

## LEGISLATIVE COUNCIL

Tuesday, 2 December 2014

The **PRESIDENT (Hon. R.P. Wortley)** took the chair at 14:17 and read prayers.

**The PRESIDENT:** We acknowledge that this land 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.

*Condolence*

### **SOUTHCOTT, HEATHER**

**The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:19):** With the leave of the council, I move:

That the Legislative Council expresses its deep regret at the recent death of Mrs Heather Southcott AM, former member of the House of Assembly, and places on record its appreciation of her distinguished public service and that, as a mark of respect to her memory, the sitting of the council be suspended until the ringing of the bells.

It is deeply saddening to hear of the recent passing of Heather Southcott AM at the age of 86. Heather was a remarkable woman, who grew up with a strong sense of service and social justice and who was encouraged by her father to believe that she could do anything. She contributed to the South Australian community in many different ways, often leading the way for women. Heather was a founding member of the Australian Democrats from 1977 and South Australian state secretary from 1977 to 1982.

Many of you will recall that, in 1982, with the resignation of her colleague Robin Millhouse, who had held the seat of Mitcham since its creation in 1955, she won the by-election for that seat. In doing so, she became the first female member of the Australian Democrats elected to the South Australian Parliament. This was only one of a number of firsts for Heather Southcott. She was subsequently elected state leader and then national leader of the Australian Democrats, becoming the first woman to lead a political party in Australia. In doing so, she added yet another page to South Australia's significant role as a leader in the history of parliamentary representation for women.

Heather studied pharmacy at the University of Adelaide, as one of only four women enrolled at that time. The group banded together to support each other, establishing the women pharmacists group. After marrying in 1952, she experienced firsthand the discriminatory policies of the time when she was required to leave her commonwealth public sector job due to the marriage bar.

Heather combined work with family responsibilities for many years while she raised her two daughters, and she was involved in numerous organisations. These included the National Council of Women, the Women's Electoral Lobby, the Women's International League for Peace and Freedom, the United Nations Association of Australia, and Graduate Women Australia, of which she was a member for some 50 years. She was concerned about Indigenous issues, involved in electoral reform, and working with women who stood in local government elections. She was also an advocate for children's rights and was actively involved in the Morialta Children's Trust and in lobbying to have International Children's Day recognised in Australia.

In addition to being a lobbyist and advocate, Heather provided advice to government at all levels, both formally and informally. She once described herself as a 'serial joiner', and networking, facilitating and consensus were the landmarks of her particular leadership style. She understood that networks created opportunities and she enjoyed using networks that brought women, in particular, together to share information and advocate for change.

She continued her involvement in women's issues into her later years through the Women's Information Service (WIS) support group, and the Older Women's Advisory Council which the South Australia government has supported over many years. The WIS support group was established to

represent a broad range of women's organisations and ensure that WIS provided impartial information for the benefit of all women. It continues to serve as an important forum for information sharing and to advocate for and support the wonderful work WIS does.

Heather was also a founding member of the Older Women's Advisory Council and its president until recently. She was actively involved in organising their yearly weekend camp-ins which provided friendship, support and information on many important topics to older women in our community. I am particularly pleased to have had the opportunity to acknowledge the outstanding contribution that Heather has made to the South Australian community when, in 2013, she was included in the SA Women's Honour Roll.

The South Australian Women's Honour Roll is an important part of an ongoing strategy to increase the formal recognition of women for their contribution to our community. Heather was eager to pass on her experience and knowledge to future generations and proud to mentor young people in particular, among them former Australian Democrat senator and parliamentary leader and Australia's ambassador for women and girls, Natasha Stott Despoja. Heather has enriched our state through her leadership, and her legacy will continue to be an inspiration to future generations of young women in particular.

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24):** I rise to second the motion and endorse the comments by the Leader of the Government and will add a few of my own on behalf of members opposite. I wish to extend our condolences to Mrs Southcott's family at this most difficult time. Mrs Southcott was elected as the member for Mitcham in 1982 at a by-election, following the resignation of the Hon. Robin Millhouse. Mrs Southcott had a long-standing connection with the seat of Mitcham, and in fact was the great aunt of the current federal member for Boothby, Dr Andrew Southcott, whose electorate encompasses the former seat of Mitcham.

At the time Mitcham was held by the Australian Democrats, and to her credit Mrs Southcott held the seat in a tight contest against the Liberal Party. Unfortunately for the Democrats she was not able to repeat this feat some six months later at a general election, and was displaced from the seat of Mitcham. Although Mrs Southcott's time in parliament was relatively brief, her achievements were distinguished.

In addition to being elected to the House of Assembly, Mrs Southcott was also elected the parliamentary leader of the South Australian Democrats on 20 August 1982. This accomplishment was historic, as Mrs Southcott became the first female leader of any parliamentary party in Australia. This was a fitting appointment, given that she came from a reformist background and encouraged bipartisanship in a testament to her goodwill and efforts for the betterment of her community.

Outside the political sphere Mrs Southcott was more generous with her time, finding time to volunteer her services with various groups, including the University of Adelaide. Mrs Southcott was the wife of Ron Southcott, a former commissioner with the Repatriation Commission and a renowned medical scientist. She was also the proud mother of two daughters, Ann Marie and Jane. Ann Marie is a respiratory physician and Jane a music teacher and their respective success is further testament to Mrs Southcott's endearing qualities as a parent.

Not only will Mrs Southcott be sorely missed by her family, but her passing also represents a great loss to the South Australian community, and I am sure her achievements, both in and out of the parliament, will not be forgotten.

**The Hon. K.L. VINCENT (14:26):** I rise to second the motion. Dignity for Disability and myself did not have a direct relationship with the former member for Mitcham. However, I understand that her work and commitment within the disability sector in particular was one of the important parts of a community involvement that marked hers as a life of significant public service.

When it came to politics, Mrs Southcott was first a member of the Liberal Country League and then, as progressive politics developed through a number of changes in South Australia, she moved with the times (which is something I can certainly appreciate), becoming a member of the Liberal Movement and the New Liberal Movement and, finally, she was a founding member of the Australian Democrats.

In 1982, when Robin Millhouse was appointed to the Supreme Court (as we have heard), Mrs Southcott contested the resulting by-election in Mitcham as a Democrat, and was elected with a winning margin of 90 votes. When the general election was held later that same year, and despite strong campaigning, she was not returned. I have been asked by a few people within the community to put on the record their thoughts for Heather and her family at this time, so I would like to read them. The Hon. Ian Gilfillan has requested that I place this statement on the record:

I remember Heather as a tireless, caring person who gave to many causes and many people. She blended humility and determination in unselfish service.

The Hon. Kate Reynolds has also asked me to place on record her sentiments:

Heather was an extraordinary person. She had endless energy and she was always working to organise somebody or something, and always with a grim determination that astounded me. Herding Australian Democrat MPs, state and national council members and an always-changing parade of candidates must have been so much worse than herding cats, but Heather always had an encouraging word to say, and we had many quiet conversations together, and it was in those moments that her knowledge and experience of community, politics and the strange worlds inhabited by members of parliament was most valuable to me. I know her calm and measured counsel was also valued by former state and national president, Richard Pascoe. We shared some very difficult times, and Heather was always dignified and always looking for the right thing to do. She will be missed.

In speaking as a woman in this place, I am particularly humbled, and I think it is important to note, even though it is somewhat clichéd, that I stand on the shoulders of giants, or perhaps sit on the shoulders of giants, in this case. Heather Southcott was arguably one such giant. As a trailblazer, she went where too few have followed—for instance, in being the first woman to lead a political party in the nation of Australia, as we have heard.

The record shows that she was somewhat unimpressed by her time in parliament and was content thereafter to support others who were elected to this place and to the Senate. Always an organiser at work and as an office bearer, she worked with groups including the United Nations Association of Australia, the National Council of Women, the women pharmacists group, the International Human Rights Day Committee and the Adelaide Women's Memorial Playing Fields Committee.

An advocate for peace, Ms Southcott was also involved in the Women's International League for Peace and Freedom and was an advocate for disarmament. She was a member of the Older Women Advisory Committee, a proud supporter of Amnesty International and a member of the Coalition for the Bill of Rights. There are certainly quite a few causes there that I can identify with. She strongly favoured a bill of rights for Australia. She also served on the committee of the Disability Advocacy & Complaints Service of South Australia.

In 1991, her service to the community was recognised with an Order of Australia medal and, in 2007, Ms Southcott was honoured by UNESCO for her work in human rights and, in particular, her commitment to refugees. A life like this is guided by a strong moral compass, a strong understanding of teamwork and the resilience to keep going even in the face of adversity. Dignity for Disability certainly believes that we need more people like Heather Southcott in the community and in this place, and that we need to value the people who give their lives to servicing others so selflessly as she did. Finally and importantly, I want to recognise that Heather was active in planning for the celebration of the Centenary of Women's Suffrage in 1994—one of her lasting legacies which the commemorative tapestries proudly display in the other place.

**The Hon. T.A. FRANKS (14:32):** I also rise to support the condolence motion for Mrs Heather Southcott AM, and reflect not only as a Greens MLC in this place and a crossbencher in this place but as a former member of the Democrats and someone who knew Heather for many decades. Heather, of course, was born in 1928 and was a foundation member of the Democrats from 1977, and she was the South Australian state secretary from 1977 to 1982. To that, I remember Heather always being there diligently at the meetings, keeping the office running, in the old funeral parlour. Heather certainly livened up that place.

As has been said, she was the first woman to lead a political party in this country, and that is something we should be very proud of. Of course, it was for a very brief time; I think that is something that pleased her. I do not think she actually wanted to stick around this place for very long. She won the traditionally safe Liberal seat of Mitcham in 1982, which has subsequently morphed into

the seat of Waite, and she was elected the state leader and then the national leader of the Australian Democrats.

She was the daughter of a bank manager and a community-minded homemaker. She was one of two daughters who grew up in a devout home in Rose Park, but that Presbyterian home was in the very liberal tradition of the Scots Church—a church full of dissenters. Heather was certainly never one to accept things as they were. She was afforded a good education and the opportunities of that church and of her very supportive family life.

As the minister noted, she was one of only four women enrolled at Adelaide University in the pharmacists group. I note that, in the student meetings of that pharmacists group, there being only four women, they would take their knitting to annoy the other male members of the group. Ever the dissenter was Heather Southcott.

She was, of course, involved in many, many groups in South Australia. In fact, I think the oral histories and the Women's Honour Roll do not even scratch the surface of the groups that she contributed to: the National Council of Women, the women pharmacists group, the group set up to establish the Women's Memorial Playing Fields, the Women's Electoral Lobby and so many more. It has been said that she was a joiner but the thing about Heather is that she was a stayer, and that is the ongoing memory I have of her. Her commitment to human rights, women's rights and democracy were second to none.

Heather was a consensus builder and a great mentor to many in the Democrats. That is testified by those who have come today to join us in the gallery: a former member of this place, the Hon. Kate Reynolds, and former leader of the Democrats and current Ambassador for Women and Girls for this nation, Natasha Stott Despoja. I am honoured to have worked for the former senator, Natasha Stott Despoja; that is how I first met Heather Southcott.

I remember working on the preselection campaign in 1994-95 when Natasha was number two to then senator, John Coulter. We held an event in the Botanic Gardens rotunda to launch Natasha's campaign, and she was honoured to have there former senator, Janine Haines, and Heather Southcott. She chose those two women because they exemplified the wonderful leadership and proud history that South Australia has of producing amazing parliamentarians.

Heather is reported, and certainly indicated in interviews that, whilst she only spent six months or so on the green-leather benches in the other place, she did not enjoy her time here; she found it frustrating. Yet she took those skills that she learnt to benefit the many groups that she was involved in. I was one who moved on from the Democrats, and I remember getting a job with Amnesty International. Heather was just down the corridor, and she was always there with a cup of tea and helpful advice and ongoing support. Then when I moved to the YWCA, there she was again. I am pretty sure that Heather was a joiner of many more organisations than we have noted today because in almost every membership organisation I had ever been involved in, Heather was there.

Heather contacted me earlier this year in response to a media interview I did just after the election. Matt and Dave on ABC 891 in the morning picked up that the Legislative Review Committee was looking into the homophobic gay panic defence I had raised in this parliament and hoped to have referred—what is called the homosexual advancement test under the suite of provocation defences. She rang me because I had been interviewed and I was surprised that the Legislative Review Committee had actually kept to its word and was pursuing the reference.

I conveyed the story to Matt and Dave that I had an experience with the Attorney-General on this issue where he told me that I should not even be able to try to move such a thing through the parliament and that it was impossible and too hard to do and wasn't necessary, and Heather rang me up that day and said, 'Good on you. Good on you for standing up, good on you for not being ridiculed, and good on you for sticking to your guns.'

She conveyed that in this place she often had difficulty not just getting people to second her work—and, indeed, I am privileged to be here as one of two members of my political party, so we have the luxury of ensuring that our issues get debated and that we have a seconder—but she indicated that back in those days parliamentary counsel would often refuse to draft her work, considering it too progressive or inappropriate.

So, she really struggled to get issues on the agenda of this parliament, but I thank her for her short contribution—being the first woman leader of an Australian political party, for paving the way for so many more progressive, not just politicians, but politically-active South Australians. Certainly her involvement in the United Nations International Year of the Youth and, of course, the Centenary of Women's Suffrage in South Australia in 1994 cannot be underestimated in the flow-on effect that has had. I want to share the words of Natasha Stott Despoja AM, Ambassador for Women and Girls, who said:

Heather's understanding of and commitment to the Democrats was extraordinary.

She was a trailblazer: she won the first and only...Democrats lower house seat.

It seemed, at times, she singlehandedly kept the party afloat. Her ideals stayed with her and her hopes for the party.

She was an indomitable worker for the party. She found the personalities in politics difficult in a time when personalities were becoming a great deal more important.

What Heather showed [me and I believe others is] that personalities may come and go, as may the politicians in this place—

some quicker than others—

but the power of progressive politics will [always win] out.

**The Hon. R.I. LUCAS (14:40):** I rise to support the motion and the comments that have been made by various members. I knew Heather from her period in the seventies and onwards. In recent years, I did not see her often other than at the occasional community function. As has been noted by one of the previous speakers, Heather came to the Australian Democrats from the Liberal grouping. The Democrats were an amalgam of people from varying political perspectives, and Heather had come through the LCL, the Liberal Movement, the New Liberal Movement (I think it was mentioned) and then the Australian Democrats.

Other members have referred to the occurrence of her winning the Mitcham by-election in 1982. I think it highlights the perils of by-elections for governments; I am sure it seemed like a good idea at the time. Robin Millhouse was appointed to a judicial appointment. I am sure the Liberal Party at the time assumed that they were going to win the seat back, as they would have put it.

Refreshing my memory of the election results, Robert Worth was our Liberal candidate—he had been there a number of times—and polled 46 per cent of the vote. Robert, of course, was the husband of Trish Worth, after that to become the federal Liberal member for Adelaide. Robert had been our candidate for Mitcham on at least two or three occasions, I suspect. Heather polled 26 per cent of the vote, so it was 46 per cent for Robert Worth versus 26 per cent.

There was a candidate by the name of J.D. Hill for the Labor Party; members will recognise him as minister John Hill in latter years. He was then probably the secretary or organiser for the party. He polled 24 per cent of the vote and the Nationals polled 4 per cent. From that position, the Labor Party, as it did when Robin Millhouse was running, ran dead in the seat of Mitcham. Anne Levy and John Hill, who were the principal organisers, would actively engage small numbers of rusted-on Labor voters to actually not support the Labor Party to depress the Labor Party vote in Mitcham so that the Labor vote would come in just beneath the Democrat vote, whether it be for Robin Millhouse or for Heather.

In the remarkably disciplined fashion of Labor voters in the seat of Mitcham, way more than 90 per cent of Labor second preferences went to Heather Southcott and prior to that to Robin Millhouse. So, having started with a primary vote of 46 per cent and with 4 per cent National vote, Robert Worth, the Liberal candidate, lost the seat in that particular by-election. So, it is a tribute to the discipline of the Labor Party, at least in the electorate of Mitcham.

I knew Heather through all of that period and subsequently. A number of people have referred to the fact that she was a joiner. I think the Hon. Tammy Franks said that she was a stayer in terms of her causes, and I acknowledge that, but what I want to briefly comment on is that Heather, in my experience with her, was someone who sought to build bridges between people of different views if they came to support a cause.

The example that I want to give is in relation to—and many in this chamber are probably way to young to even remember it—the massive Palm Sunday peace marches that occurred in South Australia through that period of the eighties. Heather, of course, was not only a joiner but an activist in relation to the peace marches. More than 10,000 people on occasions marched through the streets of Adelaide, supporting peace, from varying perspectives.

The point that I make is that there was then a small group of Liberals who marched for peace through the streets of Adelaide during that particular period, and I note to his eternal embarrassment, I suspect, that Nick Minchin was a fellow protester, as was Robert Hill—I suspect he would have been embarrassed about it. It was a very small group of Liberals who did. We were not always greeted well by many who protested, particularly those from the left, who saw the notion of peace as being the prerogative of those from the left of politics.

It was Heather Southcott—and a number of others, not just Heather—who sought to build bridges between people, whether they be from the left or the right in the Labor Party or left or right in the community, and who also sought to involve and continue to allow to continue to engage in the broad protest movement people from all political parties and political persuasions. I remember that to this day, the fact that she and a small group of others on occasions argued with other organisers as to whether or not people should be able to participate under their own banners, because clearly we came to the marches with a slightly different perspective than many others who were marching at the time, while supporting the broad principle that I am sure most people in the state and the nation supported anyway.

I want, in acknowledging that, to use that as an example of what I know was a trait that Heather had, not only in that area but in many other areas, in that she did seek to build bridges between people, to build coalitions of support for the causes that she believed in over her many years of activism. Certainly, I know I speak on behalf of a number of former members of the Liberal Party in acknowledging her activism and her commitment to her causes, and I share with the passing on of condolences to her family, friends and acquaintances.

**The PRESIDENT:** If there are no further speakers, I ask all members to stand in their places and carry the motion in silence.

Motion carried by members standing in their places in silence.

*Sitting suspended from 14:47 to 15:04.*

*Parliamentary Procedure*

**PAPERS**

The following papers were laid on the table:

By the President—

Reports, 2013-14—

City of Holdfast Bay

District Council—

Barossa

Clare and Gilbert Valleys

Franklin Harbour

Goyder

Lower Eyre Peninsula

Port Lincoln

Port Pirie

Renmark Paringa

Streaky Bay

Wakefield

Wudinna

By the Minister for Employment, Higher Education and Skills (Hon. G.E. Gago)—

Reports, 2013-14—

ANZAC Day Commemoration Council  
Legal Practitioners Education and Admission Council  
Outback Communities Authority  
Professional Standards Councils  
Regulations under the following Act—  
Local Government Act 1999—Training and Development

By the Minister for Business Services and Consumers (Hon. G.E. Gago)—  
Regulations under the following Act—  
Liquor Licensing Act 1997—Dry Areas—Strathalbyn

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—  
AustralAsia Railway Corporation—Report, 2013-14  
Regulations under the following Acts—  
Motor Vehicles Act 1959—Fees  
National Parks and Wildlife Act 1972—Ngaut Ngaut Conservation Park  
SACE Board of South Australia Act 1983—Interpretation  
South Australian Commercial Northern Zone Rock Lobster Fishery Management Plan  
dated 14 November 2014  
South Australian Government Response to the Recommendations of the Select Committee  
on Sustainable Farming Practices

*Parliamentary Committees*

**SOCIAL DEVELOPMENT COMMITTEE**

**The Hon. G.A. KANDELAARS (15:05):** I bring up the report of the committee on its review of the Statutes Amendment Recidivist Young Offenders and Youth Parole Board Act 2009.

Report received and ordered to be published.

**LEGISLATIVE REVIEW COMMITTEE**

**The Hon. G.A. KANDELAARS (15:06):** I bring up the report of the committee on the Partial Defence of Provocation.

Report received and ordered to be published.

**BUDGET AND FINANCE COMMITTEE**

**The Hon. R.I. LUCAS (15:07):** I bring up the report of the operations of the Budget and Finance Committee 2013-14, together with minutes of proceedings and evidence.

Report received and ordered to be published.

**STATUTORY OFFICERS COMMITTEE**

**The Hon. G.A. KANDELAARS (15:07):** I lay upon the table the report of the committee, pursuant to section 151 of the Parliamentary Committees Act 1991.

Report received and ordered to be published.

*Resolutions*

**OMBUDSMAN**

**The Hon. G.A. KANDELAARS (15:07):** I seek leave to move a motion without notice in respect of the recommendation contained in the report of the Statutory Officers Committee.

Leave granted.

**The Hon. G.A. KANDELAARS:** I move:

That a recommendation be made to His Excellency the Governor to appoint Mr Wayne Lines to the Office of the Ombudsman, and that a message be sent to the House of Assembly transmitting this resolution and requesting its concurrence thereto.

Just briefly, I should outline the activities of the committee. On 12 May 2014 the then ombudsman, Mr Richard Bingham, submitted his resignation to His Excellency the Governor. The resignation was to take effect from 30 June 2014.

On 3 July 2014 the committee took on the role, with the assistance of the Attorney-General's Department, of finding a suitable person to fill the vacancy, and authorised the commencement of a selection process with the establishment of a selection panel for the appointment of the Ombudsman. The position was advertised in September 2014 and there were 25 applications received.

The selection panel then provided the Statutory Officers Committee with a short list of three applicants, who they reported were all eminently appointable. Subsequently, the committee met on two occasions to interview the short-listed applicants and then determined to recommend to this house that Mr Wayne Lines be appointed Ombudsman.

**The Hon. S.G. WADE (15:10):** On behalf of the opposition and as a member of the Statutory Officers Committee, I endorse the motion. Mr Lines, recommended by the committee, comes with significant experience in private practice, the Crown Solicitor's Office and, more recently, as WorkCover Ombudsman. I am happy to associate myself with the motion.

Motion carried.

#### *Ministerial Statement*

### **CLEAN ENERGY SUMMIT**

**The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:10):** I lay upon the table a copy of a ministerial statement relating to the Clean Energy Summit made by the Premier, the Hon. Jay Weatherill.

### **SOUTH-EAST ASIA TRADE**

**The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:10):** I lay upon the table a copy of a ministerial statement relating to the trade mission to Singapore and Malaysia made by the Premier, the Hon. Jay Weatherill.

### **CLEAN ENERGY SUMMIT**

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:10):** I seek leave to make a ministerial statement on the Clean Energy Summit held in Adelaide and to table the communiqué arising from it.

Leave granted.

**The Hon. I.K. HUNTER:** On Monday 1 December, the Premier hosted a Clean Energy Summit in the House of Assembly at Parliament House. The Premier called this emergency summit in response to the continued uncertainty in the renewable energy sector caused by the Abbott government's review of the Renewable Energy Target.

The recent Warburton review, commissioned by the federal government, has thrown into question the RET, creating political and economic uncertainty and stalling significant investment in the renewable energy sector. At a time when the international community is investing hundreds of billions of dollars in renewable energy, the Australian government has taken a backward step that threatens to undermine the nation's capacity in this growing industry.

As a former Liberal Party leader and an economics expert, Dr John Hewson AM was reported in *The Advertiser* on Monday 1 December as saying, 'There is no logic to it.' Dr Hewson joined Professor Ross Garnaut AO and the chief executive of the Clean Energy Council, Mr Kane Thornton,



in delivering keynote speeches to over 70 key industry, community and opinion leaders from around the country to discuss the future of the national RET and clean energy investment in Australia.

The summit heard how changes to the national RET will jeopardise billions of dollars of investment and tens of thousands of jobs. Participants called on the federal government to urgently end uncertainty regarding the future of renewable energy in Australia. The outcome of the at times passionate discussion is the communiqué that I table today. The communiqué presents to the federal government a unified and clear position that continuing the decade-long bipartisan support for the RET is integral to securing future investment in renewable energy and the associated economic and environmental benefits.

It is clear from the renewable sector that they seek a better-informed national debate on clean energy, and they hope that the summit and the communiqué is one step forward in attaining commitment towards renewable energy and investment across all levels of government decision-making. We are facing an uncertain future because of climate change. The last thing we need is more uncertainty in the way we deal with it. We need a unified, determined and proactive approach so that we can create a sustainable future for generations to come.

#### HUGHES, PHILLIP

**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 lay upon the table a copy of a ministerial statement relating to Australian cricketer Mr Phillip Hughes made in the other place by the Minister for Recreation and Sport.

#### ADELAIDE UNIVERSITY DENTAL CLINIC

**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 lay upon the table a copy of a ministerial statement entitled SA Dental Education Partner made by the Minister for Health.

#### ROYAL ADELAIDE HOSPITAL CONSTRUCTION SITE INCIDENT

**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 also lay upon the table a copy of a ministerial statement regarding to the new Royal Adelaide Hospital workplace incident made by the Minister for Health.

#### *Question Time*

#### WATER PRICING

**The Hon. J.M.A. LENSINK (15:14):** I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question on the subject of water prices.

Leave granted.

**The Hon. J.M.A. LENSINK:** It has been revealed that the Premier and Treasurer have had influence over the regulated asset base of SA Water through the second pricing order which was signed on 17 May 2013. This led, through the overestimation of demand being set at 190 gigalitres, to the overinflation of the RAB by some \$700 million by the Premier's actions. On FIVEaa on 28 May 2013, Mr Leon Byner's show, the Premier claimed:

I don't think SA Water were expecting to have the cost ripped out of their regulated asset base in the way in which ESCOSA carried out their work.

He then went on to say that that would reduce the government's dividend by \$800 million per annum. My question is: why did the Premier deliberately mislead the people of South Australia through this claim?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:15):** Thank you, Mr Premier. I thank the honourable member for her most important question.

*Members interjecting:*

**The Hon. I.K. HUNTER:** Mr President—I note that I have been advised at some stage that, unlike other jurisdictions, there is no prohibition on premiers coming from this chamber. I am not sure if that is still the case, Mr President—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I.K. HUNTER:** —but that is something that a number of people could aspire to, perhaps. Mr President, let me just put to bed this unfortunate question asked by the Hon. Michelle Lensink. Given the premise being so completely unfounded I will need to give some background information about water pricing.

Unlike privately owned utilities there are frameworks in place and pricing regimes put in place by this government preventing the generation of excessive profits and distributions by SA Water. This government introduced the economic regulation of SA Water by the Essential Services Commission of South Australia for this very reason. We have introduced transparency and accountability to prevent the earning of monopoly profits and excessive returns, and ESCOSA now sets a cap on the amount of revenue that can be earned by SA Water.

SA Water's first determination undertaken by ESCOSA was announced in May 2013 and covers the three-year period 2013-14 to 2015-16. Based on this determination the government was able to announce a decrease in prices of 6.4 per cent in 2013-14—a decrease in prices of 6.4 per cent. As promised for 2014-15, water and sewerage price increases have been limited to inflation or CPI in line with ESCOSA's determination.

Delivering those lower prices meant contributions to government were estimated to be reduced by \$80 million over the three-year regulatory period. Over the period of 2014-15 to 2017-18 the government has forecast to receive \$630 million in dividends and \$284 million in tax equivalent payments, and over this time the government will make two very significant forms of return on this income. Community service obligation payments back to SA Water are \$515 million, which lowers the water and sewerage prices and provides for community services, in particular ensuring that regional customers do not pay more than metropolitan customers.

Water and sewerage concession payments of \$177 million benefit low-income water and sewerage service customers. This is important because the recharging of our system in returns to our communities primarily affects customers who are on low incomes or living in rural and regional South Australia. They are the major beneficiaries of these CSOs, and these are the beneficiaries that the Liberal Party opposite want to attack. They want to attack these people by actually taking away the deregulation that drops prices and privatising SA Water to their mates in the big end of town. That is their plan; that is their secret plan and yet we do not want to hear that from them because they say it is not true. But we know, from when we talked to their federal counterparts, that is exactly what they had in mind.

