LEGISLATIVE COUNCIL

Thursday, 17 October 2019

The PRESIDENT (Hon. A.L. McLachlan) took the chair at 11:00 and read prayers.

The PRESIDENT: We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of this country throughout Australia, and their connection to the land and community. We pay our respects to them and their cultures, and to the elders both past and present.

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. R.I. LUCAS (Treasurer) (11:01): I move:

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

Motion carried.

Bills

STATUTES AMENDMENT (MINERAL RESOURCES) BILL

Committee Stage

In committee.

(Continued from 15 October 2019.)

Clause 22.

The Hon. M.C. PARNELL: Before I move my amendment, I will ask the minister a question on clause 22. This clause creates a mining register. It is proposed new section 15AA—The register. Subclause (4) provides:

The register will be kept in such forms as the Mining Registrar thinks fit (including in an electronic form).

My question of the minister is: is there anything in this section that requires the register to be publicly available?

The Hon. R.I. LUCAS: The answer is that it is not explicitly provided in the legislation, but the minister in another place has given a public commitment that it will be publicly available and I am reliably advised that my second reading explanation, which I paid great attention to, also gave a similar commitment on behalf of the minister and the government. So there is a commitment from the government to do so.

The Hon. M.C. PARNELL: I thank the minister for his answer. I now move:

Amendment No 15 [Parnell–1]—

Page 24, after line 18 [clause 22, inserted section 15AA]—After inserted subsection (4) insert:

(4a) The Mining Registrar must make all information on the mining register publicly accessible on a website determined by the Minister.

(4b) The Mining Registrar may determine that access to information, or a class of information, on the register is subject to such conditions as the Mining Registrar thinks fit.

(4c) Subsection (4a) does not authorise the release of information on the mining register if—

(a) the release would be contrary to any other Act or law; or

(b) the release would be in breach of an order of a court or tribunal constituted by law; or

(c) the release would involve the disclosure of a trade secret; or

(d) the release would be contrary to any requirement or restriction prescribed by the regulations.

This formally requires, as opposed to an undertaking given by the minister, that the mining registrar must make all information on the mining register publicly accessible on a website determined by the minister. Whilst I move that amendment, and I seek the council's support for it, on the back of the undertaking provided by the minister I will not be dividing if, in the unlikely event that I am unsuccessful, this amendment does not get up. I still think it is worth putting in the bill, so I move the amendment, but I will not divide if it does not get up.

The Hon. R.I. LUCAS: I thank the honourable member for his almost reasonable presentation of his argument. The government, as indicated in another place, opposes the provision for the reasons that the minister outlined in another place, but the intent of what the member is seeking is going to be provided, as I understand it from his comments. I welcome the fact that he is not going to divide on this particular provision, so thank you very much.

The Hon. F. PANGALLO: For the record, SA-Best will be supporting the Parnell amendment.

Amendment negatived; clause passed.

Clauses 23 to 45 passed.

Clause 46.

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

Amendment No 16 [Parnell–1]—

Page 60, lines 10 and 11 [clause 46, inserted section 36(1)(c)(iv)]—Delete 'in accordance with the regulations'

This is a fairly simple amendment. It seeks to delete the words 'in accordance with the regulations'. The background to this amendment is that applicants for mining leases are required to undertake community consultation. The requirement is contained in regulations rather than in the act; therefore, the provision in the bill before us requires reporting on the consultation that was undertaken in accordance with the regulations.

The simple amendment I have moved provides that, regardless of what the regulations may prescribe, the mining companies should report on all the consultation that they have undertaken. There is, of course, a broader issue about whether mandated consultation should be included in delegated legislation or whether it should be a requirement of the act, but I have not gone down that path. It is a minor amendment that requires the mining company to set out the results of all consultation undertaken, even if it turns out in the future that the regulations do not prescribe any.

The Hon. R.I. LUCAS: The minister has advised me that the explanation provided to him by the honourable member, I assume in some discussion at some stage, stated that this amendment, in short, 'ensures that the mining company must report on its public consultation even if no regulations mandating consultation have been created'. I think the honourable member has just repeated words to a similar effect in the chamber.

The minister advises me that if that is the case, then the honourable member appears to have misunderstood the intent of this section. The applicant is required to set out the results of the consultation undertaken in connection with the operations proposed by the application. This disclosure is required to be done in accordance with the regulations, describing who was consulted, their issues and concerns, and any steps taken to address those concerns. A draft regulation for exactly this purpose has already been prepared in discussion with the state's grain producer and primary producer associations. For those reasons, the government is opposing this particular amendment.

The Hon. M.C. PARNELL: I think I understand what the minister is saying. It may be a matter of statutory interpretation as to whether the reference to regulations is a reference to the minimum consultation that must be undertaken or a reference to the details of the report in relation to those consultations. Nevertheless, the minister says that there are draft regulations in the wings.

I am hoping that they will satisfy the concerns that have been raised with me by conservation and farming groups. So whilst I move the amendment, I will not divide on this one.

The Hon. F. PANGALLO: For the record, we will be supporting the amendment.

Amendment negatived.

The Hon. F. PANGALLO: I move:

Amendment No 21 [Pangallo–1]—Page 60, after line 27 [clause 46, inserted section 37(1)(a)]—After subparagraph (ii) insert:

(iii) that the applicant has sufficient financial resources to undertake the operations in respect of which the lease is sought; and

This is an important amendment. I am gobsmacked that neither the government nor the opposition saw fit to include it or even provide support for the amendment. This amendment ensures that the applicant has sufficient financial resources to undertake the operations in respect of which lease is sought. Essentially, it will ascertain whether the company involved can demonstrate that they have the financial resources to be able to complete the project.

It prevents companies from undertaking exploration or production and then not having the funds to compensate or rehabilitate. I spoke about this previously when we were going through this bill. I mentioned a couple of places. I mentioned Lambina, and the Treasurer got up and said, 'They are required to remediate the area that they have excavated for opal mining.' Well, it did not happen, simply because of the costs involved in fuel and whatever. They did not remediate: they just left these vast tracts of land.

I want to bring the chamber's attention to an incident reported only this week where an oil and gas explorer was suspended by the Stock Exchange over its rehabilitation liabilities. That gives an indication that there are companies out there that will go out and conduct their exploration and then, when it comes time to rehabilitate, they find themselves without the financial resources to be able to remedy the situation.

In this case NSE ran out of money before it could frack oil and gas wells drilled in the Great Sandy Desert, so it was suspended by the Stock Exchange for not including environmental rehabilitation costs in its financial reporting. I quote from the ABC article by Ben Collins on this, which was posted on 16 October:

The failure to find commercial quantities of oil and gas contributed to a severe economic downfall, and now the environmental liabilities from those wells has led to a suspension from trading.

It goes on:

Company documents show NSE responded to the ASX that the cost was not possible to estimate without visiting the long-abandoned desert exploration wells.

The article further states:

Financial analyst Tim Treadgold has followed the rise and fall of NSE and said an ASX suspension for not disclosing environmental liabilities was unusual. 'The company claims it can't work out what it owes, but quite frankly I've never come across that before,' Mr Treadgold said. 'None of this is rocket science, this is something that is done every day of the week, and I've never seen a company queried for not making provision for that work.'

That is why I think it is important we ensure that if there are mining companies that want to go onto valuable, arable land, they want to dig it up, they want to cause the damage, that they are able to remediate and can show they do have the financial resources to be able to carry out those remediation works. I ask the chamber to seriously consider this amendment.

The Hon. R.I. LUCAS: The government opposes the amendment. The amendment prevents the minister from granting a mining lease unless the applicant has sufficient financing to fund the proposed project. This reflects a fundamental lack of understanding of the development sector and the relationship between project funding and investor certainty.

The regulatory process within the current Mining Act and reinforced in the bill delivers a comprehensive environmental impact assessment proposal and determines whether the state's resources can be commercially extracted in a manner that is environmentally acceptable before any

rights to our minerals are granted. If a project is approved it is approved with conditions that protect the environmental, social and economic interests of the project stakeholders and the state. Before a project can commence, financial bonds and insurance must be in place to cover any risk of failure of the project.

The proposed amendment does not provide any greater guarantee that the project will commence at a particular time, nor does it provide any additional mitigation of risk. What it does do is materially constrain the opportunity for companies of all sizes to meet the stringent regulatory requirements required in granting a mining approval. It will prevent all but the largest companies from advancing mineral projects along the development curve and diminish the likelihood of extracting our mineral resources to the advantage of our citizens. In doing so it creates a significant disadvantage for South Australia in its ability to attract investment.

The Hon. M.C. PARNELL: The Greens will be supporting this amendment for the reasons that the Hon. Frank Pangallo set out. Of course, following on from what the minister just said, one of the dilemmas of companies that do not have the financial resources to actually follow through with a mining lease they may have been granted is this issue of uncertainty that I raised before, and farmers have raised it with me.

They say, 'Well, there's a mining company that has rights over my property. We don't know when they're going to get around to exercising those rights. It might be next year; it might be in several years' time. In the meantime I'm in limbo, and I don't know what I should be doing—repairing fences, building sheds, adding value to my property, which might all be undone when the mining company eventually gets to work.' So I think it does make sense, and of course there is the rehabilitation issue that the Hon. Frank Pangallo put.

To put this amendment into context, in the proposed new section 37 there is actually a list of things the minister must take into account before granting a mining lease. As the minister paraphrased, the first requirement is that the land can be effectively and efficiently mined; that is the first criteria. The second criteria is that appropriate environmental outcomes will be able to be achieved. Now, of course, appropriate environmental outcomes are in the eye of the beholder.

So a question I ask on behalf of the School Strike 4 Climate and the thousands of people who have been marching in the streets of Adelaide and elsewhere is: if an applicant for a new coalmine in South Australia was to seek a mining licence, would the minister take into account the fact that the burning of that coal, whether here or elsewhere, would exacerbate climate change? Would the minister take that into account as an appropriate environmental outcome, and under what section of the Mining Act is the minister required to take climate change impacts into account?

The Hon. R.I. LUCAS: I am advised that under the definition section the reference to the definition of 'environment' is all-encompassing, including 'land, air, water (including both surface and underground water and sea water), organisms, ecosystems, native fauna and other features or elements of the natural environment', etc. There is a very long definition of what the environment covers, so an investigation or consideration of environmental considerations would cover all of those issues as per the definition of 'environment' in the act.

The Hon. M.C. PARNELL: I thank the minister for the answer. I think it does go to the heart of it, that the definition of 'environment' has never explicitly included impacts on the world's climate. If I am wrong, and if the minister can point to some part of that definition that explicitly refers to climate—because let's be real here: digging up coal and burning it here or exporting it to another country so that they can burn it is this generation's major environmental issue. As this council has previously resolved, we are in a climate emergency.

I am not aware that ever in the history of South Australian mining and mining regulation in South Australia has a mining department—ever, ever—taken into account the impact of the activities of the mining industry on the climate. If I am wrong, I would be happy to accept the minister's example. For example, where an applicant for a coalmine has come along and the mining minister in South Australia or the department has said, 'You can't do that. That's terrible for the climate.' If you can show me an example, I would be most pleased. I do not believe there is one.

The Hon. R.I. LUCAS: There is no explicit reference to climate change, but clearly in the broad definition of the environment if the minister of the day received evidence or advice in relation

to the environmental impact which appertained either directly or indirectly to the issue the member has just raised that would be one of the issues that he would have to consider. But the member is right, there is no explicit reference to the two words 'climate change' in the act or indeed in the definition of 'environment'.

'Environment' does cover all of the issues I assume the honourable member would argue climate change is likely to impact, which is air, water and a variety of other things I would assume directly and indirectly would be the honourable member's argument in relation to climate change impacts or potential climate change impacts. I can only acknowledge that there is no explicit reference to the two words 'climate change' in the definition.

The Hon. M.C. PARNELL: I thank the minister for his answer. As a final observation on this point, if we had in our legal toolkit some of the tools that they have had, for example, in the New South Wales Land and Environment Court, where you did find one of the judges of that court directly took into account the fact that a coalmine would result in coal being dug up, and that coal, whether here or overseas, would be burnt and that the burning of that coal would exacerbate climate change. That was regarded as a legitimate environmental consideration that resulted in a mining project being stopped.

I do not believe we have the tools in the South Australian legal toolkit. We certainly do not have the legal tools in terms of access to justice. There are lots of barriers, including standing. Our own Environment, Resources and Development Court does not have direct jurisdiction over questions like this. Even if they did, no member of society, no conservation group, none of the school kids who have been marching, has a legal right to put their foot within the door of the court. So I think we are a long way behind other states, but those reforms I think are for another day.

The Hon. F. PANGALLO: I would like to ask the Treasurer about 37(1)(a)(ii) 'that appropriate environmental outcomes will be able to be achieved'. In other words, the minister will not grant a mining lease unless the minister is satisfied that the appropriate environmental outcomes will be able to be achieved. We have seen situations in Kimba, for instance, where the possibility of being able to store low-level radioactive waste has been subjected to a ballot in the community. The commonwealth, the federal government, the minister, outlined that there needed to be broad community support. I remember at the time we tried to get a definition of what 'broad community support' meant. I would like to ask the Treasurer: what does 'appropriate environmental outcomes' mean? Is there a definition for 'appropriate environmental outcomes'?

The Hon. R.I. LUCAS: The environment is defined, as I indicated earlier. The minister has to make a judgement in relation to an appropriate environmental outcome according to that particular definition of the environment. It is correct to say that the three words 'appropriate environmental outcomes' is not defined in the act but 'environment' is, and the minister has to respond.

In relation to the earlier request, maybe even a challenge, from the Hon. Mr Parnell, I am advised that OZ Minerals reported on greenhouse gas in their recent Carrapateena application to the government as part of its assessment, so I assume it is done on a case-by-case basis.

The committee divided on the amendment:

Ayes.....4
Noes 15
Majority 11

AYES

Bonaros, C.	Darley, J.A.	Pangallo, F. (teller)
Parnell, M.C.		

NOES

Bourke, E.S.	Dawkins, J.S.L.	Hanson, J.E.
Hood, D.G.E.	Hunter, I.K.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I. (teller)	Maher, K.J.

NOES

Ngo, T.T.	Pnevmatikos, I.	Scriven, C.M.
Stephens, T.J.	Wade, S.G.	Wortley, R.P.

PAIRS

Franks, T.A.	Ridgway, D.W.

Amendment thus negatived; clause passed.

Clause 47.

The Hon. F. PANGALLO: My amendments on file on this clause are consequential, so I will not be moving them.

Clause passed.

Clauses 48 to 52 passed.

Clause 53.

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

Amendment No 17 [Parnell–1]—

Page 71, line 37 to page 72, line 4 [clause 53, inserted section 56G(3)]—Delete inserted subsection (3) and substitute:

(3) If an application is referred to a relevant Minister and the Minister to whom the administration of this Act is committed and the relevant Minister cannot agree on the decision to be made on the application, the application must be refused unless the relevant Minister consents to the grant of the application.

(3a) The grant of a mineral tenement with the consent of a relevant Minister under subsection (3) may be made subject to terms and conditions determined by the relevant Minister.

This issue relates to a matter that I referred to earlier, but I will go into a little bit more detail now. The proposed new section is entitled 'Specially protected areas'. We are looking at a range of areas here, but in particular reserves under the National Parks and Wildlife Act. There are some other areas, I think in the Flinders and Gammon Ranges specifically, that are listed, but anyway, regarding specially protected areas, in a nutshell the regime provides that if the mining minister and the environment minister cannot agree, it goes to the Governor, which, of course, is a euphemism for it goes to cabinet.

My amendment simply provides that if you have an area that is, or should be, specially protected for its environmental values and the environment minister decides that mining is not appropriate, that should prevail. In other words, in a stand-off between the environment minister and the mining minister, the environment minister should win.

People might think that it is more democratic for it to go to the Governor and for the whole of the cabinet to decide. My point is that the environment minister is a person to whom protected areas are a special responsibility. They have a department full of experts who understand the important values of environmental areas. The mining department, on the other hand, whilst it pays lip service, does not have that expertise.

I have one other very quick anecdote. Many years ago, there was an advertisement in the newspaper for an inspector under the Mines and Works Inspection Act—a mining inspector. Out of interest, I applied. I did not apply for the job, but I got the job specs to have a look at it. Interestingly, for a mining department inspector, whose job it was to assess environmental conditions, you had to have a blasting licence, but you did not need to know the difference between an emu and a numbat.

You did not need to have any environmental qualifications whatsoever, but you needed a blasting licence. I thought, 'Well, that sums it up when it comes to the mining department's attitude

to the environment.' In those rare cases where we have a specially protected area and the environment minister has a say, the environment minister's view should prevail.

The Hon. R.I. LUCAS: This issue has been ventilated, but the government's position is to oppose the amendment by providing a veto right for the Minister for Environment and Water. This amendment undermines long-established principles that are in place right across the commonwealth to manage disagreements between ministers through the democratic decision-making of the cabinet and the Governor, ultimately, on behalf of the state. The government's position is firmly of the view that people elect governments and cabinets, and cabinet decision-making in this particular area has long been established as the process that is followed. The government supports the continuation of that process.

The Hon. F. PANGALLO: We will be supporting the Hon. Mark Parnell's amendment.

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

The committee divided on the amendment:

Ayes.....4
Noes 15
Majority 11

AYES

Bonaros, C.	Darley, J.A.	Pangallo, F.
Parnell, M.C. (teller)		

NOES

Bourke, E.S.	Dawkins, J.S.L.	Hanson, J.E.
Hood, D.G.E.	Hunter, I.K.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I. (teller)	Maher, K.J.
Ngo, T.T.	Pnevmatikos, I.	Ridgway, D.W.
Scriven, C.M.	Stephens, T.J.	Wortley, R.P.

PAIRS

Franks, T.A.	Wade, S.G.

Amendment thus negatived.

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

Amendment No 18 [Parnell–1]—

Page 73, line 15 [clause 53, inserted section 56H(8)]—After 'determination' insert:

, and reasons for the determination,

The amendment that I move seeks to require the minister to provide reasons for her or his decision. At present, subsection (8) of proposed new section 56H provides:

As soon as practicable after determining whether or not to grant or refuse an application to which this section applies, the Minister must cause notice of the determination to be published in accordance with the regulations.

That is fine, publishing a decision. There are a lot of administrative decisions that are required to be published, but best practice also provides that ministers should provide reasons for their decision as well. My amendment simply seeks to add the words 'and reasons for the determination'.

The Hon. R.I. LUCAS: The government opposes the amendment. The government supports transparency by providing the public with clear and accessible explanations for all significant decisions taken under the Mining Act. This is reflected throughout the bill. The amendment

proposed by the honourable member unnecessarily duplicates the requirements within the bill for the minister to prepare an assessment report for an exhaustive list of decisions, which includes:

- an application for a mineral tenement;
- the ranking of applications for exploration licences about an exploration release area;
- an application for retention status;
- an application to amalgamate the area of two or more tenements;
- an application for a change of operations;
- a decision to cancel, suspend or surrender a tenement; and
- a decision to exempt a tenement holder from an obligation to comply with the term or condition of a tenement, or from a requirement of the act.

For those reasons, the government will be opposing the amendment.

The Hon. M.C. PARNELL: I will just add that the ability to exempt a tenement holder from a requirement to comply with conditions can include an exemption from environmental conditions. That is all the more reason why the reasons for that decision should be granted. I do not accept that there is a duplication in every case. Certainly, in relation to some of the decisions that the minister referred to, the reasons for a decision can be deduced from other documents, but not in every case and certainly not in cases, as is my understanding, of waiving a person's obligation to have to comply with a condition of their mining tenement.

The Hon. F. PANGALLO: SA-Best will be supporting the amendment.

The Hon. J.A. DARLEY: Likewise, Mr Chairman.

Amendment negatived; clause passed.

Clauses 54 and 55 passed.

Clause 56.

The Hon. F. PANGALLO: I move:

Amendment No 24 [Pangallo–1]—

Page 87, line 40 [clause 56, inserted section 58A(9)(b)]—Delete '3' and substitute '6'

Essentially, this amendment extends the period of time that a landowner can have to serve a notice of objection from three months to six months. I think it is important that a landowner is given reasonable time. I do not think three months would be considered reasonable when you have to take into account so many factors with what could happen to the property. I think property owners deserve enough time to receive the appropriate advice, seek any legal advice that they may wish to have, and prepare reports. I think three months may not be enough time.

The Hon. R.I. LUCAS: The government opposes the amendment for the simple reason that it believes it creates material uncertainty for industry for no material gain for the landowners in that process.

The Hon. M.C. PARNELL: The Greens will be supporting the amendment. We think that increasing the time from three to six months gives more time for negotiation, as much as anything else, and may in fact result in less disputation, so we will be supporting the extension.

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

Amendment negatived.

The Hon. F. PANGALLO: I move:

Amendment No 25 [Pangallo–1]—

Page 88, line 11 [clause 56, inserted section 58A(12)]—After 'land,' insert:

or to a business operating on the land,

This essentially extends the provision from the land to include a business operating on the land. This can be considered a substantial extension. I think it is important that the business and its operations are taken into account.

The Hon. R.I. LUCAS: In putting the government's position, the advice I have relates to what we think are four amendments which would appear to be, to the government anyway, consequential upon each other, so I will speak to the package. The government opposes the series of amendments to clause 56. These amendments reflect a lack of understanding by the honourable member of the current legislative framework and in this case the past 50 years of case law arising from court-led dispute resolution under the Mining Act.

As proposed, the amendment seeks to clarify that a court, in hearing an objection to operations, can determine compensation and should have regard to businesses and structures, not just land. This is how the law already works and has done so since before the 1971 act. If the court is satisfied that the operations on a person's land would likely result in substantial hardship or substantial damage to the land, the court may determine that the land or a particular part of the land should not be used for the purposes of the proposed authorised operations, determine conditions on which operations may be carried out on the land with least detriment to the interests of the owner and least damage to the land, and determine an amount of compensation payable.

The court does not apply substantial hardship or damage to the land in its literal or tangible sense; rather, the court has latitude to consider a much broader view of hardship or damage suffered to that owner's enjoyment or use of their land and activities related to that land. This is not limited to businesses or structures. The honourable member's intent is acknowledged; however, his amendment, in the government's view, is unnecessary.

The Hon. M.C. PARNELL: The Greens will be supporting this amendment. Whilst the minister says that it is unnecessary and that they already take into account the impact on businesses, it seems to me to improve the legislation by adding it. You also have situations, of course, where you have people who are seriously affected by mining activities who might not be freehold owners or even leasehold owners. Ecotourism companies, for example, are using the natural environment, showing people around, creating jobs and wealth for South Australia. They are not landholders. They are not usually regarded as stakeholders when it comes to decisions about mining, and yet their businesses can be affected.

Even if, as the minister says, the issue can be taken to into account, I think the Hon. Frank Pangallo's amendment makes it crystal clear that it is not just damage to the land and that the words 'substantial hardship' would be further clarified, if you like, by including a reference to business operations.

The Hon. J.A. DARLEY: I will be supporting all four of the Hon. Frank Pangallo's amendments.

Amendment negatived.

The CHAIR: We now come to amendment No. 26 [Pangallo-1]. The Hon. Mr Pangallo, is this consequential?

The Hon. F. PANGALLO: Yes, they are, so I will not be moving amendments Nos 26 to 28.

Clause passed.

Clause 57 passed.

Clause 58.

The Hon. F. PANGALLO: I move:

Amendment No 29 [Pangallo–1]—

Page 89, lines 5 to 8 [clause 58(1), inserted subsection (1)]—Delete inserted subsection (1) and substitute:

(1) An owner of land—

(a) on which authorised operations are carried out under this Act; or

(b) in the vicinity of land on which authorised operations are carried out under this Act,

is entitled to receive compensation for any economic loss, hardship or inconvenience suffered by the owner in consequence of authorised operations.

This amendment provides for compensation for the impacts on the land and the impacts on the land in the vicinity of the operations. I think this is an important amendment. It strengthens the protections for the owner of the land to ensure that they do not lose out financially in the event that operations are carried out.

The Hon. R.I. LUCAS: The government opposes the amendment. This proposed amendment seeks to extend the requirement for compensation to some nebulous distance 'in the vicinity of' an exploration or mining operation. The existing regulatory regime, which is retained in the bill, includes multiple protections for all landowners who have the potential to be impacted by exploration or mining operations, irrespective of their proximity to those operations.

First and foremost, any operation must demonstrate that it can be conducted without unreasonable environmental, social or economic impacts before it is approved. The onus is on the proponent to evidence that their proposal is sound. If the proponent cannot demonstrate that it will not result in unreasonable impact, it simply will not be approved. The exempt land requirements under the act also protect the interests of adjacent property owners. Exempt land requirements transgress the boundary of a lease.

I find it easiest to visualise exempt land as a series of circles on a map radiating out from each object that gives rise to an exemption. Wherever the proposed operations intersect those circles, whether or not the property is within the boundary of the tenement, a miner must resolve access to that exempt land before the operations can be undertaken. The bill also retains the requirement for miners to hold significant public liability insurance policies throughout the duration of their operations.

The Hon. M.C. PARNELL: I think this is an important amendment. Whilst the minister is correct in saying that the concept of exempt land does not parallel property boundaries—you could in fact be the next-door neighbour whose house is very close to a proposed mine and therefore still exempt land—it gets to the point where the impact perhaps farther away might still be considerable.

The best example is that you might have someone who is two kilometres from the proposed mine. They have a house very close to a small country lane, a small dirt road, which is going from two motor vehicles per day to two B-doubles per hour. They are not going to get any compensation. They are not exempt land because we are talking about the carriage of minerals down what used to be a quiet little country lane.

The minister's objection seems to be that the Hon. Frank Pangallo has added people who are in the vicinity of land on which authorised operations are undertaken to the list of people entitled to apply for compensation. The minister says that is an uncertain category of people. My view is that any person who is affected by mining—and they are going to have to prove their case; they are going to have to convince the court—should be entitled to apply for and receive compensation for economic loss, hardship or inconvenience.

I note that in other areas governments sometimes step in with ex gratia payments. A classic example would be that as airport noises increase governments have stepped in and double-glazed all the houses and done things like that. In other cases if you live on Portrush Road or South Road you do not necessarily get compensated if the amount of motor traffic increases, but it is nearly always a gradual progression in those situations as societies and cities expand.

However, when you are going from a quiet country lane with two motor vehicles per day to one with B-doubles tearing up and down all hours of the day and night, and you do not live close enough to the mine to be exempt land, then you are out on your own. So I do think this is an important amendment, and the Greens will be supporting it.

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

The Hon. F. PANGALLO: I would like to reiterate what I was saying earlier and what the Hon. Mark Parnell was saying. There are impacts not just on the property owner but also possibly on

those nearby. We will probably see a case in point now with the Bird in Hand development, where the goldmine has been proposed there. There are dozens of property owners in the vicinity of that who have concerns that the goldmine, should it proceed, could have enormous impacts on their businesses and their ability to operate effectively and viably as well.

There are many factors that need to be taken into account. It is not just the land that may be used to grow a crop, there could be all sorts of infrastructure on there. There may be dams and sheds and things like that that may well have to be either demolished or moved. It is only fair that there is adequate compensation for that.

The committee divided on the amendment:

Ayes.....4
Noes 15
Majority 11

AYES

Bonaros, C.	Darley, J.A.	Pangallo, F. (teller)
Parnell, M.C.		

NOES

Bourke, E.S.	Dawkins, J.S.L.	Hanson, J.E.
Hood, D.G.E.	Hunter, I.K.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I. (teller)	Maher, K.J.
Ngo, T.T.	Pnevmatikos, I.	Ridgway, D.W.
Scriven, C.M.	Stephens, T.J.	Wortley, R.P.

PAIRS

Franks, T.A.	Wade, S.G.

Amendment thus negatived.

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

Amendment No 19 [Parnell–1]—

Page 89, after line 8 [clause 58(1)]—Insert:

(1a) An owner of land over which a mineral tenement is granted under this Act is entitled to receive compensation for any economic loss, hardship or inconvenience suffered by the owner in consequence of the grant of the mineral tenement (whether or not authorised operations have or have not been carried out on the land).

