote the relevant parts:

Thank you for your email about the National Australasian Firefighters' study.

We are concerned that decisions about presumptive legislation are being delayed pending our study's findings. We believe that there is already good evidence from a very large number of previous human studies that work as a firefighter is associated with an increased risk of several types of cancer. The main focus of our study is to provide information for more effective prevention of cancer and other adverse health outcomes in firefighters.

The Australian study is designed to expand upon the previous findings of increased cancer rates found in many human studies. The LeMasters study and 2007 review of human studies by the International Agency for Research on Cancer (IARC), part of the World Health Organisation, identified several cancers where there is clear epidemiological evidence that they are associated with work as a firefighter...

We believe there is already good evidence from a very large number of previous human studies that work as a firefighter is associated with an increased risk of several types of cancer. Given the large number of studies already undertaken in firefighters and the positive associations for increase in several types of cancer, the results of one or more future studies, including our study, are very unlikely to change the overall conclusions of increased cancer risk among firefighters, as the results of all studies need to be taken into account.

Whilst it is true that there is little data on the cancer risks specifically for volunteer firefighters, a gap which our study hopes to address, it should be noted that in the course of firefighting, volunteer firefighters might be expected to have exposures similar to those of career firefighters.

Our study is a prospective study which will present its first report next year, but may well take several years to deliver definitive findings about exposure to specific carcinogens. Our strong view is that decisions about compensation processes should be made on the basis of the available scientific evidence at the time. There will always be one more study on the horizon, and waiting for more research findings, especially in this situation where the results of many cancer studies in firefighters are already available, will lead to unacceptable delays, possibly extending into years. The results of future studies can always be used to fine tune any legislation put in place now.

Yours sincerely, Associate Professor Deborah Glass and Professor Malcolm Sim.

So back in June, a month before this scheme was originally announced to have begun, even the very authors of the Monash National Australasian Firefighters' study did not believe there was any reason to delay this legislation before us, despite the government's allusions to the contrary and unlike the government which had yet to make good on legislation at that stage. They were certainly urging that we move forward on volunteers as well as career firefighters.

By leaving out volunteers from their announced scheme, the government did not deliver for all firefighters in this state. Indeed, what they did was they raised the anger not only of volunteer firefighters but of course of the communities they serve. We saw that anger on the steps of Parliament House today and we have seen that anger in communities across South Australia. I note the good work of the opposition and in particular the member for Morphett on this issue, along with many other members who are very active either as CFS volunteers or on behalf of their CFS brigades in their local electorates. I note that the petition today had well over 10,000 signatures. It was collected in a very short period of time and, in the speech that the CFS made in delivering that petition today, that anger was palpable. I read from the statement given to me by Sonia St Alban, the executive officer of the CFS Volunteers Association, in which she states:

Where is the fairness? How does Government justify this double standard?

Last year CFS volunteers responded to 690,000 hours of emergency calls—an extraordinary effort.

Fire season has not yet commenced in many areas, yet CFS volunteers are already regularly responding to fires—protecting lives and property; Yet, Government fails CFS volunteers when it comes to protecting those who protect us!

Government states that this new Cancer legislation will remove some of the pressure from the families of career fire fighters suffering from one of the 12 identified cancers that are proven to be more prevalent in fire fighters.

What about volunteer fire fighters; are their lives and their families not equally important?

The Government position on this important issue is a slap in the face for CFS volunteers, and devalues the immense contribution CFS volunteers make towards protecting South Australia.

The message from CFS volunteers is clear—It is not acceptable to protect some fire fighters while ignoring the risks to ALL fire fighters. The cancer risk faced by ALL fire fighters is very real; and just as fires do not discriminate, neither should the Weatherill government.

It has been some time since I took up this matter. After the passage of the federal bill, I took this matter up with ministers of the Weatherill government some years ago, and it has taken some time for the Weatherill government to be dragged kicking, screaming, carping, whingeing and whining to this place today to finally debate its own bill. It is not only a slap in the face for those volunteers, but definitely for those they work to protect and their families, that this government has not accepted the science for those who are not paid, although it has been quite willing to accept the science for those who are.

I know that the Labor conference two years ago debated this policy reform, and I understand that it did so at the behest of the United Firefighters Union. I do not begrudge the CFS firefighters for due protection, but you cannot escape the fact that, if you accept the science for somebody who receives money in their pocket for the act of firefighting, you cannot disregard the science for somebody who does not receive a single cent for the act of firefighting.

In these dying days of this parliamentary session we will finally, hopefully, see this bill passed and the Greens' amendment included to cover CFS volunteer firefighters. It is to the shame of this government that this scheme was in fact meant to have begun in July this year—it was announced in November last year. It was taken to the government as an idea the year before that. It is shameful that it has taken so long finally to be debated. I note that this is the first week it has actually received a position on the priority list from government in the whole time this bill has been sitting in the Legislative Council.

With that, it being the last sitting week, we only have a few hours left to ensure we protect not just career firefighters but also volunteer firefighters. I ask all members to consider—certainly government members—what it would cost the South Australian taxpayer if we only had paid firefighters in this state. I close with the words of the CEO of Volunteering South Australia and Northern Territory, Ms Evelyn O'Loughlin, who said on this issue:

The logic that only paid firefighters should be covered will only prevail when fires can distinguish between paid firefighters and volunteer firefighters.

With those wise words, I commend the second reading of this bill to the house and indicate that the Greens strongly endorse the incorporation of the Greens' amendment for the treatment of the CFS on parity with that originally proposed by government for the MFS. This is simply a bill that should protect all firefighters of this state.

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) (16:34): I thank honourable members for their second reading contribution, and by way of concluding remarks, I would like to say that the Workers Rehabilitation and Compensation (SAMFS Firefighters) Amendment Bill 2013 passed in the House of Assembly on 24 September 2013 provides additional protection to metropolitan firefighters exposed to a higher cancer risk as a result of their work.

The bill provides South Australian Metropolitan Fire Service firefighters, including retained firefighters, with extended workers compensation entitlements from 1 July 2013. It is consistent with the commonwealth Safety, Rehabilitation and Compensation Amendment (Fair Protection for Firefighters) Act 2011. MFS firefighters who contract any of the 12 specified cancers will be entitled to workers compensation without having to prove that the cancer arose from their employment with the MFS. This is subject to qualifying periods and other provisions in the bill, and is also subject to absence of proof to the contrary.

Since the introduction of the Workers Rehabilitation and Compensation (SAMFS Firefighters) Amendment Bill on 19 June 2013, there has been some public discussion about this presumptive legislation applying only to MFS firefighters and the issue of equity for volunteer firefighters. It is possible that volunteer firefighters working in regional centres, for example, may experience similar exposure levels to carcinogenic materials as retained firefighters employed by the MFS. This could mean that some volunteer firefighters may have similar risks to that of retained firefighters in relation to the cancers identified in the bill.

The amendment to the MFS firefighters bill recognises that potential cancer exposure risk of volunteer firefighters by introducing a threshold approach similar to that passed by the Tasmanian parliament on 26 September 2013, assented to on 21 October 2013. To become entitled to the legislative presumption, a CFS volunteer firefighter will need to have at least 175 exposures in any five-year period, which is an average of 35 per year and is based on the average number of fires attended each year by MFS retained firefighters. That information is from SAFECOM. The qualifying period for the relevant cancer will also need to be met.