**The Hon. J.M.A. Lensink:** Oh, really! That's actually a lie.

**The Hon. I.K. HUNTER:** After taking account of—

**The Hon. J.M.A. Lensink:** That's a lie.

**The Hon. I.K. HUNTER:** —community service obligations—

**The PRESIDENT:** The Hon. Ms Lensink, the minister has the floor.

**The Hon. J.M.A. Lensink:** Well, he's lying.

**The Hon. I.K. HUNTER:** After taking into account community service obligation payments and water and sewerage concessions, a total of—

*Members interjecting:*

**The PRESIDENT:** Minister, please sit down.

**The Hon. G.E. GAGO:** Point of order—

**The PRESIDENT:** The Hon. Ms Lensink, it is totally unparliamentary to refer to the minister as being a liar.

**The Hon. J.S.L. Dawkins:** No, she didn't say that.

**The PRESIDENT:** You said 'he's lying'.

**The Hon. J.S.L. Dawkins:** She did not say that.

**The PRESIDENT:** She said he was lying. That would naturally mean you are saying he is a liar. I want you to withdraw that remark.

**The Hon. J.S.L. Dawkins:** Well, she doesn't have to.

**The Hon. J.M.A. LENSINK:** No, I will not withdraw that remark—that is a lie.

**The Hon. T.A. FRANKS:** On a point of order, the honourable member was not on her feet when she said those words, so I don't understand how she can withdraw them.

**The PRESIDENT:** I personally couldn't care less; she called across the floor and called the minister a liar.

**The Hon. T.A. FRANKS:** I'm asking you: how can she withdraw them if they weren't put on the record?

**The Hon. J.S.L. Dawkins:** She did not. She did not do that.

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

**The PRESIDENT:** You said he was lying.

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

**The PRESIDENT:** Well, just withdraw that he was lying.

**The Hon. J.M.A. Lensink:** Well, it's true.

**The PRESIDENT:** Are you going to withdraw it?

**The Hon. J.M.A. Lensink:** No, I'm not.

**The PRESIDENT:** Well, I've got no other alternative but to name you. Totally unacceptable, this unparliamentary behaviour.

*Members interjecting:*

**The PRESIDENT:** I honestly think, the Hon. Mr Dawkins, that the Hon. Ms Lensink can handle it herself without you sitting in the background giving advice.

*Members*

#### **HON. MS LENSINK, SUSPENSION**

**The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:21):** I move:

That the Hon. Michelle Lensink be suspended from the service of the council.

The council divided on the motion:

Ayes..... 6  
Noes ..... 15  
Majority ..... 9

**AYES**

Gago, G.E. (teller)  
Kandelaars, G.A.

Gazzola, J.M.  
Maher, K.J.

Hunter, I.K.  
Ngo, T.T.

## NOES

Brokenshire, R.L.  
Finnigan, B.V.  
Lee, J.S.  
McLachlan, A.L.  
Stephens, T.J.

Darley, J.A.  
Franks, T.A.  
Lensink, J.M.A.  
Parnell, M.C.  
Vincent, K.L.

Dawkins, J.S.L.  
Hood, D.G.E.  
Lucas, R.I.  
Ridgway, D.W. (teller)  
Wade, S.G.

Motion thus negatived.

*Question Time***WATER PRICING**

**The PRESIDENT:** Honourable minister, do you want to continue?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:26):** Thank you, Mr President. I apologise for that brief interruption to my answer. It does bear some noting, of course, that the opposition now have trashed the standards of this house—the house that they go out and say they want to uphold. As they are wont to say—

*Members interjecting:*

**The PRESIDENT:** Order! The minister has the floor.

**The Hon. I.K. HUNTER:** 'Standards don't matter,' I heard from the other side of the chamber, 'when you have the numbers.' That's the way they operate now, Mr President. Going back to talking about community service obligation payments and water and sewerage concessions, a total of \$222 million is forecast to be available for general government services during the period of 2014-15 to 2017-18.

On an annual basis, this means we are providing \$43 million back in water and sewerage concessions during 2014-15 and \$126 million in community service obligation payments. After taking these items into account, the expected return to the government this financial year is \$26.65 million, I am advised, which again goes back to delivering services to South Australians, and that's not including the \$43 million the government spends on concessions.

The net contribution of the government in 2014-15 is \$69.96 million. As a comparison in today's dollar terms, the Liberals took out a lot more in their last term of government. They took out a net contribution of \$170 million in their last term of government—that's \$100 million more than what we have taken out this year.

This government recognises the impact, of course, of cost of living pressures, and so supports South Australians who are doing it tough and provides concessions of 30 per cent for 2014-15, with a minimum of \$185 and a maximum of \$295 to those who meet the eligibility criteria. The state government is also committed to introducing a single concession payment from July of next year to simplify family budgeting by providing all concession payments for the year in one single payment.

This government has a very proud history of water reform and reform of the industry. We introduced the Water Industry Act to create a level playing field for water retailers. There is already a range of procedures and processes that are designed to ensure fair and appropriate pricing. This government is committed to fair and equitable water pricing.

We have secured our water security for future generations and last year delivered, as I said earlier, a 6.4 per cent reduction in water prices while ensuring water prices will rise by no more than CPI for the next two years. The arrangements for pricing water in South Australia have met and continue to meet all appropriate regulatory requirements and are consistent with the National Water Initiative.

Our water pricing ensures equitable service delivery for all South Australians irrespective of where they live, and these policies take into account essential investment in infrastructure that will secure our water supply into the future. This is particularly important, given South Australia's uniquely dry climate. We can no longer rely on our traditional sources of water to meet our future water needs, and neither are our requirements the same as other jurisdictions.

The government has in place a range of measures to ensure we offer transparent and accountable practices in relation to water services. There is now a requirement for external reporting and monitoring of SA Water's performance and compliance, as well as a requirement for audited regulatory accounts for SA Water. We have increased transparency on noncommercial activities through a direction from the minister, and the water industry now has an independent technical regulation through the transfer of responsibility for technical regulation from SA Water to the Office of the Technical Regulator.

The government has expanded the Ombudsman to the Energy and Water Ombudsman of South Australia to independently assess SA Water customer complaints and, unlike the Liberal Party in this state which sold off our electricity assets, we will not be pitching a 'for sale' sign on SA Water, or any of its assets, and seeing profits going interstate or overseas. This state government will ensure that SA Water remains SA owned, with any benefits going straight back and providing concessions and services to South Australians.

**The PRESIDENT:** Supplementary.

#### **WATER PRICING**

**The Hon. J.M.A. LENSINK (15:30):** Is it not true that by deliberately inflating demand to 190 gigalitres, the government deliberately manipulated water prices prior to the election and has set them on a trajectory of being increased for the next 50 years, as has been stated by the former chief of ESCOSA?

**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):** My understanding and recollection, without having notes in front of me, was that the government set a projected usage of 190 gigalitres and after 12 months the usage was, in fact, about 191 gigalitres—of that order. So, the government actually got the projection right.

**The PRESIDENT:** Supplementary.

#### **WATER PRICING**

**The Hon. J.M.A. LENSINK (15:31):** Does the minister concede that this was against the advice of SA Water and ESCOSA?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:31):** Making projections into the future is a difficult task. The government uses ranges of information sources to get the right figure, and on my understanding, from memory, we came very, very close.

#### **WATER PRICING**

**The Hon. R.L. BROKESHIRE (15:31):** A supplementary to the minister's answer: the minister said that country water consumers had community service obligations—postage-stamp pricing. Does he stand by that for the farmers who have seen hundreds of per cent increases in the last few years and are now paying upwards of \$90,000 to \$100,000 a year for stock water? Where is the community service obligation there?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:32):** I have warned the honourable member in the past about pursuing this line, because what he is actually doing is advocating to take the CSOs off communities in rural and regional South Australia. They will be exposed by the policies of Family First and the Liberal Party in this place to much higher water prices, because it costs a lot more to deliver water to remote and sparsely

populated communities of our state than it does to a large, dense population like a town or a city. But we believe in this state, the Labor government believes, that it is only fair that that cost is spread across all SA Water customers so everyone benefits from postage-stamp pricing. If the Hon. Mr Brokenshire wants to change that policy, he should be honest enough to get up and tell his community why.

#### WATER PRICING

**The Hon. S.G. WADE (15:32):** I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question relating to water prices.

Leave granted.

**The Hon. S.G. WADE:** On radio 5AA on 28 May 2013, Leon Byner asked the Premier, '...are you going to give ESCOSA the true independence to set the price of water, not SA Water and when are you going to do this?' to which the Premier replied, 'I think that's contemplated for the next pricing round.' The pricing round signed by the Premier on 2 May 2014 for the period 2006 ended 2020 limits ESCOSA's role to determining SA Water's revenue in the context of the regulated asset base. My question to the minister is: was the Premier's commitment to more independence and future pricing determinations reflected in the recent pricing orders up to 2020?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:33):** As I understand it, ESCOSA is responsible after considering SA Water's business of setting the allowable revenue for SA Water and that is exactly what it does and what it would do in the future.

#### SA WATER

**The Hon. R.I. LUCAS (15:34):** I seek leave to make a brief explanation prior to directing a question to the Minister for Water and the River Murray on the subject of privatisation.

Leave granted.

**The Hon. R.I. LUCAS:** It has now been revealed publicly that, under the Weatherill Labor government, in October 2012, immediately after Mr Weatherill became Premier, Treasury appointed KPMG to undertake a study into the privatisation of some SA Water assets. It has also been revealed that the Weatherill Labor government paid \$100,000 to KPMG for that work.

It has also been placed on the public record that the Under Treasurer, Brett Rowse, had a confidential discussion with Dr Paul Kerin, the former CEO of ESCOSA, and told Dr Kerin that the government was considering privatisation of some SA Water assets. Given the statements that minister Hunter and others have made claiming that they have opposed privatisation for many years and continue to oppose privatisation, my two questions to the minister are:

1. Will the minister now admit that in October 2012 the Weatherill Labor government appointed KPMG and paid them \$100,000 to provide advice on the sale of some SA Water assets?
2. Given the Under Treasurer has confirmed to Dr Kerin that the government was considering the sale of some SA Water assets at that time, what assets was the government considering privatising and, in particular, did it include the sale of the desal plant?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:36):** I thank the honourable member for his most important questions, although I reject at the outset all of the hyperbole and loose facts that form the premise of his question. As the Victorian state government has found out over the weekend and the federal government is finding out now, governments are judged on what they say they will do and then what they deliver on. This government revealed publicly in the lead-up to the election that we will not be privatising SA Water or its assets.

This government put on the public record what our intentions were for SA Water, as opposed to what the Liberal Party wanted to put on the record. The former Liberal government, in which the honourable member I think was a treasurer at some stage or another, was judged on its privatisation of the electricity network, which has had a disastrous impact on the cost of living, brought to you by

the Liberal Party of South Australia. As I said prior to the March election, we on this side made a firm commitment to keep SA Water in public hands and not to privatise assets of SA Water. We retain that commitment—

**The Hon. K.J. Maher:** It's what we've done.

**The Hon. I.K. HUNTER:** —and that is what we have done and that is what we have delivered on.

*Members interjecting:*

**The PRESIDENT:** The Hon. Mr Maher, the minister has the call.

**The Hon. I.K. HUNTER:** I think the Hon. Mr Lucas has actually been on the record on the radio at some stage admitting that the commonwealth budget has resulted in the loss of \$898 million to the South Australian budget from the commonwealth over the next four years. This is what happens when you have a Liberal commonwealth government that goes to an election saying one thing—no cuts to health, no cuts to education, no cuts to the ABC, no cuts to SBS—and what do they do now?

They tell us, this Liberal commonwealth government, that in fact they would not trust South Australians to build a canoe, even though we have a highly experienced team down at Techport doing that work, and even though we have a fantastic South Australian company, owned by the commonwealth government, strangely enough. We get told, 'No, South Australians can't even do the job,' even while they are building ships for the Australian Navy. I think this man—

**The Hon. R.L. BROKENSHERE:** Point of order, sir.

**The PRESIDENT:** Point of order.

**The Hon. R.L. BROKENSHERE:** The point of order is relevance. The question is: was \$100,000 paid for KPMG reports—nothing to do with the ASC. Can we have an answer for once?

**The Hon. I.K. HUNTER:** I wonder what the honourable member was doing in the cabinet room when he was a member of cabinet when they talked about privatising ETSA. What did he do? He put his hand up, he said, 'Yes'—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. I.K. HUNTER:** —'let's sell off those state assets and'—

**The PRESIDENT:** Minister, can you get this over quickly if you can, please?

**The Hon. I.K. HUNTER:** Thank you, Mr President, for that guidance. This government places a very high value on keeping our essential services in public hands and that is exactly what we will do.

### SA WATER

**The Hon. R.I. LUCAS (15:39):** As a supplementary, given the minister's answer, does he accept that he is a raging hypocrite for pretending to be anti-privatisation when he was secretly spending \$100,000 on KPMG to try to sell off the desal plant and other SA Water assets prior to the election without telling the people of South Australia?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:39):** The raging hypocrites are all on that side of the chamber. They are the ones who wanted to keep from South Australians their secret plans and they were caught out, because the South Australian public knows their form.

*Members interjecting:*

**The PRESIDENT:** Honourable minister, sit down. There's no debate. The minister is trying to answer a question, so allow him to do it in silence. Have you finished your answer, minister?

**The Hon. I.K. HUNTER:** I have.

#### **WEST COAST CABINET**

**The Hon. T.T. NGO (15:40):** I seek leave to make a brief explanation before asking the Minister for Business Services and Consumers a question about the country cabinet.

Leave granted.

**The Hon. T.T. NGO:** As we head into the holiday and Christmas season, I note that the Eyre Peninsula is an important tourist destination. South Australia is best known for our outdoor adventure tourism, especially fishing, camping and the like. I know many of us (including me) do not get the opportunity to explore many beautiful places in the outback of South Australia that many people around the world come to see. My question to the minister is: can you tell the chamber about the recent trip to Ceduna and Streaky Bay as part of the country cabinet?

**The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:41):** I thank the honourable member for his question and his interest in regional South Australia. It is always a great pleasure to travel around South Australia's regions, meeting and visiting people in their local communities. The most recent country cabinet was held in Ceduna and Streaky Bay, an incredibly beautiful part of the world, as I know you are well aware. I know you have visited this area many times yourself, sir. It was a very enjoyable visit, as well as being incredibly informative, and I have to say, the oysters were pretty good as well.

I was pleased to be able to join ministers Hunter and Bettison on a tour of the Ceduna service coordination. A high proportion of Aboriginal people access and rely on services within the Ceduna region, and it is great that real progress is being made to strengthen the partnerships between the community, government and Aboriginal organisations that come together to support a strong and vibrant Ceduna community.

To further this, the state government has recently established a new position of manager of Ceduna service reform, which will be a key role across government agencies to help improve service coordination and to develop a Ceduna service plan. Furthermore, in late 2013, a meeting of Ceduna service providers decided that a vulnerable persons framework, based on the family safety framework, could assist in the coordination of services.

The framework aims to ensure clients are provided with a consistent point of access to all services and that their care is coordinated and managed. Whilst it has only been operational for a fairly short period of time, it was great to hear positive feedback from those involved in service provision about how beneficial this framework has already been.

I was able to visit the Ceduna Domestic Violence and Aboriginal Family Violence Centre, and it was great to be able to visit with people who are passionate about working towards the eradication of violence against women and children and working with women to ensure their safety. The service is accessible 24 hours a day, seven days a week. As well as providing a safe location for women, the service also provides education sessions on domestic violence for service providers, agencies, schools and individuals.

During my time in Streaky Bay, I was able to visit Minotaur Exploration. This innovative mineral exploration company has been awarded \$36,000 as part of the \$1.2 million innovation voucher program, part of the Premier's Research and Industry Fund, which facilitates new connections between businesses and research providers to help businesses find solutions to industry problems.

Minotaur is undertaking some incredibly fascinating work. They are exploring uses for clay minerals that could benefit local drilling programs and potentially create a new supply chain, and up to 60 new jobs in South Australia are likely to be located on the Eyre Peninsula. Currently, Minotaur is working with researchers from the University of Adelaide and the United States to analyse the properties of two clay minerals: kaolin and halloysite. If testing proves successful, these minerals will be used to manufacture a ceramic proppant which can be used in South Australian gas drilling ventures. It is amazing: these clay deposits are quite close to the top of the soil. They are very white



and are apparently a very high quality. Not only is this an exciting investigation because it has the potential to—

**The Hon. D.W. Ridgway:** Liz Penfold spoke about this 10 years ago.

**The Hon. G.E. GAGO:** Well, we are doing something about it, unlike the previous government. The opposition do nothing about it, Mr President. They have done nothing.

*The Hon. D.W. Ridgway interjecting:*

**The PRESIDENT:** Sit down. The Hon. Mr Ridgway, you withdraw that.

**The Hon. D.W. RIDGWAY:** I will withdraw that. I apologise.

**The PRESIDENT:** That is accepted.

**The Hon. G.E. GAGO:** But because currently the lightweight ceramic proppant being sourced from China for many of the Cooper Basin programs is of poor quality and not optimal, we are actually importing the stuff at the moment. It is not optimal for use in the deep conditions found in the Cooper Basin. Minotaur expects that results from initial samples sent to the United States about the viability of their product are due in March, and we are certainly looking forward to hearing about them and being able to inform the chamber about this innovative product, which is vital in helping us support the state's strategic priorities and economic future. Although it was a very busy couple of days and hard work—

*The Hon. K.J. Maher interjecting:*

**The PRESIDENT:** The Hon. Mr Maher, can you please show some respect for your leader?

**The Hon. G.E. GAGO:** —it was made considerably easier by the very warm and welcoming reception that we received from local residents and communities wherever we went.

#### APY LANDS

**The Hon. R.L. BROKENSHIRE (15:47):** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs a question about his work in the APY lands.

Leave granted.

**The Hon. R.L. BROKENSHIRE:** Today we have had a bill put before us by the government. For some reason or another that we will work through during the debate on the bill, it is an urgency bill, tabled today and expected to go through the house, regarding Draconian decisions potentially in the APY lands. My question therefore to the minister is: how many times has the minister visited the APY lands and when was the last time the minister visited the APY lands since he has been minister responsible for Aboriginal affairs?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:47):** I thank the honourable member for his most important question. From recollection, I think I have been to the APY lands three or four times. I was due to go up in September but, for family reasons, I was not able to make it. I think my last visit was last year. The last time was September last year. Correction: I have been up three times.

#### APY LANDS

**The Hon. R.L. BROKENSHIRE (15:48):** Supplementary.

**The PRESIDENT:** Supplementary, Mr Brokenshire.

**The Hon. R.L. BROKENSHIRE:** If the last time the minister visited the APY lands was September 2013—

**The Hon. R.I. Lucas:** 14 months ago.

**The Hon. R.L. BROKENSHIRE:** —14 months ago, how long before that were his other two visits?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:48):** I cannot remember. It would have been somewhere between 10 and 12 months previous. It might have been earlier.

#### APY LANDS

**The Hon. T.A. FRANKS (15:48):** Supplementary.

**The PRESIDENT:** The Hon. Ms Franks.

**The Hon. T.A. FRANKS:** If the minister has not been on the lands for over a year, how concerned can he have been about the APY executive's operations?

**The PRESIDENT:** Minister, do you want to answer that? No. The Hon. Mr Ridgway.

#### SOUTH AUSTRALIAN TOURISM ASSETS

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:49):** I seek leave to make a brief explanation before asking the Minister for the Environment a question about his mismanagement of the department's tourism assets.

Leave granted.

**The Hon. D.W. RIDGWAY:** First, the Adelaide Gaol: since May last year all guided tours and functions have been suspended. Apparently there have been some internal issues between volunteers and the Adelaide Gaol Preservation Society. I am informed that as part of the DEWNR decision, an accredited South Australian tourism provider who was contracted to run the interpretive tours has had their contract cancelled. This year the government decided to award a Victorian company the contract for the provision of guided tours, so the Preservation Society applied for an injunction. I am told that at present—and for some time—the gaol's only actual generated revenue is from a public car park.

The Naracoorte Caves, South Australia's only World Heritage-listed site, are run down and neglected, and barely changed since my year six school excursion. In relation to Martindale Hall, just out of Clare, the last lessee (who, I believe, left the premises yesterday) had been living there and running the museum and a B&B for 14 years. She was asked to leave despite the government not having a plan for this iconic asset. The department said it was investigating options to recognise and maximise the hall's tourism value; however, we have heard nothing more than local tourism operators trying fruitlessly to leverage off the historic society.

At Granite Island, 14 years ago there were 2,000 baby penguins; in July this year there were just 38. Yet the penguin rescue centre has been prevented from breeding penguins, even having to destroy their eggs, due to DEWNR's refusal to grant permits. Meanwhile the island's cafe is on its knees due to poor business, and apparently its closure is imminent. Finally, tourists are confused and disoriented in Innes National Park. The local visitor centre is open only two days a week, and the automated ticket payment machines are not functional, resulting in frustration for visitors who subsequently turn away or enter the park without paying. My questions are:

1. As the owners of this state's largest tourism assets, how does the minister's mismanagement of DEWNR's tourism assets fit with Premier Weatherill's recently announced 10 point plan, in which tourism factors at number five in priority, which was reiterated by the Premier today at the AHA annual President's Lunch?

2. Given the tourism minister's recent criticism that the Port Adelaide Enfield council had been lazy in managing its tourism assets, why has the minister been, if you like, comatose or asleep when it comes to the mismanagement and management of his own department's tourism assets?

**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):** What an outrageous question from this duplicitous man. He pretends that he has been to Naracoorte Caves in recent times, or since year six. He should know the great advances that have been made down at Naracoorte Caves, but I will come to that in a moment. I will go through some of

the issues that the honourable member seeks to conflate together in some desperate attempt at relevance. What was in question number four from the Liberals today, Mr President? The leader of the Liberal Party in this place gets question number four—

*Members interjecting:*

**The PRESIDENT:** The Hon. Mr Maher will allow the minister to answer the question.

**The Hon. I.K. HUNTER:** You have to laugh, Mr President. Let me just go through some of these issues for the honourable member's delight and information. The Adelaide Gaol is on crown land and is owned by the state government. The Department of Environment, Water and Natural Resources manages the site and has spent \$1.3 million over the past three years on maintenance and restoration at the site. The department worked with the Adelaide Gaol Preservation Society for over 15 years to provide public access to the gaol through the provision of guided tours, special events and the development of information displays.

I understand that as of 1 June 2013 the department ceased the relationship with the Adelaide Gaol Preservation Society in order to establish new management arrangements for the gaol. The department undertook a review of options to determine how to best support the gaol's continued future operations. It sought public expressions of interest in conducting tours at the gaol, and shortlisting of submissions and evaluation of additional information was completed.

Volunteer opportunities at the gaol continue within the guidelines of the department's volunteer management framework and under the supervision of the department's Adelaide Gaol manager. I am told the new volunteer program has attracted a number of volunteers who meet and greet visitors to the gaol, providing them with information to enhance their visit, help to keep the site well presented, and catalogue and protect the important artefacts of the gaol.

It is important to note that the Adelaide Gaol remains open for business and self-guided access, and bookings for special events continue as usual. The gaol has a wealth of local history and will continue to be an important place for the South Australian community and visitors to the state. I would like to thank the many volunteers who have worked and are now working with the department, and highlight the fact that this government remains committed to continuing to provide volunteering opportunities.

In fact, probably several months ago now I received an email from a delighted person who has been working as a volunteer at Adelaide Gaol. She said she had never seen it being operated better, and she thanked me and the department for our involvement in upgrading the gaol and making it a better spot for tourists.

In relation to Martindale Hall, I have answered these questions before, but let me go through it again. We are committed as a government to preserving our built heritage for future generations. Martindale Hall is a significant example of our built heritage, and we are committed to ensuring that its future is preserved. For those who are not familiar, Martindale Hall is a grand Georgian mansion built in 1879, located in Mintaro in the Clare Valley. A portion of the Martindale Hall Conservation Park was held under lease, providing access to the historic hall for accommodation and functions.

The government recently undertook an expression of interest process, in consultation with key stakeholders, including the South Australian Tourism Commission, Regional Development Australia and State Heritage. The aim of the expression of interest process was to secure a sustainable, commercial operation at the site. No suitable responses to the expression of interest were received, I am advised. The grand coach house, located in the grounds of Martindale Hall, has significant potential for tourism and hospitality, but the expression of interest process did not identify any parties who were interested in upgrading and developing the building.

The former leaseholders were fully consulted, I am advised, in the period leading up to and throughout the expression of interest process. They were invited to apply for a new lease through the expression of interest process. The former leaseholders did lodge an expression of interest through the process, but I am advised that this offer would not have been financially sustainable; it therefore could not be recommended by the evaluation panel.

The lease was extended, I am told, to 1 December 2014 to enable the lessees to conclude their business. I understand that caretaker arrangements have been put in place. The hall will be closed from 1 to 7 December in order for a stocktake of the collection to be undertaken and for essential maintenance to be assessed. When a caretaker arrangement has been finalised, Martindale Hall will be reopened as a museum on 8 December, with the opening hours of 11am to 4pm seven days a week, except Christmas Day and Good Friday. The local tourism information centre, I am advised, has been told of the new arrangements.

It is not sustainable for the department to provide premises to a private enterprise where the income from that private enterprise does not go anywhere near covering the maintenance costs and the access costs for that building. In addition, the honourable member, in his question, obviously ignored the issues to do with tourism that this government has been dealing with, such as \$1.6 million for the Adelaide bird sanctuary we are developing. Where is their policy on ecotourism? They didn't have one. Where is their policy on tourism assets replacement? This government has promised \$10.4 million over the last several years for doing exactly what the honourable member said we are not doing.

### SOUTH AUSTRALIAN TOURISM ASSETS

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:57):** Supplementary question: has the Adelaide Gaol Preservation Society taken out an injunction against DEWNR?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:57):** I thank the honourable member for his supplementary question. I understand that the finalisation of the expression of interest process for the provision of services to Adelaide Gaol has been put on hold pending the outcome of a matter raised in the Magistrates Court. It would obviously be inappropriate for me to comment on this matter—

**The Hon. D.W. Ridgway:** You didn't mention that in the first answer.

**The Hon. I.K. HUNTER:** Well, it's currently before the courts.

**The Hon. D.W. Ridgway:** You didn't mention that in your first answer.

**The Hon. I.K. HUNTER:** In fact, that's right, because that is the appropriate thing for a minister to do. When a matter is before the courts, Mr President, that is the appropriate thing for a minister to do. They should know better, but they have no responsibility whatsoever, Mr President.

### WEST COAST CABINET

**The Hon. J.M. GAZZOLA (15:58):** My question is to the Minister for Sustainability, Environment and Conservation. Minister, will you update the chamber about the recent country cabinet held in Ceduna?

**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 thank the honourable member for his most important question. From Sunday 23 November to Tuesday 25 November, South Australian ministers and senior agency leaders were in the state's West Coast for country cabinet, as my leader has just detailed. Country cabinet provides an important opportunity for residents in our regional communities to attend forums and one-on-one meetings with ministers and senior public servants.

This has been the third country cabinet meeting this year, and these important meetings allow the government to engage directly with regional South Australia and to meet locals from all sectors of the community and hear what their priorities and thoughts are. The Far West Coast is an important area for our state's economy. Its diverse scenic beauty ranges from outback wilderness to a pristine coastline, which attracts tourists from around the world.