This amendment and the following Parnell amendment, amendment No. 20, go together, so I will treat the second one as consequential. The main effect of this amendment is to enable an entitlement to compensation for economic loss, hardship or inconvenience whether or not the authorised operations have or have not been carried out on the tenement land.

I canvassed this issue earlier. The Yorke Peninsula farmers in particular have said to me that the uncertainty of not knowing whether mining either is about to commence or will ever commence results in economic hardship to them, and it is a hardship they believe should be compensated. I agree with them, which is why I have moved this amendment. Certainly, where mining activities have already commenced, it is a much easier assessment, but what I think we need to look at is the fact that farmers in limbo are also affected, and they ought be subject to the compensation regime.

People might say, 'Well, this just adds a disincentive to mining companies to be operating in farming areas,' to which my response is, 'I don't mind.' As I have said before, I think the mining industry should focus their attention on land that is not subject to agriculture. Sure, there will be some

cases where I think mining will probably be the correct answer in a farming location, but overwhelmingly it will not be. Overwhelmingly, my view is that farming should be allowed to continue and not be subject to running the gauntlet of mining companies wanting to access the land, often for short-term gain which is at the expense of the long-term production of food. As loath as I am to get into a discussion of long and short-term economic benefits with the Treasurer, I will just make that point.

Yorke Peninsula farmers in particular have asked for this amendment, and I am pleased on behalf of the Greens to be moving it for their benefit.

The Hon. R.I. LUCAS: The government opposes the amendment. Under the existing act landowners are entitled to receive compensation for any economic loss, hardship and inconvenience suffered in consequence of exploration or mining operations. The effect of the proposed amendment is to create significant uncertainty for industry and unreasonable expectations on industry in relation to the risk of compensation claims arising during a period even before conducting any work on a tenement. The current act and indeed this bill sets out in great detail the requirements for land access and consultation between tenement holders and landholders, including significant provisions for agreement making between the parties, detailing the terms of access and treatment of any potential losses.

This amendment proposes to treat a very narrow set of circumstances and in doing so introduces an unreasonable expectation. The grant of a tenement creates certainty about the scope of work that can be conducted on that tenement. A lease grant supports rather than constrains a landholder's decisions about investment in their own property. Therefore, it is unreasonable to suggest that not only should a miner be held liable for any impact on investments made by the landholder, as is entirely reasonable in the case under the current scheme, but also for any impact arising from a landholder's decision not to invest in their property.

I note that landholders receive annual rent for their land from a mining leaseholder starting from the day a tenement has been granted irrespective of when operations might commence. Whilst it is not compensation per se, this rent is additional to any other payments that may have been negotiated under a land access agreement.

The Hon. F. PANGALLO: We will be supporting the amendment.

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

Amendment negatived.

The CHAIR: We come to amendment No. 20 [Parnell-1].

The Hon. M.C. PARNELL: That is consequential, so I will not be moving that.

The CHAIR: We remain on clause 58 and we come to amendment No. 30 [Pangallo-1].

The Hon. F. PANGALLO: I see that this would probably be consequential as well to what we have done previously, so I will not be moving that amendment.

The CHAIR: The next amendment I have here is amendment No. 31 [Pangallo-1].

The Hon. F. PANGALLO: Essentially, this just clarifies what 'agricultural industry' includes. Again, it is probably consequential. It just clarifies that 'agricultural industry' means it carries on the business of agriculture, pasturage, horticulture, but it is consequential so I will not be moving it.

Clause passed.

Clause 59.

The Hon. F. PANGALLO: I move:

Amendment No 32 [Pangallo–1]—

Page 89, lines 34 to 38 [clause 59(1) and (2) (inclusive)]—Delete subclauses (1) and (2) and substitute:

(1) Section 62(1)—delete subsection (1) and substitute:

(1) An applicant for a mining tenement must, before the application is granted under this Act, enter into a bond of such sum and subject to such terms and conditions imposed by the Minister as ensure, in the opinion of the Minister, that—

(a) any civil or statutory liability likely to be incurred by the applicant in the course of carrying out authorised operations; and

(b) the present and future obligations of the applicant in relation to the rehabilitation of land disturbed by authorised operations, will be satisfied.

(1a) A tenement holder must, on or before the day falling 3 months after the commencement day, if the tenement holder has not already done so before the commencement day, enter into a bond in such sum and subject to such terms and conditions imposed by the Minister as ensure, in the opinion of the Minister, that—

(a) any civil or statutory liability likely to be incurred by the applicant in the course of carrying out authorised operations; and

(b) the present and future obligations of the applicant in relation to the rehabilitation of land disturbed by authorised operations, will be satisfied.

This is the requirement for compulsory bonds and agreements. The two parts of this amendment are to distinguish the bonds payable by the applicant and the bonds payable by the tenement holder. I think that the lodgement of these bonds and the ability of a company to be able to actually lodge these bonds is important. More stringent requirements regarding the bonds are placed on the applicant as well as the mining tenement holder. It is incumbent upon them to be able to place those bonds, and they will also be able to be accessed in the event that something does go wrong.

The Hon. R.I. LUCAS: The government opposes these amendments, which introduce clauses that seek to make bonds payable prior to the grant of a tenement or within three months of the commencement of the amendments. Given the payment of a rehabilitation liability bond is a prerequisite before any work can begin on a mine or quarry, the proposed amendment provides no additional protections to landowners and the community for new operations that are not already provided through the framework in the existing act and the bill currently before the committee.

The process for assessing the quantum of a bond involves a comprehensive technical assessment of the operating plans for mining and quarrying operations as the value of the bond relates specifically to the works that need to be carried out to rehabilitate the approved operations. These operating plans are generated in accordance with the terms and conditions of a granted lease.

It would be highly unusual, then, that it would be even remotely possible to assess accurately the appropriate value of a bond before a tenement is granted. In short, the proposed amendment is not only unnecessary but also, in the government's view, impractical.

The Hon. M.C. PARNELL: The Greens support this amendment. I referred in earlier parts of the debate to what I think is a failure of the rehabilitation system. Certainly, other states are looking at whether they are in fact securing sufficient guarantees or bonds up-front before allowing mining operations to take place, because history shows us that the amount that is collected, especially in the event of the insolvency of the operator, is usually insufficient.

I cited the examples of Linc Energy's underground coal gasification project in Queensland. The taxpayers will pick up that bill. Brukunga, which was the textbook one here in South Australia, incurred 10 times more in rehabilitation costs than was ever extracted from that pyrite mine. Taxpayers footed the bill. BHP, in a stroke of genius, sold the liability back to the South Australian government, and we are still paying for it as taxpayers.

I think this amendment adds some value. I want to see mining companies absolutely nailed down at the first possible opportunity to provide sufficient bonds and guarantees for things that history tells us often go wrong, especially when we get to the rehabilitation stage.

The Hon. J.A. DARLEY: I support this amendment.

The committee divided on the amendment:

Ayes 4
Noes..... 15
Majority..... 11

AYES

Bonaros, C.	Darley, J.A.	Pangallo, F. (teller)
Parnell, M.C.		

NOES

Bourke, E.S.	Dawkins, J.S.L.	Hanson, J.E.
Hood, D.G.E.	Hunter, I.K.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I. (teller)	Maher, K.J.
Ngo, T.T.	Pnevmatikos, I.	Ridgway, D.W.
Scriven, C.M.	Stephens, T.J.	Wortley, R.P.

PAIRS

Franks, T.A.	Wade, S.G.

Amendment thus negatived.

The CHAIR: We remain on clause 59 and we come to amendment No. 33 [Pangallo-1]. The Hon. Mr Pangallo.

The Hon. F. PANGALLO: This is probably going to be consequential as well. It is just a clarification regarding the bond money and enables the bond to be paid from any bond paid by the tenement holder, but I think it is consequential so I will not be moving that one and I will not be moving amendments Nos 34 or 35, right through to No. 38.

Clause passed.

Clause 60.

The CHAIR: The Hon. Mr Pangallo, you have indicated that you will not be moving amendment No. 35 [Pangallo-1].

The Hon. F. PANGALLO: That is correct.

The CHAIR: Are amendments Nos 36, 37 and 38 consequential?

The Hon. F. PANGALLO: Yes, they are. I will not be moving those.

Clause passed.

Clause 61.

The CHAIR: I now come to amendment No. 39 [Pangallo-1].

The Hon. F. PANGALLO: That is consequential; I will not be moving that.

Clause passed.

Clauses 62 to 82 passed.

Clause 83.

The Hon. F. PANGALLO: I move:

Amendment No 40 [Pangallo–1]—

Page 98, lines 33 to 41 [clause 83(17)]—Delete subclause (17) and substitute:

(17) Section 70B(10)—delete subsection (10) and substitute:

(10) A program may be developed under this section even though it may relate (wholly or in part) to exempt land on the basis that the tenement holder will seek to gain access to the land under a waiver of the benefit of the exemption (however, a program must not be approved until any proceedings in relation to whether or not a tenement holder has access to the land have been finally determined in accordance with section 9AA).

This ensures that an approval to mine cannot be approved and access is not granted under a waiver of exemption until access to the land has finally been determined and confirmed. I think it is important that everyone needs to be fully aware of what is going to take place on that land before any formal approvals are given. My amendment is actually quite similar to the Hon. Mark Parnell's.

The Hon. M.C. PARNELL: I think the Hon. Frank Pangallo is right in that they cover the same territory. The issue that was put to me by farming groups was that the mining department has such confidence that mining access to exempt land will always be granted that they were proceeding to give all the approvals even though the mining company had not yet formally resolved the dispute over exempt land.

The particular part of the process that was put to me was in relation to PEPRs (programs for environment protection and rehabilitation). The minister was signing off on these even though the exact parcels of land to which it would apply had not yet been secured. It was regarded by the farming community as inappropriate and premature. My amendment addresses that particular issue.

The Hon. Frank Pangallo's amendment, whilst not exactly the same, is basically similar. It says that, whilst you can start to develop your program, you cannot actually get a program signed off until all of the disputes with all of the farmers have been resolved. It effectively covers the same territory. In the interests of making the committee's job easier, I will not move my amendments and instead I will support the Hon. Frank Pangallo's amendment.

In regard to my amendment No. 21 and then another two amendments to a subsequent clause, which are consequential, I will leave those and put the Greens' weight behind the Hon. Frank Pangallo's amendment.

The Hon. R.I. LUCAS: The government opposes the proposed amendment. The proposed amendment seeks to remove an express provision to allow the minister to approve a program for environmental protection and rehabilitation over exempt land before the tenement holder obtains a waiver. In the case of the Hon. Mr Pangallo's amendment, he seeks to outright prohibit such an approval. The express provision in the bill was introduced to ensure the state cannot be leveraged by either party during exempt land negotiations between a landowner and explorer or miner.

I reiterate that under the law as it currently stands under the bill, an operating approval granted prior to access to any relevant exempt land being resolved cannot undermine the requirement for a waiver to be in place prior to undertaking any operations that impact on that exempt land.

The Hon. J.A. DARLEY: I will be supporting the Hon. Frank Pangallo's amendment.

The committee divided on the amendment:

Ayes.....4
Noes 15
Majority 11

AYES

Bonaros, C.	Darley, J.A.	Pangallo, F. (teller)
Parnell, M.C.		

NOES

Bourke, E.S.	Dawkins, J.S.L.	Hanson, J.E.
Hood, D.G.E.	Hunter, I.K.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I. (teller)	Maher, K.J.

NOES

Ngo, T.T.	Pnevmatikos, I.	Ridgway, D.W.
Scriven, C.M.	Stephens, T.J.	Wortley, R.P.

PAIRS

Franks, T.A.	Wade, S.G.

Amendment thus negatived; clause passed.

Clause 84 passed.

Clause 85.

The Hon. M.C. PARNELL: I will not be moving amendments Nos 22 and 23; they are consequential to an issue that we have already canvassed.

Clause passed.

Clauses 86 to 92 passed.

Clause 93.

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

Amendment No 24 [Parnell–1]—

Page 107, line 13 [clause 93, inserted section 70HD, penalty provision]—Delete '$150,000' and substitute:

$5,000

My amendment, I think, is identical to the Hon. Frank Pangallo's amendment No. 41. I think mine was filed first but I think we are on the same page. The intent of this amendment is to retain the criminal penalty for a person who, without lawful excuse, obstructs or hinders a tenement holder in the reasonable exercise of rights conferred under this act. At present, that penalty is $5,000. This bill proposes to increase it to $150,000.

This is aimed fairly and squarely at farmers and environmental protesters who, for example, in relation to climate change, might want to exercise their democratic right to stand up and put themselves on the line against climate-wrecking projects. That is what this is aimed at, let's be clear. An increase in a fine from $5,000 to $150,000 is, in my time in this parliament, unprecedented. We often see fines go up; in fact, putting up a fine is usually a government's standard response when it knows it should do something but does not really want to do anything so, 'We will just bump the fines up'—that is what governments do. But to go from $5,000 to $150,000 is clearly taking aim at environmental protesters.

There is no evidence that the existing penalties are not an adequate deterrent and that legal consequences that are already in place do not actually deter most people. If we wanted to go back through the history of environmental protests, what we would find is that we had situations, as occurred up near Olympic Dam some years ago, where protesters were blocking the road. They were treated so appallingly by police. A little girl—I think she was 10 or 11, I cannot remember the exact age—was pepper sprayed. They were locked in a shipping container, and at the end of the day the Supreme Court awarded them hundreds of thousands of dollars in compensation for the mistreatment that they received at the hands of the STAR Force. That is the history of environmental protest at mining sites in South Australia.

Most people who engage in this protest know that there are laws to stop them doing it. They know that by putting themselves on the line they are going to be subject to fines and they do it anyway because they see the greater good as being them standing up for the planet, standing up for the environment. A $5,000 fine will dissuade most people other than those who are absolutely committed. Putting the fine up to $150,000 is simply the government's attempt to say, 'Don't you dare try to interfere with a mining project, in any way whatsoever.' I think it is an appalling abuse.

It has not been substantiated by any evidence presented in this parliament. It is not as if the government or the minister in another place trotted out this great long list of major farmer protests against mines or environmental protests and said, 'Clearly, the existing penalties aren't sufficient; we better put them up to $150,000.' No evidence whatsoever has been provided that the existing penalties do not deter most people. To be honest, even the $150,000 will not deter some people. I bet you it will not deter young people. You cannot get blood out of a stone. In my experience, some of the most courageous activists have been those with the fewest assets because they cannot afford to pay the fines anyway, so they have nothing to lose.

Really, this is just the government saying to the community, 'Don't you dare interfere with a mining operation, regardless of what it is, whether it is a uranium mine or a coalmine. Don't you dare interfere because we are going to throw all of the resources of the state at you.' This is an appalling provision, the Greens are opposing it, and we will be dividing on it.

The Hon. F. PANGALLO: As the Hon. Mark Parnell pointed out, this amendment is quite similar to my amendment No. 41, which I will not be moving. I strongly support and endorse the comments of the Hon. Mark Parnell. This is draconian. It takes a sledgehammer approach to people's rights to be able to express their views, whether they are environmentalists or whether they are farmers who may have an issue to take up.

As the Hon. Mark Parnell has pointed out, it is clearly aimed at the environmental protests. We have seen them recently in other states. They have not been as obvious in South Australia; nonetheless, there are far more serious criminal offences that carry much lighter penalties than this does. It is $150,000. It echoes and magnifies the real intent of this bill; that is, it really is open slather for the miners.

It opens the door for them and makes it much easier for them. It tries to silence any opposition and intimidate people into not trying to oppose whatever activity is going on there. I think it is totally draconian and out of step. If it is to act as a deterrent, we already have laws in place and appropriate penalties. I agree with the Hon. Mark Parnell that it may well not act as a deterrent; nonetheless, that figure of $150,000 is just ridiculous. I will be supporting the amendment.

The Hon. R.I. LUCAS: The government opposes the amendment. The penalty for the offence was increased to reflect all other offences under the act. It is a criminal offence that must be prosecuted in court for the penalty to be applied. A maximum penalty of $5,000 is so low that it is unlikely to be in the public interest to incur substantial legal costs in a criminal prosecution to recover such a penalty.

The Hon. J.A. DARLEY: I certainly agree with the comments made by the Hon. Mark Parnell and will be supporting the amendment.

The committee divided on the amendment:

Ayes.....4
Noes 15
Majority 11

AYES

Bonaros, C.	Darley, J.A.	Pangallo, F.
Parnell, M.C. (teller)		

NOES

Bourke, E.S.	Dawkins, J.S.L.	Hanson, J.E.
Hood, D.G.E.	Hunter, I.K.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I. (teller)	Maher, K.J.
Ngo, T.T.	Pnevmatikos, I.	Ridgway, D.W.
Scriven, C.M.	Stephens, T.J.	Wortley, R.P.

PAIRS

Franks, T.A.	Wade, S.G.

Amendment thus negatived; clause passed.

Clauses 94 to 106 passed.

Clause 107.

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

Amendment No 25 [Parnell–1]—

Page 117, lines 34 and 35 [clause 107, inserted section 74(2)]—Delete 'the Minister or the Director' and substitute:

—

(a) the Minister; or

(b) the Director of Mines; or

(c) any other person with the permission of the ERD Court.

This and my following two amendments relate to a similar issue; they are not consequential but are three separate issues, and I will be moving them all. This first one I will treat as a test, in terms of divisions. I will still move the other amendments but I will not divide on the other amendments to this clause.

An honourable member interjecting:

The Hon. M.C. PARNELL: I am getting some dissatisfaction expressed; I can divide on them all if members wish. This amendment simply seeks to bring this piece of resource legislation into line with every other piece of resource legislation in South Australia. Other acts that deal with how we use land and how we look after the environment or treat the environment or impact on the environment all contain the ability for citizens to civilly enforce the law.

We have talked about civil enforcement in other legislation but, put quite simply, as an environmental lawyer many years ago my advice to people, when they were complaining that something bad was happening to the environment, was to say to them, 'The first thing you want to do is get the proper authorities to do their job properly.' In other words, lean on the Environment Protection Authority, lean on the mining department, lean on the Department of Primary Industries, lean on government officials who are charged with enforcing our public laws, and get them to do their job properly.

If they do not, if for some reason they refuse or are reluctant to do their job properly, then the law of South Australia overwhelmingly provides that citizens can step in, they can go to court, and they can say to the court, 'This person is breaching the law and I want some orders to effectively make them stop. I want the law of South Australia upheld.'

We have the right to bring cases like that in anything to do with the planning system; civil enforcement under the Development Act. If you believe someone has not complied with the law, any citizen—that is the test, anyone; 'any person' are the words in the act—can go to court and argue that this person is not complying with the law and the court should make them.

That provision in the Development Act has been replicated in the Planning, Development and Infrastructure Act. It is regarded as such a fundamental democratic right that even this new planning system has it in. I have plenty of complaints about the new planning system, but it is included in there. Similarly, the Natural Resources Management Act, which deals with feral animals, weeds and water licences, has a provision in it that says citizens have the right to enforce the act. Civil enforcement is written in.

We are just rewriting all those laws at the moment; in fact, the Landscape South Australia Bill is still before the parliament and those provisions are still in there. Civil enforcement is still there. Under the Environment Protection Act, dealing with pollution and waste, the right of citizens to

enforce the law has been there since 1993. You can go through a whole range of other laws—public laws reflecting public policy—that relate to the protection of the environment or the use of natural resources and they all have the right for citizens to go to court when the proper authorities are not doing their job and someone is breaking the law, and you can get an order to remedy the situation.

These provisions are powerful, but they are rarely used. But what they do, in my view, is act as a silent sentinel. The fact that these powers exist means that our public authorities most of the time do comply with the law, they do insist on legislation being followed and they do follow due process, because they know that if they do not citizens who are watching can step in, go to court and remedy the situation, and that is embarrassing to them. So civil enforcement of public environmental and resource laws is a fundamental right.

But there is one set of laws that does not have it and has never had it, and that is the mining laws. The reason it does not have it is quite simple: it is the pecking order of industry in this state. Mining is at the top. Mining is untouchable. Citizens have no rights in relation to mining, and that has been replicated in this bill. Civil enforcement is a basic democratic right, if we believe in the rule of law, yet here we have effectively the Mining Act being rewritten and citizens have to rely entirely on the minister and the department to do their job properly, and if they do not do their job properly there is nothing anyone can do about it.

People might say, 'Well, you've always got the right of judicial review. You could always go to the Supreme Court with a writ of mandamus or certiorari' or something—one of those old Latin things we learnt in law school—it does not happen. There are so many barriers to doing that that it is as rare as hen's teeth. Civil enforcement is also incredibly rare, but at least it gets your foot in the door, whereas with all of these other Supreme Court administrative remedies you first have to argue standing.

We have seen in the past court cases in South Australia where conservation groups, for example, have had to go to ridiculous lengths to get standing. A classic example was when the Conservation Council tried to oppose a luxury resort and golf course in the Flinders Ranges, and they had to go to court and argue an economic interest. They said, 'Court, we have a gift shop, and we sell tea towels with pictures of the Flinders Ranges on them; therefore, we have an economic interest and therefore you should let us have this court case.' It is a ridiculous situation. It is far better in resource legislation to include a guaranteed right of civil enforcement.

These three amendments relate to that topic. Like I say, I am going to treat the first as a test, but I will also move the others and explain them. This is such a fundamental right that the Greens are going to strongly urge all members of this chamber to support this amendment.

The Hon. J.A. DARLEY: I will be supporting the Hon. Mark Parnell's amendment.

The Hon. F. PANGALLO: I thank the Hon. Mark Parnell for his comments there. It is quite a contentious matter that he has raised. We will support the amendment.

The Hon. R.I. LUCAS: The government opposes the amendments. The amendments proposed by the honourable member seek to empower any person to seek a civil remedy to allow for public enforcement in cases where the regulator cannot or will not act. This would include, for example, a mining company seeking civil remedies against an owner of land for hindering mining operations.

There is no evidence to support that this proposed amendment is necessary. Such rights will undermine confidence in the regulator and deter investment from the sector due to risk of activism, legal costs and significant delays. The nature of the evidence required to prove a breach, the cost of taking action (financial and emotional) and the possibility of vexatious litigation for commercial or personal gain are all reasons why the clause, in the government's view, is not only unnecessary but also ill-advised.

The Hon. M.C. PARNELL: It is in the hands of the committee as to how we go. As I said, I will treat that as a test, but it might make more sense if I actually speak to the other amendments to this same clause now. Would that assist?

The Hon. R.I. Lucas: Just give us time to divide if you are going to divide. Are you dividing?

The Hon. M.C. PARNELL: Yes. I will be quick. I am happy to deal with this one and then I will come back. I do want to respond to what the minister said.

The Hon. R.I. Lucas: I do not want to delay lunch.

The Hon. M.C. PARNELL: I will speak to the other amendments when we get to them.

The committee divided on the amendment:

Ayes 4
Noes..... 15
Majority..... 11

AYES

Bonaros, C.	Darley, J.A.	Pangallo, F.
Parnell, M.C. (teller)		

NOES

Bourke, E.S.	Dawkins, J.S.L.	Hanson, J.E.
Hood, D.G.E.	Hunter, I.K.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I. (teller)	Maher, K.J.
Ngo, T.T.	Pnevmatikos, I.	Ridgway, D.W.
Scriven, C.M.	Stephens, T.J.	Wortley, R.P.

PAIRS

Franks, T.A.	Wade, S.G.

Amendment thus negatived.

Progress reported; committee to sit again.

Sitting suspended from 13:00 to 14:15.

Parliamentary Procedure

ANSWERS TABLED

The PRESIDENT: I direct that the written answers to questions be distributed and printed in *Hansard*.

PAPERS

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Reports, 2018-19—
- Adelaide Festival Centre Trust
- Auditor-General's Department
- Carrick Hill Trust
- Defence SA
- Infrastructure SA
- Libraries Board of South Australia
- Office of the South Australian Productivity Commission
- South Australian Multicultural and Ethnic Affairs Commission
- State Opera South Australia

Delegation of Powers and Functions Under the Public Sector (Data Sharing) Act 2016

By the Minister for Trade, Tourism and Investment (Hon. D.W. Ridgway)—

Reports, 2018-19—
Office of the National Rail Safety Regulator
Technical Regulator

By the Minister for Human Services (Hon. J.M.A. Lensink)—

Community Visitor Scheme—Disability Services—Report, 2018-19

By the Minister for Health and Wellbeing (Hon. S.G. Wade)—

Community Visitor Scheme—Mental Health Services Report, 2018-19

Ministerial Statement

CORONER'S RECOMMENDATIONS

The Hon. R.I. LUCAS (Treasurer) (14:17): I table a copy of a ministerial statement relating to the government's response to Coroner's recommendations.

Question Time

LUXE HAUS

The Hon. K.J. MAHER (Leader of the Opposition) (14:20): I seek leave to make a brief explanation before asking a question of the Minister for Trade, Tourism and Investment regarding the Tourism Commission.

Leave granted.

The Hon. K.J. MAHER: In response to a question yesterday about why it had taken so long for the Luxe Haus to be removed from the Tourism Commission website, a very specific supplementary was asked of the minister by the Hon. Emily Bourke. The supplementary was:

> …has the minister previously met or spoken with the Luxe Haus owner and convicted sex offender Corey Ahlburg or any associated members of the Luxe Haus? If so, when, where and how often were these interactions?

Yesterday, the minister responded very definitively to that supplementary:

> I don't recall meeting any of those people. I know of the Luxe Haus, and I don't recall meeting any of those people.

The minister went on to say, regarding whether he had ever visited the Luxe Haus:

> No, I am sort of too busy to enjoy much of the tourism hospitality around South Australia. So, no, I haven't been to the Luxe Haus at all.

Twenty-four hours have now passed for the minister to consider his position and the answers he has given. So, minister, have you ever met with, talked to or associated in any way with convicted sex offender Corey Ahlburg? Minister, the truth this time, please.

The PRESIDENT: The last bit is out of order, Leader of the Opposition. You know that. Minister.

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:21): Thank you for your protection, Mr President. I have come to expect nothing less of the former minister. In relation to yesterday's questions, I will actually go back to some of the questions that the honourable member asked. Firstly, he asked whether I had met Mr Ahlburg on 20 December 2018 at a particular function. I said I would check my records. On that particular date, I was in Port Lincoln.

However, in the interests of transparency and openness, I checked other dates. On 19 December, I attended a function that I believe the member was referring to, but I have no recollection of seeing or meeting Mr Ahlburg at that particular event. Since becoming minister, I have had no meetings or interactions with Mr Ahlburg or anybody associated with the Luxe Haus. I have not visited or stayed at the property known as the Luxe Haus, and I have not received any gifts or complimentary stays.

Members interjecting:

The PRESIDENT: Leader of the Opposition, you have the opportunity to ask supplementaries. Minister.

The Hon. D.W. RIDGWAY: Thank you, Mr President, for allowing me to continue. I checked my records regarding my interactions prior to when I became a minister. In 2013, in opposition, I travelled to China on a parliamentary trip where, among other things, I opened the South Australian Wine Group cellar door in Wuhan as part of the Global Public Procurement Forum and Sourcing Fair. My recollection is that Mr Ahlburg was present at some of those events. It is likely that there have been occasions since when we would have both been guests at the same event, but I have no recollection of any specific interactions.

The PRESIDENT: Leader of the Opposition, a supplementary.

LUXE HAUS

The Hon. K.J. MAHER (Leader of the Opposition) (14:23): Just for the sake of clarity, is the minister now saying he recalled meeting convicted sex offender Corey Ahlburg whilst on an overseas trip to China but that he couldn't remember that at all yesterday?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:23): I have given a statement about my recollection of meeting Mr Ahlburg. For the members opposite, I only became aware of Mr Ahlburg's past sometime just prior to the election, in late 2017, when an article appeared in *The Advertiser* about him and his Luxe Haus. I am not shying away from the fact that I believe—as I said, my recollection is that Mr Ahlburg was at some of those events. It's likely that we have been guests at the same event, but I have no specific recollection of any specific interactions with Mr Ahlburg.

