LEGISLATIVE COUNCIL

Thursday, 4 December 2014

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

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

Supplementary Report of the Auditor-General, 2013-14, on Agency Audit Report, December 2014
Supplemantary Report of the Auditor-General, 2013-14, on Matters of Specific Audit Comment, December 2014

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

Reports, 2013-14—
Department of Treasury and Finance Erratum to 2013-14
Electricity Industry Superannuation Scheme
Legal Practitioners Disciplinary Tribunal
South Australian Fire and Emergency Services

By the Minister for Business Services and Consumers (Hon. G.E. Gago)—

Reports, 2013-14—
Consumer and Business Services
Independent Gambling Authority
Social Development Committee's Inquiry into the Sale and Consumption of Alcohol—
Government Response

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

Reports, 2013-14—
Australian Children's Education and Care Quality Authority
Disability Information and Resource Centre Inc.
Education and Care Services Ombudsman, National Education and Care Services Freedom of Information and Privacy Commissioners
Forestry SA
Mid-West Health Advisory Council Inc.
National Aboriginal Cultural Institute
The Health Services Charitable Gifts Board

Ministerial Statement

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:19): I seek leave to make a ministerial statement on the results of environmental assessment at Clovelly Park and Mitchell Park.

Leave granted.

The Hon. I.K. HUNTER: Late yesterday morning, the EPA received the environmental assessment report for Clovelly Park and Mitchell Park from its contractor, Fyfe Pty Ltd. In line with

the government's commitment to update residents as soon as possible, doorknocking of affected residents commenced yesterday afternoon. The report is the culmination of extensive analysis of soil, soil vapour, groundwater and other geotechnical data over the past few weeks, after drilling, testing and sampling commenced in the Clovelly Park and Mitchell Park assessment area on 25 August 2014.

The report provides the best picture yet of the nature and extent of contamination and the health risks for those living in the assessment area as a result of trichloroethene (TCE) exposure. The overwhelmingly good news for residents of Clovelly Park and Mitchell Park is that there is no need to recommend further relocations. Residents are being advised not to take or use groundwater.

Of the approximately 1,400 properties in the assessment area, approximately 1,350 have no predicted detection of TCE in soil vapour. I am advised that these properties were letterbox dropped yesterday afternoon to inform residents that they are considered to be safe and that no further investigation is required.

Twenty-five properties in the assessment area had predicted indoor air levels of less than 2 micrograms of TCE per cubic metre of air and are also considered to be safe, with some further validation work to occur in the coming months. Six occupied properties within the relocation area fell within the 2 to 20 micrograms of TCE per cubic metre of air range and will require further investigation. However, there is no immediate health risk associated with this range.

Three occupied properties within the relocation area have predicted levels in the 20 to 200 micrograms of TCE per cubic metre range, but in the lower end of the range. Relocation of these three residents has already been arranged as part of Housing SA's relocation plan, which was initiated in July this year, and I understand they will be relocated in the next fortnight.

There are four Housing SA tenants in the relocation area who at this stage have chosen not to relocate. Of these four, one property sits in the 2 to 20 micrograms per cubic metre range, and three have predicted indoor air levels of less than 2 micrograms per cubic metre. Housing SA will continue to work with them to facilitate the recommended location and to ensure that their ongoing needs are being addressed.

The project team has also sent letters to property owners living outside of the assessment area, as well as recently relocated residents of Clovelly Park, to inform them of the assessment results. Further information regarding the results will be provided to all residents and property owners early next week. This will include a summary of the report, a letter from the EPA outlining the specific assessment results for individual properties and further information about next steps.

In the meantime, the project team will continue to be on the ground and available to the community if they have any questions or concerns. Members of the team will be available at the Mitchell Park Neighbourhood Centre today from 4pm until 8pm, on Friday 5 December between 10am and 2pm and next week on Wednesday 10 December 2014 between 3pm and 8pm. The project team can also be contacted around the clock by email at cpmpproject@sa.gov.au or through the information hotline, 1800 770 174. A copy of the report and other information about the process of assessment can be accessed at the project website, CPMPproject.sa.gov.au.

Parliamentary Procedure

STANDING ORDERS SUSPENSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): I move:

That the standing orders be so far suspended as to enable the Hon. R.I. Lucas to move a motion without notice in lieu of question time.

Motion carried.

No-confidence Motion

MINISTER FOR ABORIGINAL AFFAIRS AND RECONCILIATION

The Hon. R.I. LUCAS (14:23): I move:

That this council has no confidence in the Minister for Aboriginal Affairs and Reconciliation in light of his incompetent handling of his portfolio generally and in particular the process leading to the introduction of the Anangu

Pitjantjatjara Yankunytjatjara Land Rights (Miscellaneous) Bill to parliament and misleading statements he made as part of that process.

The Hon. R.I. LUCAS: In moving this motion, it is a sad day. It is a sad day for the parliament; it is a sad day for the community, because this is the second time in just over four months that this minister's sorry and incompetent performance in a portfolio area has led to the need for the Legislative Council to consider a no-confidence motion in the minister's performance.

I said in my contribution to the debate on Tuesday of this week that this minister's handling of his portfolio area over almost two years had been a litany of failure, negligence, incompetence, lack of interest and lack of engagement—in summary, an absolute disgrace. The minister's performance this week leaves a permanent stain on his ministerial record and on the record of the Weatherill Labor government. At the outset can I say that all members in this chamber and everyone in the community, I am sure, would agree that the portfolio the minister has responsibility for is a very challenging portfolio.

No minister or individual will have all of the solutions. Any solution will be a long-term solution and that is why time cannot be wasted. That is why, in the view of Liberal Party members in this chamber, the attitude, the approach and the leadership of the Minister for Aboriginal Affairs and Reconciliation, whoever he or she might be at a time, is critical to the tackling of the issues and critical to the issue of whether or not we, as a community, will make progress on tackling what we all acknowledge are ongoing and continuing problems.

Many of us in this chamber, and I think in the community, will remember with fondness a former Minister for Aboriginal Affairs and Reconciliation of Labor persuasion, the Hon. Terry Roberts. Indeed, the Hon. Kyam Maher would and should know him well in terms of his performance in the portfolio. I knew the Hon. Terry Roberts from his time in the South-East but I admired his performance as Minister for Aboriginal Affairs during the period between 2002 and 2006.

He was characterised by empathy, humility and engagement. They were the traits for which the Hon. Terry Roberts was known and they were the traits that he applied in trying to tackle the issues and the problems that confront the Aboriginal community and South Australia. The sad reality is that minister Hunter has none of those and this minister's incompetence, negligence and, sadly, overriding arrogance are actually preventing progress in tackling the problems that need to be tackled.

I am sure others in this debate may well contribute their own views in relation to the problems created by the minister's arrogance as he tackles the portfolio, but I have to say that there have been many I know in this chamber, and not just on this side of the chamber but in the minister's own caucus from the Premier down, who have warned him about the problems of his arrogance, the way he treats people, in particular crossbenchers and minor party representatives, in the shared attempt to tackle difficult problems that might be in his portfolio.

So, it is not as if the minister has not been warned of the problems that his arrogance creates, but what we have seen over a long period of time, sadly, is the minister ignoring the warnings from his colleagues within his own caucus from his broader colleagues, if he wants to describe the opposition and crossbenchers as that, in the Legislative Council and those in the community as to the problems that arrogance has caused in terms of his handling of the issues in his portfolio.

Those of us in this chamber and those who watch the proceedings have seen it on a daily basis in question time. The sneering, snarly, smirky way the minister responds to genuine questions from crossbenchers, in particular, and other members of the opposition on a daily basis is evident for all to see.

On Tuesday I highlighted in some detail—and I will not go through it in this motion today, but let me summarise briefly. In relation to these issues of the APY lands, I have highlighted the fact that there are many challenges—we all acknowledge that—and there have been many accusations raised in the media and in the parliament. I guess the cautionary note I made was that there will be accusations made against many people, on all sides of the debate on the lands.

I highlighted the concerns I had raised, as far back as September and October of 2012, about employees (public servants) of the government and of the minister in a previous portfolio when he

was the Minister for Communities and Social Inclusion. I raised concerns about allegations from whistleblowers within the minister's department and on the lands about allegations of rorting of travel and locality allowances by public servants: not by members of the APY Executive, people who might want to be on the APY Executive, or people from the lands themselves, but from public servants who were working on behalf of the taxpayers on the lands.

The minister will know that I raised questions also about significant wastage of taxpayers' money by those public servants on the lands. The minister will know I put on the public record concerns from APY leaders about the wastage of money by public servants when the money was so desperately needed in terms of improving health, schooling and other services on the lands.

These whistleblowers had made decisions, after banging their heads against brick walls within the bureaucracy and elsewhere, to raise their concerns through a member of parliament, as is their right. I raised those concerns on behalf of those constituents in September and October. All we got—and I can put up with the sneering, snarly, smirking response from the minister, but all our constituents got was that dismissive, arrogant refusal from the minister to even respond to the questions.

Two years later, here we are in December 2014, and this minister has chosen to refuse to answer questions placed to him directly as a minister in relation to these serious issues. The only response that I have seen, as I indicated, is that somebody—whether it be the minister, a minister's staffer or a public servant, I do not know—obviously set the ICAC onto whoever it was they thought the whistleblowers were.

As I indicated on Tuesday, the only response I have seen thus far, after two years of raising the questions, is being asked by ICAC investigators as to whether I would indicate who the whistleblowers were who gave me the information and what the grounds were for them giving me the information. I put on the public record my response to that, and I do so again, where in the politest possible way I told the investigators to get nicked and that parliamentary privilege enables me to protect the whistleblowers who provided me as a member of parliament with information which they believed to be in the public interest, which they believed the minister has not responded to and which they believed needed to be aired and investigated.

We have seen others who have asked questions of the minister as well over the last two years similarly being ignored. We have seen issues raised in the media and the minister and the minister's office's dismissive responses to journalists, which are well evident and on the public record in terms of responding to the criticism and issues that whistleblowers have raised via journalists and in the media.

Last night, we saw the minister's arrogance again in the very important Stolen Generations compensation legislation, which has been introduced and was being debated last night. The Minister for Aboriginal Affairs and Reconciliation, one would have thought, might have had a passing interest in that legislation, but for all of that debate last night the minister chose not to attend the chamber or even participate in the debate, let alone listen to the debate. It was left to a sole backbencher, the Hon. Tung Ngo, to desperately try to put a position on behalf of the government.

When the minister was required to move the contingent notice of motion, a procedural matter that only a minister can move, given he was the only minister left in Parliament House at the time, although he was not in the chamber, the only way we could get him was to ring the bills and to drag him into the chamber, into which he sauntered in with his jacket jauntily draped across his shoulder, moved the contingent notice of motion with a smirk on his face and, once that was done, turned around, clicked his heels and walked out the door again.

That is the sort of arrogance, minister, that infuriates crossbenchers, infuriates opposition members and, frankly, infuriates some of your own backbench in terms of the way you treat the seriousness of this particular portfolio. On something as important as a compensation bill for the stolen generations, the Minister for Aboriginal Affairs and Reconciliation is not even interested to attend, to listen and to participate. Even if in the end, as he has done with others, or other ministers have done as well—indicate for whatever reasons they feel they could not support the bill—he did not have the courage, he did not have the courtesy to stand up, put his position and defend his position on behalf of the government.

In conclusion, in terms of the minister's arrogance, as was revealed earlier this week in the debate, the fact that the Minister for Aboriginal Affairs has not even visited the APY lands in almost 14 months is again testimony to his lack of willingness to engage in tackling the problems that confront the APY lands. As I turn now to the process of this bill this week, how he can arrive at that, impressing upon all of us the urgency for us to trash all our normal procedures to put a bill through the first, second and third readings all in the one day, and then have the temerity to stand up and say, 'Well, I haven't been there for 14 months to the APY lands. I am happy to prognosticate, to adjudicate and to make my decisions from the comfort of my ministerial lounge. I don't need to visit the lands for 14 months.'

I turn now to the process of the introduction of the bill this week. There was no answer provided from the minister as to why, given that he has been the minister for two years—and I am not privy to the discussions of the standing committee on Aboriginal affairs and the other discussions the minister and others may or may not have had over a period time, but certainly publicly as well but, given these issues have evidently been discussed for some time—the minister chose to leave it to the third-last sitting day (the last sitting week) to introduce what he would know to be a most controversial piece of legislation.

I can sadly only conclude that this was a deliberate and calculated act by the minister. Sadly, I can only conclude that he did this in a way that sought to restrict and limit the scrutiny and the debate, in particular publicly but also within the parliament, of the legislation. That can be, I think, the only reasonable conclusion, because the minister offered no other reason as to why he left it to just the last week to introduce the legislation and insist that it was so urgent that it had to be debated this week.

In his second reading explanation and in his reply to the second reading, after he was asked many questions by a number of members as to what the reasons for the rush were, he offered no substantive reasons in the second reading and in his reply to the second reading. In response to questions from some of my colleagues, I think in particular the Hon. Terry Stephens, he managed to tease out some details of some particular claims and allegations during the committee stage of the debate. Again, as testimony to the disgraceful process this minister has been responsible for, only limited information, even in the committee stage, was provided.

The committee stage was my first active engagement in the debate, and I again concede, as not a member of the standing committee and not like the member for Morphett, the member for Dunstan, the Hon. Tammy Franks, the Hon. Terry Stephens and others who have been actively engaged in these particular issues, my engagement has been primarily in terms of Treasury and Finance over the years and through the Budget and Finance Committee in relation to whistle blowers blowing the whistle on rorting and wastage of taxpayers' money, etc.

During the committee stage, what amazed me was that the minister could not answer many of the questions that were put by members about the implications of the bill and the bill itself. For example, if one refers to the debate, some simple questions were being raised in the early stages of the committee as to what the minister's powers currently were over what is colloquially known as the cattle money, that is, private money, not state government money being earned by the APY people through cattle agistment. Questions were put to the Hon. Mr Hunter in relation to what was the level of control that he had and, in the end, the question that was put to him by me was:

> Does the minister concede that he has no authority over that [that is, the cattle money, the private money], that that is a decision entirely for the APY Executive?

The minister's response was stunning. He said:

> I am currently seeking crown advice to confirm that view, but that would be a working hypothesis.

Here is a minister, after two years, being asked a simple question; that is, what is his power currently under existing legislation over what I am now told is over $1 million a year of cattle agistment money, private money, being earned by the APY people? Asked the question, 'What is your authority?', and the minister says:

> I am currently seeking crown advice to confirm that view, but that would be a working hypothesis.

It is not good enough for a minister who wants to rush a controversial piece of legislation through the parliament to stand up and not be able to answer very simple questions in relation to the bill. The next area where the minister floundered in terms of trying to explain what his bill meant was: what are the powers to be of the administrator he intends to appoint? The minister, during the committee stage, gave conflicting answers. Members in all parts of this chamber were shaking their head at the conflict between the initial responses the minister gave and then ultimately the final responses.

His initial response was that the administrator would be subject to the rules that are passed from time to time by an annual general meeting or a general meeting of the APY and that the act lists the powers and functions of the APY at a general meeting. The minister said that the administrator would be subject to the rules that the APY, at a general meeting, might lay down from time to time. Then I referred the minister, because clearly he had not read the parent act or, if he had, he had not comprehended it, to section 13O(2)(f), which says:

> …the Administrator has all the functions and powers of Anangu Pitjantjatjara Yankunytjatjara;

That is, when he appoints this person, he or she will have all of the powers and functions of the APY. As I said, I listed for the minister, in the committee stage, all those powers and functions: the ability to enter into contracts, leases, etc. were all there, subject to the rules that they might pass from time to time.

When confronted with that, the minister changed his response from what he said earlier. He was obviously saying earlier that they were going to be subject to the rules, but then we pointed out to them that, if the administrator is replacing the APY, the administrator (he or she) can make the rules and change the rules. If the administrator has all the functions and powers of the APY, then under the act where does that leave us? The minister had, as I said, conflicting answers and ultimately no answers, or no definitive answers, on the powers and functions that will apply to the person that he is going to appoint to administer the APY after he has suspended the executive board. So, there are obvious questions then in relation to what the powers of an APY general meeting and the powers of an administrator would be in relation to all of that.

The next issue the minister had no clear response on was to some relatively simple questions put to the minister in relation to whether or not the current members and chair of the APY Executive board would continue to be paid. I have to say that myself, and I suspect all of my colleagues, assume that if you are sacking/suspending the executive board and employing an administrator then the executive board are not doing anything and are therefore not accruing their $6,000 a year and the chairman is not accruing the $70,000 a year, but the minister's response was:

> 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.

So, the minister is saying that under the scheme of arrangement that he is rushing through the parliament he is envisaging that, potentially, the chair can continue to be paid $70,000 a year, even though the board has been suspended, and the board members can continue to be paid $6,000 a year, even though the board is suspended, for whatever the duration of the appointment of the administrator might happen to be. I think that is an extraordinary situation. There are many other examples where the minister was unable to explain the ramifications and implications of his own legislation, to answer simple questions which one would have thought he should have been briefed on and prepared to respond to obvious questions from members in the chamber.

The final area I want to address is in relation to the misleading statements part of the motion. I know, given questions we have had in question time, that other MPs may well have their own examples, but I want to refer to one specific and very important, in my view, example of where the minister misled this council and has misled the community generally. In the committee stages on Tuesday I asked the question:

> 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…

Then there are two pages of *Hansard* recording further discussions and then eventually I ask another question:

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. Mr Hunter then said:

I did not make any such offer. I said to them—

Hansard records an honourable member interjecting, then the minister continues:

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.