In addition to an important tourism industry, the district of Ceduna is home to a large agricultural community—primarily, I am told, grain—the gypsum and salt industries and, of course, the very important fishing and oyster industry. Ceduna has been described as having one of the most complex multicultural communities in the country, and the many representatives of multicultural communities are very prominent in the town and the immediate region.

Ceduna also has the highest proportion of Aboriginal people of all local government areas in South Australia, with a population currently standing at around 25 per cent of the population. This is one of the highest percentages in Australia, I understand. A number of Aboriginal communities in adjacent unincorporated areas also rely on the services available in Ceduna and, therefore, use the town as a base for a variety of reasons.

The Aboriginal community then was the focus of my first meeting during this particular trip and, as the Hon. Gail Gago outlined, we were joined by Mayor Suter and minister Bettison for a meeting to discuss service coordination in Ceduna, and also the safety of a very mobile Aboriginal population has become a growing concern in the town. It is imperative that we all work together to help break the cycle of poverty and support a strong and vibrant Ceduna community, and creating and strengthening partnerships between the communities and governments of all levels and Aboriginal organisations will assist us to ensure that nobody is left behind.

To further this, the state government has established a new position of manager of the Ceduna service reform. This new role will be a key role across government agencies to improve service coordination and develop a Ceduna service plan. During my visit to the West Coast I had the opportunity to meet with a number of Aboriginal organisations including the Far West Native Title Group, the Ceduna Aboriginal Corporation, Ceduna Koonibba Aboriginal Health, representatives from the Far West Aboriginal Sports Complex and the Yalata Community Council.

I also conducted a series of one-on-one meetings to discuss diverse issues that included coastal dune rehabilitation for the Ceduna Waters development, coastal and marine protection, water supply and the fishing industry. Cabinet ministers also had the opportunity to talk at length to local government representatives as well as community and business leaders. The Premier, the tourism minister and I also announced that a new 10-year licence will be negotiated with shark cage diving operations. These longer-term licences will provide operators with the security they need to access finance to invest in their business, and they are a great example of ecotourism in our marine parks.

It is expected, I am told, that we could see a doubling of the current contribution of this unique section to the state's economy to \$22 billion. In fact, I met with a family from Denmark, a family of four, who travelled from Adelaide to Port Lincoln expressly to go diving with great white sharks. They said it was a fantastic experience, one that they would love to come back for again, and one that they certainly will be telling their friends about back in Denmark and why they should make a beeline for Adelaide and South Australia and particularly Port Lincoln.

So this is an important change which shows that sustainable tourism in our marine parks will bring economic activity to our regional areas. The country cabinet in Ceduna and the Far West Coast was a wonderful opportunity to meet local residents and to experience this beautiful part of our state. I would like to thank the people of Ceduna and the Far West Coast for their very warm welcome and their country hospitality. I hope they found the meetings as interesting and as beneficial as my leader and I certainly did.

#### **WEST COAST WATER SUPPLY**

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:02):** I have a supplementary question. Did the minister meet with landowners to discuss the very poor quality of SA Water's water supply to the Far West Coast?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:02):** In fact, when I spoke to people about SA Water's water supply to the Far West Coast they actually wanted it. They are not connected; they are connected through West Water, I think it is called, and they actually want SA Water's water supply and we are undertaking a process with them, just like we are at Skye, to work out what that would cost for them to connect. They actually want SA Water's high quality water supply.

#### **WEST COAST WATER SUPPLY**

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:03):** I have a further supplementary. Did you have any discussions with councillors from the Ceduna council about the poor quality of water supplied to farms on the Far West Coast?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:03):** I have already answered the question, Mr President.

#### WEST COAST CABINET

**The Hon. R.L. BROKENSHERE (16:03):** I have a supplementary for the minister. Given that he was at Ceduna, did the minister go and visit Yalata?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:03):** No, we tried to put it into the schedule but, instead, Yalata came to me.

#### WEST COAST CABINET

**The Hon. R.L. BROKENSHERE (16:03):** I have a further supplementary question. Has the minister ever visited Yalata?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:03):** No, the furthest I have gone is Maralinga.

**The PRESIDENT:** The Hon. Mr Parnell.

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

**The Hon. T.A. FRANKS:** Point of order, Mr President. Do you actually have a list there that you can follow that does the proper order of questions, because I was the first crossbench question today, not the Hon. Rob Brokenshere?

**The PRESIDENT:** I beg your pardon: I have a list here right in front of me and it says Mr Parnell, so please take your seat and Mr Parnell will ask the question.

**The Hon. T.A. FRANKS:** Our whipping sheet that we distributed this morning had me first and then the Hon. Robert Brokenshere—sorry, the Hon. Kelly Vincent, and then Family First.

**The PRESIDENT:** The sheet I have is Mr Parnell.

**The Hon. T.A. FRANKS:** It is the whipping sheet that we provided to you.

**The PRESIDENT:** You didn't provide me any whipping sheet. I get my whipping sheet from the two whips.

#### PRIMARY INDUSTRY COOPERATIVES

**The Hon. T.A. FRANKS (16:04):** I think my colleague has just given me the call, Mr President, so I would like to seek leave to make a brief explanation before addressing a question to the Minister for Employment, Higher Education and Skills about legislative barriers to cooperatives in South Australia.

Leave granted.

**The Hon. T.A. FRANKS:** Members would be well aware that I have raised in this place previously the wonderful opportunity cooperatives can provide for employment, particularly in Adelaide and South Australia. In fact, across the world the international cooperative alliances estimated that cooperatives provide 100 million jobs worldwide, 20 per cent more than multinational enterprises. In fact, if you were to combine the economic activity of the 300 largest cooperatives in the world, that would equate to the tenth largest national economy.

The minister would be well aware of the wonderful news yesterday with regard to the Ingham turkey workers, who hope to take over a South Australian factory that is scheduled to close this month. That group of workers from the closing Ingham turkey processing plant in McLaren Vale are working with local producers to take over that factory and are investigating a cooperative model. I was very pleased to hear the state agricultural minister, Leon Bignell, state that the government will fund a feasibility study to begin after valuers assess the existing facility in the next few days. My questions to the minister in her portfolio are:

1. Is the minister aware of any barriers that are known to the establishment of cooperatives in South Australia?
2. Are those barriers of a legislative framework and do those frameworks cover state and federal legislation?
3. Is the government investigating any way to lift any known barriers or to investigate current barriers to encourage cooperatives in South Australia?

**The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (16:06):** I thank the honourable member for her question, and yes, indeed, the government is very supportive of the initiative with the cooperative arrangements around Ingham's. I am not aware of any legislative barriers around cooperatives. To the best of my knowledge no-one has ever raised those with me. If the honourable member wants to direct my attention to some specific issues of concern, I invite her to do so, either by meeting with me or emailing me.

#### LAKE ALBERT SCOPING STUDY

**The Hon. J.S. LEE (16:06):** I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question regarding Lake Albert.

Leave granted.

**The Hon. J.S. LEE:** In September this year the Lake Albert scoping study was released, which investigated reducing the salinity of Lake Albert. The minister stated in his media release that the study found that raising and lowering of lake levels is the best management option. Since its release the wider community has expressed concern and indicated that construction of a Coorong connector would be a preferred option and has urged the state government to undertake an environmental impact statement.

Many concerns stem from the 1980s trials of cycling, which caused salinity levels in Lake Albert to increase. On 12 November Associate Professor David Paton, Ecology and Evolutionary Biology, Adelaide University, stated on radio that an environmental impact statement is a logical thing. My question to the minister is: will the minister consider conducting an environmental impact statement and ensure the best possible long-term outcome for Lake Albert?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:08):** My answer is no, and we have already determined the best possible long-term outcome for Lake Albert.

#### DIGITAL DATA

**The Hon. K.J. MAHER (16:08):** My question is to the Minister for Science and Information Economy. Can the minister inform the chamber on any initiatives that are underway in South Australia to manage the rapidly expanding amount of data created by the digital world?

**The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (16:08):** I thank the honourable member for his most important question. Every day the modern world creates some 2.3 zettabytes of data, and that is 2.3, followed by 21 zeros, in case members are not aware of what a zettabyte is. Creating value from this information from the internet, satellite pictures, video, social media, just to name a few, is what the newly emerging field of big data is all about. Big data is a term for a data set so large and complex that it becomes difficult to store, process and analyse using current technologies.

As a result of new analytical methods, mining big data can create insights that will improve or uncover new opportunities. Some of these opportunities are substantial. In a recent report, PricewaterhouseCoopers estimated that Australian retail and consumer businesses are missing an opportunity currently worth around \$3.8 billion. Analysing big data also has very significant applications for national security agencies in the fight against terrorism and crime.

So, it was very pleasing to see the launch last month of the Data to Decisions Cooperative Research Centre at Mawson Lakes, which will play a leading national role in this rapidly evolving technological field. The D2D CRC, as it is known, has been backed by \$92 million in cash and in-kind support from state and federal governments, research institutions and information industry companies.

With its national headquarters based at Mawson Lakes, the D2D CRC will add some extremely useful capacities to our state's research base. I understand that the CRC will employ nearly 200 staff and 50 PhD students over its five-year funding period and plans to roll out training programs for 200 to 300 data scientists annually over the life of the CRC.

As well as leaving a significant legacy to the national security of Australia, the potential exists to build a substantial big data industry which will position Australia as an international exemplar in the development and use of big data capabilities across many sectors. The potential benefits derived from big data are not restricted to national security or retail business. Mining and resources, health, utilities, renewable energy and manufacturing enterprises can all reduce costs, improve their efficiencies and boost productivities from smarter analysis of their data.

The government is contributing \$600,000 over three years to the CRC via the Premier's Research and Industry Fund. Of course, what we see overall in terms of the federal Liberal government's cuts to CRCs is of grave concern to us. We have seen almost \$80 million cut from the CRC program over the forward estimates by the federal Liberal government. Unlike the Liberals, this state government will continue to support our science and research sector. I welcome this brilliant initiative, as it will add yet another useful capacity for innovation within South Australia's increasingly diverse scientific and research base.

#### MARTINDALE HALL

**The Hon. J.A. DARLEY (16:12):** My questions are to the minister for the environment regarding Martindale Hall. The minister recently indicated in parliament that he and the department were considering all options with regard to Martindale Hall.

1. Can the minister advise whether a valuation or valuations have been taken on Martindale Hall in the past 12 months and, if so, how many?
2. If a valuation has been done, can the minister advise whether the valuation was conducted by the South Australian Valuer-General or a private valuer or valuers with approval from the Valuer-General?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:13):** No.

#### LOCAL GOVERNMENT INDIGENOUS REPRESENTATION

**The Hon. A.L. McLACHLAN (16:13):** I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question regarding Indigenous representation in local government.

Leave granted.

**The Hon. A.L. McLACHLAN:** The Local Government Association of South Australia recently published an updated summary of data on council elections from the year 1983 to the most recent local council elections that took place last month. The statistical summary reveals that, in 1997, there were 14 Aboriginal candidates who nominated to stand in the election; however, this decreased to eight Aboriginal candidates in 2003 and to only four Aboriginal candidates this year.

Furthermore, the data reveals that, other than the year 2000, this is the only year since 1985 when an Aboriginal candidate has not been elected to local government. The minister has previously made mention in this chamber that the government has policies that are aimed at developing and providing abilities for governance and leadership in Aboriginal communities. My questions for the minister are:



1. Can the minister explain to the chamber why the government's policies have failed to encourage a higher number of Aboriginal South Australians nominating to stand in local government elections?

2. Given that there is now no Aboriginal or Indigenous representation in local government, what initiatives, if any, is the government contemplating to address this situation?

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:14):** I thank the honourable member for his most important question. It is, indeed, a very concerning issue, if it was right. On my understanding, his facts are wrong—albeit the issue is a very important one. I understand that Mr Ian Crombie was elected to Coober Pedy council at this recent round, and there may be other councillors who have been elected who we have not yet been apprised of.

These are matters for the Minister for Local Government in the other place, Mr Brock, and I will take the honourable member's question to him and seek a response on his behalf. Having said that, having more Aboriginal persons elected to local government is a big priority. I have been talking to communities as I get out and about around the state about how they could be more involved. I have discussed this with communities in Port Augusta, Adelaide and also in Ceduna but, of course, one needs to get the candidates.

Travis Rogers is an Indigenous community member in Port Lincoln and was elected onto the Port Lincoln council and I am also advised that Mr Mark Lovett was elected to the Mount Gambier council; he is also an Indigenous member of the council. So, I think that before the honourable member comes here with questions, it is probably appropriate that we actually check our facts first.

Notwithstanding that, we would like to see more Aboriginal members become local government councillors and, indeed, mayors. I would like to take that question to the minister in the other place and seek a response and hopefully work with the honourable member to help drive more interest in standing for local government into the next round of elections.

#### **SOUTHERN SUBURBS PARKS**

**The Hon. G.A. KANDELAARS (16:16):** My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the chamber about how the government is engaging with residents in the southern suburbs in its \$2.4 million investment in parks in the area.

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:16):** What a fantastic, fascinating question from the honourable member, and his ongoing interest in the southern suburbs is well known. On Friday, 21 November, I had the pleasure of joining representatives from southern suburbs local government, schools, sporting and recreational groups and conservationists at the Flagstaff Hill Golf Course. The purpose of this inaugural roundtable meeting was to begin a discussion about how we can best enhance visitor numbers and experience in our parks in the southern suburbs.

South Australia has over 300 parks covering almost 20 per cent of the state, and 29 of those parks are right here in the metropolitan area. This makes our parks easily accessible to Adelaide residents. While a handful of parks like Belair and Morialta and Cleland are well known and enjoy very high visitor numbers—in fact, I understand that Cleland now has more visitors to its park centre than Kakadu, I think, for last year—there are other beautiful parks which are rather less well known—places like the Onkaparinga Gorge, which I visited earlier this year—a fantastic place, fantastic gorge.

I think the original viewing post was burnt down in a fire some years ago and it is now being replaced, and I understand that gorge is used by STAR Force officers to train in abseiling. I can imagine that abseilers around Adelaide would find that a very attractive proposition, but many people do not know about Onkaparinga Gorge Park.

Of course, we have the wonderful geological wonders of the Hallett Cove cliffs, which the Hon. Mr Ridgway may have visited when he was a six year old at school, as well as in grade six, and

I am sure that was only a few years ago from his memory. There are the shifting dunes of Aldinga Scrub and Moana Sands and the mining heritage, of course, of Scott Creek. We are incredibly lucky here in southern Adelaide to have such a wealth of natural beauty, and we want more people to visit and enjoy our parks.

Studies have shown that communities with green space have lower rates of stress and disease. Of course, one expects that is probably because we are out using those green spaces; we want to drive an increase in that usage of green space, particularly around where people live. At a time when children are spending more time in front of screens and less time outside playing, when obesity rates are at worrying levels, we need, more than ever, to embrace our green spaces as a community and utilise them to our best advantage. That is why the state government is investing \$10.4 million over the next four years to improve facilities and encourage more people to use our parks, and \$2.4 million will be invested in infrastructure in our southern metropolitan parks.

I understand that the consultation phase will run for approximately the next six months and, once the projects have been agreed upon, they will be designed with construction scheduled for 2016-17. The round table covered a variety of topics. Participants were asked to reflect on the different ways people connect with the different parks in the south. I asked them in my opening address to tell us how they utilise parks and how they think we can best engage the community to come out and want to use parks more. They discussed what people most value about the parks, which you would expect that we would know but, of course, asking people these questions, you sometimes elicit responses which are surprising.

We also asked what could be done to enhance visitor experience in the parks and, importantly, what the barriers are that we need to address that prevent people from visiting parks. Participants were also asked what would make the greatest contribution to increasing the quality of the connections that people make to the parks of southern Adelaide.

An important discussion that will certainly require further work centred on identifying groups that we need to reach and gathering ideas about how we can best connect with these groups who do not currently use these parks and perhaps have never considered them as part of their organisational structure or activities and perhaps how they can fit into the usage of those parks even better. So, we have asked each organisation or individual represented at the roundtable what role they can play in achieving these outcomes, and this roundtable is the second of three community engagement initiatives on the future of our metropolitan parks and reserves.

In October, we began discussions regarding the creation of an international mountain biking destination in the Mount Lofty Ranges with the Adelaide Hills community. A third roundtable event focusing on the parks in the northern suburbs will be held in coming months. Whatever activity people choose to pursue, be it walking, cycling, watching wildlife and birds, fishing, or just enjoying the beautiful surroundings, it is my hope that our parks and reserves will have something for everybody.

I would like to thank all the participants, of course, for giving up their time, coming to the roundtable, and generously being involved and giving us their opinions on this very important initiative. As locals who live and work in the south, they understand the area and its community. They are best placed to tell us what facilities are needed most and how we can encourage more people to use our parks. Their input will play an important role in ensuring that we provide the most needed facilities and services.

#### *Parliamentary Procedure*

#### **VISITORS**

**The PRESIDENT:** I would like to acknowledge former member Kate Reynolds in the gallery. Welcome.

*Bills***ANANGU PITJANTJATJARA YANKUNYTJATJARA LAND RIGHTS (MISCELLANEOUS)  
AMENDMENT BILL***Standing Orders Suspension*

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:22):** I move:

That standing orders be so far suspended as to enable the introduction of the Anangu Pitjantjatjara Yankunytjatjara Land Rights (Miscellaneous) Amendment Bill.

Motion carried.

*Introduction and First Reading*

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:22):** Obtained leave and introduced a bill for an act to amend the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981. Read a first time.

*Second Reading*

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:23):** I move:

That this bill be now read a second time.

This bill seeks to do two things. The first is to provide the minister responsible for the administration of the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981 (the APY Act) with a new power to suspend the executive board and appoint an administrator, exercisable on any ground the minister thinks fit. A second aim is to make clear in the APY Act that the Independent Commissioner Against Corruption (the ICAC) and examiners and investigators under the Independent Commissioner Against Corruption Act 2012 do not require permission to enter the APY lands if performing a function under that act.

A strong administration is necessary if the APY is to operate as an institution that is effective and accountable to the communities they represent. The APY Act has served as a beacon in Australia for Aboriginal people and their hard-fought struggle to regain land rights and cultural independence.

The APY governing body, the APY Executive Board, is elected to make decisions for and on behalf of the APY. It must represent APY community interests at all times. However, the APY has been through a period of significant instability in the past few years. Since 2010, there have been seven different general managers. This period has shown that difficulties can arise in APY governance that are of a more systemic nature and may not fit clearly within the limited grounds for ministerial intervention currently provided for in the APY Act.

The current powers may be exercised only where certain failures of a specified kind have occurred on the part of the executive board or individual board members. If one of the specified failures occurs, the minister can issue a formal direction to the executive board to take remedial action. Only if the executive board then fails to comply with that direction can the minister suspend the executive board and appoint an administrator. However, when a problem is less specific and is of a broader, more intractable kind, there may be no particular recourse under the current APY Act.

Strong self-government depends on sound mechanisms to ensure accountability to those whose interests are represented. This means having effective checks and balances that allow all governance problems to be identified and rectified. Ultimately, robust self-government by and for APY is essential to realising the vision for Anangu that underpins the APY Act. For this reason, this bill proposes a broad power on the part of the minister to intervene where other options may not work. The amendment would add a discretionary power to the existing checks and balances available to safeguard the integrity of APY governance and its accountability to communities.

In relation to the second main amendment proposed by this bill, I consider that the range of public administrative work undertaken on the APY lands is such that it is appropriate to put beyond doubt that officers of the new ICAC have scope to enter the lands without giving notice or having to apply for a permit. I propose the inclusion of an express provision in the APY Act to ensure that this is made clear. I consider the current situation warrants these immediate measures, pending further amendments to the APY Act next year to change the eligibility requirements for membership and the electoral system with the aim of ensuring enhanced executive board capacity and better representation of Anangu, particularly women members. I commend the bill to the house.

**The Hon. T.J. STEPHENS (16:27):** I rise to speak for the opposition on this particular bill. It would be no surprise to you, given that you have been a member of this place for some time, to know that I have been asking questions about some of the proprietary performances of the APY Executive for some period of time. In fact, my first question of this issue was in October last year. Today in question time we learned that the minister has not been to the APY lands for more than 12 months. Given that I have been raising issues in this place since well before that, I just find it incredible that a minister who is supposed to have his hands on the wheel would not be there to look with his own eyes to see what the situation was and also to form his own opinions rather than be told by others.

I have to convey to the chamber my party room's disappointment, and in fact disgust, at the late notice and the serious pressure put upon my party to participate in the passage of this bill, given the amount of time and effort that we have spent talking about the particular problems that have been brought to our attention on the lands, as I said, since October last year. There has been plenty of time to bring a bill before this chamber and for us to be able to have a proper discussion about exactly what is happening on the lands.

That aside, we are asked this week to pass this in both chambers of the South Australian parliament. I must say, again, that my party is extremely angry that it has been put under that particular pressure. I have been a member of the Aboriginal Lands Parliamentary Standing Committee, as have you and a number of other members in this place and the other place. It is one of the privileges of that committee to travel widely throughout South Australia and at different times visit people and look at their situation, talk to them about their problems and see exactly what is going on.

I have been privileged to visit the lands on a number of occasions. I must say that during my time on the Aboriginal Lands Parliamentary Standing Committee I have struggled to see a lot of improvement in the lives of the 3,000 Anangu people who live on the lands. I am determined not to leave this place without seeing some improvement, otherwise I will take it personally, that I have failed in my duties as a member of parliament, where the whole state is my electorate. Not to see any improvement in the lives of people would be, to me, deplorable.

As the minister has said, we have had seven chief executive officers in the space of four years. I must say that when some of these people started turning over initially, the alarm bells did not go off immediately because it is perhaps not for everybody to live on the lands. I know that the Anangu have their traditional ties, and I respect that, but other people may not find the lifestyle there something they can become accustomed to. With a few CEOs coming and going, I thought it was perhaps not for them, but there has been a consistent pattern. We have lost seven CEOs in four years.

After spending time talking to a number of those CEOs it has become quite apparent to me that the primary reason for their departure has been that they have not been given the freedom to carry out their functions in a right and proper manner, as they should. I have heard stories of intimidation and bullying. I have heard consistent stories about probationary periods being extended so that any CEO who did not fulfil the wishes (whether they were proper or not) of some people on the APY Executive would be put on notice that, unless it was done their way, it would be the highway, and that was not always necessarily the proper way.

Accountability and transparency has been sadly lacking. From an opposition person's point of view, I know that the shadow minister in the other place, the member for Morphett, Duncan McFetridge, has found it extremely difficult to get even the most basic information. That is not always unusual from an opposition perspective but, given that we have constantly given the government a

commitment to work in a bipartisan way to try to advance the wellbeing and the lives of Aboriginal people, we have been extremely disappointed that we seem to have very little cooperation with even basic things, such as seeing the minutes of proper meetings that have been carried out.

I have visited the lands with the Aboriginal Lands Parliamentary Standing Committee at different times, and it is a vast area of land. We always try to visit as many communities as we possibly can in the shortest possible time. Sir, as you would know, trying to get five, six or seven members of parliament together at short notice is like herding cats. It is very difficult. There is always a tight time frame when trying to fit in as much as possible.

I can distinctly remember on a number of occasions trying to have a courteous meeting with the APY Executive. The last time I was there, or the time before, I remember sitting out at the front when we had a scheduled meeting. At their pleasure, we eventually got a very short period of time to discuss some of the issues. I just thought it was an incredibly different way to operate, given that a number of members of parliament had made the effort to go and listen to people's particular stories.

I will not name names at this point, but I am sure that it would not be a problem. One lady in particular is what you would almost call an icon in South Australia. I have seen an email that was sent to the member for Morphett imploring the Liberal Party to support this legislation. This particular person has long said that an administrator needs to be appointed so they can act without fear or favour and in the best interests of all Anangu people.

This is not something that white men are imposing; this is something that many Aboriginal people I know are looking to get some clarity and some transparency on. We need to have a proper audit process by which someone with unfettered access to documents—if they continue to exist—can forensically look at what has happened in the past, and let us establish a strong track record of proper administration going into the future. The Liberal Party certainly wants to see transparency and wants to see all Anangu people being treated equally, without any fear or favour.

As I said, having access to information has been a source of incredible frustration from the opposition's perspective. The member for Morphett has constantly had to resort to sending numerous FOIs to try to get information, and most of time we have been unsuccessful in that regard. We are desperately keen to see some transparency.

I reiterate that the timing of this is deplorable. We understand the urgency; in fact, for more than 12 months I have been calling for urgent action to be taken, so it is very difficult for me to say that we would not be able to support the bill in the time frame, but I do have to say that my colleagues are extremely angry at being forced into this situation.

I have a number of questions for the minister that I will probably ask at clause 1. I also have an amendment to be tabled that would ask an administrator, within six months of being appointed, to report directly to the parliament. We want an open and transparent process and I am hoping the government will support that amendment. I suspect that a number of my crossbench colleagues would also be keen to ensure there is a reporting mechanism that comes straight to the parliament. We do not want a sanitised report that has been through any particular office; we want to know exactly what has been going on, and we want to see an open and proper process.

With those words, we look forward to the committee stage of the bill. There will be questions I will need to put on the record, and I know a number of my colleagues will want to make a contribution. They will put, in their own words, their view on the timing and the disrespect we have been shown by being asked to deal with this bill in such a hasty fashion.

**The Hon. T.A. FRANKS (16:38):** I rise on behalf of the Greens, as one of two Green speakers today, to address this bill. The Greens note with interest the minister's words with regard to the number of general managers on APY lands in recent years, and observe that in four years there have been four Aboriginal affairs ministers under this Labor government. It too has been a revolving door.

We note there are concerns, and I share those concerns, about transparency and governance and due process. What this government seems to be saying to Anangu, however, is 'Do as we say, don't do as we do,' because this government is also operating in a way that lacks

transparency, that has silenced voices, and that has not allowed for proper process by introducing the bill in this way today.

In my short time of 4½ years in this place there have been only three issues on which we have rammed through bills in this way. One was for a pay rise for politicians. The others have been to do with Aboriginal affairs, and the final one was something to do with the Cricket World Cup in terms of measures to do with that.

I have noted that the most times it happens is to do with Aboriginal affairs. It seems that, somehow, when it comes to this portfolio, whether it is native title or whether it is land rights and the ability of and respect for people's self-determination, that seems somehow not to be accorded or afforded due process by this Labor state government.

I find it interesting that people have just referred to having to seek FOIs. Certainly, I have had those frustrations, and I have also, from my office, taken on complaints and sought FOIs. I particularly note that I do not purport that everything is as it should be with the APY Executive. I think that there are governance issues, but I do not see that this is the way to approach it. Certainly, with this Weatherill government, we cannot even get answers to questions in parliament; we have to FOI them. So, by your standards, we should be treating you with similar contempt for your duly democratically elected positions.

**The Hon. I.K. Hunter:** You already have; you voted against me.

**The Hon. T.A. FRANKS:** The minister notes that I voted against him. I think that he is referring to a motion of no confidence, and I point to that: that was done with due process, and we did it in a democratic way, and you were given ample opportunity. Mr President, I am sorry, through you, you should have directed me not to address the minister in that way, but I am afraid that I was distracted by the minister's interjections.

We did indeed vote a no confidence motion in the minister who we are seeing handling this bill today, ramming it through. It was, however, in his environment portfolio that we moved and supported that no-confidence motion. That is something that I did not do lightly. Certainly, in this portfolio, I think that there is also cause for a lack of confidence. I have a lack of confidence in this minister and in this bill. I have many questions, as, no doubt, the crossbenches and the opposition do.