LUXE HAUS

The Hon. K.J. MAHER (Leader of the Opposition) (14:24): Supplementary: how does the minister reconcile his statement from parliament yesterday, 'I don't recall meeting any of those people,' of which Mr Ahlburg was the particular person, with what he is now telling the chamber? Was he lying then or is he lying now?

The PRESIDENT: Leader of the Opposition, the first part of that supplementary was appropriate. The second half was out of order.

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:25): Sadly, half of his questions are out of order.

The PRESIDENT: No, I rule when they are out of order, the Hon. Mr Ridgway.

The Hon. D.W. RIDGWAY: The question was, 'Has the minister met with', and as minister I had not met with, I have not met with and I have no intention of meeting with Mr Ahlburg. I have not met with Mr Ahlburg. So you can understand, I am open and transparent. I came across Mr Ahlburg. I believe he was at some of those events I went to in China.

LUXE HAUS

The Hon. K.J. MAHER (Leader of the Opposition) (14:25): Supplementary: can the minister give more details of his overseas trip with convicted sex offender Mr Ahlburg?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:25): I think that the honourable member is drifting into a space of trying to slur me with somebody who is a convicted sex offender.

The Hon. K.J. Maher interjecting:

The PRESIDENT: Leader of the Opposition, you are being unparliamentary. I am giving you plenty of supplementaries. Do not push it.

The Hon. D.W. RIDGWAY: I was asked by a group of South Australian businesspeople opening a cellar door in Wuhan if I would come there and open it, so I went and did that. My

recollection is that Mr Ahlburg was at some of the events I did in China. I can't be any more specific than that. It is six years ago.

LUXE HAUS

The Hon. K.J. MAHER (Leader of the Opposition) (14:26): A further supplementary: is the minister trying to tell the chamber that yesterday he had no recollection of having been on that trip and meeting Mr Ahlburg?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:26): That's why I actually said I would check my records, because I don't know the exact date, I don't remember the times. You have to understand we were 16 years in opposition. I was asked specifically about Mr Ahlburg and the Luxe Haus. I haven't met Mr Ahlburg or anybody from there. In fact, all I know is it's in Moana. I don't even know the actual address of the place.

LUXE HAUS

The Hon. K.J. MAHER (Leader of the Opposition) (14:26): A supplementary arising from the answer: during the answer, the minister said that he only became aware of the association with the Luxe Haus, I think he said, sometime in 2017 before the election, so the minister was clearly aware of who this person was and his association with the Luxe Haus. Is it honestly the minister's contention, when he was asked yesterday, that he doesn't recall meeting any of these people, that yesterday he could not recall having ever met Mr Ahlburg?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:27): In the context of my responsibility to the house as a minister, I had not met with him or his people with the Luxe Haus. I have seen the commentary in the media. I think the sort of behaviour that I said we talked about yesterday, which is not community standards and is really now drifting into a police matter. If it's noise, if it's antisocial behaviour, if it's setting fire to cars, certainly I am not responsible to the chamber for that, and it really is a matter for the police.

LUXE HAUS

The Hon. K.J. MAHER (Leader of the Opposition) (14:27): A supplementary: does the minister understand that when the department that he is responsible for has taken such a long time to remove this house from their website that it is entirely relevant how closely he knows the person; that is, convicted sex offender Corey Ahlburg?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:28): As I answered yesterday, that is an operational matter. It would be absolutely inappropriate for me to have any influence positively or negatively. We know that the Tourism Commission had a number of meetings with the manager, I believe, and expressed their concerns about the behaviour that was going on. I think the manager, from what I have been advised by the Tourism Commission, said they would modify and respect the neighbours. Clearly, they haven't. We saw only in the last few days some stories around a footy club and a bucks party there. Clearly, the behaviour is unacceptable and it certainly doesn't deserve to be on the Tourism Commission's website.

LUXE HAUS

The Hon. K.J. MAHER (Leader of the Opposition) (14:28): Supplementary arising from the answer the minister gave: the minister has said that he met Mr Ahlburg before he became a minister and that's why he thinks saying, 'No, I don't recall meeting him at all,' is acceptable. The minister also said that he didn't meet him on the 18th but maybe on another date close to that. How many times has the minister met Mr Ahlburg in total?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:29): I wish the honourable member would listen. I said the 19th, not the 18th, but clearly he doesn't want to listen. Can I give the honourable member a bit of a snapshot. In opposition, for 16 years, I did about four events a week ranging from 10 people to 100,000 people. Let's say it averaged 500 people; I have interacted with 1.6 million people. I have no idea how many interactions I may have had with him. That is why I refer the honourable member to my final sentence: it is likely that there have been occasions since when we would have both been guests at the same events, but I have no recollection of any specific interactions.

LUXE HAUS

The Hon. K.J. MAHER (Leader of the Opposition) (14:30): A supplementary arising from the original answer: has the minister or anyone from the minister's office contacted either Mr Ahlburg or Randall Tomich since yesterday's question time?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:30): Yes, I have spoken to Mr Randall Tomich to check whether Mr Ahlburg was at the event. He has no recollection of the event either and said to check the actual date, because the honourable member yesterday said it was the 20th and it was actually the 19th.

LUXE HAUS

The Hon. K.J. MAHER (Leader of the Opposition) (14:30): A further supplementary: has the minister been counselled by any of his colleagues, the Premier or any of the Premier's staff regarding his answer yesterday and his longstanding association with Mr Corey Ahlburg?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:30): No, and I think it is a disgraceful slur that this man opposite would say that I have a longstanding association with this man. I bump into somebody in China and he calls it a longstanding association. I think that is a disgrace.

Members interjecting:

The PRESIDENT: The Hon. Ms Scriven.

The Hon. R.P. Wortley interjecting:

The PRESIDENT: The Hon. Mr Wortley, please. The Hon. Ms Scriven.

COMMONWEALTH BANK OF AUSTRALIA

The Hon. C.M. SCRIVEN (14:31): I seek leave to make a brief explanation before asking a question of the Minister for Trade, Tourism and Investment regarding travel.

Leave granted.

The Hon. C.M. SCRIVEN: The minister has disclosed that he met with the Commonwealth Bank on a trip to Sydney on 11 and 12 December 2018. My question to the minister is: can he advise what the meeting related to and who attended the meeting?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:31): I thank the honourable member for her ongoing interest in my travel. I would have to pick up my mobile phone and try searching for the actual name and title. I will bring that back to the chamber, but I probably don't need to. It was a senior manager in the Commonwealth Bank who had invited me to Sydney to discuss how the Commonwealth Bank could help grow the South Australian economy. We had a long chat. I believe it was one of the Commonwealth Bank's top political—I can't think of the right term for them.

The Hon. S.G. Wade: Liaison.

The Hon. D.W. RIDGWAY: A liaison person, that's right, was in the meeting with us—

Members interjecting:

The Hon. D.W. RIDGWAY: Government relations person, I beg your pardon.

COMMONWEALTH BANK OF AUSTRALIA

The Hon. C.M. SCRIVEN (14:32): Supplementary: can the minister advise specifically where in Sydney the meeting was held?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:32): I can't believe the excitement and interest in this. My recollection is that it was in the boardroom of the Commonwealth Bank, but I will—

An honourable member: In the CBD.

The Hon. D.W. RIDGWAY: In the CBD—give me a break. It is actually a multistorey building. Have you ever been there? It is quite high. You can see the Sydney Harbour Bridge and the Opera House. If it pleases the member, I will find out. I will even try to get the menu and see what was served and how hot the coffee was as well.

COMMONWEALTH BANK OF AUSTRALIA

The Hon. C.M. SCRIVEN (14:33): I have a further supplementary. I take from that answer it was the main branch in Sydney, which would have been a sufficient answer. Did the department provide official briefing papers for his meeting with the Commonwealth Bank?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:33): I thank the honourable member for her question; it is a bit like E360 yesterday. It was an opportunity to go and have a meeting and discussion about how the Commonwealth Bank may help grow the South Australian economy and the things they might like to do to help us here because, of course, they were aware that we had had 16 years of a dreadful Labor government and that our economy and spirits were at rock bottom. It was really one of those opportunities to sit down and have an informal chat about how they might be able to help the South Australian economy. No, there were no formal briefings provided.

LUXE HAUS

The Hon. E.S. BOURKE (14:33): My questions are to the Minister for Trade, Tourism and Investment. Has the minister attended any round tables or travelled on any trade missions or other trips with Randall Tomich, and did the minister meet Corey Ahlburg at any events with Tomich Wines?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:34): I just want to add some clarification. When you're in opposition you don't do trade missions. You might do a parliamentary trip; you might go, as I went once, on the Hong Kong spirit and wine show where, along with a whole range of other wine exhibitors, Mr Tomich was there. But I don't do trade missions. I'm flattered to think that members opposite thought that while I was an opposition member I could lead trade missions—because maybe we were doing more for the economy.

I certainly did some overseas trips and certainly went to some wine shows where I helped to support the wine industry, and some of those Mr Tomich was there. As I said earlier, Mr Ahlburg may have been at some of those. I don't have any specific recollections of exactly whether he was at some. As I said earlier in my response, in my recollection Mr Ahlburg was present at some of those events, and it's likely there's been occasions since when we would have both been guests at the same event.

WINE EXPORT ROADSHOW

The Hon. D.G.E. HOOD (14:35): My question is also to the Minister for Trade, Tourism and Investment. Will the minister update the council on the recent Wine Australia Far From Ordinary Roadshow?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:35): It is a real pleasure for me to be able to talk about the Far From Ordinary—that is not the opposition I am referring to; it's the roadshow, the Far From Ordinary wine roadshow that is the largest ever promotion of Australian wine in the USA, a three-week long event travelling east to west coast across the US, engaging with American trade in six key wine markets, being New York, Chicago, Miami, Dallas, Los Angeles and San Francisco.

Wine Australia is currently delivering the federal government's four-year $50 million export regional wine support package, focusing on demand building in Australia's two largest export markets, the United States and China. Whilst I was in the US, I was able to attend the roadshow for a short while. I enjoyed seeing the great South Australian representation. You have to understand this is Wine Australia, but South Australia certainly punches above its weight. It was great to be there and discuss the importance of Australia and the US trade relationships with exhibitors. The roadshow was a great opportunity to explore market opportunities for future collaboration between Wine

Australia and the Department for Trade, Tourism and Investment and the new South Australian government trade office in Houston, Texas.

Australia and the US continue to have a strong trade relationship, particularly with wine. Australia exported $154 million of wine to California in the year ending June 2019, representing a 35 per cent value share of the total exports to the US. However, this is something we still have to grow. South Australia, as you know, produces 80 per cent of Australia's premium wine and 50 per cent of all of our bottled wine. At any one time there are nearly a billion bottles of wine on the tables and in cellars around the world with a South Australian name on them, but our wine exports to the US dived after the GFC, and we are still recovering.

It is, I think, important to think of the great opportunity we have, the great relationship we have with the US. We only saw just recently the really strong relationship between Prime Minister Morrison and the US President Trump, and I think there's an opportunity for our two nations to come even closer together. I think certainly the wine industry and the wine market is a really great opportunity, especially where the exchange rate is, for South Australia and Australia to really exploit that opportunity.

The roadshow featured over 100 Australian wine exhibitors showcasing 193 wine brands. The South Australian companies were well represented at the roadshow, with companies such as Barossa Valley Estate and Angove Family Winemakers. D'Arenberg was there and a great ambassador and friend of South Australian wine, Chester Osborn, was there, as was Stephen Henschke, as was Yalumba. The Hill-Smith family was there but also First Drop Wines; as I said Henschkes; Mollydooker Wines; Penfolds, of course, the international flagship—everybody knows and loves Penfolds; Peter Lehmann Wines; and Wakefield Wines.

Roadshows like this demonstrate why having a physical presence in the US market is a must. We are very excited to soon open our trade and investment office in Texas.

WINE EXPORT ROADSHOW

The Hon. K.J. MAHER (Leader of the Opposition) (14:38): Supplementary arising from the answer given: which of the six cities the wine show visited in the US did the minister attend: New York, Chicago, Miami, Dallas, LA or San Francisco?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:38): San Francisco.

WINE EXPORT ROADSHOW

The Hon. K.J. MAHER (Leader of the Opposition) (14:38): Further supplementary arising from the answer given: was Tomich Wines on this roadshow, and has the minister ever promoted Tomich Wines overseas?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:38): No, Tomich's were not on this roadshow, and as I said earlier I participated in a whole range of events in opposition and was at a Hong Kong spirit and wine show where Tomich's were exhibiting.

TOMICH WINES

The Hon. K.J. MAHER (Leader of the Opposition) (14:39): Further supplementary arising from the answer: apart from the—I think it was—2013 time in opposition, has the minister ever promoted, either by having accompanied on a trade mission or by promoting, the Tomich Wine brand overseas as minister?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:39): I do not believe Mr Tomich has travelled on any of my overseas trips as minister and I do not believe any of his wines have been in any of the events that I have been at. Again, to keep the honourable members happy on the other side I will check my records.

WINE EXPORT ROADSHOW

The Hon. K.J. MAHER (Leader of the Opposition) (14:39): Further supplementary arising from the answer: as a result of the minister's attendance at San Francisco, what specific benefit, how

many more contracts, how many more South Australian jobs resulted because of the minister's attendance in San Francisco?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:39): Mr President, this is the sort of question that was asked yesterday. I think—

Members interjecting:

The Hon. D.W. RIDGWAY: It would be good if the members opposite would listen for a change. This is about supporting our wine producers, and of course we have four of the great Australian families of wine. We have the Osbornes, the Hill-Smiths, the Henschkes and the Angoves, so we have four of the great nation building wine families. Just the fact that you can go there—and that's what members opposite don't understand—to show just an hour or two support—and we only had about an hour or two in my program to go there—to support this sector indicates that this government values the sector. We want them to grow it. It is now worth over $2 billion to us.

We want to make sure that we get the market intel, so that when we have appointed somebody in Houston they can actually support some of our vignerons getting especially into the Texas market, which is a particularly strong market, some 30-odd million people, and a particularly strong economy, and we think we will have some wonderful success in Texas. I think it is a bit of a cheap shot and a bit childish to say, 'Well, how many jobs, how many orders?' This is about a government that supports exporters, supports our economy. We want to make sure that people know we are going to be there with them every step of the way.

RESIDENTIAL CARE FACILITY CCTV TRIALS

The Hon. F. PANGALLO (14:41): My question is to the Minister for Health and Wellbeing. Can the minister please explain what is happening with the trial of CCTV in the state-run aged-care residential facilities, and why has there been a delay in implementing the trial, and will it ever happen?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:41): I thank the honourable member for his question. If I could start with the second question first. It will certainly happen because not only has the state government committed to it but also we have been fortunate to secure the support of the commonwealth government. So there is half a million dollars available to implement the pilot, and that will be delivered. There have been some operational and technical issues that could not be resolved between the parties—that is our technology partner Care Protect—so we have mutually agreed not to continue that partnership. The Marshall Liberal government is committed to the trial, and we will now go back to the market to find a new partner.

RESIDENTIAL CARE FACILITY CCTV TRIALS

The Hon. F. PANGALLO (14:42): Supplementary: can the minister explain how will the government go about finding a new partner? What will be the process there?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:42): It is intended to be an open market call.

LUXE HAUS

The Hon. J.E. HANSON (14:43): My question is to the Minister for Trade, Tourism and Investment. The minister has outlined today that it's likely that he had some interactions with Mr Ahlburg and he even said that it's likely that they were guests at the same event. Is the minister aware whether any of these particular events were Liberal fundraisers?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:43): I thank the honourable member. I do not recall exactly, but Mr Ahlburg could have been at a range of events. As I said, it's likely there have been occasions when we are both at the same events. What I can tell you, Mr President, is since I became aware of Mr Ahlburg's past I have no recollection of any interactions with him at all.

LUXE HAUS

The Hon. J.E. HANSON (14:44): Supplementary: obviously the minister has attended certain events that are Liberal Party fundraisers; I am taking that as a given. Has he ever attended a Liberal Party fundraiser where an attendance record has been kept?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:44): That is a matter for the Liberal Party.

LUXE HAUS

The Hon. J.E. HANSON (14:44): That does not answer the question, Mr President. The questions is: has he ever attended one where he might have noted there is an attendance record kept? It is a pretty simple question.

The PRESIDENT: That is a supplementary. Minister.

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:44): I do not recall. I go to a whole range of events. If they are a Liberal Party event, if there is an attendance record someone else has kept it.

The PRESIDENT: A further supplementary, the Hon. Mr Hanson.

LUXE HAUS

The Hon. J.E. HANSON (14:45): This informs my next supplementary, Mr President, which relates to the original question. Can the minister outline whether or not Mr Ahlburg has ever attended a Liberal Party fundraiser that he has attended, and is he willing to check the records kept by the Liberal Party to be able to categorically rule that out?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (14:45): I don't believe I am responsible for the Liberal Party's records in the parliament, but I will check my records.

ADELAIDE ZERO PROJECT

The Hon. J.S. LEE (14:45): My question is to the Minister for Human Services regarding homelessness in the city. Can the minister please provide an update to the council on the most recent data from the Adelaide Zero Project?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:45): I thank the honourable member for her question. We were very pleased that in the month of September we saw a reduction in the number of rough sleepers in the CBD. The numbers do fluctuate from time to time. The Adelaide Zero Project, which is a partnership between the South Australian government, the Don Dunstan Foundation and all the homelessness service providers in and around the CBD, has the goal of functional zero homelessness for the Adelaide city and parklands.

The program has been operating since 2017-18, I understand, and did its first big survey in May last year, with another one this year. Those will be running every May, with the continuous collection of data by the specialist homelessness services to track what is known as the By-Name List, a list of all the people rough sleeping in that particular area, tracking what happens to them, what services they receive and whether they are housed.

As I said, we were particularly pleased that the numbers had reduced for the current September figures to 163. Obviously, that is a lot more than we wish to see, given that we are aiming for a target of functional zero homelessness. As a partner in this project, the South Australian Housing Authority has been providing, I think, about 10 properties per month for people to have a permanent placement, and I am really pleased that the largest number of people ever have been re-homed from this particular zone at 238 people.

Starting next week, Mr Ian Cox, who I have referred to, will be taking up the role of specialist homelessness director within the South Australian Housing Authority. We have also this month, just recently, opened The Waymouth, which has been contracted to Carrington Cottages. It is a hostel-type property that can house up to 25 people, including couples and pets, which people may have seen. Clearly, maintaining people's relationships is part of the preferred journey for people to maintain those connections.

There are a lot of actions taking place on this front, and I commend the Adelaide Zero Project, given that it is collecting probably the most accurate data we have ever seen in this state, and is tracking how people exit homelessness and what services are most effective. I look forward to that ongoing partnership in our goal of functional zero homelessness by 2020.

The PRESIDENT: The Hon. Mr Hunter, a supplementary.

ADELAIDE ZERO PROJECT

The Hon. I.K. HUNTER (14:49): The minister mentioned the appointment of Mr Ian Cox as a specialist homelessness director. Can the minister advise the chamber of the credentials of Mr Ian Cox and why he won the appointment?

The Hon. J.M.A. LENSINK (Minister for Human Services) (14:49): I thank the honourable member for his supplementary. I think he has quite a keen interest in the appointment of Mr Ian Cox, having asked me supplementaries about his appointment previously, and I trust—

The Hon. I.K. Hunter: And not having an answer.

The Hon. J.M.A. LENSINK: Well, I provided you with an answer on Tuesday in response to a question on notice. There were eight applications for that position; three were shortlisted, and he was the successful applicant. Mr Cox of course would be known through his role at Hutt Street, where I understand he has worked for 16 years, and he has worked in the homelessness sector for some 25 years. He is very well known. He went through the process of the application—that's not something that I was part of, so I can't speak to his specific qualifications, but I think he is well recognised in the sector as somebody who has a great deal of experience.

In terms of the Hutt St Centre, he established the Aspire Adelaide program, which is South Australia's first social impact bond. That is monitored by Treasury and Finance. It has had some very effective outcomes in terms of assisting people who would otherwise be sleeping rough into employment. The data that they also collect through that program relates to, I think, hospital avoidance and some health measures that are tracked.

Mr Cox was also instrumental in Adelaide becoming one of the vanguard cities with the Institute of Global Homelessness. He's been quite innovative in terms of pushing Adelaide to be part of some new ways of looking at homelessness, and we certainly look forward to benefiting from his wisdom when he starts next week.

CORONIAL REPORT

The Hon. T.A. FRANKS (14:51): I seek leave to make a brief explanation before addressing a question to the Minister for Industrial Relations on the topic of the government response to the Coroner's recommendations on the inquest of Mr Castillo-Riffo.

Leave granted.

The Hon. T.A. FRANKS: The minister has today tabled a ministerial statement with the government's response to the Coroner's recommendations, starting that statement with, 'In the interest of transparency and accountability'. As we know, the inquest into the death of Mr Castillo-Riffo, who was killed while performing patching work from an elevating work platform (or EWP) at the Royal Adelaide Hospital's construction site in November 2014 has been the subject of much debate in this place and in the community.

One of the recommendations was that a spotter be present wherever elevated work platforms are used. In the government's response to the Coroner's recommendations, they have rejected this recommendation, stating:

> …stakeholders have expressed the view that the mandatory use of a spotter in each and every situation is inflexible and has the potential to create other problems…

The minister goes on to say that:

> …the PCBU and/or EWP operator may perceive that the risk to safety should be managed by the spotter rather than by proper planning and machine selection;

2. The requirement for a spotter to be present at all times could lead to workers using means other than EWPs, such as a ladder or scaffolding, to access higher areas in circumstances where an EWP would be safer and more suitable for the task;

3. The mandatory use of spotters may divert resources from other, more effective measures to mitigate risks and improve work health and safety; and

4. In situations where a spotter will be exposed to serious risks to their own safety in order to perform that role, the use of a spotter may be inappropriate.

My question to the minister is: who are these stakeholders?

The Hon. R.I. LUCAS (Treasurer) (14:53): I thank the honourable member for her question. There were quite a number of stakeholders who raised some of those issues. The member has referred to a number of issues raised. I recall there were clearly people involved in the building industry—their representative organisations but also some individual stakeholders as well—raised the issues. I think there was reference to the fact that—and I will need to check the exact record, Mr President—at the height of the NRAH construction, something like 200 to 300 additional spotters would have been required at various points, in terms of the peak activity on that particular site.

At the other end of the spectrum, there was a range of people who represented individual supermarkets who indicated that they used elevated work platforms within their supermarket—not in terms of construction activity, but just in terms of normal activity within their supermarket, or their storehouse or room at the back of the supermarket. They indicated, from their viewpoint, they believed this was an impractical suggestion in relation to, whenever an elevated work platform was being used, they would have to have a spotter for their, in essence, retail use within those particular premises. So there was a range of individual stakeholders who raised some of those issues to which the member has referred.

For the benefit of members who obviously haven't had the chance to read what is quite a long and comprehensive reply to the Coroner from myself on behalf of the government, what we do highlight in relation to that particular issue is that there are existing provisions under the Work Health and Safety Act, and existing regulations and existing Australian code standards, Australian standard 1418.10 and Australian standard 2550.10, which are approved codes of practice under section 274 of the Work Health and Safety Act.

Those particular existing codes of practice and existing guidelines in terms of safe work health and safety practice say as follows. Section 5.14 of Australian standard 2550.10 concerns assistance from ground support personnel—or spotters, if you want to call them that—and relevantly provides as follows:

- Prior to operation, a system of communication shall be established between people working on the platform and nominated support personnel.
- Arrangements shall be made for rescue in the following events:

  (a) failure of the elevating mechanism;

  (b) disabling injury or sickness of the operator;

  (c) the mobile elevating work platform coming into contact with the overhead powerlines; and

  (d) the operator being suspended in a safety harness after being expelled from the mobile elevating work platform.

  And,
- Ground personnel shall be trained in the use of emergency retrieval systems.

The PCBU should refer to this Australian standard and the other Australian standard to determine whether they are compliant with their duties under the Work Health and Safety Act. Again outlining their requirements under the existing law without any additional requirements, it is for duty holders to determine what is reasonably practicable to ensure health and safety of workers in the particular circumstances. This includes taking into account and weighing up all relevant matters, including those in section 18 of the existing Work Health and Safety Act, which are:

(a) the likelihood of the hazard or the risk concerned occurring; and

(b) the degree of harm that might result from the hazard or the risk; and

(c) what the person concerned knows, or ought reasonably to know, about—

(i) the hazard or the risk; and

(ii) ways of eliminating or minimising the risk; and

(d) the availability and suitability of ways to eliminate or minimise the risk; and

(e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

That is within the existing section 18 of the Work Health and Safety Act, supported, I think, on my recollection, by all parties when it was introduced. It is meant to be national template legislation; there are some variations in the states. I will stand corrected—I will check the record—but I am pretty sure this particular provision is a standard template for all the template legislation and work health and safety laws.

Whilst the member has referred to some aspects of my response, for the sake of transparency and accountability, I place on the record the rest of it, which indicates that under the existing act, under the existing regulations and under the existing codes of practice there are requirements in relation to safe work practices for elevating work platforms. There are references to the use of—the member and the Coroner has used the phrase 'spotters', but the standard refers to 'ground support personnel' in terms of communication between someone on the ground and someone who is operating the elevated work platform.

Together with the audit, which I think my response indicates—I think the honourable member or one other honourable member has asked this question—which concluded on 30 June, SafeWork SA will soon be releasing the results of that audit report publicly and it will be distributed to workplaces and industry groups, together with an information sheet that addresses the key issues identified by the audit.

That sheet will be provided to all persons and organisations on SafeWork SA's emailing list, which comprises some 12,000 contacts, and it is intended that inspectors will continue to distribute the information sheet annually to workers and PCBUs on the basis of trying to provide ongoing education about the existing requirements in terms of the work health and safety of workers who might be using elevated work platforms, but equally requirements on businesses and others who use elevated work platforms in their workplace.

In conclusion, the point that some of the stakeholders would make is that under the existing laws someone who is operating an elevated work platform in a retail supermarket in the suburbs of Adelaide on an ongoing basis will probably have different requirements in terms of work health and safety and the use of a spotter or ground support personnel, as opposed to someone on quite a complex construction worksite, where clearly there may well be in those circumstances greater capacity or greater likelihood of injury to workers on that particular worksite.

CORONIAL REPORT

The Hon. T.A. FRANKS (15:00): Supplementary: name the stakeholders and, if they include the Master Builders Association, did they declare their conflict of interest with regard to the death of Mr Castillo-Riffo?

The Hon. R.I. LUCAS (Treasurer) (15:01): I indicated that it was likely to be representative organisations of construction companies, and in that case it is likely to be—but I will need to check the record—not only Master Builders but possibly the Housing Industry Association and other like organisations, but it may well also have included individual building and/or construction companies, and it did also include some people, individuals or others, who represented what I would call commercial retail supermarket interests.

CORONIAL REPORT

The Hon. T.A. FRANKS (15:01): Supplementary: with no mays, likelies or possiblies, could the minister please name the stakeholders?

The Hon. R.I. LUCAS (Treasurer) (15:01): No I can't because, as I said, I would have to go back and check the record. I am quite happy to do so, but I do not have a copy of all the submissions made either directly to SafeWork SA or representations made to me or my office. But, as I indicated, it is highly likely that representative organisations of building and construction companies—if the honourable member is most interested in the Master Builders Association, then it is most likely that they would have—beg your pardon?

The Hon. T.A. Franks: The honourable member is and the honourable member is wondering if they declared their conflict of interest—

The Hon. R.I. LUCAS: So it's most likely that the MBA, and possibly other industry associations involved in the housing and construction industry, as I have acknowledged, but also possibly, and probably, individual companies that were involved in the construction industry.

LUXE HAUS

The Hon. R.P. WORTLEY (15:02): My question is to the Minister for Trade, Tourism and Investment. Either as a minister or prior to becoming minister, has the Minister for Trade, Tourism and Investment ever visited the Luxe Haus or travelled in the same car as convicted sex offender Corey Ahlburg?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:03): I have already answered that I have never visited the Luxe Haus; I am aware that it is Moana somewhere—I don't even know where it is. Obviously, members opposite have a much greater understanding of it than do I, and I do not have any recollection of travelling in the same vehicle as Mr Ahlburg.