In my view and on the information provided to me, that is a clear example of where the minister has misled this council and the community. I have been provided with extracts from the notes of the meeting of members of the APY Executive with minister Hunter on 21 November 2014, prepared by a solicitor from Johnston Withers, Mr Graham Harbord, and I have permission to quote from these extracts from the notes of the meeting that relate to this particular issue. The following is a direct quote from the extracts that I have been given:

He—

That is the minister—

said he is being put under a lot of pressure from the Liberal Party and Michael Owen.

I note for the benefit of *Hansard* that Michael Owen is a journalist from *The Australian.* It continues:

He said he will choose the next APY general manager. He wants the APY Executive to agree. The general manager will be based in Adelaide and on the APY lands. He or she will report to the minister and the executive. He said that he (the minister) will set the priorities for the next 12 months. It will include training and governance. He said, 'I want the executive to work with the general manager on the priorities one by one.' The minister said, 'I would prefer to work with you and have you support this, but that won't be necessary. Otherwise, changes will be made by parliament, which I will not control, and you won't enjoy what those changes will be. This is only about the executive and how it performs. I will go away and select my candidate. I will inform Bernard. I want you to endorse this and the conditions of appointment. I don't want to embarrass the executive. You may interview the person, but I will expect you to endorse it. From the outside it will look as if the minister and the APY Executive are working together. The time has come to draw a line in the sand.' Trevor Adamson then said, 'My understanding is that this will be an administrator.' The minister said, 'Effectively it will be, but not in name. I do not want to sack the executive. I want to work with the executive to build a stronger executive.'

Further on, as it relates to this particular point, the minister said:

I am adamant that legislation will be brought in early next year. The minister also said that he understood that there was general support for gender equality. He said there will be consultation about the boundaries.

Can I just interpose here that the legislation to which the minister was referring in this debate was legislation that was going to impact on the timing of the elections, 50 per cent of the board being female and boundary issues, as the notes at this meeting seem to indicate. Concluding this particular quote from the extract:

The minister then said that the general manager will be appointed by him. The general manager will report to the minister as well as to the executive. The minister will direct the general manager as to what he wants. This appointment may be for 12 months or more than that. The minister said, 'I feel confident that we can fix this together. You will be surprised by some things. We will consult you when we can. Where I need to consult you I will, where I don't, I won't.'

That clearly is completely contrary to the responses the minister provided to the questions that I put in the council on Tuesday. It is quite clear that what the minister said on 21 November was that he was going to appoint a general manager, he wanted them to go through the pretence of it being their appointment and he would go along with that, but that he would appoint the general manager and that is the way it was going to be and, if they did not want to follow that line, they might not like the alternative consequences.

That is not what the minister said in response to my questions on Tuesday night. He denied that that was the case. He twice denied point blank that that was the case. He made it clear that he did not do that. The extract of the notes from the lawyers make it quite clear that the minister's position does not accord with their record of the meeting they had with him on the 21 November. For whatever reason, which we still do not know, somewhere between 21 November and Tuesday of this week,

the minister decided to not continue with what he said to the APY Executive and their representatives and proceeded to introduce the legislation.

In concluding, can I say that no-confidence motions are serious issues. No-confidence motions must be based on substance and on evidence. They might be based on significant, critical single events, such as a minister misleading the parliament or some other issue unbefitting a minister. No-confidence motions might also be based on the chamber's general assessment of the overall competence and performance of a minister in their portfolio.

Sadly, in my view, and in the view of my colleagues as Liberal members, on this occasion we have both. On this occasion we have a minister who for almost two years has a proven record of incompetence, negligence and lack of performance in the portfolio, characterised all through that period by, sadly, a stream of arrogance that is seen in the parliament and in the community in terms of responding to questions.

We also have the single event issue, and that is the process in which he engaged in terms of the introduction of the legislation into this chamber and in our view the fact that he misled this committee, he misled this chamber, in relation to critical answers to critical questions that were put to him, as I have outlined on the record.

Liberal members in this chamber have resolved that we have no confidence in minister Hunter, for those reasons, in continuing as Minister for Aboriginal Affairs and Reconciliation, and we urge other members in this chamber to support the motion.

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) (14:56): I rise to oppose this ridiculous motion, Mr President. It is just another meaningless political stunt in a long line of similar behaviour that we have seen from the opposition in this place. They are a joke. What we see today on the last sitting day for the year is really what I would consider rather a pathetic attempt to distract from the fact that the opposition, and those on the crossbench who might support this, really have nothing of value left to contribute.

They have no ideas for this state, they have no real desire to work for South Australians and they certainly are not acting in the best interests of Aboriginal people. They are a lazy group of individuals who have nothing of value left to contribute to the political debate. I am pretty sure that they have actually run out of questions for question time. I suspect they have used this motion of no-confidence as a time filler to cover the fact that they have run out of questions for question time, because they certainly have demonstrated throughout the year their poor quality of questions.

The Hon. T.A. Franks interjecting:

The PRESIDENT: I just remind members that we have just sat and listened to a motion by the Hon. Mr Lucas. The minister is now responding to that. I think the minister deserves the same respect as was shown to the Hon. Mr Lucas, so if we can listen in silence that is the respectful thing to do. The minister.

The Hon. G.E. GAGO: Thank you, Mr President. As I said, given the poor quality of their questions throughout the year, they have certainly shown that they lack the will to do any research or really consider their questions for question time in this place. We see that they want to use this place to launch a very cheap political stunt. For weeks the opposition has been saying that they would support the APY legislation. That was before this chamber just—

The Hon. T.A. Franks interjecting:

The PRESIDENT: The Hon. Ms Franks, if you don't mind: we have a minister responding to a no-confidence motion. You should have the respect to let the minister complete her contribution. If, then, you want to say something, you have the right to get up and speak.

The Hon. T.A. FRANKS: I object to the minister providing factually incorrect information that runs contrary—

The PRESIDENT: It doesn't matter what you object to; it's part of the contribution. If you want to say something, say it after. The honourable minister.

The Hon. G.E. GAGO: So, they had indicated their support for this legislation, I am advised, and it certainly is a fact that the opposition voted in support of that APY legislation. They voted in support of that legislation.

And yet they stand here today and, really, they are hedging their bets. If they really had concerns about that APY legislation, if they really had genuine concerns, if they were genuinely not satisfied with the responses given by minister Hunter during the debate on this bill, they would not have voted for it. Why would they? They did, Mr President; they did support the bill. They did vote for it, but they want to stand here today and hedge their bets in a cheap political stunt.

Yet again, we see the total hypocrisy of this Liberal opposition, trying to have a cheap bet both ways. They are a joke. And what absolutely blatant hypocrisy on behalf of the Hon. Rob Lucas, standing in this place today, singing the praises of the Hon. Terry Roberts—comments which I agree with, the only comments in his address today that I actually agreed with.

The Hon. Terry Roberts was indeed a very good minister for Aboriginal affairs. But the Hon. Rob Lucas stands there singing his praises, when back in 2004-05 the Hon. Rob Lucas supported a vote of no confidence in the Hon. Terry Roberts, in this very place. What an absolute hypocrite! The vote of no confidence in relation to the Hon. Terry Roberts was in relation to his handling of matters on the APY lands. What a joke! What a hypocrite!

For more than a decade, this government has played a key role in supporting many programs and initiatives that have enhanced the wellbeing of Aboriginal people in this state. Most recently, this parliament acknowledged the importance of constitutional recognition of Aboriginal people as traditional owners and occupants of land and waters of South Australia. This government has been very committed to genuine and inclusive dialogue with South Australia's Aboriginal communities and their leaders. We established the South Australian Aboriginal Advisory Council to support the government to develop and implement policies and programs that are appropriate with respect to Aboriginal people.

Over the term of this government, we have handed back conservation parks and established co-management boards for a number of other parks. Now 73 per cent of the state is covered by native title—73 per cent. We have focused on literacy and numeracy in Aboriginal education and worked with communities to lift school attendance. The number of Aboriginal children enrolled in South Australia's preschools continues to increase, from 994 in 2003 to 1,567 in 2013.

There are many more achievements, such as establishing a commissioner of Aboriginal engagement, as well as ensuring that we now have permanent police and social workers living on the APY lands, in stark comparison to what occurred under the previous Liberal government.

Of course, we are fortunate to have minister Hunter, who is a committed, brave and hardworking minister. He has rolled up his sleeves and dedicated himself to many areas, but this policy area in particular, with great passion. He is certainly not afraid to take on the hard issues. The lot sitting opposite me should be in fact congratulating him for making the tough decisions and progressing this piece of legislation. Instead, they are sitting there today moving this disgraceful vote of no confidence.

Minister Hunter has done an extraordinary job in his portfolio, and there are many achievements to be proud of. They include things like updating and modernising the Aboriginal Lands Trust Act, overseeing the redesign of the State Government Reconciliation Action Plans—the largest number of RAPs launched at any one time since the Reconciliation Australia RAP program commenced. This was the culmination of six months' progress overseen by the minister to ensure all state agencies have a RAP in place to guide reconciliation activities. He is also strongly committed to progressing self-determining governance and structures in Aboriginal communities.

He is admired and respected by his cabinet and caucus colleagues for his tenacity in dealing with one of the most challenging policy areas that this government faces. Only those opposite would be foolish enough to suggest otherwise. The minister is a champion for Aboriginal people and is always the first to speak up to progress the interests of Aboriginal and Torres Strait Islanders.

This comes at a time when we see the opposition have chosen to remain absolutely silent when the federal Liberal Party slashes and burns Aboriginal programs to the ground, but we are not

surprised about this. After all, this comes from the same mob who failed time after time to stand up for South Australia. When funding was cut to the National Congress of Australia's First Peoples—an organisation that has more than 8,000 members—where were they then? Where were the opposition when the position of Coordinator General for Remote Indigenous Services was axed or when the government slashed Aboriginal legal aid by $13.4 million and slashed more than half a billion dollars from the Indigenous programs? Where were they? Silence.

They talked about supporting remote Aboriginal people but have been silent about the Abbott government's decision to cut funding to South Australia's regional and remote Aboriginal communities and homelands. From 1 July next year, Aboriginal communities will say goodbye to vital funding for roads, power, water and things like rubbish collection—gone. The simple truth is that this will set communities back decades and may even spell the closure of Aboriginal lands.

It has always been the practice in this place to conduct ourselves with dignity, and those opposite and those who are prepared to support this motion must know that they are not doing so today with this cheap political stunt. They have turned this place into a circus, and it is little wonder that some people seek to have this place abolished. Today they have certainly given them plenty of good reason to want to continue to do so.

If the members opposite were truly here to represent the interests of our state, they would stop wasting time with these petty motions and poor behaviour. It is time for members of this place to stop seeking to use Aboriginal people to score cheap political points and to join with the government in working to close the gap that presently exists so that one day Aboriginal and Torres Strait Islander people will finally be afforded the same opportunities that members have benefited from.

The Hon. B.V. FINNIGAN (15:07): The passage of a motion of no confidence is part of a venerable tradition in Westminster parliaments, and it should be used sparingly, when a minister or a government has acted in a way that is improper or has failed in a very profound way. The passage of a motion of no confidence in the lower house means that the minister is obliged to resign. If a motion is carried that the house has no confidence in Her Majesty's Government, then the leader of that government would be obliged to go to Her Majesty or the Vice-Regal representative and inform them they have lost the confidence of the house, and that will precipitate a change of government or a general election. So, it is a very important step for a house of parliament to take to say that they have no confidence in a minister or a government, and I do not believe the case has been made out by the opposition that recent events justify the passage of such a motion today on the honourable minister.

The contribution of the Hon. Mr Lucas, where he referred to the honourable minister sauntering in here with his jacket jauntily over his shoulder, I think demonstrates that the basis of this motion is not about the fundamental conduct or administration of government in this state or in this portfolio. That is an entirely trivial matter to raise, to talk about how a minister enters the chamber or his facial expressions, and that somehow this house should take the very serious step of saying it has no confidence in the minister because we do not like the way he makes facial expressions. That would be an extraordinary, foolish and trivial thing for this house to do.

The opposition has raised the matter of the APY lands bill, which went through this week. I had grave concerns about that bill. It was rushed, it gave excessive power to the executive, and I was not satisfied that it was of sufficient urgency to pass this week. What did I do about those conclusions? I voted against the bill; I opposed it. What the honourable members of the opposition are saying is, 'We are so disturbed by the passage of that bill this week—that we voted for—that now the minister should resign.'

So appalled are those honourable members in the bill—that they voted for—that now the minister who proposed the bill should resign. That is one of the most absurd propositions that could be put to this house and expect honourable members to support. If any honourable member believed that the bill that was proposed to the house this week was of such import and consequence that they could not support it, they had the option to vote against it, and those who chose to support that bill can hardly turn around and now demand the minister's resignation for the bill they supported.

Honourable members have also indicated they believe the minister has misled the house. That is a serious charge, and it is open to any member to seek a Privileges Committee to investigate a matter of the misleading of the house. I think it is a very serious matter for this house to pass a motion of no confidence in a minister. I think this is the third one we have seen in probably as many years, and I believe it does trivialise the significance of Westminster traditions where a house expresses no confidence in a minister or a government for grave reasons, not because of the way he wears his jacket, and not because he moved a bill that they voted for. On that basis, I oppose the motion.

The Hon. T.A. FRANKS (15:14): We are here debating this no-confidence motion in minister Hunter for his handling not just of the bill that was rushed through the parliament this week—and I certainly took umbrage at minister Gago's use of the word 'weeks' (plural). It was on Thursday last week that members of this place were briefed on this bill by minister Hunter. 'Weeks' is plural; 'week' is singular. It has been one week since we were briefed on the bill that was rushed through, rammed through this chamber on Tuesday night, some few days later.

In that bill, of course, we see the stripping away of the rights of the APY to control their own affairs, where the minister sought to be able to ride roughshod over them and have an administrator appointed for any reason that the minister sees fit. Currently under the APY Land Rights Act as it stands—because we have not yet received that bill back to this place—the minister can issue a directive under existing section 13N of the act. There are also mechanisms under sections 9D(4), 13A(3) and 13G(4). All these options are open to the minister.

In the briefings on Thursday last week the minister informed us that he had tried everything. I am a member of the Aboriginal Lands Parliamentary Standing Committee and I have heard and I have read the witness statements with regard to allegations of corruption. I have received the correspondence. I bring myself to read the pages of *The Australian*, even though I do not subscribe to it, and I have had great concern that all is not as it should be with the governance of that body, yet what did we get from the minister when I finally got him to table in this place the correspondence between the department and APY Executive, and himself and APY Executive? Eight pages of documents, which to me showed that the APY had been complying.

The APY Executive sought to meet with the Greens on Monday this week. Over the weekend, after the minister's briefing of us on that Thursday, there was a media release put out by the APY Executive, and that caused me to have great concern about what I had been informed and what my honourable colleague Mark Parnell had been informed in our briefing on the need for this bill and the imperative for this bill as a last resort measure, because everything else had failed. That is what we had been told when the minister put to us that need for urgency. I sent an email on Monday 1 December at 12.15 to the minister and to his staff member, cc'd to my staff and cc'd to the Hon. Mark Parnell, stating:

> Hi Ian,
>
> We have been approached this morning and intend to meet with the APY Executive later today (tentatively 3.30pm).

I think that is about the time that we eventually met with them. I continue my email:

> We've both been sent their media statement dated 28 November which states that the APY Executive opposes the changes you propose to the APY Act.
>
> Specifically of concern were the media release statements that—

and I quote from the media release of the APY Executive:

- The minister has not even tried to exercise his current powers under the Act by giving a direction to the Board
- The minister told the APY Executive that he wanted to work with them to choose a suitable General Manager. He did not tell the Executive that he was intending to introduce this provocative legislation next week which would effectively strip them of their powers.

I say to the minister further in this email:

> Both of which are contrary to the information you conveyed last Thursday.

I ask the minister in my email:

> Can you provide us with further written information regarding directions you have previously given and when the APY Executive were informed of your intentions with regards to the changes to the APY Act. This will be most useful for the meeting this afternoon.

I have yet to receive a written response to that email, which is why I then demanded of the minister in the committee stage of the APY bill on Tuesday night that he table the correspondence. As I said, that correspondence was quite scant. It showed that the APY had indeed been complying with the requests made of them by the minister with regard to any allegations regarding payments being made before meeting attendances, spouse's travel and those sort of areas. In fact, the thing that seems to be the bugbear for this minister is, in fact, an entirely different bill that he intends to introduce, one that will come from the Layton report.

The Layton review of the governance of the APY lands, which the Hon. Rob Lucas mentioned, sees a change in those, if you like, electoral boundaries, a change in the composition of that elected body to be half men and half women, and certainly that is quite a seismic event in any governance. I think that if we were to introduce half men and half women into this place, it would certainly take consultation and it would certainly take time. I commend Robyn Layton for her extensive research in ensuring that she met with Anangu many times in preparing that report, and they need time to also consult with their communities.

It has been communicated to me that they have, in fact, agreed to the half men, half women proposition and that they have agreed to the boundary changes. They do want time to consult further, and they have asked the minister for that, and that appears to be the sticking point. Consultation, however, does seem to be the sticking point with this minister.

It also eventuated, in the debate on Tuesday night, that, having been led to believe that this minister had widely consulted and had the support of the APY Executive, as he had informed us, it was to our surprise that the APY Executive then wanted to meet with the Greens. They put a very different case: that they had not been in agreement with the bill that was rushed through the parliament, in this chamber on Tuesday night and that they had grave concerns.

They have since provided many members of this place with the extracts from notes of the meeting of members of APY Executive with minister Hunter on 21 November 2014. The Hon. Rob Lucas read from quite a section of it, so I will not reiterate that too much, but it is quite concerning. In these notes, it states:

> The Minister then referred to the Layton review. He said, 'I'm fed up. Time is up. I have seen waiting for a long time for a response.' The Minister said he was going to draft legislation. He will show it to APY first. He will introduce it next year. This will have equal numbers of men and women. He said he would also draft new boundaries for electorates. The legislation will past next year.

