LEGISLATIVE COUNCIL

Wednesday 23 March 2011

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:18 and read prayers.

LEGISLATIVE REVIEW COMMITTEE

The Hon. R.P. WORTLEY (14:18): I bring up the 20th report of the committee.

Report received.

PAPERS

The following papers were laid on the table:

By the Minister for Regional Development (Hon. G.E. Gago)—

Reports, 2009-10—
Pharmacy Board of South Australia
South Australian Psychological Board

QUESTION TIME

LIQUOR LICENSING

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:19): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about the 4 o'clock to 7 o'clock ban on the serving of alcohol.

Leave granted.

The Hon. D.W. RIDGWAY: As members who were up and alert this morning would be aware, many callers to both FIVEaa and ABC local radio, as well as their presenters this morning, talked about the 4am version of the old 6pm swill. As David Bevan said on 891, 'We don't—'

Members interjecting:

The Hon. D.W. RIDGWAY: Mr President, I would like some protection please.

The PRESIDENT: The legislation's not in yet.

The Hon. D.W. RIDGWAY: As David Bevan said on 891, 'Don't we have enough laws in this state stopping publicans from serving drunks? If the laws were properly policed, that is, stopping drunks from being served, wouldn't that deal with some of these problems?'

Assistant police commissioner Bronwyn Killmier conceded that if publicans managed responsibly—that is, if they did not serve people who showed signs of being affected by alcohol—South Australia would not be having this conversation about mandatory closure at 4am. Commissioner Killmeir acknowledged that the law has virtually failed in stopping the serving of alcohol to drunk people. She also acknowledged the number of people being prosecuted for serving alcohol to drunks was very low. My questions are:

1. Do we have enough laws in this state stopping publicans from serving drunks?

2. If the laws were properly policed, that is, stopping the drunks from being served, wouldn't that deal with some of the problems?

3. How many people have been prosecuted for serving alcohol to drunk people over the past year; if the minister does not have the precise number, would she agree that it is very low?

4. Does the minister agree with assistant police commissioner Bronwyn Killmeir that 'we have to put more resources into policing'?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:21): I thank the honourable member for his important questions and an opportunity to talk about this very important proposal that is about to be put to parliament. We are seeking to introduce a bill that looks at introducing a raft of different measures to address the issue of alcohol-fuelled crime—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —particularly violence and other anti-social behaviour associated with alcohol abuse, particularly in our entertainment areas. The data shows us quite clearly that the number of alcohol-related incidents, particularly in our entertainment areas, is on the increase and has been increasing for some time.

It is absolutely a tragedy, and each and every one of us should take responsibility. We will all get our opportunity to take some responsibility when this bill comes before us, and we expect honourable members to support it. In terms of the timing of these incidents, according to reports from police they tend to peak at around 2 to 3am, and then they come down—

Members interjecting:

The Hon. G.E. GAGO: There is a peak period of incidents between 3am and 6am.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: So, the peak period of offending occurs between 3am and 6am. I want to draw attention to the fact that the proposal to put in a three-hour break is only one of a raft—

Members interjecting:

The PRESIDENT: Order! Perhaps we ought to close them at lunchtime, just for the opposition.

The Hon. G.E. GAGO: It is only one of many measures and, in fact, most of the measures that we are proposing, both in terms of legislation and the code of conduct, which we will be distributing publicly for further consultation at roughly the same time, are measures that are targeted towards those venues that do not do the right thing. So, it is about really focusing most of our efforts on those venues that do not do the right thing.

Some of the other measures include things like increasing penalties for repeat offenders to make sure that we come down really hard on those licensees who are repeat offenders and who continue to breach their licences. So, we will be significantly increasing the penalty for repeat offenders and also increasing the scope of offences that would warrant disciplinary action, including the ability to temporarily suspend a licence of a repeat offender relating to particular offences. So, members can see that we have really come down tough on those.

Some of the other measures involve increasing the powers of the commissioner to provide the ability to impose conditions on a licence and for that to be done in a timely and speedy way. Some of those measures could include things such as requiring extra security guards where that is deemed to be warranted, and to require extra CCTV cameras or, for that matter, the installation of CCTV cameras. It could require better control of crowds on the street or it could require a condition that means replacing glass with plastic utensils after a particular time where that is deemed to be warranted. These are part of the bill and the code of conduct. As I have said, there is a raft of measures; it is not just about trading hours. Trading hours is only one strategy of many we are proposing to bring about safety, and the priority of this government is to improve public safety.

In terms of the proposition that somehow a break between 4am and 7am reduces us to a nanny state, I can absolutely assure all members that the general public will have 21 hours a day of licensed drinking time every day of the week except, of course, on public holidays, and that is far more hours than in many other states. In fact, I am advised that New York City has a mandatory closing period of four hours each day, and New York City could hardly be considered to be a nanny state. So, New York City has a longer mandatory closing period than Adelaide.

What we are proposing here is consistent with other jurisdictions. At present, there are three other jurisdictions that have a mandatory closure, and almost every other jurisdiction has some restriction to licensing or trading, or is currently considering changes to their trading hours. In terms of costs, the general public are already paying for the cost of alcohol abuse—both drinkers and non-drinkers alike pay for the cost of alcohol abuse and alcohol-related harm—and nationally we pay to the tune of $36 billion a year, and South Australia's share is just under $3 billion a year. So, we are already paying for that.

It is about time that we draw a line in the sand and do something about improving safety on our streets. Some of the raft of proposals we are putting in place are about licensees sharing the responsibility across the sector, but most of those proposals are, in fact, targeted at those venues that do not do the right thing. We have increased opportunities to help dispersal because that has been a concern. We have provided new money for the consideration of four new managed taxi ranks. We are considering including two of those in the CBD; we already have two. They are highly popular and highly used. They are a very safe and efficient way of dispersing crowds.

An honourable member interjecting:

The Hon. G.E. GAGO: There is an interjection—

The PRESIDENT: It is out of order.

The Hon. G.E. GAGO: —that they will be very busy (although I will ignore that, Mr President) at 4 o'clock. Here is another bit of a furphy. Again, when you analyse the data, the peak dispersal time currently in the Adelaide CBD is around 3am. By the time we get to 4 to 7am the bulk—that big peak of dispersal—have already left the CBD. That is not to say there are not still crowds that we have to manage, but we know that increasing the number of managed taxi ranks provides a safe, efficient and very popular means of helping crowds to disperse. The taxi industry, in particular, tends to put more cars out on the road when there are managed taxi ranks, because it is safer for them to send their cars out to managed taxi ranks.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: We know they like to use them and we know the public like to use them, because they are a safe and effective way of managing crowds. We have also increased incentives for designated drivers. Some of these proposals include hotels and nightclubs being required to provide cool drinking water free of charge and also to provide soft drink at a reasonable price so that there is always the designated driver option.

There is also public transport. There are hourly bus services. There is a train service that leaves somewhere between half past five and six, and I will come back to that in a minute. The police have also indicated that, if this bill successfully goes through, they will contribute to improving the policing around the transport hubs. When I was out there talking to people, one of the things that young people said to me is that they were disinclined to use the hourly bus service because of security issues. We believe that, with extra assistance from the police, we should be able to improve that.

Of course, there is the public train system. Again, if you look at the analysis, it shows us that the numbers of people using that first service out of the CBD are very small numbers indeed. That is not to say that the service is not utilised. The service is utilised and it is an important service, but to suggest that there are thousands and thousands of young people who hang around the city until 6am for the first train out is absolute nonsense. We believe we have put together a series of proposals and strategies that attempt to address a range of different issues. In terms of policing—

The PRESIDENT: The minister should shortly complete her answer. Fifteen minutes for one question is getting—

The Hon. G.E. GAGO: I am wrapping up now. I just got so excited about this proposal.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: I will finish on policing very quickly. First of all, there is new money for more inspectors, and the police have indicated that, if this bill goes through successfully, they will increase policing in the entertainment areas, particularly around the transport hubs. I think that just about wraps it up. Thank you, Mr President.

Members interjecting:

The PRESIDENT: Order!

LIQUOR LICENSING

The Hon. T.J. STEPHENS (14:35): I have a supplementary question. The thousand employees of the Casino, members of the Misco's union, many of whom finish at 4am: where are they supposed to go for a drink,?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:35): I am aware that there are some shift workers who do like to have a drink between those times. I have been a shift worker myself. I have worked night shifts and also evening shifts, so I know what it is like to be a shift worker, but I do not think there was ever an occasion—even in my youngest and most vigorous of party days, and even at the peak of my partying time—that I ever finished a nightshift and actually wanted to go to a pub for a drink.

I know that everyone is different and I know that there are some people who enjoy that. These new proposals have been put in place for the general public. They have been put in place to make our streets safer for all South Australians, so it is a measure that has been put in place to improve the safety of all South Australians.

LIQUOR LICENSING

The Hon. J.M.A. LENSINK (14:36): I seek leave to make an explanation before directing a question to the Minister for Consumer Affairs on the subject of lack of replies to my questions on liquor licensing.

Leave granted.

The Hon. J.M.A. LENSINK: On 14 October last year, I asked the following questions of the minister:

1. How many licensed premises in South Australia have not had an inspection in the last three years?

2. How long does the average inspection take?

3. How many fines were issued, for what types of offences, and how many in each category?

4. How many prosecutions were recorded, for what types of offences, and how many in each category?

5. What action was taken as a result of prosecutions?

6. What has been the impact of the initiative from the 2009-10 budget of conducting 400 additional priority 1 inspections?

The minister answered some parts of those questions in relation to the estimated number of visits but took the rest of the questions on notice. My question to the minister is: when will she reply to these questions, or do I have to lodge an FOI to get an answer?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:37): Given that the honourable member has in the past lodged FOIs for information that was already on the public record—what a waste of time and resources; she FOI'd a report that was already tabled in parliament and on the public record; what a joke—by all means go right ahead and FOI.

I took those questions on notice. I answered those that I had information on at the time and took them on notice. The agency is very busy beavering away to obtain that information, and I am sure they are doing their very best amongst all their other priorities, including putting together this fabulous legislation that is about to be tabled. In terms of the categories for inspection—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —my understanding is that currently the various hotel licences are designated a particular category that roughly aligns with the level of risk of an establishment—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —and then there is a protocol of visiting in terms of particular timing, and I do not have that in front of me. The higher risk venues are inspected more frequently than categories 2 and 3, the lower risk categories. That work goes on year, in year out, and our inspectors are obviously very diligent in the way they conduct themselves, and I commend them for their very difficult task.

The good news is that the bill that is about to be tabled looks at new money, and that includes new money for new inspectors. That will enable us, no doubt, to provide answers to questions like these more quickly in the future, which we can look forward to. I can absolutely guarantee that inspectors in the agency are extremely diligent and hardworking. They prioritise the work that they do, and I can assure you that they will be addressing these particular questions and giving them the level of priority and attention they deserve.

LIQUOR LICENSING

The Hon. S.G. WADE (14:40): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about liquor licensing laws.

Leave granted.

The Hon. S.G. WADE: Today's *Advertiser* reported the government's proposal to restrict hotel trading hours in the CBD by forcing the closure of pubs and clubs between 4am and 7am. However, it was also reported that eight of the Adelaide Casino bars would be allowed to remain open during the curfew, giving it a virtual monopoly over early morning alcohol supply in the CBD. The government appears to be diverting patrons from Adelaide clubs and pubs to the government's largest poker machine venue in the state. My questions are:

1. Why is the minister forcing patrons in the CBD to go to South Australia's biggest gambling venue if they want to stay out between 4am and 7am?

2. How much additional revenue does the government expect to generate by making the largest poker machine venue a monopoly licensed venue in the CBD during these hours?

3. Did the minister or any member of her office or her department discuss the proposal with the Adelaide Casino before it was announced?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:41): I thank the honourable member for his most important questions and, indeed, value the opportunity to talk further about these very valuable reform measures that the government is contemplating. Indeed, they are quite radical reforms, and that is because we have a significant problem to do with alcohol-related harm on our streets, and we have drawn a line in the sand.

We are a government of courage and conviction, and our priority is keeping our streets safe. We do not apologise for taking this tough stance. We do not apologise for that. This is not a popularity contest. This is about doing the right thing and making our streets safer and, as I said, I do not apologise for that. In relation to the Casino, the honourable member is correct. He is not often correct but, in some elements of his explanation today, he was in fact correct, in that the proposal at this point in time is looking at granting an exemption to the Casino.

It is proposed that the bill lay on the table for six weeks to enable further extensive consultation, so there will be ample opportunity for everyone to have their say and for everyone to meet with me or whomever else they might want to meet with to discuss the details of these matters. In relation to the Casino, I think the North Terrace restaurant has not been included in the exemption. Honourable members might know the restaurant/cafe part of the Casino that comes out onto the railway terrace. That will be captured by the mandatory closure period, so that will not be included.

It was considered that the Casino provides a relatively unique entertainment experience and that it operates in a national, international and local marketplace. All other casinos in all our other capital cities operate roughly 24 hours a day—there are provisions around gambling operations, but it is roughly a 24-hour period—so to reduce hours here in South Australia would significantly disadvantage Adelaide. There have been 61 submissions to our discussion paper, and very few of them opposed the Casino operating at that time. There were more issues around, 'If the Casino can have an exemption, why can't we?' and a number of submissions argued that point.

Even the AHA's position (which I will have to double-check, and I will stand corrected if it is not right) is more in line with saying, 'If the Casino has an exemption, why shouldn't there be provision for exemptions for other venues?' rather than opposing the Casino having an exemption. As I said, we have six weeks to go, but at this point in time there does not appear to be overwhelming public support for not extending the exemption to the Casino, but time will tell and we will certainly monitor that.

In terms of discussions with the Casino and, for that matter, any other stakeholder associated with the proposals, we have been meeting with most relevant stakeholders for some time to discuss the proposals to be considered in the discussion paper before it went out. After the discussion paper went out, not only did submissions and correspondence come in but many stakeholders—individuals and organisations—requested delegations and meetings with me.

Wherever possible I met with people who requested a meeting with me. If I was not able to meet with them, I tried to ensure that at least the commissioner or someone else from the agency could meet with them. So, we did attempt to engage with them and be involved in dialogue and discussion all the way through. All parties were treated in pretty much the same way and, as I said, where stakeholders requested to meet with me—some more than once—I tried to meet their requests wherever possible. It was a very open process and one that involved extensive consultation, dialogue and exchange.

The PRESIDENT: Well, that's cleared up where staff can get a drink after they knock off!

SAFEWORK SA

The Hon. R.P. WORTLEY (14:48): My question is to the Minister for Industrial Relations. Can he explain how SafeWork SA has assisted to ensure the safety of workers and members of the public at Adelaide's recent major events, particularly the Clipsal 500?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:48): I thank the Hon. Mr Wortley for his question. As we are all aware, since January Adelaide has come alive as the season of major events grips the city with excitement, festivity and culture. Events have included the Santos Tour Down Under, the Big Day Out and, most recently, the Clipsal 500, the Adelaide Fringe Festival, the Garden of Unearthly Delights and WOMADelaide. Once again, these events have proved very successful for South Australia.

As we know, a safe event makes a successful event, and SafeWork SA staff have been busy reviewing safety provisions to ensure the wellbeing of the general public, on-site workers, contractors and volunteers involved with these major events. SafeWork SA inspectors have on-site liaison with organisers of each of these events to guarantee a consistent approach to compliance with occupational health, safety and welfare and dangerous substances laws.

For instance, prior to the Clipsal 500, SafeWork SA staff attended pre-event meetings with representatives from the SA Motor Sport Board and all emergency services groups, including South Australia Police, as well as the company coordinating course infrastructure. These meetings enabled SafeWork SA to ensure that the Clipsal 500 organisers had detailed management plans in place to effectively address potential occupational health and safety and public safety risks throughout the duration of the event.

In the lead-up to the Clipsal 500, inspectors also monitored the construction of all temporary structures, grandstand seating and various scaffolding around the track. Part of this activity involved monitoring the extensive use of high-risk plant and sighting compliance records from the certifying engineers before the commencement of the event. SafeWork SA inspectors were also on site late Sunday afternoon for the commencement of the pull-down.

Inspectors are aware of the many hazards that are presented by the nature of this event and worked closely with event organisers to ensure that any risk to employees, volunteers and the general public were minimised. With the completion of the Clipsal 500, inspectors will continue to monitor the breakdown phase over the next few weeks as the infrastructure is dismantled.

SafeWork SA was pleased with the measures taken by event organisers, who continue to work on improving their commitment to safety every year. A follow-up meeting will be organised by SafeWork SA with the Motor Sport Board and the infrastructure and OHS company as part of the ongoing consultative arrangement to ensure that improvements in safety continue.

A similar process of safety planning and checking delivered by inspectors for the Clipsal 500 was also implemented with organisers of WOMADelaide, the Adelaide Fringe Festival and the Garden of Unearthly Delights, with inspectors attending the various sites during the week leading into the start of the particular event to ensure compliance.

The Adelaide Fringe Festival was conducted at various indoor and outdoor locations around Adelaide and the East End Parklands. The Garden of Unearthly Delights contained various food and retail outlets and a number of amusement structures. WOMADelaide, held over the March long weekend, included several stages for various performers, food and retail outlets and some amusement structures.

I thank SafeWork SA inspectors and commend their work during these major events. I am sure their activities made a significant contribution to ensuring the event's success while being mindful of the health and safety of those involved in working at the events and of the general public who attended.

SAFEWORK SA

The Hon. T.J. STEPHENS (14:52): I have a supplementary question. Minister, given that you were a guest of the South Australian Jockey Club on Adelaide Cup day, why did the Adelaide Cup not rate a mention amongst all the big events between January and March?

Members interjecting:

The PRESIDENT: Order! The honourable minister will choose to answer how he wishes.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:52): Thank you, Mr President. I think that is a pretty absurd question.

The PRESIDENT: It is a great success because of the public holiday.

Members interjecting:

The PRESIDENT: Order!

The Hon. B.V. FINNIGAN: I do not believe that I said that I am going to outline to the chamber every event that happened in the state of South Australia on a particular date. What an absurd question from the Hon. Terry Stephens, that because I did not mention an event when I mentioned certain other events, ergo the government does not care about that event. What kind of logic does that demonstrate?

Members interjecting:

The PRESIDENT: Order!

The Hon. B.V. FINNIGAN: The South Australian Jockey Club run races at Morphettville probably every Saturday, I would say, as a rule, as well as the Adelaide Cup and other races throughout the year. What I think was particularly highlighted in my answer to the honourable member's question was in relation to events like the Clipsal 500, the Garden of Unearthly Delights and WOMADelaide, which are events that happen once a year and involve quite a few temporary structures being put up and dismantled.

As far as I am aware, most of the infrastructure of Morphettville is there all the time. I am pretty sure that the SAJC do not take down everything at Morphettville after every race meeting and put it back up the following Saturday. I will come back to the council if I am wrong on that. If they dismantle the entire grandstand at Allan Scott Park every weekend I will come back to the council and correct my answer.

REMOTE AREAS ENERGY SUPPLIES SCHEME

The Hon. D.G.E. HOOD (14:54): I seek leave to make a brief explanation before asking the Minister for Regional Development a question regarding massive hikes to water costs in our most remote communities.

Leave granted.

The Hon. D.G.E. HOOD: It may be that this question is best handled by the Minister for Infrastructure, but nonetheless the Minister for Regional Development is here so I will ask and receive an explanation. Coober Pedy and some 12 other remote communities have recently been

informed that their electricity under the Remote Areas Energy Supply Scheme will soon become much more expensive. Indeed, a question was asked by the Hon. Mr Stephens in this place yesterday regarding the effect of those electricity price increases on residents. However, it is also important to note that the electricity price rises will also, by implication, mean an increase in water costs for these communities.

The double whammy (if you like) is due to these locations largely being reliant on desalinated water. The water desalination plant at Coober Pedy, for example, which was installed in 1985, uses a reverse osmosis process that is quite energy intensive. Salty water also needs to be pumped from 60-metre deep artesian bores located 23 kilometres north-east of Coober Pedy and delivered to the town via a 200 millimetre pipeline alongside the Oodnadatta track.