QUEENSLAND BUSHFIRES

The Hon. J.S.L. DAWKINS (15:03): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing relating to assistance being provided to Queensland communities which are experiencing severe bushfires.

Leave granted.

The Hon. J.S.L. DAWKINS: Having served as a CFS volunteer at both the 1980 and 1983 Ash Wednesday bushfires, I well remember the importance of having appropriate levels of health professionals and ambulance personnel to assist firefighters and local residents. Will the minister advise the council of any assistance being provided to Queensland in relation to the bushfires being experienced in that state?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:04): I thank the honourable member for his question. As the honourable member quite rightly highlights, South Australia has been the beneficiary of generous support from emergency services from around Australia in years past in our times of need. South Australians have been active in reciprocating when other Australians are in need. South Australians have been and will continue to support Queensland, through the deployment of SA Health paramedics to assist firefighting efforts.

These paramedics provide valuable capability in remote areas and increase the operational capacity of the fire strike teams. The Queensland Fire and Emergency Services sought assistance from the South Australian Country Fire Service for the provision of services to support firefighting efforts on 12 September 2019. The South Australian Ambulance Service deployed six specialist paramedics from the special operations unit and SAAS remote units, who were attached to fire strike teams for the purposes of treating injury and illness.

The efforts of these individuals had an immediate impact at the operational level, as they increased the capability of the strike teams, who would often be limited in their operations due to the remote nature of the work. Additionally, their ability to provide high-level remote clinical monitoring and care was invaluable. I am advised that strike teams for these efforts were located in Canungra, Warwick and Caloundra. An additional 42 staff from SA Health have assisted in volunteer roles in supporting the recent Queensland firefighting efforts. The efforts are coordinated under what is called the Arrangement for Interstate Assistance.

I also want to pay tribute to members of the South Australian emergency services family beyond my portfolio and acknowledge their contribution recently. For example, only yesterday,

following a request from the New South Wales Rural Fire Service, a third contingent of South Australian emergency services personnel left for New South Wales to help with firefighting efforts in the north of that state. I am told that the contingent will include 16 Country Fire Service volunteer firefighters and a South Australian Ambulance Service paramedic. On behalf of all South Australians, I thank the people involved in supporting other Australians in need.

POKER MACHINE PAYOUTS

The Hon. C. BONAROS (15:06): I seek leave to make a brief explanation before asking the Treasurer, representing the Attorney-General in another place, a question about poker machine payouts.

Leave granted.

The Hon. C. BONAROS: Like others in this chamber, I was deeply disturbed at the alleged robbery and assault of an elderly southern suburbs woman in her home only a few hours after she had received a sizeable payout on a poker machine. Eva Donlon, 82, was allegedly robbed and assaulted by two men who posed as tradesmen to enter her house at the Woodcroft Caravan Park only hours after she won $6,500 on poker machines at the Lonsdale Hotel.

It is believed the men witnessed Ms Donlon receive her payout in cash and followed her home as she left the hotel in the wee hours of the night. Fortunately, she was not seriously injured in the robbery, and the men were arrested a few days later. The matter, as I understand it, is currently before the courts, which will no doubt deal with the alleged perpetrators appropriately. My questions are:

1. Has the Attorney-General ordered the Office of Consumer and Business Services, the government agency responsible for poker machine governance in SA, to investigate why the Lonsdale Hotel paid out Ms Donlon's windfall in cash, something that, while not illegal, as this case proves, has the potential to put people's lives in unnecessary danger?

2. Does the Attorney agree that current legislation needs to be improved to make it compulsory for poker machine winnings over $1,000 to be paid out by cheque, and not only if requested by the player?

3. Does the Attorney have any knowledge and/or information where similar robberies have occurred when people have received larger poker machine windfalls, and will she provide details of such?

The Hon. R.I. LUCAS (Treasurer) (15:08): I am pleased to refer the honourable member's question to the Attorney-General and bring back a reply.

TRADE MISSIONS

The Hon. I. PNEVMATIKOS (15:08): My question is to the Minister for Trade, Tourism and Investment. Can the minister explain the process for determining which businesses accompany the minister on overseas trade missions, and could the minister also advise the process for determining the itinerary for the overseas trade missions?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:09): I thank the honourable member for her question. I assume she is referring to trade missions in my current capacity as minister. As the honourable member would know, we have a different approach. We don't have the great travelling caravan trade missions of the Hon. Martin Hamilton-Smith, who incidentally I saw today in the building. He was obviously coming back to visit his good dear friends across the way.

Members interjecting:

The Hon. D.W. RIDGWAY: In the next sitting week, I will take more—

Members interjecting:

The Hon. D.W. RIDGWAY: Mr President, they can't help themselves. We have coming up in early November the CIIE (China International Import Expo). We will be taking a delegation. Companies have been able to register their interest with the department to actually attend that. My

recollection is—and that is why I will have some more details next sitting week around exactly the process, but I certainly think that you have to register, and I think it is a self-nominating process for companies to come on those particular trade missions.

TRADE MISSIONS

The Hon. I. PNEVMATIKOS (15:10): Supplementary: in terms of the expo that you just identified, who actually plans the itinerary? Does the minister or his office have any input in terms of selection of the companies that register interest?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:11): In relation to input or in the selection of companies, no, we want every company in South Australia to export and to grow. We would love to have them there. I think they self-select a bit on the cost of attendance, and there is a whole range of things and whether it fits their particular business plan or their marketing plan in particular.

Arranging of the itinerary is done by the department. I will have a range of meetings. I haven't seen the final program yet, but I know there are some meetings in Guangzhou, because we have a new staff member starting in Guangzhou, and I am sure they will be meeting with Xiaoya Wei in Shanghai. I am sure there will be a range of meetings. I think I have been advised that there is one 1½-hour slot left available in the four days for meetings, and I am sure that will be filled before I get there.

TRADE MISSIONS

The Hon. I. PNEVMATIKOS (15:11): Have you as the minister, in terms of the planning that goes around trade missions, either requested or directed a particular invite to a business?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:12): No, what I do is I say to businesses, 'If you're interested in exporting, contact the department and see whether you would like to fit into a program that we are doing. Or if you are just ready to go, go to Japan and talk with Sally Townsend, go to Shanghai and talk to Xiaoya Wei.' There are a number of opportunities to be able to promote your product, whether it is a wine product or any other product or service that we are selling. That's the reason we are opening trade offices and putting people on the ground. It is so any time we have a South Australian business that wishes to export and grow our economy, grow jobs and support South Australia, they don't have to wait for a trade mission like the former government did with the big travelling caravan. They can actually go at any time. If there is a business opportunity, we want them to go.

TRADE MISSIONS

The Hon. I. PNEVMATIKOS (15:13): Final supplementary: can the minister advise if any Liberal donors have accompanied the minister on any taxpayer-funded overseas trade missions?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:13): While my travel may be paid by the taxpayers, the actual businesses pay for themselves, so they are not taxpayer-funded on that behalf. In the lead-up to the election, nearly every business in South Australia was donating to the Liberal Party; they wanted to get rid of this lot. But we certainly have no criteria. They were falling over themselves to give us money; they wanted to kick that lot out. That is not part of any selection criteria at all.

TRADE MISSIONS

The Hon. K.J. MAHER (Leader of the Opposition) (15:13): Supplementary in relation to the original answer the minister gave to the Hon. Ms Pnevmatikos's question: in relation to the process for determining which businesses go on these overseas trade missions, does the minister, prior to the mission, see a list or in any way approve those delegates who attend with him?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:14): I think I am advised, just as a matter of courtesy, that these are the businesses. For example, for the CIIE in early November I've seen a list a few months ago. It is sort of a preliminary list and now it has grown, I think, to almost 40 companies. I don't have any right or any role in saying businesses can or cannot come. I want them all to come. I want to grow our economy. As I said, if there is no room

or it doesn't fit your business plan, get to China, get to Japan and, soon, get to the US and start growing our economy.

TRADE MISSIONS

The Hon. K.J. MAHER (Leader of the Opposition) (15:14): A final supplementary: has the minister ever suggested at a Liberal Party fundraiser that businesses contact him or his office about attendance at an overseas trade mission?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:14): At nearly every event I go to, I say that if you want to grow your business—it doesn't matter where it is—

Members interjecting:

The Hon. D.W. RIDGWAY: I say it everywhere I go. I spruik what we are doing. I do it everywhere. If I am at Scotch College seeing some of the people where my children went to school, I say that if you have a business, you want to export. I do it at a whole bunch of wineries. I am constantly out spruiking our great state and telling everybody to get on board and help grow our economy.

AUSTRALIA JAPAN BUSINESS CO-OPERATION COMMITTEE

The Hon. T.J. STEPHENS (15:15): My question is to the Minister for Trade, Tourism and Investment. Can the minister update the council on his productive meetings in Japan as part of the Australia Japan Business Co-operation Committee in Osaka?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:15): I thank the honourable member for his question. As I outlined yesterday, South Australia will be hosting the Australia Japan Business Co-operation Committee for the first time in 30 years next year. I had the privilege of attending this year's conference in Osaka. Across the three days, I carried out an extensive program of meetings with a wide range of stakeholders interested in doing business in South Australia across many sectors.

I had the pleasure of meeting with the Daigas Group, formerly known as Osaka Gas, to discuss the hydrogen industry. They gave me a broad overview of their hydrogen operations, including a visit to one of their hydrogen vehicle refuelling stations. Hydrogen is, of course, a massive opportunity. It came up as a point of discussion in almost every meeting I had over the three days. Japan is incredibly serious about solving its energy issues, and hydrogen is the fuel of choice to power their economy going forward. There are many challenges ahead as the technology still has a way to go before it can be fully commercialised, but the potential is immense.

The Marshall Liberal government has recognised the enormous opportunities in hydrogen, which is why we recently released our Hydrogen Action Plan. I presented almost every person we met with a copy of the action plan. They were very impressed with what our government is doing and are keen to look at a range of opportunities to invest in South Australia. Incidentally, about a month ago, a delegation from Japan came to South Australia. They went to nearly every state in Australia. On further meetings with them, they said that South Australia was the most advanced in the hydrogen sector.

The Hon. K.J. MAHER: Point of order, Mr President: the minister is referring to a press release that he himself put out on 12 October 2019. Most of the information is in the public domain.

The PRESIDENT: I don't have the media release, but the minister is not reading from it; I know that much. I will allow the minister to go on, but be warned.

The Hon. D.W. RIDGWAY: Thank you, Mr President, for your advice. This is actually some information—

The PRESIDENT: I wasn't advising you: I was warning you.

The Hon. D.W. RIDGWAY: —about what happened at that particular event. Over the course of the three-day program, we met with Sumitomo Electric Industries, Mitsubishi Corporation—which, of course, has decided to keep its headquarters for Mitsubishi Motors in Adelaide—Sojitz, Kawasaki

Heavy Industries and Kansai Electric. Our other meetings included the Senior Trade Commissioner, Brett Cooper; ambassador Richard Court; and ambassador Takahashi.

I also participated in a panel discussion on investment opportunities in Australia alongside Austrade chief executive, Ms Stephanie Fahey, and other members of the Australian and Japanese business community. There are some very consistent investment areas that Japan is interested in, and they complement many of our priority sectors. They include hydrogen, renewables more generally, space, defence, health and medical industries, food, wine and agribusiness.

The enthusiasm in the room for working with South Australia was infectious. I look forward to seeing what outcomes come not only from this trip but when the conference comes to Adelaide next year. We are already seeing some of the business opportunities happening, with several companies planning to visit in the months ahead to explore opportunities to collaborate with and invest in South Australia.

FLINDERS CHASE NATIONAL PARK

The Hon. M.C. PARNELL (15:19): My question is to the Treasurer. How much of the $832,889 plus GST that the government has contracted to pay to the Australian Walking Company in relation to luxury private accommodation in Flinders Chase National Park has already been paid over to that company?

The Hon. R.I. LUCAS (Treasurer) (15:19): I am assuming the honourable member is referring to a grant made by the former Labor government. I am happy to take that on notice and come back with an answer.

SUPERLOOP ADELAIDE 500

The Hon. T.T. NGO (15:19): I seek leave to make a brief explanation before asking a question of the Minister for Trade, Tourism and Investment regarding Superloop 500.

Leave granted.

The Hon. T.T. NGO: The SATC has a contract with the Supercars Championship that guarantees South Australia the first race of the season until 2021. Since its inception the race has injected more than $600 million into the state's economy. My questions to the minister are:

1. Has the government started negotiations to renew the contract?

2. Has the minister made any representation to Supercars to advocate for an ongoing commitment beyond 2021?

3. Will the SATC's $23 million of budget cuts affect its capacity to run the event in the future?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:21): I thank the honourable member for his ongoing interest in Supercar racing, which, as we all know, was originally the Clipsal, a Liberal event. Just quickly, we know that we have the contract until 2021. My understanding is that the contract talks about the two parties, being originally the Motorsport Board but now EventsSA and the SATC, post the 2020 event must start the negotiations to then have an event beyond 2021. I think some preliminary discussions have already taken place. It is a great event. We know it injects a huge amount of money into the South Australian economy and every year it gets bigger and better.

The honourable member referred to some budget cuts. They clearly have not had any impact because last year's Superloop 500 was the biggest event this state has ever seen. It is the biggest ticketed motorsport event in the nation. We just saw the Bathurst event on the weekend; it's bigger than Bathurst. It's something that this state should be very proud of.

Bills

STATUTES AMENDMENT (MINERAL RESOURCES) BILL

Committee Stage

In committee (resumed on motion).

Clause 107.

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

Amendment No 26 [Parnell–1]—

Page 117, after line 35 [clause 107, inserted section 74]—After inserted subsection (2) insert:

(2a) Before the Court may grant permission under subsection (2)(c), the Court must be satisfied that—

(a) the proceedings on the application would not be an abuse of the Court; and

(b) it is not unlikely that the requirements for the making of an order under subsection (1) would be satisfied; and

(c) it is in the public interest that proceedings should be brought.

(2b) If an application under this section is made to the Court by a person other than the Director of Mines—

(a) the applicant must serve a copy of the application on the Director within 3 days after filing the application with the Court; and

(b) the Court, must, on application by the Director of Mines, join the Director as a party to the proceedings.

(2c) An application made under this section by a person other than the Director of Mines may be made in a representative capacity (but if so, the consent of all persons on whose behalf the application is made must be obtained).

Amendment No 27 [Parnell–1]—

Page 119, after line 38 [clause 107, inserted section 74]—After inserted subsection (16) insert:

(17) Without limiting the generality of subsections (11) and (16), in determining whether to make any order in relation to the provision of security, or the giving of an undertaking, or in relation to costs under those subsections, the Court may have regard to the following matters (so far as they are relevant):

(a) whether the applicant is pursuing a personal interest only in bringing the proceedings or is furthering a wider group interest or the public interest;

(b) whether or not the proceedings raise significant issues relating to the administration of this Act.

The last division was on the question of whether or not people—citizens, community groups—ought to be able to civilly enforce the legislation. The committee in its wisdom decided that they did not want that reform, but I still move amendments Nos 26 and 27 but I will not divide on them; we have tested that issue. Amendment No. 26 goes to something that the Treasurer said earlier on in his explanation as to why the government was refusing to give citizens the same democratic right they have in every other piece of land use legislation, when he suggested that the proceedings might be abused, or I think he used the word 'vexatious'.

The importance of amendment No. 26 is that it makes the court the gatekeeper of who is entitled to bring civil enforcement proceedings. I need to put this on the record because it is not a question of frivolous and vexatious proceedings getting up. The court is obliged; they must be satisfied that the proceedings would not be an abuse of process. They also must be satisfied that it is not unlikely that the requirements for the making of an order would be satisfied.

There is bit of a double negative in there, but it is not unlikely, which means that there are some prospects of success. They have to show that it is not an abuse of process, they have some chance of success and, thirdly, it is in the public interest that the proceedings be brought. That is a pretty tough bar for anyone to cross and yet the government and the opposition both believe that this area of South Australia's resource law does not or should not have the same democratic rights that other resource laws have.

I just wanted to put that on the record because, as I said in relation to the previous clause, these are not powers that are exercised lightly or flippantly or frivolously. They are exercised only very rarely, but what they do is provide an incentive to decision-makers to make their decisions properly and according to law because there is at least that chance or a possibility that if they do not

do their job properly they will be called to account by the community and that someone, an individual or a group in the community, will go to the court under a civil enforcement procedure and the court will find that, yes, the law has been broken. They will probably incidentally find that, yes, the minister and the department should have done something about it and did not. I think it is a real shame that this committee today is not going to be supporting civil enforcement.

With that, I will not divide on this, but I certainly move amendment No. 26 standing in my name and I will simultaneously move amendment No. 27, which is a provision that I have moved in relation to other legislation. Basically, what it says is that if the reason someone has gone to court, a conservation group for example, is because they are bringing proceedings in the public interest or they are bringing it not for purely selfish reasons but on behalf of a wider group in society and if the proceedings raise significant issues in relation to the administration of the act, then the court should take that into account in deciding whether to award costs against them or whether to order them to provide security for costs or undertakings as to damages, because they are the financial hits that often come to people who do not win court cases.

It gives the court some discretion to say, 'Well, they had a good chance, it was in the public interest, but for whatever reason they didn't quite get over the line. So they might lose the court case but we are not going to order costs against them or any of these other adverse monetary orders.' I think the combination of amendments Nos 26 and 27 would have made civil enforcement, if the committee had been willing to accept it, a very sensible and responsible addition to the community's armoury of tools to ensure that our environment is protected and our resources are properly managed. I am happy for the amendments to be voted on together, but I am in the hands of the council.

The Hon. F. PANGALLO: I rise to say that SA-Best supports the Hon. Mark Parnell.

The Hon. J.A. DARLEY: I will be supporting those amendments.

The Hon. R.I. LUCAS: The government opposes them.

Amendments negatived; clause passed.

Clauses 108 to 122 passed.

New clause 122A.

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

Amendment No 28 [Parnell–1]—

Page 127, after line 22—After clause 122 insert:

122A—Insertion of section 91AA

After section 91 insert:

91AA—Appeal by interested person on certain matters

(1) This section applies in relation to the following matters:

(a) the grant of a mineral tenement under this Act;

(b) approval of retention status under section 33B;

(c) approval of a change in operations under Part 8B Division 7;

(d) a decision to cancel, suspend or surrender a mineral tenement;

(e) a decision to exempt a tenement holder from an obligation to comply with a term or condition of a mineral tenement, or from a requirement of this Act.

(2) A person (other than a tenement holder) may, with the permission of the ERD Court, exercise a right of appeal against a matter to which this section applies if the person can demonstrate an interest in the matter.

(3) Before the ERD Court may grant permission under subsection (2), the Court must be satisfied that the proceedings on the appeal—

(a) would not be an abuse of the process of the Court; and

(b) raise an issue or issues of significant importance; and

(c) are in the public interest.

(4) A decision of the ERD Court to grant permission under subsection (2) may be made subject to such conditions as the Court thinks fit (including that the person provide security for the payment of costs).

We are getting to the business end of this debate; this is the last of my amendments. When I first drafted this I thought it was a long shot, but we would give it a go. The current Mining Act does not have a right of third-party appeal, and I think it is an important democratic measure. I knew a number of farming groups and conservation groups would like to have the ability to appeal against mining tenement decisions, but I did appreciate that it was a novel provision.

Then we saw the newspaper this week—and I alluded to this before—where we have the dispute in the Adelaide Hills with the winery and the prospective mining company next door to each other and the mining company has appeal rights to challenge the ability of the winery to expand. The winery wants to build a new restaurant, a new cellar door, put a car park in for visitors and do various things. The mining company has a right to go to the ERD Court and bring a third-party appeal on the merits against the planning approval that has been granted to the winery.

When you look at that you think, 'Oh well, I guess it should be fair both ways; surely the winery should have the opportunity to go to a court and appeal on the merits against the mining licence that may be granted to the mining company.' However, no such right exists. That just brings into stark contrast the difference the government sees in different types of development: there is a right to appeal in the planning system, there is no right to appeal against mining.

I think that is patently unfair. As I said before, I cannot see the mining company's appeal against the winery's expansion as anything other than payback for the legitimate environmental questions the winery and its neighbouring wineries have been asking, particularly in relation to groundwater.

The solution to that is in the hands of this council: we can give third parties, such as the neighbours of a proposed mining project, the right to go to the umpire and test whether or not the mining approval should have been given. That is what this amendment does, this inserted new clause 122A.

Of course, it is not an absolute right. I think I have quite responsibly built into this provision a requirement that the court must be satisfied that any appeal would not be an abuse of the process of the court, that it raises issues of significance and importance, and is in the public interest. Those three elements all have to be met. It is not as if a trade competitor, vexatious litigant or mere troublemaker is going to get a foot in the door of the court. It has to be a legitimate case, but it seems to me, as we saw in the newspaper the other day, what is good for the goose should be good for the gander.

If Terramin is able to challenge the winery's business in a court of law, why ought not the winery be able to challenge the mining company proposing a far more disruptive development next door? I would urge the committee to support the inclusion of new clause 122A, which gives third parties the right to appeal against certain mining decisions.

The Hon. F. PANGALLO: I rise to support the Hon. Mark Parnell's amendment.

The Hon. J.A. DARLEY: Likewise, I will be supporting that amendment too.

The Hon. R.I. LUCAS: The government opposes the amendment. These proposed amendments seek to create new rights relating to merits review and third-party appeals in the Mining Act in respect to a range of decisions under the act. The government acknowledges that the honourable member has been consistent and unsuccessful in previous attempts to insert full merits review rights into the legislation.

The government does not support opening up decisions between the regulator and the applicant in respect of Crown minerals to third parties, because there is no evidence to support that it is in the public interest. Such a move creates significant risk of increased costs and delay and

vexatious proceedings by third parties with ulterior purposes, such as commercial gain, giving rights to those not directly affected by a decision to frustrate the exploitation of the state's resources.

South Australia already faces significant natural barriers to attracting investment in the minerals that consistently make up more than a third of our export economy without introducing artificial hurdles. These proposed amendments, like many of the amendments moved by the honourable member, increase time and cost uncertainty for proponents looking at South Australia without delivering, in the government's view, public value.

The committee divided on the new clause:

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

AYES

Bonaros, C.	Darley, J.A.	Franks, T.A.
Pangallo, F.	Parnell, M.C. (teller)	

NOES

Bourke, E.S.	Dawkins, J.S.L.	Hanson, J.E.
Hood, D.G.E.	Hunter, I.K.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I. (teller)	Maher, K.J.
Ngo, T.T.	Pnevmatikos, I.	Ridgway, D.W.
Scriven, C.M.	Stephens, T.J.	Wade, S.G.

New clause thus negatived.

Remaining clauses (123 to 190), schedule and title passed.

Bill reported without amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (15:43): I move:

That this bill be now read a third time.

The Hon. D.G.E. HOOD (15:43): My considering the bill and coming to the conclusion that I will be unable to support it in its current form has been a difficult process. Frankly, I find myself in a position I would rather not be in. I have left it until the third reading to make any comments as I was hopeful the bill may have been substantially amended over the course of our deliberations here in the chamber so that I may be able to support it, but that has not eventuated.

The principal reason for my inability to support the bill is the fact that, in my estimation, it is weighted simply too heavily in favour of the mining industry and against the rights of agriculture and farming. Given that both mining and farming stakeholders and industries agree that an independent review would be useful to help navigate a way through what is obviously a complex situation, I see no reason why an independent review should not proceed.

That said, one of the many appealing aspects of being a member of the Liberal Party is that it in effect endorses a member's right to disagree with the party position at times and to vote accordingly. I strongly believe that other political parties are the poorer because they do not afford their own members the same opportunity as my party does. I wish to emphasise to my Liberal colleagues that this will be one of the very rare occasions on which I choose to exercise that right.

I take this opportunity to place on the public record that neither the Premier nor relevant ministers have in any way sought to influence me to vote in favour of the proposed legislation. I thank and commend them for honouring party principles, not only in the technical sense but in the general spirit in which those principles are intended. Liberal members enjoy freedoms that other political party members do not.

I would also like to address speculation in the media and elsewhere that there is some sort of implacable division in our party that has arisen due to this issue. This is certainly not the case in my experience; in fact, I see no evidence to support it. Debate has always been respectful, cordial and even beneficial for members involved. We are, of course, a party comprising individuals with varying opinions on some matters and we occasionally respectfully agree to disagree. Again, this is exactly as it should be, in my strong view; it makes for healthy debate and genuinely true democracy. To be clear, I am unable to support the bill in its current form and will oppose the third reading.

The Hon. M.C. PARNELL (15:45): When I started my remarks on this bill, I acknowledged that a 44-year-old, middle-aged piece of legislation would benefit from reform, so I supported the process of reforming the Mining Act. I think it could have been done a lot better; they could have presented us with a brand-new Mining Act rather than with hundreds of amendments.

But, still, I supported the second reading of the bill because I thought that, with appropriate amendment, we could get this bill into a shape that better balanced the competing rights that are out there in the community. Those rights are: the rights of farmers to be able to grow food and fibre for us; the rights of nature to exist, especially in protected areas but elsewhere as well; and the rights of the community to have a say over how its resources are allocated. This is the balance that should be struck by modern mining legislation, and I think this bill fails that test and fails it abysmally.

The balance has not been correctly struck. In fact, what has happened is that this bill simply perpetuates the status quo as has existed for the last century or so, and that is that, in the pecking order of economic activity, mining is on the top and everything else comes underneath it. That is the pecking order, that is the natural order, and that is what this bill perpetuates. I do not accept that that is the way society should make decisions about how we use our resources. There are competing uses, they need to be balanced and this bill does no such thing.

The Hon. Dennis Hood mentioned review—I agree. I think a review, a proper process, hearing from all the stakeholders, would have been an excellent idea. When this parliament was first created after the last election, and I was reappointed to the Environment, Resources and Development Committee, one of the first things we do on that committee is look at suitable topics for review. The first one my list was this topic: access to land for mining and farming. It struck me that this was an issue that was emerging and if that committee could inquire into it we could add great value to the legislative process. That did not find favour; the committee decided not to go down that path. I wish we had.

So the Greens' position will be, having supported the second reading in the hope that sensible amendments would pass, that we now find ourselves unable to support the third reading—I will be voting against it. I would also like to add my profound disappointment that nearly half the members of this chamber, in particular opposition members, chose not to engage in the committee stage of the debate. A simple statement at the start saying, 'Well, we're not going to support any amendments at all,' and then not further engage I do not think gives any credit to them.

I know that people are watching this debate—many over on Yorke Peninsula are (I have had text messages). They are sitting around the computer, watching this debate. One of them said, 'Labor hasn't said much.' Well, that is an understatement—virtually nothing. I think it is an appalling way for Her Majesty's Loyal Opposition to approach the legislative process, to not engage in debate on any of these 60 or so—I think it was in the end—amendments that we put forward. That does no credit to the Labor Party.

Whilst the debate has been respectful, has not been marred by unruly interjections and we have worked our way through the issues, I am disappointed that not a single amendment got up. I think the farming community will be disappointed. At least one Yorke Peninsula farmer rushed in the car to get down here for the vote—and I thank Brenton for his attendance—but I know that farming communities across South Australia are very disappointed in the outcome today and I share in their disappointment. The Greens will be voting against the third reading and, if the numbers are against us, we will be calling 'divide'.

The Hon. F. PANGALLO (15:49): Today, the mining sector will be rejoicing at the passage of this bill. They got what they wanted, and perhaps more, but it is a sorry day for our farming

community. They will get virtually nothing out of this overhaul of an archaic mining act but prospectors casting a shadow over their future.

I would like to say that I have no objection to mining. We know that it is one of the two main economic drivers of our economy. The other, of course, is agriculture, which delivers a considerable 20 per cent of our state's bottom line. Our state was founded on, and has benefited enormously from, agriculture, but this is an extremely dry state in extremely unpredictable climatic times. Just 4 per cent of this vast expanse of country is considered arable land.