Well, that is legislation that we have not even seen before this place, that this place has not even had time to see and debate upon—and, indeed, the Anangu people need time to consult on. So, that is irrelevant to the minister's frustration with waiting. Let's go back to other things that are noted in this meeting. In the notes, it states:

> He said he is being put under a lot of pressure from the Liberal Party and Michael Owen. He said he will choose the next APY General Manager. He wants the APY Executive to agree.
>
> The General Manager will be based in Adelaide and on the APY Lands. He or she will report to the Minister and the Executive. He said that he (the Minister) will set the priorities for the next 12months. It will include training in governance. He said: *'I want the Executive to work with the General Manager on the priorities one by one."*
>
> The Minister said that, 'I would prefer to work with you and have you support this but that won't be necessary. Otherwise changes will be made by Parliament (which I will not control) and you won't enjoy what those changes will be.'
>
> 'This is only about the Executive and how it performs.'
>
> 'I will go away and select my candidate. I will inform Bernard. I want you to endorse this and the conditions of appointment.'
>
> 'I don't want to embarrass the Executive. You may interview the person, but I will expect you to endorse it.'
>
> 'From the outside it will look as if the Minister and the APY Executive are working together.'

I refer the minister to section 251—Abuse of public office of the Criminal Law Consolidation Act 1935. I also refer him to section 13D of the APY Land Rights Act. I asked him to take some advice on the fact that, if these minutes are true, whether or not he has complied with those provisions in the act.

I also wonder whether the minister thinks that it is good enough that this is the full extent we were provided as evidence of his attempts to ensure good governance on the APY lands when allegations are flying around not just in the pages of *The Australian* but, indeed, before parliamentary committees—and I am referring to these eight pages, all of which provide no smoking gun, shows compliance, shows timely compliance and a willingness to work with the minister.

I do draw the minister's attention to advice that has been given to us, and I believe it is by the Clerk of this place, given to the Aboriginal Lands Parliamentary Standing Committee. That committee has been advised to take a course of action similar to that taken when there were allegations made with regard to the corporation of Burnside.

Surely, that would be a more appropriate course of action than to ram through wholesale changes to an entire act when the minister has clearly not tried to actually utilise the current provisions of the current act. That report could be made in a way through this parliament that would be respectful not only to the processes of this place but indeed to Aboriginal people, and would not have required the minister to, for the next three years under the terms of the government's sunset clause, ride roughshod over the APY.

Clearly, his attitude, however, in terms of consultation and what he believes is consultation does not just extend to the way he informed the APY that he was going to do what he wanted and that they would have to take it and work with him and they could pretend that they were happy with it or they would certainly have their rights stripped away and the parliament would do, as the minister said to them, something that they would not like.

It came out in the debate that the minister did not even talk to the Commissioner for Aboriginal Engagement. I find it ludicrous that minister Gago got up and extolled the virtues of this government in creating a position called the Commissioner for Aboriginal Engagement. Again, symbolic. You had the position but you did not use it in this case. The minister did not consult with the Commissioner for Aboriginal Engagement. In question time in this place—

The Hon. R.I. LUCAS: I move:

That the business of the day be postponed until the debate in progress has been concluded.

Motion carried.

The Hon. T.A. FRANKS: In question time in this place yesterday, the Hon. Kelly Vincent raised her concern and she stated that she had asked the minister in her Thursday (a week ago) briefing, and certainly it was the same conversation that was conveyed to me by her staff member: had the minister consulted with the Commissioner for Aboriginal Engagement prior to producing this bill, and she had been led to believe that that had been the case. Of course, on Tuesday night, in the late hours of the debate of a seven-hour debate, it turns out that the minister not only had not consulted with her, he did not see a reason why he should. That goes to the heart of why this minister has failed this portfolio.

He has not shown a willingness to work with Aboriginal people. He has not shown a respect for Aboriginal people. He has not been on APY lands in 14 months, it eventuated from that debate. He has only been the minister for two years. The idea that there have been seven general managers in five years has been bandied around a lot, but of course there have been four ministers in five years under the Weatherill government as well.

So, by their very own standards, they should be appointing an administrator instead of a new Aboriginal affairs minister to clean up the mess. I think that is actually what did they did try to do with the former minister, Paul Caica, and he was at least prepared to meet with people, to consult with people and to be upfront. That is something that is sadly lacking from the government's current minister's handling of this portfolio. With those few words, and there are so many more I could say, I support this motion wholeheartedly.

Motion carried.

Bills

STATUTES AMENDMENT (SACAT) BILL

Final Stages

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

(Continued from 20 November 2014.)

Amendments Nos 5 and 6:

The CHAIR: When we last discussed this issue the minister was looking at amendments Nos 5 and 6. I think the minister moved that the council not insist on its amendments Nos 5 and 6, but make an alternative amendment. Does the minister wish to seek leave to withdraw?

The Hon. G.E. GAGO: I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. S.G. WADE: I thank the Chair and the council for its indulgence so that we could make sure we have the procedure in mind going forward; I think that will save us time. First, I should acknowledge the leadership of the Hon. John Darley in relation to this issue. The issue that the Hon. John Darley identified was his concern that the bill, as it originally stood, had the potential to extinguish the legal entitlements of current members of predecessor bodies. There was significant disagreement as to how best that should be dealt with.

It would be fair to say that the parliament experienced some frustration at the advice the government was receiving from the crown in relation to what I would say was the executive interest in protecting itself in any potential future legal proceedings, and in what this parliament had a legitimate interest, which was to understand the impact of bills being put before it.

Having said that, I am pleased to inform the house that it is my understanding that, in consultation with the Hon. John Darley, and in particular the Hon. Mark Parnell and the government, a suggested alternative amendment is been put before the council. I am certainly moving it, but it is the result of collaborative work, and in that context I also acknowledge the constructive engagement of the Attorney's adviser, Mr Will Evans. I now formally move my alternative amendment:

That the Legislative Council not insist on Amendments Nos 5 and 6 but make the following amendment in lieu thereof:

Clause 98, page 36, lines 16 and 17—

> Delete '(and no right of action will arise against a Minister or the State on account of that termination)' and substitute:
>
> (but any such termination will not affect any right of action that a person may have against a Minister or the State on account of that termination)

The Hon. G.E. GAGO: I rise to say that the government supports the amendment.

The Hon. M.C. PARNELL: I do not want to take a lot of time, but we have agonised over this for a couple of weeks, so I think it is worth just putting on the record that I am glad that we have reached this resolution. The Greens will be supporting this alternative amendment. It strikes me as quite odd and unfortunate that a piece of legislation which we have all come to accept is going to be a good and exciting initiative for the resolution of a range of disputes in South Australia could so easily have been derailed by what is ultimately a fairly petty industrial dispute. I am glad now that we have reached a resolution. I, too, would like to thank the Hon. John Darley for persevering with this, and I am glad that we have finally reached a resolution.

The Hon. J.A. DARLEY: I am glad that we have now reached an agreement on this matter, and I will be supporting the amendment.

Motion carried.

Amendment No. 8:

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

That the Legislative Council not insist on amendment No. 8.

I note that amendment No. 8 is related to amendment Nos 10, 11 and 12, which is a series of opposition amendments successfully passed in this chamber to extend the existing free legal representation scheme for certain Mental Health Act appeals to original hearings. Currently, section 81 of the Mental Health Act 2009 provides for a person to appeal against a treatment order made by a medical practitioner to the Guardianship Board. Section 84 of the Mental Health Act 2009 provides for the person to be represented at that appeal by a legal practitioner at no cost to the person and the practitioner's fees paid by the minister under a regulated scheme.

Neither the Mental Health Act nor the Guardianship and Administration Act provides for legal representation at no cost to the person at Guardianship Board hearings to consider applications for level 2 community treatment orders or level 3 inpatient treatment orders. The opposition's amendment as passed by this chamber changed that by amending section 84 of the Mental Health Act.

In accordance with an undertaking given recently to the opposition to secure support for this motion, I wish to advise the chamber that the Minister for Mental Health will transfer the funds for the scheme currently administered by SA Health to the Attorney-General's department. This transfer will occur once SACAT has commenced operations in 2015.

I am advised that discussions have taken place between the Attorney-General's department and the director of the Legal Services Commission regarding the establishment of a new scheme regarding the provision of legal representation to people with mental health issues, and I am pleased to advise that the Legal Services Commission is supportive of the concept of providing a legal advisory service in relation to matters before SACAT pursuant to the Mental Health Act.

Further work will be progressed over the upcoming months to develop this initiative with the Attorney-General's department. In relation to the proposed commencement date of a new legal representation scheme, this will be considered in conjunction with the review of the Mental Health Act.

The Hon. S.G. WADE: In relation to the two further issues that the council will be considering, I would not want to give the impression that the Liberal Party had a spontaneous idea without a heritage. The fact of the matter is that the issue of legal representation for people in a mental health review function and the issue of the appropriate composition of tribunals have been significant concerns in the mental health community for some time. We were disappointed with the lack of consultation with the mental health community in the development of the SACAT Act. In earlier stages of this bill's consideration I had paid tribute to the work of the SACAT implementation teams in remedying that defect when it has been highlighted to them.

This issue of legal representation and the mental health review function has been around for a long time and there has been a very disappointing lack of progress. Whilst the parliament is not in a position to develop, let alone fund, such a scheme, I think the parliament welcomes the opportunity to nudge the executive towards that goal. One of the issues that has inhibited the progress of a broader legal representation scheme in the mental health jurisdiction has been the fact that there have been two pools of funds—one in the health portfolio, one in the justice portfolio. I thank the Attorney-General for meeting me and other members of the Liberal opposition and when this issue was raised with him, he undertook to raise it with the Minister for Health and a memo resulted.

This house has on a number of occasions talked about concern about correspondence and undertakings that are not available to the house and so in that context I propose to read onto the record the minute from the Hon. Jack Snelling, Minister for Health and Substance Abuse, to the Attorney-General which provides some of the foundation for the Liberal Party support for the council not insisting on this and relating amendments. The memorandum is dated 17 November 2014 and the subject is transfer of funding for scheme—section 84 Mental Health Act 2009:

A scheme is currently in effect under section 84 of the Mental Health Act 2009 ('the Act') for the provision of legal representation and appeals to the Guardianship Board under Part 11 of the Act. The legal representation is made available to the persons to whom the appeal proceedings relate.

The funding for the scheme ($140,000) is currently administered by my Department.

As you know, it is proposed by the Government under the Statutes Amendment (SACAT) Bill 2014 that the scheme under section 84 of the Act remain in operation after the transfer of the board's jurisdiction to the South Australian Civil and Administrative Tribunal (SACAT), with some minor amendments to section 84 consequential upon the transfer of jurisdiction to SACAT.

I confirm our agreement that, on the commencement of SACAT in 2015, the annual funding of the section 84 scheme will be transferred from my Department to the Attorney-General's Department where the funding will thereafter be administered for the purposes of the scheme.

I welcome that as an opportunity to nudge on the development of the legal representation scheme. I think it is also more appropriate that the justice portfolio should provide oversight of the scheme rather than the health portfolio.

I understand the minister's statement in the start of this consideration was an undertaking to develop a legal representation scheme and I certainly welcome her advice to the council, which I think is the first time the parliament has been informed that the government will be looking the Legal Services Commission to develop such a scheme. The Legal Services Commission certainly has a proud and long tradition of providing legal representation, particularly to vulnerable members of our community.

I put on record that the opposition will be monitoring progress and will seek to introduce amendments if progress is not clear. For example, there will be an opportunity with the next tranche of SACAT jurisdiction changes for progress to be reviewed and also with the outcomes of the Mental Health Act Review which the health department is currently undertaking. In that context I have three questions for the minister. How long does the government expect it will take to open the doors to a legal representation scheme under the new arrangements?

The Hon. G.E. GAGO: I have been advised that there is no date that has been set as yet. They have been focusing their efforts obviously on setting the thing up, but I am advised that negotiations continue between the president and the registrar. The chamber will be updated accordingly.

The Hon. S.G. WADE: The president and the registrar are both officers of SACAT. I would be more interested in the views of the Legal Services Commission, but let the government note that this parliament will be actively monitoring progress. I would have thought it would be quite reasonable for this council to expect such a scheme to be able to be operational within 12 months. Another question: I ask when the next tranche of SACAT amendments is expected to be brought before this parliament.

The Hon. G.E. GAGO: Just in relation to my answer to the previous question, I may not have made myself clear that the president and the registrar are in fact negotiating with the Legal Services Commission, not between themselves, in case I misled you in that way. In relation to this second question, they are currently being drafted. They are working towards or hoping to have them being introduced by the end of the first half of next year, but the progress has been delayed particularly with the protracted negotiations around this bill.

The Hon. S.G. WADE: I appreciate the minister and her officers may not have the information in relation to this next question but, if not, I would appreciate it being taken on notice. As I mentioned, the outcomes of the Mental Health Act review are expected shortly and I wondered if the minister was aware when the legislation coming out of the mental health law review is likely to be brought before the parliament?

The Hon. G.E. GAGO: That is obviously a question for the Minister for Health and we will pass that question on to him.

Motion carried.

Amendment No. 9:

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

That the Legislative Council not insist on amendment No. 9 and makes the following amendment in lieu thereof:

Clause 119, page 40, after line 4—Insert:

(5a) Section 81—after subsection (2) insert:

(2a) For the purposes of conducting a review under this section, the Tribunal must not be constituted by a medical practitioner sitting alone.

Clause 122, page 41, after line 32—Insert:

(da) the constitution of the Tribunal must be consistent with the following requirements for an internal review in the following cases:

(i) in the case of an internal review that relates to an order of the Tribunal under section 16 or 29—the Tribunal must not be constituted by a medical practitioner sitting alone;

(ii) in the case of an internal review that relates to a review under section 81—the Tribunal must be constituted by 3 members;

This amendment reflects the recent compromised position reached with the opposition regarding the constitution of the tribunal for hearing certain reviews and internal reviews under the Mental Health Act 2009, which I will just briefly explain. Firstly, one outcome of this amendment is to eliminate the current practice of a psychiatrist alone reviewing the decision of a colleague for the purposes of an appeal under the Mental Health Act.

This has been the subject of concern both in this chamber and during the consultation on this bill as to the conferral of the Guardianship Board jurisdiction upon the SACAT. The amendment expressly states that, for the purposes of a review conducted under section 81 of the Mental Health Act 2009, the tribunal must not be constituted by a medical practitioner sitting alone. This will also be the case for an internal review under part 5 of the South Australian Civil and Administrative Tribunal Act 2013 of a decision by the tribunal under sections 16 or 29 of the Mental Health Act.

The second limb, if you like, of this amendment is to enshrine in legislation the requirement that the tribunal be constituted by three members for all internal reviews under part 5 of the South Australian Civil and Administrative Tribunal Act 2013 that arise from a review under section 81 of the Mental Health Act. Currently, section 81 allows for a person who is dissatisfied with a community treatment order or inpatient treatment order, other than an order made by the Guardianship Board, to appeal to the Guardianship Board for a review of that order. The function of the Guardianship Board will be substituted by the tribunal once this jurisdiction is conferred.

The Hon. S.G. WADE: The minister in her comments acknowledged that this discussion, too, was collaborative, and I certainly agree with her on that. In that regard, I would like to recognise that the issue was raised early this year. I think it was on 6 May that the Chief Psychiatrist's report on the Mental Health Act was released and he specifically raised his concerns about sole psychiatrists reviewing the decision of a sole psychiatrist. Likewise, to his credit, Justice Parker, the head of the SACAT, also expressed his concerns about the practice in correspondence in relation to the progress of this bill.

As I mentioned earlier, a number of these concerns are shared and the parliament, if you like, had the opportunity to try to facilitate the implementation of what was seen as a shared objective. In relation to the second element, which is reserving the right of a client to a three-person tribunal in relation to section 81 appeals, it was the opposition's view that it is not appropriate to diminish the entitlements that clients currently have, and I thank the government for acceding to that view.

Motion carried.

Amendment Nos 10 to 12:

The Hon. G.E. GAGO: For the reasons I have explained at Amendment No. 8, I move:

That the Legislative Council not insist on Amendments Nos 10, 11 and 12.

Motion carried.

Amendment Nos 13 and 14:

The Hon. S.G. WADE: I am not sure procedurally if I am getting out of line, but I propose that we not insist on these and that the amendments that I have distributed be preferred. I move:

That the Legislative Council not insist on Amendments Nos 13 and 14 but makes the following amendment in lieu thereof:

Clause 181, page 57, lines 17 and 18—

Delete '(and no right of action will arise against a Minister or the State on account of that termination)' and substitute:

(but any such termination will not affect any right of action that a person may have against a Minister or the State on account of that termination)

The Hon. G.E. GAGO: For reasons I have already explained at amendment Nos 5 and 6, the government supports the motion of the Hon. Stephen Wade.

Motion carried.

Amendments Nos 16 and 17:

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

That the Legislative Council not insist on Amendments Nos 16 and 17 but make the following amendment in lieu thereof:

Clause 203, page 65, lines 37 and 38—

Delete '(and no right of action will arise against a Minister or the State on account of that termination)' and substitute:

(but any such termination will not affect any right of action that a person may have against a Minister or the State on account of that termination)

Motion carried.

Ministerial Statement

MENTAL HEALTH BEDS

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) (16:01): I lay upon the table a copy of a ministerial statement relating to setting targets for a better mental health system made by the Minister for Mental Health and Substance Abuse, the Hon. Jack Snelling.