The District Council of Coober Pedy provided figures to me showing that the cost of water for residents will skyrocket due to the higher power prices. The council estimates that the effect of the tariff increases to council will require the budget for running the desalination plant to be more than doubled, from approximately $177,000 to approximately $363,000 annually. The mayor wrote to me today and noted ominously that 'the decision to raise commercial tariffs by, in some cases, 120 per cent will be the end of Coober Pedy and the other 12 towns in the north of South Australia'. My questions to the minister are:

1. What will the government do to ensure that residents living in these remote townships can actually afford to use water and electricity?

2. Will the government reconsider this crippling tariff increase?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:56): I thank the honourable member for his most important question. The minister responsible for water really is the lead minister in relation to the particular matters raised today, and I am happy to refer those questions to him and bring back a response. However, residents at Coober Pedy face significant challenges. I have visited there on a number of occasions and I am aware of the significant challenges that that community faces. In the past, they were under pressure of declining growth—they were losing population quite quickly—but now with mining interests that has turned around and things look more positive, but that, in turn, creates a set of new and different challenges on the community, particularly around water, power and such like.

I remind residents there that funding grants are available for which I am responsible: the Regional Development Infrastructure Fund, which is around $3 million a year, involves three different funding rounds a year. So I certainly invite residents there, particularly the council, to consider proposals they might be able to put forward through that particular initiative. Of course, there is also the RDA funding. Coober Pedy is part of a RDA. The RDIF funding in particular is about providing funding for those regional communities which, because of their distance, etc., are disadvantaged.

The RDA federal funding first round grants begin in March and close in May. It is likely that future rounds will be advised at a later date. Significant funding is available there and obviously that is about investing in sustainable communities and regions. I invite them to consider those sorts of proposals. I remind honourable members that this government is very much committed to regional Australia.

There is a range of initiatives; particularly in the last budget, this government committed to new initiatives. There was the $33.8 million over two years to meet requirements of extensions to the exceptional circumstances drought relief program by the commonwealth government; there was the $29.9 million to refurbish the Port Bonython jetty, $20 million over four years for the Riverland Sustainable Futures Fund, $12.8 million to tackle the plague—

The PRESIDENT: The minister should get back to the relevance of the question.

The Hon. G.E. GAGO: I could go on, Mr President.

The Hon. J.S.L. Dawkins interjecting:

The Hon. G.E. GAGO: It has got to do with the commitment of this government to regional South Australia. It has a lot to do with commitment to regional South Australia. I need to remind members that those commitments were made in the aftermath of the global economic crisis and with the backdrop of very severe budget cuts and savings, yet we were still able to find additional

money for regional South Australia. So, although there is obviously still a wide range of issues and challenges for us in regional South Australia, this government remains very committed to meeting those challenges.

FAMILY SAFETY FRAMEWORK

The Hon. CARMEL ZOLLO (15:01): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Family Safety Framework.

Leave granted.

The Hon. CARMEL ZOLLO: I believe that the minister has spoken in this chamber before about the importance of collaboration and information sharing with reference to the Family Safety Framework. Will the minister provide the chamber with an update on this important initiative?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:01): I thank the honourable member for her most important question. Very briefly, I would like to inform the chamber that as from July the Family Safety Framework will enter its third phase and cover the entire metropolitan area, and a third country site will commence in Mount Gambier.

Members may recall that the Family Safety Framework seeks to ensure that services to families most at risk of violence are dealt with in a more structured and systematic way through agencies sharing information about high-risk families and supporting these families as they navigate through those services and systems.

The Family Safety Framework includes family safety meetings. These meetings are held at the local level and are focused on individual high-risk cases. The framework also focuses on a well-regarded common risk assessment, which ensures consistency in the assessment of cases. An evaluation of the Family Safety Framework at the initial three sites was conducted by the Office of Crime Statistics and Research within the AG's Department, and that was a very positive outcome, showing some very positive results.

Some of the agencies involved in the framework are: the Department for Families and Communities, the AG's of course, health, Correctional Services, education and children's services, the non-government domestic violence services, and obviously the police. In 2011 the administrative support for these meetings is being provided by the Victim Support Service, and we are very grateful for the support and commitment that they have shown to this initiative.

The meetings can achieve a variety of different outcomes. For example, actions that can arise from the meetings include domestic violence restraining orders, joint visits between SAPOL and DV services to engage with the victim, Families SA liaison with schools (children's safety in the continuity of the schooling is really important), monitoring of bail conditions, flagging of various systems as high-risk to prompt rapid responses, housing, financial assistance, security systems, etc.; the list is quite long.

Initially trialled at Holden Hill, Noarlunga and Port Augusta, policing boundaries in 2007, the framework in 2011 will cover the entire metropolitan area, with meetings held in Holden Hill, Noarlunga, Elizabeth and Port Adelaide. I am very pleased to advise the chamber that the Office for Women has already begun training with the relevant agencies, and the framework, as I said, operates in country areas, Port Augusta and Port Pirie. The new location of the Mount Gambier framework will commence training with the Office for Women in June this year. There will be a DVD, which the Office for Women has produced with SAPOL, to assist in the training, and that will be rolled out as well.

As I mentioned earlier, I am very pleased to advise members that the community organisation the Victim Support Service has come on board to administer support for the family safety meetings across all regions. The service is well placed to be involved in the family safety meetings. They are also funded by DFC to deliver the new domestic violence safety packages, which I have spoken about in this place before, and I know that you, Mr President, would not want me to repeat those. The service understands the complex nature of domestic violence and has already been proved to be a very valuable partner in this important work.

SA WATER

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:06): I table a copy of a ministerial statement relating to SA Water and United Water determinations made in another place by the Treasurer.

QUESTION TIME

HAMPSTEAD REHABILITATION CENTRE

The Hon. K.L. VINCENT (15:06): I seek leave to make a brief explanation before asking the minister representing the Minister for Health a question regarding the government's decision to cease the sale of consumables to outpatients of the Hampstead Rehabilitation Centre.

Leave granted.

The Hon. K.L. VINCENT: Last year, ironically on International Day of Disability, outpatients from the Hampstead Rehabilitation Centre were given less than a month's notice that they would no longer be able to purchase consumables from Hampstead's supply department. The decision had huge ramifications for numerous people, including clients of the Spinal Outpatient Department who purchased continence products from the store at a very reasonable price. These products are essential items for these people. They are things such as catheters, dressings, sterilisation products and disposable clothing, which are used not just to make people more comfortable but also to make it possible for people to do those basic things we often take for granted, like going to the toilet.

When these products were available at Hampstead, they were available at a low price, with minimum profit margin added. Now these people have been told to go out into the community to buy these essential items, and they are paying up to three times the cost they were previously paying. Put simply, these people are now paying extra money into private companies' bank accounts just to access some of the most basic items for retaining their dignity.

While the state government may argue that the federally-funded Continence Aids Payment Scheme could help make up the shortfall, my constituents tell me differently. There was too little money allocated through the scheme to pay for products when Hampstead was still open. Now it has closed, this federal payout represents a tiny percentage of what some people are spending to access basic continence aids. Shutting Hampstead to outpatients has removed the tiny amount of support the state government formerly offered to these people, and they are suffering greatly because of that. My questions are:

1. Why did the government make the decision to cease the sale of equipment and consumables to outpatients at the Hampstead Rehabilitation Centre?

2. Why did the government not consult with outpatients prior to this decision being made?

3. Did the government consider the possible impacts this decision would have on people who purchased these items from the centre?

4. What actions will this government take to assist people with continence issues to purchase affordable continence products?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:09): I thank the honourable member for her important questions. I will refer those questions to the Minister for Health in another place and bring back a response.

REGIONAL COMMUNITIES CONSULTATIVE COUNCIL

The Hon. J.S.L. DAWKINS (15:09): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Regional Communities Consultative Council.

Leave granted.

The Hon. J.S.L. DAWKINS: On 20 December last year, the former minister for regional development, the Hon. Michael O'Brien, issued a media release calling for public nominations for the Regional Communities Consultative Council (otherwise known as the RCCC) for the next three years. Nominations closed on 14 January 2011, and the announcement of the successful

applicants was to be made in February this year. Given that we are now well into March and still no announcement has been made, I ask the new minister the following questions:

1. Why has there been a delay in announcing the successful applicants?

2. How many people were nominated by the close of nominations?

3. How many positions are available?

4. When will the announcement be made?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:10): I thank the honourable member for his important questions. The Regional Communities Consultative Council (RCCC) was established by the government to make recommendations on ways in which the government and regional communities can work together to strengthen the capacity of communities to be able to respond to local issues. It provides relatively independent policy advice and has an important role in providing a voice for regional communities.

The RCCC has held 29 regional meetings across South Australia since the council was formed in 2002, each time consulting directly with community and business leaders in the area. The RCCC held two meetings in 2010-11, which were at Wallaroo and Port Lincoln, and provided advice on a wide range of issues, such as the regional blueprints recommended by the Economic Development Board, the review of the natural resources management plan, the Skills For All strategy, National Health and Hospitals Network health reform, the marine parks, wind farms—as I said, a wide range of different issues.

Members of the RCCC bring a regional perspective to a number of government advisory and working groups, including the drought response task force, the Volunteer Ministerial Advisory Group and the Community Engagement Board. The term of the RCCC concluded on 31 December 2010, and over this period Mr Peter Blacker was the chair of the council. He also chairs the Community Engagement Board and the country health task force.

A scorecard report is currently being prepared outlining the achievements of the RCCC over its previous term, from 2008 to 2010. A public call for nominations to appoint members to the RCCC for up to a three-year period to December 2013 commenced on 13 December 2010 and concluded on 14 January. Appointments are expected to be made in the coming months.

The terms of reference were updated by the former minister, and I am very keen to have a very close look at those. The context has changed considerably in terms of the federal government's announcement and commitment to RDAs. As the new Minister for Regional Development—and I have only been in that position now for six or seven weeks—I am very keen to make sure that we ensure that the RCCC is the right fit for the current structures, given that they have changed since the federal government's announcement.

As the new Minister for Regional Development, I want to make sure that we set up the new appointments and that the terms of reference are in line with our future needs and are best placed to serve and provide a voice for regional Australia into the future. I am very keen to make sure that I have adequate time to consider that carefully and do not rush into it. I have made a few statements publicly along these lines in the last couple of weeks or so.

I have also spoken to Peter Blacker about this, so he knows that I am giving it due consideration and thought. I am hoping to be meeting with some of the former council members in the foreseeable future. I think, if we have not already, we are certainly looking to set up some meetings and delegations so that I can be provided with the best information possible to move forward, and that includes terms of reference numbers etc. and the actual members. So, I will consider that carefully and ensure that we have the right people doing the right job for the future of regional South Australia.

REGIONAL COMMUNITIES CONSULTATIVE COUNCIL

The Hon. J.S.L. DAWKINS (15:15): I have a supplementary question. Given that the last RCCC report tabled in parliament covered the period 2005-07, will the scorecard that the minister referred to be tabled as a report of the activities of that body since 2007?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for

Government Enterprises) (15:15): As I said, the scorecard of achievement between 2008 and 2010 is currently being prepared. I am not too sure what the procedure has been in the past, whether those reports had been tabled in parliament—

The Hon. J.S.L. Dawkins: I just said that.

The Hon. G.E. GAGO: You might say it, but a lot of things are said in this place that are not quite right, honourable members might be surprised to know! A lot of information given by the opposition is not quite right.

The Hon. J.S.L. Dawkins interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: I do know that a lot of facts and figures given by the opposition in this place are not right. The commitment I give is to look at what has been done in the past and to look at what is best to do in the future and to make a decision accordingly.

AUGUSTA ZADOW SCHOLARSHIP

The Hon. I.K. HUNTER (15:16): My question is to the Minister for Industrial Relations. Will the minister provide the chamber with details of the Augusta Zadow Scholarship program?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:16): I thank the Hon. Mr Hunter for his question. The Rann government is committed to improving the health and safety of workers in South Australia and, particularly, of South Australian women in the workplace. On 13 March this year, I announced the next round of applications open for the Augusta Zadow Scholarships which help meet that commitment.

Two scholarships up to the value of $10,000 are funded by SafeWork SA and are awarded to fund research or projects aimed at improving the health and safety of South Australian women in the workplace. The annual Augusta Zadow scholarships were initiated in 2005 and are named, clearly, in honour of Augusta Zadow. In 1895, Augusta Zadow became the first woman inspector of factories in South Australia. She played a crucial role in securing better conditions for workers in factories, particularly women and children. Many of the working conditions that we now take for granted are due to the efforts of pioneers such as Augusta Zadow.

Previous recipients of the scholarships have played an important role in identifying and exploring options to improve health and safety for women in the workforce. Sexual harassment, aggressive clients, manual handling and exposure to hazardous substances during pregnancy are some of the issues that have been, and are being, researched by recipients of funding from the Augusta Zadow scholarships. All of these projects will directly help women in South Australia in a meaningful and tangible way.

For instance, last year Nadine Levy and Anne Purdy from the Young Workers' Legal Services were awarded a $10,000 scholarship to deliver their project on young women, small business and sexual harassment in an occupational health safety and welfare context. Their research will explore possible mechanisms to protect young female workers and educate employers on sexual harassment as both a discrimination and an occupational health, safety and welfare issue.

In 2009, a $9,000 scholarship was awarded to Vicki Hutchinson and Belinda Purvis from the Repatriation General Hospital to undertake a project examining the management of aggression and violence in a clinical environment. Their project developed an electronic learning program to educate and prepare nurses for dealing with aggression or violence in the workplace. Their program will complement and enhance the current hands-on training program and is directly transferable for use by other health units.

These projects are examples of work undertaken by some of the past successful recipients of the scholarship program. I encourage anyone with a relevant proposal to apply. Proposals must be submitted by 5pm on Friday 26 August. Selection criteria and other details can be found, I understand, on the SafeWork SA website.

MATTERS OF INTEREST

BUILDING THE EDUCATION REVOLUTION

The Hon. J.M. GAZZOLA (15:20): The Building the Education Revolution has come under considerable scrutiny, as it should, but there is another side of the story that needs to be told. It is good, then, to note the Orgill report to get balance on this large nationwide project other than the criticism emanating from the federal opposition or the Murdoch press.

This is not to suggest that the program is trouble-free, as anyone building a house would appreciate, but one appreciates what the program has achieved both in infrastructure and economic terms. The report also sheds interesting light on the opposition's condemnation of the nation building project. The Catholic and independent sector universally got it right in terms of value for money, design and deadlines, is one claim. New South Wales universally stuffed up, is another claim. The number of complaints overwhelms any claim for the wisdom or success of the BER and so on.

Little time has been given in the media to the praise by interested parties like school communities, principals and builders. One assumes, on the face of it, that the federal member for Sturt (Mr Christopher Pyne) and state shadow minister, Vickie Chapman, privately support the initiative given their recent attendance at the official opening of the Linden Park Primary School BER, though we know for a fact that neither supported it as a policy.

Another interesting point that has no media interest is wealthy private schools receiving substantial BER money of around $2 million and then raising another $1 million or so to significantly rejig their project. Have examples of this raised the media's ire regarding the fairness of distribution to well-off private schools?

So what are some people saying about the initiative? At the opening of the $4.8 million Linden Park Primary BER extensions, which I point out included a grant of $1.9 million under the Howard government, the member for Sturt, Christopher Pyne, said:

> I am very pleased to be part of the opening of these new school buildings...a great school is made much better by having tremendous facilities...it is going to be a gold standard for all other primary schools across my electorate.

And he continues his superlatives of appreciation which, again, are the antithesis of his parliamentary and public utterances. What has the local media said? It has saved many in the building industry: the source of this is the Master Builders Association. In South Australia, there was a $1.3 billion budget, 437 projects, 1,571 contractors, a total of 15,182 workers, 1,883 apprentices and a further 96 of Indigenous background.

Rod Hook and other experts note the efficient South Australian rollout and the jobs and skills that were saved. Politicians note the quiet thanks of builders at BER ceremonies. The Institute of Architects is not totally happy, though, on design conformity, although the projects I have seen are certainly brilliant additions to schools.

What does the Orgill report say in reply to the vitriol published in the national press and publicly mouthed by the federal opposition? Firstly, let us consider the scope of the project: around 24,000 projects across 9,000 schools, a package of $16 billion in a total stimulus package of $42 billion, supporting and retaining 120,000 jobs, building and supporting school communities and underpinning economic activity across the country.

What about comparison of costs of state and independent school systems? Catholic schools delivered better in the three Eastern States, the reverse being true in the other three. That is on page 8 of the Orgill report. Seventeen schools have not received value for money, 13 in the New South Wales government system: 17 government schools out of around 9,000 across the country.

I urge any detractor of the BER project to read how value for money is defined and how it reflects particularly on the New South Wales projects. As a strong generalisation, this report paints a very different picture to the pogrom run by *The Australian* and the opposition. Finally, what does this report say on the primary thrust of the BER project, namely, the economic stimulus plan? It worked: it achieved its aims.

APY LANDS, ELECTRICITY SUPPLY

The Hon. T.J. STEPHENS (15:24): In February, I asked a question about power outages on the APY lands. I advised the council that I was contacted by a constituent from a homeland near Ernabella on the APY lands regarding ongoing power losses on her property and those of her neighbours nearby. This problem has been recurring for a number of years (in fact, since 2004) due to a faulty power line. Power losses have been regular and ETSA, which is contracted to repair the lines, has only been able to do patch-up jobs without properly addressing the issue. The constituent must often wait up to 48 hours for ETSA to restore the power.

I spoke about how the constituent must run a generator at her own expense due to the regular loss of electricity. She is seeking only that the power line in question be updated or maintained adequately—surely not too much to ask. In a recent letter to my office the constituent provided details of some 70 outages since 2004, and I am happy to provide this background to the Minister for Aboriginal Affairs. The constituent has kept a detailed log of power failures on the Ernabella to Tjiwuru homelands line including all dates and the length of the outages.

If I share with members part of what the constituent has written in her recent letter, it will give a clearer idea of what she and her neighbours must deal with. It states:

> Homeland people are forced to pay from their own pockets to supply fuel to generators and for their vehicles in order to obtain the fuel while waiting for the power to be restored. This is, of course, if there is a generator to use and it works, and someone is there to operate it. For example, in January 2011 I was working in Ernabella community. I travelled to work some 70 kilometres each day. When the power outages occurred in January on the 8th to the 13th, it meant I did not go to work because I was at home running the generator which had to be filled every four hours.
>
> I have a mother in her seventies and a niece, who cannot start the generator because it has a cord to pull (no push button start), let alone keep topping up with fuel every four hours. I would really like to see some of you pull the cord on this generator to get it started and see just how many of you could do it.
>
> The weather on the lands was up to 48 degrees Celsius outside and stifling inside. As I was on casual wages I only got paid for what I worked, which was a few hours. Needless to say, the power outages cost me loss of income. When a person has loss of income how are they expected to fill a generator with fuel?
>
> The problem is that the power line has been operational since before 2004, because I have been living on it continuously since 1994, but it has never been updated or maintained adequately. What was put in as a basic line and which did the job at the time, was never updated and maintained, such that no track was ever made for easy access of vehicles to get in to check the lines; no trees or branches cleared to ensure that trees do not fall on the lines; nor any lightning rods inserted to ensure that lightning hits other areas rather than the lines; different insulators used to spot holes in them more easily, or so that they do not break as easily.

It really is disgraceful that this resident and her neighbours have endured over 70 outages since 2004. Could you imagine residents in Adelaide putting up with this? Let us not forget that the homeland residents rely on electrical power to run their water supply, and so it is really concerning that the line continually fails and that the issue has not been properly addressed by the government.

As I mentioned, the constituent has advised my office that ETSA, sometimes after a 48-hour wait, will restore power but it is just a matter of time before it fails again. I can accept that there will be occasional problems with electricity in remote areas, but surely a line can be maintained so that outages occur far less frequently. It is now time for the government to take action to help alleviate this problem for these homeland residents. The Minister for Aboriginal Affairs and the Minister for Energy must work together to solve this ongoing problem.

UNIFICATION OF ITALY

The Hon. CARMEL ZOLLO (15:28): It is my pleasure today to talk about the events that have occurred thus far involving the Italo-Australian community celebrating the 150 years of the unification of Italy. Whilst many important events occurred leading up to 1861, the 17th March 1861 is the date Italy officially united under a parliament that proclaimed Vittorio Emanuele II as the first King of Italy.