I note that in the very short time frame that has been provided, we have had several documents presented to us, the first of which is a petition that has been addressed to the minister and, I believe, circulated to all of us from the APY Law and Culture Committee, and I table this document. This document is a petition from many, and it is signed by Murray George, the Chairman of the Law and Culture Committee and the Deputy Chairman, Roger Kaypipi, of the Law and Culture Committee. It has pages of signatures, 85 signatures I am told by my colleague, the Hon. Mark Parnell.

I note also that we have in the gallery today members not only of the APY Executive but also Anangu people and Kurna people and other people who have an interest in due process and self-determination being afforded and respect being given to Aboriginal people, not just in this parliament but also in this country.

It is all very well to debate and move bills about recognition in the South Australian Constitution for Aboriginal people, but you have to talk the talk and walk the walk. 'R' not only stands for recognition but also, of course, respect. This bill before us being rushed through in this way does not show respect either for Aboriginal people or, indeed, for this parliament.

In the short time that we have had, I do acknowledge that there are people who support some of the intent of this bill, and I will say that the Greens do not have an issue with the clarity being given around the ability for the ICAC commissioner or the delegate to enter the lands. However, we are not even sure, though, that was a necessary provision, and certainly it does not need to be moved as part of this bill. It could easily have been a stand-alone measure. Certainly, that clarity, you would think, should have been investigated before this period of time—in the last week of parliament, a parliament that has been prorogued, where we are presented with a bill and asked to debate and vote on it on the very same day.

However, some groups have been able to provide us with a response and I note that the Law Society has grave reservations about this bill. They were given a reference by the minister and they have responded to his media statement of 27 November 2014, so I am assuming that they were given a reference and a copy of the bill by the minister but perhaps they were just responding to the media statement and had to follow that up. I look forward to answers from the minister as to how that process was undertaken. This letter from the Law Society, dated 2 December states:

The Society notes your intentions to expedite the passage of the Bill through the Parliament outside the conventions of the regular standing orders and is strongly opposed to this approach.

I find it curious that this is a bill which is said to be before this place because the minister says there is a lack of good governance on APY lands and yet here we are demonstrating that very same lack of good governance in this parliament. The Law Society goes on to note the key provisions of the bill and expresses its concern that:

The effect of this amendment is to substantially broaden the Minister's power to suspend the Executive Board. Rather than having the power to do so only in the case of refusal or failure to comply with the statutory direction, or members' refusal or failure to attend a s 11 meeting, the Minister may now suspend the Executive Board at pleasure.

That step should not be taken lightly by this place; it should not be taken lightly by this parliament and it certainly should not have been taken without previous steps being undertaken by this minister. However, as the Hon. Terry Stephens reflected, we found—I would say to 'our surprise' but I certainly was not surprised—that the minister has not even been on APY lands in the past year.

**The Hon. R.L. Brokenshire:** Fourteen months.

**The Hon. T.A. FRANKS:** Fourteen months, the Hon. Robert Brokenshire interjects. So if he was so concerned with the governance on APY lands and with the operations of the APY Executive, one would think that he would at least have gone on APY lands in the past 14 months. That goes to the issue that I raised before of respect.

Of course, members would be aware that in these past days the APY Executive has come to this place. It has briefed members of this parliament and, indeed, they met with the minister some weeks ago—just 10 days or so ago—the minister can provide those dates later on in the debate. I understand, from the email I sent to the minister, that remains unanswered, that with regard to my question about whether the minister has issued any directions to the APY Executive, I have yet to be provided with evidence of any directions, and I will certainly be seeking evidence of those directions and the work that the minister has undertaken to get us to this point where we are apparently in a crisis mode and stripping the democratic rights of the people of the APY lands.

No council would accept this parliament acting in such a way; no local government would accept this parliament acting and riding roughshod over them in such a way, and in fact as parliamentarians we should be not agreeing to processes which ride roughshod over people's rights in such a way.

I note that there is some support for greater transparency of the APY Executive and better governance. This does not necessarily provide any of those things. It simply allows the minister unfettered and unchecked powers to appoint an administrator without proper reason, for any reason he or she sees fit. That is not good enough. That is not an appropriate governance structure for us to be modelling to the APY. It is certainly not something that the Greens will be accepting today.

Indigenous people in this country have a long history of being treated as second-class citizens, if they have been treated as citizens at all. This bill simply continues that shameful history. I will not be part of it today; I will not vote for this bill. I will certainly not support this process, and I will be asking many questions of the minister and demanding answers. That is our right here as elected members, but the minister has failed in his due diligence to have undertaken processes to get us to this place. So, I reiterate my point: I do have a lack of confidence in this minister, and it obviously comes as no surprise to him because, as he furiously types away on his phone, he sniggers.

I note that APY has put out media releases, and no doubt members are very well aware of this. They say there has been no misuse of taxpayers' money, and they say that there is no reason for the minister to change the act. They also say that there is no evidence of any maladministration

by the board, and just because *The Australian* says there has been does not mean there has. I don't know: I'm not judge and jury.

This is a parliament: this is not a courtroom; this is not ICAC; this is not the police, this is not SAPOL. Who are we to know the truth of the matter? The due process is for the minister to undertake investigations and make referrals, so whether that is a referral to the police or to ICAC or to any other appropriately configured body for further investigation, that is the course the minister should be taking, as well as issuing directions.

I will be moving an amendment to this bill that I would hope the crossbenchers, possibly the government, and certainly the opposition, would support, to insert a sunset clause on this of 12 months, not to the ICAC provisions but to the unfettered and unchecked ability of the minister to appoint an administrator. That would mean that it would be required to at least come back to this place for further debate in 12 months, not to continue unchecked.

Certainly we will be supporting the Liberal amendments for direct reporting to the parliament. I would prefer that those reports were more regular than six months. We have seen in this place many a time in the final week of parliament dozens of reports tabled that go unnoted and certainly often fall into the beginnings of the silly season over summer. My concerns are that we will see one report and then the next report will be at the end of next year, and it will go relatively unnoticed.

I will have many, many questions of the minister. I will be moving a sunset clause. I would hope that members of this place support it. Certainly in conversation with the minister last Thursday he seemed open to the idea of a sunset clause. Given the extreme nature of what we are doing here today, a sunset clause would be the least you could do to show some respect to Anangu people and to this parliament.

I will also note that, when concerns were first raised with the Aboriginal Lands Parliamentary Standing Committee by George Kenmore and others who brought their concerns to that committee around a year ago, at that time there was no conciliator appointed by the minister under the act. In our conversations with the witnesses who presented their concerns that day, I asked why they were not taking their concerns to the conciliator, who was the duly authorised person to deal with matters where Anangu have a problem with the executive under the APY Act.

That is when we discovered that there was no conciliator, because the minister had not appointed one. At that time the minister hurriedly appointed a panel of conciliators, both under this act and the Maralinga Tjarutja Act, and I welcome that, but those positions should always have been there and should never have been allowed to lapse under this Labor government.

I reiterate: this government has had four ministers for Aboriginal affairs in four years. It is a revolving door, a portfolio treated with contempt by your party. You have not been on the APY lands for 14 months, yet you expect us to take you seriously here when you say that you have tried everything before bringing this bill before us today. With that, I look forward to the committee stage.

**The Hon. R.L. BROKENSHIRE (16:54):** I rise to speak to this bill, not that I am pleased that I am rising right now. In fact, I am disgusted that we are being asked to push a bill like this through the parliament today. From my experiences in this parliament, anytime you have a piece of legislation that a government wants to bring in and rush through in one or two days, you potentially end up with a disaster, and there are other examples of it.

I hold the minister responsible for this. The reason is because he is the executive of government when it comes to the ministerial responsibilities for matters to do with Aboriginal people in our state. Frankly, I am so frustrated at the lack of passion and compassion that I have seen from this minister when it comes to the handling of this portfolio that I have got my office at the moment doing some work to see how many times he has advised the house of issues relevant to our Aboriginal people in South Australia and how much work in the parliament he has actually done with respect to the portfolio, because I do not hear him saying or doing much at all to report to the parliament issues that he may have concern for with respect to Aboriginal people.

I do not hear him coming in here and telling us that he is consulting with Aboriginal people, either. Then all of a sudden, out of the blue almost, I only found out about this yesterday because I was down in Adelaide for part of last week, and I was out in the country for part of the week.



Apparently, the minister did ring my colleague on Thursday and advised him that he had a bill coming through and he wanted to have this bill passed quickly.

If it is a matter of urgency, why has the parliament not been informed of the processes in the lead-up to this urgency? Why now, in the last week? Has the minister relied just on his department? The minister has not been into the APY lands for 14 months. He has also admitted today that, in the time he has had the portfolio, he has not been in the Yalata area at all.

**The Hon. D.W. Ridgway:** Disgrace!

**The Hon. R.L. BROKENSHERE:** I think, as the Hon. David Ridgway said, this is a disgrace. Frankly, I would have thought that a minister who had been sanctioned by the parliament with a vote of no confidence would have lifted his performance, lifted his game, got his backside off the chair here in Adelaide where the comfort is, got out there and actually had a look at what is going on himself and not just rely upon departmental people.

In the committee stage, I will be asking some questions like: what is the state of play when it comes to support services on the APY lands? I know that they have struggled to get police officers up there for some time, as one example. What has the minister actually done about all that? What has the minister done about supporting those people up there in the time he has been minister? Now, all of a sudden, we have got this absolute urgency.

The situation is that clearly the bill is going to go through; therefore, Family First will have to just consider the amendments. It is clear that the government has the numbers between the two major parties and the bill will go through, but why can we not have even a little bit of time to actually consult?

I want to put on the public record that, on my phone, I have got some messages that only came through today. I do not blame those people at all for only getting them through today, because they probably have not known about this much longer than I have, but these are people who I respect and have known in my various roles as a member of parliament. For example, I have had an email from Mr George Kenmore come through today expressing concern, and another person sent an email out on the behalf of the Law Society expressing concern.

There have been press releases, and one I have here has been put out by the APY Council of Elders, which I only received today. Then I have another press release from the APY, which was a media statement on 2 December, which is headed, 'Say No To Minister's Attack On APY Land Rights'. In that press release it says:

The APY Executive yesterday passed a resolution, which—

and this is printed in bold font—

strongly opposes the proposed changes to the APY Land Rights Act allowing the Minister to sack the Executive and appoint an Administrator for any reason he thinks fit.

The Hon. Terry Stephens, from my recollection, is one of those in this house who has raised concerns about allegations and good care in the APY lands, but I think the minister is being fairly flippant in his responses there. If he believes that he has not been, over a period of a year or so, then I would ask the minister (on clause 1) to tell the house what he actually did to act on behalf of the concerns of the Hon. Terry Stephens.

We have three members here on the Aboriginal Lands Standing Committee: the Hon. Tammy Franks, the Hon. Terry Stephens and the Hon. Tung Ngo. I had the privilege of being on the committee last term, and the Hon. Tammy Franks and I often talk about issues there. She has an absolute commitment, as do many, for the wellbeing of our Aboriginal people and, in particular, issues in the APY lands. I would like to know whether or not all this went through the standing committee and what involvement the standing committee had with this. The minister still—and I think we have not changed the act—heads up that committee.

*Members interjecting:*

**The Hon. R.L. BROKENSHERE:** No—at least we fixed that. And the reason we fixed that was because the minister should not have been on there—I have always been strong on that. The minister never used to show up too much anyway.

**The Hon. T.A. Franks:** Terry Roberts did.

**The Hon. R.L. BROKENSHERE:** The Hon. Terry Roberts—great man, and he did. But since then, when I was on the committee, now and again there would be a special meeting for the minister because the minister was actually available for a few minutes so everyone had to rush around to have a meeting.

My point is that at one point in time they had the minister on the committee and now we have a situation where I understand the committee was not even consulted, and I would have thought it would have been good for the committee to have a look at this and put a report to the parliament. I put on notice why did the minister not do that if, indeed, the minister did not do that? Why did he not use the Aboriginal Lands Standing Committee of the parliament to work through some of these issues?

I also put on the record that I seek an answer from the minister on clause 1: when did the minister first start to realise that there was, according to the minister, a major urgency here and that he had to act quickly and bring in an administrator? Then there are questions like if the government were not proroguing—which is only to their benefit and not to the benefit of the parliament or the people of this state; it is certainly not for the benefit of our Aboriginal people; it is a benefit for spin and fanfare and a so-called fresh start for the government. I would suggest that, if we were not proroguing, there would probably not be as much urgency about this bill this week.

There are amendments and we need to consider those amendments and weigh them up. On the *Notice Paper* right now we have this as the priority, and it has an arrow on the *Notice Paper* which says it is going through today. Well, this is unprecedented and holds the parliament in contempt—absolute contempt—and unfortunately, this is not the first time this government has tried this. We used to have protocols and procedures. Things were laid on the table for two sitting weeks so we could actually go out and consult. We cannot do any of that.

I want to know, minister, why we cannot at least have 24 hours to digest the emails on our phones and our computers, to look at the press releases, and to have a chance to have further consideration of the issues that were put to us today. I want to put on the public record my thanks to the Hon. Tammy Franks for organising a meeting. I was on my way down to Adelaide from the country when I saw the email and we were at least able to get an adviser to the meeting that she organised, so thank goodness there was an opportunity there. Our adviser has been able to brief us after meeting with some of those people who had concerns.

As I said earlier, from my experience, when a government rushes legislation through, there are always unintended consequences. There is not time to think through the issues properly and it is generally not the best legislation, and I would be very concerned about that. So, minister, have we got until at least tomorrow to consider this and have some chance to work effectively through the amendments at least, given that you have been able to get the numbers to get the bill through?

We saw a similar thing to this in the last sitting week with this government. This government has become so arrogant. They sit there and smile as they get into their nice chauffeur-driven car, but they are so arrogant. We saw it with the ICAC bill when that had to be rushed through. I thought we would have had this week to actually look at and consider that, but no, that had to be rushed through and now this has to be rushed through.

Again, I do commend the Hon. Terry Stephens, because he has been raising issues. Clearly there are issues there—there are issues everywhere—but I wonder, if they were going to put an administrator into a suburb of Adelaide, whether they would actually do it like this or whether they would say there had to be a bit of consultation and time for consideration. I wonder what they would think if they had to put an administrator into the western suburbs, into some of their key marginal seats. I wonder what they would be thinking there.

Yes, there are issues that need to be dealt with; there are resources that need to be dealt with as well. There are allegations up there that have been raised in this house that need

investigation, but this is a process that I just say is a disgrace, and I would at least like to think that we have until tomorrow to consider some of the amendments and perhaps then be able to tidy it up.

I finish by saying that I, for one, condemn the minister for the way he has gone about this. I am really starting to lack confidence in this minister. He can smile, he can giggle, he can laugh, but how can a minister come in here and expect the parliament to be like little puppy dogs and have our tummies tickled because he has been slack in what he should have been doing, which clearly is over several months? He has not reported to this house.

You might think it is a joke, and you might be there for four years in your ministerial position, but it is time you started to treat the Westminster system with a bit of democratic process and respect. It is time you stopped your arrogance and actually got off your backside, got out of Adelaide and spent more time having a look at your portfolio areas.

**The Hon. J.A. DARLEY (17:08):** I rise to make a brief contribution on this bill. This morning, I along with other crossbench members and their representatives met with the APY Executive. I want to thank the Hon. Tammy Franks for organising this meeting. The executive made it very clear at this meeting that the minister had not consulted with them with regard to the bill, that in fact only 10 days ago, at a meeting with the executive, the minister had indicated that he would not be going down this path of legislative reform to appoint an administrator.

The executive advised that the minister has made no attempts to identify to the executive what the problems were which caused the minister to take such drastic and immediate action. Further to this, I understand there are already provisions in the existing act where the minister is able to suspend the executive board, and I would be happy to hear from the minister as to why these powers were not used rather than going down this path of amending the act.

I have concerns about the comments which were made at this morning's meeting. There seemed to be an air of confusion as to where and why there was a breakdown in communication between the APY Executive and the minister. Certainly there was confusion as to why the minister had chosen to travel down this path without consultation with the executive, and I would be interested to hear the minister's comments. With that, I look forward to the second reading of the bill.

**The Hon. M.C. PARNELL (17:09):** Shortly after 2.15 this afternoon, the President opened today's proceedings with an acknowledgement that we are meeting on the traditional lands of the Kaurna people, and in that acknowledgement we recognise both the past and present in terms of the connection of the traditional owners of the land on which we meet with this country. We have become accustomed to doing this for the whole of this session of parliament. It is something that we do at the start of a Tuesday of sitting, but you have to ask yourself when bills like this come along: why do we bother?

What is the point of acknowledging something like the fact that we are meeting on Kaurna land if it is not accompanied by a commitment to respect and to recognition and an understanding of not just the desires of Aboriginal people for self-government and self-determination, but their right under international law to self-determination. I will come back to that in a second.

I support the comments made by my colleague, the Hon. Tammy Franks. I will not repeat all the things that she said, but certainly the Greens do not like the process that we are going through and we will not be supporting this bill today. We will need to deal with amendments and we will need to see whether we can make a bad law better, but I want to make it very clear at the outset that we are terribly unhappy with how this bill is progressing.

The normal process, as all members know, is that legislation is introduced into parliament and it then sits on the table and on the *Notice Paper* so that we can properly consider it. We can consult with stakeholders, we can talk to people who might be affected by the laws, and we do not vote on a bill in the same week that it has been introduced. In most cases, it is around a month; sometimes it is a little bit shorter, sometimes it is a lot longer, but we do not vote on a bill the very same day that it is introduced into parliament.

There are always some exceptions to every rule, and there are occasions when we have accepted that the need required that something be done very urgently, but there are some preconditions to getting rid of our standing orders. Those preconditions include things such as an

urgent set of circumstances has arisen and everybody agrees that it is a fix that is required. It is certainly not appropriate where you have contentious legislation to be rushing it through.

Whilst we have in the past accepted in very special circumstances that rushing something through is appropriate, this does not tick any of those boxes, because the key people who are affected by this legislation have told us loudly and clearly that they do not like it and they do not want it. That does not mean that some law reform might not be necessary, but it does mean to the Greens that it is not necessary to be rushing it through without proper consideration and without proper debate.

My colleague the Hon. Tammy Franks referred to some previous situations, and she is right. We have rushed things through where MPs have stood to get some money or some extra superannuation. The government wanted to do the bidding of some mining companies up in the north of the state and they wanted to kill a court action that the traditional owners had brought in relation to their native title rights, and that was a case where the government rushed legislation through. We opposed it then, as we oppose it now.

My colleague referred to a number of submissions that have been received. She referred to the submission from the Law Society. I spoke to the President of the Law Society today to thank him for sending through the submission and for getting on to this so quickly, because, whilst this bill is rushed, at least we have the views of some stakeholders.

One aspect of the Law Society submission that I wanted to touch on relates to whether or not granting an unfettered discretion to the minister to suspend the executive board of the APY may be inconsistent with the rights of Anangu Pitjantjatjara Yankunytjatjara to self-determination. The Law Society points out that the United Nations Declaration on the Rights of Indigenous Peoples from 2007 contains the following relevant provisions:

Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

The Law Society has pointed out that this is not just a question of our domestic law, it is also a question of our responsibilities under the international treaties that Australia has signed.

We do not have as many lawyers in this chamber as we used to, but those who do have an understanding of the law will know that South Australia is unique in this country in that it has a special act on the statute books which says that ministers do not have to comply with international treaties. Those with memories will appreciate that it is an act of this parliament that goes back, from memory, to 1997. I have tried to repeal it twice.

As a result of the experience today, I think I will be back next year trying to repeal it again. It is an act of parliament. The Administrative Decisions (Effect of International Instruments) Act provides that ministers do not have to comply with international treaties. I think that is an absolute shame and it is something that we need to take off our statute books. I think the minister should have had regard to these provisions before making the decision to introduce this legislation today.

Another submission that has been received is from the Aboriginal Legal Rights Movement. I will just quote a couple of sentences:

...the Chairperson of the Aboriginal Legal Rights Movement, Ms Sandra Saunders, expressed utter dismay at the amendments proposed by the State government, and which were the subject of a strong media statement by the Executive of Anangu Pitjantjatjara Yankunytjatjara on the 28 November 2014. This was...in response to the Minister's press release of the 27<sup>th</sup> November.

Ms Sandra Saunders said, 'The Aboriginal Legal Rights Movement unambiguously supports APY in its opposition to the legislation which would allow the Minister to suspend the elected APY Executive Board "for any reason he or she thinks fit" and appoint an administrator.'

In addition—I will refer to it but I do not need to read it—all members would have received the petition signed by 85 residents of the lands, which was pulled together at very short notice by the Law and Culture Advisory Committee. As members could not have failed to appreciate, this document arrived by email in our inboxes clearly as a scanned paper document, and the red dust is ingrained in every page of this petition. In fact, it is quite a beautiful document, as people, the bulk of whom I presume English is not their first language, have subscribed their names, written the community where they are from and signed it. It is a red, dusty petition with 85 signatures and it looks as though this parliament is going to ignore it.

In terms of the details of the legislation, we will get into that more in the committee stage. Certainly the clarification that the Independent Commissioner Against Corruption, or one of his or her delegates, has the power to enter the lands does not appear to be contentious, and that could go through. But the power to suspend the board and to insert an administrator is contentious, and that is the part that the Greens are objecting to. My colleague described the processes that exist under the current legislation, processes that it appears the government has not even attempted to follow in terms of triggering the right to intervene and install an administrator.

I will say in conclusion that the Greens do support legislation having appropriate checks and balances. If things are going wrong, then we do need a mechanism to fix things. I am not close to the community or to what is happening there, but certainly what I do appreciate is that this is not the way to go about addressing any concerns. We are throwing parliamentary procedures out the window and we are throwing our respect for the APY people out the window, and I think this is a very poor way for this parliament to be legislating in the best interests of the people of South Australia, something we have all sworn to do.

**The Hon. B.V. FINNIGAN (17:20):** I oppose this bill based on two principles: first, it is being rushed through with unseemly haste; and, secondly, it extends ministerial power beyond what is reasonable. This bill is not about the Hon. Mr Hunter and his stewardship or competence with his portfolio, and it is not fundamentally, today, about the best model for the governance of the APY lands; it is more about today, and this week, the process and powers that the bill seeks to give to the executive. It is certainly not about the waves of righteousness that are coming from some honourable members, who say they have no confidence in the minister and that this bill is a disgrace and an abuse of process, but who are, nonetheless, voting for it.

**The Hon. T.A. Franks:** I'm not voting for it.

**The Hon. B.V. FINNIGAN:** I was not suggesting that the Hon. Ms Franks was voting for it—

**The PRESIDENT:** The Hon. Mr Finnigan has the call.

**The Hon. B.V. FINNIGAN:** Sometimes there is justification for bills to be rushed through and other honourable members have acknowledged that, even though they would have reservations about a bill being rushed through. However, I am not satisfied that it has been established that there is sufficient urgency for this bill to be pushed through parliament in two days. There have been problems with governance for years—that has been referred to in debate—and I cannot precisely establish, without hearing from the government, what has changed (apart from there being a number of articles in *The Australian*) regarding the APY executive. I do not believe a case has been made that action must be taken today, indeed this week.

The question has to be asked: how long has this bill been contemplated? How long has this power to be given to the minister been contemplated? What failures to comply with directions, what failures to act within their responsibilities, have led to this bill being proposed today? I acknowledge that there may be some sensitivities with process, with potential legal actions, but there does not appear to have been much explanation as to what occurred late last week for this extraordinary power to be given to the minister and to be presented to this parliament today, that this is so urgent and so necessary that it cannot even wait until February. There have been systemic problems over a long period of time, but we have to act today.

On that basis I would support the amendment of the Hon. Ms Franks, although I do believe a sunset clause should be more like four months not 12 months. If, as the minister has indicated, there is a broader package of powers, changes, amendments to the bill that has been contemplated, then four months ought to be ample time to come back to this council. I support the provision to allow the Independent Commissioner against Corruption access to the lands but, again, what is it that means that has to be established right now?

The second principle on which my opposition is based is that this bill extends ministerial power beyond what is reasonable. The usual establishment of a government board or independent board is that it is established by statute. Members are appointed perhaps by the government or perhaps elected, and various interest groups or parties may nominate their representatives on the board; there are various ways a board can be composed, but it is normally subject to limited ministerial direction. Certainly, a board is normally subject to ministerial direction, but normally it is of a limited form. If you are going to have a board, it should not be sackable on the whim of a minister, whoever that may be.

Other honourable members have given the example: imagine that a suburban council or the WorkCover Board was not acting within its responsibilities or there had been problems with management, and a minister came to the parliament and said, 'I want you to give me a clause in that bill that says that I may, for whatever reason I think fit, sack that board and appoint an administrator.' The howls of outrage that would emanate from the community and from other members of parliament would be deafening.

This might well be an appropriate provision if that is what the community wanted, if that is what consultation told us was appropriate, if that was the best model. The question is: how can that be established so quickly? I certainly doubt that that is the case, but that this extraordinary provision to grant such a carte blanche power to the minister should be introduced and passed so quickly is not consistent with good governance.

It may be that the community, the government and the parliament would like to have a completely different structure, with a permanent administrator and no board, or an advisory council, or some entirely different way of governance. That is not the issue because that can be debated at leisure or at length, people can be consulted and people can have their point of view. Even to appoint an administrator while that debate occurs may be reasonable, but not to do that within a few days, to say, 'We need to replace the board,' or 'We need to basically strip the board of its powers and appoint an administrator and, in the meantime, we'll work out what is the best model for the future.' The provision that is proposed in this bill is extraordinary. I am not sure that I can recall another one quite like it; I am sure that there are.

Generally speaking, when you have an independent board, it is subject to some ministerial control, as is appropriate if it is a board established with statutory power granted by this parliament, but normally that will be in specific terms. That will be a case of: if the board does this and if the board fails to act within its responsibilities in this way and if the board does not do what is consistent with the Treasurer's Instructions, or whatever it may be, these are the consequences or these are the mechanisms by which executive power can be exercised over the board. Instead, what we have on this occasion is an extraordinary provision that says:

The Minister may, for any reason he or she thinks fit, by notice in the Gazette, suspend the Executive Board for a period specified in the notice or until further notice in the Gazette.

What an extraordinary provision to put before us, that the minister—the cabinet, essentially—through, obviously, the gazetting by the Governor, can suspend the board 'until further notice'. It may well be that the government wants to abolish the board and, if it does, as I have said, that may be a fair proposition. It may be what people think is the most appropriate course. It may even be what the people living on the lands want. I am not in a position to make that judgement, but to say that the parliament should give to the executive the power to suspend that board 'until further notice' is quite extraordinary, in my view.

The minister said in his second reading report that the existing powers are limited to dealing with certain failures of a specified kind. So, the powers are not sufficient because there are only certain circumstances in which those powers can be exercised. Yes, and for good reason, and the

reason is that, if we establish an independent board, we want them to act diligently, conscientiously and independently.

To give the minister, any minister, a power to suspend that board and replace them with an administrator for any reason they see fit is an extraordinary extension of the power of the executive. As I say, it may be that parliament, the government, chooses to abolish the board altogether. That is a separate question. If you are going to have a board and you are going to establish it by statute and then you are going to have a statutory provision that says the minister can suspend it at any time for any reason they think fit, that is the question that lies before us today.

With the passage of this provision, a minister could decide that, because the right colour photocopy paper was not used in submitting documents, the board is suspended. Now, that would be absurd and we all know that that is absurd, and you might ask why I even make such an absurd example, but it would be consistent with the provision that is put before us today, because the minister may, 'for any reason he or she thinks fit,' suspend the board.

The only thing that would prevent such a suspension in those circumstances would be political pressure and the potential embarrassment of acting in such a fashion. However, that is a very poor principle on which to base statutes. The thing that holds the executive in check is the political consequence of acting in an unreasonable way. Instead, the legislature should give the executive powers consistent with acting reasonably and responsibly in the administration of government. I do not believe that this bill is consistent with those core principles and I oppose it.