In an age when we are contemplating the very future of our planet's ability to sustain life, we need to do everything to ensure humans can actually sustain themselves. Food and water are going to be the biggest commodities in years to come, and we need to start building protections for them, not make it more difficult for the short-term gain promised by mining company royalties.

Yes, we do need mining revenue. Our entire country's economy is reliant upon what we dig out of the earth. It pays for a lot of things we need to maintain our growth as a strong First World powerhouse in the Asian region, but let's not forget what is on top of our earth or the people who have toiled it for generations to keep our state, and also our nation, moving ahead: the farming community. If they cannot produce, life will inevitably come to a standstill.

It is vital that we can strike, and try to strike, a balance between these two sectors. Farmers in this state already have it stacked against them because the government has first rights over what lies metres below the surface. No matter what they do, or how successful they are, if there is a valuable resource beneath they are always going to be at risk of having to make way for the intrusion of miners.

I would have hoped that this bill would strike a balance of fairness, but it does not. Farmers will feel badly let down, not just by the initial authors of this legislation—the previous Labor government—but by the current Liberal government, which has truly trampled over their traditional heartland.

I will not lump all members of the Liberal Party in the same basket. I will acknowledge the decisions of the members in the other place who put their convictions ahead of party policy: Fraser Ellis, Steve Murray, Dan Cregan and Nick McBride, who chose to cross the floor in opposition to the bill. In this place, the Hon. Terry Stephens and the Hon. Dennis Hood will do the same. I was a little harsh on the Hon. Terry Stephens earlier this week—

Members interjecting:

The Hon. F. PANGALLO: Hardly vitriol, as the Treasurer put it, but I do respect the stand he has taken in an impassioned defence of the rural sector and his difficult call to now do something foreign to him—and the same for the Hon. Dennis Hood—to vote against the party they are serving and the one that the Hon. Terry Stephens has served diligently for nearly 18 years.

Apart from Dennis Hood, he was the only speaker in the upper house, other than, of course, the introduction by the Leader of the Government. Therefore, I am somewhat disappointed in some other Liberal members, who had raised the hopes of the farming community before the 2018 election that they would look after their interests.

When he was shadow minister for primary industries and regional development, the Hon. David Ridgway sent out a press release, dated 2 November 2017, in which he said that the Liberals were in no hurry to rush the bill through, and he then had the audacity to call on the crossbench of the upper house to support the Liberals' position. Let me quote him:

> The Liberal Party will absolutely not be rushing this through the Parliament before consultation is finished and until we've had adequate time to carefully review the entire Bill and its implications.
>
> Grains Producers SA are supportive of our position and we hope that the crossbench in the Legislative Council support our position too.
>
> We can't progress this Bill until the local community has had a chance to have their say.
>
> There are a number of unresolved issues with this Bill, especially around compensation for landowners and land access issues.
>
> We want to ensure that farmers and regional communities are protected…

The Liberals and Mr Ridgway did not really listen to them. Nor can you say the Hon. David Ridgway really meant what he said. Farmers can rightly argue that there are not the protections they were promised, although even they did not expect they would get the right of veto on their land, nor would we have perhaps supported that measure. Yet, the very issues the Hon. David Ridgway raised in that press release and what he wanted to achieve were contained in the raft of amendments filed by myself and the Hon. Mark Parnell, and neither he nor the Liberals supported my motion not to rush the bill and to refer it to a committee.

Not one on the government side of the chamber indicated any support for them, and neither did Labor. Only the Hon. Terry Stephens and the Hon. Dennis Hood have spoken, and the Treasurer as the Leader of the Government. He was left to defend his party's capitulation in the committee stage. Mr Ridgway, who was so outspoken about this bill in opposition, has been nowhere to be seen in this debate. I hope my divisions and those of the Hon. Mark Parnell did not greatly inconvenience him in his ministerial duties.

When I was in Paskeville last month, many anxious farmers told me how they felt let down by the Liberals. I will exempt Mr Ellis here and the others who have shown considerable support for them since this bill was introduced. They also told me how Mr Ridgway and others from the party reassured them before the 2018 poll not to worry about the bill because they would fix it up, just vote for them.

The Liberals know there are no votes for Labor on Yorke Peninsula, where 95 per cent of some of the best grain country in the world is under an exploration licence. It is a safe seat for them. Our candidate, Sam Davies, put up a solid fight against Fraser Ellis, and who knows what would have happened in Narungga if they knew they would be sold out.

They also take advantage of the fact that farmers are placid people who diligently go about their hard work and rarely do they raise a heckle in protest. I told them at Paskeville they are too nice, that they needed to show more of the anger that they were feeling. But they are truly nice, 'salt of the earth' people who seem used to climbing mountains put in their way. They are the same resilient types on the West Coast. I trust they now have the memory of an elephant.

As for Labor, their silence has been deafening. Nobody really raised their ire in objection, not even the members who come from our regions. Only the Hon. Clare Scriven spoke at the second reading in this place.

I now hold concerns that the Liberals will probably back away from their support on the moratorium on fracking for gas in the South-East. Meanwhile, we still have some farmers who are being dragged through the courts by recalcitrant mining companies. Farmers like Neil and Jackie Harrop, who are facing a civil claim. It is distressing to see what has happened to them. I hope we do not see repeats of this ruthless behaviour and conduct once this bill passes and is assented to. I would like to thank the Hon. Mark Parnell and the Hon. John Darley for their support of my amendments. I will close by saying that I oppose the third reading of this bill.

The Hon. R.I. LUCAS (Treasurer) (15:59): I was not going to make a contribution, but I do want to place on the record some brief closing remarks in response to some of the other comments at the third reading. I want to generally thank members for the respectful way in which I think the majority of the debate has been conducted in the chamber. We have completed the debate within good time, and everyone has had the opportunity to express their views one way or another in relation to the various amendments during the second and third reading debates on the bill.

So I thank all members for their contributions during the debate. However, I do want to respond to a couple of things that have been raised at the third reading. I acknowledge the great difficulty that my colleagues the Hon. Mr Stephens and the Hon. Mr Hood have had in reconciling their loyalty to the party; nevertheless, they have balanced the interests on behalf of the farming community and mining resources representatives in South Australia.

Reasonable people can make reasonable judgements and come to differing decisions about these sorts of issues. The fact that they and some members in the House of Assembly came down on a different side to the overwhelming majority of the Liberal Party is, as the Hon. Mr Hood and the Hon. Mr Stephens have indicated, one of the strengths of our party; that is, we allow people to make

those mature judgements and ultimately to express their views, if they so choose, in a vote in this house.

It is a strength. It is one of the reasons I was attracted to joining the Liberal Party 140 years ago (it seems) and representing the party in this particular chamber. It is not a right to be abused because, if it is, it can tear a party and a government apart. It is nevertheless an acknowledged strength and capacity within our party. I have been in here long enough to see members of the Labor Party who strongly expressed views about other issues. The end result was that they were excommunicated from the Labor Party, jettisoned to the dustbins of history and described as rats and scabs for the rest of their earthly lives.

That is not the way we conduct ourselves in the party. I am obviously disappointed that they have come to a different judgement to the judgement that I and others in the party have made, but I respect their right to do so and the respectful manner in the way in which they have conducted themselves in terms of the debate in this particular chamber.

There are another two things that I would like to respond to quickly. The Hon. Mr Pangallo must know different farmers to the farmers I know. I can assure the Hon. Mr Pangallo that he needs to get out a bit more often because the farmers I know are not backwards in coming forwards. If they have a very strong view that disagrees with the view you have, they have no reservation at all in expressing that view strongly and without holding back.

I can only encourage the Hon. Mr Pangallo to get to more Paskeville shows in the future because I can assure him that, on a whole range of issues, farmers will represent their views very strongly. There might be the odd occasion, the odd issue, where they express very strongly differing views to the Hon. Mr Pangallo and his party. I can think immediately of some issues that may well be addressed in the parliament in the not too distant future. I am not going to be diverted other than to say that I do not believe our farmers and regional communities are backwards in coming forwards. I believe they express their views strongly.

I know that some of them will be disappointed with the position that the Liberal Party has adopted on this issue, but I respect the fact that ultimately the vast majority of them will make a judgement as and when it is important—that is, at the time of elections—as to what is in the overall best interests of farmers and regional communities. I have every confidence in the views that my party and the government put on behalf of regional communities in particular.

The final point I would make is that the Hon. Mr Pangallo was making some comments in relation to the government's rush to get this legislation through. I am not sure what sort of time continuum the Hon. Mr Pangallo works on, but in my estimation there has been an 18-month or 20-month period since the March election. We are now in October the year after the election, and we are finally voting on it. If that is rushing, I would hate to see what taking a long time would be in relation to consideration of any particular matter.

With that, on behalf of government members in general, I do want to thank my colleague the minister in another place, who has had a difficult task in terms of trying to reconcile competing views within our party room and within the community generally. He is a hardworking and assiduous minister, a person for whom I have great respect, and I want to place on the record my acknowledgement to him but also to his hardworking officers and in particular the advisers who kept me out of trouble mostly in terms of the committee stage of the debate.

The council divided on the third reading:

Ayes 14
Noes..... 7
Majority..... 7

AYES

Bourke, E.S.	Dawkins, J.S.L.	Hanson, J.E.
Hunter, I.K.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I. (teller)	Maher, K.J.	Ngo, T.T.
Pnevmatikos, I.	Ridgway, D.W.	Scriven, C.M.

AYES

Wade, S.G.	Wortley, R.P.

NOES

Bonaros, C.	Darley, J.A.	Franks, T.A.
Hood, D.G.E.	Pangallo, F. (teller)	Parnell, M.C.
Stephens, T.J.		

Third reading thus carried; bill passed.

CONSTITUTION (ELECTORAL FAIRNESS) AMENDMENT BILL

Introduction and First Reading

The Hon. R.I. LUCAS (Treasurer) (16:10): Obtained leave and introduced a bill for an act to amend the Constitution Act 1934. Read a first time.

Second Reading

The Hon. R.I. LUCAS (Treasurer) (16:11): I move:

That this bill be now read a second time.

This bill seeks to reinstate in the Constitution Act what is known as the 'fairness clause': subsections 83(1) and 83(3). The fairness clause was actually moved in 1990 by the then deputy premier of the Labor government, Don Hopgood, and supported by the Liberal Party and other Independent members at the time. The insertion of the fairness clause in the Constitution Act came after decades of campaigning by the Labor Party and others on the issue of electoral fairness.

Subsections 83(1) and (3) provided that a redistribution must be fair so that the candidates of a particular group attracting more than 50 per cent of the statewide vote will be elected in sufficient numbers to enable a government to be formed—the fairness clause. That is the imperative requirement that the statewide popular vote should, so far as practicable, determine the outcome of elections in this state. Of course, that ought to be an uncontroversial proposition. That is chief among a number of settled principles that ought to remain similarly uncontroversial. They are principles expressed in the Constitution Act, the result of reform commenced by the Hall Liberal government and continued by the Dunstan Labor government, culminating in the establishment in 1975, by part 5 of the Constitution Act, of an independent commission.

First among those, and long-settled, is the principle that members of parliament represent electors rather than geographic area. The system of malapportionment was brought to an end with the result that districts had drawn on the principle that the number of electors in each district does not vary by more than the permissible tolerance. Section 77 of the Constitution Act, which as a result of Labor's determination to appeal the 2016 commission's findings, is now the subject of Full Court authority in the case of Martin v Electoral Districts Boundaries Commission [2017] SASCFC 18. Secondly, a gerrymander ought to be avoided rather than embraced. Thirdly, it ought not be controversial that boundaries should be drawn in such a way that seats will change hands in response to a change in voting patterns across the state.

The importance of the fairness clause, a creation of the work across parties 30 years ago, is to avoid a gerrymander. The need for an imperative reference to the statewide vote in the form of the fairness clause was recognised by all sides then. As referred to earlier, the fairness clause was actually introduced by the then Bannon Labor government. Labor deputy premier Don Hopgood said at the time, on commending the introduction of the fairness clause, that it was an enhancement of the Hall and Dunstan electoral reforms, and had they thought of it in 1975 then they would have included it at the outset. He said, and I quote:

When Premier Dunstan sought to incorporate this principle in legislation in the early 1970s, he had the advantage that he did not have to bother with talking about political Parties. People say that he ignored fairness, but I think it would be fairer to say—because I talked to Don Dunstan and Hugh Hudson at the time and I had read all the

literature—that what they said was that they did not know how one could formulate legislation to go that step further. They did not really think it was possible. I think what honourable members are saying this evening is that this committee has been very imaginative and adventurous in the way in which it has sought to bring down a formulation for the consideration of both houses of parliament which will attempt to do that which a former decade did not discount but really felt was just too difficult to tackle.

It is apparent that there is an unusual risk of gerrymander in this state, intended or inadvertent. That is for reasons including our state's geography and the concentration of the bulk of the population in metropolitan Adelaide. The parliament recognised that fact back in the 1980s and 1990s. It worked on a principled basis to ensure that the electors of the state could have confidence that the outcome would follow the will of the state as a whole.

Moreover, the independent commission, the Electoral District Boundaries Commission, charged with the responsibility to determine electoral boundaries, has long recognised the unusual risk of gerrymander in South Australia. The 1991 commission, for example, called it 'an enduring but uncontrived imbalance' which it said, at paragraph 14.2:

> …arises from a number of factors peculiar to South Australia… including the shape of the state (mainly the contours of the coastline), the uneven distribution of its rainfall, the consequential uneven distribution of its population.

The 2016 commission found, at page 30 of its report, that there was an innate electoral imbalance that applied over 40 years. The fairness criteria were determinative of the 2016 redistribution, the EDBC observing, at paragraph 13.3 of its final report:

> Ultimately, having ensured that the number of electors in each electoral district is not, at the relevant date, 10 per cent more or less than the 'electoral quota', the commission must give effect to the requirements of section 83(1) and (2).

Here it should be said that, over the period of time that we had the fairness clause operating, for a long time it did not achieve the desired result, as demonstrated by election results following its introduction. I seek leave to incorporate into *Hansard* a purely statistical table which outlines election outcomes since the 1991 redistribution.

Leave granted.

Table 1: House of Assembly election outcomes since the 1991 redistribution

Election	Statewide 2PP (%)		Seats won by each party							Who formed government?	
	ALP	LIB	ALP	LIB	NAT	IND LIB	IND	Others	Total seats	Premier	Basis of government
1993	39.1	60.9	10	37					47	Brown	majority LIB government
1997	48.5	51.5	21	23	1 Maywald	1 Williams	1 McEwen		47	Olsen	minority LIB government with Williams, Maywald and McEwen
2002	49.1	50.9	23	20	1 Maywald		2 McEwen Such	1 Lewis	47	Rann	minority ALP government with Lewis, Maywald and McEwen
2006	56.8	43.2	28	15	1 Maywald		3 McEwen Such Hanna		47	Rann	majority ALP government
2010	48.4	51.6	26	18			3 Such Brock Pegler		47	Rann	majority ALP government
2014	47.0	53.0	23	22			2 Such Brock		47	Weatherill	minority ALP government with Brock
2018	48.1	51.9	19	25		1 Bell	2 Brock Bedford		47	Marshall	majority LIB government

SOURCE: calculated from data at—

State Electoral Office, 1996, Statistical Returns for General Elections 1993 and By-elections 1994, SEO, Adelaide

State Electoral Office, 1998, Statistical Returns: General Elections 11 October 1997, SEO, Adelaide

State Electoral Office, 2003, Statistical Returns for the South Australian Elections 9 February 2002, SEO, Adelaide

State Electoral Office, 2007, Election Statistics: South Australian Elections 18 March 2006, SEO, Adelaide

Electoral Commission SA, 2010, Election Statistics: South Australian Elections 20 March 2010, ECSA, Adelaide

Electoral Commission SA, 2015, Election Statistics: South Australian Elections 15 March 2014, ECSA, Adelaide

Electoral Commission SA, 2019, Election Statistics: South Australian Elections 17 March 2018, ECSA, Adelaide

This table shows that at three recent elections (2002, 2010 and 2014) the Labor Party has polled less than 50 per cent of the two-party preferred vote and yet has become the government. It might therefore have been thought that perhaps the fairness clause was ineffective, or that the goal to which it aspired was not practicable. Never, however, was the principle expressed by the fairness clause itself controversial. The 2016 commission, in its application of the fairness clause, demonstrated that there was in fact no problem with the provision, it was just that it had never been properly applied.

The efficacy of the fairness clause was then demonstrated by the outcome of the 2018 election which, for the first time in a very long time, indeed produced results that reflected the popular will. No-one has seriously questioned the fairness of the outcome of the 2018 election. The 2018 election result is a powerful reason for the reinstatement of the fairness clause. It puts away any notion that the fairness clause was irrelevant or ineffective.

What the 2018 election result did was prove that the fairness clause was a key element in ensuring a fair election outcome. Before the 2018 election was held, before the outcome of that election could be known, and therefore before its application could be tested, in the dying days, the very last days of the former government, in December 2017, by the Constitution (One Vote One Value) Amendment Act 2017, Labor removed subsections 83(1) and (3) of the Constitution Act. I said at that time:

> The bill is one of the most grotesque, offensive and obscene grabs for power I have seen in my time in this parliament. The background to this particular bill is that earlier this year the full bench of the Supreme Court made a decision which confirmed a decision of the Electoral Districts Boundaries Commission in relation to their interpretation of the law of the South Australian parliament, in particular the Constitution Act as it applies to redistributions. The result was a unanimous decision of the Full Court of the Supreme Court. It was that not only had the Electoral Districts Boundaries Commission correctly interpreted the constitution, the law of the state, but that it had resulted in what has been commonly referred to as a fair set of boundaries, as required by the Constitution Act of South Australia.

I said further on that occasion—and remember that this was prior to the 2018 election, before we had the benefit of the demonstrated results of the application of the fairness clause:

> Having enjoyed the benefits of favourable decisions to them from previous boundaries commission redistributions, in this bill they now want to rewrite the rules completely to try to favour themselves again. That is why I have described this bill as the most grotesque, offensive and obscene grab for power that I have ever seen in this chamber.

Finally, during that debate, I made the following statements about the Labor Party's hypocrisy on electoral fairness and their original attempt to amend section 77 of the Constitution Act:

> It is clear that the Labor Party is prepared to jettison decades of Labor principles, policy, campaigns and argument. Those campaigns and argument, which were argued by Labor intellectual giants of the past, with the names of Dunstan, Hopgood, Hudson and Virgo, have been attempted to be overthrown by the Labor intellectual pygmies of 2017, with the names of Weatherill, Rau, Maher and Malinauskas. The dilemma we have in South Australia is that we have people who purport to represent the Labor Party seeking to overturn decades of Labor policy, campaigns and implementation of their own policy positions through legislation in terms of one vote one value.
>
> Now, that it does not suit their partisan interests, they seek to overthrow everything they have believed in for the last many decades because they are unhappy with the independent decision of five judges on a Full Court of the Supreme Court, and they are unhappy with the independent decision of the boundaries commission in relation to trying to implement fair electoral boundaries in South Australia. That is why we have this bill, introduced by the Hon. Mr Malinauskas. In the brief second reading speech on the bill, he says:
>
> The bill will delete current section 77—

That is the amendment they introduced in 1975, which they said was historic because it implemented one vote one value. The Hon. Mr Malinauskas, on behalf of the current Labor government, says:

The bill will delete current section 77 and replace it with a new paramount principle for the making of an electoral redistribution. The new paramount principle to which the commission must have regard is that the number of electors in each electoral district should be equal at polling day. This principle is not modified or watered down by a notion of tolerance. The commission must aim for numerical equality of electors across districts, or one vote one value. Proposed new section 77(2) expressly provides that the new paramount principle prevails over the provisions of section 83 of the Constitution Act, which sets out other considerations that the commission is, as far as practicable, to have regard to in making an electoral redistribution.

What the Australian Labor Party is now saying is, 'Stuff the campaigns and the policies that one vote one value was a quota and plus or minus 10 per cent,' that campaign for decades. What they are now saying is, 'Because it no longer suits us we are now redefining one vote one value', and are trying to pretend this is what they meant all along, that you actually have to have an independent commission driving a boundaries redistribution that has to have exactly equal numbers in each electorate come election day. That is the paramount principle, not the issue of the fairness of the electoral system.

What the Labor Party wants is this mathematical formula-driven process which, they know, has allowed them to win government with less than 50 per cent of the vote in three out of the four last elections. The Hon. Hugh Hudson pointed out many years ago the notion of the differential concentration of majorities favouring at one stage the Liberal Party and at another stage the Labor Party. He argued that these things come and go, but if one looks at the 1989 result the situation has clearly been that there have not been any examples of a Liberal government selected since 1989 with less than 50 per cent of the vote but there have been four Labor governments elected on less than 50 per cent of the vote. As I said, three out of the last four have been elected with less than 50 per cent of the vote. Further on, the Hon. Mr Malinauskas, on behalf of the government, said:

'The 2016 commission took a different approach. It used the 10 per cent permissible tolerance in section 77(1) of the Constitution Act to try to address what the commission described as the "innate imbalance, against the Liberal Party, caused by voting patterns in South Australia upon which have been imposed successive redistributions". The government considers that the use of the 10 per cent permissible tolerance in this manner erodes the principle of "one vote one value". This government is firmly of the view that the commission should strive to achieve, to the extent possible, numerical equality of electors in each district at polling day, that is, to achieve one vote one value.'

There it is in all its naked obscenity. Contrary to decades where the Labor Party have argued that one vote one value was a quota with plus or minus10 per cent (as I put on the public record), because it no longer suits them they are now clearly saying that, 'One vote one value, under our new definition, is that it has to be exactly equal numbers in each electorate at the time the election,' irrespective of whether it delivers a Labor government with only 47 per cent of the vote or 46 per cent of the vote. That does not matter. Electoral fairness is not the issue from the Labor Party viewpoint; it is the notion of the new version of what one vote one value is, and not what they have long campaigned for over many, many years.

Clearly, this bill is trying to gut the fairness criteria in the Constitution Act. It is trying to return South Australia to the circumstances which led to 2002, 2010, 2014; that is, Labor governments elected with significantly less than 50 per cent of the vote and, as former Labor luminaries like Hugh Hudson and Don Hopgood identified, to take advantage of the differential concentration of majorities. What the bill and this Labor government are seeking to do is to tie the hands of the independent boundaries commission behind its back so that it cannot achieve electoral fairness.

So, electoral fairness is not the overriding provision they should achieve, even though the Labor Party moved the electoral fairness provision in 1990. What they are seeking to do is constrict the boundaries commission from being able to achieve electoral fairness through this devious and underhanded mechanism of redefining what they have long argued one vote one value was.

That is the end of that very long contribution I made in the 2017 debate. Fairness is not achieved by slavish adherence to rules, such as precise numerical equality of elector numbers in each district at the expense of distorting the overall outcome. The former Labor government's attempt to amend section 77 was only not proceeded with because of advice that a referendum would be required and, of course, a deal they had negotiated to amend section 83.

As a result of the removal of the fairness clause, unless subsections 83(1) and (3) are reinstated, the 2020 redistribution would be done without that imperative reference to the statewide vote, which has proved so necessary to ensure a fair outcome. As I have indicated, the 2018 election produced a fair outcome. The election result compels us to return to the fairness clause. Its removal prior to the election might conceivably have been defended on grounds that its importance or efficacy was not proved. The election, however, proved the efficacy of the fairness clause in ensuring a fair outcome.

It is this fact that should cause members to reflect on what happened prior to the election. The election proved that the fairness clause was never the problem. The problem over the last 30 years since its introduction was, rather, that it had never been properly applied. There is an urgency to this measure because, in order to ensure the fair boundaries that have resulted from the application of the fairness clause stay fair, it is necessary to reinstate these subsections of the constitution before the next commission commences its work.

In or about early 2020, the Electoral Districts Boundaries Commission will commence work on setting boundaries for the 2022 election. Therefore, this parliament is being asked to resolve this issue before the end of this calendar year. That would ensure the commission, as it commences its work next year, would have a requirement that the overriding purpose of an electoral redistribution is to try to ensure the results of any election are fair and reflect the wishes of the majority of the voting population. I urge members to reinstate the fairness clause and to support the bill. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

EXPLANATION OF CLAUSES

Part 1—Preliminary 1—Short title 2—Amendment provisions

These clauses are formal.

Part 2—Amendment of Constitution Act 1934

3—Amendment of section 83—Electoral fairness and other criteria

This clause restores the subsections in section 83 that were removed by the Constitution (One Vote One Value) Amendment Act 2017.

4—Repeal of section 83A

This clause repeals the review provision that was inserted by the Constitution (One Vote One Value) Amendment Act 2017.

Debate adjourned on motion of Hon. I.K. Hunter.

SURROGACY BILL

Second Reading

The Hon. J.M.A. LENSINK (Minister for Human Services) (16:30): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation and the explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

The Surrogacy Bill 2019 repeals Part 2B of the *Family Relationships Act 1975 and* creates a standalone Act to recognise and regulate certain forms of surrogacy in South Australia. Part 2B of the Act has been the subject of considerable discussion over recent years and involves an extremely sensitive area of policy for the community.

The Bill now before the Parliament can be traced to the *Family Relationships (Surrogacy) Amendment Act 2015,* as introduced by the Hon John Dawkins MLC in late 2014, which commenced on assent in 2015 and reformed the area of surrogacy through amendments to the Family Relationships Act.

On 26 December 2017, the South Australian Law Reform Institute was asked by the former Attorney-General to inquire into and report on the law regulating surrogacy in South Australia, contained in Part 2B of the Family Relationships Act, and to suggest a suitable regulatory framework for surrogacy in South Australia. Following the change in Government the Attorney-General supported the SALRI undertaking this reference.

Referral of surrogacy to the SALRI for proper investigation and recommendations for reform based on best practice in this area and with the guidance of other jurisdictions was considered a suitable way to achieve effective, modern and appropriate reform of surrogacy in South Australia.

The SALRI presented the Government with its report on 30 October 2018. The SALRI Report made 69 Recommendations, including a recommendation for a standalone Surrogacy Act.

A draft Bill was prepared in accordance with the recommendations of the SALRI and tabled in Parliament in late 2018 for an extended period of public consultation.

This Bill before the Parliament is a culmination of the work of Mr Dawkins, the SALRI and the Government on this important matter of law reform to affected members of the community. The Government has considered the SALRI's report and the submissions of both members of the public and stakeholders in order to present a suitable legislative regulatory framework for surrogacy in South Australia.

Surrogacy, the practice of a woman (known as the surrogate) becoming pregnant with a child, carrying the pregnancy and giving birth to a child for another person or couple (known as the intending parents), is a complex and sensitive subject As noted by the SALRI, surrogacy raises many ethical, legal and other issues and implications. It attracts strong, emotional and often conflicting views both from those directly affected and by legal and academic commentators. The development of a complete regulatory framework for surrogacy requires sensitivity and careful consideration to ensure a moderate and suitable way forward is achieved, giving regard to the resulting impact on South Australian families.

Commercial surrogacy, where a fee is charged for carrying the pregnancy and delivering the child, will remain unlawful. This is a position reflected in the law regulating surrogacy across Australia. The system provided by the Bill will facilitate domestic, non-commercial surrogacy, where no fee is charged but various medical and other costs may be recovered and will result in an application for transfer of parentage by the Youth Court to intending parents if the parties meet the requirements of the regulatory scheme set out in the Bill.

A standalone Act is preferred, on recommendation of the SALRI, after hearing from the community that parties have difficulty navigating the role and content of the legal requirements in Part 2B of the Family Relationships Act. However, the new standalone Bill retains the appropriate basic structure of the current scheme.

The Bill sets out what is considered to be a 'lawful surrogacy agreement'. A lawful surrogacy agreement is an agreement that complies with the requirements of the legislation but is unenforceable except for its financial aspects. The intending parents under a lawful surrogacy agreement are entitled to apply to the Youth Court for transfer of parentage of the child. Consistent with the current scheme, an order for the transfer of parentage by the Youth Court must be the best interests of the child born as the result of the surrogacy agreement. The birth mother must also consent to the transfer.