Prior to unification, Italy was fragmented, comprising a number of kingdoms dominated by various royal families of Europe, Papal States and republics. Over many centuries many of the states were lost and gained in various battles. For example, the region where I was born was part of the Kingdom of the Two Sicilies ruled at various times by Spanish and French royal families. The unification of Italy, or Risorgimento, as it is known in Italy, is widely credited to three people: the ideologist, Giuseppe Mazzini; the politician, Count Camillo Benso di Cavour; and the revolutionary, Giuseppe Garibaldi. Of the three, Garibaldi is an icon widely respected by Italians everywhere as a

nationalist revolutionary hero and leader in the struggle for Italy to gain independence and become a unified nation. 'Hear, hear!' from the Hon. John Gazzola.

Whilst a couple of important cities were not included at the time, a united Italy was established in 1861 after Garibaldi had delivered Naples to Vittorio Emanuele II of the House of Savoy and ruler of the Kingdom of Piedmont and Sardinia, who was then subsequently proclaimed King of all of Italy.

As a focus of the 150 year unification celebrations, we saw visits earlier this year from both Assessore (Minister) Nappi from the Campania region, as well as Mayor Dr Enzo Testa from the community of Roccabascerana, along with Father Albert Mwise, the parish priest of several towns near Benevento. Father Albert brought with him greetings of support and best wishes from the Archbishop of Benevento.

It was pleasing to hear Mayor Testa, on several occasions, stress that celebrations for the unification should not just be about those in Italy but should also recognise the Italian diaspora that left for a better life. He was particularly pleased to be here in Adelaide, from where sometimes half of the population of a town had left to join family and friends in Adelaide.

Minister Nappi and Mayor Testa strongly believe in the importance of acknowledging that part of Italian history. Both paid enormous tribute to those migrants who took their leap of faith and, no doubt, made it easier for those who were left behind. It was pleasing to hear such comments when there are nearly 100,000 people of Italian heritage in this state.

The overseas visitors were here at the time of Carnevale, another great success, with many thousands flocking to the Wayville Showgrounds to share in celebrating all things Italian. The visitors were full of praise for the manner in which multiculturalism is celebrated in our state.

Last week, I joined many others in the community at the Marche Club in Campbelltown to be part of an evening that celebrated unification. A forum discussion was led by Dr Marcello Costa, Professor of Neurophysiology from Flinders University, who is also a great historian, along with Dr Ignazia Nespolo, the education officer from the Italian Consulate.

The Acting Consul, Mrs Orietta Borgia, gave a short address, as did Cavaliere Vincenzo Papandrea, the president of Com.It.Es. Minister Grace Portolesi gave the best wishes of the Premier and the parliament. The evening also included the screening of a period film made in 1954 called *Senso*. Whilst a work of fiction, it manages to depict with great pathos and realism the turmoil of families caught up in the unification process, as kingdoms were lost and a new nation was developing.

Another focus to help celebrate the unification came from the Dante Alighieri Society in South Australia, which late last year hosted a national conference of Dante societies throughout Australia. As a member of the society, I was pleased to be at the reception evening of a most successful conference. A decision was made to establish a national council, which will voice the concerns of all states for the future of the Italian language and culture.

The society will also be hosting a social function in the middle of the year. Many events are taking place throughout Italy this year to celebrate the unification. I am pleased that this state's Italo-Australian community is also remembering and celebrating its history.

CONFUCIUS INSTITUTE

The Hon. J.S. LEE (15:32): I rise today to speak about the Confucius legacy and the Confucius Institute. Of all Eastern philosophers, Confucius, born in 550 BC, is considered the most well known. He was a Chinese thinker and a social philosopher. His teachings are fundamental to Asian cultures. His writings, *The Five Classics*, which is a collection of ancient Chinese literature, and *The Four Books*, a collection of Confucius' and his disciples' teachings, was, for centuries, the standard curriculum for Chinese education.

The philosophy of Confucius emphasised personal morals and governmental responsibility, the importance of social relationships, justice and sincerity. Confucius' teachings and biography were written many years after his death and were edited by his disciples. Although historians present various accounts of his life, there are some basic facts and major events of his life that they are reasonably sure of.

Confucius was born in the province of Lu in northern China. He was born into a family of humble circumstance, and his father died at a young age. He began studying under the village tutor

and at the age of 15 he devoted his life to study. In his twenties, he became a teacher and gathered a group of loyal disciples.

Confucius lived during the Chou Dynasty. At this time, the land was divided and the moral and social order was in a state of decay. Confucius sought a way to restore the cultural-political order because he believed that reform would come through educating the leaders in his philosophy. He therefore sought a political position of influence from which he could implement his principles. He was appointed to a cabinet position at the age of 50. Several historians believe he eventually ascended to higher positions of public office. Due to political disagreements and internal conflicts, he resigned his post at 55 and devoted the rest of his life to adopting his teachings.

His disciples were able to gain significant positions in government after Confucius died. They modified his teachings and added their own insights. Centuries later, Confucianism became the official religion of China, shaping Chinese culture. The values he championed, including education, family values, work ethic, value of traditions, conformity to traditional standards, honouring of ancestors and respect to your elders and superiors, remain entrenched in the Asian culture.

Because of his legacy, the Confucius Institute has become a public institution that promotes Chinese culture and language. The headquarters is in Beijing, China and is under the Office of Chinese Language Council International. In June 2004, the first Confucius Institute opened in Seoul, Republic of Korea, and many more have been established in other countries, such as the USA, Germany and Sweden, as well as Australia. The Office of Chinese Language Council International plans to set up 1,000 Confucius Institutes worldwide by 2020. Australia itself will have seven Confucius Institutes, one of which is in Adelaide.

The Confucius Institute at the University of Adelaide promotes the learning of Chinese culture and language and a broader and more informed understanding of China across South Australia and beyond. They seek to build an understanding of Chinese culture amongst interested groups, increase knowledge of China generally, strengthen language teaching and help Australians to build and strengthen their economic and business links with China.

On that note, I advise members that the Hon. Paul Holloway and myself from this house, and Martin Hamilton-Smith and Leesa Vlahos, MPs from the House of Assembly, are ambassadors of the Confucius Institute. We take this opportunity to invite all parliamentary colleagues for a briefing on the Confucius Institute by Professor John Taplin on Thursday 7 April in the Balcony Room.

Time expired.

SCHOOLS AUCTION IDOL COMPETITION

The Hon. J.A. DARLEY (15:38): I rise today to speak about the Schools Auction Idol Competition. I was fortunate enough to have been invited to the official launch of Auction Idol 2011 recently. The Schools Auction Idol Competition was developed by the Society of Auctioneers and Appraisers of South Australia, partly as a response to the concerns about the increasingly ageing auctioneering industry. In the words of Lindsay Warner, past president of the Society of Auctioneers and Appraisers of South Australia, Auction Idol is to ensure that they have a succession plan in place to get as many young people involved in the industry as possible.

It became evident that there was a need to attract young people to auctioneering in order to ensure the continued growth of the industry. In conjunction with Catholic Education, Education SA and TAFE, the schools Auction Idol competition was established and introduced in South Australian high schools in 1997. The requirements for the students who participate in the competition were formed in such a way that they are able to receive credit towards their South Australian Certificate of Education.

The object of the competition is to introduce participants to real estate and auctioneering as a possible career choice. In return, children are taught life skills that support the aim of excellence in vocational and technical education. Students who choose to participate are mentored by a qualified auctioneer, who teaches them about all aspects of conducting an auction. Students must then choose a property which meets the stipulated parameters and conduct an auction on this property. They are then assessed on their performance whilst conducting the auction.

In preparing for their auction, students must research the property, identify selling points and the target market and have knowledge of similar properties in the area. In addition, participants must attend open inspections and auctions in order to gain knowledge of the process. Students are

assessed on their research through the evaluation of their workbook. Whilst the students are required to meet certain criteria in their auction, such as describing the property, answering questions and conducting and completing the bidding process, they are also judged on their style and performance.

I understand that many students in the competition and the program have had positive experiences as a result of participating in Auction Idol. Their confidence increases and they gain valuable experience in public speaking. One teacher noticed that students who participated in Auction Idol became more responsible and better behaved. Auction Idol whets the appetite of the students for the industry and provides an insight into the business. I understand that some past participants are now undertaking traineeships with companies such as Brock Harcourts, Harris Real Estate and L.J. Hooker. This demonstrates that this program has been successful in leading students to a career in the industry, be it as an auctioneer, real estate agent, property manager or valuer.

BIRMINGHAM SIX

The Hon. A. BRESSINGTON (15:41): Today I use this opportunity to bring to this parliament's awareness that last Monday was the 20th anniversary of the release of the Birmingham Six, who were wrongfully convicted for the Birmingham pub bombings in 1975. Their convictions were a result of fundamentally flawed forensic evidence, judicial bias and confessions extracted following torture, mock executions and savage beatings by police who knew the men to be innocent. So commenced a 16-year ordeal in which thousands of letters were sent to journalists, members of parliament and anyone else who would listen.

The men had to face the torment of living behind bars as despised murderers while fighting to clear their names. As they have told since their release, they found the legal system to seemingly be more concerned with the preservation of the status quo than truth and justice. Lord Denning, then one of Britain's most senior judges, said that if they were allowed leave to appeal and that showed that police and expert witnesses had given false evidence, it would be an appalling vista. As it turned out, that is precisely what happened.

In their final appeal many years later, it was found that the police and forensic witnesses had deceived the courts, and on 14 March 1991 Hugh Callaghan, Patrick Joseph Hill, Gerard Hunter, Richard McIlkenny, William Power and John Walker walked from the central criminal court in England, commonly known as the Old Bailey, free men.

The public outcry at the injustice that had been committed and the resulting loss of confidence in the English justice system compelled the then government to act, and a royal commission on criminal justice was established. Also known as the Runciman Royal Commission, it subsequently recommended the establishment of the Criminal Cases Review Commission (CCRC), an independent statutory body to review alleged wrongful convictions and, where necessary, to refer them back to the Court of Appeal, which has since led to 314 convictions being quashed by the court of criminal appeal, a figure that steadily rises.

While no legal system is infallible, the United Kingdom, in establishing the CCRC, can at least claim that it has learnt from the mistakes in the past and that some good has come from the horror inflicted on the Birmingham Six. The innocent may still be convicted, but at least in the United Kingdom they no longer have to rely upon journalists to investigate their claims, the goodwill of principled lawyers and academics, and ultimately the discretion of a politician as to whether they should be able to access the courts for an appeal.

Those wrongfully convicted in Australia are not so fortunate. As I detailed in my speech when introducing the CCRC Bill 2010, our legal system fails to adequately deal with the wrongful convictions that the appellate courts miss, leaving many victims of miscarriages of justice to languish in prison, and by failing to establish a CCRC we literally turn our backs on them and fail in our responsibilities to the people of this state.

NATIONAL DISABILITY INSURANCE SCHEME

The Hon. S.G. WADE (15:44): I thank the chair for adding on to me the amount of time that Mr Darley and Ms Bressington did not take. In the nine minutes available to me this afternoon, I would like to acknowledge the tabling on 28 February of the Productivity Commission draft report on the National Disability Insurance Scheme. I take this opportunity to express my conviction that this initiative is of huge importance for our state and our nation.

I know that politicians are known for hyperbole and it is not appreciated by our electors, so I will try to be circumspect. Nonetheless, I regard the NDIS proposal as the policy and moral challenge of our generation in building an inclusive society for people with disability. In the early 1900s, we started providing disability pensions. In the 1960s, our nation started providing real options for people with disability to live beyond institutions. In the early 2000s, we have an opportunity to take the next key step towards an inclusive society, an NDIS, a scheme to meet the income and other support needs of people with disability.

In the end, it will not be politicians who take up the challenge. Electors collectively determine the priorities which politicians reflect in policy commitments. Let us be clear that we are talking about the worthwhile lives of large numbers of our fellow Australians—and it may well become our own personal future if we acquire a disability.

The Productivity Commission estimates that we are talking about 360,000 people being assisted by the scheme—that is one in every 50 Australians, plus their carers. The commission found that in 2009-10 Australian governments collectively provided $6.2 billion of funding for disability services, $4.5 billion coming from states and territories, $1.7 billion from the federal government. The commission's preliminary estimates suggest that the amount needed to provide people with the necessary supports would be an additional $6.3 billion, that is, roughly equal to the current level of funding.

To put it simply, people with disability are getting half the level of support they need. The only way for people with disability to survive with less than half the level of funding they need is, as follows:

1. to make do with fundamentally unacceptable services;

2. to draw heavily on the resources of others, including family members, friends, volunteers and the charitable sector; and

3. dramatically fail to pursue their life goals or deliver on their potential.

It is an important step to stop, see and feel the real-life trauma of this lack of support. There are thousands of ageing parents who have a son or daughter with them who they have been caring for for 30 or 40 years after they reach adulthood. There are hundreds of young people living in nursing homes, there are thousands of children who are unable to avoid the onset of lifelong disability because they cannot get the early intervention services they need, and there are families under so much stress they are at risk of disintegrating. This is a national shame, and it is urgent that we address it.

The draft report acknowledges that the current disability support scheme is under-funded, unfair, fragmented and inefficient. The commission found that there should be a new national scheme, the National Disability Insurance Scheme, that provides insurance cover for all Australians in the event of significant disability. Support packages would be individualised and portable across state and territory borders.

The Productivity Commission report has been widely welcomed, including at the federal parliamentary level. In this regard, I particularly acknowledge the press release of Senator Mitch Fifield dated 28 February 2011. As the federal spokesman on disabilities, on behalf of the federal opposition, Senator Fifield welcomed the release of the Productivity Commission's draft report as an important step towards providing a better deal for people with disabilities. He said:

> The Coalition notes the funding options canvassed in the Draft Report and approaches...the Final Report with an open mind. People with disability aren't focussed on funding...outcomes, they just want things fixed.

The Liberal Victorian Premier, Ted Baillieu, has confirmed his commitment to a national scheme. He announced that the Victorian government is setting up an NDIS implementation unit and offered Victoria to trial the approach, as recommended by the Productivity Commission report. Bill Shorten, the Assistant Treasurer, writing in *The Daily Telegraph* on 4 March, said:

> Australia is a rich and generous country, but something we have never got right is how we empower Australians with a disability and their carers. I believe this is the last frontier of practical civil rights in this country. The bottom line is we can do better. So it is testament to the power of ideas that even in a frenzied parliamentary climate there is an emerging bipartisanship on reforming disability support services.

For my part, I am committed to be part of this emerging bipartisan movement to positively make a difference and to make a vision of an NDIS a reality.

CONTAMINATION NOTIFICATION PROTOCOLS

The Hon. J.M.A. LENSINK (15:50): I move:

That the Statutory Authorities Review Committee inquire into and report on the operations of the Environment Protection Authority, particularly regarding public notification protocols of contamination.

As many honourable members would be aware, there are a lot of contaminated sites around South Australia due to unfortunate past practices. Regular offenders are old dumps, service stations, foundries, tanneries, factories, etc. In 2007, we agreed to the site contamination legislation, which had the effect of retrospectively establishing a statutory responsibility regime for pollution which had occurred pre 1995. The situation prior to that was that the EPA could not pursue polluters who had caused contamination before that time.

The legislation provided that, depending on the circumstances of particular contamination, the polluter would be required to pay, or if the land has been onsold with full disclosure to the current owner of the source site they would then be liable for the pollution. That is done on a risk management process which, generally speaking, I think all stakeholders agreed to. There are high standards required for remediation for what are termed 'sensitive use sites', which include residential sites and preschools due to the risk to children.

There is a requirement in the Environment Protection Act in section 83 to notify where there has been either serious or material environmental harm caused or threatened. Section 83A requires that notification of site contamination of underground water must be made to the EPA. There are some fairly stiff penalties for people who are made aware, through whatever means, that there is contamination or environmental harm but do not do so. I understand that, for any contamination that had taken place prior to the promulgation of the act in 2007, in effect, any body corporate or individual would be off the hook because that aspect of it may not have been retrospective.

It does the beg the question, though, what really is the requirement for the EPA to notify the public? This is partially addressed in section 103N of the act, which refers to special management areas. Subsection (1) provides:

If the Authority has reason to believe that site contamination of a particular kind exists in a wide area, or in numerous areas, as a result of the same activity or proximate or related activities, the Authority may, by notice in the Gazette—

declare the area or declare them to be under special management. They also need to engage in publicising the matter, having a consultative process and further arrangements to remediate. I am not entirely sure whether that took place in the recent Edwardstown and South Plympton situation. I think that is something that needs to be further examined.

Another topic that has been quite topical has been the site contamination register. I understand that my colleague the Hon. Mark Parnell will have a few comments to make on that shortly. Section 103O refers to registration of site contamination assessment orders or site remediation orders in relation to land. I am not entirely sure whether that is same thing that he is talking about, but I will listen to his comments with interest. That, and some of the subsequent sections of the act, refer to some of the matters which have come up quite recently and which I will go through in further detail.

In terms of the governance of the EPA, we had a review which was conducted by the Environment, Resources and Development Committee several years ago and which made a number of recommendations, a number of which have been adopted by the government, and we supported those at the time including the separation of the role of the chair.

If I turn to more recent events, we have had quite a number of events which have highlighted what I would regard as inconsistencies in relation to public notifications by the EPA which, if they are not covered by section 103N, I assume are internal policy decisions of the EPA. There are a number of unanswered questions about what set of criteria triggers a decision to make public that there is contamination present and that it may be a threat to human health.

Some of the questions are: is there a trigger level based on the type of contaminants and its toxicity? Is the decision dependent on the level of risk to public health? If it is the latter, how is the threat to public health determined? What is the distinction between notifying for land and water contamination? How proactive is the EPA if it is aware of contamination? That goes to what further tests are undertaken once it has been notified that there is an issue. To be fair to the EPA in

relation to Edwardstown and South Plympton, when it was made aware that there was contamination, it sought to undertake further testing.

I turn to this issue specifically of Edwardstown and South Plympton, and we have an almost daily diet of new matters that have been uncovered in relation to that particular contamination. In the initial stages, 2,200 residents were potentially affected, and the EPA had known about that for more than 18 months since August 2009 and yet residents were not notified at that point. In their media release of 23 February, the EPA said that it was advising residents to stop using bore water for any purposes until further notice. The media release stated:

> While only about 30 registered bores are known in the area, the EPA is taking the precaution of notifying all residents in the affected area. The chemicals which have been found are fuels and industrial solvents which were widely used in the past as a metal cleaner and degreaser. These chemicals have been found at levels above the Australian Drinking Water Guideline values. The source is believed to be the former Hills Holdings site on South Road and is likely to be the result of historic waste disposal practices. Both Hills Holdings and the new owner of the site Colonial First State Global Asset Management, have been working closely with the EPA, and have been conducting comprehensive assessments over the past 18 months to determine the extent of the contamination.
>
> The chemicals include petroleum hydrocarbons (petrol) and TCE (trichloroethene), PCE (perchlorethene); DCE (dichloroethene); and vinyl chloride. SA Health advises that long-term exposure from these chemicals can be harmful, if people are exposed to high enough concentrations over a long period of time, usually many years.

I read that out for the benefit of members, because things have expanded since then and some of the contaminants are worse than first anticipated. Unfortunately, some residents said that they did not first learn of this issue via the EPA's notification but had found out through the media, which I think is a very distressing way for anybody to have to find out that the bore that they might be using is contaminated—they might be watering their veggies and fruits—or there may be contamination leaching through soils.

There is also the question of the role of the Marion council which had access to reports in 2007. At that point in time, it was not required to notify the EPA because the site contamination legislation had not passed. I think there are also question marks about the role that SA Water played. I understand that it had some knowledge of the contamination and either did not pass that onto the EPA or did not make public its knowledge.

Since that story broke in late February, *The Advertiser* took it upon itself to undertake some testing at the Hills site in early March, and it found that the levels of TCE were at three times Australian Drinking Water Guidelines, and dibromochloromethane levels were increasing to more than double the guideline standard.