The amendment that extends the legislative presumptions to CFS volunteer firefighters who meet the threshold is estimated to cost $1.8 million per annum (excluding administration) and it is in addition to the estimated entitlements for the MFS career (including retained) firefighters, of $2.6 million per annum. I submit the amendment to vary the Workers Rehabilitation and Compensation (SAMFS Firefighters) Amendment Bill to extend to volunteer firefighters registered with the South Australian Country Fire Service and presumptions of the Workers Rehabilitation and Compensation (SAMFS Firefighters) Amendment Bill 2013, subject to threshold exposure criteria. With those few words, I commend the bill to members.

Bill read a second time.

SURVEILLANCE DEVICES BILL

In committee (resumed on motion).

Clause 1.

The Hon. G.E. GAGO: Given some of the comments made during the second reading and on clause 1, I would like to take this opportunity to put some further comments at this stage. My intention is to not proceed any further with the committee stage today.

The bill deals with the very difficult area of law and social policy which is attended by partisans on a number of sides of the debate with firmly held positions on matters of belief. The place to start is the old proposition that what is not prohibited may be freely done and, until the 1970s, there was no concentration on the prohibition of a tax on privacy by listening or other surveillance devices, in most part because technology did not enable us to do it. As a matter of interest, there was an old common law non-technological criminal offence of eavesdropping but not much attention was paid to that.

When the original Listening Devices Act 1972 was passed, it was passed with a very light hand—in part, I suspect, because the implications and rapid development of technology were not and could not be anticipated and value was placed on the freedom to do what could not be justified to be prohibited. The result was that some groups, professions and people became accustomed to, basically, doing what they wanted.

Things have changed. There has been technological change and nearly everyone now possesses a surveillance device in their pocket. Hacking of computers is commonplace, every mobile phone has a tracking device, CCTV is becoming commonplace and, in short, invasions of personal privacy, or the potential to do so, are becoming more and more common. It is, therefore, unsurprising that interest in the protection of privacy is also rapidly increasing. As a consequence, there is often a collision between those who have an interest in invading privacy and those who have an equal or perhaps greater interest in protecting it. There is no easy way of reconciling the difference. Notwithstanding the difficulties facing us as policymakers, this does not mean that we should not try and it does not mean that this parliament should be paralysed by the vehemence of conflicting interests.

The government is grateful for the efforts of the Legislative Review Committee and has happily cooperated with it. It is a pity that the opposition has ultimately decided it does not agree with the work of this committee. At this point, it is useful to clarify a statement made by the Hon. Stephen Wade during his contribution on the bill. The Hon. Stephen Wade referred to the amendments filed by the government in January this year and implied that the origin of these amendments was due to the government's discussions with media organisations. This implication is false and displays a remarkably different view of the recent history on the part of the Hon. Stephen Wade than that held by the Attorney-General.

The Hon. Stephen Wade referred to a letter by the Attorney-General dated 29 January 2013. That letter enclosed a copy of government amendments together with a copy of draft terms of reference for the Legislative Review Committee. The letter enclosed both documents because the letter invited the opposition to consider both documents as a package. The proposal

put to the opposition, which was later confirmed during subsequent conversations between the Attorney-General's office and the Hon. Stephen Wade, was the government would move the amendments if the opposition then agreed to pass the bill and refer the terms of reference to the Legislative Review Committee.

This proposal was to achieve two things. The first was to secure passage of the bill through parliament, albeit in a form not entirely supported by the government. The second was to ensure the Legislative Review Committee be tasked with investigating the vexed issue of the use of surveillance devices by media and private citizens so that amendments to the act on these issues could be progressed when the committee delivered its report.

Ultimately, the opposition advised the Attorney-General that it preferred for the Legislative Review Committee to review these issues first so that any amendments could be progressed in relation to this bill rather than a separate bill. This had the consequence of delaying the progress of the bill until this week. Therefore, the assertion by the Hon. Stephen Wade, that the government was in some way content with the January amendments and that the amendments were prepared in partnership with media organisations, is quite simply incorrect. The amendments were at all times part of a proposal put to the opposition that was ultimately rejected by the Hon. Stephen Wade.

Returning now to the report of the Legislative Review Committee, the government has largely accepted the recommendations of the committee with a few minor additions of its own. The government amendments were filed today, and I understand members have received a copy of those amendments, together with an explanatory letter. Further detail will be provided during the committee stage, but it is useful to briefly set out how the government has approached the relevant recommendations during this reply.

Recommendation 1 is accepted but does not require any amendment to the bill at this stage. Recommendation 2 is accepted and contained in amendment No. 5 of the government's amendments. Recommendation 3 is accepted with one variation. Amendment No. 14 contains this recommendation, but also provides that a person may communicate or publish information derived from the 'lawful interest' use of a surveillance device if the person obtains an order of a judge. This addresses the concerns of various stakeholders that recommendation 3 unduly limited the ability to use information obtained through a 'lawful interest' use of a device.

Recommendation 4 is accepted with the amendment recommended by the Hon. Stephen Wade in his dissenting report. The Hon. Stephen Wade is concerned that the words 'serious and urgent' are unduly restrictive. The Hon. Stephen Wade will be pleased to note that amendments Nos 5 and 10 implement recommendation 4 without reference to the words 'serious and urgent'. Recommendation 5 is accepted and implemented via amendment No. 14.

Recommendations 6 to 11 relate to the use of surveillance devices by investigation agents. The committee has rightly commented on the bill's ability to significantly limit the work of investigation agents in South Australia. The government has decided that it will not proceed with the detailed amendments to the Security and Investigation Industry Act 1995 at this stage as there has been insufficient time for the detailed consultation that is necessary, but it has instead put forward amendments Nos 6 and 9 in order to ensure that the work of investigation agents will not be unduly restricted by the passage of this bill.

Finally, the government accepts recommendation 12, which states that parts 3, 4 and 5 of this bill pass without amendment. The Hon. Stephen Wade has placed a number of questions on record and I will obtain further advice and respond to those at further stages of the committee.

Turning the Hon. Stephen Wade's amendments, at amendment No. 2 the Hon. Stephen Wade seeks to exclude 'electronic news gathering video cameras' from the ambit of the legislation entirely. The government rejects this proposal. This would mean that an 'electronic news gathering video camera' could be used without any limitations whatsoever. It is entirely appropriate that the use of an optical surveillance device in private premises be justified on the basis that the owner of the premises consents to such use, or that the use is in the lawful interest of the user, or is in the public interest. A complete free pass is unjustifiable.

The remainder of the Hon. Stephen Wade's amendments is either included in the government's amendments or not required if the government amendments are supported by this place. With those few words, I seek leave to have progress reported.

Progress reported; committee to sit again.

CRIMINAL LAW CONSOLIDATION (PROTECTION FOR WORKING ANIMALS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:51): I move:

That the message pertaining to the Criminal Law Consolidation (Protection for Working Animals) Amendment Bill 2013, which was placed on motion, be considered forthwith.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Is that seconded?

The Hon. T.A. FRANKS: Seconded.

The Hon. S.G. Wade: No, it's not.

The Hon. T.A. FRANKS: Yes, it is. It was tabled this morning and then we put it on motion.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): No, that was a different matter. I am not sure that the honourable member who seconded it is aware of what she was seconding.

The Hon. T.A. FRANKS: The honourable member read the message when it was tabled this morning and is quite aware that she is seconding it.

The council divided on the motion:

AYES (9)

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

NOES (9)

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

PAIRS (2)

Hunter, I.K.	Stephens, T.J.

The PRESIDENT: There being nine ayes and nine noes, I have to cast a vote with the government.

Motion thus carried.

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

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

That the Legislative Council do not insist on its amendment No.1.