**The Hon. T.T. NGO (17:31):** I, too, would like to express my views on this bill. As a former councillor at the Port Adelaide Enfield council I think the Minister for Local Government has the power to sack a council if there is maladministration. I believe, at one stage, when Port Adelaide Enfield council was going through a rough period, the minister was seriously considering doing that—but I am not here to talk about that; I am here to talk about the bill.

To me, this bill is not about sacking the APY Executive and replacing it with an administrator. In reading the bill I think it gives both the minister and the APY Executive the opportunity to work together to overcome some of the issues. I know the bulk of the debate so far talked about the process of this bill being rushed through, and I can concur with many members about that. I do not know the reason; obviously the minister has his own reasons, but it is a fair comment to say the process has not been done.

We need to focus on this bill, and I see this as an opportunity for both the APY Executive and the minister to work together. I do not see the bill as a way of saying that they will be sacked tomorrow, because I hope not. Not long ago we asked the Presiding Member of the Aboriginal Lands Standing Committee to invite the APY Executive to come and give evidence, because previous witnesses had alleged lack of governance and financial matters to the committee members.

As a new member of that committee I was very keen to listen to both sides, and I made that clear to members, and the Hon. Terry Stephens will back me on this. I said on the day, 'I'm not here to take sides. I'm here to listen to both sides.' Unfortunately, the APY Executive cancelled the meeting that they had with us at the last moment, because a former staff member took legal proceedings in the Supreme Court of South Australia about some of the matters and they felt it was improper for them to come and give evidence to the committee.

So, unfortunately, that happened, but hopefully in the new year the executive will have time to come and give their version because I and other new committee members would like to hear their side of the story so that we can make our own judgement, because there were some allegations made in the newspaper. As members know, a newspaper sometimes says more things than it usually does. So, I do look forward to them giving their evidence.

To summarise, I see this bill as giving the minister the opportunity to work with the APY executives so that there will be outcomes, maybe reforms that the APY want to work with, along with the government and the minister. So that is my contribution for today.

**The Hon. R.I. LUCAS (17:36):** I rise to speak to the second reading of this bill, and in doing so indicate that I think it is a sad day, and that whenever it is that the Hon. Ian Hunter leaves this

parliament this will be another permanent stain on his ministerial record in terms of his ministerial competence, across a range of portfolios.

This parliament has already expressed a view in relation to its confidence in relation to his handling of other ministerial portfolios, and I think, as some members have already outlined (and I agree with many of their views already), the minister's handling of this portfolio, the minister's handling of this particular piece of legislation, the minister's handling of this whole issue, has been an absolute disgrace. As I said, whenever he leaves this chamber it will be a permanent stain on his ministerial record and will be forever there for all to see, from his own party, from the community and from other members of parliament. It is a sad day that we are being asked to go through this particular process in this particular way.

The minister's arrogance on a range of issues, as you will know, Mr President, has been a source of much angst from most members of the Legislative Council and from many in the community, and has been an issue raised with him. He has been admonished by his leader and asked to treat members of parliament, in particular the crossbenchers, with the degree of respect that they deserve. It has been a criticism that I and a number of my colleagues have made of the minister. It is not as though this is a new criticism, and it was clear that that arrogance that is demonstrated each and every day within question time, as he smirks, snarls, ignores questions and refuses to answer questions on a variety of areas, would come back to cost him.

In my contribution today I want to raise some issues here where questions have been put to this minister, over a long period of time, and again in his sneering, snarly, smirky way he has chosen just to arrogantly ignore the questions that have been raised with him as a minister, and he has not responded as a minister should have to questions being genuinely asked by members of parliament about problems in the APY lands.

As other members have highlighted, the disgraceful nature of this is not just that, first, we are being asked to ram through a bill today, with amendments to the bill that we have only just received at around 3 or 4 o'clock this afternoon, with a requirement from the minister and the government to have processed all of this by today.

I am the first to acknowledge that there have been some examples in the past where governments, of all persuasions, have sought the agreement of members to expedite issues. This, in my view, is not one of those, for reasons that I will outline. The minister has had more than enough time, as it has been outlined to me, to have taken action, well prior to today, to do what he is seeking to do today.

Indeed, as other members have highlighted, if this government was serious, if this minister was serious, there is the option, or there was the option, of sitting in the optional week next week for another three days to at least give the parliament the opportunity to further consult on this particular issue, and indeed anything else that was going to have to be forced through the parliament in the dying days of this particular session.

Just addressing some brief comments to the issue of amendments, and I want to turn to that later on, what I want to raise as a matter of issue is that, if there had been greater time, this chamber and the parliament may well have been able to sensibly construct alternatives to the various amendments that have been flagged. In looking quickly at the amendments, there is the amendment for, in essence, an equivalent of a sunset clause that the Hon. Tammy Franks is moving. There is the amendment in relation to accountability measures and reporting to parliament that my colleague the Hon. Terry Stephens is intending to move.

I am not aware of whether there are to be other amendments, but there are potential alternatives. I know that Mr Andrew Collett, on behalf of the APY Executive, as I understand it, has floated or flagged with some members of parliament an alternative amendment which seeks to incorporate the grounds of reasonableness in terms of the minister's actions. I am not a lawyer, but the immediate concern I have with that, with the greatest of respect to Mr Collett, is: does that open up a lawyers' picnic in terms of preventing what steps might need to be taken in terms of the urgent appointment of an administrator, because action would be taken on the grounds that it was not reasonable and there would be interminable legal actions to determine that?



There are alternatives to the particular drafting that has been flagged which, with time, might have been able to be explored. Another alternative, which has not been raised yet, relates to the Aboriginal Lands Parliamentary Standing Committee, which is chaired by the Hon. Tung Ngo. It is possible, and it has occurred with some other pieces of legislation, for a tripartisan committee, such as the Aboriginal Lands Parliamentary Standing Committee, which, as I understand it, includes three Labor members, two Liberal members and one minor party member, to provide advice to the minister, or the minister might need to get agreement from a committee like that, before he or she as a minister proceeds with the implementation of this wide-ranging power, which would at least give some option for other views within the parliament to be expressed.

That is not a Liberal Party position and it is not indeed a concluded view that I have: it is just one of a number of options that might have been considered. The reason I just flag those as potential other options is that one of the concerns I have with this minister's actions is that he read a perfunctory two-page alleged justification for this legislation as his second reading speech.

I am not a member of the Aboriginal Lands Parliamentary Standing Committee. My colleagues the Hon. Terry Stephens and the member for Morphett are, and they are obviously privy to much more information than the rest of us are privy to. As I understand it, some recent meetings of that committee have taken evidence in camera. I do not know whether it was on the record or off the record, but it was in camera, so other members of parliament and other members of the community are not privy to some of the claims that have been made in terms of the detail about whether it be corruption, maladministration, malfeasance or whatever it happens to be in terms of the performance on the lands.

It may well be that it is not possible to provide all of that detail to an open forum such as this chamber, and I am the first to acknowledge that. That is why the option of maybe getting the support of a parliamentary committee before a minister uses this wideranging power is an option that might have been discussed in another set of circumstances.

Between laying all of the material on the public record, some of which might be proved and some which cannot be proved at this stage, and the perfunctory two-page alleged justification in the second reading the minister gave today, there has to be a more reasonable position where, if the minister asks this parliament to move down this particular path, the requirement is on him, in my humble view, to provide greater information to members of parliament and to the public as to why such a major change should be implemented by the parliament on the recommendation of a minister.

As the Hon. Mr Finnigan and others have pointed out, this is an extraordinarily wideranging power. It says that for any reason at all, the minister can get rid of the executive for any period of time. To be fair to the Hon. Mr Finnigan, he raises an interesting issue. That is, that under this particular provision if it had been implemented, for example, in 2002, there would appear to be nothing in it that would have prevented the minister on a permanent basis, in essence, taking control of the lands.

As the Hon. Mr Finnigan says, it raises issues. It does, in essence—and I do not think Mr Finnigan put it this way—but does this minister and this government believe that self-determination is dead? That is, on a permanent basis do we, the government, you the minister, take the view that there is no way that this is ever going to be run competently along the model of self-determination which has been the model for many years and that we, the government, will take control and appoint our own administrator to, in essence, replace the executive board?

There are any variety of different government models which could be contemplated, and the government may well be contemplating those in its legislation next year. But, in essence, the bill before us gives absolute power and authority to this minister for howsoever long he remains in office and the government remains in office to permanently appoint an administrator to control the lands. That might be, as the Hon. Mr Finnigan has indicated, a policy issue that the government wants this parliament to debate. It would be a controversial one, but in essence what they are doing is taking that decision and giving themselves the power for that decision forever and a day without actually having that particular debate in the chamber.

Some members have referred to the existing legislation, and I want to refer to the existing legislation because as some members have indicated there are extraordinarily wide powers within

the existing legislation. The information provided to me is that this minister, in his almost two years of negligent and incompetent performance in the portfolio, has never issued a direction as contemplated within section 13 of the act which would have given him, ultimately, the power to suspend the board and appoint an administrator.

Under section 13O, the minister has the power to suspend the board, but in earlier provisions of 13 there are extraordinarily wide powers where the minister can direct the executive board to terminate the appointment of directors of administration, or the general manager, in certain circumstances. Under 13N the minister may direct the executive board—and there are wide-ranging powers there where the minister can direct the executive board if he is leading us to believe that for two years there has been widespread, whether it be incompetence or whether he is claiming corruption or maladministration—whatever he is claiming up there.

To justify this particular decision, he must be claiming some combination of those, we would assume, although he does not give the chamber the courtesy of actually outlining, as I said, in any detail at all, the nature of the accusations he makes and the justification for taking the action that he seeks to take. But the minister has the power under 13N, in a wide-ranging way, to direct the board and, if the board does not do as he directs, then under 13O he has the power to appoint an administrator under the range of circumstances which are outlined in 13O, and I will not go through all the details of those.

It is quite clear under the parent act that the minister has the power, if he so chooses, to take action, and he has done nothing. He has done nothing in the almost two years he has had that portfolio to direct that certain things should occur. As I said, if it is as bad as he is claiming, then one would have thought that at some stage in two years as minister he would have actually taken some action to direct for something to be done by the executive board on the lands, even if it was solely to prepare the grounds for doing what it is he wanted to do in the end, and that was to sack the board and appoint an administrator. His performance meant that he did nothing in relation to any of those powers and did not, as I am advised, indicate or issue any directions to the executive board at all.

This whole issue of the legislation before us, as members have highlighted, can be divided into two areas. I will return to the area about the power to sack and the appointment of an administrator in a moment, but the first one is in relation to giving powers to the ICAC to enter the lands. As the Hon. Mr Parnell and others have indicated, we have been advised that the APY Executive and those who speak on their behalf have indicated that they have no opposition or they support that provision. There has been some argument put to me as to why this particular power is required. Some have advised me that the police officers and others working for the commissioner already have the power to enter the lands without having to get permits. Putting that to the side, it appears that there is either support or certainly not opposition to this particular provision.

The point that I want to make in relation to the role the ICAC might play up there is that I think some people have taken the view that the interest of the ICAC might only be directed at those who have been publicly identified in media articles already. Can I say: my very strong advice to people who take that view is that that might not be a correct assumption. It may well be that a wide-ranging number of complaints have been made to the ICAC, not just involving complaints against those who have been publicly identified in the media, but there may well have been complaints lodged with the ICAC about the actions of a number of others who work in, on and around the APY lands.

I think those who believe that potentially the only ICAC interest is in those who have been publicly identified have no grounds for that at this stage. It is possible that a range of other people may have had complaints made against them. I want to just refer to—and again coming back to the minister's arrogance—this issue of the ICAC, and highlight the fact that there are obviously a number of different groups active on the lands. There are those who are on the APY Executive at the moment and who support the particular position. There are those who have been opposing them at the moment, and there may well be complaints on both sides in relation to issues which may or may not end up being of interest to the ICAC, but in addition to that there are the employees of the government (that is, public servants) who work on the lands.

I remind the minister and members that back in September 2012 I raised a series of questions of the minister in relation to whether or not, when he was the minister for communities and

social inclusion, he had received advice of any claims of abuse of locality, meal or other allowances by some of his staff working on the APY lands and, if so, whether any disciplinary action had been taken against any individual staff member and, if so, what; whether any allowances of any staff member had been terminated; and what were the details of the action.

Typically, we received an arrogant and dismissive response from minister Hunter to that particular question. I followed up again when no answer had been provided by October, and then again in November in this particular place. I first raised further concerns on 18 October, then on 31 October and then on 1 November.

On 1 November I again asked similar questions of the minister. I provided details of individual accusations about roting of locality and other allowances on the APY lands at that particular time by public servants. Again, the typical response we received from the minister in his arrogant way was, after making various attacks in response to a number of those questions, to promise that he would look at the questions and bring back a response in due course. These questions were taken originally back in October 2012, the very first question, and then subsequently over the next 12 months so.

The very first question was asked in September 2012 and subsequent questions over a long period of time, and not one of those questions has ever been responded to by minister Hunter in this place—not one of those questions has been responded to by minister Hunter. That is typical of the arrogant way the minister treats genuine questions in relation to these issues.

As members will know, I also raised a series of questions and concerns about massive wastes of taxpayer funding through the Aboriginal Affairs division, which was then tied up with Premier and Cabinet, up to half a million dollars being spent on GN's Otis Consulting for a governance review of the lands, with no justification being given to the Budget and Finance Committee of this parliament as to why that was being spent.

I raised concerns about massive amounts of money being spent on very expensive food processors, industrial strength tumble dryers in large quantities and 30 motorbikes which had been purchased and then stored unused in a shed—massive wastes of taxpayer funds, which had been raised with me by people who worked on the lands concerned about money being spent at the end of each financial year. Those questions again were put to the ministers and the government, and again there was refusal to answer those particular questions.

What was the response to those? The response to those—and I have raised this issue before about the ICAC—was that someone, and I do not know whether it was a minister, a departmental officer or a ministerial officer, raised the issue with the ICAC to try to root out who the whistleblowers were within the department that had been feeding the information to me as the member of the opposition who had raised these particular questions.

So I was summoned to meet with investigators from the ICAC and asked who had provided me with the information, to which I very politely said, 'Get nicked, parliamentary privilege protects the information provided to members of parliament,' as it should. That is the sort of response this administration provided to genuine questions about wastage, the roting of allowances, potential corruption, malfeasance, maladministration.

What is the response? They try to use the ICAC as a leak inquiry, to try to root out and terrify and intimidate the people who had concerns about the wastage of public moneys, taxpayers' money, by this minister and other ministers, the government and public servants on the APY lands. That was their genuine concern. Questions were raised and ministers refused to answer them. The response is that the ICAC is sooled on to them to try to intimidate them, shut them up and stop providing information to members of parliament and the opposition. I seek leave to conclude my remarks.

Leave granted.

*Sitting suspended from 18:01 to 19:48.*

**The Hon. R.I. LUCAS:** Prior to the dinner break I outlined some of the concerns I had in terms of having raised issues in this place with the minister about roting within the Public Service and wastage of huge amounts of taxpayers' money in terms of Public Service decisions that had been taken. I did mean to refer to one particular question I asked on 18 October 2012, when I read

parts of a letter that had been written to the minister in April 2012 from Mr Willy Pompey, a senior Aboriginal leader from the Aboriginal lands, who said he had been waiting six months for an answer from the minister. I quoted in part that letter:

The truth is that it is the non-Anangu who are eating up the vast majority of the money. We see them fly in-fly out. We see them stay in motels and even resorts when they go to Uluru. The high-up government people who come to give us workshops to educate us don't stay in the same basic accommodation as my Centrelink paid people do. No, because they believe they are better than us and so deserve better than us and so they are provided for better than us.

He then went on—and I will not read the full letter—to outline some major concerns in relation to some training programs and wastage that, in his view, were going on in relation to the money that was being expended in those programs.

I raised some of those concerns in the parliament and also in the Budget and Finance Committee. I have been critical of the minister's arrogance, which is amply demonstrated by his one paragraph response to the question I raised and the letter I read to him from Willy Pompey and the concerns he had about not getting answers from the minister and the department. This was the minister's response:

It is a very sad day when we stand here and listen to the fabrications made by the honourable member in his brief explanation.

He then goes on to attack me for raising these particular issues.

As I outlined before, the minister has displayed arrogance in relation to this in refusing point blank to answer questions that I am sure many people have put to him through committees and the parliament and, I assume, questions directly from people concerned about what is going on in the APY lands, which is indicative of the widespread concern that people have about the minister's performance in his portfolio and the management of the issues. Again, as I outlined before the dinner break, in raising some of these issues the concern I had was that there was no response at all from the minister.

The only response was that someone (I do not know who, but one would imagine it has come from somewhere within the broader definition of government) has referred the issue of who the whistleblowers were who leaked the information to the opposition to ICAC, for ICAC to try to root it out and find out who those whistleblowers were. So there seems to more intent and effort devoted to rooting out the whistleblowers than to actually looking at what the problems are and trying to tackle the issues that might exist, and providing answers to members of parliament and others who have raised their concerns.

I now turn to the most controversial aspect of the bill, the minister's power to sack the board and appoint an administrator. I made some comments earlier and I will not repeat those now, but I do want to briefly track the history of this. My party has supported the proposition in terms of the appointment of an administrator, as the Hon. Terry Stephens and other spokespersons for the party have indicated, but I think it would be naive to assume (and I do not think anyone does, or at least I hope they do not) that the mere appointment of an administrator is going to be the magic solution to the issues on the APY lands.

Just to back that up in the brief time available, in my own memory I tracked back through what I can recall of the recent history of this, and I refer members to what I think was a front page story in *The Australian* of 16 March 2004, just over 10 years ago, entitled 'Rann takes control from blacks' by Rebecca DiGirolamo. This story was in *The Australian*, but I think there was an equivalent story in *The Advertiser* as well. The story in *The Australian* said:

Endemic petrol sniffing, domestic violence and the deaths of four Aboriginal youths in the Anangu Pitjantjatjara Yankunytjatjara lands have forced the Rann government to install a former police commissioner as the area's administrator. Declaring that self-governance in the South Australian Aboriginal lands had failed, police minister Kevin Foley said the government had lost confidence in the APY council and had intervened to take control of the region. Former South Australian assistant police commissioner Jim Litster will head a government task force to take charge in the APY lands once the legal changes pass through state parliament. This will effectively halt state funding to the APY council and its executive, handing responsibility to Mr Litster's team.

Yesterday's move followed a state cabinet briefing that detailed the four deaths in the APY lands. Eight other youths have attempted suicide over the past two weeks. 'Self-governance in the Anangu Pitjantjatjara lands has failed

and this Government has said we will not tolerate an executive unable to administer civil order, community service, social justice and quality of life for their community,' Mr Foley said. 'We are stepping in, putting an administrator in, full resources, and we will do what we can to ensure young people don't die, women don't get bashed,' he said.

In essence, that was the substance of the story in March 2004. I do not have the Adelaide *Advertiser* equivalent story, but my clear recollection was that it was splashed across the front page with Mr Foley, on behalf of the government, indicating that they were appointing an administrator and taking control and they were going to sort the problems out.

This was 10½ years ago that Kevin Foley and the Rann Labor government appointed an administrator, a former police officer, former assistant police commissioner Jim Litster, to take control. Only those who live within the bowels of the Labor caucus and the Labor cabinet will know what happened over the next month. That was in March 2004. In April 2004, just one month later, either Mr Litster did not proceed with his appointment, it was discontinued or he was sacked or he was asked to stand down.

I am not aware of the circumstances, but the Labor government then appointed former federal Labor minister and Northern Territory senator Bob Collins to a position to 'take over the coordination of the provision of state government services in the APY lands'. That was the terminology they used. Former Labor minister Bob Collins described his role in subsequent interviews in a way that fell short of the decision that the Labor government had taken and announced only a month earlier, and that was the full-on appointment of an administrator for the reasons that Kevin Foley had given in that media story that I quoted earlier.

Something happened within that month, but instead of Jim Litster, the Labor government appointed Bob Collins and he was to take control. He was going to be assisted by two full-time public servants based on the lands and he was going to take complete control as the coordinator of state funding for all of the APY lands. In various media interviews, he said he gave himself six months to try to solve the crisis. This was in April 2004. He insisted that he was going to try to collaborate to work with everyone to solve all the problems that had been identified. In one interview in April, in describing his appointment he said that he would not follow the heavy-handed approach of police minister and treasurer Kevin Foley.

It was more than 10 years ago that first an administrator was appointed and then something short of an administrator was appointed. Whilst it is a separate body, I have been advised that the Office of the Registrar of Indigenous Corporations appointed an administrator to AP Services, a different body, for a period from 2008 and for a short period after that, so the notion of administrators or people taking control in some form or other away from the APY Executive or the APY governance organisations in the last 10 years is not foreign.

This Labor government has had a history of interventions—clearly, all of them singularly unsuccessful. The government and the minister, in particular, are obviously convinced in terms of the person they have in mind. I am advised by my colleagues that the government has either a person or a couple of people in mind in terms of who they wish to appoint; I am not aware of the identity of those people.

As I said, I think that the notion that, in some way, the mere appointment of an administrator is going to solve all of these problems is missing the point. If you do not have a minister who is prepared to engage in the portfolio, if you do not have a minister who is prepared to respond in an appropriate to respond to questions from members of parliament, parliamentary committees, representatives of the APY, community leaders and others, the mere appointment of an administrator will not solve the problems. If you are going to tackle this issue, you are going to have to look at, sadly, a complete change across the board.

Whilst decisions of ministerial responsibility are obviously not for the opposition to make, ultimately judgements are going to have to be made by the Premier as to whether or not minister Hunter, given his incompetent and negligent performance in his almost two years in the portfolio, is, frankly, going to be part of the solution, or whether or not there needs to be a change. I guess that the challenge for the Labor government is to try to find somebody who would be any less incompetent or negligent, and that is a challenge for the Labor Premier in looking at who might be on his backbench.

In concluding my remarks today and now tonight, I do acknowledge that there are some strongly held views both supporting and opposing the legislation before us. Some other members have read various commentary from some, so I will not repeat those; I will take those as read. But in a story in *The Australian* on 29 November, it states:

But Mr Singer came under fire yesterday from the APY Council of Elders and veteran indigenous leader Lowitja O'Donoghue, who backed government plans to put the APY executive into administration.

Without knowing to whom my colleague the Hon. Terry Stephens was referring earlier, certainly Ms O'Donoghue would fit the description my colleague gave earlier, but certainly Michael Owen from *The Australian* attributes that particular view to her in that column. Finally, in that column, he states:

APY Council of Elders spokesman George Kenmore yesterday said the government should have appointed an administrator 'ages ago...It is disgusting he (Mr Singer) has played the race card. This is not about race, it is about good governance.'

Ms O'Donoghue said the time for action was long overdue. 'We're fed up and unhappy. Bernard Singer and APY have to lift their game...they've had plenty of opportunities over the years.'

Those last statements are direct quotes attributed to Lowitja O'Donoghue in relation to it. So, clearly there are some very strong views being expressed in support of the legislation, and I know that there are some strong views being expressed in opposition. In conclusion, as I said, the Liberal parliamentary party room has resolved to support the legislation, even though there are, from many within the party room, concerns, in particular about the government's process on this particular issue.

We in the Liberal Party acknowledge the contribution of my colleagues, the member for Morphett and the Hon. Terry Stephens, who had the major carriage of this, being members of the parliamentary standing committee and therefore who had access to a lot more information than the rest of us, and also the active engagement of the member for Dunstan on this issue and related issues over a long period of time. They, of course, have largely assisted the Liberal Party in coming to a difficult decision on this.

Most of us in the parliamentary party have sufficient confidence in our colleagues that we accept their judgement, although in most circumstances many of us, myself included, would much prefer to have access to more information to finalise a position on this, but for the reasons that have been outlined we understand that perhaps that is not possible. We certainly, as I started my contribution with, believe that the minister did owe this parliament, this council and all members something more by way of rationalisation and explanation in his second reading explanation as to why this bill was required, and he has singularly failed to do so.

**The Hon. K.L. VINCENT (20:06):** Very briefly, for the assistance of the council, I indicate that I will not be supporting the passage of this bill at this particular time. I would like to thank the Hon. Tammy Franks particularly for organising a meeting with the APY Executive this morning and I would like to thank all those who came along to that to express some of their concerns. As has been mentioned before, there is little doubt that there are issues with the executive as it stands at present, but I do not think those concerns give rise to the particular action that the minister is wanting to take at this point in time.

I note with some interest the Hon. Tung Ngo's contribution to this bill, in which he said that he saw this bill as being less about dividing the minister and the executive and more about making sure that those two parties can work well together. As far as I can tell, they already have a lot of tools to use to work together and I have not really seen the evidence to suggest that those tools have been used fully enough to allow us to talk about further action. It seems to me that there is more a need to focus on following due process at the moment before we talk about putting new processes in place.

Whether you are a minister or another member in this place, or anyone else for that matter, I believe that if you want to make the rules you have to follow the rules first, you have to stick to the rules. Therefore, I think we need to see the minister stick a bit more to the rules and the powers that he has at present before we start changing those.

I also noted with a great deal of interest that the Hon. Mr Ngo, and I hope he will not mind me mentioning this but I guess he is on the record, if I heard him correctly he indicated that he himself did not know the reason behind the minister wanting to rush this piece of legislation through the parliament this week. If he, as a member of the Labor government, of which the responsible minister

is a part, does not know the reasons for the urgency behind this particular measure then the rest of us do not have a hope in hell of knowing. So, I think that shows quite a strong communication breakdown there that perhaps needs to be worked on.

To conclude, I would like to quote from the conclusion of the Law Society letter. I will only quote the conclusion because I know that other members have quoted it almost in its entirety. The conclusion states:

In view of the foregoing concerns, the Law Society recommends that the Parliament give careful consideration to the provisions of the Bill and allows time for proper public consultation, before the Bill is passed.

So, nobody is saying that these measures are slightly unnecessary, nobody is saying that we have to blow up the APY Executive and start again, we are simply saying: let us have some more time to think about these measures and what they really mean for the APY Executive and people living on the lands.

Then if we go back and, having used the measures that the minister already has in his power, we find that they are not enough, we can have a due conversation about putting other measures in place. But at this point in time I am not convinced that it is necessary to do it right now and, therefore, I will not be supporting this bill—but that is not to say that I do not also appreciate the time urgency, if you like, of another aspect of this bill to do with the ICAC.

I am more than happy to deal with that expeditiously but I do not want to pass a bill that I feel I have not had time to properly consider which could have big negative ramifications for people living on the lands. It could be that this bill is harmless in that effect but, unfortunately, things that I have been told as early as this morning would indicate otherwise and I do not want to be responsible for creating a mess or being part of a parliament that created a mess that we then have to go and clean up. So I will not be supporting the bill at this particular time.

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (20:10):** I thank honourable members for their input to this debate on this bill and their indication of support for the passage of it and for all their indications of amendments. I will pass over the hypocritical performance of some honourable members tonight, particularly some of whom have privately urged me to do exactly this over the last several months but, for whatever reason, have not been able to express those views publicly in this debate tonight, and that is a matter for them and their conscience.

Governance and probity problems involving the Anangu Pitjantjatjara Yankunytjatjara Executive Board have been ongoing for a considerable period and it would be dishonest for anyone in this place to say that they are unaware of that. As members must be aware, since 2010 there have been seven different general managers. The most recent, Mr Bruce Deans, was appointed in June 2014 but his contract was terminated by the executive board only five months later in October 2014. I understand that Mr Deans has sought judicial review of the decision to terminate him, and that is for him to prosecute of course.