EXPORT INDUSTRY

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) (16:01): I also lay upon the table a copy of a ministerial statement relating to South Australian export growth made by the Hon. Susan Close.

Bills

CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) AMENDMENT BILL

Committee Stage

In committee.

(Continued from 30 October 2014.)

New clause 24.

The Hon. S.G. WADE: I seek leave of the committee to withdraw the amendment I moved in relation to proposed clause 24.

Leave granted.

The Hon. A.L. McLACHLAN: The Hon. Stephen Wade has withdrawn his amendment to enable me to move my amendment. I move:

Amendment No 1 [McLachlan–1]—

Page 11, after line 4—After clause 23 insert:

24—Amendment of section 226—Appeals

Section 226—after subsection (3) insert:

(3a) On an appeal under this section the court may discharge or vary the order if satisfied that it is in the interests of justice to do so (and may do so regardless of whether this Act authorised or required the order to be made).

25—Insertion of section 229A

After section 229 insert:

229A—Annual report relating to prescribed drug offenders

(1) The Attorney-General must, on or before 30 September in each year, lay before both Houses of Parliament a report on the operation of the amendments enacted by the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Act 2014 during the financial year ending on the preceding 30 June.

(2) A report under this section must include the following information for the financial year to which the report relates:

(a) the number of restraining orders and forfeiture orders made in relation to property owned by, or subject to the effective control of—

(i) prescribed drug offenders; and

(ii) persons who have been charged with, or are suspected on reasonable grounds of having committed, an offence that will, if the person is convicted of the offence, result in him or her becoming a prescribed drug offender;

(b) details of property forfeited under this Act that was, immediately before such forfeiture, owned by, or subject to the effective control of, a prescribed drug offender.

(3) A report required under this section may be incorporated into any other report required to be laid before both Houses of Parliament by the Attorney-General.

I advise the chamber that, subsequent to the last time we were in committee on this bill, we reflected on the view of the government in relation to the amendments and subsequently had a briefing, which has been facilitated by the Attorney-General, and have sought to recast our amendment. So, we are still consistent with our wish to have an appeal in relation to the interests of justice but have attempted to recast it and restructure it to be consistent with those matters that have been raised by the government on the last occasion we were in committee.

The Hon. G.E. GAGO: The government rises to oppose this amendment. This amendment seeks to insert two new clauses in the bill. The first, clause 24, amends that section of the act that deals with appeals. The effect of the amendment is to give a court on appeal a discretion, completely unstructured except by the vague notion of the 'interests of justice', and the court may do so 'regardless of whether this act authorised or required the order to be made'.

I concede that in this amendment, as opposed to prior amendments, the discretion is placed in the constitutionally correct place, the court, but there is little else to commend this amendment. It comes to this, basically, not only in the case of a prescribed drug offender but in the case of any confiscation order, including confiscation of the proceeds of crime, pecuniary penalty orders, literary proceeds orders, any order required or justified by the law may be set at nought on the basis that a judge thinks it is just to do so.

This amendment renders the whole act, not just the controversial bill now before the council, completely unnecessary. It could be replaced by this one section. It would also place South Australia at odds with any idea of a cooperative national confiscation of assets scheme and interlocking legislation designed to attach, directly, the profits of crime. This amendment is completely unacceptable to the government and will be opposed.

The second amendment inserts a whole new clause, clause 229A, into the act, requiring an annual report to parliament on the operation of the legislation as it deals with prescribed drug offenders. The government's response to this is simple. This sort of safeguard would be quite acceptable to the government as some sort of compromise had the government's initiative and

election promise been passed by the council, but it has not. Instead, something entirely different is emerging and to have the government's initiative and election promise replaced by something else not of the government's making and to require the government to report to parliament is just simply a bridge too far. So, again, this amendment is unacceptable to the government and we will strongly oppose it.

The Hon. S.G. WADE: Could I ask the minister which election commitment she purports to be implementing?

The Hon. G.E. GAGO: I am advised both at the last election and the one before that. It is outlined in, I think it is the second reading—

The Hon. S.G. Wade interjecting:

The Hon. G.E. GAGO: I am on my feet; I have not sat down yet. I understand that it is referenced in the second reading contribution, if the member wants to look that up.

The Hon. S.G. WADE: If the minister does claim that she is implementing the 2014 election commitment, could she highlight where in the bill will the bill change provisions so that a person can, on the basis of a court decision, have it so that they cannot hold property for five years, in accordance with the Labor Party's commitment at the last election?

The Hon. G.E. GAGO: I have been advised that this has been explained many times to the council, that it was a supplementary promise. It relied on—

Members interjecting:

The Hon. G.E. GAGO: No, not at all. We have been very transparent about this. We have said to the opposition that if they pass this then we will look to go further, but the opposition has not supported this so we are not going to take that other step.

The Hon. S.G. WADE: You would have thought that after having a second no-confidence motion against one minister—

Members interjecting:

The Hon. S.G. WADE: Sorry, Mr Chair, I thought I had the call.

The CHAIR: Order! The Hon. Mr Wade has the call.

Members interjecting:

The CHAIR: Order. The Hon. Mr Wade has the floor.

The Hon. S.G. WADE: I would suggest to the minister that as we have had a second no-confidence motion in the same minister in the same year she should perhaps desist from coming into this council and misrepresenting the opposition's position. I made it very clear in my earlier comments on the bill that the opposition is not opposing this legislation. What it is proposing to do is insert elements from the government's own policy.

The government's own policy says that they will allow a judicial review of whether or not a person can hold property when they are subject to the prescribed drug offenders act. Now the government wants to play games. I obviously do not have the *Hansard* because it has only just been put on the record, but what the minister said is that if the opposition had cast it in a different way then they might well have been able to accept it in the context of the implementation of their policy. Then why not talk to us about it?

The Hon. Andrew McLachlan and myself and the honourable shadow attorney-general from another place have spoken to the government. We have had a briefing, which was extremely helpful, and I thank the government for that. The Hon. Andrew McLachlan—I do not have the date, it was his correspondence—provided this amendment to the government some days ago. Not one attempt has been made to try to massage it to be a mutually acceptable proposal. We have a government that wants a bill and an opposition that says it would like to support the facilitation of that bill, yet we get, shall we say, a stonewalling approach.

This is markedly different from the approach in the previous bill. Mr Will Evans, the adviser for the Attorney-General on the SACAT bill, diligently sought to listen to and understand the opposition's concerns and address them, and that was substantially done, and what we had was a resolution of the bill without the sort of angst that the minister is trying to bring into this debate.

The fact of the matter is that the government itself has committed to the people of South Australia to introduce an element of review into this legislation. For the government to say that it is abhorrent that the opposition is trying to help them implement their own policy is slightly bizarre.

The Hon. M.C. PARNELL: I just want to put on the record that the Greens will be supporting the Hon. Andrew McLachlan's amendments. If I understood the minister correctly, she said that it creates some havoc with the government's regime, to which our response is: good; we do not like the bill. We will be voting against the bill, but we are voting for these amendments.

The Hon. D.G.E. HOOD: Members will recall that some months ago when this bill was first introduced, Family First made a second reading contribution strongly in support of it. We believe this is exactly the direction in which we should be heading in order to deal with what is a very, very serious problem in our community, and that is the overwhelming saturation of illicit drug use. What we are particularly attracted to in this bill is that it targets the so-called bigwigs, those who are making a living out of the misery of people who succumb to substance abuse. That is the background.

I mean no offence to the mover of the amendment, but I have literally just read this amendment for the first time. It was only filed today and I was not aware that there was an amendment until I reached for the papers to prepare for what I thought would be a short debate on this particular issue. However, given the government's strong protestations of the first amendment and the potential for it to substantially change the bill, I am in the position right at this moment where Family First cannot support the first amendment.

As I said, I have not had a chance to consult on it or even read it carefully and consider it, so I am erring on the side of caution and am inclined not to support that amendment at this stage. With respect to the second amendment, I would say that it is relatively straightforward, that an annual report simply giving account for what has happened under this new act when it comes in—a bill now but an act, should it pass—is actually a very good idea and I see nothing wrong with that. So, we will be supporting the second amendment.

The Hon. J.A. DARLEY: Just for the record, I indicate that I will support the Hon. Andrew McLachlan's amendment.

The Hon. K.L. VINCENT: Just to assist the chamber, I remain diametrically opposed to this bill, but I will support measures to make a bad bill better and support the amendment.

The Hon. A.L. McLACHLAN: I have a question for the minister, in particular in relation to amendment 25. It is my view that the data or information being asked to report on is very basic, and is cast imposing the least administrative burden on the government. I find it hard to believe that the government would not be keeping this data or information, otherwise how could it possibly assess the effect of these amendments on organised crime or the big wigs that it intends to attack in relation to this legislation? My question for the minister is: what information will be kept in relation to the restraining and forfeiture orders by the DPP, the government or the Attorney-General's Department itself?

The Hon. G.E. GAGO: I have been advised that the reason we are opposed to the annual report is not because it is an administrative burden but basically because we believe that it is a report on the system to which we are opposed and we believe will not work, so it is for those reasons we oppose the annual report.

The Hon. S.G. WADE: On behalf of the opposition I indicate disappointment in the minister and the government as a whole.

The Hon. G.E. Gago: A motion of no-confidence, let's have another one!

The CHAIR: Order! The honourable member is on his feet.

The Hon. S.G. WADE: As I said before, the opposition has indicated that we are minded to support the legislation: we sought to improve it using commitments the government itself had made in relation to introducing a review function. This government is so reckless in terms of protecting those who are law-abiding citizens who are unwittingly caught by provisions that are targeted at—I will not use the word 'targeted' because the government is inclined to use dragnet legislation and not provide sufficient protection for law-abiding South Australians. We saw this as an opportunity to enhance the bill. The government has clearly shown that it is not willing to work with the opposition on that. In contrast to the numerous discussions we have had about SACAT, the lack of engagement on this particular bill is galling.

Having said that, we know full well that the government will open this act again, because the government says that it keeps its promises, and it promised in 2014, at the recent election, to amend the legislation to provide that a person can, at the discretion of a court, if I correctly remember the commitment, be deemed unable to own property for five years. So, we will certainly be looking to address the concerns raised by the government in its response today.

Given the fact that we have perhaps less than two hours left in this parliament, I will be proposing to my Liberal colleagues that we save this project for the next round of this legislative process. Unlike the government, we do not believe that we should recklessly override the lawful interests of law-abiding citizens for the sake of a press release. The government may think that not engaging the opposition in this particular bill was a clever thing to do, but be assured we will be watching for the next bill to amend it in a way that makes it even harder for the government to oppose.

The Hon. M.C. PARNELL: What I find remarkable—and I think I have got to my feet before the Hon. Andrew McLachlan—is that we have just been given an indication the Liberal opposition is not going to pursue an amendment where it clearly has the numbers. We have heard what people have said here; it has the numbers to pass, yet my understanding is that the Liberals are so keen to make sure that this draconian legislation gets through that they are shortly to abandon their principles and abandon the amendment. I support the amendment, for the reasons the Hon. Andrew McLachlan gave. I think it is a remarkable situation if, having secured the numbers, the Liberals get cold feet and withdraw the amendment. I just reiterate that the Greens will be supporting both these amendments.

The Hon. A.L. McLACHLAN: On behalf of the Liberal Party, I seek leave to withdraw the amendment.

Leave granted; amendment withdrawn.

The Hon. J.A. DARLEY: I move:

Amendment No 10 [Darley–1]—

New clause, page 11, after line 4—Insert:

24—Review of Act

(1) The Attorney-General must, within 3 years after the commencement of this Act, undertake a review of the amendments to the Criminal Assets Confiscation Act 2005 enacted by this Act.

(2) The Attorney-General must cause a report on the outcome of the review to be tabled in both Houses of Parliament within 12 sitting days after its completion.

Given the angst and division that this bill has created, it seems appropriate that we have a review provision inserted in the bill in order to assess the success or otherwise of the government's proposal in terms of deterrents and combatting our drug epidemic. This is a straightforward amendment and one which we have inserted into a number of bills before. With that, I urge honourable members to support the amendment.

The Hon. G.E. GAGO: The government is happy to support this amendment.

Amendment carried; new clause 24 inserted.

Title passed.

Bill reported with amendment.

Third 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) (16:22): I move:

That this bill be now read a third time.

Bill read a third time and passed.

PARLIAMENTARY COMMITTEES (ELECTORAL LAWS AND PRACTICES COMMITTEE) AMENDMENT BILL

Committee Stage

In committee.

(Continued from 25 September 2014.)

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

That it be an instruction to the Committee of the Whole that it have power to insert a new clause in relation to Ministers of the Crown not being members of parliamentary committees.

Motion carried.

Clause 1 passed.

Clause 2.

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

Amendment No 1 [Wade–2]—

Page 2, line 6——Delete line 6 and substitute:

(1) This Act will come into operation on a day to be fixed by proclamation (which may not be a day that falls before the prescribed report has been presented to each House of Parliament).

(2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply to this Act or a provision of this Act.

(3) In this section—

prescribed report means the report prepared by a commission of inquiry established by the Parliament to inquire into and report on electoral reform that would ensure that the political party (or coalition) that receives the majority of the State-wide vote at a general election of members of the House of Assembly is elected in sufficient numbers to enable that party (or coalition) to form a government.

This is a series of sections which I am proposing to insert into the commencement clause. I originally proposed to insert key provisions of what was the Commission of Inquiry on Electoral Reform Bill 2014. That is not a bill that this house has seen. but it was considered by the House of Assembly, having been introduced by the honourable member for Dunstan in another place.

The bill was proposed by the Leader of the Opposition (member for Dunstan) in the other place as opportunity to address the fundamental issue of fairness in the South Australian electoral system. After a wrong outcome election in 1989—in other words, an election where the majority of South Australians voted for a change of government but a change of government did not ensue, an independent Labor member of the minority Labor government that ensued after the 1989 insisted on a committee which would look at fairness.

That committee proposed what is generally known as the 'fairness clause', and what has been disappointing is that the best intention of the fairness clause have not succeeded, that being that there have been a number of elections since 1989 where the party that won a majority of votes did not win the majority of seats and did not form government.

The issue facing this parliament, after having had three of the last four elections being wrong-outcome elections in those terms, is how do we address that issue? The government's suggestion is that it should be dealt with by the committee that is proposed by this bill. I should stress that the

Liberal Party does not oppose a joint select committee on electoral matters. They already operate in the commonwealth parliament, the Queensland parliament and the Victorian parliament.

A select committee I was a member of which reviewed the 2010 election suggested that such a committee be established and, through consideration at the end of the last parliament in relation to optional preferential voting, we certainly reiterated our commitment in principle to the idea of such a committee.

One thing that has been very disturbing with the government's reaction to the election outcome post the 2014 election is their total denial that we have a problem. Historically, that is rather surprising, because it was the Labor Party until the 1960s that was suffering the problem of geographic concentration of parliamentary majorities. It was Don Dunstan, one of the heroes of the labour movement, who had candle-lit vigils on the steps of parliament about the end of democracy. These were not just statements about the Playmander: these were statements about the unfairness of an electoral system which did not allow for the concentration of majorities in parliamentary seats.

Don Dunstan saw the problem, and Dean Jaensch was writing in the seventies about the problem. It was a problem that plagued the Labor Party up until the 1960s. It is a problem that has plagued the Liberal Party since. So, this great party of social justice and justice in other realms of life believes that electoral justice is only a concern when it is against you. For the Labor Party members who are thinking at the moment, 'You are bleating because this is against the Liberal Party at this stage,' I will just remind you that it was Steele Hall and a number of members of the Liberal team who significantly contributed to South Australia delivering electoral reform.

Making the point, this government has been in denial, particularly since the 2014 election, that we have an issue of fairness. Faced with that, the Liberal Party had to ask the question: what is the best way to deal with fairness? It was quite clear that the Attorney-General, if this committee was established, would provide every distraction under the sun for it to discuss every issue under the sun other than fairness.

We consulted our parliamentary officers in this chamber about whether it might be possible to insert into this bill a commission of inquiry similar to that proposed by the Commission of Inquiry on Electoral Reform Bill 2014 in the other place. We were advised that that was not consistent with parliamentary procedures in the sense that establishing a commission of inquiry in a schedule to the Parliamentary Committees Act would not be within the remit of the act. We accept that advice and, upon the bill being defeated in the other place, we are still of the view that the commission approach still represents the best initiative on the table to address fairness.

The reason for that is that: (a) it is single-mindedly focused; and (b) the proposal in the bill that has been considered by the House of Assembly was a multipartisan approach. The bill that we presented would have the independent commissioners appointed by a multipartisan appointment committee, which would have every parliamentary group and, for that matter, sole member parliamentary groups, involved in the process.

We believe that fairness is an extremely important issue for the electoral reform process to address and that the most likely mechanism to have a successful resolution of that issue would be by a process which is independent, which is not able to be manipulated to the benefit of one party or another and has the confidence of the whole parliament, supported by the parliament's involvement in the appointment of the commissioners.

Faced with the fact that we could not establish such a commission by way of a schedule to this act, I have moved an amendment which basically says that this Legislative Council agrees that a commission of inquiry would be a valuable step in the electoral reform process. It does not incorporate the commission into the bill, but what it does do is say, 'This parliamentary committee shall not start until a commission of inquiry has concluded.' In other words, it would be an affirmation by this council that it believes that the primary electoral reform challenge facing this state is fairness.

It was a challenge that faced this state in the sixties and seventies, and it is a challenge that faces us now. Commentators and a range of political parties, except for the Australia Labor Party, have acknowledged it as a corrupting influence on our electoral processes, and we believe it needs to be addressed. We think a commission of inquiry is the best way to do it, and this amendment would give the Legislative Council an opportunity to affirm that and basically to call on the government

to stop playing games, and face up to its responsibility to put in place an electoral system that is fair for all South Australians, not just for the Australian Labor Party.