First, this amendment as written 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 a specific dog patrol by the local councils in Port Augusta and Ceduna. However, the definition is very wide and may have the effect of capturing many more dogs than is intended.

It is unknown how many of these animals would be captured by the amendment and what purposes those dogs are being used for. Such a wide definition may capture animals that do not require the extra protection of this bill or that could be inappropriate to include. Related to this point, dogs captured by the amendment may not have any particular qualifications. Whilst the dogs used by the councils in Port Augusta and Ceduna may be highly trained, dogs used by, or on behalf of, a council are not a group defined by a particular qualification in the same way that, say, guide dogs or police dogs are.

As the bill provides extra protection to working animals, it is important that the animals that are included have some sort of qualification that identifies them as trained working animals. Dogs

such as those used by the council in Ceduna may even be the animals of subcontractors where, again, it is much more difficult to ensure quality control and to ensure the dogs are completely and adequately trained.

Secondly, some of the dogs captured by the amendment may not even work with a handler. The amendment specifies dogs guarding properties in a council area, which may well include guard dogs left on their own to guard property. Such dogs may not be under the control of a handler in the same way police dogs or guide dogs are, and we believe they are in quite a separate category and should not be captured by this legislation. The government feels that it is not appropriate to include these animals within the definition of 'working animal'. The government asks the council to reconsider its support for this amendment in light of these reasons and the reasons provided by the Attorney-General in the other place.

The Hon. S.G. WADE: I would seek the indulgence of the council because, not being given due notice of this matter being brought on, it would be fair to say that my notes are not in the state that I would hope that they might have been, but that is the choice of a government that chooses not to cooperate with all members of the council. I would remind honourable members that this is an opposition amendment. We have the right to prepare our case to defend.

The government has been insisting that their top priority was surveillance devices, and their third priority was electoral reform. In fact, while the Leader of the Government was sledging me on a previous matter, I was actually discussing with the government how best to progress electoral reform. I am sorry that that will be impaired because my contribution tonight will be longer than it might otherwise because the government has chosen to bring this on without due notice. I would ask honourable members to reflect on their vote on this matter because every member has the opportunity from time to time to seek the cooperation of the council to facilitate more time for consideration of matters. I note, and the opposition notes, that we were not given that courtesy this evening.

On 11 September 2013 the Attorney-General introduced the Criminal Law Consolidation (Protection for Working Animals) Amendment Bill to create a new serious offence for causing death or serious harm to a working animal by an intentional act punishable by up to five years' imprisonment. On 13 November, the Legislative Council amended the bill to include council dogs. The intention of this amendment is to include canine patrols which consist of a highly trained dog and handler working together in Port Augusta, Ceduna and any other council area that they may be deployed in to enforce council by-laws. The work that these animals do is extremely similar to the work done by SAPOL and DCS.

Let me pause to digress because let us remember that this is a government that put forward the bill which wants to put in guide dogs along with police dogs and police working horses. They are telling us that guide dogs are more relevant to a police law enforcement animal protection initiative than council dogs that are specifically employed to enforce council by-laws. Honourable members will fully remember the issues in relation to the interaction between police and council workers in terms of council by-laws because it came up in the context of street preachers. We were told that police were fully authorised to enforce council by-laws and, in fact, that those by-laws were often complementary to their own duties to maintain public order, but that they often chose not to do so because council by-laws should be a focus of council officers.

So, while we had a situation in Adelaide where local police were extremely reluctant to enforce the council by-law in relation to street preachers, council officers had to be deployed and, of course, they needed to be given the resources, and that is what the Adelaide City Council did. Now in the Ceduna/Port Augusta context we have a very similar situation. We have a situation where a council has by-laws to do with use of the foreshore and the council area, and they have by-laws that they need to enforce. Quite rightly, South Australia Police says that it is not its primary responsibility to enforce council by-laws. If you put council by-laws in, you need to deploy council resources to enforce them. That is what the councils have done—democratically elected councils in Ceduna and Port Augusta have used their resources, and they have paid good ratepayers' money to engage canine patrols in their council areas to enforce council by-laws.

What this government is saying to us is that a bill focused on protecting law enforcement animals, which coincidentally includes guide dogs, has no need to include council dogs who are involved in a law enforcement task. Let's put it this way: if the councils are not allowed to use appropriate resources to enforce their by-laws it will fall back to the police and perhaps the very dogs that this act is designed to protect will come into harm's way. To be frank, I doubt if there is a police dog in Ceduna; I doubt if there is a police dog in Port Augusta.

The opposition is aware that a number of local councils operate security canine patrols, particularly in rural areas. I digress again to highlight the fact that, whilst I am aware of patrols in Ceduna and Port Augusta, I understand there has also been work with the K9 patrol people in relation to a patrol in Quorn. It is quite possible that these will become widespread, particularly as this government fails to deliver on its commitments to maintain police numbers.

Let me make it clear: we are not talking about private security firms being given the same authority as a law enforcement animal. Our amendment talks about a dog used by or on behalf of a council. In other words, it is not, shall we say, a roving dog: it is a dog used by or on behalf of the council. These patrols are authorised officers of the council supported by canines with the authority to enforce council by-laws. Their role includes the monitoring of sitting infrastructure against vandalism, to counter antisocial behaviour and to assist the police where possible.

The opposition finds it incomprehensible, given the similarities between the security canine patrols and other law enforcement animals, that the government is resistant to including them. Let me stress again, as I have already mentioned, these animals are involved in assisting the police where necessary. The logic of what the government is saying is that if a police dog is enforcing a council by-law it can get protection but if it is a council dog it cannot.

It was never the intention of the opposition to include dogs used by councils for guarding purposes. In that respect we can understand the government's response, and the opposition has already resolved to suggest to the council that we amend the motion that we have been asked to reconsider and that we delete all words after 'by-laws' and replace the comma with a full stop. In other words, we propose to the council that the truncated amendment be sent back to the House of Assembly; that is:

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.

The government may well have a point that, as drafted, it could be read to include animals that we had no intention of covering. Let me be clear: we never intended that a private security firm would be covered. We acknowledge the fact that the government accepted a Legislative Council amendment in the other place to remove the power to declare dogs by regulations, but it did not accept the council dogs amendment.

In his second reading summing up—this is the second reading summing up of the Attorney-General in relation to the bill, not his response to the amendment—the government's response was that the Attorney-General believed that the legislation could cover council dogs by regulation. There was no hint of a concern about the effect on these animals. It was only when it arrived in this place that these concerns started to be raised.

The government argued that it may capture a broad range of dogs used by or on behalf of councils. The Attorney-General was concerned that this amendment could capture guard dogs left on their own to guard property, and in that context the opposition submits the amendment in an alternative form.

The Attorney-General took the opportunity to reflect on the training of these dogs. My advice is that these dogs are highly trained; they are trained to a similar level to other trained dogs. Now, I doubt they are trained to the level of a police dog, I highly doubt that, but they are trained. I also ask members when they want to get excited about whether or not a dog is trained, no longer is it an animal welfare measure but it becomes some sort of cost recovery for training services.

The Hon. Tammy Franks quite rightly highlighted the lack of consistency between this legislation and other animal welfare provisions, but if the government is saying, 'No, that dog is not entitled to protection,' not because of the task they are being put to, not because they are being put in harm's way because of the duties human beings are expecting of them, but because humans have invested money in their training, I question the logic. After all, we do not protect public servants because we have invested training in them; we protect public servants because they are entitled to their rights. Likewise, I suggest that animal welfare legislation is not based on some sort of cost recovery motivation for training.