In addition, over the past year my department has identified various irregularities in the financial operations and the administration of the APY. Letters to the APY Executive explaining the issues and requiring action to correct the irregularities were sent by my department in January 2014 and by me in August 2014. These issues pertain to expenditure, procurement, recruitment and salary allowance irregularities. They also related to executive board payments and payments to spouses for travelling expenses. It remains unclear whether these matters have been fully addressed.

I understand Mr Deans also identified and raised concerns about irregularities and financial procedures just prior to his dismissal by the APY Executive in October 2014. Indeed, the APY's financial controller, an important gatekeeper, has also taken the extraordinary step of copying me into correspondence outlining a range of concerns pertaining to members of the board and the administration staff.

Unfortunately, allegations of bullying, maladministration and generally poor executive decision-making are regularly made. There has been a series of allegations over a number of years and from a number of people about decisions or actions by the executive board that affect the way

the APY staff are able to operate resulting in conflicts with staff, difficulties in operations and service delivery and instability with the organisation as a whole.

The APY Act currently provides only limited powers to the minister to intervene in the government's management of the APY. These are all conditional on the minister first issuing a formal direction to the board which the minister may only do in specified circumstances, to take action to address a failure of the executive board of a prescribed kind, and the executive board then failing to comply with that direction. Only then can the minister suspend the board and appoint an administrator. The alternative is before the chamber today, and that is to amend the act to add a discretionary ministerial power to suspend the executive board and then appoint an administrator.

It is with great reluctance that I have brought these amendments to this place. I believe that Aboriginal people must be empowered to make decisions that affect their lives. This is fundamental to the concept of self-determination which must be built on a foundation of strong relationships, mutual respect and an open dialogue with Aboriginal people.

One aspect that often gets overlooked when self-determination is discussed is that of capacity and the importance of robust institutions. A strong administration is necessary if the APY is to operate as an institution that is effective and accountable to the communities that they represent.

The APY board appears to have a great reliance on its administration, particularly its general manager and director. These two positions support the board with its statutory responsibilities; however, what is clear is that these two individuals, whoever they might be from time to time, also serve an important gatekeeping function by determining what is passed on to the executive and providing independent assurance of financial and other matters. The board relies on these two roles. If their independence and integrity become compromised, it is ultimately Anangu who suffer.

The last few years vividly illustrate a fundamental problem with the way the system of governance operates on the lands, to my mind. Anangu have a collective freehold interest in their land. The management of their land is overseen by a board which acts as a custodian for those interests, and yet there are interests which remain unrepresented. This current structure creates a void in which board members can focus on their own interests and neglect those of the broader community. This is particularly evident in relation to women's interests.

I have flagged before and I still intend to introduce a broader package of reforms in large part informed by the review conducted late last year and earlier this year into the governance of the lands, known as the Layton review. While many of the changes are yet to be settled, I am determined that women will have a stronger say in the affairs of the lands. Women have been noticeably absent from the governance of the executive board since the act came into being.

Now I would like to respond to some of the matters raised during this discussion. Some reference has been made to my attendance to my duties with the APY. I can advise that I have participated, as far as I can recollect, in 12 specific meetings with APY executive and/or general managers since 21 July 2013. I have met with Mr Richard Preece (then APY general manager) and Mr Bernard Singer (APY Executive chairperson) in my office on Wednesday 23 January 2013 at 2pm. The Premier, myself and Mr Richard Preece met in the Premier's office on Tuesday 19 February 2013 at 4.30pm. Mr Richard Preece (APY) met in my office on Friday 22 February at 3.30pm. Again, Mr Richard Preece met in my office on 15 May 2013 at 3.30pm. Again, Mr Preece met in my office here in parliament on Thursday 4 July 2014 at 10.15am.

I attended the APY lands and travelled to Indulkana, Fregon and Umuwa, where over the period of 6 to 9 August 2013 I spent time with the APY Executive Board and Mr Bernard Singer (chairperson of the board) on 7 August 2013, I believe. Again, I met with Mr Singer in my office at Parliament House on Thursday 12 December 2013 at 1.30pm. I then met with the newly appointed general manager, Mr Bruce Deans, in my office at Parliament House on 4 June 2014 at 1pm. On 31 July 2014, I met with Mr Andrew Collett (legal representative for APY) in my office at 4pm.

On 4 August, I met again with Mr Bruce Deans in my office at 4.30pm. I then met Mr Andrew Collett, Ms Lesley Johns (interim general manager), Mr Graham Harbord and APY legal representatives on 31 October 2014 at 9.30am. To my recollection, Mr Singer and Mr Rex Tjami were supposed to attend this meeting but were unable to travel to Adelaide and I was anticipating that they would phone in; however, this did not eventuate. My most recent meeting with APY



representatives was on 21 November 2014 at 10.45am. This meeting included the majority of the APY Executive members, including Mr Singer, Mr Adamson, Mr George, Mr Baker, Mr Pompey, Mr Tjami, Mr Graham Harbord and Ms Lesley Johns. That was in my office.

I now turn to a discussion about the amendments that I have put into this bill. The first amendment is proposed because the current powers of the minister to intervene are limited and take the form of the power to direct specific action in limited circumstances. The current powers may be exercised only where certain failures of a specific kind have occurred on the part of the executive board or individual board members.

If one of the specified failures occurs, the minister can issue a formal direction to the executive board. Only if the executive board then fails to comply with that direction can the minister suspend the board and appoint an administrator. To summarise, section 9D(4) enables me to direct the board to remove a member of the executive board who has failed to comply with duties of members in section 12B, which is the duty to exercise care and diligence; section 12C, the duty to act honestly; section 12D, the duties with respect to conflicts of interest; or section 12F, the duty to comply with the code of conduct; or has failed to attend six or more consecutive meetings.

Section 13A(3) enables me to direct the executive board to prepare a report on a matter in respect of which the minister is satisfied the board has refused or failed to perform or discharge a function or duty. Section 13G(4) enables me to terminate the appointment of the director of administration or the general manager for failure to comply with specified statutory duties or, in the case of the general manager only, they have been convicted of an indictable offence.

Section 13N enables me to take action to correct or prevent a detriment to Anangu, either generally or a substantial section of Anangu, that has resulted or will result from a refusal or failure of the executive board to exercise, perform or discharge a power, function or duty under the act or the constitution.

Section 13O provides that, if the board fails to comply with one of these directions, or if four or more members fail to attend a meeting called by the minister under section 11, the minister may suspend the board and appoint an administrator. If I can be satisfied that the problem, or the executive board as a whole, is due to its refusal or failure to exercise, perform or discharge a power, function or duty under the act or the constitution, I could direct the board to prepare a report about the matter (section 13A(3)).

But I would first have to take a number of procedural steps, which would result, obviously, in significant delay. This would include advising the board of my intentions to issue a direction (and the reasons for that), providing a reasonable opportunity for the board to provide a response, and then appear to review and consider the response before finally making a decision. At the end of the process I will, presumably, have the APY Executive Board's explanation for its actions or behaviour; if not, I then may direct the board to provide a report. Again, a written explanation will be the result, but then what?

If I am satisfied that the refusal or failure of the executive board to exercise, perform or discharge one of its powers, functions or duties has resulted in, or will result in, a detriment to Anangu generally (or to a substantial section of Anangu), I may direct the board to take such action as required to correct or prevent the detriment. Where the problem is with overall governance, however, probity and institutional stability, it may be difficult to establish a direct detriment to Anangu.

Again, I must first undertake a number of procedural steps, including advising the board of my intentions to issue a direction and the reasons for this, and provide a reasonable opportunity for a response from the board. If I form the view that the board has no adequate reasons or counterarguments, I must then work out what action the board must take to correct the particular detriment, issue that direction, and monitor the extent of compliance over time. In either case, it will only be where there is a clear noncompliance—a clear noncompliance—with a direction that I can consider suspending the board.

But, again, I would have to take a number of procedural steps before a suspension may occur. I must inform the board of my intention and reasons and provide an opportunity for the board to be heard about the matter, and clearly this all involves a very long and possibly quite protracted

process that could be manipulated and may depend on forensic examinations of numerous past decisions and actions in order to connect long-term organisational or governance difficulties or particular failures in relation to specific functions, powers or duties.

I can advise that in the past 12 months Aboriginal Affairs and Reconciliation, Department of State Development, identified various irregularities in the financial operations and administration of APY, as I said earlier. Letters to the executive board explaining the issues and requiring action to correct the irregularities were sent by AAR in January 2014 and by me in August 2014. However, the answers were not particularly satisfactory, and I am still not satisfied that these matters have been properly addressed.

Although these letters sought corrective action by the board, the letter from me does not constitute a formal direction, I am advised. That is because I would have to have first advised the board of my intention to direct it and follow a number of procedural steps, as I have already outlined. Then, if I wished to issue the direction, I would have to do so in writing, making it clear that it was a direction, referencing the relevant provisions of the APY act and specifying the action to be taken.

The complexities and the time involved can (and I believe are) and have already caused deleterious impacts to the interests of Anangu, who depend on and deserve a stable and functioning governing body to represent their interests. If the governing body has been failing over time to meet these overarching imperatives, then some high-level, if temporary, intervention is I believe warranted. The amendments I am proposing will add a discretionary power and safeguard the integrity of APY governance and its accountability to communities and add transparency to its actions and activities.

In relation to the second amendment, the role of ICAC officers is vitally important to ensuring proper and accountable public administration in this state, including on the APY lands. This amendment will make it clear that the ICAC can enter the lands and carry out its functions without having to seek permission, and will add to the transparency and accountability of the lands. I commend the bill to the house.

The council divided on the second reading:

Ayes .....	15
Noes .....	5
Majority.....	10

#### AYES

Brokenshire, R.L.  
Gazzola, J.M.  
Kandelaars, G.A.  
Maher, K.J.  
Ridgway, D.W.

Dawkins, J.S.L.  
Hood, D.G.E.  
Lensink, J.M.A.  
McLachlan, A.L.  
Stephens, T.J.

Gago, G.E.  
Hunter, I.K. (teller)  
Lucas, R.I.  
Ngo, T.T.  
Wade, S.G.

#### NOES

Darley, J.A.  
Parnell, M.C.

Finnigan, B.V.  
Vincent, K.L.

Franks, T.A. (teller)

Second reading thus carried.

#### *Committee Stage*

In committee.

Clause 1.

**The Hon. T.J. STEPHENS:** Minister, you spoke in your summation of financial irregularities that you became aware of, and you gave examples of, I think, January 2014 and August 2014. Could

you elaborate to the chamber and give us some examples of exactly what sorts of things you were looking at?

**The Hon. I.K. HUNTER:** I can advise the chamber as follows, in terms of those irregularities. The letter from AARD to APY in January 2014 outlined the following concerns in relation to advertising and recruitment of positions: advertising two new positions titled Infrastructure Manager and Contracts and Procurement Manager without compliance with section 13L(2) of the APY Land Rights Act. The general manager may only appoint an employee of APY:

- (a) if the appointment is consistent with the approved budget for the financial year in which the appointment is to be made; or
- (b) with the approval of the Executive Board and the Minister.

In accordance with sections 13A(2) and (6) of the APY Land Rights Act, the executive board would need to approve these two new positions and include a budget variation submission to the minister for approval. In this case, it is understood that the executive board has not approved the Infrastructure Manager and Contracts and Procurement Manager positions or included the positions in the budget submitted to and approved by the minister.

These approval processes should have been in place prior to the advertising of the positions nationally, as it is pre-empting that approvals will be given, as well as the cost and time incurred if the appointments do not proceed. It is also understood that the systems compliance manager has been appointed by the general manager without the executive board approving the position or the source of funding.

In relation to the income and expenditure report, the income and expenditure report for November 2013 relating to the APY land rights administration budget had a number of overexpenditures that required explanation. As per the terms of the funding agreement, the chairperson was requested to provide explanations regarding the negative variances and how they would be managed within the APY budget.

*Members interjecting:*

**The Hon. T.A. FRANKS:** Mr Chair, I can't hear the minister.

**The CHAIR:** The only one who should be speaking at the moment is the minister, so if we can please keep it quiet and allow him to answer the question.

**The Hon. I.K. HUNTER:** Of particular concern was that a number of full-year budgets relating to the motor vehicle fuel and oil, and general and executive board travel and accommodation, had already been fully expended by the end of November in the financial year. This implies that tighter financial management was required to ensure that expenditure is constrained within the budgets approved by the minister as indicated in the budget table within the funding agreement.

It was also reinforced that the budget submitted and approved by the minister cannot be varied unless a revised budget is resubmitted by the executive board to the minister for approval under sections 13A(2) and (6) of the APY Land Rights Act. This is a legislative requirement, I understand, which is outside of the variation provisions of the funding agreement.

In terms of the executive board members' payments in advance, under sections 9E(1) and (2) of the APY Land Rights Act, the executive board members are paid remuneration of \$6,000 per annum. This is based on 10 executive board meetings per annum, which equates to a payment of \$600 to each board member per meeting.

It is understood there is a practice in place for APY administration to make payments to board members well in advance of board meetings being scheduled and without confirmation that members will actually be in attendance. Support of the chairperson was sought to ensure that, in future, a board member only receives payment of allowances once it is confirmed that the board member is actually in attendance at the particular board meeting. This will overcome the issue of making payments in advance to board members without any assurance that the member will in fact actually attend the meeting.

In relation to the payment to spouses for travelling expenses, it has been brought to the chairperson's attention that spouses of people in key positions in the APY Executive have been paid travelling expenses to accompany their partners to meetings outside of the APY lands. This is not common practice and, unless there are well-documented and special circumstances justifying these payments, then these payments from the APY budget should not be made.

As the full travel and accommodation budget for the 2013-14 financial year had already been exceeded by \$7,873, there needs to be tighter control of expenditure in this budget line, and the payment of travelling expenses for spouses should not be supported unless there are exceptional circumstances involved. The chairperson's agreement in enforcing this budget control was sought.

In terms of interdependency and tender and contracting processes, it was reinforced with the chairperson that, to demonstrate confidence in the probity of an organisation, it is normal practice for the organisation executive not to be directly involved in tender and contracting processes or have any work-related association with prospective tenderers that may be seen as influencing a particular decision in awarding contracts. It was therefore recommended that APY senior managerial employees are excluded from all tender and contracting processes, and negotiations are only involved in the decision-making process at the end of the process when a tender recommendation is presented to them for consideration.

This is normal practice within government, which should also apply to the APY Executive as a statutory authority for the purposes of the State Procurement Act 2004. A copy of the State Procurement Board 'Probity and ethical procurement guidelines' for reference purposes for APY staff was attached to the letter. It was also recommended that all major contracts before formal acceptance should be referred to the executive board for endorsement.

In relation to my letter of August this year, I wrote to APY seeking confirmation that the concerns raised by my department earlier in the year had been actioned and that there was clear acceptance by all APY board members of these arrangements. The matters I sought a response on were as follows:

1. that all employment positions outside the agreed funding agreement be placed on hold until further review of APY's business needs and viability is undertaken, and that appropriate approvals for positions would be undertaken if positions were required;
2. that further feedback be provided on the income and expenditure reports for November 2013 concerning variances that existed within that report;
3. that APY board members only be provided payments for meetings once it is confirmed that board members will attend the scheduled board meetings, and that the practice of providing travel assistance to spouses cease;
4. that all major contracts be referred to the APY Executive board for endorsement before formal acceptance of their tenure;
5. that legal advice be sought concerning APY employees contesting for elections; and
6. that APY allocate a minimum of \$40,000, originally from the APY Adelaide office budget, towards community consultations relating to the limited review of the act, known as the Layton report, and more specifically towards meetings held on 15 January 2014 and 6-7 February 2014.

**The Hon. T.J. STEPHENS:** Minister, I am listening to your explanation. You made it quite clear in January that you were not happy about travelling expenses and allowances that were being paid and sought the agreement of the chairperson to ensure that that was properly handled. It sounds as if you have had to chase up the same issue again in August 2014. Are you indicating that there was a total lack of cooperation with regard to getting correct and proper processes in place?

**The Hon. I.K. HUNTER:** My advice is that agreement was reached in terms of my correspondence, but there was no demonstration they actually put it into action.

**The Hon. T.J. STEPHENS:** So it was quite obvious that payments were being made for people possibly to attend meetings that they were being paid for in advance. Can you indicate how

far in advance, and can you give us an indication of the actual attendance rate when people had been paid to attend meetings?

**The Hon. I.K. HUNTER:** My advice is that that level of detail has not been provided to AARD, and the only advice that we can really rely on is the breakdown in the budget.

**The Hon. T.J. STEPHENS:** Can you tell me what the arrangements are for the chairperson with regard to salary and what expenses the chairperson would, or would not be, entitled to with regard to travel?

**The Hon. I.K. HUNTER:** In relation to the chair, the 2013-2014 budget that I approved under the APY Act included an allocation of \$47,900 to Mr Singer as chairperson and \$23,400 as part of a motor vehicle allowance. I understand Mr Singer also receives an additional \$15,000 provided through local government funds. Therefore, if you total that up, it comes to about \$62,900, plus motor vehicle allowance.

**The Hon. T.J. STEPHENS:** Was the chairman entitled to any further travel allowance on top of those payments, and can you tell us if there was constant pressure to claim those sorts of allowances?

**The Hon. I.K. HUNTER:** We understand that there would have been a claim for additional funds for travel off the lands for meetings. We do not have that information provided to us by APY Executive. We understand that additional claims had been made, but we do not know to what value, and we also understand that they may have come from other revenue sources available to APY.

**The Hon. T.J. STEPHENS:** Were those claims appropriate?

**The Hon. I.K. HUNTER:** I have no ability to make a determination about that.

**The Hon. T.A. FRANKS:** Since the department wrote with concerns with regard to allowances being paid prior to attendance at meetings, since August have there been any instances of where members of the executive have been paid that allowance prior to attending a meeting? If so, did they not attend a meeting in any situation?

**The Hon. I.K. HUNTER:** I am advised that this is information we have been requesting from APY but have not had it.

**The Hon. T.J. STEPHENS:** When did you ask for that information and over what period have we been waiting for an answer?

**The Hon. I.K. HUNTER:** I do not have advice about the particular range of dates, but I am advised that this is information that has been constantly sought in a number of meetings with the financial controller, also with the general manager and at the APY Executive Board meetings.

**The Hon. T.J. STEPHENS:** I will defer to the Hon. Robert Brokenshire after this question. Minister, it seems like there was a constant request for information with regard to proprietary payments and very little cooperation was forthcoming. Did none of that fall in the purview of the things that you would have needed to do to put the APY Executive on notice?

**The Hon. I.K. HUNTER:** My advice we have received is that is not clear. What particularly is not clear is what control I might seek to exercise over funds that do not come from state government allocations.

**The Hon. R.L. BROKESHIRE:** Notwithstanding the fact that the minister has brought this bill in, and we understand that \$1 of misappropriation is \$1 too many, we regularly see reports where—in fact there was one in the paper just recently about a Thinker in Residence who allegedly spent thousands of dollars on champagne, wining and dining and all the rest of it, and nothing has happened there. We have had no legislation come in at all that says that we have to fix those sorts of misappropriations.

You have known now for some time that there are allegations. We are now debating this bill and we have to deliberate on whether we support a third reading and so on, and we may well do that, minister, but I just wonder: why the urgency? You still have not explained to the chamber why the absolute urgency of this right now when you are talking \$6,000 fees for sitting for a year and

things like that when some of your former ministers are on different boards earning \$20,000, \$30,000, \$40,000 or \$50,000. Do they actually get knocked back or get a reduction when they do not attend?

I want equal rules. I want equality through this and I want an explanation. I do not want \$1 being misappropriated, but you are not convincing me that you have done your homework, minister, and this is very, very concerning. Yet right now you want to push this bill through at the last minute. I do not understand. I do not feel confident. I do not want any misappropriation. I want proper evidence from you now that this bill should be supported as a matter of urgency, in the third reading and the committee stage, without us even having a chance to deliberate overnight. I mean, what is going on?

**The Hon. I.K. HUNTER:** If the honourable member had actually been in the chamber for my closing contribution, he may have gotten some of the answers he was after.

**The CHAIR:** The Hon. Ms Vincent, point of order.

**The Hon. K.L. VINCENT:** The minister should be aware by now that it is unparliamentary to refer to the absence of a member from the chamber.

**The Hon. I.K. HUNTER:** Yes, I am, but there is no excuse to miss out on part of the debate and then come and try to reactivate those very same questions.

**The Hon. T.A. FRANKS:** Some of us have asked these questions of the minister prior to this debate and we are still waiting for answers. If the minister had provided in writing some of this evidence and if the minister would now table all of the correspondence he refers to, I think he would find that this chamber might be more trusting of him. Can the minister please table the correspondence?

**The Hon. R.L. BROKENSHERE:** A further point of order to that—

**The CHAIR:** Let the minister answer the Hon. Ms Franks.

**The Hon. I.K. HUNTER:** I do not have that correspondence with me, but I am very happy to provide it.

**The Hon. R.L. BROKENSHERE:** The minister seems to mumble a lot and I was not in here very long after. I was answering a phone call on another problem the government have created and I do not apologise for being out there for five minutes answering a phone call.

*The Hon. I.K. Hunter interjecting:*

**The Hon. R.L. BROKENSHERE:** The minister may well laugh. When they start to cut police budgets, I am going to do my work there as I am going to do my work here. I want some firm evidence and I want some answers. My colleague, the Hon. Tammy Franks, has asked if documentation is going to be tabled. We have had all this nonsense before on other bills. How about producing some hard evidence as to why we have to go through this tonight until 11 or 12 o'clock, because at the moment you are not convincing me, minister. All you are doing is leaving a lack of confidence in me for you as a minister.

**The Hon. I.K. HUNTER:** I actually have the letters given to me now. I will table the letter to Mr Bernard Singer as chair, from AARD, of 15 January, I think, the response dated 16 January, and my letter to Mr Singer dated 22 August.

**The Hon. T.J. STEPHENS:** Could you read out for us the response that you got please, minister? You got a response the day after your January letter. It did not look to me to be quite that extensive.

**The Hon. I.K. HUNTER:** I can. Thank you, Mr Stephens. Letter of 16 January 2014 to Ms Nerida Saunders, Executive Director, Aboriginal Affairs Reconciliation Division. I quote:

Dear Ms Saunders,

Thankyou for your letter dated 15 January 2014 concerning compliance with the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981 (APY Act), and requirements under the APY Land Rights Administration funding agreement (2013-14).

With regard to the Advertising and recruitment of positions, I can confirm that the recruitment process will be put on hold awaiting further review of the business needs and viability as well as seeking the appropriate approvals.

I will seek further advice on the variances contained in the Income and Expenditure Report—November 2013 and report back to you when the information comes to hand.

I agree to your advice on Executive Board members—payments in advance.

I agree to your advice regarding Payment to spouses for travelling expenses.

I will direct the General Manager and Director to comply with your advice concerning Independency in tender and contracting processes and will direct that major contracts, before formal acceptance, are to be referred to the Executive Board.

We will seek further advice and assistance from—

And he mentions Ms Leanne Liddle—

regarding the matter of Employees standing as candidates in the State election.

I will seek further discussions with yourself or Ms Liddle with respect to APY Financial contribution to the APY Act review process.

Thankyou for the ongoing updates relating to the Advertising of the General Manager's position.

If you require any further information, please do not hesitate to contact me.

Yours sincerely,

Bernard Singer

Chairperson, Executive Board

**The Hon. T.J. STEPHENS:** Minister, you have had an assurance that your concerns were going to be addressed. Were they in fact addressed? Refresh my memory, but in August did you not have to address exactly the same issues again?

**The Hon. I.K. HUNTER:** My advice is that there was no follow through or any actioning of those requirements.

**The CHAIR:** Any further contributions? The Hon. Ms Franks.

**The Hon. T.A. FRANKS:** Where do we start? The minister, I think, was referring to 'cattle money' previously when he was referring to other income sources. Were there any other income sources that he was referring to, and does the minister have any jurisdiction over those income sources?

**The Hon. I.K. HUNTER:** Other income sources would include federal government money for local government expenditure.

**The Hon. T.A. FRANKS:** Does the minister have any jurisdiction over those income sources?

**The Hon. I.K. HUNTER:** My advice is no; my clear control is only over moneys allocated out of state treasury.

**The Hon. R.I. LUCAS:** That was the area that I wanted to explore, just to clarify what the legal position is of the minister in relation to financial issues. If the minister has no jurisdiction or control, for example, over moneys that the APY Executive gets from cattle agistment and that sort of thing, and also has no control over moneys from federal and local government, what is the position then? Some of the allegations that have been made, as I understand it, and that have been reported in the media, have been in terms of payments being made out of cattle money, to use that colloquial expression. Does the minister concede that he has no authority over that, that that is a decision entirely for the APY Executive?

**The Hon. I.K. HUNTER:** I am currently seeking crown advice to confirm that view, but that would be a working hypothesis. These are private enterprises being undertaken on private land, but we are seeking confirmation that that is in fact the case. I suspect it is.

**The Hon. R.I. LUCAS:** I think that is extraordinary, when we have reached the stage where we are being asked as a parliament to rush legislation through. I have no direct knowledge of the

workings of the budget and the budgeting business of the APY Executive, but if the minister has not actually clarified whether or not he and the state and the state parliament have any authority over the moneys that the APY earn from their own cattle agistment businesses, then that, I would have thought, is a critical part of this particular bill and this whole debate, because a lot of the public debate has been about allegations being made about forward payments or prepayments being made out of cattle money, as we understand it.

The minister, I assume, would also be saying that he is seeking advice on whether or not he has any control over federal and local government money, but I suspect the answer must surely be the same, from his initial responses, and that is that he only has jurisdiction over state government grants and funding that are provided to the APY Executive. We are in a position where we reach this stage of debate and the minister says he still does not have a concluded legal view on the legal position, when he has been the minister for two years. He has outlined to the Hon. Mr Stephens and to others that this has been an ongoing concern for him for two years. He arrives at this debate this evening and says he still does not have a concluded view on it; he is still having a look at it, he says, in terms of the legal authority.

If there are allegations in relation to roting or corruption of moneys in the lands—and I do not offer, as I said, I hasten to say, a concluded view on the accuracy or otherwise of it—surely the legal position as to who has authority or control over what is a critical issue. If the state and we the state parliament have no authority at all over the cattle money, for example, then the issue will be what involvement, ultimately, we as a state parliament and an administrator who goes in there will have. The follow-up question after we have this initial discussion here will be: what powers will the administrator have?

If the administrator goes in there, does this administrator have any power over the cattle money? Whilst at the moment the state only has authority over the state grant funding, will this administrator, when he or she goes in there, have authority over the cattle money and also authority over the federal government money and also authority over the local government money? I think that is an important question for us to know here, in this rush to get the legislation through, as to what the government's considered legal position is on that.

If we, the parliament, are authorising the administrator to have powers that do not currently exist—it would be difficult to conceive how that is possible, but if that is what we are being asked to do, and we are giving very wide powers to the minister to appoint this administrator (potentially, if I understand the gossip, up to a period of five years or something the minister might be talking about)—then you have a situation where we ought to know what powers we are giving the administrator. My two questions to the minister are:

1. How can he arrive at this position after two years of concern and still not know what the legal position is?
2. Subsequent to his answer to that, what power will the administrator have, if any, in relation to cattle money and federal and local government money?

**The Hon. I.K. HUNTER:** I am grateful to the Hon. Mr Lucas because he makes my point for me in the areas for which I have no jurisdiction as minister but the administrator would. The administrator would have all the powers and functions of the general manager and of the executive board and carry out all financial transactions that are currently carried out by the general manager and the executive board.