The lawful practice of surrogacy in South Australia will be guided by principles set out in the Bill, including that the best interests of any child born as a result of a lawful surrogacy agreement is a primary consideration in the administration and operation of the Act; and the surrogacy principles as follows:

- that the human rights of all parties to a lawful surrogacy agreement, including any child born as a result of the agreement, must be respected; and
- that the surrogate mother under a lawful surrogacy agreement should not be financially disadvantaged as a result of her involvement.

Key innovations in the Bill adopted from the SALRI Report include updating outdated language around surrogacy used in the Family Relationships Act, raising the required age of parties to surrogacy agreements to 25 or older, allowing easier access to surrogacy agreements in which neither intending parents provides genetic material, making clearer provision for the payment of reasonable surrogacy costs, including compensating surrogates for loss of income, and providing less complex fertility requirements that includes same sex couples and single intending parents.

The Bill also requires surrogates and intending parents to provide each other with a criminal history check prior to entering the agreement. This ensures they can make an informed decision about entering the arrangement.

The Bill implements the SALRI recommendation of accommodating cross-jurisdictional service provision by removing the requirements for fertility treatment to take place in South Australia and allowing interstate lawyers and counsellors to fulfil advisory functions under the Bill.

Existing protections will continue including the requirement for parties to obtain counselling from an appropriately qualified counsellor and legal advice from a legal practitioner in order for the agreement to be a lawful surrogacy agreement, that the parties not have impaired decision- making capacity, that the surrogate mother must not be pregnant at the time the agreement is entered and that the agreement be in writing.

The Bill ensures that the counsellors have an appropriate role in the surrogacy process to counsel parties to an agreement. The Bill brings the counsellor role back to their core function of ensuring that parties have fully considered the issues arising from a surrogacy agreement, and the proposed parentage order.

There are strong and conflicting views about the practice of surrogacy both in South Australia, across Australia and internationally. Both the SALRI and the Government have carefully listened to and considered the views of the community on this important issue. Ultimately, there are divergent views and cross-jurisdictional complexities that cannot be resolved by this Bill alone.

However it is the Government's view that the Bill before the Parliament strikes an appropriate and suitable balance to properly regulate the practice of non-commercial surrogacy in this state, having regard to the needs of the community and the acknowledgement of the privacy of parties to lawful arrangements within appropriate parameters set by legislation.

Mr President, I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Simplified outline of Act

This clause provides a simplified outline of the proposed measure.

4—Interpretation

This clause defines key terms to be used in the proposed measure.

5—Interaction with other Acts

This clause provides that, except where the contrary intention appears, nothing in the measure will limit the operation of any law relating to the guardianship, custody, protection or adoption of children.

Part 2—Guiding principles for purposes of Act

6—Best interests of child paramount

This clause provides that the best interests of any child born as a result of a lawful surrogacy agreement is to be the paramount consideration (including for the Court) in respect of the administration and operation of the proposed measure.

7—Surrogacy principles

This clause sets out the surrogacy principles which are to inform the Minister, the Court and each person or body engaged in the administration of the proposed measure. The principles are:

- the human rights of all parties to a lawful surrogacy agreement, including any child born as a result of the agreement, must be respected;
- the surrogate mother under a lawful surrogacy agreement should not be financially disadvantaged as a result of her involvement in the lawful surrogacy agreement.

8—Presumptions under *Family Relationships Act 1975* to apply until parentage order made

The clause provides that presumptions and other rules as to the parentage of a child under the *Family Relationships Act 1975* continue to apply to a child born as a result of a surrogacy arrangement until such time as the Court makes an order or orders as to parentage of the child under the proposed measure.

Part 3—Lawful surrogacy agreements

Division 1—Lawful surrogacy agreements

9—Surrogacy agreements not in accordance with Act void and of no effect

This clause provides that surrogacy agreements other than as provided for in this Act are void and of no effect.

10—Certain surrogacy agreements lawful in South Australia

The clause sets out the elements of a lawful surrogacy agreement, namely who may be a party to a lawful surrogacy agreement (including definitions of *lawful surrogacy agreement*, *surrogate mother* and *intended parent*), and the provisions that must be satisfied by a surrogate mother and an intended parent under a lawful surrogacy agreement. It also sets out the requirements with which a lawful surrogacy agreement must comply.

11—Extent to which surrogacy costs are payable

This clause provides that no payment of any form may be made in relation to a lawful surrogacy agreement except for matters as provided for in the clause and defined as the *reasonable surrogacy costs*. A provision in a lawful surrogacy agreement that is inconsistent with the reasonable surrogacy costs as defined is to be void and of no effect. The clause also clarifies that it does not authorise the regulations to allow for commercial surrogacy. The reasonable surrogacy costs include:

- such reasonable costs as may be incurred, or likely to be incurred, in respect of the lawful surrogacy agreement (such as costs relating to the pregnancy that is the subject of the agreement, the birth of the child, medical, counselling or legal services provided in relation to the agreement, reasonable out of pocket expenses incurred by the surrogate mother;
- payments representing loss of income of a kind to be prescribed by the regulations;

- other costs of a kind to be prescribed by the regulations.

12—Variation of lawful surrogacy agreement

The clause allows a lawful surrogacy agreement to be varied if in writing and signed by all the parties to the agreement.

13—Extent to which lawful surrogacy agreement can be enforced

The clause provides that a provision of a lawful surrogacy agreement relating to the reasonable surrogacy costs is enforceable in a court of competent jurisdiction. This does not apply if the surrogate mother refuses or fails to relinquish the custody or rights to the intended parents in relation to a child born as a result of the lawful surrogacy arrangement or the surrogate mother does not consent to the making of a parentage order in relation to the child. A lawful surrogacy agreement is otherwise not enforceable.

Division 2—Counselling

14—Counselling requirements prior to entering lawful surrogacy agreement

The clause provides that a surrogate mother and the intended parents must each undergo counselling before entering a lawful surrogacy arrangements. The counselling must comply with the requirements set out in the clause. The costs of such counselling are to be met by the intended parents.

15—Intended parents to ensure counselling available to surrogate mother during pregnancy and after birth

The clause provides that the intended parents must take reasonable steps to ensure that the surrogate mother and the spouse or domestic partner of the surrogate mother are offered counselling during any period during which the surrogate mother is attempting to become pregnant for the purposes of a lawful surrogacy agreement, or during any pregnancy to which a lawful surrogacy agreement relates. The costs of such counselling are to be met by the intended parents, and it is an offence, with a maximum penalty of $5 000, for the intended parents to refuse or fail to comply with this provision.

Division 3—Preservation of certain rights of surrogate mother

16—Rights of surrogate mother to manage pregnancy and birth

The clause provides that a surrogate mother has the same rights to manager her pregnancy and birth as any other pregnant woman, and that any provision in a lawful surrogacy agreement to the contrary is void.

17—Medical decisions affecting surrogate mother or child

The clause provides that for the purposes of the proposed Act, the *Consent to Medical Treatment and Palliative Care Act 1995* and any other Act or law, a question relating to any medical treatment to be provided to a surrogate mother, or to an unborn child to which a lawful surrogacy agreement relates, is to be determined as if the lawful surrogacy agreement did not exist. The proposed Act is also not intended to limit the operation of an advanced care directive under the *Advance Care Directives Act 2013*.

Part 4—Court orders relating to lawful surrogacy agreements

18—Court may make orders as to parentage of child born as a result of lawful surrogacy agreement

This clause provides for the Youth Court to make orders in relation to a child born as a result of a lawful surrogacy agreement. An application for orders must be made by 1 or both of the intended parents not less than 30 days but not more than 12 months after a child is born as a result of the lawful surrogacy agreement (or such later time as the Court may allow if it is in the interests of the child or exceptional circumstances exist).

The Court may make any of the following orders on application:

- that the relationship between the child and the intended parent or parent is as specified in the order;
- that the relationship between the child and the surrogate mother is as specified in the order;
- that the relationships of all other persons to the child are to be determined according to the other relationships specified in the order;
- that the name of the child is as specified in the order;
- such consequential or ancillary orders as the Court considers appropriate.

If there is more than 1 child born as a result of the pregnancy, the application will be taken to relate to the child and each of the birth siblings (unless the Court considers it is not in the best interests of the child to do so).

Before making an order, the Court must be satisfied of a number of matters set out in subclause (4), including that making the order is in the best interests of the child. The Court may make an order where only 1 of the intended parents applies for the order (instead of both) if satisfied that the other intended parent consents, if the other intended parent cannot be contacted to obtain their consent or in other circumstances as prescribed by the regulations.

The clause makes further provisions about the manner in which the Court may dispense or excuse a failure to comply either with the provisions of the clause or a requirement under proposed Part 3.

The clause also enables the Court to dispense with certain requirements under Part 3 of the measure, and makes further procedural provision in relation to orders under the proposed section (including provisions revoking existing appointments as guardians and displacing the presumption as to parentage under the *Family Relationships Act 1975*).

19—Court may revoke order under section 18

The clause provides for the circumstances in which the Court may, on the application of the woman who gave birth to a child the subject of a lawful surrogacy agreement, revoke an order made under proposed section 18.

The clause also requires the Court to make orders declaring the relationship of the child to the birth mother and the intended parents following the revocation.

20—Court may require separate representation of child

This clause provides for the Court to order that a child born as a result of a lawful surrogacy agreement be separately represented in proceedings.

21—Court to notify Registrar of Births, Deaths and Marriages

This clause requires the Registrar of the Youth Court to give written notice to the Registrar of Births, Deaths and Marriages of the details as provided in the clause of any orders made under proposed section 18 or 19.

22—Access to Court records

The clause provides that the records of proceedings relating to an order under proposed section 18 or 19 are not open to inspection.

Part 5—Offences relating to surrogacy agreements

23—Offence relating to commercial surrogacy agreements

The clause provides for an offence with a maximum penalty of imprisonment for 12 months for a person who enters a commercial surrogacy agreement.

24—Offence to arrange etc surrogacy agreement for another person

The clause provides for an offence with a maximum penalty of imprisonment for 12 months for a person who for valuable consideration:

- negotiates, or arranges or obtains the benefit of, a surrogacy agreement on behalf of another;
- offers to negotiate, or arrange or obtain the benefit of a surrogacy agreement on behalf of another;
- arranges, or offers to arrange, introductions between people seeking to enter a surrogacy agreement.

25—Offence to induce person to enter surrogacy agreement

The clause provides for an offence with a maximum penalty of imprisonment for 5 years for a person who, by threat of harm, or by dishonesty or undue influence, induces another to enter a surrogacy agreement. it also provides an offence with a maximum penalty of imprisonment for 2 years for a person who for valuable consideration, induces another to enter into a surrogacy agreement.

26—Offence to advertise certain services relating to surrogacy

This clause provides for an offence with a maximum penalty of $10 000 for a person who publishes an advertisement, statement, notice or other material that seeks, or purports to seek, the agreement of a person to act as a surrogate mother for valuable consideration, or states, or implies, that a person is willing to act as a surrogate mother for valuable consideration.

Part 6—Miscellaneous

27—Provision of information etc for purposes of Births, Deaths and Marriages Registration Act 1996

This clause provides that nothing in the measure affects the requirements in the *Births, Deaths and Marriages Registration Act 1996* to have the birth of a child registered.

28—Limitation of liability

The clause provides that, except as specifically provided, no civil or criminal liability.

29—Confidentiality

The clause prevents the disclosure of information by a person obtained in the course of the administration of the proposed Act except to persons and in circumstances specified in the clause.

30—Service

This clause provides for the manner in which notices or other documents required to be given or served on a person under the measure are to be served on a person.

31—Review of Act

This clause provides that the Minister must cause a review of the operation of the proposed Act before the 6th anniversary of its commencement. the report is to be prepared and submitted to the Minister who must then lay a copy of the report before both Houses of Parliament.

32—Regulations

This clause allows the Governor to make regulations in respect of the proposed Act.

Schedule 1—Related amendments and transitional provisions etc

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of Assisted Reproductive Treatment Act 1988

2—Amendment of section 3—Interpretation

This clause makes a consequential amendment.

3—Amendment of section 9—Conditions of registration

This clause makes a consequential amendment.

Part 3—Amendment of Births, Deaths and Marriages Registration Act 1996

4—Amendment of section 4—Interpretation

This clause makes consequential amendments.

5—Amendment of section 22A—Surrogacy orders

This clause makes consequential amendments.

6—Amendment of section 49A—Saving provision—surrogacy arrangements

This clause makes a technical amendment.

Part 4—Amendment of Family Relationships Act 1975

7—Amendment of section 10—Saving provision

This clause makes a technical amendment.

8—Amendment of section 10EA—Court order relating to paternity

This clause makes a consequential amendment.

9—Repeal of Part 2B

The provisions in Part 2B of the Act are repealed as they are now to be contained in the proposed Act.

Part 5—Transitional and saving provisions etc

10—Continuation of recognised surrogacy agreements under *Family Relationships Act 1975* as lawful surrogacy agreements

This clause makes transitional and saving provisions consequential on the repeal of Part 2B of the *Family Relationships Act 1975* and the enactment of this measure.

Debate adjourned on motion of Hon. I.K. Hunter.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 26 September 2019.)

The Hon. T.A. FRANKS (16:31): I rise very briefly to continue my remarks made previously in this place and to continue my speech on the Liquor Licensing (Miscellaneous) Amendment Bill

2019. I have raised already some questions on the practices of the Licensing Enforcement Branch on those premises which do enjoy a liquor licence. Additionally, I asked the government to provide some responses on a question relevant to clause 17, which section will enable the ability, where an annual fee is to be paid, for a change in the time frame with regard to the payment of that fee. If the government could provide some response as to why this change is necessary, that would be most appreciated, either at clause 1 or clause 17, depending on which way it would like to operate.

My further point of interest is at clause 14, which provides that the Liquor and Gambling Commissioner can refuse a name change for a licensed premises. The advice that we are told in the briefings to this bill that have been provided to the Attorney-General and her department indicates that currently there is no power to refuse a name change, and it is clear that there would be circumstances under which a name change should be refused; for example, if that proposed name was offensive.

In the other place it was raised as to whether examples could be provided. One example I will draw on that has been raised previously in this council would be that of the PiMP Pad, a gaming lounge for gamers to eat their nachos and drink their beer with other gamers, rather than in the privacy of their lounge rooms, isolated, but to share communally in premises that enjoyed a liquor licence.

The PiMP Pad was at one stage on Franklin Street and eventually, due to council protestations, was required to change its signage to become known as The Pad and to place its door down the back alley rather than on the frontage of Franklin Street. Not long after that it went out of business. It is now replaced by something called Crack Kitchen. I do not know if it has a liquor licence, but certainly the large signage on the front of Franklin Street is now 'Crack' in a quite large tiled black and white facia.

My question to the government is: could they please provide examples of where clause 14 has been found to be required by the commissioner to refuse naming or name changes of licensed premises? With those few words, I conclude my comments.

The Hon. J.A. DARLEY (16:34): My contribution on this bill will be very brief. I understand the outcome of this bill will be predominantly administrative, and I do not have much to say about this. However, I want to put on the record the inordinate increase in liquor licence fees that licence holders have experienced from last year to this. When we were considering the changes to the liquor licensing laws under the former government, we were told explicitly that, whilst there would be increases in fees, they would not be significant.

I have been contacted by licensees who are experiencing increases of 270 per cent from last year. This is not a cost that could have been anticipated and it is a significant impost to small businesses. I understand that this matter is not within the ambit of this bill, but nonetheless I want to take the opportunity to put this information on the record. The government really owes licensees and the community an explanation for why there has been such a dramatic increase in licence fees, especially when we were advised to the contrary.

The Hon. R.I. LUCAS (Treasurer) (16:36): I thank honourable members for their contributions to the second reading and look forward to the committee stage of the debate.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. T.A. FRANKS: I had several questions, not only today but in my previous contribution, that I put on record, and that I asked the government to provide answers to.

The Hon. R.I. LUCAS: I can share some information, if the honourable member wants to indicate whether that actually answers her question or not. If not, she obviously can ask further questions. I am advised that the bill makes an amendment to section 50A of the Liquor Licensing Act. This is the provision that relates to the obligation to pay annual fees and contains complex

escalating sanctions for non-payment, including first suspension of the licence under section 50A(5) and then revocation under section 50A(5b).

When the remainder of the liquor review act commences on 18 November 2019, section 50A(5b) will have the effect that if a person does not comply with a default notice to pay an annual licence fee before the day it is due to be paid, the commissioner may revoke the licence. The bill will change that time frame to non-payment within 60 days of the service of a notice of suspension under section 50A(5a). This change is sought to ensure that any overdue and outstanding invoices are dealt with prior to the ensuing annual fee period, including the revocation of any licences.

The Hon. T.A. FRANKS: I commend the minister for being able to answer my questions from today so far, although we can deal with clause 14 at clause 14. However, I refer to my questions from 26 September with regard to the LEB covert operations, surveillance of licensed premises and the lawful reporting as required of those.

The Hon. R.I. LUCAS: In relation to the honourable member's question about the number of covert operations that have been undertaken over the last five years, the advice I am provided with is that that really has nothing to do with this particular bill. It may well be of interest to the honourable member. It may well be the subject of a question we might direct to the appropriate minister in question time or something, but it is actually not covered by this particular piece of legislation.

Similarly, with regard to the honourable member's question about how many times the LEB has used surveillance devices and how many times these have been reported under the appropriate acts, again, I am advised that this legislation does not cover those particular provisions from which those acts, if I can refer to it that way, may or may not have occurred. Again, if the honourable member has an interest, as obviously she does, in relation to those, they can be directed by way of question to the appropriate minister in question time or by way of correspondence with the appropriate minister, but my advice is that (a) I do not have the answers to those questions, on the basis that they do not relate to this particular bill.

The Hon. T.A. FRANKS: That is quite disappointing in terms of this bill is with regard to liquor licensing. The policing of liquor licensing, I would have thought, is quite appropriate to be considered as we consider reforms to licensing laws in this state. I will leave it for the moment. It would have been appreciated had the advisers in their response provided that information that they were not going to provide a response. It will be unusual, I would say, for questions relating to the general workings of legislation to be refused, as they are being today, but I will not hold up the debate for the moment.

However, I will echo my previous words made in September, that we are dealing here with a piece of liquor licensing legislation reform, but the policing of this legislation, I believe, has some serious questions to answer with regard to the very staff that are employed who have to abide by this act, and how SAPOL enforces the very laws that we are currently discussing.

If you do not want to wait until clause 14, let's have some of those titles of licensed premises that the commissioner has found unacceptable and that we need to change the law for today to rule out from potential licensees calling their bars or pubs or clubs or licensed cafes.

The Hon. R.I. LUCAS: My advice on this is that a previous bill this parliament supported, possibly in 2017, removed the requirement for licensees to apply to and seek approval from the commissioner for the names of their premises. Under the old arrangements you had to apply, therefore there was a capacity for the commissioner to refuse. Under a previous bill, which I presume we all supported—I cannot remember it—that approval was changed to just a notification, in the interests of reducing red tape. Someone would just notify the commissioner that they were changing their name, and so there was no approval process. That is the current situation.

The current situation is that you just notify; you do not need to seek the approval of the commissioner in relation to it. The previous bill that we passed has not come into operation yet; it has been delayed. But if it had, then the commissioner would not have had the authority to reject an application, which is what he used to have.

This bill seeks to reinstate the reserved power that the commissioner had to reject a particular application. Under the old arrangements, prior to about 2017 or whenever we approved this change, the commissioner had a power to reject. That bill, which we supported, removed it. That bill has not been enacted. We are now seeking to give the commissioner the power that he previously had to reject an application in, I assume, limited circumstances.

The Hon. T.A. FRANKS: What power of appeal do people have if their name application is rejected?

The Hon. R.I. LUCAS: We are not in a position to indicate at this stage. We will have to take on notice what appeal rights exist now, if any, and whether any appeal rights existed under the old arrangements pre-2017. I do not know the answer to either of those two questions. It may well be that if there are no appeal rights under this—that is, that the commissioner's decision is final—it may well have been under the old arrangements in 2017 that the commissioner's decision was final at that stage.

I am afraid we are not in a position to give the honourable member an answer. We can either take that on notice and have the Attorney-General write to the honourable member with an answer to that or, if this is an issue of some significance, we can delay the bill for a couple of weeks and not proceed with it. I am really in the hands of the honourable member as to what significance she places on this particular issue.

The Hon. T.A. FRANKS: The minister need not worry that I will hold the bill up for those purposes. I am concerned that the government does not understand its own legislation and cannot provide answers and examples for why it is necessary. It seems likely to me that there is no right of appeal should the commissioner decide to deny your name.

Going back to that previous example, the PiMP Pad was so-called because they also had a business called PiMP.tv, so PiMP Pad tied to their business of PiMP.tv. Once they had that word 'pimp', as in 'pimp my ride'—as in make your lounge, your pad, a bit more special—and once they lost the right to that particular branding it actually destroyed the linkage between their gaming online business. So at the stroke of a pen a commissioner can do quite significant damage to a business with what are arbitrary decisions seemingly lacking in appeal rights.

My further question is: while this will now apply when an application is made for a name change, can it be retrospectively applied? Can the commissioner suddenly realise or think that a name is unacceptable and require the licensee to change the name of their business?

The Hon. R.I. LUCAS: I am advised no.

Clause passed.

Clauses 2 to 11 passed.

Clause 12.

The Hon. K.J. MAHER: Clause 12 relates to the annual fee for a short-term licence. Can the minister give an example of what sort of things—businesses or events—this short-term licence will apply for, how long is the duration of short-term licences and examples of where short-term licences have been granted in the past?

The Hon. R.I. LUCAS: The first part of the question is that a short-term licence can be as short as a day or an event for a couple of hours, three or four hours or whatever it might happen to be.

The Hon. K.J. MAHER: And what is the maximum duration a short-term licence can be granted for?

The Hon. R.I. LUCAS: The sort of example, I am told, is what I would refer to as a mobile business (that is probably not the correct term), where they might be conducting events in people's backyards, bowling clubs, or whatever it is. They might actually get what is called an up to five-year short-term licence, which allows them to conduct occasional events in people's backyards, on weekends, in parks, or whatever it might happen to be. For each of those, they have to notify the commissioner, so there is a running tally or record kept of however many it is, and there is a

judgement or discretion for the commissioner's staff to say, 'In the end, it may well be you're using this too many times to justify the five-year short-term licence. You might have to get a more permanent licence if that might be a more suitable form of licence.'

It is meant to be a flexible option in this day and age with mobile businesses, etc., to allow people—rather than every time they have an event in a park, someone's backyard, or wherever it might happen to be, to go along to get a separate licence each and every time. As I understand it, this is meant to cater for the new world in terms of people who have—and this is not the correct phrase—mobile businesses in terms of how they would run themselves.

The Hon. K.J. MAHER: Does it differ from a special events licence? Is this one where a person putting on one show in the grandstand of the West Adelaide Football Club gets a licence for that one particular event one time, or is this a different one in that it is expected to reoccur?

The Hon. R.I. LUCAS: I am told that under the current regime that would be called a limited licence; you would get a licence for that limited event. Under this new regime, you would get one of the short-term licences. You will get a short-term licence, which would be the equivalent of the old limited licence, which will allow you, the Labor Party, to have your one-off event at the West Adelaide Football Club, if you wanted to.

The Hon. K.J. MAHER: Under the old regime of the limited licence is there also a different category for an ongoing or recurrent event? Is this a direct replacement of the old one?

The Hon. R.I. LUCAS: I do not think there is, and that is why this argument for the short-term licence has been developed. That is, you would have had to get a limited licence for one event, and then you go back and get another limited licence, and get another one, and if you are actually running a business of doing these things in footy clubs, or weekends, parks, or people's backyards, or whatever it is, each time you did it you would have to get a limited licence.

The Hon. K.J. MAHER: For these sorts of licences under the old regime how were fees levied? That is, how was the level of the fee decided and what were the fees that were levied? If it was a two-day event was it a fee per day? How was the fee arrived at?

The Hon. R.I. LUCAS: I am told there were three fees: there was an application fee and then there was a daily fee, and if there was a high-risk event there was a high-risk event fee.

The Hon. K.J. MAHER: And what were those fees? I might explain. We have had representations that this could significantly increase the cost to people, particularly those who put on only one single event as a once only. Can we get some assurances that those costs for putting on that one single event will not increase as a result of this new regime?

The Hon. R.I. LUCAS: The simple answer is that it has not been decided yet; it is still subject to regulations in cabinet. The annual fees have been established, but the issue in relation to short-term fees has not been established. If there have been concerns expressed, it may well be concerns expressed but not knowing what the situation is. At this stage, I am advised that cabinet has not yet approved or seen what the recommendations are.

The Hon. K.J. MAHER: I guess the Treasurer, then, understands the nature of the concern that some people may hold that under a new regime we are being asked to pass a different way that these licences will be issued, the short-term licence rather than the limited licence in the past. People are concerned that it is a different sort of licence, although it may be used for the same purpose in some circumstances but not others, and have no assurance at all that they might not see fees for the old one-off dramatically increase. Maybe the Treasurer can advise if there is any intention to substantially increase those one-off fees.

The Hon. R.I. LUCAS: I am not the lawyer, the Leader of the Opposition is, but let me give him some legal advice. They are going to have to be set by regulations, so if the Leader of the Opposition and his party are unhappy with the level of fees set it is a disallowable instrument—if I can explain that to him—and he has the power to move for disallowance of the regulations if that were to be the case. Ultimately, my advice is that it will have to be done by regulation. In relation to what the intent is the answer is no, I have no idea. That level of detail in relation to—

The Hon. K.J. Maher: You are not aware of anything?

The Hon. R.I. LUCAS: No; the only thing I can say is that clearly we have increased the annual fees—

The Hon. K.J. Maher interjecting:

The Hon. R.I. LUCAS: Yes, whatever they are called—what are they called again, annual fees? We have increased the annual fees, and I think the Hon. Mr Darley raised the issue about the liquor licensing fees and concerns about the extent of the increase there. I cannot rule anything out because I do not know the answer in relation to that, but ultimately if it is by regulation then it will be disallowable.

Clause passed.

Remaining clauses (13 to 25), schedule and title passed.

Bill reported without amendment.

Third Reading

The Hon. R.I. LUCAS (Treasurer) (17:03): I move:

That this bill be now read a third time.

Bill read a third time and passed.

COORONG ENVIRONMENTAL TRUST BILL

Committee Stage

In committee.

(Continued from 31 July 2019.)

Clause 1.

The Hon. T.A. FRANKS: This is an unusual situation, and just to bring other members of the Council who have not been involved in the select committee into this bill up to speed, the select committee has now reported back. We have reinstated the bill onto the *Notice Paper*, so while we have already completed second reading speeches, at clause 1 I would like to do what would be the equivalent of a third reading speech to guide council members in their understanding rather than wait until the third reading to do so.

I would like to thank my colleagues who joined me as members of the aforementioned select committee: the Hon. Terry Stephens, the Hon. Irene Pnevmatikos, and the Hon. Connie Bonaros. The committee held two sessions of hearings and received a number of submissions, with almost all of them being in firm favour of establishing the Coorong environmental trust. As such, I would also like to thank everyone who took the time to send in a submission, including: the Conservation Council of South Australia, the Coorong District Council, Coorong Wild Seafood, Geoff Gallasch, the Coorong Trust Proponents Association, Professor Luke Mosley, Alexandrina Council, the Southern Fishermen's Association, and the River Lakes and Coorong Action Group.

For many involved in that process, this is an exciting moment. I think one of the clearest things to come through the select committee hearings and from those submissions was the magnitude of what the trust will be able to achieve and contribute for and towards the community of the Coorong and Lower Lakes. It was incredibly heartening to see the outpouring of community support and the eagerness of a wide range of stakeholders to see the trust established.