The element that came up more by way of interjection really was the assertion that using dogs to enforce council by-laws was somehow a racist suggestion. I ask the government to reflect. If they believe that a local government, established under a statute of this parliament, subject to codes of conduct laid down by this parliament and this government, is delivering a service which is racist, what is the government doing about it? These services have been in place for five or six

years, I understand. What has the government done about it? I find it galling that we have accusations of racist controversy raised without substantiation, and I will address that in more detail in a moment.

In particular, who was it holding accountable for this alleged racist behaviour? The government has the power to hold councils accountable. If they are sincere in asserting that we should not extend this legislation because 'gee whiz, you are going to provide protection to dogs in a service which we regard as racist' what is the government doing? Where are the police protecting Aboriginal people in Ceduna and Port Augusta from these racist services from council? I ask the government to reflect on how their own words condemn them.

Before I start quoting the Attorney-General in his comments about the racist controversy, I question the way he presented it. Repeatedly he seemed to try to distance himself from it. Let me quote you one section. He said that he does not have:

> any objective view one way or the other about these reports'—

and these are the reports of racism that he is about to quote—

> but I am saying that these reports exist, they are on the public record, and we will be capturing the animals to which these reports refer if we proceed with this amendment.

He does that a couple of times through. If the government in response to opposition amendments, moved with sincerity in this place, wants to quote media reports and then wants to step back from them and say, 'I don't know if they are true or not but I still think that they are a good basis for the House of Assembly to reject the Legislative Council amendment,' I suggest that is very poor practice. I would have thought that the Attorney-General would have done us the courtesy of stepping behind the media reports and trying to establish whether or not on an objective view there were concerns raised.

I suggest to the Attorney-General that not only is it the responsibility of the Minister for Police to make sure that Aboriginal people in Ceduna and Port Augusta are not subject to racist services and not only is it the responsibility of the local government minister to make sure that councils under their responsibility are not delivering racist services, it also falls to the Attorney-General to protect the political and civil rights of all South Australians, including Aboriginal South Australians.

The Hon. Ian Hunter interposed in the debate and specifically raised concerns about these dogs being used in unfair and demeaning ways. I would have thought that in the context of this debate, rather than quoting old media reports, which the government is not even willing to stand by but merely wants to throw on the table, if the Minister for Aboriginal Affairs wants to come into this place and raise concerns about services being used in an unfair and demeaning way, it would actually be a courteous act to the council responsible for these services and to the service providers not to do just a general spray, a wide smear, but that the government would have the decency to identify what are the problems.

In particular, I highlight one of the media reports from which the government quoted. They quote Mr Neil Gillespie, who was then the director of the Aboriginal Legal Services in Adelaide. The Attorney-General, as is par for the course, stated:

> I read his quote without saying that I necessarily endorse it or have any view one way or the other about it.

The quote goes on to say:

> This is not South Africa in 1975, this is Australia in 2008 and I think that it is targeted at Aboriginal people. To bring in Gestapo-type guards is just worrying. Again, I repeat, this is a racist action by the Ceduna government.

So, in 2008, six years ago, this government was put on notice that the head of the Aboriginal Legal Rights Movement regarded racist action was being done by the Ceduna government. There is no mention by the Attorney-General of what action he or his predecessor took, no mention of what the Aboriginal affairs minister did, what the local government minister did. No, we have noted and filed away the accusation of racist behaviour, but we have not done anything about it.

Let me turn to a letter—and perhaps one of the reasons the Attorneys-General's predecessor had not acted on this was in a letter sent to his predecessor, Michael Atkinson, by Mr Neil Gillespie, the same man the Attorney-General quoted in the other place on a media report. The Attorney-General failed, apparently, to look at his own files to see that the same man had written to his predecessor in praise of the same service. The letter, dated 30 October 2009, is

addressed to Michael Atkinson, Attorney-General of South Australia, 45 Pirie Street, Adelaide, SA 5000, and states:

Dear Mr Attorney,

The Aboriginal Legal Rights Movement provides a broad range of services to Aboriginal South Australians. Through its work the ALRM has close contact with many agencies, including SA Police, and sees first-hand many instances of Aboriginal people at risk.

I first heard of the K9 security patrol operating in Ceduna as a District Council of Ceduna program. The Port Augusta City Council also commenced a trial of the program in late 2008. My immediate reaction to these patrols was one of suspicion. This was yet another security service employed by a local government that would disproportionately target Aboriginal people.

The thought of using dogs as part of a security service to administer the Local Government Act, and as part of strategy to protect council assets, seemed to me to be excessive and over the top. Over the last six months I have met with the mayor and/or the CEOs of both the councils and gained quite a good understanding of what this innovative program is about. In Port Augusta I have received advice from my staff and the community about the operation of the City Safe patrol and the work of the principal, Tony Edmonds.

Tony has gained a great deal of respect from Aboriginal people he deals with, and is a person who will sit down and communicate with people. This has particularly been the case with young persons and older persons who may be at risk from substance abuse.

The ALRM is currently working on developing a Memorandum of Understanding with both the Port Augusta council and the Ceduna councils that will see us working together more closely. I am aware that the City Safe patrol has achieved many positive outcomes as a result of a proactive approach.

In fact, the program is undertaking tasks that rightly should be provided by other agencies which are failing Aboriginal people. The patrol has developed good relations over the last 11 months and has earned the respect it has gained. I am very happy to provide this letter of support for funding.

Paying respect to the late Neil Gillespie, in 2008 he was highly sceptical about what he perceived might be a racist initiative. By October 2009, he was actually sending letters of support as the chief executive officer of the Aboriginal Legal Rights Movement.

I do not know if the Attorney-General is aware of that letter—it was certainly written to his predecessor—but what he chose to do was table a media report (a) without any sense of counterbalance and (b) without any willingness even to stand by it. I suppose the Attorney-General's defence could be, 'I didn't actually say I agreed with it.' Well, do not table a media report in another place and not at least give the parliament the courtesy of the update which was provided to his predecessor (Michael Atkinson) on exactly the same issue.

On the next comment I want to make about one of the Attorney-General's media reports, unfortunately, because the government chose to bring this on without notice, I can only go from recollection; I do not have the documents with me. The next comment was in relation to the report in *The Advertiser* on 18 July 2011. The report in *The Advertiser* report is, according to the Attorney-General, headed 'Security guards accused of racism during Ceduna deaths inquest'. The article goes on to say:

Private security officers are removing Aboriginal people from the scenic foreshore at Ceduna because of their race, an inquest has heard.

If that were true, I would be very concerned. I would be asking: where is the Minister for Aboriginal Affairs defending the rights of Aboriginal people? Where are the police stopping Aboriginal people from being harassed and moved on against the law? I would be asking: where is the local government minister, who should be holding the local government to account for deploying services within the law?

Within the time available to me, I took the next logical step: if there was an inquest, presumably there was a Coroner's report. I went and looked at the Coroner's report. I should just clarify what the Coroner's report was about: it was about an investigation into the three Aboriginal people in Ceduna who suffered from alcohol-related health issues, and it was a broadranging investigation into public intoxication and the services available.

The Coroner made a number of very significant recommendations in relation to intoxication services. I would have thought, considering it was issued in late 2011, that if the Coroner had had accusations of a racist service being made to him—in fact, it was the Deputy State Coroner, but still the presiding officer of the Coroner's Court in question—if the Deputy State Coroner who was presiding over that court felt that there should be an adverse comment in relation to a racist patrol, he would have put it in his report. I could not find a single reference to an adverse comment; in fact, I could not find any comment about the patrol in the report.