**The Hon. R.I. LUCAS:** Can I clarify what the minister's advice to this committee was just then. The administrator will or will not have any power in relation to—

**The Hon. I.K. Hunter:** He has all powers of the general manager and the executive board.

**The Hon. R.I. LUCAS:** Which is what? That is what I am trying to clarify. My understanding is that your answer to the earlier question from the Hon. Ms Franks, I think, was that you do not have the power over the cattle money, but are you saying the general manager clearly does and, therefore, whilst you currently do not have power over the APY's cattle money and the federal government money, by appointing this administrator he or she will have power over the cattle money and he or



she will have power over the federal government money and he or she will have power over the local government money as well? Is that what the minister has just said to the committee?

**The Hon. I.K. HUNTER:** My understanding is, yes, that will be the effective outcome if the administrator is appointed and the board is suspended. The administrator will have all controls and functions of the general manager and the executive board.

**The Hon. R.I. LUCAS:** I think that is an extraordinary position to be now revealed to the committee. I am not a member of the standing committee on Aboriginal affairs, and these issues may have been gone into in much greater detail by those who have been actively engaged, but I was assuming that the state government's role was going to be taken over by this administrator. What we are now going to have, clearly, and this is the government's intention in relation to this, is that the administrator will take over control of the cattle money. I do not know how much cattle money there is, actually, but I have seen various reports of significant sums of money supposedly being prepaid. I have heard counterclaims saying the reverse.

There are two sides to the argument that have been put to me in relation to the cattle money. Clearly, what the minister is now indicating, and we all ought to be aware of that, is that this administrator he is about to appoint, if the parliament sanctions it, will have control over the APY's cattle business, which is their own money that they are raising, and I assume will therefore be able to direct where that money goes, who gets it and all other controls in relation to it.

**The Hon. T.J. STEPHENS:** Minister, there have certainly been allegations, and it has almost been acknowledged, that there has been consistent pressure to prepay cattle money, and sums in the hundreds of thousands of dollars have been reported. Where is that money if it is prepaid? Is it not state government funds that are being advanced? Where is the money that is being advanced that seems to be getting lost in the system coming from?

**The Hon. I.K. HUNTER:** I understand the import of the honourable member's question. It is not an area over which I have ministerial control. Whilst we may have heard some discussion and debate about that through the media, and the Hon. Mr Lucas indicated he has as well, there is nothing I can give the chamber in terms of information that I have that is reliable.

**The Hon. T.J. STEPHENS:** I would like to follow up on that, if I can. Minister, have you met with former CEO or general manager Sean McCarthy? Can you give us an indication of your understanding of why his employment was terminated, and also Mr Deans. I think you met with Mr Deans towards the end of his tenure. Can you also give us an understanding of the difficulties he was facing regarding issues of propriety dealing with some members of the executive?

**The Hon. I.K. HUNTER:** As much as I would like to answer the question, there is nothing I can add that is not already on the public record. It may cause difficulties in terms of litigation. I think I said earlier that Mr Deans is seeking some recourse through the courts and I am best to avoid that question.

**The Hon. T.J. STEPHENS:** Given that Mr McCarthy, to my understanding, is not before the courts, can you comment on his revelations with regard to his interaction with the executive?

**The Hon. I.K. HUNTER:** I am reluctant to at this point in time because it may have some bearing on the litigation that Mr Deans is undertaking.

**The Hon. R.L. BROKENSHERE:** I just want to simplify this and get back to a basic question. We are being asked to actually pass laws here tonight, because the minister is still refusing to allow us to be able to consult, deliberate and consider until at least tomorrow; he just wants to push the whole thing through. As a point of clarification, minister, if there are allegations about the misappropriation of funds regarding cattle, can you tell me whether the cattle are owned by the government, or are they owned by families that live and work on the APY lands? That is a pretty simple question for a start.

If the cattle are actually owned by families in the APY lands and there is alleged misappropriation of the distribution of proceeds of cattle sales, or whatever else might be going on, is it appropriate and have you sought crown law advice that we can make legislation to address that through an administrator taking all that over? I would have thought that, if there were issues to do

with cattle being sold inappropriately or the distribution of money from them, there would be civil action, fraud issues and potential SAPOL action on this sort of thing. You are really confusing us here now.

As I understand it, we are now possibly putting an administrator in place to actually address federal funding issues and possibly privately owned cattle issues, which is no different to any other issues when people own cattle. If they then sell other people's cattle or if they actually misappropriate the funds, or whatever it might be, that is a civil matter or a police matter. Are you asking the parliament to approve an administrator who is going to have carte blanche, overall control of everything, or only on what the state government has put into this? You have really confused me, minister, and I need some clarification.

**The Hon. I.K. HUNTER:** Mr Chairman, the penny drops for the honourable member, I suppose. There is no purpose in appointing an administrator to take on the roles and functions of the general manager and the executive board if all that administrator is going to do is look after the functions that I currently have control of, clearly. The role of an administrator is to carry out the functions of the general manager and the executive board. Any decision-making that is the proper process of the executive board or that the general manager would normally carry out would be what the administrator would take up.

**The Hon. R.L. BROKENSHIRE:** Has the minister sought crown law advice that what he is now putting before the parliament is proper for the parliament to pass, based on what he has just said and all of the other debate?

**The Hon. I.K. HUNTER:** My advice is in two parts, really. We are not changing the functions of the administrator. The roles of the APY Executive are already in the legislation. There is no attempt to change those roles in any way and, therefore, there is no need to get crown advice about any alterations to those roles for the administrator because they are just carrying out the functions and duties that are already covered under the act. The second point is essentially the fact that I reiterated earlier: we are seeking further crown advice about what role and function I have personal control over as minister in terms of other incomes into the APY.

**The Hon. R.L. BROKENSHIRE:** Just on that, basically, what I understand the minister has just said is that when it comes to the 'further' (I think that was the word he used) controls of the administrator, they are seeking crown law advice, and yet—

**The Hon. I.K. Hunter:** Me.

**The Hon. R.L. BROKENSHIRE:** You are?

**The Hon. I.K. Hunter:** Me.

**The Hon. R.L. BROKENSHIRE:** Right; so you do not know; you are seeking advice—

*The Hon. I.K. Hunter interjecting:*

**The Hon. R.L. BROKENSHIRE:** No, honestly, you do not know; you are seeking advice. He does not know.

*The Hon. I.K. Hunter interjecting:*

**The Hon. R.L. BROKENSHIRE:** You do know?

**The Hon. I.K. HUNTER:** I wish the honourable member would listen when I speak in this place. The further advice I am seeking from crown is about my responsibilities in relation to other streams of income, not the administrator's. The administrator will have roles and responsibilities that are already defined in the act—nothing new, nothing different—the responsibilities and roles that the APY Executive currently have.

**The Hon. R.L. BROKENSHIRE:** Therefore, can you categorically guarantee to this committee that if we were to pass this bill, and particularly this provision, we are doing nothing unlawful?

**The Hon. I.K. HUNTER:** The bill was drafted by parliamentary counsel, so one assumes that that would be the case. Parliamentary counsel are very good at their job. Of course they are not going to draft legislation that is unlawful.

**The Hon. R.I. LUCAS:** If we pass the law it will be lawful. I think there is a simple answer to that. As I understand the minister's position, based on questioning, the administrator goes in and he or she will have the same powers as the general manager, whatever the name of that particular position is, and he or she will have power over—and my colleague tells me and I am shocked—potentially as much as \$1 million a year of cattle agistment money flowing into their private sources of income in addition to—and I do not know how much—money the state and federal governments put in; clearly, a lot of money as well.

The minister has already conceded that he, the minister, has no authority and power over potentially (if that number is right) \$1 million a year of their money. Ultimately, it is their decision as to what they do with that, I would assume, as long as they are not acting corruptly in whatever way it is. However, if it is a private business and they have got it that is an issue for them to resolve in accordance with their rules and constitution.

If they are breaching those, then some action might be able to be taken. In putting the administrator in, the minister has just clarified that this administrator will control the state money, the local government money, federal money and up to \$1 million a year of cattle money. My question to the minister then is, given that he will be appointing this administrator, what restrictions, if any, are there on the part of the minister over the administrator?

Currently, as we discussed earlier, the general manager is operating within the terms of the legislation; there are various restrictions, and the minister went to great pains to say what he could and could not do. Do those same restrictions apply to the administrator going into the position, or is the minister in the position of being able to direct the administrator in the performance of their duties for this up to five-year period, for which the minister may well want to appoint an administrator?

**The Hon. I.K. HUNTER:** My advice is, again, in two parts. In relation to the first comment the Hon. Mr Lucas made, the administrator would apply those moneys that come into the APY from whatever source, but particularly in relation to private income, within the established rules and constitution that have already been agreed to by the Anangu. That would be the expectation. Rules are already in place, and it will be the proper administration of those moneys. That would be the role of the administrator—

**The Hon. R.I. Lucas:** Who applies those rules?

**The Hon. I.K. HUNTER:** It would have been rules that have been established by the executive or the general meeting, perhaps, and the constitution.

**The Hon. R.I. Lucas:** Haven't you sacked the board?

**The Hon. I.K. HUNTER:** These are rules that have already been pre-established, probably at a general meeting of Anangu, and it may well be in their constitution. They will be the guidelines the administrator would use in disbursements.

**The Hon. R.I. Lucas:** But if you have sacked the board—

**The Hon. I.K. HUNTER:** The board has already taken the decision in conjunction with their local communities.

**The Hon. R.I. Lucas:** So you are saying that a board that was sacked, their rules would still apply.

**The Hon. I.K. HUNTER:** They are not the board's rules: they are the rules of Anangu, established at a general meeting or in the written constitution, wherever those rules might be. The administrator's role is the proper administration of existing functions, so the administrator would be carrying out the functions and duties already that are in the act that the board and general manager would otherwise be expected to carry out. My ability to direct the administrator would, again, be limited by the provisions of the act. I would not necessarily have to go through all those things that I read out earlier in my closing speech about directions, but they would be about the proper functioning,

the proper acquittals, the proper processes that you expect a board to have in place. In light of having an administrator, that would be the role he or she would be expected to play.

**The Hon. K.L. VINCENT:** Is the minister aware, as my office has been told in the last little while regarding the alleged misappropriation of cattle money, that investigators recently ruled in favour of Mr Bernard Singer in the sum of, I think, \$90,000?

**The Hon. I.K. HUNTER:** I am not going to comment on any such investigation which I have no knowledge of; indeed, even if I did, that is not a matter for me to comment on at the moment. In relation to my previous answer to the Hon. Mr Lucas, I just want to clarify some language. Boards are not sacked: they are suspended. It is an important point.

**The Hon. R.I. LUCAS:** It sounds equally painful to me. The minister's response would seem to indicate that he has an unfettered power, he says, within the terms of the act, but I ask him to point to where in the act there is any restriction on his ability to direct an administrator. Secondly, clearly the minister has an overriding power over the administrator anyway, one would assume. Given that he is the person who has complete authority to appoint an administrator, I assume under this particular power he would have the complete authority to sack an administrator and to replace the administrator with someone else if he or she did not do what the minister directed the administrator to do.

**The Hon. I.K. HUNTER:** There are two points that I think it is important to clear up. The unfettered power the Hon. Mr Lucas ascribes to the minister is the unfettered power to appoint, not to direct—

**The Hon. R.I. Lucas:** And sack.

**The Hon. I.K. HUNTER:** Presumably, that's right; they normally go together. On page 22, under 13F—Director of Administration and General Manager subject to direction, the act provides:

If an Administrator is appointed in accordance with section 13O, the Director of Administration and the General Manager are subject to the direction and control of the Administrator.

It makes it plain that the administrator is in charge. The administrator can direct those staff members, if you like, and the administrator has the roles and functions that are otherwise ascribed to the executive board under the act.

**The Hon. T.A. FRANKS:** I have a few different questions. Has the minister had any advice on whether this is a hybrid bill? It has been suggested to us that it may well be. Has the minister sought advice on this, and can he provide a response to the council?

**The Hon. I.K. HUNTER:** My advice is, parliamentary counsel's advice was that, no, it was not a hybrid bill. Further, I had cause to have discussions with the Clerk of this house who confirmed that, in her view, it was not a hybrid bill.

**The Hon. T.A. FRANKS:** Has the minister turned his mind, or have his advisers turned their minds, to the question of how the appointment of an administrator will interact with the current statutory requirements? I refer to section 9(6) which provides that the Electoral Commissioner must conduct an APY Executive Board election within three years and three months of the last one. That would be no later than 29 May 2015.

**The Hon. I.K. HUNTER:** My advice is, if we do not do anything with the act, an election would still have to occur in the time frame provided, but presumably the newly-elected board of the executive would be suspended. However, I have flagged with honourable members in discussions last week that we could, of course, make another amendment in the new year to defer the election until such time as legislation is passed in this chamber, should the chamber pass it, to change the electoral make-up of the APY Executive to include 50 per cent women.

**The Hon. T.A. FRANKS:** Given that the minister has just indicated that, should that occur, he intends to bring back further legislation, has he also noted that the act states in section 9(8) that the minister must cause a review of the existing APY electorates to be completed:

not later than three months prior to each election (and such a review must include consultation with Anangu Pitjantjatjara Yankunytjatjara and the Executive Board).

That means a review of the APY electorate is actually due by 29 February 2015. How does the minister find his previous response feasible?

**The Hon. I.K. HUNTER:** It will be up to the chamber and the parliament to determine whether we make those alterations to legislation that I have foreshadowed in speaking to some honourable members in this place. Indeed, the Electoral Commissioner is aware of her responsibilities, but it has been known for some time now that I have been advocating to APY executives that the Layton report recommendations on the make-up of the APY Executive should be put into place. Part of the concerns that I have, which I have expressed before, is that the APY Executive has not responded to that report and my requirements for them to do so in a timely fashion. We will need to make a decision as a parliament about whether we actually make an amendment to the act to delay or defer the election process to allow us to make those changes.

**The Hon. T.A. FRANKS:** Minister, on that, a few points. Has the APY Executive indicated that it is opposed to your proposal, from the Layton review and report, for equal numbers of women and men?

**The Hon. I.K. HUNTER:** No, but they have continuously asked for further money and resources to go off to do further consultation ad nauseam on the matter.

**The Hon. T.A. FRANKS:** What does the minister define as 'ad nauseam'? What amount, for further consultation, have they asked for and, indeed, how does it compare with the consultation that Robyn Layton herself has done, where she extensively consulted with Anangu six times for her report? Did the minister have similar reservations about spending money on those consultations?

**The Hon. I.K. HUNTER:** No. In fact, I think that consultation process has been adequate.

**The Hon. T.J. STEPHENS:** Minister, will you give us an assurance that, if you are going to bring legislation before this chamber, given that 29 May next year is a pretty important date, we have plenty of time to consider any legislation early in the next session of the parliament?

**The Hon. I.K. HUNTER:** I am very happy to give that assurance.

**The Hon. R.I. LUCAS:** I want to return to my earlier questioning in relation to the powers of the administrator. The minister, in referring, I think, to 13F, referred to the fact that the administrator would have to operate within the rules wherever they existed. It was not an entirely convincing response from the minister; I think that he referred either to the Anangu or to the executive board.

**The Hon. I.K. HUNTER:** General meeting.

**The Hon. R.I. LUCAS:** Yes. Can the minister clarify which body on the APY lands has the authority to determine the rules, as he refers to them? Is it a general meeting of the Anangu or is it the executive board?

**The Hon. I.K. HUNTER:** My understanding, without taking advice, is that the overarching authority in the act is the general meeting.

**The Hon. R.I. LUCAS:** Given what the minister is proposing is the suspension, not the sacking, of the executive board and the insertion of an administrator, who he says will be subject to whatever the existing rules are, nothing, I am assuming, prevents the Anangu, at a general meeting, from changing the rules that will govern the operations of the administrator. Will it be possible, under the government's and the minister's proposal, for the Anangu to change the rules so that the administrator will not have authority, for example, over private money, such as cattle money?

**The Hon. I.K. HUNTER:** If the Hon. Mr Lucas is referring to the statutory functions and powers, my advice is that, no, that is all detailed under the act. The statutory functions and powers are referred to under the act; they cannot be changed by a general meeting. If he is referring to the Anangu constitution or their rules of operation, that, of course, could be controlled by a decision of a general meeting.

**The Hon. R.I. LUCAS:** My question remains. I am referring to the rules, as the minister had earlier referred to them colloquially, which are, the minister has conceded, the responsibility of the general meeting of the Anangu. I return to my question: is it possible for a general meeting of the Anangu to change their rules so that the administrator will not have the power over private money,

such as cattle money, which they have earned which does not come from state, federal or local government?

**The Hon. I.K. HUNTER:** My advice is that we cannot confirm that without looking into the act further. But my general position or uninformed view on this without getting specialist advice is that it would be possible, but it would be an open and transparent process. Under the rules, they would have to give a certain amount of notice to call a general meeting, they would have to make plain its purpose and have that process and debate, and that would be the way they would go about changing their rules or their constitution.

**The Hon. R.I. LUCAS:** Again, I would have thought that a minister, before asking this parliament to proceed, should either have had that information or should be able to provide that information to this chamber before he asks for a resolution on the issue. If the minister concedes that that is potentially possible, I would assume it is also potentially possible for a similar general meeting of the Anangu to pass rules which would mean that the state-appointed administrator will not have authority over federal government grant funding or local government grant funding, exactly the same as they might be able to do in relation to private moneys they earn through cattle agistment, for example.

**The Hon. I.K. HUNTER:** I am not quite so sure of the honourable member's assertion as he seems to be.

**The CHAIR:** The Hon. Ms Franks.

**The Hon. R.I. LUCAS:** Mr Chairman, I am seeking advice from the minister. The best he was able to offer to my earlier question in relation to cattle agistment money was his response which indicated that, I cannot remember his exact words, quite possibly, quite likely or indicating that was possible. My question followed on from that to say, well, if that is possible surely it would also be possible in relation to other moneys that he the minister has no control over, which he has acknowledged earlier, and that is federal government money and local government money. I am not asserting anything, I am trying to tease out information from the minister on the basis of answers that he is providing to the committee. So, I seek his considered view to the committee as to whether that, in his view, is also possible.

**The Hon. I.K. HUNTER:** My considered view would be probably not because that would require the cooperation of the federal government and any local government grant funding streams that come through. It may well be the general meeting would seek to pass such instruments but I find it very doubtful that the federal government would actually cooperate with that.

**The Hon. T.A. FRANKS:** My previous questions were with regard to the Layton review and the minister said he was awaiting a response from the APY Executive. Is that the case, and when did he correspond with them?

**The Hon. I.K. HUNTER:** I do not have a list of times that I have corresponded with APY specifically on the Layton review. I have mentioned some correspondence earlier. I do recall meeting with APY at Umuwa at least twice and also on other occasions in my office in Adelaide, specifically to talk about APY matters. I understand that we have correspondence in the office. Again, I do not have that to hand. Our recollection is it was as recently as the 20<sup>th</sup> of the 11<sup>th</sup>, advising that they would want to take their further response on the Layton review to a general meeting.

**The Hon. T.A. FRANKS:** Given the minister says he has met in Umuwa at least twice with the APY Executive with regard to the Layton review, I take it that both of those occasions were more than 14 months ago; if the minister could confirm that. I have also been informed, which is why I asked the minister, that they did send a response on 20 November. My previous question to the minister was: how much money has been allocated for consultation and what is the time frame that they have requested to consult on the Layton review, which I would note is quite an upheaval of an electoral system that currently exists and has been a very large undertaking by Ms Layton but, of course, would fundamentally transform the electoral system of the APY's governance.

Does the minister have a figure of how much has been requested or how much has been allocated? Will the minister provide that correspondence of 20 November and the preceding

correspondence, and confirm that those meetings that he refers to in Umuwa were more than 14 months ago?

**The Hon. I.K. HUNTER:** Apparently I am advised that in fact they have had nine months to consider the Layton report this year, and the correspondence of 20 November has been asking for more time. I am not aware that a specific period was identified in that correspondence, nor can I recollect that a specific amount of money was asked for.

**The Hon. R.L. BROKENSHERE:** Just to make it crystal clear to the chamber, is the minister saying that the administrator will have all the control over the matters of privately owned cattle? That is the first question because I am still not getting a clear picture about that. Is it a yes or no; either the administrator is going to have the control of those cattle in the big picture or they are not.

The second thing is that, given that the minister has not sacked, as he advised the chamber, but rather suspended the board, does the minister have any idea about when he might reinstate the board, or is he using the suspension as a situation where once they are suspended he can effectively sack them? What is his plan and what is his concept around that?

**The Hon. I.K. HUNTER:** As I explained earlier, the administrator will have the functions of the executive committee. The administrator would deal with the financial management related to private property transactions in accordance with the rules set down for the executive committee to actually do it. In relation to the board being suspended, the board would remain suspended until it perhaps elapsed because of election requirements or at a time when I decided that the administrator should no longer be in place and the board should be reinstated.

**The Hon. R.L. BROKENSHERE:** You can say I am from the country and I am a bit thick, but I just want to know: this administrator is going to have the day-to-day control management and exercise all powers over privately owned cattle if we pass this? Is that right? I just really want to know because I do not think you have told us.

**The Hon. I.K. HUNTER:** The situation is this: the administrator would have the functions that are currently held by the APY Executive. The APY Executive would instruct the general manager of the day to carry out determinations in accordance with the rules and constitution of the APY. The administrator would do the same thing. They would take the rules applying to that income stream and deal with it properly, acquit it properly and deal with it in a way that we would find acceptable financially.

**The Hon. T.A. FRANKS:** I refer the minister to the correspondence that has now been tabled, specifically the letter from Nerida Saunders, Executive Director of AARD, to Mr Singer. That is the one that is dated 15 January. Previously the minister indicated that there were concerns raised with regard to payments in advance. I note the section in the letter from Ms Saunders to Mr Singer reads:

Executive board members payments in advance. Under sections 9E(1) and (2) of the APY Act, the executive board members are paid remuneration of \$6,000 per annum. This amount is based on 10 executive board meetings per annum which equates to a payment of \$600 to each board member per meeting. Although the \$6,000 is an annual allowance to be paid to board members irrespective of the number of executive board meetings attended, there is an expectation that members will only be paid the \$600 upon actual attendance at a scheduled board meeting.

Can the minister confirm whether or not it is lawful to require members to attend a board meeting when this is a \$6,000 per annum allowance? In this letter it is indicated that it is irrespective of the number of executive board meetings attended.

**The Hon. I.K. HUNTER:** Is the honourable member suggesting that a board member can get a payment of \$6,000 a year for not attending a single board meeting? Is that what she is suggesting in her question to me?

**The Hon. T.A. FRANKS:** That is what this letter is suggesting from Ms Saunders to—

**The CHAIR:** Let the minister answer the question.

**The Hon. I.K. HUNTER:** The expectation is quite clear. The allowance is made to board members of the APY in expectation that they attend those board meetings.

**The Hon. T.J. STEPHENS:** If the board is suspended, will their payments be suspended?

**The Hon. I.K. HUNTER:** My advice is that would depend whether the administrator thought it appropriate that he or she could continue to meet with the board and take advice from the board or consult with the board in which case it would be reasonable to pay those attendance fees to board members.

**The Hon. T.J. STEPHENS:** So, it would be possible that the board would continue in an advisory capacity but not have the powers to interrupt an administrator?

**The Hon. I.K. HUNTER:** The honourable member is quite right because the intention is to devolve those powers back to a functioning APY board. It is expected, I would imagine, that the administrator would want to meet with the board as it is currently constructed either currently or a newly elected board and to take consultations with that board to seek their advice and to grow their capacity and their ability to function as a board again when the administrator is no longer required.

**The Hon. R.I. LUCAS:** I am going to say that this is sounding more like a dog's breakfast the longer we are going. I am not sure how you suspend an executive board and then it is still going to continue to operate in an advisory capacity and may well continue to be paid \$6,000 a year. It seems an extraordinary circumstance. The colloquial description of what the minister is doing which he had now corrected within the terms of the act is that the board was being sacked and an administrator was to be appointed.

So, the minister is saying, 'No, we are not going to sack the board. We are just going to suspend them.' But he is now saying, 'Whilst they are in this wonderful state of suspension, they may well still get their \$6,000 a year and they may still have a function to perform as an advisory function.' Can the minister outline where in the act there is provision for the board, having been suspended, to continue to operate and provide advice to the administrator and to continue to be paid their \$6,000 a year?

**The Hon. T.J. Stephens:** What about the chairman's \$70,000?

**The Hon. R.I. LUCAS:** And the chairman's \$70,000 my colleague reminds me.

**The Hon. I.K. HUNTER:** I make the point again: the object of appointing an administrator is not for all time to take over control of the administration of the APY lands. It is about—

**The Hon. R.I. Lucas:** You are talking about five years.

**The Hon. I.K. HUNTER:** Well, I have not ever used that period of time. The Hon. Mr Lucas assumes that I have done for the appointment of the administrator. The object is to return the proper functioning of the APY Executive, and that is the job of the administrator. They cannot do that in a vacuum. They need to work with either the current board or a newly elected board and make sure that they have the capability and the governance to perform the functions of the act outlines. This is not a once and forever appointment of an administrator. Their role will be to work with the executive board and Anangu communities across the lands to make sure that the Anangu themselves can back their self-determination and run their own executive board. The administrator's job is to work with the organisations that are present and increase their capabilities.

**The Hon. R.I. LUCAS:** I invite the minister to take legal advice as to what the ordinary meaning of suspension means. If you are a public servant or whatever it is and you are suspended, you do not continue to operate in an advisory capacity. You are not doing your job for a period of time. You are not hanging around advising and continuing to operate in another role—you have been suspended.

The act makes it clear, the minister has made it clear, that you may well suspend the executive board and then appoint an administrator. What you are now putting to the committee is that you will appoint an administrator (and I would be interested to know what you currently contemplate in terms of a remuneration package for the administrator and where that money is going to come from, but we will approach that in a moment), and the minister is saying that his legal advice says that the suspension of the executive board allows it to continue, allows them to continue to be paid and, including the chairperson, can continue to be paid \$70,000 a year as a suspended chair of a suspended board during this particular period of up to five years, if the minister was to appoint his designated person for a period of five years.



**The Hon. I.K. HUNTER:** The suspension relates to the exercise of the functions of the APY Executive under the act. That is what the suspension will do: it will take away the exercise of those functions and hand them to the administrator. The administrator has to, for the proper functioning of his or her role, communicate with Anangu and APY lands. Obviously you will be using those organisations, those bodies and those communities that are readily at hand to seek advice and to pass on communications back to communities.

You will be wanting to utilise, I would think, the existing board and to train and increase the capability of the board and those prospective members who subsequently become elected to the board into the future, hopefully under a new electoral system. You do not want to have an administrator acting in isolation on the APY lands; it just will not work. You need to address the fundamental problems associated with poor governance, and that is to increase and improve the governance ability of individuals on the lands.

**The Hon. T.J. STEPHENS:** Minister, will the administrator have the ability to act in isolation if they so choose, if they think they would be able to perform their duties without interference?

**The Hon. I.K. HUNTER:** The two things are not the same. To perform their duties without interference is one thing; to act in isolation is another. I would think that any administrator up on the lands, a very remote regional area, will need to talk to the communities that they are doing the work for. There is no possible way that I can foresee that an administrator could work in a vacuum without talking to Anangu, without taking advice from communities and working with the leadership structures on the lands. That is quite a different thing from acting independently.

**The Hon. R.L. BROKENSHERE:** I am no expert on working with the community on the lands, but I have worked with the community on the lands over a fairly long period of time, and I am not sure that it is conducive to a good outcome when the government rushes through legislation, brings in an administrator and then says, 'Right, this administrator is going to work in a homogenous way with the people of the lands'. Have you actually thought that out, and what happens if the people on the lands do not like the way the government has gone about this?