This is a relatively new way of doing things for us in South Australia, but it is abundantly clear that the Coorong and Lower Lakes are in dire straits right now. This is the time to try new things, to be bold and to finally listen to the communities that have been crying out for support for such a long time. As Faith Coleman said during her evidence before the select committee:

> What the diversity of supporters of the trust know is that, if we want a different outcome from what we have now, we are going to have to try doing something different. While there have been some wins, the tireless efforts of our Public Service seem to be doing nothing more than keeping the status quo or slowing the decline. The frustration within the community, particularly the traditional owners and fisher folk, is extremely high.

Before I continue much further, I want to clarify something I said during my second reading explanation when talking about the community 'managing' the Coorong in the way that they know best. The trust will not be taking over any legislation functions of the department or of the government when it comes to their management of the Coorong. To reassure the department, I direct them to the words of Faith Coleman, one of the proponents of this trust, during those select committee hearings:

> We see the trust as a strategic body of all stakeholders, the community being an important subset of this, looking at the bigger, longer-term picture and fleshing out our vision for that future. We don't see it in any way as replacing the project-based and operational governance structures that the state government currently has in place or is in the process of forming.

It is worth remembering what the proponents of the trust and the bill have clearly stated will not be within the remit of the trust. The trust will not write policy. The trust will not actively participate in political lobbying. The trust will not manage the barrages. The trust will not manage or implement existing programs. The trust will not undertake on-ground works, although the trust may assist with the funding of those works. The trust will also not deal with non-environmental matters such as development or water allocation.

I am painfully aware that I am making this speech not even two days after yet another apparent mass fish kill event at Lake Pamamaroo near Menindee. It is barely spring, yet we are already being told to brace for more fish kills as summer intensifies the drought.

Meanwhile, the federal government has pledged a laughable $300,000 for states to help manage these fish kill deaths, these mass deaths. As I have said, 'apparent' with regard to this latest fish kill because, despite the abundant footage, the New South Wales Department of Primary Industries is yet to confirm that new kill. They said in their statement that the remote location would make verifying the mass kill extremely difficult, and that is precisely the problem.

We all know the saying, if the tree falls in the forest but nobody heard or saw it, did it really happen? Well, if the fish die in our dried-up rivers but nobody saw it and no department was there to witness it, then they say it may not have happened. This is actually the difficult and frustrating reality for many communities along the river, and the Coorong community is no different. Departments and their staff are often geographically removed from where the significant ecological events occur, and it takes them a long time to get on site to record and take data, if they are able to do so at all. I want us to keep that in mind, and I will touch more on that later.

As Ms Brooks, a member of the River Lakes and Coorong Action Group, said during the select committee hearings, 'We actually need to know how things work before we can fix them.' What has been made abundantly clear to us through the submissions and the evidence we have received during the select committee process is just how much the community relies upon and how desperately they are seeking high-quality research and monitoring.

Current monitoring is also demonstrably flawed, and this was made very clear to us by scientists and members of the community during that process of the select committee. We have heard examples of monitoring stations being in inappropriate locations, of limited data being collected and of monitoring stations being retrofitted with equipment for monitoring additional indicators of water quality in areas that are inappropriate and ineffective.

Due to the limited scope of existing monitoring, coupled with the fact that departmental staff are not always on site and are often quite a distance away, important events in the Coorong can and, importantly, have been missed. One such example was provided by Ms Coleman, ecologist, during her evidence before the committee. Again, I quote from her evidence:

> The fishermen kept saying to me that the water colour looked weird, so my response was, 'Well, get me a sample then.' We ran them through a series of analysis using microscopes, and what we discovered was that the southern lagoon has a current cyanobacterial load of 1.2 million cells per millilitre. You close beaches at 80,000, so it's very, very high. That is driving an event further up—or down, as the fishermen call it—downstream in the northern lagoon where we have sea sparkle events, which are bioluminescent events, so the southern part of the northern lagoon glows in the dark for two or three months a year.
>
> Of course, the nutrients from all of this drive something called a red tide or an Alexandrium minutum bloom. It's highly toxic and causes paralytic shellfish poisoning, and there is about 30 kilometres for several months of the year, it turns out, of this bloom in the Coorong. All of these things were undetected using the current monitoring, so there was no understanding that there was Alexandrium minutum in the system. There were plenty of species lists

created by Flinders University and Adelaide University, which were great, but they somehow missed this species. It is an Egyptian introduced species and it is highly toxic.

It is there and it has been there for a very long time. That is a worry to us, that it got missed. Also the cyanobacterial bloom in the southern lagoon was missed. The sea sparkle event is stunningly beautiful but also a bit of a worry. That has actually been missed by a lot of the local community members as well because no-one is out there in the middle of the night. Really, the only people who knew about that were the fishermen. There are a lot of those sorts of gaps that we are missing.

Both these events were undetected by current monitoring regimes and only became known because of the fishers in the Coorong. This sort of monitoring and information collection can be well facilitated by the trust, with members based locally and with lived experienced of the ecological events that regularly occur on the river, particularly those that are either poorly monitored, poorly recorded or not recorded at all.

Further, the department is not always able to provide or send staff when events occur, as shown by the following exchange during the committee hearings, with the Chair asking the witness:

Would any of that monitoring, even when it was present, have picked up what I'm going to call—

and this is quoting myself now—

(because I am not a scientist) dead blood worms, stinky black sludge and [dead] crabs—what was it?—corroded crabs in their masses?

To which ecologist, Faith Coleman, replied:

It didn't, no. The CLLMM project was still in existence when the first observation was made. We have made seven similar observations of similar things in the three years since, but, no, it didn't and it wouldn't. Department staff can't go out on a hot day. If it's a high fire danger, they don't go out. If it's too cold and windy they don't go out. If it's too far from Adelaide and it takes them a while to get there, they have to stay overnight. They are just not there at the right time. You need to be there pre-dawn on a very, very hot day to see it.

The committee was also made aware of the fact that the government has been withdrawing monitoring over time, particularly once the CLLMM (Coorong, Lower Lakes and Murray Mouth) funding ran out. The community at the time offered to provide funding to maintain some of the monitoring points, but were unable to do so, as we heard from the witness, Mr Ken Sawers:

I think the other point to add, too, is that the federal agencies are the ones that are essentially requesting more accurate monitoring. There have been a lot of problems with algal growth on what limited monitors are there. The fishermen have been cleaning them and whatever, but it is just not a viable monitoring system that's there at the moment. The community has offered to take over that monitoring, but it has been politely declined. This organisation will give us some basis on which those people who are regularly out on the Coorong and Lakes can help in those observations.

On the topic of monitoring, we also know that the trust's work will be invaluable to expanding the monitoring regime in the Coorong and improving our understanding of this unique wetland. This has the potential to be over and above what the department will be able to achieve, particularly when funding cycles and futures are ever uncertain. I understand the magnitude of the work being undertaken as part of Project Coorong, but currently, as far as we know, that is only certain for the next five years. I believe that the following excerpt from Ms Coleman's written submission illustrates the potential value and importance of the work that the trust wishes to undertake and support:

One of the greatest challenges facing landscape management worldwide is the increasingly short political, publicity and funding cycles. While university academics, SA Department for Environment and Commonwealth Environmental Water Holder staff individually have all the best intentions, their organisations are increasingly driven by these cycles. The Lakes and Coorong have been extensively studied, researched, monitored, managed and measured in various ways since the late 1800s, with a particular emphasis on environmental assessment from the 1960s through to 1990s.

Unfortunately, these activities have become extensively cyclic and project driven since the mid-1990s. The loss of the Department for Environment librarians and ongoing depreciation of funding for long-term monitoring of the system since the mid-1990s means that most project staff and, therefore, technical reports on the system only reference papers that go back to 2006.

Where longer term references are made, they are often self references (where an author cites their own work) or more recent secondary interpretations of earlier work. These issues, along with poor synthesis of historical condition references, have led to Coorong ecological understandings appearing to suffer a phenomena known as

'shifting baseline syndrome', where ongoing environmental degradation results in people's accepted thresholds for environmental conditions being continually lowered.

Whilst the trust has not yet been formally established, its proponents have been working hard over an extended period of time for the betterment of the Coorong. Some of their work, as outlined in their submissions to the committee, already demonstrate what they can achieve, and again I quote from one such submission:

> Over the last three years the proponents of the Coorong Environmental Trust have worked together to identify what unknown unknowns and missed opportunities for better environmental outcomes exist across the estuary. During this period, the combination of resources, field experience and scientific understandings of the trust proponents has resulted in this group reporting several ecological events that would have otherwise missed the attention of department staff. These include (but are not limited to):
>
> - seven significant benthic macroinvertebrate kills in Seven Mile Lagoon;
> - a semi-permanent cyanobacterial bloom throughout the South Lagoon, using fishermen's ad hoc phytoplankton counts, which we correlated to the high chlorophyll-a index spatial data produced by Australian GeoScience (a data set formerly unknown by DEW staff);
> - the presence of a toxic red tide dinoflagellate bloom along 20 km of the North Lagoon (confirmed by the University of Tasmania) previously known by fishermen for a decade or more, but unknown to the SA Government;
> - the presence of Sea Sparkle blooms in Seven Mile Lagoon during autumn months each year from 2017-19, along with fishermen's observations of bioluminescence in the Coorong, over more than forty years.
>
> The Department for Environment and Water and Primary Industry and Resources SA's recent success in creating conditions conducive for Black Bream breeding was a positive outcome of concerted stakeholder efforts to promote the history of the Coorong as a salt wedge estuary and the biological knowledge of the fishermen to ensure the best timing of the implementation of measures. As a collective, we believe the estuary does not currently have adequate nursery habitat for the juvenile Black Bream that are being bred. Given that there has been no appetite to do this work using government resources, the fishery (with support from other Trust proponents) is now funding the Federation University to supervise a PhD project to examine the environmental history of the South Lagoon to determine what might be needed to restore the Bream nursery habitat in that area.

All this is not a criticism of departmental staff. I certainly understand resource constraints and the short-term and uncertain nature of wave after wave of project-based funding. It is great to see, however, in the department's submission that the University of Adelaide's review recommendations concerning monitoring are being used to inform Project Coorong and that there is scope for the expansion of existing monitoring programs. The best decisions are made when we have the best information available.

In their submission, DEW has stated that they already provide a number of existing and forthcoming platforms that act as a repository for environmental data and research. While this is technically true, the data is often limited, out of date or only partial. Throughout meetings with people in the Coorong and the Lower Lakes, the quality of the data and the amount, or lack thereof, of data has been consistently raised as an issue. Further, this does not take into account community observations and records. This is one of the benefits of the trust: the willingness and ability to collect, collate and synthesise decades of community observations and citizen science.

We know from members of the community that such things are not always taken on board by the department, despite long-running data collection and collections of observations being incredibly significant. Furthermore, what is currently available data wise is mostly just water levels and salinity. This is not comprehensive. Furthermore, this is not live data. Most other information is not made public.

Similarly, the Coorong and Lakes Ramsar portal has not been updated since the Coorong, Lower Lakes and Murray Mouth project ceased operation, and it only contains reports funded by that program. The level of scientific and academic knowledge and engagement among members of the community around the Coorong and Lower Lakes is staggering. It was made abundantly clear to us, as members of the committee, that they are looking for ways to collate the information available—or currently largely unavailable—into a centrally accessible location.

Everyone is aware that lots of bits of work get done, but they do not necessarily get put together. As Liz Tregenza of the River Lakes and Coorong Action Group put it:

> The Coorong environmental trust will provide a vehicle for a number of stakeholder groups currently working in this space to collaborate. It will provide a one-stop shop for government to obtain information. Perhaps most importantly, it provides a vehicle to consolidate the science on the Coorong and provide for independent monitoring and research ongoing. It creates an avenue for new and international funding not necessarily available to state governments.

In its submission, the department is predominantly concerned with the duplication of work, particularly when it comes to research and monitoring programs. It is rather clear in the bill and in the second reading explanation that there is no intention to duplicate or take over work that is already being done. However, doing similar types of work, such as research and monitoring, is not duplication. If anything, it is difficult to see how this could be anything but useful to the department, with independent and separate funding for additional monitoring, data collection and research, all of which are aimed to be publicly available and therefore available for the department's use as well.

It is difficult to understand why the department would be unhappy with the trust undertaking more research or pointing researchers—and potentially funding them—towards areas that need more work to improve our understanding of this complex ecosystem. We know that there is excellent science and data collection already being done by members of the community, as we heard about during the select committee process:

> Probably some of the best science I have seen proffered by a member of the community is actually from one of the leading fishermen who managed to bowl over a couple of professors who said they had PhD students who didn't do stuff as good as that. There is a wealth of well-trained knowledge there in the community.

The Coorong and Lower Lakes are indeed a very special community. It would be a shame not to capitalise on the excellent work already being done there. This work so far has failed to gain that proper recognition. The trust is therefore a perfect solution as a body with an interest and a capacity to properly collate and analyse this data and ensure that it is accessible to all who need it.

Furthermore, the large benefit of the trust will be its willingness to engage and encourage citizen science and allow for community observations of the Coorong and Lower Lakes to be recorded and added to our understanding of this ecosystem. This is currently not happening, as evidenced by the following statement from Tracy Hill during her appearance before the select committee. She said:

> But there's a disconnect between what people observe and the ability to have it recorded somewhere. There is really not a mechanism at the moment. Glen—

that is, Tracy's husband, Glen Hill—

> has resorted to having to do citizen science and find someone who can actually analyse the samples, and then hopefully that can get passed on through some chain or channel to the department for reporting. We don't even know if that's been happening. It seems just recently to have been acknowledged, but there was no mechanism for this to actually happen.

All of this highlights how much of a value-add the Coorong Environmental Trust is and the potential that it has.

Another benefit of the trust that became very clear throughout the committee hearings was the fact that it has such a strong focus on listening to the community, something that has been distinctly lacking in the community's experience of decision-making around the Coorong and the Lower Lakes. There is a distinct lack of trust of government consultations and community forums, a persevering symptom arising from past experience and from the community being let down far too many times. Community members and stakeholders are not shy about making this known.

There are repeated examples of the inadequacy of the department's consultation and engagement forums, which are a never-ending source of frustration for the community. Even as just the most recent example, there was a series of community consultation meetings held on the Coorong Project. Initially, the meetings were only going to be in Meningie and Goolwa. That in and of itself was rather laughable when you consider that neither Goolwa or Meningie are on the Coorong, let alone on the South Lagoon, which is where this project is meant to focus on.

Meningie is on Lake Albert and Goolwa is on Lake Alexandrina. Additional sessions were added in Robe and Salt Creek after the issue was raised by members of the community. However, even with this in mind there was still the significant issue of all of these sessions clashing with a

biennial national seafood directions conference in Melbourne, which included the National Seafood Industry Awards presentation at lunchtime the very day of the Meningie session, which three key Meningie fishing identities were all finalists in various categories for.

Furthermore, the department did not know that many fishers as well as a large number of larger fishing licence holders would not be able to attend the Meningie forum as a result of the date, despite very much wanting to be a part of the consultation. This issue was ignored, despite being raised ahead several times by members of the community. Perhaps this is not entirely surprising. After all, in the government's document outlining Project Coorong and the Healthy Coorong, Healthy Basin Action Plan, the 'About the Coorong' section does not even mention fishing as one of the uses of the Coorong, despite the strong community and industry that depends on the Coorong and Lower Lakes.

All questions, I am advised, that were asked about the $70 million were brushed off during that session at Meningie. Even questions asked in advance regarding the lack of a literature review and if it was too early for them to be discussing solutions, and if they could not articulate the cause of the issues, were supposedly answered by referring to reports the community did not have access to or that were available through yet another website that none of the community knew about. In the words of one of the participants:

> Once the $70m has been spent and the remaining four years of the five year project are over, those 'community members' in that room get to live with whatever mess or non-result that is left at the end of this, with its resulting impacts on their lifestyle, culture and livelihoods, while the department staff get to go home to Adelaide, pat each other on the back and nominate each other for awards.

The trust is embedded in and supported by the community. It is a way to guarantee that their voices, frustrations, concerns and ideas will be heard where they have been ignored in the past. The community wants self-determination and participation in studying, monitoring and looking after the Coorong, and they believe in the trust and its ability to do so.

I have said before that this is a significant move for South Australia. Something that further highlights this is the fact that the concept of the trust has already gained international interest. I am delighted to inform the council that, in November this year, one of its proponents and someone I have obviously had the pleasure of working with very closely with regard to this bill, ecologist Faith Coleman, will be the only solo presenter at the CHEERS conference in France.

CHEERS stands for 'Global changes in estuarine and coastal systems functioning: innovative approaches and assessment tools'—it takes a letter from each of those words but not the first letter. The CHEERS conference aims to gather competencies and expertise on topnotch research highlighting global and long-term trends in estuarine and coastal ecosystem dynamics, using a wide variety of analytical tools and approaches. It is incredibly exciting that the trust we debate today will be presented and discussed there on such a distinguished international stage. It highlights what an incredible opportunity we have for South Australian science as well.

It has been a privilege to bring this bill before the parliament. I thank my researcher, Malwina Wyra, for her incredible, staunch work. She is what I would call a 'water nerd'. It has also been a privilege to advocate for the wishes and attest to the hard work of members of the community throughout the Coorong and Lower Lakes. I would like to thank everyone who has taken the time to speak to myself and members of the committee on our visits and during our hearings and to make submissions.

I thank them for the hospitality and forthrightness that we have had the pleasure to experience when we have undertaken that work. This is truly a community united and passionate about restoring the wetlands and the Coorong and ensuring their long-term study and survival. I hope for and look forward to the speedy passage of this bill through the other place, should it pass this place, where it will have the carriage of one of the local members, Nick McBride, the member for MacKillop.

We have a long, hot summer ahead of us. We are going to need all the information and support we can get. As I said, with those mass fish kills and ecological events, it is those who are there and see it who can attest that they do occur. That citizen science and support for the community

in its diversity is something that this trust will enable. With that, while this is not a second or third reading contribution, I look forward to the continuation of the committee stage of the bill.

The Hon. I. PNEVMATIKOS: The Coorong is South Australia's only wave-dominated estuary and the largest in Australia. It is located at the end of our most heavily modified river system, the Murray-Darling, and has been facing a steady decline in its health over recent decades. In addition to the impact the health of the estuary has on fish species and the habitat for a range of unique aquatic life, it is also indissolubly linked to the economic wellbeing of the local community. I thank the Hon. Tammy Franks for initiating the next step of what can be done to restore the health of the Coorong and Lower Lakes by initiating the establishment of a Coorong environmental trust.

It is a method tried and tested in other wetlands and estuaries across the country, many of which have demonstrated that this approach improves financial, physical and human resource use efficiency, enabling far greater outcomes for the estuary for equal or less overall resource input from each of the engaged stakeholder organisations.

The trust is delighted to drive the restoration of flows and ecological stability within the Lakes and the Coorong with a strong focus on the Ramsar principle of sustainable use. It will connect science, local community and stakeholders and empower them to take charge of the management of the Coorong. To quote Coorong Wild Seafood, there will be better science, better governance and better collaboration. It will be independent and will allow everyone to have equal input to ensure there is a democratic process in place that will facilitate the wellbeing of the estuary and be its primary focus.

It is important to note that it will still afford the state government the opportunity to use information and reports from the trust to inform its decision-making. It will also assist in attracting additional sources of private funding for the preservation and restoration of the wetland that the government is unable to access. It is important that we take into account the needs of the community who live there and experience the environment on a day-in, day-out basis. They are the on-the-ground experts and scientists when it comes to the condition of the Coorong. Their voices and research need to be heard.

As put by the Alexandrina council:

> [The trust will improve] the technical literacy of, and communication and collaboration between, the various stakeholder groups with an interest in the ecological health of the Coorong, including via the publication of annual State of the Estuary reports… [And will ensure] local knowledge and experience is captured and communicated to inform and add value to management activities being planned and delivered by government agencies.

Through the committee's deliberations we heard overwhelming support for the establishment of such a trust, with utmost confidence that its establishment was the best option to address the health and wellbeing of the whole system. I thank all who have participated in the inquiry, particularly those from the local area, for your insightful, passionate and well researched submissions. I stand to reiterate my beliefs that this bill is an appropriate measure and will go far in assisting the development of protections to preserve all elements of the Coorong.

The Hon. C. BONAROS: I, too, rise to speak to the report and the bill and to echo the sentiments expressed by the Hon. Tammy Franks and the Hon. Irene Pnevmatikos.

Such was the overwhelming support for this important piece of legislation, not only amongst stakeholder groups but also across the political spectrum in this place, that it really is a no-brainer. If only all bills referred to committees were as easy to deal with as this one, perhaps we would enjoy that process a little more. At the risk of repeating what has already been said and already highlighted, the Coorong Environmental Trust Bill 2019 establishes the Coorong Environmental Trust with the objective of driving the restoration of flows and ecological stability of the Lower Lakes and the Coorong.

Amongst other things it will serve as a vehicle to create and maintain a repository for all environmental data and research outcomes relating to the Coorong, something for which locals and stakeholders have been pleading for a very long time. It will provide independent, impartial scientific advice on the state of the Coorong to all stakeholders, including government; provide guidance for future environmental research within the Coorong; clearly monitor and document environmental flow

outcomes; coordinate and implement water quality monitoring programs; and independently assess proposed solutions to ecological challenges faced by the Coorong.

Most importantly, it will do all these things independently of government, with direct input from individuals representing organisations with professional, financial, physical or legal commitment to the ecological wellbeing of the Coorong, including, of course, the invaluable citizen science from locals who know the Coorong better than I think we ever will.

The science has been painstakingly gathered but all too often ignored, undermined and, especially, undervalued. It will create uniformity in terms of the collation of data, modelling and research, which as we know is not only often disjointed or fragmented but also very dispersed and ad hoc in nature. Perhaps most importantly, it is not always publicly accessible, as the Hon. Tammy Franks has highlighted, a criticism that we heard over and over in evidence.

It will ensure, again as has been highlighted, a democratic system for listening to those most impacted by the activities in the Coorong and create a sense of ownership that they deserve and thereby reduce the risk of single interest groups dominating the works of the trust at the expense of others. It will enable stakeholders to work together towards those meaningful and transformative changes that they have pleaded for for so long, which are aimed at driving the restoration of flows and ecological stability within the lakes and the Coorong, based on science and not politics. Indeed, I think we all agree that putting science back at the centre at the heart of the decision-making process is an integral aspect of this bill.

The Coorong is a national treasure recognised under the Ramsar Convention as a wetland of international importance. As the evidence presented to the committee highlighted overwhelmingly, it is one that deserves the utmost respect, preservation and protection. Of course, that level of respect, preservation and protection has been left wanting for a very long time—to its dire detriment. Indeed, the protection and preservation of the Murray-Darling, a national river system not just important to South Australia but to the nation as a whole, has been left wanting for a very long time.

We know the Murray is an integral part of the nation's food bowl, responsible for a $22 billion hub of economic activity and, as such, it must be governed properly. However, despite the billions of dollars we have spent on the Murray so far, the Coorong has suffered and continues to suffer as do the communities that rely so heavily on it. It is hoped that this bill will go some way towards ensuring our world-renowned and internationally significant Coorong gets the lifeline that it so desperately needs before it is too late.

In closing, I, too, would like to thank all those who have worked tirelessly to see this bill become a reality. Thanks of course to all those stakeholder groups and individuals who took the time to provide submissions and give evidence to the committee, especially for their impassioned pleas of support for this most important piece of legislation. In addition to thanking the other honourable members who served on the committee, I would like to take this opportunity to thank the Hon. Tammy Franks in particular for her most valuable and hard work in this area.

Clause passed.

Clauses 2 to 17 passed.

Clause 18.

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

Amendment No 1 [Franks–1]—

Page 9, line 24—Delete '4 directors' and substitute '5 directors'

This amendment deletes four directors and substitutes five directors with regard to proceedings, and a quorum of the board would now consist of five directors instead of four directors.

Amendment carried; clause as amended passed.

Remaining clauses (19 to 25) and title passed.

Bill reported with amendment.

Third Reading

The Hon. T.A. FRANKS (17:46): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (SPIT HOODS) BILL

Introduction and First Reading

The Hon. C. BONAROS (17:48): Obtained leave and introduced a bill for an act to amend the Correctional Services Act 1982, the Mental Health Act 2009, the Sheriff's Act 1978, the Summary Offences Act 1953 and the Youth Justice Administration Act 2016. Read a first time.

Second Reading

The Hon. C. BONAROS (17:49): I move:

That this bill be now read a second time.

I speak today on this bill for an act to amend the Correctional Services Act 1982, the Mental Health Act 2009, the Sherriff's Act 1978, the Summary Offences Act 1953 and the Youth Justice Administration Act 2016, all of which will have provisions relating the use of spit hoods in our youth detention settings.

As we were advised by the Minister for Human Services on 24 September, the South Australian Ombudsman, Wayne Lines, produced a report dated 5 September 2019 on his investigation concerning the use of spit hoods in the Adelaide Youth Training Centre (AYTC). Mr Lines' comprehensive report detailed the wide range of people with whom he consulted, and the relevant South Australian legislation and policies governing the use of spit hoods in the AYTC.

The Ombudsman also reviewed domestic and international human rights instruments applicable to the treatment of children and young people who have been deprived of their liberty. I would like to commend and thank the Ombudsman for his excellent report.

Although the use of spit hoods has declined in recent years, the 12 case studies involving the use of spit hoods in the AYTC included by the Ombudsman in his report are highly disturbing, to say the least. There were images of 10 adults manhandling a child because he did not want to leave his room and corrections staff restraining a child because she did not want to go to bed. These are extreme abuses of power that, should they have been perpetuated outside of the detention centre, would surely be the subject of criminal charges.

It is additionally concerning that in all but one of these cases, the child was also restrained and handcuffed in a prone position on the floor, which is known to increase the risk of trauma and asphyxiation, thus posing a very serious threat to the safety of the young person and also to the staff.

I was astonished to learn that South Australia is the only jurisdiction that still authorises and makes use of spit hoods in juvenile justice detention facilities. This is despite the shocking findings of the *Four Corners* report into the Northern Territory Don Dale youth centre in 2016, and media reports that have linked the use of spit hoods to deaths in custody here and in the United Kingdom and the United States. Some two years after Don Dale, South Australia has failed to implement the good practice of not putting spit hoods on clients.

The Royal Commission into the Protection and Detention of Children in the Northern Territory noted that other practice alternatives should be investigated to prevent exposure. Although every other jurisdiction in Australia has found spit hoods to be inconsistent with a 'trauma informed care framework', the former and current South Australian governments have sat on their hands and condoned the use of these barbaric and inhumane devices for too long. As Cheryl Axleby from the Aboriginal Legal Rights Movement has commented:

> …the SA government should be embarrassed and ashamed by the findings of the SA Ombudsman's report into the shameful and degrading practice of using spit hoods and excessive restraints upon children in their care.

As Ombudsman Lines notes, he could not locate any empirical research that purported to evaluate the effectiveness of spit hoods over other forms of protective equipment. In fact, to the contrary, it

has been found the use of force can exacerbate, rather than ameliorate, young people's challenging behaviour, especially those who have already experienced trauma.

Ombudsman Lines has recommended the use of spit hoods within the AYTC be reduced and eliminated by 5 September 2020. The minister has indicated she would ban the use of spit hoods from June 2020. This private member's bill is intended to end this unnecessary delay and to make sure that this happens immediately.

We know what best practice looks like in other jurisdictions and we know there are much better alternatives, so there can be no excuse for any further delay in SA. The bill itself makes quite simple and practical amendments to the acts that I have already referred to. It prohibits the use of spit hoods by a wide range of personnel, including security officers, departmental and correctional staff, police officers, Mental Health Act workers, sheriffs and trainee centre staff who may be working in any detention setting, from bail cells to youth training centres, including the AYTC, mental health detention facilities and police or other detention centre transfer vehicles. In a nutshell, if a minor is detained then the bill would prevent the use of a spit hood during their detention.

I understand the Ombudsman also recommended the government should review section 33 of the Youth Justice Administration Act and consider whether the provision authorising the use of force to maintain order in a training centre should be repealed. We on this side of the cross bench will certainly be monitoring the government's response to this recommendation and foreshadow introducing legislation to that effect if the government procrastinates on implementing the Ombudsman's finding in that regard.