The Hon. I.K. HUNTER: The government opposes this amendment. This amendment seeks to delay the commencement of the Parliamentary Committees (Electoral Laws and Practices Committee) Amendment Bill 2014 until the government, first, establishes a commission of inquiry and, secondly, inquires into and reports on electoral reform that would ensure that the political party or coalition that receives the majority of the statewide vote at a general election of members of the House of Assembly is elected in sufficient numbers to enable that party or coalition to form a government.

The Commission of Inquiry on Electoral Reform Bill 2014 was negatived in the other place on 20 November 2014. This appears to be an attempt to put the commission of inquiry proposed by that bill back onto the table. The result of this proposed amendment is that not one but two bodies would consider issues of electoral reform. Only once the proposed commission of inquiry had reported would a standing committee of the parliament be established with broad powers to inquire into electoral matters.

The standing committee that is contemplated by the government's bill would have the power to consider and inquire into a broad range of matters. It would be able to hear from witnesses, including academics and experts. The proposal contained in this amendment is a proposal that would delay the establishment of a representative committee of this parliament to consider issues of electoral reform and may delay electoral reform itself.

This amendment also proposes that section 7(5) of the Acts Interpretation Act should not apply to the bill. Section 7(5) of the Acts Interpretation Act has the effect that, if an act or a provision of an act is not proclaimed, then it is taken to come into operation two years after the date of assent.

Put simply, what the Hon. Mr Wade's amendment seeks to do is to make the establishment of a bipartisan committee on electoral reform contingent on the outcome of a partisan inquiry. That inquiry is partisan because it is not being asked to consider electoral reform generally but is simply being asked to ensure a way for the Liberal Party to win government when in reality they campaign like they have arrived on a basketball court for a game of baseball. I just remind the Hon. Stephen Wade that we heard no such complaints from him or his party when his factional leader, Christopher Pyne, entered government in 1998 with less than 50 per cent of the two-party preferred vote—no complaints whatsoever then.

The Hon. D.G.E. HOOD: I will be very brief. Family First has supported a commission of inquiry in the past, and we support it now, and therefore we support the amendment.

The Hon. M.C. PARNELL: One thing I will not criticise the opposition for is their creative use of parliamentary processes to include in this bill something that the government had no intention would form part of the bill. I think that it is an exercise that is to be applauded. I note that he has more success than I have had in trying to add additional material to government bills, so I will direct no criticism in that quarter.

The effect of the amendment, as the minister has explained, is that it postpones the establishment of a standing committee of this parliament until the commission of inquiry has been completed. The Greens have an open mind about whether a commission of inquiry is a reasonable way to go. We have not actually had that bill before us in this chamber, as the Hon. Stephen Wade said—it was a matter that was put in the lower house and was defeated—so we are open to have that discussion.

But something I have said to members of the Liberal Party, including the leader, Steven Marshall, is that I do not believe that they have the question right because the question the commission of inquiry is to look at is pretty much as the minister has explained. It is a question that is limited to a two-party preferred statewide discussion, and it ignores all of the other elements in our democracy.

As I have said to Steven Marshall: the question is not why 'you was robbed', to use the vernacular. The question is: why doesn't Family First have three members of the lower house, or the Greens four or five? On a proportional basis, the way people voted in the lower house, that would

have been the outcome. Having a quick look at the Electoral Commission website, I remind members that the vote in this last election, in the first preference votes no-one got 50 per cent. No-one got a majority of first preference votes in the House of Assembly.

The Hon. T.J. Stephens: Not even Mitch Williams?

The Hon. M.C. PARNELL: The interjection was: 'Not even Mitch Williams?' We are talking about statewide. The terms of reference proposed for this inquiry are to do with ensuring that the political party or the recognised coalition that receives the majority of the statewide vote at a general election of members of the House of Assembly is elected. A quick look at the *Oxford English Dictionary* does not provide a whole lot of help, because 'majority' can have a couple of meanings: it can mean who got most, or it can mean who got more than 50 per cent.

No-one got more than 50 per cent. No-one got a majority of first preference votes in the lower house. So, on that interpretation, this commission of inquiry is an academic exercise that will be of no effect until someone gets 50 per cent. If the other interpretation is to be preferred—to say who got the most first preference votes—effectively, it is an inquiry into first-past-the-post voting and ignores the preferential nature of the system. The terms of reference are flawed, but that is nit-picking on my part. It is fundamentally flawed because it is asking the wrong question; it is asking a single question.

We are open to having a commission of inquiry and, if the opposition was to bring one to the Legislative Council, we would have a look at it. We would look at the terms of reference, we would see whether they could be improved, and we would consider it on its merits. The question before us now is: are we prepared to delay the establishment of a standing committee of this parliament whilst a flawed outside commission does it work? The answer is that, no, we are not; we are not going to postpone this bill to that end. So, we will not be supporting this amendment.

The Hon. B.V. FINNIGAN: I think the Hon. Mr Parnell has articulated quite well the weaknesses of this amendment. It is essentially to establish a commission of inquiry into why the Liberals lost, rather than: what is the best electoral system for the state? I know that collectively we could talk for months on end about electoral systems and such matters. It is a matter that is obviously very dear to the heart of politicians as well as people who take an interest in the political system, but it is not something that occupies a lot of space in community debate, I do not believe.

So, I am really not sure what a commission of inquiry is intended to achieve, other than to look at this one question of: why is it that the Liberal Party can get a majority of the two-party preferred vote but not a majority of the single member seats? That is a question that is quite valid and a question that is certainly of great interest to members of the opposition, naturally, but I think the discussion needs to be broader than that and I think the establishment of a committee is a way that that is more likely to occur.

The Hon. Mr Wade has mentioned electoral reform in the seventies. It is worth noting that that was, in a sense, before the advent of the Democrats and the Greens and other political forces outside the two major parties, although I suppose the Liberal movement was being formed towards the end of that time. The point being that, the late Don Dunstan achieved, I am not sure of the exact figure but I think it was something like 52 per cent of the primary vote and was still not elected. That is certainly an extraordinary situation and I do not think it can be at all compared to what has happened to the Liberal Party, where overall they may get a two-party preferred majority but not a majority of seats.

It is a particularly pronounced issue in South Australia because, unlike some of the other states, we do not have a Newcastle or a Geelong. Only about 18 per cent or so of the population lives outside of Adelaide, so naturally a lot of the conservative vote is tied up in rural electorates and that has an impact on the overall two-party preferred vote. Essentially, Labor holds one country seat, is not likely to gain any others in the foreseeable future, so you have a situation where elections are being decided in the metropolitan area of Adelaide and that is it, which is a situation that is not typical, I think, in most other states.

If you look at, say, the Victorian election just recently, there was a lot of focus on Geelong, Bendigo and Ballarat and large regional centres. So, as to the two-party preferred figure for South Australia overall, the reality of our electoral boundaries and the reality of our population, where there

are not large numbers of people, relatively speaking, living outside the metropolitan area, has to be taken into account.

While I understand why the Liberal Party wants to agitate the issue, I think the notion of setting up a commission of inquiry into that one aspect of electoral matters is short-sighted. I do not think it is a particularly good principle to say that, because you oppose a bill or a proposal, it cannot take effect until there has been a commission of inquiry. For better or for worse, setting up commissions of inquiries of that nature are generally a decision of the executive and I think that is a principle that needs to be respected as well.

The Hon. S.G. WADE: In terms of the comments provided by the Hon. Mark Parnell, with all due respect I would suggest that he is reading the amendment narrowly. He focused on the fact of whether a political party had received the majority of the statewide vote. What the amendment actually says is to 'ensure that the political party (or coalition) that receives'—

The Hon. M.C. Parnell: Recognised coalition. You're not in coalition with anyone.

The Hon. S.G. WADE: I do not read the word 'recognised coalition' but—

The Hon. M.C. Parnell: My door's open but we're not in one at the moment.

The Hon. S.G. WADE: As I said, the Greens are reading into the amendment words that are not there. The fact of the matter is that the Liberal Party is not talking about ditching the preferential voting system and going to a first-past-the-post system. That may be an option that might come out of a commission of inquiry, but that fact is that we are genuinely seeking to put an open question. There was certainly discussion within the Liberal Party party room about alternative models, and there are some who believe that there are models worth putting now. However, in our view, the issue of fairness is so fundamental that it needs to be a community discussion with an open question.

Both the Hon. Mark Parnell and the Hon. Bernard Finnigan, with all due respect, in my view, significantly underestimate the frustration and the anger in the community that their democratic will is being persistently frustrated by our current electoral system. Let's remember that this is not something that the Liberal Party thought would be a good idea and it has not been endorsed by the people. At a referendum after the 1989 election—forgive me if I get the date wrong, but I think it was in February 1991—the people of South Australia said that they wanted their Constitution changed to entrench fairness. They have not got what they want. They voted for it. And this Labor Party says, 'Stuff you, it suits us to continue to have an electoral system that doesn't deliver fairness. Go and bleat somewhere else.'

The Hon. Bernard Finnigan rightly pointed out that, since the electoral reforms of the 1970s, minor parties have emerged—all the more reason to look at fairness again. I do not disagree with the Hon. Mark Parnell. Those South Australians who seek to choose from non-major parties have every right to have their democratic will expressed. I think the Hon. Mark Parnell and the Greens would make a very strong submission to a commission of inquiry that that democratic will should be expressed not just in this place but also in the House of Assembly. Again, going back to the terms of reference:

> …report on electoral reform that would ensure that the political party or…coalition that receives the majority of the State-wide vote…is elected in sufficient numbers to enable that party or coalition to form a government…

The Hon. Mark Parnell wants to put in the words 'recognised coalition' or what have you, which suggests some pre-existing arrangement. The fact of the matter is that in a number of jurisdictions it is not uncommon for coalitions to be brought together after an election. Perhaps in that sense you might say that the behaviour of the Hon. Geoff Brock and the Hon. Martin Hamilton-Smith was, if you like, post-election negotiations for the formation of a coalition.

The Hon. Mark Parnell focused on whether or not a particular political party had the majority of first preference votes. That is not what this question is asking. Anyway, be that as it may, the Hon. Mark Parnell is saying, 'This is a flawed terms of reference, I'm going to vote against it.' He posed the question: will we postpone the committee until a flawed commission has completed its work? Of course we would not do that. What we would do is make sure that the commission we are insisting on has the right terms of reference, that it has a mandate, a responsibility which will address

the legitimate frustration of the South Australian community that their democratic will has continued to be frustrated.

I thank the Hon. Dennis Hood for indicating his support. I urge other members to support the Liberal amendment. As I often do—and perhaps this is just throwing myself at the mercy of the council because of my poor drafting skills—I urge the council to support the amendment in spite of any flaws that the Hon. Mark Parnell might have highlighted, because we have two houses. We often consider alternative amendments between the houses.

We did it on SACAT earlier this evening and it meant that we had a better bill. I would urge members not to dump this amendment for wont of tweaking that the Greens may think might improve it. I am disappointed that the Hon. Mark Parnell did not take the opportunity to improve the terms of reference and let us see where the Greens thought a better open question could be asked.

Certainly I am very disappointed that the Australian Greens, the group that actually believes in open democracy, would want to support their coalition colleagues in maintaining a very unfair electoral system, which continues to frustrate the people of South Australia. I reiterate my point: in spite of the distractions, however well intentioned by the Hon. Mark Parnell, I urge the council to support this amendment. If it needs to be tweaked between the houses, the opposition stands ready to do so.

The Hon. J.A. DARLEY: I indicate my support for the opposition's amendment.

Amendment carried; clause as amended passed.

Clause 3 passed.

New clauses 3A and 3B.

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

Amendment No 1 [Wade–3]—

Page 3, after line 1—Insert:

3A—Amendment of section 15E—Membership of Committee

Section 15E—after subsection (2) insert:

(2a) A Minister of the Crown is not eligible for appointment to the Committee.

3B—Amendment of section 15H—Membership of Committee

Section 15H—after subsection (1) insert:

(1a) A Minister of the Crown is not eligible for appointment to the Committee.

This new clause relates to the issue of parliamentary committees other than the one proposed by this bill. This amendment seeks to reaffirm the well established understanding in the parliament that the Parliamentary Committees Act provides that ministers are not members of parliamentary committees. I remind honourable members of the Parliamentary Committees Act 1991, section 21, which reads:

Removal from and vacancies of office

1. A member of a Committee may be removed from office by the member' appointing House.

2. A person ceases to be a member of a Committee if the person—

And then there is (a), (b), (c) and (d), and (e) states:

(e) Becomes a Minister of the Crown; or

My leader moved a motion on 2 July, which put to this council that the appointment of the Attorney-General by another place was inconsistent with the longstanding practice. I will read that motion onto the record, which the Hon. D.W. Ridgway moved:

1. That this council—

(a) notes Message No. 9 from the House of Assembly of [a certain date] May 2014 advising of the appointments to the Statutory Officers Committee of the Hon. M.J. Atkinson, Hon. J.R. Rau and Mr Wingard;

(b) notes section 21(2)(e) of the Parliamentary Committees Act 1991 which states 'A person ceases to be a member of the committee if the person…becomes a Minister of the Crown; and

(c) invites the House of Assembly to reconsider the appointment of the Hon. J.R. Rau, Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development and Minister for Industrial Relations.

2. That a message be forwarded to the House of Assembly conveying this resolution.

Members would well remember that the House of Assembly earlier this week advised us that it had received our request that they reconsider their appointment, and they suggested that we might like to reconsider our suggestion that they reconsider. So, to avoid descending into a downward spiral of reconsiderations, I thought this might be an opportunity for this house to put into the legislation what has always been our understanding, which is that the parliamentary committees, unless otherwise specifically provided, do not have ministers of the crown on them.

My understanding is that the Natural Resources Committee does provide for a minister of the Crown. I was advised by another honourable member that they do not currently have a minister on. I do not know if any other members might be able to confirm that. My understanding is that that is the only committee which has explicit provision for a minister. The Hon. Terry Stephens, I am sure, will be able to inform the council that the Aboriginal Lands Standing Committee previously had provision for the minister to be on the parliamentary committee as de facto chair, and my understanding is that that provision has been removed.

We are not saying cannot specifically consider, in the context of a particular committee, that a minister can be a member. In fact, the Hon. Bernard Finnigan reminded the council that in relation to the Aboriginal Lands the minister was actually the chair of the committee. Obviously it is within the capacity of the parliament to make exceptions in particular circumstances, but it is the council's assertion, as affirmed by the council, when the council accepted the resolution of my leader and we conveyed a message to the House of Assembly, to reiterate our clear understanding of what the Parliamentary Committees Act provides by putting into the Parliamentary Committees Act relevant amendments.

Parliamentary counsel has suggested that the best way to achieve that is not with a general clause but with a series of clauses relating to particular committees. I indicate that this particular amendment would affirm that principle of ministers not being members of parliamentary committees. This amendment deals with two of the committees. I commend the amendment to the council.

The Hon. I.K. HUNTER: The government opposes the amendment. This amendment relates to the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation and the Statutory Officers Committee. It seeks to amend the Parliamentary Committees Act to provide that a minister of the Crown is not eligible for appointment to those two committees specifically. I wonder, perhaps, if it is beyond the scope of the Parliamentary Committees (Electoral Laws and Practices Committee) Amendment Bill, which is to amend the Parliamentary Committees Act 1991 to provide for the establishment of the electoral laws and practices committee and to make related amendments to the Parliamentary Remuneration Act 1990. Be that as it may, we oppose the amendment.

The Hon. S.G. WADE: I just assure the minister that I consult parliamentary counsel and parliamentary officers in putting forward amendments. If he wants to reflect on officers serving the parliament, then that is his choice; I certainly will not be doing it.

The Hon. I.K. HUNTER: I was not reflecting on parliamentary counsel: I was reflecting on the blithering hypocrisy of the honourable member who has moved the amendment.

The Hon. M.C. PARNELL: As I said, I will not be critical of someone having a go. I am surprised at the results of these negotiations. Here we have an amendment that deals with committees that are not before us in the primary bill, but so be it.

The Hon. S.G. Wade: I have an instruction.

The Hon. M.C. PARNELL: Yes. Regarding the merits of the issue whether or not ministers of the Crown should be on the committees, the Greens' general position is that ministers of the Crown should not be on these committees, and we will therefore be supporting these amendments.

The Hon. D.G.E. HOOD: As we will.

The Hon. J.A. DARLEY: I will also.

The Hon. B.V. FINNIGAN: I oppose this amendment, not because I disagree with the principle, but I think, firstly, it is odd that we should be dealing with it in this bill, which is focused on the establishment of a particular committee. Secondly, I think the Statutory Officers Committee is different from the average committee, if you like. It would be very unusual. I do not know that anyone has proposed that a minister sit on, say, the Economic and Finance Committee. That would be extraordinary.

The Statutory Officers Committee is a bit different. It is only really summoned to look at particular appointments. Often they are people who are being nominated by the Attorney-General or he or she has carriage of that bill, so I think that can be distinguished. Whether or not that means we should have ministers allowed to or not be allowed on a committee is a separate question, to me, than that which is being dealt with by this bill.

The Hon. S.G. WADE: I thank the Hon. Bernard Finnigan for his contribution but I put it to him and other members of the council that Statutory Officers is perhaps the most important committee not to have ministers on because, as the Hon. Bernard Finnigan said, the Attorney-General is often the person who has custody of acts to whom these statutory officers report to, but let's remember they are not members of the executive.