I would have thought that if the Attorney-General felt that this report were so concerning, he himself would have told us about the Coroner's report and what conclusions the Coroner drew. Again, I say the Attorney-General may repeatedly deny that he endorses the comments—the media reports that he throws around gaily in the House of Assembly—but by stating only part of the facts he is implicitly endorsing their assertions. The government should tell us whether they think that K9 is a racist service and what they are doing to close it down if they do. If they think it is a racist service, they have a duty to act. Racism is corrosive and the government should not play politics with these important values.

As a side comment in relation to the Coroner's report into the Ceduna deaths, I note that, whilst there was a response from the health services in relation to the initial Coroner's report, I could find no evidence of the progress report that was required of the health services—I should not say 'required': it might have been an undertaking by the services. We were told we would get an update in May 2013 about the services at Ceduna. I could not find a reference to that report. If the government is able to correct me, I would be delighted to think that this government was starting to focus on the real needs of Aboriginal people.

In my research, I was also able to find, shall we say, a third-party endorsement, not by another council but by another Aboriginal service. Let me quote an article published in *Alice Springs News online*. Again, if circumstances had been kinder, I might have been able to quote excerpts but I am afraid that will not be possible because the government called this on, with the support of the Greens, without any notice. The article was published in the *Alice Springs News* and it is entitled 'Council gets the drum on community harmony, Port Augusta style'. It is written by Kieran Finnane and is dated 26 June 2012. The new report is of the work of Craig Wilson of Craig Wilson Consultancy on the community harmony initiatives taken in Port Augusta. The article states:

> Mr Wilson extolled the virtues of Port Augusta's City Safe Program, and particularly the contractor who runs it, Tony Edmonds, an 'extremely popular guy', who enjoys the strong support of Aboriginal and non-Aboriginal people alike. Mr Edmonds sees his role as 'helping not hindering', said Mr Wilson, and has good 'infrastructure support', such as transport services and a sobering-up centre (no detox).
>
> (In his report Mr Wilson notes the flexibility that Mr Edmonds' contractor status allows, including the possibility of informal action, such as buying someone a bus ticket or a hamburger. He notes that Mr Edmonds is a Pitjantjatjara speaker and is assisted by a multi-lingual Aboriginal man. The contract is worth $214,000 [per year] and is operated seven days a week, from 2pm to 2am. Two Alsatian dogs travel with Mr Edmonds. Mr Wilson reports that the 'suitably trained' dogs have not been used to date.)

Could I pause there and say that in what is a relatively long news report the dogs get one mention. This is not about a dog patrol. This is about council patrols supporting the enforcement of council by-laws in what seems to me to be a very holistic way. The government wants to somehow try to fight against the possibility of council dogs getting additional protection by doing a racist slur on not only the service provider, Mr Edmonds (who, according to this report, is a very sensitive man), but also the council that engages them.

For those members who might chuckle, I do not know many racist people who go to the trouble of actually learning the language of one of the services they are going to serve. I admit I do not know a single word of Pitjantjatjara. I know the member for Morphett in the other place does, and that is to his credit. The member for Morphett is not racist. The fact that Mr Edmonds has gone to the trouble of learning the language of one of our Indigenous nations, I believe, is to his credit and would be good evidence that I would like to put before a court that argues against this government's assertion that he and his service are racist. Let me continue to read the *Alice Springs News* report:

> Councillor Jade Kudrenko asked how the City Safe program differed from the night patrol program operating in Alice Springs. Mr Wilson said patrolling was only one aspect of the program. Its access to other programs is crucial. For example, there is a day care centre (a substance, including tobacco, rehab centre, operated by the SA Government) where people can get free breakfast, cheap lunch, shower, wash their clothes and enjoy recreational activities, such as painting, fishing, table tennis.

In response to a specific question the consultant again discounts the relevance of the dog. The service is seen in the context of the services in the community as a whole. I continue to read from the article:

> Mr Wilson said City Safe was set up by the council with a view to protect council property, but the contractor takes 'a more human perspective': he'll do 'everything possible' to avoid police involvement in the situations he deals with.

As shadow attorney-general I am acutely aware of the problems that Aboriginal communities have in terms of their interaction with the police. That is not an indication of racism on the part of the

police, it is part and parcel of the fact that Aboriginal people experience social and economic indicators that are significantly lower than other South Australians. They have very poor health outcomes, poor education outcomes, and so forth.

Here we have a contractor who apparently was set up with a view to protect council property and we are told that he is taking a human approach and doing everything possible to avoid police involvement. I would have thought that a government that was trying to improve justice outcomes for Aboriginal people would actually see the value of working cooperatively with a service on the basis of an independent report by a consultant in Aboriginal services reporting not to the South Australian government—or for that matter the South Australian opposition—but to an Alice Springs-based service in terms of the experience of another council. The consultant said:

> But this approach is 'a little easier' in Port Augusta because of its smaller population; it's possible to deal with issues 'on a more personal level'.
>
> Mr Wilson discussed concerns about the displacement from public spaces to domestic of the issues arising from excessive drinking.
>
> He says reviews of the dry zone in Port Augusta have not established 'quantitative data', but there is 'qualitative data' to suggest that this is what happens to an extent.
>
> He says the community view is that moves to address the 'underlying problems' should be strengthened rather than the dry zone be abandoned.

The comment by the independent consultant reporting to an Alice Springs-based organisation is to highlight yet again a point where this government could well have been forced to address this issue. Dry zones are renewed on a one-year basis, two-year basis and three-year basis—depending on how they are progressed—and I am sure the dry zone in Port Augusta has been reviewed since 2008. If this government thought that the council in Port Augusta and Ceduna were using a racist service to prop up their dry zone, I presume that that issue would have come out in their adequate review of the dry zone proposal and it would have been dealt with.

You would expect that, if the government truly believed that a council under its responsibilities was establishing a racist program, they would have asked for the documents that the council produced to justify the program. Sure enough it did not take long to find—even the opposition could find it—and on 14 March 2009 there was a report to council and the subject was Security Patrol Evaluation. Not surprisingly the paper starts with an element of background on the program:

> In July 2008, council endorsed an investigation into the action of a city-wide security patrol as part of the City Safe strategy. Council also resolved to undertake community consultation prior to implementing the patrol. A copy of the original report is attached for members' information (attachment 1). In November 2008, council resolved to engage VS Australia Security Services for a period of three months to conduct a security patrol assisted by canines.

They are dogs for those who need to have the link.

> The trial commenced on 26 December 2008 and will conclude on Tuesday 21 April 2009.

Let's look at the section in the paper about SAPOL. The suggestion was made in earlier debates by the government that somehow this was getting in the way of SAPOL and that SAPOL did not welcome it. Let me quote from the paper to the council. It states:

> The relationship with SAPOL and the security patrol has been very positive. SAPOL officers have regularly attended meetings of the working party and provided an insight into operational matters, including police and the patrol. The intent of the security patrol was to assist police at arm's length where possible and to provide extra sets of eyes for police. This has worked well.

Then there is a section, attachment 5, which deals with crime stats. Section 4.4, on page 2, states:

> The reality is that SAPOL is responsible for the control of crime and it is therefore SAPOL that deserves all the credit for the excellent outcomes in terms of the reduction in crime numbers. The security patrol were no doubt assisted but should not be considered as a major factor in crime reduction. Having said that, it is very pleasing that while the patrol was operating there has been a reduction trend in crime statistics.