I also understand that Ombudsman Lines is due to table a report shortly on the use of spit hoods on adults in custodial settings, and I eagerly await his recommendations, as is, I am sure, the Coroner investigating the death of Wayne Fella Morrison. I had foreshadowed that I would introduce one bill that would deal with both minors and adults and ban the use of spit hoods across the board.

However, given that we now know that there are further recommendations set to be presented to us by the Ombudsman when he finalises that report, I thought it was more appropriate that we deal with an issue concerning minors first—I think it is fair to say that will probably be the least contentious of the two issues—and then have the opportunity to reflect on the recommendations of the Ombudsman in relation to their use in the adult setting. For the benefit of members, I can flag that that is something that we are certainly extremely concerned about and think needs to be done away with.

Although still the subject of Supreme Court action and a coronial inquest, the death in custody of Wayne Fella Morrison, a man with serious pre-existing medical conditions who died wearing a spit hood while restrained face down in a corrections van, raises a lot more questions than the family has answers for at present. I have met with members of Mr Morrison's family. I have met with his mum and I have met with his sister, and I have assured them that I will persist until their questions are answered and until the appropriate legislation is passed by this place to deal with the use of spit hoods and ensure that nobody else suffers the same fate that their son and brother suffered at the hands of corrections.

I would like to acknowledge their tenacity and persistence to seek the truth in regard to what happened to their loved family member. Upon receipt of the report by the Ombudsman into the use of spit hoods in adult custodial settings, I again reiterate that I will be calling for the government to immediately follow our lead and legislate to implement the findings without delay.

Some 25 years after the Royal Commission into Aboriginal Deaths in Custody, conducted by that fearless champion of the human rights movement and passionate advocate for Indigenous Australians, Elliott Johnston QC OAM, it is appalling that in modern Australia we still have instances where people like Wayne Fella Morrison are still dying in custody in such tragic and completely unnecessary circumstances.

We have had at least nine deaths in custody in SA since 2008, all of which the Coroner has investigated, and we need to ensure all of these findings are acted upon, which is of course the exact purpose of another private member's bill that members would be familiar with, the Coroners (Miscellaneous) Amendment Bill 2019, which seeks to ensure that when a Coroner makes recommendations they are either acted on or, if the government of the day chooses not to act on the

recommendations, then at the very least they will be required to provide a rationale for why it is that they are not taking action.

I will have lots more to say on this bill, but given the hour of the day I will not do that now. I look forward to progressing this bill as a matter of urgency, preferably before the Christmas break. I do not think there is any reason for delaying such an important issue any further, but in the meantime, I commend this bill to the chamber and seek leave to conclude my remarks.

Leave granted; debate adjourned.

STATUTES AMENDMENT (SUSPENSION OF SOUTH EASTERN FREEWAY OFFENCES) BILL

Second Reading

The Hon. F. PANGALLO (18:01): I move:

That this bill be now read a second time.

I rise to speak to the Statutes Amendment (Suspension of South Eastern Freeway Offences) Bill 2019 that I introduced to the Legislative Council yesterday. This bill is to amend the Motor Vehicles Act 1959 and the Road Traffic Act 1961. The South Eastern Freeway carries in excess of 50,000 vehicles every day, and 4,400 of these are estimated to be heavy vehicles.

Sadly, in 2014, we witnessed a number of serious truck crashes on the down track of the South Eastern Freeway that involved large trucks losing control due to a range of factors, including excessive speed, failure or improper use of braking systems, truck defects and driver error. These resulted in the loss of many lives and many more cases of serious injury and trauma.

In response to these serious accidents, and in response to some but not all of the Coroner's report recommendations from his inquest into the death of Mr James Venning in 2015, the government of the day enacted legislation in late 2014 that limited the speed that trucks and vehicles over 4.5 tonnes and buses over 12 seats could do to 60 km/h on that section of down track between the Crafers interchange and the tollgate, to prevent a recurrence of such crashes.

Despite the legislation being passed in 2014, regulations did not come into effect until 2 April 2019, and legislation did not come into effect until 1 May 2019 when the specialised speed cameras able to detect these offences on that section of the South Eastern Freeway were installed and finally become fully operational. The new cameras could now detect trucks and buses under the new laws, not just vehicles with five or more axles. Drivers of those larger vehicles with five or more axles have been subject to this legislation since 2014, and thus are highly aware of these offences. Not so the drivers of the newly-defined trucks and buses, who were unaware of these laws that started to impact on unsuspecting drivers on 1 May this year.

In the first two months of its operation, 380 expiation notices were issued under these new laws; 267 of these were for driving at, or more than, 10 km/h over the 60 km/h speed limit, or failing to brake appropriately. The media reported that police issued more than $3.3 million worth of fines in just 61 days. Of those, 122 fines have been sent to companies which face a $26,000 fine unless they name the driver. Those figures are only to 30 June 2019, as figures for the past three months have not been released yet.

During this period, traffic lawyers and hundreds of constituents have contacted me, and I know they have also contacted many other honourable members of this parliament to express their extreme frustration with these new laws. Most reported that they had had their licence disqualified or were about to lose it. Just as a note, today I checked my inbox and there were another half-dozen complaints.

I wrote to the Minister for Transport, Infrastructure and Local Government, the Hon. Stephan Knoll, on 2 October 2019, asking him to suspend prosecution of all current South Eastern Freeway offences and to impose a 90-day moratorium on issuing new fines while he conducts a review of the legislation, but I have yet to receive a response. Nor has the government taken any steps to address the obvious problems with this legislation.

Constituents explained to me that not one of them understood that the new laws meant that their vehicle met the new definition of truck or bus, or that in many instances these definitions were

inconsistent with the vehicle's actual registration and the licence category required to drive them. For example, some drivers have exemptions to drive vehicles over 4.5 gross vehicle mass and buses over 12-seaters on a C class licence, yet these vehicles subject the driver to these new, more restrictive laws.

Similarly, often vehicles of less than 4.5 tonnes GVM are listed with a body type of a truck and have been wrongly captured by this law. As many have commented, the intentions of this law were very good and they still support those, but the unintended consequences make this a very bad law that needs to be fixed.

Take the case of Ilario Lerace, who hired a Toyota HiAce to transport his family visiting from Italy all around Adelaide. The hire company gave him an introduction to the vehicle, and he was told he could drive it on his C class licence. He was not informed that there were specific laws applicable to the bus being a 14-seater, which was detected at 74 km/h on what Ilario believed to be a 90 km/h stretch of the South Eastern Freeway. He is facing not only the loss of his licence for six months, a fine of $1,096 and the loss of six demerit points but also the very real prospect that he will lose his job as a driver valet attendant with Airport Security Parking. This is despite having an unblemished driving record for over 46 years.

Or take the case of Mr Matthew Ford, whom the Hon. John Gardner, member for Morialta, has advocated for by asking the Commissioner of Police, and the Minister for Police, Emergency Services and Correctional Services, the Hon. Corey Wingard, for leniency because the vehicle Mr Ford was driving had unknowingly been recently assigned the status of a truck.

Another constituent, a part-time driver for a council, raised the peculiarities where vehicles like a 4x4 dual cab weighing 3.2 tonnes GVM can tow a 10-metre long, three-tonne caravan, giving it a total weight of six tonnes, and yet can travel at 80 km/h. This law, based on weight and speed, can capture a small 4.58-tonne tray top truck with no load, which he drove for the first time and was caught four days in a row doing 72 km/h when he thought he was in an 80 km/h zone.

Another example relayed to me is that of business owner Brent Broadman, whose wife paid the fine for his incorrectly registered Ford F350, which was captured by this law. Thankfully, due to the efforts of his lawyer, Karen Stanley, Mr Broadman was able to have his fine reversed. That is an uncertain, expensive and high-risk option to pursue, as the penalties for first offences double if you elect to be prosecuted. In addition, if you elect to be prosecuted, the first fine offence increases to a potential $5,000.

To add to the confusion, some buses with only 12 seats are registered as having 14 seats. Car hire companies advertise 14-seater buses as requiring only a C class licence. I have dozens of constituents who have contacted me to advise that they have lost their licence for driving a 12-seater bus which was registered as a 14-seater bus, but they were entitled to drive on a C class licence. SAPOL advise that it is the registration of the vehicle, not the actual configuration of the truck or bus, that captures that driver.

The department may have advised the registered owners of vehicles of these new laws, but there are many drivers of these vehicles who do not own them, and they do not receive any notification. The department's notification has fallen well short of ensuring that there was sufficient media coverage, a comprehensive education campaign or adequate signage installed. Personally, I had never heard of this law before constituents started contacting me, but the more I heard from constituents and the more I looked into what was going on, the more I understood the confusion and disruption this was causing.

Transport minister, the Hon. Stephan Knoll, expects drivers to know the GVM of a truck or a bus that you and I can drive on a C class licence. I understand the member for Mount Gambier, Troy Bell, and the member for Enfield, Andrea Michaels, have also been inundated with constituent complaints about these laws.

This bill aims to address all these unintended consequences and replace them with provisions that are intended to address the issues that have by now become well known to the government as needing remedial action. On assent, this bill amends section 81BC of the Motor Vehicles Act 1959 in regard to disqualification for certain offences relating to section 45C of the Road

Traffic Act 1961. This amendment removes the disqualification of licence penalty for a first offence under these provisions. Instead, it inserts new penalties for the second, third or subsequent offences.

The unintended consequence of this legislation has been that it has imposed a mandatory loss of licence of six months for first offences. This has meant that trucks over 4.5 tonnes and buses over 12 seats, which were not the problem that the legislation sought to address, have been inadvertently captured by this legislation.

This has meant that volunteers driving small buses on a C class general licence have suffered an instant loss of licence and substantial fine for exceeding the speed limit of 60 km/h by more than 10 km/h, or not being in the designated lane on a small section of the down track of the South Eastern Freeway. I am aware that some councils no longer have volunteer bus drivers because the drivers have either lost their licence or are no longer willing to risk losing their licence.

The other dangerous unintended consequence of this is that small private and commercial tourist buses such as winery tour 14-seaters have been forced to occupy the truck lane at very slow speed, often sandwiched between two enormous trucks of over eight tonnes for a very slow, stressful trip being tailgated down this specific section of the freeway. It is the opinion of expert drivers and trainers that it is only a matter of time before these small buses are mown down by the trucks they are forced to share one lane with.

The imposition of a mandatory loss of licence for six months, or 12 months if you elect to be prosecuted rather than expiate the fine, is too heavy-handed and is capturing drivers other than those the legislation was originally intended to address. A lack of consistent information and communication to anyone other than the owners of vehicles, combined with inadequate education, training and signage, has meant that this legislation has unfairly impacted those it was not intended to target.

On assent, this bill also amends section 45C of the Road Traffic Act 1961 in relation to speed and gear restrictions for trucks and buses on prescribed roads by revoking the speed and gear restrictions that currently apply. Six months after assent, this bill amends section 45C of the Road Traffic Act 1961 in regard to speed and gear restrictions for certain trucks and buses on prescribed roads to alter these to more realistic specifications. A restricted bus is a bus with a GVM over eight tonnes, and a restricted truck is a truck with a GVM over eight tonnes.

This provision addresses the hundreds of ridiculous scenarios that have occurred where the drivers of large utes, small trucks of just over 4.5 tonnes and buses with only 14 seats have lost their licences for going 70 km/h on the 60 km/h section of the freeway from Crafers Interchange to the tollgate. There have been some instances where these offences have been waived by SAPOL because of incorrect registration of a truck or bus, but what about the poor law-abiding citizens who expiate the fines then make the shock discovery that they have also lost their licences?

In determining if a section 45C or section 79B offence is a first or second offence in relation to whether a disqualification is to apply, convictions and expiations within the preceding five years will be taken into account, so my bill in fact strengthens the deterrent effect and disincentives for committing a second, third or subsequent offence. An added benefit is that if a driver is given an expiation notice, they are made aware that their vehicle meets the definition of a truck or a bus. This eliminates any argument that they did not know that the law applied to their vehicle.

There is still an incentive to expiate an offence as the potential penalties applicable by a court if you choose to be prosecuted for a second, third or subsequent offence are higher than the expiated loss of licence periods but lower than the double penalty the court must currently apply to a first offence and subsequent offences under the existing laws. The expiation fines and the demerit point penalties also remain unchanged, with the court only considering convicted offences in determining if it is a second or subsequent offence in relation to the fine and demerit penalty to apply. This provides a deterrent and disincentive to reoffend as well as fairness in how the court treats the fine and demerit penalties.

Six months after assent, the bill also amends section 45D in relation to the powers of police to impose licence disqualifications or suspensions of section 45C offences to be consistent with the above provisions. It also amends section 79B in relation to the provisions applying where certain offences are detected by photographic devices to be clear that only second and subsequent offences

detected by photographic detection devices will result in a licence disqualification penalty and that previous convictions and expiations will be taken into account in regard to licence disqualification.

The bill has to vary the Road Traffic (Road Rules—Ancillary and Miscellaneous Provisions) Regulations 2014 to revoke regulation 9C. This regulation currently provides that the low gear offences that normally apply to trucks and buses—that is, rule 108 of the Australian Road Rules—does not apply on the South Eastern Freeway. The result is that only the section 45C(2) offence will not apply for six months and thereafter will not apply to trucks and buses that are under eight tonnes. Under the commencement clause it will be removed as soon as the section 45C(2) offence is suspended.

My bill is to address the shortcomings of the current law while still improving safety, as the original bill intended. The legislation has good intentions, yet like many good intentions this went astray. It is up to us to identify these problems and rectify them. I thank the Office of Parliamentary Counsel for their outstanding work on this private members' bill, especially since I do not have the resources of an entire department and the ministerial office that minister Knoll has.

I commend the bill to the chamber, and I flag the need for urgency to fix this confusion quickly. I give notice to honourable members that I would like to bring this bill to a vote on 13 November.

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

LAND ACQUISITION (MISCELLANEOUS) AMENDMENT BILL

Introduction and First Reading

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

LOTTERIES BILL

Introduction and First Reading

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

LEGISLATION (FEES) BILL

Introduction and First Reading

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

LANDSCAPE SOUTH AUSTRALIA BILL

Conference

The House of Assembly agreed to grant a conference as requested by the Legislative Council. The House of Assembly named the hour of 1pm on Tuesday 29 October 2019 to receive the managers on behalf of the Legislative Council at the Garden Room.

The Hon. R.I. LUCAS (Treasurer) (18:25): I move:

That a message be sent to the House of Assembly agreeing to the time and place appointed by the house.

Motion carried.

Standing Orders Suspension

The Hon. R.I. LUCAS (Treasurer) (18:26): I move:

That standing orders be so far suspended as to enable the Clerk to deliver the message on the Landscape South Australia Bill to the House of Assembly when the council is not sitting.

Motion carried.

The PRESIDENT: I note the absolute majority.

FLINDERS UNIVERSITY (REMUNERATION OF COUNCIL MEMBERS) AMENDMENT BILL

Introduction and First Reading

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

CONTROLLED SUBSTANCES (YOUTH TREATMENT ORDERS) AMENDMENT BILL

Final Stages

The House of Assembly agreed to the bill with the amendments indicated by the following schedule, to which amendments the House of Assembly desires the concurrence of the Legislative Council:

No 1. Clause 2, page 2, after line 7—Insert:

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

No 2. Clause 7, page 4, line 37 [clause 7, inserted section 54B(4)]—Delete 'subsection (5)' and substitute 'subsections (5) and (5a)'

No 3. Clause 7, page 5, after line 4 [clause 7, inserted section 54B]—After subsection (5) insert:

(5a) Until the prescribed day, an order made under this Part will cease when the child is released from detention (if the order has not ceased at an earlier time).

No 4. Clause 7, page 10, lines 32 to 34 [clause 7, inserted section 54L(1)(c)]—Delete paragraph (c)

No 5. Clause 7, page 10, line 35 [clause 7, inserted section 54L(1)(d)]—Delete 'Guardian for Children and Young People' and substitute:

person responsible for exercising functions under the visitor scheme (established under subsection (2))

No 6. Clause 7, page 10, line 37 [clause 7, inserted section 54L(1)(e)]—Delete 'psychiatrist' and substitute 'medical practitioner'

No 7. Clause 7, page 11, lines 21 to 25 [clause 7, inserted section 54L(2)]—Delete subsection (2) and substitute:

(2) The Minister must ensure that a visitor scheme is established, in accordance with the regulations, to monitor the health, safety and wellbeing of children who are detained pursuant to detention orders.

(2a) The regulations may confer functions under the visitor scheme on the Training Centre Visitor appointed under the *Youth Justice Administration Act 2016,* the Guardian for Children and Young People or a person appointed as the visitor for the purposes of the scheme by the Governor.

No 8. Clause 7, page 11, lines 32 to 36 [clause 7, inserted section 54L(4)]—Delete subsection (4)

At 18:28 the council adjourned until Tuesday 29 October 2019 at 14:15.

Answers to Questions

MENTAL HEALTH COMMISSION

151 The Hon. K.J. MAHER (Leader of the Opposition) (15 October 2019).

1. Has Commissioner Burns applied for one of the part-time mental health commissioner positions?

2. Given there will be three part-time mental health commissioners, who will be in charge of the Mental Health Commission?

3. When was the decision made to replace a full-time commissioner and two part time commissioners with three part-time commissioners?

4. Did the minister meet with Commissioner Burns to discuss the change from full time to part time prior to publishing the advertisements for the three part time roles?

5. Who advised the minister that part-time roles were preferred to full-time appointments?

6. How many hours in a week does the minister believe the head of the Mental Health Commission should be working?

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

The member is referred to my replies to questions in the Legislative Council on 25 September 2019.

INFLUENZA VACCINATIONS

In reply to **the Hon. C.M. SCRIVEN** (30 April 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

1. Administration of influenza vaccines to staff at The Queen Elizabeth Hospital commenced from Monday 29 April 2019.

2. SAAS first received a delivery of influenza vaccines on 11 April 2019.

3. Vaccine supply for the state-funded healthcare worker and childhood influenza programs was procured and confirmed by my department in early October 2018. Receipt of all vaccines ordered for all programs are dependent on commonwealth government and manufacturer-advised time lines.

4. Vaccine stock levels continually change and are particularly affected by deliveries from the commonwealth.

INFLUENZA VACCINATIONS

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1. Administration of influenza vaccines to staff at The Queen Elizabeth Hospital commenced from Monday 29 April 2019.

2. SAAS first received a delivery of influenza vaccines on 11 April 2019.

3. Vaccine supply for the state-funded healthcare worker and childhood influenza programs was procured and confirmed by my department in early October 2018. Receipt of all vaccines ordered for all programs are dependent on commonwealth government and manufacturer-advised time lines.

4. Vaccine stock levels continually change and are particularly affected by deliveries from the commonwealth.

INFLUENZA VACCINATIONS

In reply to **the Hon. E.S. BOURKE** (30 April 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

1. Administration of influenza vaccines to staff at The Queen Elizabeth Hospital commenced from Monday 29 April 2019.

2. SAAS first received a delivery of influenza vaccines on 11 April 2019.

3. Vaccine supply for the state-funded healthcare worker and childhood influenza programs was procured and confirmed by my department in early October 2018. Receipt of all vaccines ordered for all programs are dependent on commonwealth government and manufacturer-advised time lines.

4. Vaccine stock levels continually change and are particularly affected by deliveries from the commonwealth.

INFLUENZA VACCINATIONS

In reply to **the Hon. C.M. SCRIVEN** (14 May 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

1. SA Health were advised that four state-run residential agedcare facilities were on heightened alert due to an influenza outbreak.

2. SA Health's communicable disease control branch receives notification of influenza cases from both the diagnostic laboratory and treating medical practitioners.

Direct patient care is not affected by any data entry backlog. There is a sufficient representation of the data entered into the system to allow for the identification of emerging trends and the implementation of appropriate policy responses and public health interventions.

3. Diagnostic laboratories are reporting to the communicable disease control branch in a timely manner, within three days of detecting a positive laboratory test.

INFLUENZA VACCINATIONS

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (14 May 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

1. SA Health were advised that four state-run residential agedcare facilities were on heightened alert due to an influenza outbreak.

2. SA Health's communicable disease control branch receives notification of influenza cases from both the diagnostic laboratory and treating medical practitioners.

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INFLUENZA VACCINATIONS

In reply to **the Hon. I.K. HUNTER** (14 May 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

1. SA Health were advised that four state-run residential agedcare facilities were on heightened alert due to an influenza outbreak.

2. SA Health's communicable disease control branch receives notification of influenza cases from both the diagnostic laboratory and treating medical practitioners.

Direct patient care is not affected by any data entry backlog. There is a sufficient representation of the data entered into the system to allow for the identification of emerging trends and the implementation of appropriate policy responses and public health interventions.

3. Diagnostic laboratories are reporting to the communicable disease control branch in a timely manner, within three days of detecting a positive laboratory test.

MODBURY HOSPITAL

In reply to **the Hon. R.P. WORTLEY** (15 May 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised that:

The following clinicians were on the HDU steering committee at the meeting held on 14 May 2019:

- Professor Andrew Bersten
- Dr Michael Cusack
- Dr Jackie Davidson
- Ms Kirsty Delguste Dr Tony Elias
- Ms Nadja Hartzenberg
- Mr Damien Heffernan
- Ms Alison Hodak
- Dr Simon Jenkins

- Dr Edda Jessen
- Ms Heather Saunders
- Dr Ben Teague

MOUNT GAMBIER DRUG AND ALCOHOL REHABILITATION SERVICES

In reply to **the Hon. C. BONAROS** (15 May 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised that:

1. Since 1 January 2018, Uniting Communities has been funded by SA Health to provide six residential rehabilitation beds for alcohol and other drug treatment in Mount Gambier.

This new funding came about as a result of community consultations identifying residential rehabilitation as a service gap for the area.

On 27 February 2019, the Australian government Minister for Health announced $3 million in additional commonwealth funding over three years for alcohol and other drug rehabilitation services in Mount Gambier and the Limestone Coast. Uniting Communities will receive $825,000 per annum to deliver its New Roads Program in Mount Gambier, and the Substance Misuse Limestone Coast Working Party will receive $175,000 per annum in funding to develop a long-term strategy for the region.

- There are also a range of statewide alcohol and other drug services provided by SA Health which are available to people in the South-East region, including:
- The Alcohol and Drug Information Service, which provides confidential assessment, referral and telephone counselling to individuals and family members.
- The Drug and Alcohol Clinical Advisory Service, which provides expert advice to health professionals.
- The Woolshed Therapeutic community, which is based in the Adelaide Hills but is available to individuals from across the state.
- DASSA Withdrawal Services (Glenside campus), which provides access to inpatient withdrawal for individuals from across the state. Inpatient withdrawal can also be arranged through the Mount Gambier hospital.

The 'Know your options' website provides a comprehensive online directory of the range of government and non-government services available in the South-East region.

2. In terms of work with our commonwealth and COAG partners to address this issue, I represent South Australia on the Ministerial Drug and Alcohol Forum, along with the Minister for Police, Emergency Management and Correctional Services. The ministerial forum oversees the implementation and monitoring of Australia's National Drug Strategy 2017-26. I have also written to minister Hunt on this topic.

The South Australian government welcomes the $20 million investment in the alcohol and other drug treatment in our state announced by the Australian government Department of Health on 13 March 2019, and the additional $3 million in funding over three years for alcohol and other drugs treatment services in the South-East region of South Australia announced on 27 February and commencing in July 2019.

These are both welcome investments and the state government will continue to work with our commonwealth, state and territory counterparts—both bilaterally and through the Ministerial Drug and Alcohol Forum—to implement strategies to prevent and minimise alcohol and other drugs related harms in line with the National Drug Strategy 2017-26.

3. I am advised that there is currently no waiting list for beds in the existing residential rehabilitation and counselling services based in Mount Gambier. As at 24 May 2019 data from these services show they have immediate capacity to take client referrals and that there are no significant waiting times to access services. The evidence therefore suggests that these services are meeting demand for alcohol and other drug treatment in the region and have capacity for new referrals.

4. I refer the member to the previous answer.

5. Acute psychiatric inpatient beds at the Mount Gambier and Districts Health Service are designed to provide treatment for psychiatrically acutely unwell patients who cannot be safely treated in an alternative setting.

Individuals with drug and alcohol dependence are not excluded from treatment provided they meet the primary admission criteria.

MUSIC FESTIVAL PILL TESTING

In reply to **the Hon. T.A. FRANKS** (15 May 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I am aware that:

Pill testing trials took place in the Australian Capital Territory (ACT) at the Groovin the Moo festival held in Canberra in April 2018 and April 2019.

I am advised that the ACT government intends to independently evaluate the second pill testing trial.

I have also been advised that there was no significant increase in drug-related health incidents aligned to the Groovin the Moo event in South Australia this year.

No other Australian jurisdictions have indicated they plan to introduce pill testing at music events.

REAL-TIME PRESCRIPTION MONITORING

In reply to **the Hon. T.T. NGO** (18 June 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised that following a tender process, a decision will be made and a trial will be undertaken.

MCLAREN VALE AND DISTRICTS WAR MEMORIAL HOSPITAL

In reply to **the Hon. C.M. SCRIVEN** (3 July 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

The McLaren Vale and Districts War Memorial Hospital is a community hospital, not part of SA Health. I suggest the member puts her questions to the hospital.

MENTAL HEALTH SERVICES

In reply to **the Hon. E.S. BOURKE** (3 July 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

Both Diamond House and Catherine House provide services to a range of clients, some of whom might otherwise potentially present at public hospitals.

The South Australian government provides ongoing financial support for both services.

PUBLIC HEALTH SERVICES, PRIVATE PROVIDERS

In reply to **the Hon. E.S. BOURKE** (31 July 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

The State Procurement Board approved an acquisition plan to approach the market by an open tender to provide patient services. Approval of the purchase recommendation was delegated to SA Health's Procurement Governance Committee in accordance with its powers and functions under the State Procurement Act.

The procurement process was completed and a purchase recommendation was approved by the Procurement Governance Committee. Value for money was secured by price benchmarking.

Cabinet approved the cabinet submission financial authorisation to enter into contracts with thirteen service providers consisting of both private hospitals (overnight hospital) and private day procedure centres (day hospitals).

All steering committee and evaluation team members completed confidentiality and conflict of interest forms. The conflict of interest status of members was checked prior to the commencement of each steering committee and evaluation team meeting.

All processes undertaken followed State Procurement Board policies and guidelines.

NATIONAL ALCOHOL STRATEGY

In reply to **the Hon. M.C. PARNELL** (31 July 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

The strategy is still under review by the Ministerial Drug and Alcohol Forum.

GENE TECHNOLOGY

In reply to **the Hon. R.P. WORTLEY** (31 July 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

The member's question is baseless.

As the South Australian member on the Legislative and Governance Forum on Gene Technology, I chose not to vote on this matter.

I considered that, in all the circumstances, the matter would be better dealt with in session.

SA Health is confident that there will be no health, safety or environmental concerns resulting from these amendments.

AMBULANCE SUPPLIES

In reply to **the Hon. T.T. NGO** (31 July 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I have been advised:

SAAS engages Complete Office Supplies (COS) as its current stationary provider which includes pens and other writing materials.

ROYAL ADELAIDE HOSPITAL BLACKOUT

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (11 September 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I can advise:

The morning of 11 September 2019.

AGED-CARE FACILITIES AUDIT

In reply to **the Hon. C.M. SCRIVEN** (25 September 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I can advise:

1. My office received the report on 9 August 2019

2. The determination was made by an accredited FOI officer within the Department for Health and Wellbeing in accordance with the legislation.

FLINDERS MEDICAL CENTRE BIRTHS

In reply to **the Hon. E.S. BOURKE** (25 September 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I am advised:

My office have been in contact with the family, who advised that the patient did not want the matter pursued.

HOSPITALS, ALUMINIUM CLADDING

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (25 September 2019).

The Hon. S.G. WADE (Minister for Health and Wellbeing): I can advise:

No.