They are statutory officers of this parliament, they may well have a relationship with the executive, that is understood—for example, the Ombudsman—but they are primarily statutory officers of this parliament. I think it is an important separation of powers, although I appreciate that term is being used not in its normal sense. I would assert that it is particularly relevant to the Statutory Officers Committee that this convention be upheld.

New clauses inserted.

Clause 4.

The Hon. M.C. PARNELL: I move:

Amendment No 1 [Parnell–1]—

Page 3, after line 34 [clause 4, inserted section 15Q]—Insert:

(2a) The members of the Committee are not entitled to remuneration for their work as members of the Committee.

The sole purpose of this amendment is to save taxpayers nearly half a million dollars in extra salary that would other have been paid to MPs who need no encouragement to sit down and chew the fat over electoral laws and electoral practices.

The proposal in the bill is that this be a paid committee with individual members and the chairperson being paid. My back-of-envelope calculation is that it is about $400,000 over a four-year term; that is money that taxpayers do not need to spend. I will not go on about it any further because I understand the government is supporting the amendment.

The Hon. S.G. WADE: The opposition also supports that the committee not be a paid committee. The parliament could well benefit from coming back and talking about remuneration for committee and other roles within the parliament, but in this context we are specifically focusing on this particular committee. The joint select committee on electoral matters in the federal parliament does a report after every election. We would expect this committee to do exactly the same.

It may well not have business to do from years two, three and four, so I agree with the Hon. Mark Parnell that the public would be regarded as a waste of money if the committee was being paid for three years' work that it was not doing. I make the point that the Liberal Party is always open to how we can better spend taxpayers' money. This is a particular circumstance and let's have the discussion about other changes separately if we choose to do so.

The Hon. I.K. HUNTER: In the interests of progressing with the establishment of the Electoral Law and Practices Committee, the government is happy to support this amendment.

Amendment carried.

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

Amendment No 2 [Wade–3]—

Page 4, after line 22—Insert:

4A—Transitional provision

A member of either or both of the following Committees under the Parliamentary Committees Act 1991 who is a Minister of the Crown ceases to hold office as a member of the Committee or Committees on the commencement of this section:

(a) the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation;

(b) the Statutory Officers Committee.

What this amendment proposes to do is to address an element of the functions of the committee. Currently, proposed section 15R says the functions of the committee are:

(a) to inquire into, consider and report on...

(iii) any other matter referred to the Committee by the Minister responsible for the administration of the Electoral Act 1985.

Members of this council do not need to be reminded of the creative thinking of the Attorney-General when it comes to electoral reform for the Legislative Council. He is not quite so creative when it comes to electoral reform for the House of Assembly.

The Hon. M.C. Parnell: He is full of ideas about us.

The Hon. S.G. WADE: That's right. In fact, in the context of this bill, on 3 June on radio FIVEaa, the Attorney-General suggested the committee could look beyond the electoral system for the upper house and 'whether the Upper House in its present configuration is satisfactory'. Goodness knows what cunning plans he has for us. I would say that this function provision is unusual in that it is putting in the hands of one politician from one political party in another place the power to load up the agenda of the committee in a way which perhaps does not reflect the broad interests of the parliament and the people of South Australia.

What this amendment proposes to do is to relieve the Attorney-General of this awesome duty and put it in the hands of the parliament itself by allowing the matters that are to be referred for report into the resolution of either house of parliament. Of course, the Attorney-General has every right to put resolutions to the House of Assembly on what he thinks should be considered, but let's have the parliament expressing that view, not just one person.

The Hon. I.K. HUNTER: This amendment seeks to remove the capacity of the minister responsible for the Electoral Act 1985 to refer matters to the Electoral Law and Practices Committee and, in the words of the Hon. Mr Stephen Wade, it is because they do not like who the Attorney-General is. Providing a minister with the power to refer matters to the committee is not without precedent. At the federal level, the commonwealth Joint Standing Committee on Electoral Matters is able to have matters referred to it by a minister.

Within the context of the South Australian Parliamentary Committees Act 1991, the Statutory Officers Committee is able to receive referrals from the minister responsible for an act under which an appointment to statutory position must be made on recommendation of both houses of parliament. So, this amendment, if passed, would also provide for either house of parliament to refer matters to the committee; however, the existing provisions of the Parliamentary Committees Act already enable this, and I can refer specifically to section 16(1) of the Parliamentary Committees Act 1991, which provides that:

(1) Any matter that is relevant to the functions of a Committee may be referred to the Committee—

(a) by resolution of the Committee's appointing House or Houses, or either of the Committee's appointing Houses; or

(b) by the Governor, by notice published in the *Gazette*; or

(c) of the Committee's own motion.

For these reasons, the amendment is opposed.

The Hon. D.G.E. HOOD: I do happen to like the current Attorney-General, but I also like the amendment and I will be supporting it.

The Hon. J.A. DARLEY: I will also be supporting the amendment.

The Hon. M.C. PARNELL: This is one of those rare situations where both the opposition and the government are dead right. There is already the power for either house of parliament to refer something, plus the specific provision in the proposed section 15R, but what I find more compelling is the Hon. Stephen Wade's argument. If the minister as a single individual is at least forced to gather the support of a majority of the House of Assembly before sending something to this committee, then I think that makes sense.

At a practical level, it is neither here nor there. The committee is going to have a look at anything the Attorney wants them to look at. They are going to have a look at anything that either house of parliament wants them to look at. I would not spend a whole lot of time on it, but certainly we are happy to support the amendment for now.

Amendment carried.

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

Amendment No 3 [Wade–2]—

Page 4, lines 21 and 22 [clause 4, inserted section 15R(b)]—Delete 'or by resolution of either House of Parliament'

It is the view of the Liberal Party that functions assigned to committees are best done by statute, not by resolution of either house of parliament. After all, that is why we have functions in the Parliamentary Committees Act, so I commend the amendment to the council.

The Hon. I.K. HUNTER: The amendment is opposed by the government. The amendment reduces the flexibility around the way that functions can be assigned to the Electoral Laws and Practices Committee. If the amendment were to be passed, other functions would only be able to be assigned to the committee under the Parliamentary Committees Act 1991 or any other act.

In relation to the other committees established under the Parliamentary Committees Act 1991, there is scope for additional functions to be assigned by resolution of either one house of parliament or both houses of parliament, depending on the committee. This amendment does not add anything to the bill but has the potential to reduce the flexibility around the functions of the proposed Electoral Laws and Practices Committee and would depart from the position that exists in relation to other committees.

The Hon. M.C. PARNELL: Again, this falls into a very curious category, because we have just resolved that either house of parliament can effectively refer any matter to the committee and yet we have this separate paragraph which talks about 'performing other functions'. The question then would be: are there functions that are different to matters that might be described as part of the terms of references? I have some difficulty seeing what that distinction might be and I fall back on the fact that, at a practical level, the way this committee is going to work is that, if either house of parliament wants them to do something or to inquire into something, it will. If the Attorney wants it to inquire into something, he will get his colleagues in the House of Assembly of assembly to do it.

I think, on balance, I am inclined not to support this particular amendment because I think the alternative would be that, if there was something that was regarded as a function that was not part of terms of reference, the only way to get this committee to look at it would be to change the act again, and it seems that that might be a bit too much effort for what is really required. We will not be supporting this amendment.

The Hon. S.G. WADE: I make the point that we have already had electoral committees that have looked at matters other than the Electoral Act. The 2010 Select Committee on Electoral Matters, as the Hon. John Darley will well remember, having been a member of that committee, looked at the local government issues. The Hon. John Darley had particular concerns about the local government elections and the security of that election, and this house gave—I think the term would be 'supplementary terms of reference'.

In fact, I think our first report was the interim report, which was on the general election, and our second report was on the local government elections. I make the point that it would be quite within the capacity of the parliament, within the Local Government Act, to give the parliamentary committee responsibility to consider electoral matters in relation to the local government.

I do not disagree with the Hon. Mark Parnell that it may not be functionally significant, because I imagine at the same time we are amending the Local Government Act we could come back and amend the Parliamentary Committees Act to make sure that function is picked up. However, let me put it this way: on such a sensitive area I do not think it is wise for the functions of a committee to be able to be recast by one house without engaging the other, particularly because the other house holds us in such high esteem.

The Hon. D.G.E. HOOD: Yes, I think we are almost in furious agreement in a sense, in that in a practical sense the way this will work is that, whichever house decides on anything for the committee, it will happen. That being the case, I think we will err on the side of caution and support the amendment because, as the Hon. Mr Wade has highlighted, I do not think we are held in the highest regard in the other place and a little bit of safety probably is not a bad thing.

The Hon. J.A. DARLEY: I will be supporting the amendment.

Amendment carried; clause as amended passed.

New clause 4A.

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

Amendment No 2 [Wade–3]—

Page 4, after line 22—Insert:

4A—Transitional provision

A member of either or both of the following Committees under the Parliamentary Committees Act 1991 who is a Minister of the Crown ceases to hold office as a member of the Committee or Committees on the commencement of this section:

(a) the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation;

(b) the Statutory Officers Committee.

This is a transitional provision relating to [Wade-3] Amendment No. 1 standing in my name. I would suggest to the committee that it is consequential on that amendment having been supported.

The Hon. I.K. HUNTER: We oppose the amendment. This amendment proposes that on commencement of the bill any minister of the Crown who is also a member of either the parliamentary Occupational Safety, Rehabilitation and Compensation Committee or the Statutory Officers Committee ceases to hold office as a member of the committee or committees.

If this were to occur, section 21(3) of the Parliamentary Committees Act, in relation to removal from and vacancies of office, would have effect. The member's appointing house would need, as soon as practicable, to appoint one of its members to the relevant committee. As with the previous amendment, this is arguably beyond the scope of the Parliamentary Committees (Electoral Laws and Practices Committee) Amendment Bill 2014.

New clause inserted.

Schedule.

The Hon. M.C. PARNELL: I move:

Amendment No 2 [Parnell–1]—

Schedule 1, page 4, lines 23 to 29—Delete the Schedule

This amendment deletes the schedule. This is a consequential amendment on the early successful amendment to remove the pay clause from this committee.

Schedule negatived.

Title.

The Hon. M.C. PARNELL: I move:

Amendment No 3 [Parnell–1]—

Long title—

Delete '; and to make a related amendment to the Parliamentary Remuneration Act 1990'

This is another consequential amendment to amend the long title of the bill.

Amendment carried; title as amended 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) (17:22): I move:

That this bill be now read a third time.

Bill read a third time and passed.

WATER INDUSTRY (THIRD PARTY ACCESS) AMENDMENT BILL

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) (17:24): Obtained leave and introduced a bill for an act to amend the Water Industry Act 2012. 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) (17:25): I move:

That this bill be now read a second time.

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

Leave granted.

Water is our most valuable resource, fundamental to our way of life, our economy and our environment. The millennium drought in the early 2000s challenged our traditional assumptions about the security of our existing supplies and highlighted the need for a longer term strategic approach to water security in South Australia.

In particular, our traditional reliance on a guaranteed minimum volume of flow into South Australia from the River Murray, under an agreement with other Murray Darling Basin States, was found to be vulnerable under severely reduced rainfall. In essence it never occurred to the State, from a water security perspective, that there could be situations where there is just not enough water in the system to allow for a 'guaranteed' level of water.

In response to the unprecedented drought conditions, the Government developed a long term water security plan for South Australia. Water for Good was released in June 2009 outlining its long-term strategy and actions needed to ensure safe, secure and reliable water supplies able to sustain continued economic and population growth. Water for Good is based around a number of core elements:

- Diversifying water supplies;
- Improving the way we use water;
- Improving governance arrangements; and

- Modernising the water industry through a new regulatory framework.

Progress with the implementation of Water for Good is reported annually and this report is made public and tabled in Parliament. In the most recent annual review, there had been significant progress in implementing actions, with 30 being completed, 50 on track and only 13 experiencing some minor delays.

A strong legislative base that provides sensible regulatory arrangements for the water and wastewater services sectors is a key foundation of the Government's approach to water sector reform.

The proclamation of the Water Industry Act 2012 (the Act), a key action in Water for Good, marked a significant milestone in the Government's reform of the water industry in South Australia and marked the first major legislative reform for the water and wastewater services sector for decades. The Act provides a new legislative foundation to promote competition and drive more efficient and innovative service delivery.

The Act declared water to be a regulated industry under the Essential Services Commission Act 2002 and appointed ESCOSA as the economic regulator and licensing authority for retail water and sewerage services in South Australia. Other significant reforms to the sector include:

- Avenues for future pricing reform;
- Streamlining of technical regulation of the sector;
- A commitment to ongoing water demand and supply planning;
- The formalisation of SA Water's customer service standards through the SA Water customer charter and the standard customer contract;
- The requirement for external reporting and monitoring of SA Water's performance and compliance;
- The introduction of formal customer consultation requirements for SA Water's future regulatory determinations; and
- Requiring audited regulatory accounts for SA Water.

In May 2013, ESCOSA released its first Revenue Determination in respect of water and sewerage retail services provided by SA Water for the 3 years to June 2016. ESCOSA also identified savings of about $300 million in SA Water's operational and capital expenditure over the three years period of the Determination. The Government subsequently reduced water prices by 6.4 per cent in the first year and limited increases to inflation in the following two years. This provided relief for consumers from the recent increases in water prices as a result of necessary investments in water security measures.

To build on these reforms and to satisfy the requirement of section 26 of the Water Industry Act, a process to establish a state based access regime was initiated with the release of a Report on Access to Water and Sewerage Infrastructure in February 2013.

An effective access regime will promote the economically efficient operation of, use of and investment in water and sewerage infrastructure and encourage greater competition in upstream and downstream markets, increase standards of service and security of supply, and provide longer-term downward pressure on prices.

The current policy framework allows SA Water to pursue opportunities, on appropriate commercial terms, arising from spare water transportation capacity within their water infrastructure (eg in the Barossa and Willunga). However, this framework does not apply on an industry wide basis, nor does it include transparent pricing and negotiation principles, disclosure requirements, and provisions for review and arbitration, if an agreement cannot be achieved. A legislated state based access regime will address these shortcomings in the current arrangements.

The Access Report set out a range of issues relating to the amendment of the Water Industry Act to provide a right to businesses to negotiate access to water and sewerage infrastructure services and invited feedback from industry participants and interested community members.

Following feedback on the Access Report, a consultation draft Water Industry (Third Party Access) Amendment Bill was tabled in Parliament in September 2013 along with an accompanying explanatory memorandum.

Six submissions were received in response to the Access Report. They were from Business SA, ESCOSA, SA Water, Alano Water, the Roxby Council and Adelaide City Council. Business SA, ESCOSA and SA Water also provided submissions to the exposure draft Bill.

Based on the Access Report, and with appropriate consideration being given to the public submissions received, the Water Industry (Third Party Access) Amendment Bill 2014 (the Bill) introduces a further major reform to the water industry. The Bill is the end result of a long and inclusive consultative process. Part of this consultation involved a protracted negotiation with the Commonwealth Government regarding the interaction of the proposed access arrangements and Commonwealth Water Charge Rules.

The Bill amends the Water Industry Act by inserting a new part 9A that provides a light handed negotiate/arbitrate framework for businesses to seek access to services provided by natural monopoly water infrastructure (e.g. transport services via SA Water's bulk water pipelines).

The Bill establishes access arrangements to SA Water's bulk water transport services. The Bill does not relate to retail services or bulk water resources. Given the current stage of development of the South Australian water industry, it would be premature to establish full retail competition.

The Bill amends the Water Industry Act to ensure that access seekers and infrastructure owner are not limited from negotiating commercial agreements outside of the provisions of the access regime. The Bill, as a safety net, confers rights on the access seeker in relation to negotiating access and imposing obligations on the infrastructure owner when the access seeker exercises those rights.

The Bill appoints ESCOSA as the regulator of a state based access regime for water. ESCOSA will be required to adopt a light handed regime of monitoring and enforcing compliance with the access regime. ESCOSA will be required to report to the Minister each year about the work carried out by the regulator under the access regime.

The adoption of a light handed regime that facilitates commercial negotiation and arbitration in a low cost manner is considered appropriate in an environment where access negotiations are likely to be infrequent and specific to the needs of the access seeker. This approach has been adopted in South Australia's certified legislative access regimes for railways (set out in the Railways (Operations and Access) Act 1997) and port services (set out in the Maritime Services Act 2000).

In an environment where access negotiations are likely to be frequent and the needs of the access seekers are common, then an access regime that involves prior determination and approval of access terms and conditions and associated prices is likely to be more cost effective for facility owner and the access seekers. This approach has been adopted for industries that have been vertically separated and subject to substantial economic reform, including the gas and electricity industries, where there is full retail contestability.

While important economic reforms to the water industry have been made in South Australia through the Water Industry Act, the water industry is not at the same stage of reform as the energy sector and such a heavy-handed approach cannot be justified. Interstate and international evidence shows that a gradual transition approach is more appropriate for introducing third party access regimes in an attempt to avoid unintended adverse outcomes and minimise potential costs to industry and general public.

The key to a well-balanced access regime is to promote greater competition while not disadvantaging SA Water customers broadly by, for example, facilitating private providers gaining access to infrastructure in the low-cost / high-revenue sections of the network, leaving SA Water's customers to bear the full costs of the high-cost / low-revenue sections.

The scope of the access regime established by the Bill includes all water infrastructure services that comply with clause 6(3)(a)(1) and (2) of the Competition Principles Agreement (CPA) and are significant to the South Australian economy. At this stage this would include SA Water's bulk water transport services. The access regime may apply to other services, such as water storages and treatment plants, to the extent that they are integral to the operation of the infrastructure services for which access is being sought (e.g. the transport services cannot be provided without passing through the water treatment plant).