We also then had another Edwardstown site, which is the old McLeod's site. In early March it was discovered that there were chemicals there, including cyanide, and I assume that *The Advertiser* was sent the same anonymous tip that was sent to me, headed 'Polluting the aquifers', which states:

> While the topic of conversation is pollution of the underground aquifers, it is worthwhile noting that the electroplating companies of the McLeod Group of Companies...have dumped Cyanide wastes into the borehole on the property. Other McLeod electroplating companies have similarly dumped Chromic Acid wastes into boreholes.

If those facts are correct, then the owners of that site are required under the act to notify the EPA. The document further states:

> This practice has been taking place over 30+ years, involving hundreds of gallons of waste per month...

There are some fairly serious allegations made in this anonymous note that I have received. I am not going to indicate whether or not I can necessarily confirm that it is true. We always have to take these things as they are received, but I think that is also worthy of further investigation in this inquiry.

We then had the issue of the four former Housing SA blocks that have been placed on the market, one of which had been sold. As recently as yesterday, the government has indicated in *Hansard*, according to the housing minister:

> Once we were made aware of the fact that there was an issue in that area, we put a hold on the sale of that land...there was one contract that had been signed and another potential purchaser who was interested in buying the land. We discussed the situation with the person who had signed the contract, and they were allowed to withdraw from that contract.

I think that indicates the seriousness of this particular issue which the government has certainly been seeking to downplay. Indeed, if the government has taken that action only in March, after this was exposed in February, then one has to wonder why these particular blocks were allowed to

proceed to the market. It goes back to the public notification issue: the left hand does not know what the right hand is doing.

Housing SA is trying to sell potentially toxic properties, and the EPA was aware of this 18 months ago, so I think that is a further issue that warrants investigation because I assume that Housing SA was not made aware of it in any sooner than anybody else in late February. Of course, there is an issue of a potential liability. If someone purchases or has purchased that property and has not been provided with full disclosure of the contamination, there is the potential that they will sue the government.

There have been concerns spreading in relation to the Hills contamination site of groundwater to Clarence Gardens and Melrose Park which the EPA is unable to rule out. Just in today's paper, concerns have been raised about Clovelly Park potentially being contaminated as well. I should have referred to this earlier, but I have here the letter that the EPA sent to residents on 23 February, and it contains much of the material that is in its media release but is given the title 'Contamination Investigations—Edwardstown, South Plympton.'

A line in the letter I have highlighted is, 'The EPA is sending this letter to all residents who live in the area where contamination might exist.' As I said, it has since been discovered that there is further contamination and then perhaps even further contamination than that. To have assumed that it was limited to these particular suburbs I think shows that there was potential for further areas that may have been contaminated that, clearly, the government was not aware of.

There have been other issues raised over time. There is a well-known case which I think has been highlighted in the *Sunday Mail*, certainly by that great organisation, the People's EPA, concerning an old foundry at Kapunda where a lady purchased a property and was not aware that there had been contamination of that property. She was not aware of the history of it, and it is quite an unsafe place for her grandchildren to play.

In February 2010, we were made aware that there was rotting material under a public park at Seaford which was causing methane to escape. There is the former Actil Sheridan site in Woodville which has, potentially, a significant amount of contamination. Also, at Solomontown Port Pirie 100 houses have been affected and, apparently, the EPA has known about that gas contamination since 2004 and it was even considering the extraordinary measure of evacuating residents earlier this year. We have had an issue at Port Adelaide where explosion risks were exposed in October 2010. So there are quite a number of different sites where there has been potential contamination that has been known about but the public has not been alerted to it until the issue has escaped into the media.

I understand the EPA is now using its resources to doorknock houses in Edwardstown and has been doorknocking at houses in Port Pirie. I appreciate that is a very time-consuming process for officers but it does beg the question as to whether, if the EPA had acted sooner, it might not have needed to have all its resources on the ground, talking to people about how they may be impacted on in relation to these potential hazards. Indeed, if a culture of not notifying the public because the government is afraid of adverse publicity has developed I think this also needs to be exposed.

Regarding the Marion council, I think there is good cause to examine the role of local government in the mandatory notification process. As I understand it, that particular council's elected members were not told for some 13 months about that matter. Returning to the Edwardstown matter, the EPA's 'frequently asked questions' section states a few things which may highlight what is going on in terms of the management practices or, indeed, the culture of whether these things should be publicised or not. It states:

> Site contamination is normally initially identified at the source site and investigated in stages until the nature and the extent of the contamination is fully understood.

We have heard that a fair bit this year in media reports. I think it goes to the heart of the question: at what point is it appropriate that people should be notified about potential hazards to their health? Do we need to confirm that, yes, it is dangerous and may potentially give you cancer, or were they thinking that, if the contamination is at a fairly low level, unless we are told otherwise, we do not need to tell people?' Further in this document it states:

> SA Health consistently advises all South Australians not to use bore water unless they have had the water adequately and frequently tested and it is shown to be safe for its intended use.

I think that is a bit of a butt-covering exercise, quite frankly; not that anybody should assume that things are safe, but if people are new to the area and are not aware of the history of these things then there ought to be some public agency which is at least able to provide some information. It goes to the issue of the public register, as well, which will be addressed further, as I said. Under the heading 'What is the problem posed by PCE, TCE and its breakdown products?' the answer is:

> The full extent of the contamination has not been determined; however the contaminant levels of the chemicals detected in the groundwater are significantly above water quality guideline values. The bore water in the area of concern should not be used under any circumstances.

The comment that I would make is that if the bore water is not to be used under any circumstances people should have had a right to know that prior to the issue breaking in the media. Possibly for people's financial security (if we are moving away from the health issues) the last paragraph in that document states:

> It is possible that the EPA will in the future declare a bore water restriction zone. If this occurs, the titles of properties in the affected area will be flagged to ensure that future purchasers of the property are aware of the restriction on using bore water.

I think a lot of residents in that area ought to rightly be concerned about that particular matter because, if they were not aware of the contamination when they purchased the property, they may well have been prepared to pay more for it. If you have something registered on your title—and I do not per se disagree that things should be registered on a title—clearly that will affect people's property values. Clearly, that will affect people's property values because, as we are going to discover in coming years, if people have asbestos in their houses that is also going to be flagged on their titles, and they are the sort of the things that do scare off future buyers.

I think that the residents who are living in that area at the moment would have every reason to be annoyed, angry and concerned that they were not informed as soon as possible, because that will affect their property values and the houses that they have been diligently paying loans off of and so forth. With those comments, I commend the motion to the house and look forward to further debate on this issue.

Debate adjourned on motion of Hon. Carmel Zollo.

MARINE PARKS

The Hon. D.G.E. HOOD (16:11): I move:

1. That a select committee of the Legislative Council be appointed to inquire into and report upon marine parks in South Australia and, in particular—
   - (a) claims by Professor Bob Kearney that the evidence used by the government in support of marine parks reflected a 'biased misuse of the available science';
   - (b) detrimental effects to recreational fishers and the commercial fishing industry through the imposition of marine parks;
   - (c) detrimental effects to property values through the imposition of marine parks;
   - (d) complaints by local communities and fishing groups regarding the consultation process associated with the implementation of marine parks;
   - (e) interstate and international moves to limit the extent of sanctuary zones; and
   - (f) the correct balance of general marine park areas to no-take sanctuary zone areas.
2. That standing order No. 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.
3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being presented to the council.
4. That standing order No. 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

I think there is little doubt in this place where Family First stands in relation to marine parks. Our position has been clear, I think, for a number of years now. When legislation to impose marine parks was debated in this place in 2007, I made our position very clear. I noted then that marine parks were not about protecting our fisheries.

Marine parks seemed to us more of a vague concept that did not have much in the way of science or conservation behind it. It imposes fines and an unwanted bureaucracy on the family

tradition of getting into a dinghy and going fishing with the kids, and Family First opposed the intended implementation of these parks back then. If sanctuary zones were about protecting our fisheries then we would wholeheartedly support them. They are, however, not about that.

However, as I noted in 2007, Australia already had, to quote one fishing identity, 'one of the least productive, most heavily regulated and expensively administered fishery sectors in the world.' Indeed, from 6 per cent of the global exclusive economic zone, we produce just 0.2 per cent of the world's catch.

As I have noted before, Australia has the third largest fishery zone in the world. Our coastline is about eight times longer than that of Thailand and Vietnam, and our exclusive economic zone is 21 times that of Thailand and 15 times that of Vietnam, yet Thailand's wild caught fish harvest is 12 times Australia's and Vietnam's is eight times ours. Despite its smaller area, New Zealand's total fishery production is twice ours. Bangladesh's production, believe it or not, of wild fish caught is actually four times greater than Australia's. We already have size limits, bag limits, boat limits, closed seasons and no-take species, and fishers are saying, 'Enough is enough.'

The fact that we have to import 70 per cent of our domestic seafood consumption, prior to these zones being put in place, makes me wonder whether we are already going too far in regulating our oceans. These imports cost our economy $1.8 billion a year. Frankly, with our expansive exclusive economic zones there is no reason why we need to be reliant on fish caught in Thailand or other South-East Asian countries. Our waters are already over-regulated and we, therefore, oppose the further regulation that marine parks entail. I have mentioned previously the remarks of marine biologist Dr Walter Starck, who noted:

> The establishment of extensive MPAs amounts to large-scale environmental meddling, with no clear idea of efficacy or consequences...having important decisions based on unverifiable claims, unexaminable models, unknown methods and inaccessible data simply is not good enough.

Given those remarks, I was not surprised to read comments from Bob Kearney, Emeritus Professor of Fisheries at the University of Canberra. He is reported as arguing in the 8 March edition of *The Advertiser* that the government paper, The Science of Marine Parks, presented biased advocacy for marine parks that is contrary to the conclusions that should be drawn from available literature. To quote directly from the article:

> In a carefully worded response to the marine parks report, Professor Kearney said it was exaggerated, incorrectly interpreted other reports and reflected a biased misuse of the available science. He also accused it of misrepresenting and distorting the likely outcomes of marine parks to the people of South Australia.

It is rare for this sort of bold statement to come from someone of Professor Bob Kearney's international reputation and therefore must be taken seriously. I proposed in the motion that the inquiry address the serious claims of intellectual misrepresentation from the emeritus professor as a matter of first priority.

The second issue I seek to have addressed is the current impact of proposals on recreational and commercial fishers. In my discussions with these groups I am advised that many feel that they have not had an adequate airing of their views and that they find this very frustrating. An inquiry would give these groups a fair right of hearing and a forum to list grievances they may have.

It is unfair, in my submission, to deny groups such as recreational fishers that right. Indeed, 240,000 South Australians fish at least once per year and 5 million Australians regularly fish for recreation and sport. This means that one in every four Australians enjoys fishing, and one in every two Australian households owns fishing tackle. This is a significant group and they deserve a fair hearing—something they say has been denied to them in the community consultation process to date.

The third issue that needs investigation relates to property values. A recent *Advertiser* article dated 6 March relays the concerns of a very famous, well-known, former valuer-general by the name of John Darley. It reads:

> The value of thousands of holiday shacks, rental properties and homes in or near the planned 140 no-go zones across South Australia will fall by 25 per cent on average, state MP and former Valuer-General, John Darley, has warned.

This comment, made by the now honourable member, was that fishing is a big attraction at many coastal towns across the state and that if you take it away demand for those properties will impact prices and indeed they will fall.

The other comment made was that a lot of shacks have been built in areas solely because of local fishing opportunities and that the value of these will fall even further if fishing were banned due to the imposition of sanctuary zones in these areas. These serious concerns need to be addressed. These people have a right to be heard; certainly, if it affects their property values it is a significant imposition on them personally.

One of the other concerns I have heard time and again relates to the consultation process. Almost invariably I have been hearing from fishing groups that the consultations are less an invitation for input and more a matter of these groups being told what has already been decided. This complaint has been a longstanding and ongoing complaint, in particular related to the marine park consultation process.

As far back as 2007, when marine parks were first being debated, 14 South Australian fishing groups—and these are groups across the spectrum—joined forces to prepare a statement critical of the consultation process in particular. They noted to me back then—and I quote from their letter:

> Issues and comments submitted in relation to the draft bill by the seafood industry and a number of other groups, including conservation and recreational bodies, have been largely disregarded.

It seems that the conservation groups also feel that they have not been consulted. That complaint has continued to come to me, and I am keen that the consultation process itself be looked at.

Finally, the motion calls for a look at the interstate and international experience with marine parks and the right balance of no-take zones within those parks. The New South Wales opposition has just released a report, entitled 'Restoring the Balance', which calls for a moratorium on the creation of new marine parks until more is understood about their effectiveness in protecting fish stocks and the marine environment in general. Victoria is doing something similar. In addition, the member for Finniss was recently reported as calling for a moratorium on the imposition of sanctuary zones in marine parks and an inquiry into the consultation process, and members of this chamber would be aware that the Hon. Michelle Lensink has a motion to that effect in this place.

So, in short, I think that inquiry is called for. Marine parks are something that affect the 240,000 recreational fishers in South Australia, as well as the industry, of course. They deserve to have their complaints investigated and fairly heard, just as we need answers in response to the scientific claims of misrepresentation of data in support of the parks. Mr President, I think this is only the first select committee that I have called for in my five years in this place now. I think that reflects the seriousness with which I personally hold this issue and also the disquiet within the community. I commend the motion to the house.

Debate adjourned on motion of Hon. Carmel Zollo.

CASINO (ENCLOSED AREAS) AMENDMENT BILL

The Hon. J.A. DARLEY (16:20): Obtained leave and introduced a bill for an act to amend the Casino Act 1997. Read a first time.

The Hon. J.A. DARLEY (16:22): I move:

> That this bill be now read a second time.

This bill is in response to the Adelaide Casino's recent attempt to operate poker machines in an outdoor smoking area situated within the Casino atrium, otherwise known as the Oasis. Members may recall that on 10 March *The Advertiser* newspaper printed an article highlighting the fact that the Casino had shifted 20 of its poker machines outdoors, in order to allow patrons to smoke while they gambled.

As soon as this came to my attention I, along with my colleague Senator Nick Xenophon, wrote to the Minister for Gambling, drawing his attention to our concerns over the Casino's actions. On the same day, the Minister for Gambling issued a ministerial statement indicating that, following a visit to the Casino by liquor and gambling inspectors, the gaming machines in that outdoor area were disabled and that the commissioner's inspectorate will continue to monitor the area to ensure that the machines remain disabled.

Further, the minister stated that he was seeking additional advice on steps necessary to ensure that Casino gambling areas remain smoke free, and that if this requires an amendment to the Casino Act, then this is what the government intends to do. On that same day, I also indicated my intention to introduce a bill to ensure that the Casino Act makes it expressly clear that gambling within any outdoor smoking area is prohibited. This is the intention of the bill before us. I commend the minister for taking immediate action in relation to the Casino and I have already indicated to him that I would be happy to support any bill proposed by the government that would achieve the same result, provided, of course, this is done in a timely manner.

The Casino showed a blatant disregard for the government's smoke-free gambling policy by installing and operating poker machines in an outdoor smoking area. Their actions fly in the face of the existing legislative scheme, as well as research which shows that there is a strong link between smoking and problem gambling. It is absolutely crucial to ensure that the Casino does not attempt to engage in this type of behaviour again. I commend the bill to the house.

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

NATURAL RESOURCES COMMITTEE: SOUTH AUSTRALIAN ARID LANDS NATURAL RESOURCES MANAGEMENT BOARD REGION FACT FINDING VISIT

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

That the report of the committee on South Australian Arid Lands Natural Resources Management Board Region Fact Finding Visit, be noted.

Every year, the Natural Resources Committee aims to visit at least two of the natural resources management board regions to meet with board members and staff, as well as members of the local volunteer natural resources management groups. Mind you, Mr President, this is getting a little more difficult with the Clerk of the lower house continually pushing us on budgets and trying to restrict the work of the committee. It is a bloody shame that our work is being interrupted by the Clerk, I must say.

In November last year, the committee spent three days in the Far North of the state as guests of the South Australian Arid Lands Natural Resources Management Board. Our hosts included the former presiding member, Chris Reed; former general manager, John Gavin; NRM officer, Janet Walton; fauna recovery officer, Reece Pedler; and the GAB chief investigator and mound springs expert, Travis Gotch. I must say that Travis Gotch is quite an amazing character; what he does not know about the area is not worth knowing. They provided us with detailed and highly stimulating information at the various steps on our tour.

Since our visit in November 2010, I am sorry to say that presiding member Chris Reed's tenure has expired and that general manager John Gavin has also left as a consequence of the administrative changes associated with the board's integration into the Department of Environment and Natural Resources. The expertise and enthusiasm of both Chris Reed and John Gavin will no doubt be greatly missed by the Arid Lands Natural Resources Management Board. Members may recall that when I first spoke about the visit to the arid lands NRM region late last year, when tabling the NRM levy report for the boards, I referred particularly to the dedication of the NRM board's staff to their work and the sometimes harsh conditions they regularly endure in order to do their job.

Retaining valuable staff in remote regions of the state is always a challenge. While staff employed in remote localities do not expect the same facilities as those available in the city, it is still important that they are provided with the basic employment conditions and support to enable them to undertake their role effectively with a minimum of personal hardship. Committee members agreed unanimously to take an ongoing and active interest in employment conditions for these remote region NRM staff, especially in light of the integration process with the Department for Environment and Natural Resources.

The committee recently obtained a briefing on the integration process from Allan Holmes, the Chief Executive Officer of the Department for Environment and Natural Resources. Committee members broadly support the changes as outlined by Mr Holmes on the proviso that they will maintain the strong NRM focus, efficiencies and critical onground works of the NRM boards and facilitate improved conditions of employment and opportunities for staff.

However, some concerns remain that the new NRM board regional manager role that has replaced the general manager role in the regions may at times prove difficult to reconcile, given the added complication of having two masters—a presiding member and the chief executive of the

Department for Environment and Natural Resources—whereas the previous role was more independent. Members of the Natural Resources Committee look forward to seeing how these challenges will be managed.

On our first day in the region, the committee visited the Prominent Hill mine, south-east of Coober Pedy, where our hosts, Oz Minerals, provided us with a tour of the mine and a detailed briefing. Prominent Hill is a new copper, gold and silver mine. Not surprisingly, water is a major issue. As a condition of its water licence, Oz Minerals monitors its impact on the Great Artesian Basin. While Prominent Hill complies with its licence conditions, concerns were raised about the long-term upward trends for Great Artesian water use and the potential for negative impacts on the mound springs in light of additional mines proposed for the region.

On day two of our visit, the committee was very fortunate to be given a slightly bumpy but nevertheless spectacular aerial tour of the recently-filled Lake Eyre and surrounds, with radio commentary from the arid lands board staff. Members were able to see first-hand the dramatic transformation of this normally dry region resulting from recent rains and surface water flows.

In addition to the filling of Lake Eyre and the stunning greening up of the region, an increase in feral animals, such as camels, donkeys, horses and pigs, was also apparent. This demonstrated well the double-edged sword and the challenges that favourable conditions bring to the region. Members heard that feral cats also remain a major threat to wildlife and that rabbits are making a comeback as the calicivirus begins to lose its effectiveness. Highly mobile feral animals such as camels, horses and donkeys present an enormous challenge to the NRM board and to pastoralists. Members will be aware of recent federal government moves to price carbon as a prelude to the carbon trading scheme.

The committee heard that it may be desirable to provide offsets or carbon credits to landholders for the removal of camels, horses and donkeys, in the same way that offsets are being considered for agricultural practices. This kind of innovation could be useful, because to date the national feral camel removal project is barely keeping pace with the breeding rate and, when drought conditions return, the animals will once again become a major threat to outback ecology and pastoral infrastructure.

Committee members were impressed with the arid lands management board's dingo research and management projects. These projects have attracted funding support from the sheep industry as well as the mining companies. Dingoes are unique, in that they are both a pest (mainly south of the dog fence) and a benefit (mainly north of the dog fence). Dingo management is a prime example of how NRM boards, land managers and residents can work together for their mutual benefit.

The arid lands board is training local people to work as doggers to help maintain the dog fence and to manage dingo numbers where they are a threat to livestock. Research is also being undertaken at the arid recovery project near Roxby Downs into the potential benefits of dingoes in keeping fox and feral cat numbers down, thereby reducing the extinction rate of native animals.