That comment is not surprising. As the Alice Springs news report highlighted, these are not primarily enforcement officers. The member for Stuart was commenting to me that his understanding is that the dogs are not often out of the van. We heard in the Alice Springs report how little the dogs were mentioned. In fact, in relation to the Alice Springs report, Tony Edmonds effectively acts as a facilitator, linking people in public places with appropriate services.

I noticed that there was not anybody from Families SA or DCSI or other state government services out there facilitating linkages. To the government's credit, both the Alice Spring's news report and the council report do talk about state government services. But often it is not a matter of establishing the service here and waiting for people to come to you.

The success of programs such as the mobile assistance patrol have highlighted how important it is to have appropriate bridges. By the report of an independent consultant in Alice Springs, Mr Edmonds and his patrol have provided an appropriate bridge to state government services. If the government thinks that it is racist for a council-funded resource to make linkages between Aboriginal South Australians and state government services, again I ask: what have you done to close them down?

Let's go back to the council report because, not surprisingly, it talks about community feedback. Under section 5—Community feedback, 5.1 states:

> As members will be aware, council was initially accused of Gestapo-style tactics when it considered introducing the security patrol. There are also claims of disproportionately targeting Aboriginal persons, draconian measures, etc. The feedback for the patrol has been unbelievably positive, far in excess of what could have reasonably been expected; for example, the petition was signed by over 800 persons, including Aboriginal elders.

There were two letters from members of the community, and I will quote both the petition and one of the letters from the community:

> A transcript from an interview by Kieran Weir on ABC Radio with Aboriginal Legal Rights Movement (ALRM) CEO, Neil Gillespie, is attached for members' information. As members would recall, Mr Gillespie was very much opposed to the trials prior to their introduction. As can be seen, Mr Gillespie now provides a great deal of in-principle support and, although not fully appreciating what is happening locally within the trial, has offered the opportunity for council to enter into a memorandum of understanding with the ALRM.
>
> The manner in which the security patrol officers have dealt with people offending, particularly the dry areas legislation, has been one of the things that has made this patrol different. They have actually sat down with people and communicated to identify their needs and issues. Of course, the evidence for this is somewhat anecdotal. It is certainly a fact, though, and something I can testify to having seen at first hand.

Just to clarify that, the paper is signed by council officer M.J. Dunneman.

In section 5.5, which continues in the community feedback section, there have been some negative comments and these were expected. These comments can in most cases be explained in context—for example, young PAYS bus clients feeling watched by the patrol at 1:30 in the morning. This aspect of the trial was always going to be seen as negative by some but most likely a positive by the majority. That is the community feedback section. That section referred to a letter and I will quote from the letter that was referred to in the council report:

> Dear Tony, Walter and our four-legged canine friends,
>
> Thank you so much for the support you have given us not only in our direct local community but in keeping our Westside shore line clear of the gangs of heavy drinkers and violence so that we as residents and the local families can come here on those very hot weekends to use the public facilities to cook meals or picnic and swim to cool off without fear for our safety.
>
> Despite the odd negative objection from a minor two or three council members, I and our surrounding neighbours and the community as a whole welcome you both with your team of canines with open arms. You and your team's efforts over these last few months have been noted, profoundly felt and our safety guaranteed, success rate being 99 per cent. 99.9 is the best decision the council has given to Port Augusta. Being one of your biggest supporters here in Port Augusta, I believe the service you and your team provide to the community and in conjunction to supporting our local police department is a necessity.
>
> We as a small group are also proud to say we have been witness to your actions as a team in crime prevention before it got out of control on many occasions especially in hotspot areas, not to mention that locals of all walks of life just love seeing your friendly smiles and mannerisms about the community, especially our local kids. To capture their admiration is a gift. Once again, thank you, your positive interaction is a blessing.

That is not really surprising. In so many contexts, animals provide a bridge to positive interactions with the wider community.

Police dogs are highly trained and, in that sense, quite forceful tools in the hands of a police officer, but they can also be disarming vehicles by which police can break down barriers with the wider community. That is true of both dogs and horses, so it is not surprising that a council-funded law enforcement service, which also uses dogs, might also find that, as that letter testified, it broke down barriers.

One of the points that has been made to me by the member for Stuart—a very good local member—is that suggestions that this service is racist are extremely disrespectful to the wider Port

Augusta community. The wider Port Augusta community has a high proportion of residents who are Aboriginal and that community, as a whole, through their democratically-elected government and within the laws of the state, has engaged a resource to try to manage a social problem.

It is not surprising that, if you like, there would be elements of the Port Augusta Aboriginal community who would benefit from the deployment of the patrol and that there are some members of the community, particularly those who have problems with alcohol and consume it in public contexts who might come in contact with the K9 patrol and may be negative towards it.

That is not surprising, but I suggest that those who want to suggest that it is a white versus black issue need to be very careful that we are not overly simplifying the situation and painting some picture that all the residents of Port Augusta who are benefiting from a safer public space environment are white. The fact of the matter is that there is a very well-established and thriving Aboriginal community in Port Augusta, and let me remind you that the council report itself said that there were 800 people who signed a petition, including Aboriginal elders.

My understanding is that there may well be different views, and it may well be that Aboriginal advocates now or past might have a different view. Let's remember that Neil Gillespie had a view in 2008 and that by 2009 he had a different view. It may well be that members in this debate will offer another view, whether from the Aboriginal Legal Rights Movement or others.

I would remind this council that this is a democratically elected council delivering a council service to enforce council by-laws; that the Aboriginal Legal Rights Movement, with all due respect, whether its view is the same or different, is not the government of Ceduna or Port Augusta; and that it does not have the authority to speak for Aboriginal people in Port Augusta any more than it is some form of modern ATSIC.

The fact of the matter is that if the government, if the ALRM, or if any other service, believes that this service is racist, I would like to know what they are doing about it. I would like to know what the government has done, particularly what ministers have done, and particularly minister Hunter, considering that he raised the issues in this parliament.

To go back to the amendment, I should check with the Clerk whether I need to undertake any more formalities to progress this. I might interpose to have those consultations and seek clarification, Mr Chair, as to whether I have done what I need to do to move the amendment in another form.

The CHAIR: Do you still need the semicolon at 'or'?

The Hon. S.G. WADE: Thank you, Chair. I move an amendment to the amendment:

Delete ', conducting security patrols or protecting or guarding property in the council area'

What that does is remove any suggestion that we are talking about private security dogs, that we are talking about council dogs working to protect council areas; we are focusing specifically on a dog used by or on behalf of a council within the meaning of the Local Government Act for the purpose of enforcing council by-laws. This parliament will have the opportunity through by-laws for Port Augusta, Ceduna, Quorn—for everywhere else that wants to put by-laws in place—to consider the impact on the maintenance of public order.

The Hon. John Darley, with me, has the privilege of serving on the Legislative Review Committee, as does the Hon. Gerry Kandelaars. The Legislative Review Committee takes its responsibilities very seriously to make sure that the rights of South Australians are protected in terms of the imposition of council by-laws. Both those members will remember the recent debate about whether or not the Adelaide City Council should be allowed to have a by-law which prohibits adults from participating in children's playgrounds. Quite rightly, the committee raised concerns about that.

We were doubly concerned when we understood that it seemed to be the council taking upon itself the role that was more appropriately undertaken by police. Let's remember that these by-laws that are being enforced are not just the council's flights of fancy. We can look at them as they are being put in and consider whether or not they are racist, whether or not they are an appropriate oversight, if you like, of public order.