The CPA requires that: wherever possible third party access to a service provided by means of a facility should be on the basis of terms and conditions agreed between the owner of the facility and the person seeking access. That is, to the extent possible, governments should avoid intervening in commercial negotiations between providers and access seekers.

The amended Water Industry Act will establish that nothing in the proposed legislation prevents a regulated operator from entering into an access contract with another person on terms and conditions agreed between the parties.

Water and sewerage infrastructure owned by water industry entities regulated under the Water Industry Act range from critical pipelines serving hundreds of thousands of people to local distribution networks serving less than one hundred. While the scope of the access regime should be broad in order to have consistent regulation across the South Australian water industry, it is not considered appropriate for the regime to be fully applied to all water infrastructure services.

The state based access regime will not be applied to community facilities, such as community waste management schemes and small water distribution systems, which are relatively small in scale and are unlikely to facilitate competition in dependent markets. Thus, it is considered that they do not meet the requirement of the CPA that the infrastructure be significant. Applying a formal third party access regime to these infrastructures would impose unnecessary costs and excessive administrative burdens on the owners of the infrastructure without any appreciable benefits being realised.

There is a range of water and sewerage infrastructure that does not easily fit into either of the categories described above (full application and not applied). Only some sections of Part 9A of the amended Water Industry Act relating to basic information requirements and reporting would apply to this infrastructure.

Over time, the significance of some infrastructure may increase and may then warrant full application of a state based access regime. But, at this stage the cost to the infrastructure service provider of complying with a state based access regime may not be justifiable.

The infrastructure operator will be required to provide information about access seekers to the regulator, and as part of its report to the Minister, ESCOSA will report on whether the access regime in relation to specific pieces of water or sewerage infrastructure should be extended.

ESCOSA will also be required to review the access regime established under Part 9A to ascertain whether the access regime should continue to apply to particular water infrastructure services in South Australia. ESCOSA will be required to conduct the review by 30 June 2019 and every five years thereafter. The report would be provided to the Minister and tabled in Parliament.

In an effective access regime, the right to negotiate will be supported by provisions to enforce that right. The Bill provides the access seeker the right to trigger an access dispute and commence binding arbitration after the regulator has first sought to resolve the dispute through conciliation.

The arbitrator will be appointed by ESCOSA and the decision of the arbitrator will be enforceable as if it were a contract between the parties.

South Australia is well placed in relation to its regulation of public health, environmental and safety standards and the community rightly expects the Government not to compromise these standards.

The Bill does not seek to alter existing frameworks in these areas and includes an explicit requirement that no decision taken by the regulator or arbitrator in relation to access to water infrastructure can override requirements or directions under the Safe Drinking Water Act 2011, the South Australian Public Health Act 2011, the Natural Resources Management Act 2004, the Environmental Protection Act 1993, or other law or other legislative requirement relating to health, safety or the environment.

Charges made by water industry entities in South Australia, including SA Water and South Australian irrigation trusts, may be subject to Commonwealth water charge rules made under the Water Act 2007 (Cth).

The Commonwealth water charge rules appear intended to exclude urban water supply activities from their remit, however, the precise scope of the application of the Commonwealth regime is not easy to determine. There is potential for inconsistency between the state based access regime and the Commonwealth regime where both regimes apply to the same infrastructure operator.

The Bill avoids this regulatory uncertainty by allowing for the use of the provisions of Part 11A of the Water Act 2007 (Cth) to exclude or displace the operation of the Commonwealth water charge rules in the event that any such inconsistency arises. The use of the displacement clause brings with it some obligations to other stakeholders under existing intergovernmental agreements.

Negotiations with the Commonwealth are continuing to find an alternative solution which does not necessitate the use of these displacement provisions.

The use of the displacement clause will not be automatically triggered with the passage of the Bill and will only come into effect if an inconsistency arises. This provides the opportunity for continued dialogue with the Commonwealth.

The Government regards the establishment of a state based access regime for water infrastructure, certified effective, as a necessary further step in the ongoing reform of South Australia's water industry.

Unlike some other industries subject to access regimes, the delivery of water and wastewater services presents some challenging social equity considerations including affordability, health and safety, as well as environmental issues. Careful consideration and incremental application of any access arrangements is necessary to ensure that unintended outcomes are minimised.

The amendments to the Water Industry Act contained in the Bill provide for the establishment of a light-handed access regime the Government considers appropriate given the current stage of development of the State's water industry. The access regime will be monitored and regularly reviewed by the regulator and, where appropriate, it can be adjusted to suit changing circumstances.

While it may take some time to fully realise their benefits, the extensive reforms implemented by the Government establish a foundation for the development of a competitive, efficient, innovative and safe water services sector so crucial to the well-being of the whole South Australian community.

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 Water Industry Act 2012

4—Amendment of section 3—Objects

An additional object is included in section 3 of the Act for the purposes of proposed Part 9A.

5—Insertion of section 5A

This clause proposes to insert new section 5A:

5A—Provisions related to operation of Part 9A

The Governor may, by proclamation, declare the extent to which Part 9A will apply in relation to specified water infrastructure or sewerage infrastructure (or specified classes of such infrastructure) or specified infrastructure services (or specified classes of such services). A proclamation may limit the operation of the access regime. It will also be possible for the Governor, by proclamation, to activate a Commonwealth water legislation displacement provision in relation to Part 4 Division 1 of the Water Act 2007 of the Commonwealth if this becomes necessary.

6—Repeal of section 26

Section 26 of the Act imposed certain requirements on the Minister relating to preparations for a third party access regime. This clause repeals the section.

7—Insertion of Part 9A

This clause proposes to insert new Part 9A:

Part 9A—Third party access regime

Division 1—Preliminary

86A—Interpretation

Definitions are set out for the purposes of the Part.

86B—Application

The access regime will apply to operators of water infrastructure or sewerage infrastructure, and infrastructure services to the extent specified by proclamation.

The access regime does not (and cannot) apply in relation to infrastructure operated by an irrigation infrastructure operator that may be subject to water charge rules under Part 4 Division 4 of the Water Act 2007 of the Commonwealth (whether or not such rules have been made in relation to the infrastructure (or in relation to any service that may be provided in connection with the infrastructure)).

Division 2—Regulator

86C—Appointment of regulator

The Essential Services Commission of South Australia is the regulator.

86D—Report to Minister

The regulator must report to the Minister on an annual basis.

Division 3—Information to facilitate access proposals

86E—Segregation of accounts and records

Special accounting requirements will apply in order to assist in the implementation of the access regime.

86F—Information brochure

A regulated operator will be required to provide, on application, an information brochure giving terms and conditions on which access may be provided.

86G—Specific information to assist proponent to formulate proposal

A regulated operator will be required to give a person with a proper interest in making an access proposal detailed information about specified matters. A charge may be made for information provided under the proposed section.

86H—Information to be provided on non-discriminatory basis

Information is to be provided to persons interested in making access proposals on a non-discriminatory basis.

Division 4—Negotiation of access

86I—Access proposal

A person who wants access to regulated infrastructure or to vary an existing access contract in a significant way or to a significant extent may put an access proposal to the regulated operator.

86J—Duty to negotiate in good faith

The respondents to an access proposal are required to negotiate in good faith.

86K—Existence of dispute

The circumstances in which an access dispute exists are set out.

Division 5—Conciliation

86L—Settlement of dispute by conciliation

If a dispute is referred to the regulator, the regulator must, in the first instance, seek to resolve the dispute by conciliation (except in certain circumstances).

86M—Voluntary and compulsory conferences

The regulator may call voluntary and compulsory conferences of the parties to the dispute to attempt to resolve the dispute.

Division 6—Reference of dispute to arbitration

86N—Power to refer dispute to arbitration

The regulator may appoint an arbitrator and refer a dispute to arbitration.

86O—Application of Commercial Arbitration Act 2011

The Commercial Arbitration Act 2011 applies to an arbitration.

86P—Principles to be taken into account

The principles which an arbitrator must take into account are set out.

86Q—Parties to the arbitration

The parties to an arbitration are defined.

86R—Representation

A party may be represented by a lawyer or, by leave, another representative.

86S—Participation by other parties

The Minister and the regulator may participate in an arbitration.

86T—Arbitrator's duty to act expeditiously

The arbitrator must proceed with the arbitration as quickly as possible.

86U—Hearings to be in private

The proceedings are to be in private unless all parties agree to public proceedings. The arbitrator may give directions about who may be present.

86V—Procedure on arbitration

An arbitrator is not bound by technicalities or the rules of evidence. The arbitrator may obtain information on matters relevant to the dispute in any way the arbitrator thinks appropriate.

86W—Procedural powers of arbitrator

The arbitrator has power to direct procedure including delivery of documents and discovery and inspection of documents.

The arbitrator may obtain expert reports and may proceed in the absence of any party given notice of the proceedings.

The arbitrator may engage a lawyer to give advice on the conduct of the arbitration and to assist with the drafting of the award.

86X—Giving of relevant documents to the arbitrator

A party to an arbitration may give the arbitrator a copy of all documents (including confidential documents) the party considers to be relevant to the dispute.

86Y—Power to obtain information and documents

The arbitrator may require information and documents to be produced and may require a person to attend to give evidence.

Information need not be given or documents need not be produced where the information or contents are subject to legal professional privilege or tend to incriminate the person concerned of an offence. The person concerned is required to give grounds of objection to providing information or producing documents.

86Z—Confidentiality of information

The arbitrator is given power to impose conditions limiting access to or disclosure of information or documents.

86ZA—Proponent's right to terminate arbitration before an award is made

A proponent has the right to terminate an arbitration on notice to the other parties, the arbitrator and the regulator.

86ZB—Arbitrator's power to terminate arbitration

Where the dispute is trivial, misconceived or lacking in substance, or where the proponent has not negotiated in good faith, the arbitrator may terminate the arbitration.

86ZC—Time limit for arbitration

An award must be made within the period of 6 months from the date on which the dispute is referred to arbitration. However, the period does not include time awaiting compliance with orders of the arbitrator for the provision of information or documents.

86ZD—Formal requirements related to awards

Before an award is made a draft must be circulated to the Minister, the regulator, the parties and each designated agency to enable representations to be made.

An award must be in writing and must set out the reasons for it. If access is to be granted, the award must set out the conditions.

A copy of the award must be given to the Minister, the regulator, the parties and each designated agency.

86ZE—Consent awards

An award can be made by consent if the arbitrator is satisfied that the award is appropriate in the circumstances.

86ZF—Proponent's option to withdraw from award

After an award is made, the proponent has 7 days within which to withdraw from it. If the proponent withdraws, the award is rescinded and the proponent is precluded from making an access proposal within 2 years unless the regulator agrees. The regulator may impose conditions on such agreement.

86ZG—Termination or variation of award

An award may be terminated or varied if all parties affected by the award agree. The provisions of Part 9A relating to an access proposal and arbitration apply to a proposal to terminate or vary an award (or a dispute arising out of such a proposal).

86ZH—Costs

The costs of the arbitration are at the discretion of the arbitrator except where the proponent terminates an arbitration or elects not to be bound. In that case, the proponent bears the costs in their entirety.

86ZI—Contractual remedies

An award is enforceable as if it were a contract between the parties.

86ZJ—Appeal on question of law

An appeal to the Supreme Court is allowed only on a question of law. An award or decision of an arbitrator cannot be challenged or called into question except by appeal under the proposed section.

86ZK—Injunctive remedies

The Supreme Court may grant injunctive remedies if required to enforce compliance with an award.

86ZL—Compensation

The Supreme Court may order compensation to any person where there has been a breach of an award.

Division 7—Related matters

86ZM—Confidential information

The regulated operator is required to ensure that confidential information (which is defined) remains confidential.

The regulator may, however, disclose confidential information to the Minister or the public if it is in the public interest to do so.

86ZN—Access by agreement

The proposed section clarifies that the new Part does not prevent a regulated operator entering into an access contract with another person on terms and conditions agreed between the parties.

86ZO—Copies of access contracts to be supplied to regulator

Copies of access contracts must be supplied to the regulator on a confidential basis.

86ZP—Regulated operator's duty to supply information and documents

A regulated operator must give the regulator specified information or copies of documents relating to the regulated operator's water/sewerage service business.

86ZQ—Unfair discrimination

A regulated operator must not unfairly discriminate in relation to access to regulated infrastructure. A regulated operator must not unfairly discriminate between entities in the terms and conditions on which it provides access to regulated infrastructure.

86ZR—Review of Part

The regulator must review the Part within the last year of each prescribed period (which is defined).

8—Amendment of section 90—Consultation between agencies

This amendment is consequential.

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

Adjournment Debate

VALEDICTORIES

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) (17:26): As another busy parliamentary year draws to a close, I would like to, once again, acknowledge the very hard work and commitment of parliamentary members and staff. I am very pleased to say that 32 government bills have been passed by this council and I think 30-odd by the other house. In addition, some 21 private members' bills have been tabled and only one government bill defeated.

As the elected representative of the public of South Australia, we are charged with managing and amending legislation that reflects the needs and desires of all South Australians. I know that members in this place take that responsibility very seriously. Many voices and opinions have been aired and listened to, discussed and debated. Throughout it all the parliamentary staff have worked assiduously and have continued to support all elected members in these endeavours. Members on

the floor of the chamber owe a great deal to that hard work and the superb parliamentary team that we have around us.

The guidance and, yes, sir, the wisdom through the upholding of the standing orders through you, Mr President, the Clerk and, of course, the Black Rod has been of great assistance to members and made our task as legislators able to stand the test of time through ensuring that we adhere to proper processes that are constitutionally sound. The whips, the table staff, the messengers, Hansard staff all undertake their roles with a great deal of efficiency and diligence and have provided us with tremendous support in our role as legislators.

The prompt and courteous service from the chamber attendants is also appreciated. Parliamentary counsel have played their usual important and vital role in supporting our work here in the Legislative Council, with their technical expertise, efficiency and impartiality of work critical to our role as legislators. I also want to make special mention of the catering staff, who always provide us with excellent food in the Blue Room, at parliamentary events and also in the dining rooms. To the office staff, library staff and building staff, everyone who works in this place, thank you for your support, hard work and endeavours.

On behalf of all members, I would like to acknowledge and thank their staff, who spend so many long hours in here at times. It can be very intense, stressful and very challenging at times. We also benefit month in, month out from the excellent work of agency officers and, of course, ministerial staffers. I would like to convey a very big thank you to my own staff whose support, diligence, commitment and great sense of humour in the way they go about their work certainly enables me to do my job well. I am sure we all derive a great deal of pleasure; I certainly do. They tirelessly rise to the challenge of supporting me every day, and many nights as well, and I hope they know how much I appreciate that.

I cannot close without honouring the career of Jan Davis, the Clerk of the Legislative Council, who is about to mark her 50 years of service here in Parliament House. Those of us who have been elected for a number of terms realise that Jan's career is truly impressive. It is a feat of her fabulous dedication and sheer stamina.

Whilst on this theme, another significant historic milestone this year is the 120th anniversary of women's suffrage in this state. That historic legislation marks one of the defining characteristics of our state, the opening of equity, rights and opportunity to all people in our state to allow us all to be full participants in society. In that sense, the women's suffrage legislation underpins our fundamental values, which is a very worthy point to consider when we gather again next year to create legislation that will define South Australia's future.

Finally, congratulations and thank you to all my parliamentary colleagues for another year of service. The hours have been long at times. As the debates have gone on we have seen some very heated and strongly worded exchanges on all views, but we have also seen a high level of tolerance and respect at times. This is the nature of the democratic process and we mostly accept it all in good grace. In the long run, however, we remain united by a very common goal: serving the South Australian community. It is my hope that all members and parliamentary staff will be able to enjoy some time off with their family and friends over the Christmas and New Year break. All the best to everyone for a very safe and enjoyable festive season.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:32): I rise to endorse the comments made by the Leader of the Government in thanking all those who serve in this great establishment, the Parliament of South Australia. All those who support us, from the security guards who monitor us when we come in right through to Jan with her 50 years of service, thank you. It is important that we acknowledge all those who help us perform our duties: the catering staff, the table staff, Hansard and parliamentary counsel. We could not function as a parliament without them. Certainly parliamentary counsel and the table staff and some other staff here make the opposition's task a little easier.

We have significantly fewer resources than obviously the government ministers. We could not function as an opposition—and I think probably the minor parties are the same—without the support from the likes of parliamentary counsel and other staff in this place. They assist us in doing

our job of holding the government to account and moving private members bills and motions. It is important that we have that level of support.

As the minister acknowledged, I think it is important that we acknowledge the service that we all bring to this place as well. At the end of this calendar year, I guess the Liberal Party would say that we probably did not have quite the start we would have liked. We have a by-election coming up in a couple of days and it may well be that we have a good end to a bad year, or a bad end to a bad year. We will know in a few days. Nonetheless, we as a group here actually do have a reasonable level of respect.

I remember the Hon. Angus Redford, when I was elected, saying, 'You can't be too harsh on them, there's only 22 of us and we have to work together'. While we might be a bit robust and aggressive at times in here, we do have a reasonable level of respect for each other and work reasonably cooperatively together.

Finally, I would like to put on the record (and maybe one or two of my colleagues may speak as well) reference to Jan Davis's service of almost 50 years. I am sure 50 years ago she was excited and a little fearful of what lay ahead. I remember that I was starting kindergarten at about that time 50 years ago, and I was certainly a little bit excited and a little bit fearful of what I might encounter at kindergarten. I remember the first day at kindy and the first day at school.

The Hon. T.J. Stephens interjecting:

The Hon. D.W. RIDGWAY: Yes, I started when I was one, thank you Terry. It puts into perspective the long service that Jan has given this parliament, the Legislative Council and the state of South Australia and it is a privilege to have worked with her. When I was first elected Caroline Schaefer told me, 'If you ever have any problems understanding standing orders or any procedural stuff, go and see Jan; she is a wealth of knowledge and she is a great support to all elected members,' and I was only thinking of Caroline's words yesterday, when we had the function up in the Balcony Room, about the support that she said Jan would provide to all of us.