Finally, I would like to mention the issue of outback roads. The committee heard from local residents about the challenge of outback roads and the need for improved road maintenance techniques. The arid lands board has been working closely with local landholders to build up expertise in road grading, to improve the long-term condition of outback roads.

The committee has recently met with both the Minister for Environment and Conservation and the Minister for Transport to discuss these issues. With the exception of designated highways, outback roads passing through pastoral lease land fall under the responsibility of the pastoral board. High visitation rates, compounded with prolonged and repeated wet weather in the region, have caused more damage than usual to these routes and there are insufficient resources to maintain them properly.

The committee has recommended a new strategy to ensure public access routes are better funded, either through responsibility being handed back to the department of transport or through funding for pastorialists to undertake—

The Hon. D.W. Ridgway: Pastoralists!

The Hon. R.P. WORTLEY: I am very glad that your little mind is amused. It does actually make me happy that you are over there sniping while someone is trying to talk. If you only looked after the people of the outback as much as we do, you may have been in power at the moment. So, just sit there and suffer me giving this report.

There is also potential for mining companies to become more involved. I commend the members of the committee: Presiding Member the Hon. Steph Key, Mr Geoff Brock MP, Mrs Robyn Geraghty MP, Mr Lee Odenwalder MP, Mr Don Pegler MP, Mr Dan van Holst Pellekaan MP, the Hon. Robert Brokenshire MLC and the Hon. John Dawkins MLC. Finally, I thank the committee staff for their assistance. I commend this report to the chamber.

The Hon. J.S.L. DAWKINS (16:33): I rise to support the motion and to concur with the words of my colleague the Hon. Russell Wortley. I will preface my remarks by saying that the next time we go to the Coober Pedy region I hope that the Hon. Mr Wortley is more observant as he walks around the mine shafts in that part of the world.

I will be brief in supporting the Hon. Mr Wortley's motion. I have made some remarks about the trip that we made to the arid lands, or should I say 'trips', because the first one that we planned was aborted because of wet weather and cloud that limited our ability to fly to the places that we were supposed to fly to. That meant that the costs that were expended on that first trip did overflow onto the completion of the trip, and that has compounded some of the pressures that the Hon. Mr Wortley referred to as far as funding for the committee to do its work. I might speak more on that briefly in a few moments.

I have spoken before in a couple of other motions we have dealt with in this house about the benefits of that trip. Certainly, we were delighted to spend some time in Coober Pedy with the district council; at the Prominent Hill mine, as the Hon. Mr Wortley reminded me, looking at the remarkable mound springs; and also around Lake Eyre South and associated pastoral areas, some of which are owned by BHP and some by the Aboriginal community.

The Hon. Mr Wortley also mentioned the flight from William Creek across Lake Eyre to the mouth of Cooper Creek, and then back over the lake to the mouth of the Neales River and the Peake River. It was an extraordinary experience because we hear a great deal about the amount of water coming into the Lake Eyre system from Queensland, but I think for the first time in many years there was a large amount of water flowing into Lake Eyre from the Peake and the Neales rivers, and it was an extraordinary experience to fly over that system and to see what can happen in that area.

The other thing I remember well from that trip has been referred to by the Hon. Mr Wortley and that was our meeting in Roxby Downs with the Outback Lakes group of cattle producers who, despite extraordinarily tough times, when they have had few or no cattle on their properties, got together to market themselves as a brand of cattle producers, and I commend them for that. We were privileged to meet with them after their normal regular meeting, given that some of them had come from many hundreds of kilometres to meet in Roxby Downs

One of the significant things they raised was the condition of roads in the outback and the very small number of crews that work across that vast network of roads across South Australia. In recent times, we have seen pictures in the media of the state of those roads, and many of those cattle producers, now they have cattle in tremendous order, as you would know, sir, are having great difficulty in getting them to market because they cannot get the trucks in or out of their properties. So, it is an issue I think we need to look at further.

I know the member for Stuart, who is a member of the Natural Resources Committee, recently went to Birdsville and had meetings with the Diamantina Shire Council, who are concerned that the network of roads in South Australia leading to Birdsville is not of a suitable standard, which limits their access to southern markets. I think it makes sense for South Australia to look at the fact that that country in south-west Queensland is as closely situated to Adelaide as it is to Brisbane, and in many senses why would we limit the opportunities for them to market their cattle to South Australia and for South Australians to go there in a tourism capacity? I hope that the government takes notice of the recommendation in the committee's report about the state of outback roads.

In conclusion, I want to make reference to the fact that the area for the South Australian Arid Lands Natural Resources Management Board is supposed to be based on catchments, and so a significant area of the pastoral region of the state, being the North East Pastoral district, is actually not included in the arid lands board: because of supposed catchment boundaries, it is actually in the South Australian Murray-Darling Basin Natural Resources Management Board.

I think people like yourself, sir, and others who have spent some time in that north-east pastoral area would recognise that the amount of water that flows from that area into the Murray-Darling Basin is absolutely minimal, and I think that that part of the state has so much more

in common with the remainder of the Arid Lands NRM Board that it should be annexed to that board.

I have made that clear in the committee hearings to the Chief Executive of DENR, and I hope that that might be taken on board. The previous presiding member of the Arid Lands NRM Board, Mr Reed, as mentioned by the Hon. Mr Wortley, was also of the view that the arid lands board would be a much better place for that north-east pastoral area to be included in.

In winding up, I do say to the council that I take on board the comments from the Hon. Mr Wortley about the ability of this committee to have the resources to travel widely. The committee is charged with having oversight of the activities of all of the NRM boards. We need the ability to go out and see what they are doing and that means a lot of travel. It is also a large committee with nine members, so that will add to the cost of doing that, but I think that there are some other committees that do not have the necessity to travel as much as the Natural Resources Committee does. Having said those words, I am pleased to support the motion.

Motion carried.

ENVIRONMENT PROTECTION (ACCESS TO INFORMATION) AMENDMENT BILL

The Hon. M. PARNELL (16:42): Obtained leave and introduced a bill for an act to amend the Environment Protection Act 1993. Read a first time.

The Hon. M. PARNELL (16:43): I move:

That this bill be now read a second time.

The short title of this bill is the Environmental Protection (Access to Information) Amendment Bill, and the bill resolves an issue that has been of concern in the community for many years, in fact, since the Environment Protection Act came into operation in early 1995. The question of community access to environmental information has come to a head in the last 12 months on a number of occasions.

Probably most recently, it was in relation to the controversy surrounding the disclosure of information about groundwater pollution under residential areas, including Edwardstown, south of Adelaide. Last year there were also issues around the EPA advice to planning bodies such as the Development Assessment Commission. The question that was asked then and is still asked is: why were residents not told that the EPA had expressed serious concerns about new housing in close proximity to noxious and dangerous industries?

So, whilst the public was buying properties off the plan from the Newport Quays consortium, it seems that there were at least three government agencies that we know of, including the EPA, that had expressed strong reservations against the proposal to construct housing in that area, and that information was effectively hidden from the community. I will note at this point that, earlier today, we heard from the Hon. Michelle Lensink a speech on a similar topic, and in that contribution she raised many of the questions that I say are answered by this bill.

In terms of the history of the community's access to information under the Environment Protection Act it is probably worth noting that, when the act was written in the early 1990s, it was envisaged that the regulation and management of pollution would be open and transparent and that the community would have a legal right to see pollution documents. To achieve this the act incorporated the concept of a public register so that members of the community could get ready access to information about pollution licences and other important information.

The key questions that we need to ask ourselves in relation to access to information are: what is it that the community should be entitled to see; how should that information be accessed; and what should it cost? I do not expect anyone in this place would answer those questions by saying, 'The Freedom of Information Act.' We know that act is an unwieldy and expensive mechanism that has, as its primary responsibility, the hiding of more information than it discloses. Freedom of information is not the answer to access to environmental information.

So, how does the public register work? The first thing to note is that it is a notional register. It is not as if there is a series of lever-arch files on a shelf somewhere incorporating the register. Basically, it is a notional concept that includes a range of information that should be made available to someone if they were to ask. What sort of information is on the register at present? The most obvious and probably the most commonly requested form of information would be pollution licences. There are some 2,200 companies that have pollution licences under the Environment Protection Act. If you want a copy of one of those licences, you get it through the public register. In

fact, as members would know, if something is on a public register you cannot get it under the Freedom of Information Act, because that act states that if you can get information in some other way you must use that other way.

So, if you live next door to a factory that has a pollution licence, the way to get a copy of it would be to physically attend the office of the EPA and hand over a relatively large sum of money (between $10 and $20) for a photocopied 10-page document. You cannot get the information from the Internet. If you are a member of parliament, then they will perhaps bend the rules a little bit. I have certainly had documents emailed to me, but I do not think that is available to the general public. The EPA will also invoice a member of parliament for charges, whereas members of the public need to pay cash or cheque on the day. So that is pollution licences.

Another form of information is the detail of site contamination that has been notified to the EPA. So, whilst we have been having a debate about why the community was not told about site contamination, the truth of the matter may well be that, if they had known to ask, then maybe they could have obtained that information through the public register. Similarly, the public register includes details of serious or material environmental harm that come to the notice of the authority. In other words, if the EPA knows about these incidents that have raised such concern in the community then, technically, that knowledge is on the public register but the community does not know to ask for it. That is one of the reasons why this public register does not work properly.

The bill that I have introduced today does four main things: first, it provides that the EPA's public register should be kept in an electronic form on a website that is accessible to the public; secondly, it provides that access to that environmental information should be free of charge; thirdly, it provides that information should be published in a timely manner—in my bill within at least seven days of the document being eligible for inclusion on the public register; and, fourthly, it consolidates and expands the list of information required to be kept on the public register. I will go through each of those items.

First of all, providing that the public register should be kept in an electronic form is to bring the EPA into the 20th century. Let us forget the 21st century; we are talking about the bringing the EPA into the 20th century. The public register, in most other jurisdictions in advanced economies, is on the Net and has been on the Net and has been searchable on the Web for many years.

In fact, as a teacher of public health law at Flinders University well over 10 years ago, I would send my students to the American EPA website, where you could track the route that the toxic waste truck took from the source to the final dumping place. You could map that online and you could ask the map to tell you how many schools and kindergartens the truck went past. This is fairly basic internet technology that has been around for decades, yet in South Australia we have a paper-based system that requires you to attend the offices of the EPA in Victoria Square.

If people think that American examples are not suitable, go online and look at the New South Wales EPA. Google 'New South Wales EPA public register' and you will come up with an online searchable register of pollution licences and notices freely available. If they can do it in New South Wales and other states, they can do it in South Australia.

The second thing the bill does is it provides that access should be free. Unfortunately, when the act was drafted in the early 1990s, the public register was designed to be a user-pays system, and that is why the EPA has been able to charge exorbitant fees. In South Australia, for example, you cannot use your own computer.

If the access requires computer access, you have to attend the EPA, use one of their computer terminals and pay $16.80 for each 10 minutes, which is $100 an hour to use an EPA computer to access information that you should be able to get for free from your own home or office. There is a search fee of $16.80 and if you find something that you want a copy of you will pay $4.25 for the first page and $1.25 for every page after that. If it was available online then you would print it off at your own expense on your own home or office computer.

At this point, I should say that the EPA has always treated my requests for access to the public register in a courteous and timely manner. As I have said, the EPA has been happy to invoice me, rather than demand cheque or cash on the spot, but the point is that we should not have to pay for this information. We should not have to pay for basic information that could be simply and easily put on the internet for us to access at our own expense.

The third thing is that my bill requires that the pollution information, the various items on the public register, should be published in a timely manner, so within a week. There is no reason that

the EPA should be able to sit on information and not publish it, when all of this information exists in electronic form. All of the licences are electronic and all of the pollution-monitoring data received by the EPA (Excel spreadsheets, or whatever) is electronic, so there is no reason that it cannot be put up in a timely manner. I make the point that most other government departments are already doing this. They are abiding by statutory time frames and they are publishing information online.

The fourth thing the bill does is it consolidates and expands the list of documents that need to be disclosed. The current list of documents on the public register is split between section 109 of the act and a number of other documents that are covered by regulation 16. My bill takes both of those lists, consolidates them and incorporates them into a new schedule 2 to the act.

I have added some new items and I want to briefly explain why I have done that. The first grouping of new items is that I think that the EPA should be publishing its submission to development plan amendments. What that means is: rezoning exercises. We know, from evidence that has been given by the EPA to parliamentary committees, such as the Environment, Resources and Development Committee, that it often provides advice to local councils on rezonings and it is often ignored.

Here we have the state's pollution watchdog, our foremost authority on pollution, giving advice to councils and the councils saying, 'Thanks very much. We don't want to hear what you have to say.' That might be the councils' right to do that; it is also our right to know what it is that the EPA is saying so that we can tackle local councils if they are not accepting sensible suggestions from the EPA. So, these formal submissions by the EPA to councils and the planning minister in relation to rezoning exercises or development plan amendments should be published.

Secondly, submissions that are made to individual development applications should be published, including those applications where the EPA has a right of direction and those where the EPA has a right to simply give advice. It is unacceptable for anyone to have to go through the Freedom of Information Act to find out what were the EPA's concerns about the Newport Quays development, wait the month and a half and go through the rigmarole of internal review or whatever. That information should have been routinely made available by the EPA on its website.

If the EPA has a right to comment on a development application and if it exercised that right, we should know what it is it has said. The third new piece of information are submissions that the EPA makes to the planning strategy, and the fourth are submissions the EPA makes to environmental impact statements, public environmental reports or development reports. We already get some of this information through other means. For example, we know with the Olympic Dam expansion some of the things the EPA has said, because it was included in a whole-of-government response to the Olympic Dam expansion EIS.

My amendment provides that, where the EPA formally puts in a submission to any of these processes, that should be routinely published. None of these things are particularly novel—they are all things where we have been able to access that information in other ways, such as through freedom of information. It makes sense for it to be published online. The question then remains: why is it that the EPA has not joined the 20th century? Why have we not been able to do what other jurisdictions have in terms of access to information?

The two reasons most commonly put forward are, first, that there is a cultural problem—a culture of secrecy, a culture of 'we're the experts; we know best' that has stood in the way of disclosure. The other reason often advanced is lack of resources. In relation to culture, the culture of the EPA has changed considerably over time. I can remember tackling the EPA early on where it insisted on referring to polluting industries as its clients or customers. The customers or clients of the EPA are the public who are being protected from pollution.

The licence-holders are regulated industries; they are not customers or clients that are deserving of some special treatment. They are deserving of fair treatment under law and deserving of every assistance the EPA can give them to help them do a better job looking after the environment, but the EPA in the early part of its history had it completely the wrong way around where it saw its primary obligation as being in relation to industry rather than the community that it was protecting from pollution. So, there has been a change there.

Is it resources? The EPA would certainly claim that any change to public disclosure, such as amendments to the register or whatever, will cost money. I do not think it will cost anywhere near as much money as people say. For example, if the EPA in New South Wales has the software for putting up this stuff online, as does just about every other jurisdiction, it cannot be that hard for the South Australian EPA to simply put up the documents. I have said in this place before that

probably myself and a couple of mates on a Saturday afternoon could put the 2,200 EPA licences on the web; it is not that hard. It should do it.

It is not the first time I have had to weigh into this debate. Back in the early 1990s I had a major stoush with the EPA over access to public register information. It was refusing to give the community access to pollution monitoring data. Its reason was that it said it might be a breach of commercial confidentiality. In other words, if you knew the contents of the pollution coming out of a smokestack, somehow you would be able to reverse engineer that data and come up with the recipe for steel, or determine the 11 herbs and spices that go into fried chicken.

It was an outrageous argument, and it took some convincing for the EPA to realise that it was being stupid and that it needed to make access to pollution data available to the public, and it now does that as a matter of policy. If an EPA licence requires the company to monitor pollution, the EPA will now provide that data on request to the community. I am saying that it needs to go up on the website as a matter of routine. I also acknowledge, in conclusion, that the EPA is not unaware of the issues I have raised. Also, I do not believe it is unsympathetic to some of the issues I am raising.

I was pleased to be invited to address a subcommittee of the EPA a fortnight ago to discuss these very issues, and from that meeting I know that the public register is on the EPA's agenda, and I know that they know that they can and should do better. I will be sending a copy of my bill to the EPA forthwith, and I look forward to hearing their views on it. I am also interested in hearing from them and from other members of parliament about any changes that they think would enhance the ability of the community to access important environmental information.

What we have to remember, though, is that ultimately it is up to this parliament to set our expectations of our pollution watchdog. We tell the EPA what we require of them in relation to disclosure. We need to remember also that the EPA is not independent of government in relation to these matters. Under the act, there are only two areas where the government cannot tell the EPA what to do: licensing and also enforcement.

So, the government could have told the EPA many years ago that they needed to do better in relation to public disclosure. The government hides behind the so-called independence of the EPA when it suits them, but in this instance I am saying that the parliament should step up to the plate. The parliament should make it clear to the EPA what it is we expect of them, and this bill provides an opportunity for the parliament to mandate increased openness and transparency. I commend the bill to the house.

Debate adjourned on motion of Hon J.M. Gazzola.

FORESTRYSA

The Hon. R.L. BROKENSHIRE (17:02): I move:

1. That a select committee of the Legislative Council be appointed to inquire into and report upon the state government's proposal to forward sell harvesting rights in ForestrySA plantation estates, and any other related matters.

2. That standing order No. 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being presented to the council.

4. That standing order No. 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

I move this motion because the state government's proposed forward sale of ForestrySA harvesting rights is a significant economic issue for the state economy and in particular, but not only, for the economy of the state's South-East, although there are forestry assets in the Adelaide Hills and the Mid North, which I will come to during my contribution. It was first announced in the 2010-11 state budget as a recommendation of the razor gang, and I call it that because that is what it was—not a sustainable budget commission—and it is important to remember who was in government during the period that saw us needing a razor gang.

The Hon. M. Parnell: Remind us.

The Hon. R.L. BROKENSHIRE: Well, the Rann Labor government was in office and caused the requirement for this. There is a fair bit of public documentation on that right now. It is a disappointment that one of our economic success cases needs to be flogged off to prop up a state budget and sad that Treasury's coffers need to be stacked with cash for the government to spend in other parts of the state when the South-East, because of its rainfall and infrastructure developed by largely private investment, will not see that money flow back to them.

There is a precedent for a select committee on issues such as this. We saw a select committee on the Penola pulp mill; half of those who heard evidence are no longer in parliament. I acknowledge that the pulp mill was about blue gum plantation timber, of which ForestrySA has no plantings. However, that was a process projected to have a $2 billion positive impact on the South-East economy.

The forward sale of one rotation of 37 years at a conservative $35 million per annum sees $1.3 billion in profit lost over 37 years; if you multiply that out over the two to three rotations, there is an impact ranging from $1.3 billion to $3.9 billion over the next 111 years—and that is without compounding, etc. So the pulp mill was worth a select committee, and over three years later they have hardly started building it—largely due to external factors, I acknowledge; although the ABC reported in February that some of the Penola pulp mill management team had quit, citing a difficulty in getting finance.

However, be that as it may, the precedent is there for a select committee into the forward sale, given that its prospective impact will be as large. The Penola experience is also instructive that the outcome might not match the reality, or at least be delayed in terms of anticipated economic benefit for the state budget, which the committee could look into.

I have some stats for my colleagues to consider. I should say that I note there are a number of select committees and that there is a fairly heavy workload on all of us in the Legislative Council at the moment. I do not move this motion lightly, but I believe it is an important issue when you start selling off state assets. In a bipartisan way, irrespective of the colour of the government, for over a century now ForestrySA has been building that asset base, and the ramifications and implications for our building industry and lots of other areas are huge.

It was in the 19th century when they first started planting forestry, knowing that we had issues around the lack of good timber product. Of course, we know that now everyone is supportive of protecting our native plantations, but we do need to have control over our own forests. Let us quickly look at some stats from 2009-10 for ForestrySA. ForestrySA has some 90,000 hectares, and that is approximately 200,000 acres of forestry planted throughout South Australia. It is about 7 per cent of the nation's softwood resources, and it is equivalent to the total land area that was burnt by the 2007 KI bushfires. There is $133 million in sales and income, a $46 million profit, up from $30 million the year before. So, there has been a significant rise in net profit to the government. Mill operator Ian McDonnell, a several generation miller from the South-East, says:

> When looking at the value this asset brings to the state coffers each year, it is not just the $42 million reported last year, but there is also the other income stream the government enjoys via things such as payroll tax, land tax, GST back from the federal government.