Do you have a plan as to how this administrator will be able to work with the people of the lands, because at the end of the day it is actually their lands and not the administrator's land? What is your plan, because there is no guarantee this will work, the way you have put this up? I do not know if you have been up there and worked with the people, but you actually have to spend some time and talk to them. Have you talked to them—you have not been there for 14 months?

**The Hon. I.K. HUNTER:** The honourable member is talking ignorantly, as he always does. Again, if he was in this chamber listening to my second reading speech he would have a different understanding of the process. Of course the administrator would have to earn the trust and the cooperation of the communities they are administering—of course they would. You would need to choose an administrator who would have the capabilities and the confidence to do those things.

**The Hon. T.A. FRANKS:** How does the minister think that somebody who is appointed as an administrator, by him as the minister, over and above the democratically-elected executive, would gain that trust, and is the minister concerned that this action could actually have some dire consequences on the lands? Has any thought been given to whether this will lead to civil disobedience? What precautions has the minister taken with regard to this, and what departments have been involved in ensuring that, should the minister successfully ram this bill through this parliament, that in fact the lands do not suffer as a result? Indeed, how does the minister expect Anangu to trust anyone he appoints as an administrator?

**The Hon. I.K. HUNTER:** The intention in bringing forward this bill is actually to improve the situation on the lands, not to make it worse. The honourable member is being disingenuous in the extreme in this regard. Why on earth would anyone desire or design a system to go out and make the situation worse? Is she saying that at the moment there are not dire consequences that already need to be addressed? If she is, then she should be honest with this chamber about her private thoughts about what has been wrong with the lands for some time and why she has not actually expressed those here today.

**The Hon. T.A. FRANKS:** I think the minister refers to me and assumes some of my thoughts. The minister has powers at his disposal now to address corruption. The minister has not yet in this debate provided evidence of corruption. The minister of course could refer matters to ICAC, could refer matters to SAPOL, and could ensure that the department managed matters where there were concerns. As I raised before, the minister and his predecessor ministers could have ensured that there were conciliators appointed under the act, which was back then, as I said, a dereliction of the duty of those previous ministers.

The minister is disingenuous if he says that this legislation is needed to address the problems that he has pointed to tonight because we have yet to see evidence of why this legislation is needed. As I pointed out, the ICAC provision is not disagreed to by anyone in this place, although it is not necessarily proven to be necessary. Where is the evidence that this is the only way to address the concerns that the minister seems to have?

**The Hon. I.K. HUNTER:** I have outlined my concerns in my second reading closing speech, but the honourable member clearly does not accept them. That is fine; that is entirely up to her, but I have the very firm view that this amendment bill is required.

**The Hon. R.I. LUCAS:** I refer the minister to section 13O(2)(f) of the parent act. Earlier, in response to my questions the minister said that the administrator was restricted by the rules that existed. After further questioning, he indicated that they were the rules that a general meeting of the Anangu has set down and could change if they had another general meeting. Section 13O(2)(f) provides:

- (f) the Administrator has all the functions and powers of Anangu Pitjantjatjara Yankunytjatjara;

I am not a lawyer, but I would read that as saying what it says: that is, the administrator he is appointing has all the functions and powers of Anangu Pitjantjatjara Yankunytjatjara. Therefore, that means that, contrary to what the minister was saying to me earlier in response to my questions, it would be the administrator he is appointing who would make whatever rules because the administrator has all the functions and powers and would therefore override, if he or she so chose, general meetings and whatever of the Anangu.

**The Hon. I.K. HUNTER:** Whilst I am seeking further advice on that point, the Hon. Mr Lucas speaks of paragraph (f), that is, 'the Administrator has all the functions and powers of Anangu Pitjantjatjara Yankunytjatjara', but (g) underneath provides:

- (g) in carrying out a function or exercising a power of Anangu Pitjantjatjara Yankunytjatjara, the Administrator is not bound by a resolution under section 9B(4)—

which, I think, normally binds the APY Executive—

that is, in the opinion of the Administrator, inconsistent with the appointment of the Administrator (but, to avoid doubt, is otherwise bound by a resolution under that section);

**The Hon. R.I. LUCAS:** Whilst are you awaiting advice, section 9B(4) refers to the executive board, which of course is in a happy state of suspension—whatever that means—during this particular period of the appointment of an administrator. So, I do not see that 9B(4), to which the minister refers, cuts across the essential nature of the question that I have put to you; that is, you have indicated to this committee that the administrator would be subject to the rules of a general meeting of the Anangu, yet paragraph (f) would appear to indicate that the administrator has all the functions and powers of Anangu Pitjantjatjara Yankunytjatjara, which would seem to be all-encompassing. While the minister is getting responses, let me refer to section 6—Powers and functions of Anangu Pitjantjatjara Yankunytjatjara. Section 6(1) provides that the functions of APY are as follows:

- (a) to ascertain the wishes and opinions of traditional owners in relation to the management, use and control of the lands and to seek, where practicable, to give effect to those wishes and opinions; and
- (b) to protect the interests of traditional owners in relation to the management, use and control of the lands; and
- (c) to negotiate with persons desiring to use, occupy or gain access to any part of the lands; and

- (d) to administer land vested in Anangu Pitjantjatjara Yankunytjatjara.
- (2) Subject to this section, Anangu Pitjantjatjara Yankunytjatjara has the following powers:
  - (a) the power to sue and be sued; and
  - (b) the power—

and there are three subparagraphs, in essence, to grant licences and leases, so all those powers are powers of APY: the power to acquire by agreement, hold, deal in, or dispose of, land outside the lands; the power to enter into contracts; the power to appoint and dismiss staff; receive and disburse moneys; to obtain advice from experts in various areas; the power to establish offices; and:

- (i) the power to make a constitution relating to—
  - (i) the conduct of meetings of Anangu Pitjantjatjara Yankunytjatjara; and
  - (ii) the procedures to be followed in resolving disputes; and
  - (iii) any other matter that may be necessary or expedient...

Then there are various other restrictions on their powers, which I will not go through, and more subsections, which I will not read. Clearly, the powers of APY are obviously considerable. They would appear to be the governing body. The executive board is then appointed subject to the constitution, the powers and authority that the APY has. Clearly, the executive board in an ongoing fashion, one would imagine, takes most if not all of the decisions, but it is subject to obviously a reference back to a general meeting, annual or special, of the APY.

**The Hon. I.K. HUNTER:** This is apparently a complicated statutory interpretation discussion which I am probably not going to be very successful at explaining, but the administrator would have the functions and powers of the APY as a corporate body in a general sense; however, the general meeting of APY by two-thirds majority could change the constitution. As I pointed out, under paragraph (g) the administrator would not be bound by resolution under section 9B(4) because the administrator is carrying out the functions that the erstwhile executive board would be if it is in the opinion of the administrator inconsistent with the appointment of the administrator, but to avoid doubt is otherwise bound by resolution with that section.

So at an APY general meeting, APY could change the constitution by a two-thirds majority vote but, as I say, the administrator would not be bound by it under paragraph (g) if in the opinion of the administrator it was inconsistent with the appointment of the administrator.

**The Hon. R.I. LUCAS:** That is completely contrary to the position the minister put to this committee a little more than half an hour ago. We get one advice to an earlier series of questions, we then ask a further series of questions—Mr Acting Chair, I know you have been following this closely—and we get a completely different answer. Mr Acting Chair, you are the chair of the Aboriginal Lands Parliamentary Standing Committee, a man with considerable knowledge of these particular issues. I hope you share my concern as now the acting chair of this committee at the inconsistency of the answers that this committee is getting from the minister in charge of the bill in relation to the actions that he wants us to support, he wants you to support—that he wants all of us to support.

Again, I am not a lawyer and I know the minister is not either, but I assume he has had the advantage of legal advice in terms of his response, but frankly, in the politest possible terms, I think part of the minister's response is just absolute bunkum. It is nonsense. It is quite clear from the provision that I read onto the public record that the administrator has the powers and functions of the APY. Then I read from section 6 what the powers and functions are, and one of the powers and functions of the APY is to make a constitution. If the administrator has the powers and functions of APY and one of the powers and functions of the APY is to make a constitution and therefore to make constitutional changes, ipso facto, the administrator has the power to change the constitution.

Again, I confess I am not a lawyer, but the minister's response is completely inconsistent with his earlier advice. That is the first thing. The second point is it is still unconvincing in terms of trying to convince us that the provision I referred to earlier which says that the administrator has all the powers and functions of the APY does not mean exactly what it says; that is, the administrator has all the powers and functions of the APY as outlined in that very long section 6 of the parent act.

**The Hon. I.K. HUNTER:** My advice is that I have not said two different things. My earlier advice to the chamber was that the administrator would be bound by the rules in the constitution. My advice is he or she would be unless, as I read out under paragraph (g), it is contradictory to his or her appointment. That is what I said earlier and that is what my advice still is.

In terms of a change of the constitution, my advice is—and I am still seeking clarification on it—this clause is specific as to how they carry out their function. It is not related to their ability to make a change to the constitution.

My advice is that the general ability of the APY relates to its responsibility for its own constitution. Again, the general provision is the administrator has the function and powers of the APY, but when you come to an ability to change the constitution, that is a specific power under the act and that is determined under the act to rest with the APY. My advice is that it is not something that the administrator under the general provision can actually assume.

**The Hon. T.A. FRANKS:** Since the minister's correspondence that he refers to in the past year, have any referrals been made to ICAC by the minister or the department with regard to the APY Executive?

**The Hon. I.K. HUNTER:** I will not be answering that question.

**The Hon. T.J. STEPHENS:** Can you tell us if you have consulted the Commissioner for Aboriginal Engagement on this amendment bill and, if you have, what advice did the commissioner provide?

**The Hon. I.K. HUNTER:** No, I have not.

**The Hon. T.A. FRANKS:** Why not?

**The Hon. I.K. HUNTER:** Because I did not think it was appropriate to involve the commissioner in this regard. My discussions with the APY of two weeks ago made it quite clear to them that I would be expecting legislation to come to parliament. I also made it quite clear to them that I would not be advising them in advance of this legislation before us today.

**The Hon. R.I. LUCAS:** Is it correct that on 21 November, when you met with the representatives of the APY, you said to them at that particular time that you intended to appoint a general manager, which would be your choice and they would have to accept it, but that they could publicly indicate the announcement of that particular general manager, and that you indicated that that person was a person who was married to an Aboriginal woman, and that, if they did not accept that position, they would not like what you would have to do? Did you put that position to representatives of the APY Executive on 21 November?

**The Hon. I.K. HUNTER:** I had discussions with APY Executive and their legal representatives. I did say to them that I was considering offering a position to a couple and I did not identify who they were at the time. I wanted to have consultations with those people and determine whether they would be available for an appointment. I did say to the APY members in attendance and to their legal representatives that it was my intention that if I proceeded in that manner I would expect them to support the appointment and to make that announcement public that they would be doing so.

I said to them also that if they did not work with me and the government in terms of addressing the ongoing issues of APY, then the pressure that would be brought to bear on them would be untenable and they would get an outcome that they would not like. I have always said that my preference is to work with APY, to make sure that their governance and capability are brought up to a level where this parliament can have confidence in them acquitting themselves and carrying out the functions of the APY under the act transparently, openly and where members of this parliament and the broader South Australian community would have some confidence in what they were doing and how they were applying themselves.

Clearly they have not responded in a timely fashion to my requests and clearly I have come to the conclusion that in fact this amendment bill is required to make sure that the APY will be able to function independently after some period of time where we build up the governance and the capability of the executive.

**The Hon. R.I. LUCAS:** Is the minister advising this committee on the parliamentary record that, when he put that proposition to the APY Executive, they refused?

**The Hon. I.K. HUNTER:** No, I am not saying that at all. I do not understand, from that meeting, that there was an agreement to my proposition, but they certainly did not indicate vehement opposition to it either.

**The Hon. R.I. LUCAS:** The minister has conceded that he did, as I put on the public record, indicate that he planned to appoint a general manager, and that was his choice.

**The Hon. T.A. Franks:** He did not say the words 'general manager', he said 'a position' or 'two positions', but I am not sure, one or two.

**The Hon. R.I. LUCAS:** Sorry. You can put your version of the story and I will put my version of the story. I am quite happy to hear various versions. As I said, this person was married to an unnamed Aboriginal woman, and that the APY could indicate publicly that that was their appointment, but they would have to agree with his appointment. The minister is saying that they did not indicate vehement opposition. What I am asking is: did the APY representatives at that meeting accept the proposition, given that the minister gave this veiled threat that, if they did not accept his offer, they would not like what he would have to do?

**The Hon. I.K. HUNTER:** The honourable member is putting on the record erroneous information. I did not mention a person that was married to an Aboriginal woman. That is incorrect. In fact, it is just the reverse. I did not say to them the comments the honourable member is ascribing, although, in general, what I said was that I would want them to publicly agree to my determination of those people and I would want their support.

Given their lack of response to my correspondence and given their lack of response to my requests for their position on the Layton review, I said to them quite plainly that time was running out for them in terms of their ability to have the confidence of this parliament and of this state. They needed to act, and they needed to act in concert with me. When I was asked by their legal representatives whether there would be no surprises for them, I made it quite clear there would be surprises coming for them.

**The Hon. R.I. LUCAS:** What then did the APY Executive do between the meeting of the 21<sup>st</sup> and the minister's indication late last week, I think it was, to various people that he was intending to move this legislation? What is it that the APY Executive did between that meeting of the 21<sup>st</sup> and late last week which prompted him to move from his offer of the 21<sup>st</sup> to the decision to appoint an administrator?

**The Hon. I.K. HUNTER:** The honourable member is ascribing some motivations to me which I did not have. There is no causal effect in this regard. There is no position where on one day I was considering one issue and another day I changed my mind and took another course of action. All these options were available to me.

**The Hon. R.I. LUCAS:** Why did you make the offer to the APY and ask for their support of the appointment of the people you were referring to?

**The Hon. I.K. HUNTER:** I did not make any such offer. I said to them—

*An honourable member interjecting:*

**The Hon. I.K. HUNTER:** No, I did not make any offer at all. I said to the APY Executive and their legal representatives in the room that, should I proceed down this path, this would be my determination, and should I determine to appoint a general manager, this is how I would expect them to respond.

**The Hon. R.I. LUCAS:** I just have one other specific issue I want to clarify. The minister has referred on a number of occasions to the position of seven general managers over a period of time. (I cannot remember the exact time.) Can the minister just clarify whether two of those, or three of those—I cannot recall—were actually acting appointments in between the appointment of general manager positions?

**The Hon. I.K. HUNTER:** The advice I have to hand is this: Mr Ken Newman was appointed general manager until July 2010; Mr Chris Malcolm was appointed from July 2010 until about March 2012; Mr Brian Dodson was appointed interim general manager between Mr Chris Malcolm and the appointment of Mr Richard Preece; Mr Richard Preece was appointed from August 2012 to August 2013; he was followed by an interim general manager, Mr Sean McCarthy, who was followed by an interim general manager, Ms Lesley Johns, who was followed by Mr Bruce Deans from 2 June 2014 to 15 October 2014, who was followed once again by Ms Lesley Johns as interim general manager.

**The Hon. T.A. FRANKS:** I do not have any additional questions, but I would like the minister to table the correspondence of, I think, 20 November that I have requested twice now.

**The Hon. I.K. HUNTER:** I do not have that correspondence at hand, but I will undertake to provide it to the council.

**The Hon. R.I. LUCAS:** I did ask an earlier question to which I did not return and that is, what is the remuneration package that the minister has in mind for the appointment of the administrator? Secondly, will whatever that sum of money is be paid by the minister as additional funding, or will it be required to come out of the existing funds that go to the APY?

**The Hon. I.K. HUNTER:** I have not determined a remuneration package at this point in time, but my expectation is that it would come from the existing budget.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

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

Amendment No 1 [Franks-1]—

Page 2, after line 21—'Insert:'

- (1a) Subsection (1) (as enacted by the Anangu Pitjantjatjara Yankunytjatjara Land Rights (Miscellaneous) Amendment Act 2014) will expire 12 months after the day on which it comes into operation.

As I flagged in my second reading, this is a sunset clause on this bill, this bill which is being rushed through the parliament with little consultation, as we have heard, not even a discussion with the Commissioner for Aboriginal Engagement. Certainly, there has been a lack of detail provided today in the debate in the committee stage to justify the extensive powers that this is enabling of the minister.

A sunset clause, I would think, is a reasonable expectation. A period of 12 months would ensure that this particular measure—which, at this stage, has the support of the opposition and the government, which does look set to pass this parliament this week before parliament is prorogued this year—at least has a safety valve where we can come back and consider this with real evidence and with a better debate than we have had this evening. With those few words, I commend the amendment.

**The Hon. I.K. HUNTER:** I thank the honourable member for her indication of her amendment and moving it. I also have an amendment to her amendment so I move:

Page 2, after line 21—New subsection (1) to be moved by The Hon. T.A. Franks:

Delete '12 months' and substitute '3 years'

The effect of the amendment is to delete 12 months from the Hon. Tammy Franks' amendment and replace it with a period of three years. In doing so, I ask the chamber to consider the amount of time that may be required to address the issues on the lands. Twelve months, in my view, is too short a period and three years is a much more sensible approach for a sunset clause. I have no objection to the sunset clause at all, but I think three years is a better proposition.

**The Hon. T.J. STEPHENS:** I rise to indicate that the opposition will be supporting the minister and his amendment for the reasons that he has outlined. There are many problems that

need to be addressed and a reasonable period of time needs to be allowed, but we will support the minister and his amendment and the sunset clause.

The committee divided on Hon. I.K. Hunter's amendment:

Ayes ..... 16  
 Noes ..... 4  
 Majority ..... 12

AYES

Brokenshire, R.L.  
 Gago, G.E.  
 Hunter, I.K. (teller)  
 Lucas, R.I.  
 Ngo, T.T.  
 Wade, S.G.

Darley, J.A.  
 Gazzola, J.M.  
 Kandelaars, G.A.  
 Maher, K.J.  
 Ridgway, D.W.

Dawkins, J.S.L.  
 Hood, D.G.E.  
 Lensink, J.M.A.  
 McLachlan, A.L.  
 Stephens, T.J.

NOES

Finnigan, B.V.  
 Vincent, K.L.

Franks, T.A. (teller)

Parnell, M.C.

Amendment to amendment thus carried; amendment as amended carried.

**The Hon. T.J. STEPHENS:** I move:

Amendment No 1 [T Stephens-1]—

Page 2, after line 21—'Insert:'

- (2) Section 13O—after subsection (2) insert:
- (3) An Administrator appointed under this section must, as soon as is reasonably practicable after each prescribed period of his or her appointment, prepare and submit to both Houses of Parliament a report on the operations of the Administrator and Anangu Pitjantjatjara Yankunytjatjara during the prescribed period.
- (4) In this section—*prescribed period* means—
  - (a) if the Administrator is appointed for a period of less than 6 months—the period of the Administrator's appointment; or
  - (b) in any other case—6 months.

This amendment is relatively simple and straightforward and spreads the accountability of any potential administrator to the legislative branch of government, being the parliament. Without this amendment the administrator is responsible solely to the minister who is then responsible to this chamber. However, as we have seen, there is a risk to transparency and good governance in that model as any incompetence or politically damaging revelations can be quickly covered up by the government or relevant minister.

We on this side, and I am sure my honourable friends on the cross bench too, want to see full transparency on the governance of the APY. Many of us in this place would agree that the governance on the lands has been subpar, but even more so the minister's response to this has been even worse. Not only was he unable to deal with the various allegations of misconduct effectively, but it took him until now to do it. Whether this is through genuine prohibitive legislation or sheer incompetence remains to be seen. Given that the minister has only now decided to address this issue, after the opposition and other honourable members have raised concerns over an extended period, we felt it necessary to put in place some protections.

The fact that this legislation is being rammed through at the absolute last minute is demonstrative of the mishandling of this issue, and we on this side want to see a better process put

in place whilst also fixing the problems with the governance of the lands. This amendment will prevent political meddling. It will empower members of this place, particularly crossbenchers, to have a say in the process. This is sensible as it is a joint standing committee which often hears many of the problems, and we would like to have regular updates from the lands without having to go through the farce of ministerial answers to questions without notice or protracted exchanges of correspondence. I think this is a sensible amendment and I encourage all honourable members to support it.

**The Hon. I.K. HUNTER:** I thank the honourable member for his very kind words and indicate that the government will be supporting the amendment.

**The Hon. T.A. FRANKS:** The Greens will also be supporting this amendment. It makes a bad bill at least slightly better.

**The Hon. R.L. BROKENSHERE:** Family First will support the amendment. What we have heard tonight causes us a lot of concern. We have not even had an answer tonight about why the minister did not have the intestinal fortitude on behalf of his government to give the parliament a basic democratic right, and that is to wait until tomorrow to complete this bill. But we know what the government is about. It might live for another day, hopefully not too much longer than that, but we will support this amendment.

**The Hon. J.A. DARLEY:** I will be supporting this amendment.

**The Hon. K.L. VINCENT:** Since everyone else is doing it, I indicate that I will also support the amendment.

Amendment carried; clause as amended passed.

Clause 5 passed.

Title.

**The CHAIR:** I put the question: that this be the title of the bill.

**The Hon. T.A. FRANKS:** Mr President, I would contend that this bill would be better called the Anangu Pitjantjatjara Yankunytjatjara land rights intervention amendment bill, and so move.

**The CHAIR:** I have just been advised that you cannot do that. That is the long title; good try. I put the question: that this be the title of the bill.

Title passed.

Bill reported with amendment.

#### *Third Reading*

**The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (22:25):** I move:

That this bill be now read a third time.

Bill read a third time and passed.

### **FAIR WORK (MISCELLANEOUS) AMENDMENT BILL**

#### *Introduction and First Reading*

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

#### *Second Reading*

**The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (22:26):** I move:

That this bill be now read a second time.

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



### Leave granted.

The Fair Work (Miscellaneous) Amendment Bill 2014 amends the *Fair Work Act 1994*, as well as making consequential amendments, to abolish the statutory office of the Employee Ombudsman and to make changes to the requirements for constitution of the Full Commission of the Industrial Relations Commission.

#### Employee Ombudsman

The Office of the Employee Ombudsman consists of the Employee Ombudsman and staff appointed to assist the Employee Ombudsman in the performance of functions under the Fair Work Act. The Employee Ombudsman is appointed by the Governor pursuant to section 58 of the Fair Work Act and is not subject to control or direction of the Minister responsible for the Fair Work Act.

The statutory functions of the Employee Ombudsman are set out in section 62 of the Fair Work Act and were designed to operate in the context of the former industrial relations system, whereby the State had responsibility for the private sector and the Employee Ombudsman was considered necessary to protect the rights of non-union represented workers in the private sector. This is no longer a state responsibility since the referral of the private sector industrial relations regulation to the Commonwealth.

Due to recent changes as a result of the Commonwealth's development of a national industrial relations system, the functions of the Employee Ombudsman have been limited to public sector and local government employees. This has reduced the workload of the Employee Ombudsman. In its annual report for the 2012-13 financial year the Employee Ombudsman reported less than 2 900 requests for assistance, with only 22% of these queries being from the public sector. The remaining 78 per cent of requests were from private sector—employees for which the Employee Ombudsman has no statutory function.

Statistics were not provided by the Employee Ombudsman in the annual report for the 2013-14 financial year, however it was noted that again more inquiries were received from the private sector than the public sector.

Residual functions of the Employee Ombudsman with respect to the public and local government sector are already performed by SafeWork SA (a business unit of the Attorney-General's Department) as well as by representative unions (Public Sector Association and Australian Services Union—SA & NT etc.), removing the need for a dedicated and separately funded the Employee Ombudsman and office. For the most part, the role of the Employee Ombudsman is a duplication for public sector and local government employees. The Commonwealth Fair Work Ombudsman is responsible for providing a similar service to private sector employees. In addition there are various free or low cost legal services available to all public and private sector employees.

This Bill will reduce the financial burden to State Government of providing services that are provided and funded by the Commonwealth for private sector employees through the office of the Fair Work Ombudsman.

The decision to abolish the Office is in no way a reflection on the efforts of the Office's staff members but is a decision taken based on the changing landscape of the industrial relations system in recent years.

#### Full Commission of the Industrial Relations Commission

The Industrial Relations Commission of South Australia is established under the Fair Work Act. It has jurisdiction to approve enterprise agreements, to make awards regulating remuneration and other industrial matters, to resolve industrial disputes and, among other things, hear and determine matters arising from an industrial matter.

The Full Commission of the Industrial Relations Commission has original jurisdiction in minimum standards applications (e.g. remuneration, sick leave, severance payments), adoption of Fair Work Australia principles and unreasonable conduct applications as well as appeals and references from single members and applications by the Minister for review.

The Full Commission consists of three members or the number of members (more than three) as directed by the President. Section 39(3) of the Fair Work Act requires that the Full Commission consist of one or more Presidential members and one or more Commissioners.

The Bill will amend the Fair Work Act to remove the requirement in section 39(3) for the Full Commission to include one or more Commissioners. Instead the Full Commission is to be constituted of one or more Presidential members and such number of Commissioners, if any, as directed by the President of the Industrial Relations Commission.

This will provide the President of the Industrial Relations Commission with greater flexibility in constituting the Full Commission.

I commend the Bill to Members.

#### Explanation of Clauses

##### Part 1—Preliminary

##### 1—Short title

##### 2—Commencement

## 3—Amendment provisions

These clauses are formal

Part 2—Amendment of *Fair Work Act 1994*

## 4—Amendment of section 4—Interpretation

This clause removes references to the Employee Ombudsman from the interpretation section and is consequential on the repeal of Chapter 2 Part 6 Division 1.

## 5—Amendment of section 7—Industrial authorities

This clause is consequential on the abolition of the office of the Employee Ombudsman.

## 6—Amendment of section 39—Constitution of Full Commission

This clause amends section 39(3) of the principal Act to remove the requirement that the Full Commission consist of 1 or more Commissioners and to instead allow the President to direct the required number of Commissioners (if any).

## 7—Repeal of Chapter 2 Part 6 Division 1

This clause repeals Chapter 2 Part 6 Division 1, which constitutes the office of the Employee Ombudsman, sets out the appointment and conditions of office of the Employee Ombudsman and the functions of the Employee Ombudsman.

## 8—Amendment of section 64—Who are inspectors

## 9—Amendment of section 75—Who may make enterprise agreement

## 10—Amendment of section 76—Negotiation of enterprise agreement

## 11—Amendment of section 79—Approval of enterprise agreement

## 12—Amendment of section 80—Extent to which aspects of negotiations and terms of the agreement are to be kept confidential

## 13—Amendment of section 150—Proceedings to be in public

## 14—Amendment of section 153—Intervention

## 15—Amendment of section 219—Confidentiality

## 16—Amendment of section 223—Discrimination against employee for taking part in industrial proceedings etc.

These clauses are consequential on the abolition of the office of the Employee Ombudsman.

## 17—Transitional provision

This clause makes it clear that the person holding office as the Employee Ombudsman will cease to do so on the commencement of this clause.

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

*Resolutions***STATUTORY OFFICERS COMMITTEE**

The House of Assembly informed the Legislative Council that it had passed the resolution transmitted herewith relating to Message No. 24 from the Legislative Council for the appointments to the Statutory Officers Committee, namely:

1. That the House of Assembly notes the resolution of the Legislative Council and invites the Legislative Council to reconsider its apparently adverse reflection on the deliberations of the House of Assembly in appointing the Hon. J.R. Rau to the Statutory Officers Committee.

2. Further, the House of Assembly invites the Legislative Council to reconsider inviting the House of Assembly to reconsider its appointment to the Statutory Officers Committee.

At 22:28 the council adjourned until Wednesday 3 December at 11:00.