So, Jan, with those few words, I thank you on behalf of all of us. It is 50 years in one place of employment, having worked your way through the various levels of service, and to still be here and highly regarded and respected by all the people who have served in this chamber. I wish you a merry and happy Christmas, and all other members in the chamber as well.

The Hon. M.C. PARNELL (17:36): On behalf of the Greens I echo and endorse the comments of the Leader of the Government and Leader of the Opposition. All the people they have acknowledged and thanked I would like to acknowledge and thank as well, and also to particularly add our congratulations to the Clerk, Jan Davis, on 50 years of service. I recall when my father retired from the same company that he started his apprenticeship with as a 17 year old: he did not get to 50 years, but he had gold watches up both arms. It was called loyalty in those days, and it is a remarkable record of service that Jan has been loyal to this institution of democracy for all these years, so, on behalf of the Greens, thank you.

The Hon. B.V. FINNIGAN (17:37): Merry Christmas to all, and to all a good night. My thanks and acknowledgment to all the staff who assist to keep parliament running. It is certainly worth noting the extraordinary contribution of Mrs Jan Davis, Member of the Order of Australia, to parliamentary democracy and to the Legislative Council. For those of us who are under 50, it is a bit of a scary thought to think that for our entire lives Jan has been working here at parliament. To put up with parliamentarians for 50 years is a very significant achievement indeed. So, I would just like to place on the record my thanks and acknowledgment of her service, and best wishes for the future, not that she is going anywhere, I don't think. I extend to all honourable members, their families and friends a blessed and happy Christmas.

The Hon. K.L. VINCENT (17:38): Very briefly, on behalf of Dignity for Disability, I extend my thanks to all the people who have supported the party and myself throughout the year, the chamber staff, all of you, and especially, of course, Jan Davis, again celebrating her 50 years in this place. I do not want to labour the point too strongly, but that is just under two of my entire lifetimes.

Members interjecting:

The Hon. K.L. VINCENT: No, I am saying that in a good way, I am not trying to rub it in. Work with me here, I am trying to be festive! I would like to not only pay tribute to Jan's extreme loyalty, breadth of knowledge and dedicated service but also to the fact that she has not gone down without a fight in this place. Jan has been an amazing example of the strength of a woman, a young woman in particular, when she first came into this place.

I think my favourite example of that was when she took this job and she was told not to get engaged for—what was it, five years? And you did anyway, Jan. You were afraid of revealing that fact, but you marched into this place with your engagement ring proudly displayed on your finger and you rolled with the punches. From then on, you have become stronger and stronger by the day, it seems. We certainly congratulate you yet again on that amazing achievement over the last 50 years.

To all our members and supporters, a big thank you for enabling us to continue what we do. To my staff: Anna, Cathi, David and Sana, who has recently joined us; and of course, my thanks go on the record to my previous trainee, Lesley Gable, who recently left us, and we wish her all the best. This has been a year of significant achievement for Dignity for Disability, particularly, I think, in the areas of disability justice and making the voting system and democracy more accessible to people with disabilities.

Obviously we have faced some disappointments. I think one key example has been the government's lack of recognition of the need for more support for people with borderline personality disorder diagnoses. This is an issue that existed long before I started fighting for it in this place, and it will continue to exist, so we will continue to fight for adequate services and support for those people currently going without it.

Of course, the unmet needs list remains a significant area of concern. These are people waiting for basic services and basic supports that they need to get on with their lives, perhaps even to leave the house or to avoid being homeless or at risk of harm to themselves or to others. This is something I say not to drag down the tone of the speech, but just to remind ourselves that we do have a lot of work to get done when we come back. I, for one, look forward to doing that work.

The last point I would like to make is just a personal thank you to those members who have supported me and my family, particularly through the death of my mother-in-law, Rita, earlier this year. I know that I myself and my family and my partner, Nick, are particularly grateful for the respect and support that were shown to us at that difficult time. Having acknowledged that, though, I do have some happy news, in that as soon as I finish this speech and go to one more function, I get to go to hospital to meet my new nephew.

The Hon. S.G. Wade: Name him!

The Hon. K.L. VINCENT: He doesn't have a name yet! As soon as he does, I will let you know. It is a bittersweet day for us in the family. Thank you all for your support throughout that issue as well. Again, thanks to all the chamber staff: Mario, Anthony, Todd, Jan in particular, Guy, Leslie, Karen, Chris, and especially Mario, who brings me lots of water and makes sure that I am always well hydrated for all those lengthy speeches and long nights. I do not think I have ever in fact finished a glass of water in this place; it never gets below halfway point before Mario jumps in there. Thank you to you all, both professionally and personally, for the support that you have given me throughout the year.

The Hon. D.G.E. HOOD (17:43): Just a few words from me. I think I am the last speaker before you, sir, so I will be very brief. I just wanted to take the opportunity to wish everyone in the chamber a really peaceful, relaxing and enjoyable Christmas. We have worked pretty hard this year. For me personally it has been an interesting year. I have been really ill, as most of you know. I am coming out of that now, hopefully, and I just want to thank everyone for their support. I have had a lot of encouragement from people here. People have been understanding in terms of pairs and the like, so I really appreciate that. Thank you.

I also acknowledge Jan. Jan, what an amazing achievement! Fifty years in this place is extraordinary. I am absolutely in awe of that. I really cannot believe that anyone could do it to be honest. Congratulations. It is extraordinary, and you deserve every accolade you have enjoyed over the past couple of weeks.

I also thank you, Mr President. I personally endorse your fairly strict chamber rules. I have had three presidents since I have been in this chamber and I think you have taken quite a tough line on interjections and the like, and it is one that I personally endorse. Unfortunately, the nature of the adversarial system is that it creates tension in parliament. It creates the willingness for people to say their piece and it can reflect badly on us all at times. We need to keep that in check and remember that we are being watched and listened to and that this place is held in the esteem reflected by our behaviour. If our behaviour is good, it will be held in good esteem by and large. I thank you for that, sir.

I would also like very quickly to thank all of the staff. I think you have already been mentioned, but thank you, this place does not work without you. Obviously, Rob, my colleague, has been a real support to me and is a terrific guy, all the staff in our offices as well. Drinks are in the Hon. John Darley's office any minute now, so I think I am getting a little thirsty, sir.

The PRESIDENT (17:46): First of all I would like to endorse and agree with all the sentiments expressed by the various contributors here today about the chamber staff and our committee staff and, in particular, the contribution by the Hon. Mr Hood regarding the President. I endorse that very much.

I think we need to home in now on an extraordinary contribution played over the last 50 years by Jan Davis. Jan started as a junior clerk in 1964, she has gone up the ladder and very often under adversarial circumstances. Being a woman in this place 50 years ago would have been a very difficult job, especially when it was expected than when you were married you had to leave the parliament.

Jan should be a beacon of light to those women who want to progress through life and make a career for themselves. I, as President, rely quite a bit on Jan. I think I made this statement the other day: if I was given a choice between relying on the advice of a barrister in Adelaide or Jan Davis in regard to the process of the parliament, I would choose Jan every time.

I want to go through some of the extraordinary achievements of Jan. As I said, she started as a junior clerk in the Legislative Council in December 1964. She was then appointed to the position of Parliamentary Officer in 1973 where she acted as Secretary to numerous committees.

In 1978 Jan was appointed to the position of Second Clerk-Assistant which required attendance in the chamber. In 1979 Jan was appointed Clerk-Assistant and Usher of the Black Rod. The original title of the Black Rod was 'Gentleman Usher of the Black Rod' and, upon Jan's appointment, the word 'gentleman' was dropped. Jan was appointed as Clerk in this council in 1992. She was the first ever woman appointed to the position in any Australian parliament, which I think is an amazing feat.

Jan's distinguished career and service was recognised in 2008 when she was appointed a Member of the Order of Australia for her services to this parliament. I notice this, as President: all the people who work under Jan seem to be very happy. You look at the length of service of many of the people who work here—Margaret, who has been here for 40 years; Chris Schwarz, who has been here for 30 years; Todd Mesecke, who has been here for 20 years. Obviously, Jan is a very easy person to work under, and I think it is a great tribute to Jan in the way she treats her staff.

I want to read out some statistics to put in perspective the length of time that Jan has been here. In her 50 years, Jan has seen the introduction of 5,757 bills into the Legislative Council, the passage of 4,380 acts and 14,602 hours of sitting. In Jan's time, she has also seen the comings and goings of 217 members of the House of Assembly, 96 members of the Legislative Council, 18 speakers, 14 premiers, 12 presidents (hopefully this figure will stay for a few years), and 11 governors, but only four clerks other than her.

So, it is an amazing achievement, Jan, and from the bottom of my heart I do appreciate the trailblazing career that you have had. I know there are a number of people who want to give their tributes to you, Jan, and we would then like to hear a few words from yourself.

The Hon. J.M.A. LENSINK (17:50): I would like to acknowledge 50 years of service. Like senior civil servants, which is probably the title Jan might have held, elected members come and go, but the Clerk prevails. There have been some comments made about 50 years of service. I would just like to say that Jan, still being a keen skier and so spritely, must have entered service in this

place at the age of two! Her assistance to us in preparation and procedure is second-to-none and most of us are completely reliant on her. She has been a trailblazer and a role model for women and upheld the integrity of the Legislative Council. Thank you.

The PRESIDENT: I would like to seek leave to allow Jan to give us a statement on how she has seen her career.

Leave granted.

The CLERK: In November 1964, I was interviewed by the then Clerk of the Legislative Council for the position of clerk typist to the Legislative Council. At my interview, I had to give an undertaking that I would not become engaged or married for some five years. I subsequently was appointed to the position, even though I myself was uncertain of leaving my junior teaching position at a city college.

In March the following year, the long-standing Liberal Playford government was defeated and the Labor Walsh government was elected. After the next election in 1967, Frank Walsh was replaced as Premier by Don Dunstan. In the meantime, I became engaged, and to be honest, I was terrified to face the clerk, but my colleagues suggested we should take the bull by its horns and display my ring to the clerk and break the news. I honestly thought I would get instant dismissal; however, I had hopefully proved my worth, and was not showing signs of disappearing overnight.

During this period in the late sixties and seventies, we had many all-night sittings, with deadlocked conferences between the houses lasting for many hours. Issues such as succession duties and the council franchise were on the agenda. Breakfast was often at the Adelaide Railway Station, as the dining room was unprepared. I subsequently progressed to the position of accountant to the legislature and liaised with Treasury in regard to all financial matters for the parliament as a whole. Eventually, I was appointed to a new position of parliamentary officer and then became the secretary to various select committees.

It was during this period as parliamentary officer that I had a valuable learning experience in life itself. My progression through the ranks was not always a smooth path. Certain persons, for various reasons, attempted to interfere in the appointment process during the period of retirements of senior personnel. I was subject to some torrid moments in my early career path. One of the persons suggested I should be at home doing my housewifely duties, and the then President of the Legislative Council, who held the balance of power in the upper house and was required to use his casting vote in every situation, endeavoured to appoint his son to a position for which I had applied, and I was to be moved sideways.

I was given advice and support from very senior members of both major political parties at that time, including then Premier of South Australia, the Hon. Don Dunstan. During this period, many times I would go home and feel I just could not return, but it was through the support of my family and co-workers, who were aware of what was happening, that I was given strength to continue. Through this general support, including that of very high-ranking government and opposition members, coupled with the subsequent retirement and death of the chief adversaries, I managed to survive and eventually was promoted to table officer status—that was, in those days, second clerk assistant.

I have from time to time looked back over this period of my life, but never with regret, as I think it was an important period in my personal development, and made me a much stronger person, strengthening my resolve to achieve and to never let what happened to me happen to the staff who are now under me. It certainly gave me an awareness of some of life's pitfalls, and even though I would not wish to go through a similar period, I have treated it, as I have said earlier, as a valuable life experience.

Another important event in my life was in 1978 when I found myself overnight in the position of having to act as the Usher of the Black Rod. The parliament was recalled for urgent passage of the Santos legislation and the then Clerk was overseas. With two days' notice I was required to undertake the Deputy Clerk's role as Usher of the Black Rod. The Black Rod up until that time had always been a male in all parliaments of the British Commonwealth. In fact, the holder of the office in Westminster had always been a retired military, naval or air force officer.

The ancient decree which established the office stated that it must be filled by 'a gentleman famous in arms and blood'. The actual title in those days was Gentleman Usher of the Black Rod, which was included in our standing orders. There was much discussion as to how I would be announced and eventually it was determined to remove the prefix of gentleman. On this first occasion I was admitted to the bar of the House of Assembly where I received a round of applause, which was truly wonderful, as many of the members knew of the difficulties I had earlier experienced.

A year later I was actually appointed to the position of Deputy Clerk of the Council and Usher of the Black Rod. This was the first time a woman held this position in the British Commonwealth. In this position I acted as secretary to the highly controversial select committee to inquire into uranium resources, which received considerable evidence and travelled throughout Australia. The issue of uranium mining coupled with the composition of members of this committee meant that it was extremely volatile and divisive, but provided me with a considerable experience in the world of politics.

Eventually in 1992 I was appointed as Clerk of the Legislative Council, the first time a woman in any Australian parliament had held this position. Having worked for 50 years in the Legislative Council, I think you all know that I have a passion for defending this institution. I continue to enjoy working with you all and I believe I am living testament to the statement made by a federal presiding officer that 'members come and go, but Clerks stay forever'. I thank you all.

Bills

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

Second Reading

Adjourned debate on second reading.

(Continued from 20 November 2014.)

The Hon. R.I. LUCAS (17:58): I rise on behalf of Liberal members to indicate our support for the second reading of the Stamp Duties (Off-the-plan Apartments) Amendment Bill 2014. In 2012 the government at that stage introduced stamp duty relief for off-the-plan apartment sales in the city, and at Bowden and Gilberton. That concession provided a full stamp duty concession for off-the-plan contracts entered into up to 30 June 2014 and capped at a stamp duty payable on a $500,000 apartment, which was stamp duty payable of $21,330, then a partial concession for the next two years.

In October 2013, the government announced a policy to revitalise the inner metropolitan area, allowing for up to 18,500 new homes. The government announced that it would extend stamp duty relief for off-the-plan apartment sales to rezoned inner metropolitan areas, saving people up to $21,330 on the cost of purchasing a new apartment. This was to be effective from 28 October 2013 and up to 30 June 2014, with partial concessions of between $3,250 and $15,500 for the next two years.

We are advised by the government that applications currently submitted to Revenue SA have been paid by ex gratia payments because the legislation does not make provision for that benefit. The bill that is before the parliament is seeking, in essence, retrospectively to give legal authority to provide those ex gratia payments or concessions.

In its media release announcing the policy, the government said that the expansion of the targeted stamp duty grants would cost up to $7 million. This $7 million figure was confirmed in the 2013-14 Mid-Year Budget Review and represents the amount for the three-year period up to July 2016. The government has advised the opposition that it estimates that around 260 applications have been processed so far, costing about $4 million. We are advised that this additional concession is applying to developments within the Adelaide City Council, Bowden, Park 45, Gilberton, as well as the inner metro area bounded by Regency Road, Hampstead Road, Portrush Road, Cross Road, Marion Road, Holbrooks Road, East Avenue and Kilkenny Road.

In consulting stakeholders over the legislation, we received very little response from most stakeholders. A limited number of industry associations indicated their support for the legislation. However, we did receive a detailed response from the Housing Industry Association, whose general

position was that they welcomed any stamp duty relief but believed that it should be extended to other areas. Their concluded position, however, as they put to the Liberal Party, is that they opposed this bill for the reasons that it was providing a concession only to restricted areas rather than being more broadbased. The Housing Industry Association is arguing that these sorts of concessions and benefits, if they are to be applied, should be applied more broadly rather than being restricted to the CBD and inner metropolitan areas.

Whilst acknowledging that the Housing Industry Association, which is clearly a significant stakeholder in this area, is opposing the legislation, or so they have advised us, the Liberal Party, nevertheless, has adopted a position of indicating its support for the legislation whilst undertaking to put the Housing Industry Association's opposition on the public record.

The Hon. M.C. PARNELL (18:02): I rise very briefly to indicate that the Greens are supporting this bill. The problem of urban sprawl in Adelaide is going to be fixed only if we adopt a wide range of measures to encourage appropriate higher-density development in the city and inner suburbs. There are a range of carrots and sticks that can bring about desired results; certainly, the planning system is one. The development plans for the city of Adelaide and for surrounding areas can reflect the types of developments that are appropriate in terms of scale and height. But a further incentive which is worth support and which this bill contains is to provide relief from stamp duty for those who buy apartments off the plan.

Whilst I understand that there has been some criticism that this should be a universally-applied scheme of stamp duty relief, the Greens believe that it is better targeted at those areas where we want new development and we want to increase densities, and that means the city and the inner suburbs. With those brief words, I indicate that the Greens are supporting this legislation.

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) (18:04): I thank members for their second reading contributions and their support for the bill. I look forward to it being dealt with expeditiously through the committee stage in February.

Bill read a second time.

STATUTES AMENDMENT (SACAT) BILL

Final Stages

The House of Assembly agreed to the alternative amendments to amendments Nos 5, 6, 9, 13, 14, 16 and 17 made by the Legislative Council without amendment.

ANANGU PITJANTJATJARA YANKUNYTJATJARA LAND RIGHTS (MISCELLANEOUS) AMENDMENT BILL

Final Stages

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

At 18:07 the council adjourned until Tuesday 10 February 2015 at 14:15.