An amount of 1.3 million cubic metres of sawlog was sold from plantations, 555,000 cubic metres of pulpwood was sold from plantations, and whether assets of $1.3 million in the ground is under-valued we will come to later. As I have said, these stats come from the 2009-10 report from ForestrySA.

Let us have a look at the employment. Directly, there are 205 full-time equivalents, per ForestrySA 2009-10 annual report. I understand that ForestrySA workers are very concerned about their job security as a result of this initiative by the government. The community impact statement provided to the Don't Privatise SA Forests group by Dr Bob Smith, one of the nation's foremost forestry experts, indicates that the direct employment attributable to ForestrySA assets is 2,150 jobs, mostly in the processing sector and, indirectly, some 3,090 jobs. At this point, we are seeing a fair amount of value-added timber opportunity, even into the regions.

I was talking to a truck driver on Monday, out of Murray Bridge, who was carrying pine, which I assume they got from the South-East. The contract to build some units down at Ridleyton or Taperoo, in that area of the western suburbs, was awarded to a Keith business, which is building all the framework for these units in Keith. So, it is giving value-added opportunities to the smaller country towns in the regions, and that is something that is desperately needed.

Mayor Richard Sage, Mayor of the District Council of Grant, estimates that some 5,500 jobs are directly and indirectly related to forestry. The overall forestry industry in the South-East contributes—and this is huge—about 18 to 20 per cent of gross regional product, or an estimated $2.8 billion in 2009-10, and directly supports 3,600 jobs, or 10 to 12 per cent of the region's 30,000 jobs. You can infer from that that the state forestry puts more into the local economy than private forestry which, at least at present, until the pulp mill is constructed, sends raw material interstate or perhaps overseas for processing. So, the value-adding is not yet occurring here in South Australia with the private sector.

That is also instructive when you consider what might happen if the forward sale goes ahead. The flow-on employment is more likely to mirror the private sector percentage, and therefore more jobs are likely to be lost. That is a matter that is usually of concern, I would have thought, to a Labor government and its union supporters. For sure, it is a concern to the union, which has been out there with the private sector and residents of the South-East at two significant rallies in the last six to 10 months on the steps of our parliament.

I want to say a bit about the history. It is easy to forget that it is not just the South-East, as I said earlier. There are plantations in the Mount Lofty Ranges, some not far from my own area, that create a lot of jobs through the Kuitpo region and in the Mid North. The first plantings were actually in 1876 at Bundaleer and Wirrabara in the Mid North, and they are still there today. They have obviously been re-planted, but those forests are still there in that region. Then, of course, there is Mount Gambier in the South-East.

Six years later, the South Australian woods and forests department was formed. It is interesting to note that the nation's first Arbor Day was celebrated in Adelaide on 20 June 1889, 122 years ago. Arbor days worldwide are days to celebrate the planting and care for trees. That first Arbor Day was not a public holiday, and generally around the world it is not, but now around 28 to 30 July is a national tree planting day. Bundaleer's experimental plantings were allegedly some of the oldest in the nation. The formation of the woods and forests department in 1882 was reportedly the first ever in the commonwealth.

Perhaps the government has forgotten the rich forestry heritage that we have in our state. Our state has a proud tradition and heritage in planting and caring for trees, both for environmental and economic purposes, and yet the government wants to flog it off for short-term gain, probably, I suggest, back to an investment in marginal seats prior to the 2014 election. Interestingly enough, the promises in those marginal seats add up to a figure towards what they are going to get for the projected sale of the forests.

It is worth noting that radiata pine was chosen as a suitable source for construction. Native trees had been used previously, but it was determined to be environmentally unsustainable to keep doing that in South Australia. ForestrySA has inherited some 20 native forest reserves, which is about 25,000 hectares and which they continue to manage. What is going to happen to the management of that 25,000 hectares if they are sold to the Chinese? I am not sure the Chinese will be all that concerned about 25,000 hectares of native forests that currently are looked after by ForestrySA.

Unlike other parts of the nation, we have not been harvesting our native forests for over a century. We can be seen as one of the pre-eminent environmentally activist states in that respect. In 1907, larger scale planting of radiata pine occurred in the South-East, followed in 1909 by the first plantings at Mount Crawford. The rest of the history can be traced on the ForestrySA website, but the point is that we have been involved in forestry, in the areas our climate and rainfall can support, for well over 100 years (as I said, it actually started in the 19th century) and about 80 per cent of the plantations are in the South-East.

I have a little bit of other information for my colleagues to consider. Arguably, the timing of this forward sale is wrong for at least two reasons. As Brad Coates from the CFMEU points out:

> It is a very bad time to sell trees as a number of private companies have gone to the wall in the past 2 years, such as Timbercorp, Great Southern, Willmot and others.

It is also worth bearing in mind that, with Australia debating a carbon tax, it is possible that the commercial value of ForestrySA assets to the taxpayer could well be undervalued if the Gillard government succeeds in introducing a carbon price or a tax. I question the merit of proceeding with a forward sale when the future value of the asset may vary considerably in a carbon economy.

It is worth noting that we are yet to debate here the Natural Resources Management (Commercial Forests) Amendment Bill. I believe the impact that that bill may have upon ForestrySA as it presently stands and a potentially privatised or forward-sold forestry situation needs to be examined.

I congratulate the community, who have been out there with a very structured and carefully and strategically planned protest. There was a huge turnout on two occasions here on the steps of parliament. There were trucks fully laden with logs making their point at great cost to their companies. There were schoolchildren who see their future in a government-owned ForestrySA, taking on the work that is in their blood and goes back now to their great-grandparents. More people from the country are starting to make their voices heard and that is to be welcomed.

The South Australian Forest Industry Strategy Directions for 2011-2015 was recently released. It is a draft for consultation from the Forest Industry Development Board. It is interesting to note that, when you look at the critical analysis of the industry in this draft for consultation, there are some threats and I want to highlight one, that is, T5 in the coding, which states that the potential forward sale of ForestrySA's plantations is destabilising the current industry. This is from PIRSA, one of the government's own departments that has the responsibility for these forests. It is saying that it sees the potential forward sale of ForestrySA's plantations as destabilising the current industry. I think that is of huge concern.

I have a lot of respect for Michael O'Brien, and I have said that in this house before. He is transparent and he is open with me with everything that I ask of him with respect to meetings and opportunities to put points forward. I do not think Minister O'Brien wants to see these forests sold. I think this is driven by Treasury and particularly by Treasury officials, and I do not believe that the backbench—the rank and file if I can put it that way—of the parliamentary Labor Party would support this sale at all.

It says that the future export potential of the forest industry will increase significantly with the commissioning of new plants such as the proposed Penola pulp mill and a development approved wood pellet plant. Demand for wood pellets for electricity generation globally is projected to double by 2014, driven by government targets for converting to renewable energy sources in Europe and the United States. Further carbon sequestration opportunities and biomass for energy are likely to arise as a carbon price is introduced into Australia.

We commend successive governments for the work that they have done in developing a government-owned ForestrySA and I believe, from what I have just highlighted to the house, that there are four or five real reasons why we should not support the sale and privatisation of up to two or three rotations. The only way to get to the bottom of this is to have an open, transparent and independent select committee of the parliament so that we can bring all the players—the people who have concerns and the initiators of this move—before the committee and find out the implications and ramifications.

Clearly, from what I have highlighted to the house today and from what we are hearing from experts in the industry, this is a bad move for three reasons: first, it is short-term income for long-term loss of income to the state; secondly, it removes the control and management that we have over growth in jobs and the strong economic opportunity for our state by selling it off, most likely to a foreign country; and, thirdly, it threatens jobs and the stability of a region.

In conclusion, we are starting to lose the basic assets of this state. This is a renewable resource. With carbon tax proposals and the like, there may be other opportunities to capitalise on the expertise of ForestrySA employees and further grow economic strength in this state. I look forward to listening to my colleagues' contributions on whether or not they support this select committee but, as busy as we are, I strongly urge my colleagues to support this motion because I think this a very serious matter.

Debate adjourned on motion of Hon. J.M. Gazzola.

MARINE PARKS

Adjourned debate on motion of Hon. J.M.A. Lensink:

That this council calls on the Minister for Environment and Conservation to place an immediate moratorium on the imposition of the draft sanctuary zones contained with the Marine Parks' outer boundaries for South Australia.

(Continued from 23 February 2011.)

The Hon. D.G.E. HOOD (17:19): I have spoken earlier today regarding a marine parks motion of my own calling for a select committee which called for a full inquiry into the issue, but I also want to place on record Family First's support for this sensible motion moved by the Hon. Ms Lensink which calls for a moratorium on the imposition of the draft sanctuary zones.

Family First supports the call for a moratorium. Indeed, the motion I spoke to earlier today asked in part for a select committee to look at the widespread moves both interstate and internationally to implement moratoriums on the unproven rollouts of marine parks. In New South Wales, the Liberal and National parties last month released a policy, entitled 'Restoring the balance', which promises a moratorium on the creation of marine parks. I think everybody is predicting that they will win government on Saturday, so that presumably will be the government's position in that state.

Further, in July 2010, the Victorian government ruled out any more marine parks in Victoria, capping marine parks at the current 5.3 per cent of their coastal waters with no-take zones being an even smaller percentage than that. Meanwhile, South Australia continues to ban recreational fishing in wide swathes of our waters. Marine parks have now been declared in over 46 per cent of our territorial waters. I contrast that to 5.3 per cent in Victoria—a much smaller coastline than South Australia, I should point out as well.

Sanctuary zones in which no recreational fishing can occur will cover 20 to 25 per cent of those marine parks according to the department in South Australia. That is 20 to 25 per cent of the 46 per cent—roughly 10 per cent of coastline will be 'no go'. The point I am making is that we are vastly out of step with our counterparts interstate, and this in itself is a good enough reason to support this motion of the Hon. Ms Lensink.

Marine parks and these no-take zones which ban recreational rod and line fishing across the coast of South Australia tremendously and adversely affect the 240,000 recreational fishers in South Australia. They deserve better. I indicate Family First's support for the motion.

Debate adjourned on motion of Hon. J.M. Gazzola.

ANANGU PITJANTJATJARA YANKUNYTJATJARA LAND RIGHTS ACT

Order of the Day, Private Business, No. 23: Hon. R.P. Wortley to move:

That the by-law under the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981 concerning permits, made on 2 September 29010 and laid on the table of the council on 14 September 2010 be disallowed.

The Hon. R.P. WORTLEY (17:23): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

HEALTH CARE (COUNTRY HEALTH GUARANTEE) AMENDMENT BILL

The Hon. R.L. BROKENSHIRE (17:24): Obtained leave and introduced a bill for an act to amend the Health Care Act 2008. Read a first time.

The Hon. R.L. BROKENSHIRE (17:25): I move:

That this bill be now read a second time.

This bill is similar in form to one that this council passed in the previous parliament, and I am hopeful that support will continue for this bill from the Legislative Council and, ultimately, through the House of Assembly. It is similar, with one significant change. I will not go back through my second reading speech and summary from last time. I know my colleagues have plenty of work to do, but they can have a look at that. I just want to highlight that it still ties in with the comments I made during the debate and the support I received from colleagues in our house prior to the last election.

This bill is, as I said, similar, but it has one significant change. I have referred in previous debate on the predecessor to this bill, the government's country health guarantee. To refresh honourable members' memories and for the benefit of those who are new to this place, in July 2008, in response to country protests about version 1 of the Rann government's country health plan, the Premier and the health minister secured a front-page story in *The Advertiser* with a big headline 'Premier CPR'. The guarantee recorded in that article stated that no country hospital will close; no reduction in emergency services; and country health services will be increased. They were the three key guarantees.

In response to this (and being a little once bitten twice shy about guarantees given by governments) I asked the government to legislate that guarantee. This council did, but the government, with its numbers in the lower house, did not. However, we have another opportunity to get the government to put its press release into a proper guarantee. What have we seen since the last election when the Legislative Council passed this bill? I will describe it in three words: Keith, Moonta and Ardrossan. That has just been the start. In reviewing the bill between parliaments it has become clear that we need, for the sake of clarity, to stipulate that funding cuts to community hospitals are a closure issue that breaches the Premier's and the health minister's guarantee.

I will call them country community hospitals in this contribution. In the bill they are called country private hospitals, and we cannot get a change of name on that, because it is terminology set in the Health Care Act. We do not want to tamper with the terminology, but I know that the country community hospitals we visited to do not want to be misrepresented as being like private hospitals in the cities. They are community based and community funded and, in many cases, are dependent on significant government contribution to their budgets.

The July 2008 country health guarantee by the Rann government was not ambiguous. I highlight that the Rann government said that no country hospital would close and there would be no reduction in emergency services. A former member of parliament (whom I will not name) asked me, 'Why include country community hospitals if the government doesn't control their fate?' Well, we have seen subsequently that in the cases of Keith, Moonta and Ardrossan, that the government does.

The consultation has been done backwards, as is sadly often the case with this government, with an announcement on budget day 2010, after the leaking of the razor gang report a day or two beforehand. This bill prescribes a consultation process with the community before cuts can occur, just as must occur under the wording of the previous bill retained in this bill if the government wants to close hospitals or reduce emergency services in a region.

Even if honourable members disagree with me that the July 2008 Rann government guarantee does not extend to country community hospitals (or country private hospitals if you prefer), why should there not be a mandated community consultation process when significant funding cuts occur from government? We seem to have lost the intent of community consultation over the last several years, and I believe it is now time to bring it back and, indeed, put it into legislation with the most important and fundamental services like country health. Many colleagues would be familiar with the previous debate, as I have said, and for those who are not I am happy to provide a further briefing.

I look forward to this bill, with this significant tweaking to cover the country community hospital issue, being supported in this place and then, I hope, the government finally signing the guarantee it made in the media to country South Australians for the preservation and expansion of their health services. I particularly hope that will be the case because at the moment the country health guarantee in the press release is nothing but a press release with no guarantee, and that is why we are now receiving a 'Save our hospital. You can help with a pledge' form.

The people of Keith are sending pledges out to the South Australian community to try to keep their hospital open. The situation is outrageous, it is unacceptable, and we need to be governing for the whole state and the way to do that is to put the guarantee from the Premier and the Minister for Health into law so that people have continuity of health services in the country as well as in the city. I commend the bill to the house.

Debate adjourned on motion of Hon. J.M. Gazzola.

CONTROLLED SUBSTANCES (SIMPLE CANNABIS OFFENCES) AMENDMENT BILL

In committee.

Clause 1.

The Hon. A. BRESSINGTON: First, I would like to make the point that this bill is about dealing with the attitude of the government that the possession, use and cultivation of a small amount of cannabis is somehow acceptable. This bill will bring South Australia into line with other states and allow 25 grams of cannabis for personal use, which is about the average of what the other states allow.

The Hon. Russell Wortley stated in his response that cannabis use is declining. It is, and that should be celebrated. However, we cannot rest on our laurels; Australia still has the highest

rate of use in the developed world of 17.93 per cent. I am hoping that the government will, in time, if it is not going to support this particular bill, see the common sense of not decriminalising street dealing because that is actually where the problem begins in the first place.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. M. PARNELL: I want to put on the record that the Greens support clause 4(1) and 4(3), which relate to a new requirement for alleged offenders to be given a notice containing prescribed information. It seems to us that this is a sensible measure. It is consistent with the approach that the Greens take to matters such as this, where we look at the issue of misuse of drugs as primarily a health issue. I think the honourable member is correct when she notes that there is not enough information out there in the community about the effects of drugs, including cannabis, on health and, in particular, on mental health. The Greens believe that it would be a useful addition to our statute books to require prescribed health information to be provided to alleged offenders.

Clause passed.

Remaining clause (5) and title passed.

Bill reported without amendment.

The Hon. A. BRESSINGTON (17:36): I move:

That this bill be now read a third time.

Bill read a third time and passed.

CHILDREN'S PROTECTION (REPORTING OF SUSPECTED CRIMINAL OFFENCE) AMENDMENT BILL

In committee.

Clause 1.

The Hon. I.K. HUNTER: The government does not propose to delay the business of the house tonight with any detailed opposition to this bill. Suffice to say, we will all oppose it and will be correcting or opposing it outright in the other place, if it makes it that far.

The Hon. S.G. WADE: To assist the progress of the committee, I advise that I do not intend to move the amendments in schedule Wade 1, but I do intend to proceed with the amendments in schedule Wade 2 standing in my name.

Clause passed.

New clause 1A.

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

Page 2, after line 4—After clause 1 insert:

1A—Commencement.

> This act will come into operation 4 months after the day on which it is assented to by the Governor.

This new clause, as I understand it, is merely to allow for the regulations anticipated by my future amendments to be incorporated. As this is reverse consequential and an administrative matter to deal with the substance, I could deal with the substance here or at the later clauses.

The CHAIR: Deal with just new clause 1A.

The Hon. S.G. WADE: I will address the amendments as a whole and members can therefore consider them in that context. The opposition indicated at the second reading stage that we had concerns about this bill, particularly in relation to the scope of criminal offences and, secondly, in the prospect that the processes could become overly cumbersome, particularly the impact that might have on costs of a department that is already stretched. So, we greatly appreciate the Hon. Ann Bressington engaging with us on our concerns, and the opposition proposes these amendments having had those discussions with the Hon. Ann Bressington.

Our responses regarding our two concerns are, firstly, to give the opportunity to the government to limit the range of criminal offences that would need to be reported. It would not be hard for one to conceive of incidents which might well constitute a potential criminal offence and therefore would be reportable under this bill and which it would not be reasonable to report. It gives the opportunity for the government to work with the police to develop regulations that could, if you like, focus this bill. That focus would then be reflected in the regulations and this parliament would be able to satisfy itself that those regulations were appropriate. That is, if you like, the focus on criminal offences.

The second aspect is in relation to the cost. On the one hand, the opposition considered that the honourable member's bill wisely does not provide that any report to any officer in the Department for Families and Communities need be reported, but only those that go to the chief executive. One then had to be careful that the chief executive was not going to receive a lot of reports that were referrable. In that context it was very interesting to hear the Hon. Carmel Zollo's second reading contribution and also to receive advice subsequent to that debate which was provided to the parliament by a public servant.

I might actually provide the detail of that at the appropriate clause so that I do not labour the patience of the house on amendment No. 1. Just to foreshadow the substance of the second arm of our set of amendments, they are to basically give the chief executive of Families SA a comfort that if they comply with regulated processes, or processes declared by regulation, then they would be taken to have discharged their duty under this bill.

Briefly, the regulation that I anticipate would be made would reflect the code of practice which the Hon. Carmel Zollo referred to in her second reading contribution and which is also the subject of public service advice which I will read into the record at the relevant amendment. So, I ask members for their support for this amendment and the subsequent amendments which, if you like, implement those two legs of our concerns.

The Hon. A. BRESSINGTON: Just to reiterate what the Hon. Stephen Wade said, I have worked with him on these amendments and I agree to all of them. I would also at this time like to extend my thanks to him and to other members of his party for being willing to work on this bill with me and improve it.

The Hon. D.G.E. HOOD: Family First supports it, Mr Chairman.

The Hon. T.A. FRANKS: I indicate that the Greens also support the Wade amendments and we urge the government to reconsider its opposition to this bill.

New clause inserted.

Clause 2 passed.

Clause 3.

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

Page 2, line 15 [clause 3, inserted section 26AA]—Delete 'in relation to' and substitute:

against

This is a small clarification. It was always the intent, as I understand it, of the Hon. Ann Bressington that we are dealing with reports of crimes against children. One could have read the words as they currently stand in the bill to mean a crime committed by a child. The Hon. Ann Bressington, as I understand it, has indicated she is accepting all the amendments. This is just again to provide focus to the legislation on what the Hon. Ann Bressington is trying to address, which is to enhance our protection of children.

Amendment carried.