This parliament has the opportunity to check the by-laws. We also have the opportunity to hold this government and, in this chamber, the Minister for Aboriginal Affairs, the minister for local government, responsible. As the Hon. John Dawkins would say, this is probably one of the few issues for which we can get the minister for local government accountable because these two

councils happen to be regional councils, and this minister asserts that she is not the minister for local government: she is only the minister for rural local government.

Let me stress again that, with the shortened amendment, which the opposition now proposes, we have the opportunity to focus on the enforcement of law, not the protection of property. The police could be deployed for this task. They may prefer for it to be taken by council authorised officers. In those circumstances, we think it is appropriate that those dogs be recognised in the legislation.

If the government thinks the service is racist, then they should take appropriate action to close it down, dealing with both the service provider and the council that engages them. I urge the committee to prefer the amendment of the Legislative Council in an amended form and offer that to the House of Assembly for its consideration.

The Hon. T.A. FRANKS: I rise to support the government's rejection of the opposition's amendment. I note that the debate has been much more fulsome this time and that we have had a lot more information about what we were voting on when we voted to include this particular category of animals within what is colloquially known as Koda's Law. I note that as a council we decided that there was no way to add additional animals by way of delegated legislation. That has been done and dusted, although I disagree with that decision. I certainly agree more and more firmly with the words of the Hon. Kelly Vincent, who was widely reported as being critical of this legislation overall.

I reiterate: this was not a well-consulted bill. This was a bill that was rushed through this place, and these are the outcomes. No hearing dogs are included in this bill, and we have no customs dogs, no military dogs, and a range of other categories of animals that could have been quite rightly included potentially, but certainly we do not have the forum or the capacity to debate the merits. What we are debating now is the merits of this particular category of animal that was sought to be included in the legislation by the opposition. The Greens opposed the inclusion of these animals the last time we had this debate, and we continue to oppose the inclusion of these animals.

The K9 security patrols in Ceduna are well known. Over the last six-plus years of their existence, they have been most controversial. I note that the Hon. Stephen Wade mentioned the article that was in *Adelaidenow* on 18 July 2011, entitled 'Security guards accused of racism during Ceduna deaths inquest'. I note that he did not read all of that article, and I certainly note that he also questioned what the government entities are doing about this.

That article covered the inquest into a series of deaths just in and around a place called 'town camp' just outside Ceduna that occurred between 2004 and 2009. Anyone who is familiar with Aboriginal affairs will be well acquainted with the outcomes and the recommendations of that inquest, and the need for rehabilitation and other programs is quite strongly there in the recommendations.

I note that the article referred to the evidence given by Housing SA regional manager Irene Adair, who said that she had a great deal of concern that while town camp could offer safe shelter and food, other services, such as detox and ongoing rehabilitation, were not available locally. She also thinks, the article goes on to quote, that there should be more social or culturally-based programs to help engage with the vulnerable and transient.

In questioning and response to Yalata lawyer, Chris Charles (who I note is also associated with the Aboriginal Legal Rights Movements, the ALRM), when he asked her if she was aware of the controversial dog security patrols called K9 moving people on in Ceduna from the foreshore or the main street either for liquor-related or other council-related offences, she agreed that she had heard they were being taken away from those areas to binge drinking areas outside the town. She stated, 'If I chose to be down the foreshore and sit on a park bench or lie on the grass I'm unlikely to be moved on. It is overly racist.' I assume that Ms Adare is white—with those words.

I also respond to the assertions that this is not a racist action and the strangely circular argument put up by the Hon. Stephen Wade who did not provide very much evidence or information in originally moving these amendments to this council, in that he states that there have been no claims of racism. I draw his attention to the words of the then mayor, Joy Baluch, reported both in the *NT News* and the *Courier-Mail* on 5 April 2011. This is what her response would be to a situation that we had here in the Adelaide City Council, in this particular part of the state, where the Yuendumu people from the Northern Territory set up a tent camp in the south parklands of

Adelaide. Port Augusta mayor, the late Joy Baluch, threatened the possible illegal campers with her dog squad. She said:

> They will not camp illegally in my city...we have got the police, we have got a dog squad and I would arrange merry hell.
>
> Anybody that comes and camps illegally on the foreshore or anywhere else in Port Augusta, they would be moved on, I would not tolerate such stupidity.

I do not see those words being uttered about white Australians in this country.

With that, I do not believe that we have had a standard which we can accept where this particular category of animals deserves to be included in this very narrow legislation on a par with police dogs. They are controversial, they have long been controversial, and while the Hon. Stephen Wade read out letters from the late Neil Gillespie—who I note was not the director of the ALRM but indeed the CEO—I have certainly had many conversations over the years with Neil Gillespie about these particular issues. However, I had a conversation today with the current CEO, Cheryl Axelby, and she said she could not believe that these particular dogs were being considered on a par to be included in Koda's law. She said that that would not be something that she would personally support.

I do not have an official statement from the ALRM but I am sure that I could probably get one. I note that she said that these security patrols are indeed affecting Aboriginal people quite demonstrably, with one particular person incurring over $15,000 worth of fines as a result of these patrols. I do not see white people incurring $15,000 worth of fines simply for loitering and being in public places in this state. With that, I do not believe that these dogs are worthy of special consideration under our laws in the same way that Koda's law seeks to treat police dogs and especially as we have rejected hearing dogs, Customs dogs, military dogs and a range of other animals. I do not believe that you have met the burden of proof required to give these particular animals due consideration above those categories we have rejected.

The Hon. B.V. FINNIGAN: It was a noble filibustering effort from the Hon. Mr Wade but nothing can really hide what the intent is of these particular dogs under discussion. We learnt from the Hon. Mr Wade that in fact they spend most of their time in vans and that they are actually involved in community building. It appears that the Alsatians must have been replaced, or the German shepherds replaced, with a litter of golden retriever puppies that are out there helping in the community, making connections and helping build spirit. We know that is not what they are for. They are guard dogs and they are there to enforce laws by intimidating people.

I do not wish to engage in whether or not it is racist, whether that word is appropriate, whether or not one assumes that there is not a belief that Aboriginals are inferior or not equal in the way the policy is pursued, but certainly there is a target group. We all know that and we are kidding ourselves if we try to pretend that this is just about keeping public order in Ceduna and Port Augusta; it is nothing to do with Aboriginal populations. I am not saying that it is racist, but to say that there is not a target group here, that there is not a particular group of people who are the focus of this policy, who are the people whom the policy is intended to work against, I just cannot see that that position is sustainable.

The Hon. Mr Wade's amendment talks about councils and on behalf of councils, which means that private providers and contractors could well be the ones operating these dogs in various places. If we really need to ask ourselves whether special protection should be afforded to these dogs in particular, let us just assume that the Adelaide City Council decided to enforce their street preacher laws by sending down a couple of guards from a private security firm towing German shepherds or Dobermans.

Or let us assume that the Adelaide City Council or the Walkerville council decided a park was particularly precious. They did not want people trespassing through it and so they had patrols with guard dogs from a private security company. It would never be accepted and I have no doubt the Hon. Mr Wade would be amongst the first to protest such a restriction on people's civil liberties. With those words, I oppose the Hon. Mr Wade's attempt to extend protection for working dogs to these security or law enforcement dogs run by other than the police.