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

Page 2, line 17 [clause 3, inserted section 26AA]—After 'Police' insert:

in the manner prescribed by regulation

This might be an appropriate place to put on the record some advice that was provided by an officer in the families and communities portfolio to a member in relation to this bill. The statement relates to the inter-portfolio agreement between the police and Families SA about how matters would be handled between the two. The section of the document I will quote is called 'Current Policy and Strategy', and it reads:

The Code of Practice provides the overarching interagency policy and strategy in this area. Both the Department and SA Police are signatory to the Code of Practice.

The Code of Practice provides a framework for timely, efficient and effective interagency processes to provide each involved agency with accurate information on which to base sound assessments regarding a child and their family's circumstances. The Code of Practice does not focus on or exclusively address reporting criminal matters by Families SA to SAPOL. However, it does set a general context for management of information regarding criminal abuse or neglect, for reporting criminal abuse or neglect, and for interagency collaboration in the investigation of suspected child abuse or neglect, with the emphasis on the best interests of the child and the most timely, efficient and effective intervention.

It is the responsibility of Families SA to make appropriate notification of suspected criminal offences to the police and it is the responsibility of police to assess these against relevant legislation to determine whether an offence may have occurred, whether and what further criminal investigation may be required, and whether there is sufficient evidence to prosecute. A report to police by Families SA officers of a suspected criminal offence in relation to a child does not in itself guarantee any further action by police unless police determine that further action is warranted.

I would make the comment that that is a very commonsense statement and is in direct contrast to the scaremongering comments we had from the Hon. Carmel Zollo last time—

An honourable member interjecting:

The Hon. S.G. WADE: If I can underscore why they were scaremongering, it was suggesting that this legislation—

An honourable member interjecting:

The Hon. S.G. WADE: I'm sorry; I was challenged on my statement that I was scaremongering. The fact that—

The CHAIR: Order! The member should not respond to interjections.

The Hon. S.G. WADE: If one was to suggest that the Hon. Carmel Zollo's statement on the last occasion accorded with this advice provided to a member of this house by this government one would be mistaken. The fact of the matter is that that is a commonsense statement of the way in which the government would be expected to be handling it. It also demonstrates that, if there is such a protocol in existence, and I fully accept that there is, why should it not be mandated? After all, we have mandatory reporting by community officers of child abuse and neglect. Why should we not have mandatory reporting by public sector officers? That is all that the Hon. Ann Bressington is saying should happen. This advice, contrary to the—

The CHAIR: You're getting confused now.

The Hon. S.G. WADE: No, I am actually insisting that I use the word 'scaremongering'. I actually insist that the Hon. Carmel Zollo's contribution induced scaremongering in relation to the prospects of this legislation, which was quite well founded.

I suggest that honourable members might like to read speeches they are given by minister's officers before they embarrass themselves by putting it on the record, because those same departmental officers provide advice to other members, which is meant to try to reassure the house that things will be dealt with. However, what they actually do is show that the previous contributions they had delivered to this house were shamefully misleading.

This advice that was given to members of this house shows that it is quite reasonable and quite practical for a process to be put in place for correct reporting. In that regard (and this relates to amendment Wade 2, No. 3), my amendment inserts at the end of the reporting clause the prospect that the government might put in place a specified process to regulation. I expect that a sensible government would codify or put into regulation a form of its current interagency code of practice investigation of suspected criminal abuse or neglect, an initiative of the government of South Australia, April 2009, called the code of practice.

If that code of practice can be established as interagency policy, it can be established as a regulation to this act. It can be established as a process. Why? So that Families SA officers will have a duty to report suspected criminal activity, and that is no different from any other reporter in the regime.

The committee divided on the amendment:

AYES (13)

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

NOES (6)

Finnigan, B.V. (teller)	Gago, G.E.	Gazzola, J.M.
Hunter, I.K.	Wortley, R.P.	Zollo, C.

Majority of 7 for the ayes.

Amendment thus carried.

The Hon. S.G. WADE: I ask the committee to take note of that vote. It is now on the record that the Labor Party, for some time at least—

The CHAIR: Order! Why don't you move your amendment and get on with it instead of grandstanding?

The Hon. R.I. Lucas interjecting:

The CHAIR: He can do what he is directed by the Chair. The Hon. Mr Wade.

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

Page 2, after line 17 [clause 3, inserted section 26AA]—After its present contents (now to be designated as subsection (1)) insert:

(2) Subsection (1) does not apply to criminal offences of a kind prescribed by regulation.

In doing so, I would remind the committee to take note of the previous vote. We have a Labor Party that once believed—

The Hon. P. HOLLOWAY: Point of order!

The CHAIR: Order! Point of order.

The Hon. P. HOLLOWAY: Mr Chairman, it is quite clearly out of order for a member to refer to previous votes in relation to the place.

Members interjecting:

The CHAIR: Order!

Members interjecting:

The Hon. S.G. WADE: Point of order! What standing order is it?

The CHAIR: Order! Sit down! The Hon. Mr Wade will move his amendment, address his amendment and allow the committee to vote on his amendment. The Hon. Mr Wade.

The Hon. S.G. WADE: I remind honourable members that this committee is considering a set of amendments, and this is merely the fourth leg of three.

The Hon. B.V. Finnigan: The fourth leg of three?

The Hon. S.G. WADE: Fourth leg of four—thank you, the honourable Leader of the Government. The government might well be able to count to four, but they cannot be aware of their own heritage. This is a party that once prided itself—

The CHAIR: This is not a second reading speech, Hon. Mr Wade. This is the committee stage.

The Hon. S.G. WADE: I would remind the council—

The CHAIR: I remind the Hon. Mr Wade.

The Hon. S.G. WADE: —that this government was a party—

The CHAIR: I'll sit you down in a minute.

The Hon. S.G. WADE: —that once said it believed in child protection. Excuse me, Mr Chairman, I have the right to speak to my amendment. I have moved it.

The CHAIR: Well, speak to your amendment, otherwise I will sit you down.

The Hon. S.G. WADE: Excuse me—my amendment is part of a package that ensures that—

The CHAIR: Well, stick to it.

The Hon. S.G. WADE: Sorry, Mr Chairman, in the first four words, in what part of my comments—

The CHAIR: You're making a second reading speech.

Members interjecting:

The Hon. S.G. WADE: Let us put it this way. In addressing Wade 2, amendment 4, I would urge members to take the opportunity to put their voice on the record. This is an opportunity for members of the council to support my amendment which would give the government an opportunity to focus criminal offences in a way that would facilitate the reporting arrangement.

Like Wade 2, amendment 3, it is one of two amendments put forward by the opposition that would ensure that this arrangement is workable and reasonable both in terms of cost and in terms of processes. In that regard, it completely removed our objections to this bill. As an alternative government in this state, we moved these amendments to facilitate the viability of this bill.

We are demonstrating our commitment to child protection. Unfortunately, the members of the government have opposed all three amendments so far, one on a division. They are not just willing to be grumpy and not support this amendment and the three preceding it: they actually insisted that they be on the record as opposing child protection. I understand that there are members of the caucus who are extremely uncomfortable about this government position. The fact that their Legislative Council team should divide to get on the record that the Labor Party opposes child protection is—

An honourable member: You called the division.

The Hon. S.G. WADE: First of all, that was an interjection and it would be disorderly for me to respond, but I will say that I did not call the division. I have moved Wade 2, amendment 4 standing in my name, and I would urge members, unlike Labor members of the government, to support this, perhaps even on the voices, unless the government wants to divide again.

The CHAIR: It's their prerogative.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. A. BRESSINGTON (18:00): I move:

That this bill be now read a third time.

Read a third time and passed.

CHILDREN'S PROTECTION (RECORDING OF MEETINGS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 May 2010.)

The Hon. A. BRESSINGTON (18:01): I move:

That this order of the day be discharged.

Motion carried; bill withdrawn.

CORONERS (REPORTABLE DEATH) AMENDMENT BILL

The Hon. S.G. WADE (18:02): I move:

That this bill be now read a second time.

This bill has its origin in representations made by the Australian Funeral Directors Association, South Australian Division, to the member for Davenport, expressing its concern about they way our Coroners Act relates to interstate coronial inquiries. The member is a very good member and a good legislator with a 'can do' attitude: if the law needs fixing, let's fix it. Another example of this approach from the honourable member is his work to have the coronial jurisdiction in relation to stillbirths reviewed by the Legislative Review Committee.

The bill was introduced by the member for Davenport in the other place on 24 June 2010 and received the support of the government. When residents of South Australia die interstate the coroner of that jurisdiction prepares a report on the death, even if not a full inquest. The current practice is that the South Australian Coroner also prepares a report on the same death. Producing two reports adds a significant amount of time to the process, and families are left waiting as evidence and other material related to the report by the South Australian Coroner are collected from interstate.

The Australian Funeral Directors Association has advised the Hon. Iain Evans that every other Australian jurisdiction recognises the report of interstate coroners. South Australia is the only state that is currently producing double reports. The Australian Funeral Directors Association, South Australian Division, has also been in discussions with the government from about April 2008 regarding these interstate reportable deaths. The bill would allow the South Australian Coroner to recognise the findings of an interstate coroner in relation to reportable deaths, resolving the process more expeditiously.

This has obvious benefits for the families of the deceased, and it would also free up the resources of the Coroner to focus on other matters and help to alleviate significant delays that have increased under this government. The member for Davenport consulted with the Coroner during the development of the bill, and the government has reported that the Coroner is comfortable with the proposal and has suggested amendments which were supported by both the member for Davenport and the government.

The amendments requested by the Coroner improve the bill by allowing the Coroner to assume jurisdiction if they decide to do so over a reportable death that occurred outside South Australia. The death would not be reported to the South Australian Coroner if it was reported to another jurisdiction's Coroner; however, if the death occurred under circumstances that would make it reportable in South Australia, the Coroner can assume jurisdiction.

An example given by the Attorney-General is that a family may want a deceased family member to be repatriated to South Australia and, although they may not have been a resident of South Australia at the time, the amendment would allow the Coroner to exercise jurisdiction over the deceased person. As I have acknowledged the work of the member for Davenport, I also commend the government and the Attorney-General for constructively engaging with an opposition bill, and I look forward to seeing the progress of this bill through the remaining stages in the near future.

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

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (18:06): Obtained leave and introduced a bill for an act to amend the Liquor Licensing Act 1997. Read a first time.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (18:06): I move:

That this bill be now read a second time.

It is government policy to promote responsible service and consumption of alcohol and to ensure that our entertainment areas are safe and vibrant places. The Liquor Licensing (Miscellaneous) Amendment Bill 2011 is a reflection of that policy.

Currently, the Liquor Licensing Act 1997 prescribes standard trading hours for licensed premises, including hotels, clubs and entertainment venues. The act also provides for a special circumstances licence, which is granted for a premises that does not fit within any other licence category. Subject to specific licence conditions, extended trading authorisation and trading hour

restrictions prescribed for particular licence classes in the act, trading in liquor can occur at some licensed premises in South Australia 24 hours a day.

Research shows that extended late-night trading hours lead to increased consumption of alcohol and related harms. Data indicates a link between extended trading hours, high density of licensed premises and adverse impacts on alcohol-related harm. South Australia Police report that that most offending peaks at around 3am and continues into the early hours of Saturday and Sunday mornings.

The bill provides for amendments to the act to restrict the trading hours of licensed premises and enforce a mandatory break in liquor trade between 4am and 7am for all late trading hotels, entertainment venues, clubs and holders of special circumstances licences. This mandatory break will help deal with alcohol-related crime and assist in the transition between the night and day crowds. The bill provides that the mandatory break in trade will not apply to the Adelaide Casino, except to such part of the casino as prescribed in the regulations.

Should a licensee wish to trade during the mandatory break on account of a special occasion—for example, New Year's Eve, ANZAC Day breakfast, etc.—the act will retain the provision under section 41 for a licensee to apply to the commissioner for a limited licence, which may be granted for a special occasion, and authorise a licensee to operate in circumstances in which the sale, supply or consumption of alcohol would otherwise be unlawful, that is, during the mandatory break in trade.

The bill provides for a new division in the act titled 'Division 4—Public order and safety', under which the new section 128B will be inserted. This section affords the commission the power to issue a short-term public order and safety notice in respect of a licence. The notice may be issued if the commissioner considers that the notice is necessary or desirable to address an issue of public order and safety or to mitigate adverse consequences arising from an issue of public order and safety.

The Liquor and Gambling Commissioner will be able to issue this type of notice at his or her absolute discretion. The notice may affect the licence conditions (including authorised trading hours), may require the licensed premises to be closed and remain closed for specified hours or may suspend a licence. A public order and safety notice may be imposed for a period up to 72 hours. The bill also provides that no civil liability attaches to the commissioner or court, and the commissioner is of the opinion in the public interest it is desirable to take such action. The amendment recognises the significant practical impact a suspension could have on the individual person and premises, and as such places a reasonable limitation on its application.

The bill also provides the court the power to revoke or vary any suspension or condition imposed by the commissioner. The bill introduces the concept of managed plans as an additional long-term measure to manage alcohol-related crime and antisocial behaviour in an area or precinct or for a specified licence class. Management plans are designed to improve public order and safety, in particular through measures designed to reduce alcohol-related crime and antisocial behaviour.

The management plans would contemplate the imposition of a range of conditions under section 43 of the act (for example, a requirement to use polycarbonate glass, implement a lock-out or maintain CCTV equipment). A plan may be applied to specified licence types, such as late trading venues or specified licences in a particular geographical area, precinct or community. Interested persons would be given reasonable opportunity to make written submission in relation to the development of a plan.

Currently the Commissioner of Police has the power under section 83BA of the Summary Offences Act 1953 to close a licensed premises if it is overcrowded. The powers of the police are therefore clearly limited in responding to an urgent situation at licensed premises, such as a large brawl or if a riot has started, or a person fails to abide by restrictions on consumption of liquor in and taking from licensed premises (section 103), a licensee uses any part of a licensed premises or any adjunct to the premises for the purposes of providing entertainment when conditions under the act have not been met (section 105), liquor has been sold or supplied to intoxicated persons (section 108), and, liquor has been sold or supplied to a minor (section 110).

The act currently provides that if a licensee is convicted of an offence involving the unlawful sale or supply of liquor to a minor, and a complaint has been lodged with the court on the ground that a conviction was due to a breach of duty, the court must take disciplinary action against the licensee. If the conviction follows a previous conviction for such an offence or previous disciplinary

action for an incident involving such an offence, then the court must suspend or revoke the licence unless the licensee can show why that action should not be taken.

The bill provides for an extension of this provision to also include an offence involving unlawful sale or supply of liquor to an intoxicated person, an offence involving trafficking drugs on the licensed premises or any offences of a class prescribed by the regulations. This amendment will provide for tighter regulation and penalties for repeat offenders against these provisions of the act by reversing the onus of proof in the proceedings to require the court to either suspend or revoke a licence unless the licensee can show why such action should not be taken.

The bill contemplates that the code may provide the commissioner with the discretion upon application of a licence to grant exemptions, condition or unconditional, from specified conditions of the code. The bill also provides for a special circumstances licence and a limited licence to be classified for the purpose of the application of the code.

Finally, the bill makes some technical amendments designed to improve the administration of the act, including allowing a service on licensees of notices and documents to be executed by fax or email, extending the evidentiary aids in legal proceedings to include public order and safety notices, and including an amendment to support a waiver, reduction or refund of fees by the commissioner. I commend the bill to the council and seek leave to have the explanation of clauses inserted into *Hansard* without my reading them.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Liquor Licensing Act 1997*

4—Amendment of section 4—Interpretation

A new reference to the Commissioner's codes of practice is included in sections 40 and 41 (allowing special circumstances licences and limited licences to be classified for the purposes of the application of the codes) and so a pointer definition is included in the interpretation provision.

The definition of extended trade is substituted. The new definition reflects the policy for a 4am closure of venues and clarifies that extended trade can be for the whole or any part of the hours listed.

A pointer definition to the new concept of management plans in new section 11B is included in the interpretation provision.

A pointer definition to the new concept of a public order and safety notice in new section 128B is included in the interpretation provision. An inclusive definition of public order and safety is included for the purposes of that new section, for the new concept of management plans and for the power to impose conditions relating to public order and safety.

5—Insertion of section 7A

New section 7A provides that closure hours will not apply to the casino except to such part as is prescribed by the regulations.

6—Amendment of section 11A—Commissioner's codes of practice

Section 11A(3) is an amendment allowing codes of practice to contemplate exemptions being granted by the Commissioner.

7—Insertion of section 11B—Commissioner's management plans

The new section contemplates management plans for licensed premises, or licensed premises of a specified class, within specified geographical areas designed to improve public order and safety in those areas, in particular, through measures designed to reduce alcohol-related crime and antisocial behaviour. A plan is to be developed in consultation with affected licensees and interested persons are to be given a reasonable opportunity to make written submissions in relation to the plan. The plans are relevant to the imposition of conditions under section 43.

8—Amendment of section 28A—Criminal intelligence

Section 28A is modified to take account of the fact that the grounds for imposing a licence condition to improve public order and safety or to issue a public order and safety notice may involve criminal intelligence.

9—Amendment of section 29—Requirement to hold licence

This amendment doubles the maximum penalty for a second or subsequent offence of selling liquor without being licensed to do so.

10—Amendment of section 31—Authorised trading in liquor

This amendment is technical and clarifies that a licence may set out trading hours fixed by the licensing authority.

11—Amendment of section 32—Hotel licence

The trading hours for a hotel licence for consumption of liquor on or off the licensed premises are altered so that, without an extended trading authorisation, the usual hours on any ordinary day are 7am to midnight. An extended trading authorisation may be granted to allow trading between midnight and 4am. Trade may not occur between 4am and 7am.

The holder of a hotel licence is not to be able to sell liquor in a designated dining area to a diner for consumption in that area with or ancillary to a meal provided by the licensee in that area between 4am and 7am on any day.

The holder of a hotel licence is not to be able to sell liquor in a designated reception area to a person attending a reception for consumption in that area between 4am and 7am on any day.

12—Amendment of section 33—Residential licence

Currently a residential licence, if the conditions of the licence so provide, authorises the licensee to sell liquor on any day except Good Friday and Christmas Day for consumption on the licensed premises by persons seated at a table or attending a function at which food is provided, although an extended trading authorisation is required for extended trade. This is altered so that the authorisation does not extend to the period between 4am and 7am on any day.

13—Amendment of section 34—Restaurant licence

Currently a restaurant licence, if the conditions of the licence so provide, authorises the licensee to sell liquor on any day except Good Friday and Christmas Day for consumption on the licensed premises by persons seated at a table or attending a function at which food is provided, although an extended trading authorisation is required for extended trade. This is altered so that the authorisation does not extend to the period between 4am and 7am on any day.

14—Amendment of section 35—Entertainment venue licence

Currently, the holder of an entertainment venue licence is authorised to sell liquor for consumption on the licensed premises, in a designated dining area, with or ancillary to a meal provided by the licensee at any time. This is altered so that the authorisation does not extend to the period between 4am and 7am on any day.

Currently an entertainment venue licence authorises the licensee to sell liquor for consumption on the licensed premises at any time when live entertainment is provided between 9pm on one day and 5am on the next. The provision is altered so that the authorisation is only until 4am on the next day.

Currently an entertainment venue licence, if the conditions of the licence so provide, authorises the licensee to sell liquor on any day except Good Friday and Christmas Day for consumption on the licensed premises by persons seated at a table or attending a function at which food is provided, although an extended trading authorisation is required for extended trade. This is altered so that the authorisation does not extend to the period between 4am and 7am on any ordinary day.

15—Amendment of section 36—Club licence

The trading hours for a club licence for consumption of liquor on the licensed premises are altered so that, without an extended trading authorisation, the usual hours on any ordinary day are 7am to midnight. An extended trading authorisation may be granted to allow trading between midnight and 4am.

The holder of a club licence is not to be able to sell liquor in a designated dining area to a diner for consumption in that area with or ancillary to a meal provided by the licensee in that area between 4am and 7am on any day.

The holder of a club licence is not to be able to sell liquor in a designated reception area to a person attending a reception for consumption in that area between 4am and 7am on any day.

16—Amendment of section 39—Producer's licence

This amendment clarifies that production premises will include a vineyard or like premises.