The Hon. M. PARNELL: I was not going to weigh into this, and the Hon. Tammy Franks put the Greens' position very well, but I have been listening to the debate and listening to the proposed amendment that the Hon. Stephen Wade seeks to make, where he proposes to limit the definition of working animal to a dog that is used by or on behalf of a council for the purpose of enforcing council by-laws, and given that there was a fair bit of mention of a number of councils

that may already use dogs, but that this proposed amendment is not limited to those particular councils, I thought I would just quickly run off a copy of the District Council of Ceduna by-laws. If I look at council's by-law No. 3, it says:

> No person shall without permission on any local government land…promote, organise or participate in any organised athletic sport…fly any model aircraft or operate any power model boat from or on any local government land…sing, busk or play any recording or musical instrument for the purposes of, or so as to appear to be for the purposes of, entertaining other persons, whether or not receiving money…

You are not allowed to convey any advertising, religious or other message to any bystander, passer-by or person, and you are not allowed to conduct or participate in a marriage ceremony.

Now, no-one is suggesting that the dogs are out there trying to stop unauthorised weddings on council land, but we do need to legislate in a way that is sensible and does not have unintended consequences. Even with the proposed amendment by the Hon. Stephen Wade limiting the definition of working animal to one that is enforcing council by-laws, council by-laws cover a vast range of activities, most of which, we would all agree, are inappropriate to be enforced through the use of guard dogs. That just adds emphasis to what my colleague, the Hon. Tammy Franks, was saying. This is inappropriate, and even as amended it is still an inappropriate amendment.

The Hon. G.E. GAGO: The honourable member obviously has not heard me sing. It would be worth bringing the dogs out for, let me tell you. Just very briefly, I rise to speak to the amended amendment and I do not believe that the changes make any difference to the issues that I have raised in relation to why we are not able support the original amendment. The changes still do not reassure us how many animals are going to be captured by the amendment and for what purposes these dogs are going to be used. The Hon. Mark Parnell made some interesting observations about what potential the dogs could be used for.

It is still a wide definition; in fact, it is even wider and may capture animals that do not require and do not warrant the extra protection. As I have stated, it is important that animals that are included have some sort of qualification that identifies them as trained working animals. The amended amendment does not do that either. We are not able to support this amendment.

The Hon. K.L. VINCENT: Very briefly, given the hour, members would be well aware that Dignity for Disability originally supported the Hon. Mr Wade's amendment. Given some further consideration, I find myself in a position where we are no longer able to do that and there are a few points that I would like to take up to put forward my reasoning.

Concerns have been raised about the usage of these dogs. There is some debate about whether they are carrying out duties that are acceptable or truly noble. To my mind, it makes sense that while we are having that debate, do not put the protection for those dogs in legislation. Let's have that debate, let's sort out whether or not it is appropriate to use these dogs and, if we find that it is, we can put it in legislation but if it is not then we should by no means protect that particular usage of animals in legislation. I think there is a debate to be had but I would be very cautious about protecting that particular usage of a working animal in legislation while that debate is ongoing.

More broadly I would like to offer some brief, and in some ways repeated, comment on this bill in general. As members are well aware, Dignity for Disability has a very strong position on this bill. We are the only party that has stood up and called this bill for what it is—a distraction tactic from many of the important issues we currently do not have already covered in existing legislation. We do not have appropriate legislation to deal with people with disabilities in court. We do not apparently have time to talk about appropriate treatment and support for people with borderline personality disorder and many other maligned illnesses, I might add, but apparently we have the time to do this. What we do not have, even within this bill, is adequate consideration of the rights of many people with disabilities.

As members before me have pointed out, we do not have protection for hearing dogs. We do not have protection for autism assistance dogs or assistance for people with other behavioural issues, and we do not have an answer as to why guide dogs are any different to those dogs. So, this is a rushed piece of legislation, it is ill thought out, it is ill considered, and I am willing to be the only member of parliament and call this bill for what it is. I am saddened that I will be the only one doing that, but I am happy to. Having said that, I am happy to accept that it is the will of the council to pass this piece of legislation and I am happy to help to amend it to make it perhaps a little less ill thought out. I will be supporting the other members in rejecting the Hon. Mr Wade's move to support these animals at this time.

The Hon. S.G. WADE: I thank members for their contribution, particularly the Hon. Kelly Vincent. I want to correct a couple of things on the record but I do not want to prolong the debate. I could be wrong but I thought the Hon. Tammy Franks was suggesting that I was selectively quoting from a report of *The Advertiser* of 18 July 2011. I reject that assertion; all I was doing was quoting what the Attorney-General himself quoted. If it was a selective quote, it was a selective quote of the Attorney-General.

In relation to her comments regarding Joy Baluch, the point I would make there is that the Hon. Joy Baluch was talking about deploying police as much as the K9 patrol. If the honourable member is really suggesting that—

An honourable member: The late Joy Baluch.

The Hon. S.G. WADE: Sorry, the late Joy Baluch—

The Hon. T.A. Franks interjecting:

The Hon. S.G. WADE: Sorry, I thought that the report also referred to the police, so if the Hon. Tammy Franks thinks that the police are subject to the direction of the Mayor of Port Augusta, then she should be just as worried about the police force as she should be about the K9s. I note that she was only able to offer us a comment from the ALRM's CEO personally and her comment about the level of fines in Ceduna—

The Hon. T.A. Franks interjecting:

The Hon. S.G. WADE: Sorry, if I could maintain the call that would be helpful.

The CHAIR: I'm listening to you.

The Hon. S.G. WADE: Thank you, Mr Chair. I actually thank the honourable member for raising the issue of expiation fines because that is specifically another example of the failure of this government to actually deal with issues that impact on Aboriginal people. The Minister for Aboriginal Affairs might think that it somehow adds to his glow by being able to stand up and accuse the Ceduna council of being racist, but what is he doing about the tens of thousands of expiation fines that Aboriginal people have been subject to? I actually specifically reject the assertion by Tony Edmonds.

The fact is that the police and the Aboriginal Legal Rights Movement are concerned about the lack of options that are available to police officers in that context. Here we have a government which wants to smear a council and a service provider, which is failing to provide tangible responses to Aboriginal justice issues in these communities, such that Aboriginal people are carrying significant burdens in terms of expiation fines, and which is trying to, if you like, redeem some sense of moral outrage by criticising a council service which at least is trying to do something. I do not see any state government officers down there on the foreshore trying to link Aboriginal people to state government services.

I accept that the votes will not be here tonight for the amendment, but I am duty bound to divide on the issue because we did divide before and members need to indicate their change of heart. In that regard I will be very interested to watch the behaviour of this parliament, this government, and whatever governments might be into the future, in their response not only to this patrol.

This patrol has become a symbol within this council tonight of endemic justice issues for Aboriginal people and people might get a warm inner glow by attacking council's best efforts to deal with tangible real issues faced by Aboriginal and non-Aboriginal residents, but let us see what they do. Let us see what they do about expiation fines. Let us see what they do about overrepresentation of Aboriginal people in our prisons. I believe that this government has severely failed Aboriginal people over a decade. The Aboriginal incarceration rates alone show that.

If the Minister for Aboriginal Affairs and the Attorney-General like coming in here and throwing a few media reports on the table to slur a council and its service provider, so be it. This opposition wants to stay practical. We hope that in government we will provide a practical government that will not be replete with symbolic statements about Aboriginal rights. What we hope to be is a government which actually provides tangible outcomes to Aboriginal people on the ground.

The committee divided on the motion:

AYES (10)

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

NOES (8)

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

PAIRS (2)

Hunter, I.K.	Ridgway, D.W.

Majority of 2 for the ayes.

Motion thus carried.

MOTOR VEHICLES (DRIVER LICENSING) AMENDMENT BILL

Returned from the House of Assembly without any amendment.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

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

CONTROLLED SUBSTANCES (OFFENCES) AMENDMENT BILL

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

At 18:20 the council adjourned until Wednesday 27 November 2013 at 10:30.