17—Amendment of section 40—Special circumstances licence

The authorisation provided by a special circumstances licence is altered so that it does not authorise the licensee to sell liquor for consumption on or off the licensed premises between 4am and 7am (except to any lodger in the licensed premises for consumption on or off the licensed premises). An extended trading authorisation is required for trade between midnight and 4am.

The amendment also enables the licence to be classified for the purposes of the application of the Commissioner's codes of practice or management plans. This is necessary because of the diverse circumstances covered by these licences.

18—Amendment of section 41—Limited licence

The amendment enables the licence to be classified for the purposes of the application of the Commissioner's codes of practice or management plans. This is necessary because of the diverse circumstances covered by these licences.

19—Amendment of section 42—Mandatory conditions

This is a consequential amendment to the inclusion of the definition of code of practice.

20—Amendment of section 43—Power of licensing authority to impose conditions

Currently, under section 43(2)(f), the Commissioner may, on his or her own initiative, impose a licence condition if the licensing authority considers the condition necessary for public order or safety. This power is replaced with a power to impose a condition that the Commissioner considers will improve public order and safety at any time in order to give effect to a management plan, or a variation of a management plan, affecting the licence, or at any other time.

The provision is amended to expressly provide that a licensee who is dissatisfied with a decision made by the Commissioner to impose a condition in circumstances in which there are no proceedings before the Commissioner may apply to the Court for a review of the Commissioner's decision as if he or she were a party to proceedings before the Commissioner.

21—Amendment of section 44—Extended trading authorisation

Currently, section 44(4) provides that an extended trading authorisation cannot authorise extended trade in liquor on the day after Good Friday or the day after Christmas Day. The provision is amended so that, when the day after Christmas Day is a Sunday extended trading may be authorised.

22—Amendment of section 45—Compliance with licence conditions

23—Amendment of section 46—Unauthorised sale or supply of liquor

24—Amendment of section 100—Supply of liquor to lodgers

25—Amendment of section 101—Record of lodgers

26—Amendment of section 103—Restriction on consumption of liquor in, and taking liquor from, licensed premises

27—Amendment of section 105—Entertainment on licensed premises

28—Amendment of section 108—Liquor not to be sold or supplied to intoxicated persons

29—Amendment of section 110—Sale of liquor to minors

These amendments double the maximum penalty for a second or subsequent offence for relevant offences committed by a licensee or responsible person for licensed premises.

30—Insertion of section 120A

The new section introduces a new power to suspend an approval of a person under the Act or impose conditions pending disciplinary action. The Court is given power to revoke or vary the suspension or conditions imposed by the Commissioner.

31—Amendment of section 121—Disciplinary action

Section 121(4) currently provides that if a licensee is convicted of an offence involving the unlawful sale or supply of liquor to a minor and a complaint is lodged on the ground of the breach of duty leading to the conviction, the Court must take disciplinary action against the licensee and, if the conviction follows a previous conviction for such an offence or previous disciplinary action for an incident involving such an offence, the Court must suspend or revoke the licence unless the licensee shows cause why that action should not be taken. The amendment extends this approach to an offence involving the unlawful sale or supply of liquor to an intoxicated person, an offence involving trafficking drugs on the licensed premises and any offences of a class prescribed by the regulations.

32—Amendment of heading to Part 9

This is a consequential amendment in recognition of the inclusion of new powers in Division 4 relating to public order and safety.

33—Insertion of Part 9 Division 4

The new Division includes 2 new powers.

The first is a power for the Commissioner to issue a short term public order and safety notice in respect of a licence. The notice may be issued if the Commissioner considers that the notice is necessary or desirable to address an issue or perceived issue of public order and safety or to mitigate adverse consequences arising from an issue or perceived issue of public order and safety. The notice is at the absolute discretion of the Commissioner. The notice may affect the licence conditions (including trading hours), may require the licensed premises to be closed and remain closed for specified hours despite a requirement of this Act to keep the premises open to the public during

those hours, or may suspend the licence. The notice can last for a maximum of 72 hours. Ministerial approval is required if the licence has been subject to another public order and safety notice within the 72 hours immediately preceding the period for which the notice would apply. The provision provides that no civil liability attaches to the Commissioner or the Crown in respect of an act or omission in good faith in the making, variation or revocation of a public order and safety notice.

The second is a power for a senior police officer to issue certain orders if the officer believes on reasonable grounds that it would be unsafe for members of the public to enter or remain in a licensed premises or part of a licensed premises because of conditions temporarily prevailing there. The orders are the same as those that may be made under section 83BA of the *Summary Offences Act 1953* in circumstances of overcrowding of a public venue.

34—Amendment of section 135—Evidentiary provision

This is a technical amendment to extend the evidentiary aids to public order and safety notices.

35—Amendment of section 136—Service

This amendment allows fax or email to be used for service.

36—Amendment of section 138—Regulations

This is a technical amendment to support waiver, reduction or refund of fees by the Commissioner.

37—Repeal of Schedule

This is an amendment of a statute law revision nature.

Schedule 1—Transitional provisions

Clause 1 is an important provision designed to ensure that all the changes will have effect in relation to existing licences, approvals and authorisations. Clause 2 enables a licence, approval or authorisation to be substituted to reflect the new arrangements, in particular the withdrawal of authorisations to sell liquor between 4am and 7am on any day. Clause 3 contemplates consequential variations to gaming machine licences to ensure that gaming operations cannot be conducted between 4am and 7am on any day.

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

STATUTES AMENDMENT (TRANSPORT PORTFOLIO—PENALTIES) BILL

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

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (18:16): I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to increase the maximum penalties that can be imposed for a number of offences in the *Road Traffic Act 1961*, *Motor Vehicles Act 1959* and *Harbors and Navigation Act 1993* and the maximum level at which the Governor may set expiation fees for offences in the Acts and regulations in order to restore the deterrent effect of monetary penalties.

This Bill is further evidence of this Governments commitment to reducing death and injuries on our roads.

The *Road Traffic Act*, *Motor Vehicles Act* and *Harbors and Navigation Act* all contain penalties for offences and set out the level of expiation fees that might be imposed.

With the passage of time and inflation, the levels of many of the monetary penalties have lost their deterrent value and reduced the impact of the penalty on the offender. This creates complacency towards compliance with the road laws which ultimately adds to unacceptable and at times, dangerous behaviour on our roads.

Many offences under the *Road Traffic Act* and the *Motor Vehicles Act* may be satisfied by the payment of an expiation fee which represents a proportion of the fine laid down in the Acts or their regulations. In order to vary the fines set out in the Acts it is necessary that Parliament amend the Acts.

The expiation fee system is intended to provide alleged offenders with an option to accept responsibility for an offence without admitting guilt and to avoid the time and cost of having the matter dealt with before a court. It also reduces the time the courts spend dealing with minor matters and frees them to deal with more important cases. The alleged offender retains the right to elect to be prosecuted for an offence in order to have the matter determined by a court.

It has long been the practice of successive governments to increase expiation fees on an annual basis to ensure they keep pace with the cost of living. These fees increase while the fines remain static. Ultimately, the difference between the fine and the expiation fee is reduced to a level that makes having a matter determined before a court a viable option in anticipation that the court will impose a lower penalty than the expiation fee.

The present level of fines within *Road Traffic Act* and *Motor Vehicles Act* therefore no longer act as a deterrent and the diminishing difference between the fines and expiation fees encourages people to have relatively minor matters dealt with by the courts.

The election for prosecution leads to more people appearing before the courts and results in an increase in costs for the Courts Administration Authority, police, councils and other prosecuting authorities. It will also lead to extensive delays in matters being dealt with by the courts as the lists are increased to deal with the additional relatively minor matters.

Drink and drug driving continues to be a major concern to all involved with road safety. Despite on-going education campaigns and increasing enforcement, there are many drivers who do not heed the message and continue to put lives at risk. However, it is felt that the present penalty levels do not adequately represent the seriousness of these offences.

The present drink/drive penalties were set in 1991 and have not been adjusted since that time. The maximum penalty for driving with a lower range prescribed concentration of alcohol, which is an offence involving less than 0.08% blood alcohol concentration, is only $700.

The maximum fine for drink/driving offences is $2,500 and applies to a third or subsequent offence with a concentration of alcohol in excess of 0.15%. Current penalties for these offences are not seen as an effective deterrent, particularly with regard to the lower range penalty. Increasing the penalty for the lower range offence will necessitate a corresponding increase to the penalties for other drink/drive offences.

Drink and drug driving offence penalties in the *Harbors and Navigation Act* correspond with those for the same offences under the Road Traffic Act. Consequential amendments are required to this Act to keep the penalties aligned in both Acts.

The opportunity is also being taken to increase lower level penalties in the *Motor Vehicles Act*, which have not been increased for some time, from $125 and $250 to $250 and $750 respectively. This change will restore parity with penalties for other offences which have been increased and will provide a greater deterrent than the low levels currently provide.

Both the *Road Traffic Act* and the *Motor Vehicles Act* contain provisions which enable the Governor to set penalties under the regulations to a maximum of $2,500. The Bill amends these provisions to enable the Governor to increase penalties for offences in the regulations to a maximum of $5,000 to ensure, where necessary, consistency with those under the Act. It also increases the maximum level to which he may increase expiation fees from $750 to $1,250.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Harbors and Navigation Act 1993*

4—Amendment of section 70—Alcohol and other drugs

This clause increases the monetary penalties for alcohol and drug offences in section 70 by $400 each.

5—Amendment of section 71—Authorised person may require alcotest or breath analysis

This clause increases the monetary penalties in section 71 by $400 each.

6—Amendment of section 72—Authorised person may require drug screening test, oral fluid analysis and blood test

This clause increases the monetary penalties in section 72 by $400 each.

7—Amendment of section 74—Compulsory blood tests of injured persons including water skiers

This clause increases the monetary penalties relating to compulsory blood tests in section 74(18) by $400.

Part 3—Amendment of *Motor Vehicles Act 1959*

8—Amendment of section 12—Exemption for certain trailers, agricultural implements and agricultural machines

This clause increases a $250 penalty to $750.

9—Amendment of section 12B—Exemption of certain vehicles from requirements of registration and insurance

This clause increases a $250 penalty to $750.

10—Amendment of section 16—Permits to drive vehicles without registration

This clause increases a $125 penalty (relating to carrying a permit) and a $250 penalty (relating to contravening a permit) to $750 each.

11—Amendment of section 43A—Temporary configuration certificate for heavy vehicle

This clause increases a $125 penalty to $250.

12—Amendment of section 48—Certificate of registration and registration label

This clause increases a $125 penalty in section 48(1b) to $250 and the other penalties in the section to $750.

13—Amendment of section 52—Return or destruction of registration labels

This clause increases a $250 penalty to $750.

14—Amendment of section 53—Offences in connection with registration labels and permits

This clause increases two $250 penalties to $750 each.

15—Amendment of section 70—Return of trade plates and refunds

This clause increases a $250 penalty to $750.

16—Amendment of section 71—Transfer of trade plates

This clause increases a $250 penalty to $750.

17—Amendment of section 71B—Replacement of plates, certificates or labels

This clause increases a $250 penalty to $750.

18—Amendment of section 81B—Consequences of holder of learner's permit, provisional licence or probationary licence contravening conditions etc

This clause increases a $125 penalty (for failing to comply with a requirement of the Registrar) to $750.

19—Amendment of section 96—Duty to produce licence or permit

This clause increases a $250 penalty to $750.

20—Amendment of section 98A—Instructors' licences

This clause increases a $250 penalty to $750.

21—Amendment of section 98V—Cancellation of permit

This clause increases a $250 penalty to $750.

22—Amendment of section 99A—Insurance premium to be paid on applications for registration

This clause increases a $250 penalty to $750.

23—Amendment of section 110—Liability of insurer to pay for emergency treatment

This clause increases a $125 penalty to $250.

24—Amendment of section 124—Duty to cooperate with insurer

This clause increases three $250 penalties to $750 each.

25—Amendment of section 137—Duty to answer certain questions

This clause increases a $250 penalty to $750.

26—Amendment of section 137A—Obligation to provide evidence of design etc of motor vehicle

This clause increases a $250 penalty to $750.

27—Amendment of section 138—Obligation to provide information

This clause increases a $250 penalty to $750.

28—Amendment of section 138B—Effect of dishonoured cheques etc on transactions under the Act

This clause increases a $250 penalty to $750.

29—Amendment of section 145—Regulations

This clause increases the maximum penalties and expiation fees that may be imposed by the regulations.

Part 4—Amendment of *Road Traffic Act 1961*

30—Amendment of section 45A—Excessive speed

This clause increases each penalty for excessive speed offences by $500.

31—Amendment of section 47—Driving under the influence

This clause increases each penalty for DUI offences by $400 (unless the relevant vehicle was not a motor vehicle, which increases by $200).

32—Amendment of section 47B—Driving while having prescribed concentration of alcohol in blood

This clause increases each penalty for driving while having the prescribed concentration of alcohol in blood offences by $400.

33—Amendment of section 47BA—Driving with prescribed drug in oral fluid or blood

This clause increases each penalty for driving while having a prescribed drug in oral fluid or blood offences by $400.

34—Amendment of section 47E—Police may require alcotest or breath analysis

This clause increases each penalty for refusing to submit to an alcotest or breath analysis by $400.

35—Amendment of section 47EAA—Police may require drug screening test, oral fluid analysis and blood test

This clause increases each penalty for refusing to submit to a drug screening test, oral fluid analysis or blood test by $400.

36—Amendment of section 47I—Compulsory blood tests

This clause increases each penalty for refusing to submit to the taking of a blood sample by $400 (other than where the person was not a driver of a motor vehicle, which increases by $200).

37—Amendment of section 47IA—Certain offenders to attend lectures

This clause increases the penalty for failing to comply with an order of the court by $150.

38—Amendment of section 79B—Provisions applying where certain offences are detected by photographic detection devices

This clause increases maximum penalties for owner offences as follows:

(a) if the vehicle appears to have been involved in a red light offence and a speeding offence arising out of the same incident and the owner is a body corporate—an increase of $1,000;

(b) if the vehicle appears to have been involved in a red light offence and a speeding offence arising out of the same incident and the owner is a natural person—an increase of $1,500;

(c) in any other case where the owner is a body corporate—an increase of $2,000;

(d) in any other case where the owner is a natural person—an increase of $1,750.

39—Amendment of section 110AA—Fatigue

This clause increases the maximum expiation fee that may be imposed for certain offences under the regulations to $1250.

40—Amendment of section 110AB—Speed

This clause increases the maximum expiation fee that may be imposed for certain offences under the regulations to $1250.

41—Amendment of section 110AC—Intelligent Access Program

This clause increases the maximum expiation fee that may be imposed for certain offences under the regulations to $1250.

42—Amendment of section 176—Regulations and rules

This clause increases the penalty that may be imposed for an offence against the regulations to $5,000. It also increases the maximum expiation fees that may be imposed under the regulations to $1,250.

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

MOTOR VEHICLES (THIRD PARTY INSURANCE) AMENDMENT BILL

Second reading.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (18:17): I move:

That this bill be now read a second time.

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

Leave granted.

The South Australian Motor Accident Commission (MAC) manages the State's Compulsory Third Party Insurance (CTP) scheme.

Some five years ago a series of reforms arising from the Tort reform amendments were made to the CTP scheme. Since that time it has become clear that further improvements are required to improve the equity and social responsiveness of the scheme whilst also contributing to the Government's broader road safety agenda.

As a result, MAC in consultation with its key stakeholders and partners has developed a series of legislative amendments. These amendments are not considered major and do not seek to limit the benefits payable to genuinely injured road users.

The amendments are summarised as follows:

- Recovery from hit and run drivers

  The *Motor Vehicles Act 1959* (MVA) is to be amended to make a 'hit and run' offence under s43 of *Road Traffic Act 1961* (RTA) a breach of warranty under the Policy of Insurance and subject to recovery action under s116 (Nominal Defendant) and s124A of the MVA (insured person).

  Drivers, who fail to stop and give all possible assistance to an injured person following a crash and who fail to report the accident to Police and submit to a drug or alcohol test could become liable to a recovery to MAC or the Nominal Defendant for claims costs. The amount to be recovered will be what a Court 'thinks just and reasonable in the circumstances'.

- Chain of responsibility in heavy road transport

  This amendment will potentially make it easier for MAC to recover claims costs from all relevant persons in the chain of responsibility for a breach of driver fatigue-related laws in the heavy transport industry. Currently there is limited opportunity to recover against persons within the chain of responsibility who are not otherwise insured under the CTP Policy. For example, this could extend to an employer or consignor of goods who effectively induces, procures or rewards an employee to breach the driving hours regulations. It is envisaged that the persons who will fall within the chain of responsibility, as specified in the Regulations, will include the employer, prime contractor, operator, scheduler, consignor, consignee, loading manager, loader and unloader. The amendment will include a right to recover from those persons who have aided, abetted, counselled, procured or induced or been knowingly concerned in, or a party to, the commission of an offence against the *Road Traffic (Heavy Vehicle Driver) Regulations 2008* (Heavy Vehicle Driving Regs), i.e. driving whilst fatigued and failing to comply with the driving hours.

- Excess recoveries

  The MVA is to be amended to increase the Excess amount that is to be recovered where the insured is 25 per cent or more at fault, increasing it to a maximum of $460 and this amount to be indexed annually. If the Excess payment received is within one calendar month of the date of notification it will attract a 5 per cent discount. The Excess has not increased since 1993.

- Recovery for BAC offences

  Currently the alcohol reading threshold for pursuing a recovery for breach of the Policy of Insurance is 0.15 per cent. It is proposed to amend the MVA to reduce the threshold to allow recovery of claim costs where the insured has a proven BAC of 0.1 per cent or more. The legal BAC limit is 0.05 per cent and the recovery level at 0.1 per cent represents a doubling of the limit before a recovery can be pursued under this amendment. The MAC believes this is fair and reasonable and will further contribute as an important deterrent for potential drink drivers.

- Sanctions against non-cooperative insureds and Nominal Defendant's powers to compel uninsured drivers to cooperate

  The MVA is to be amended to insert the requirement for an owner, person in charge or driver of a motor vehicle involved in an accident to provide additional information to MAC following an accident; specifically the name, date of birth, and address of the driver of the vehicle. In addition, a separate amendment will increase the maximum penalty from $250 to $5,000 against these persons who fail to co-operate with the insurer.

- Provision of evidence

  The MVA is to be amended to require a claimant to provide sufficient information to the insurer to enable a proper and timely assessment by MAC (and the Nominal Defendant) of the claim to be made, and to require a claimant to comply with any reasonable request for information. The obligation also extends to a claimant verifying any information by statutory declaration, if required.

- Exposure of CTP Fund to 'International Forum Shopping'

  The MVA is to be amended to limit the liability of the SA CTP scheme in the event of an enforceable foreign judgment being made against a motorist insured by MAC.

  It should also be noted that several interstate CTP schemes have similar legislation, for example, Queensland and NSW.

  Should the CTP scheme in SA not have similar protection, it could potentially be exposed to substantial risk which will undermine the solvency of the scheme.

- Assessment for Non-economic Loss Damages

  Section 52(2)(a) of the *Civil Liability Act* is to be amended to reinforce the proportionality intention of the non-economic loss points scale and to provide an example to serve as a constant guide on the application of the scale.

MAC maintains that reinforcing the intention and the proper application of the non-economic loss scale is critical to the viability of the CTP Scheme.

- The meaning of the expression 'caused by or arising out of the use of', a motor vehicle

The MVA is to be amended to maintain the parameters which define the scope of the CTP cover insofar as deciding what injuries or death were 'caused by or arising out of the use of a motor vehicle'. This will exclude bodily injury or death being caused by the displacement of goods while a motor vehicle is being loaded or unloaded; or as a result of the unintended movement of a vehicle whilst being serviced, displayed, restored or equipped.

MAC is of the opinion that various decisions have been handed down by the Courts over the years that are gradually widening the scope of the CTP coverage. The consequence is that the CTP scheme is being further exposed to an increased liability, which must ultimately be borne by the motorists. The proposed amendments seek only to maintain the parameters of the cover.

These amendments are important to the long term viability of the CTP Fund.

They are intended to assist the CTP Scheme's social responsiveness and protect SA motorists from future possible premium increases driven by escalating liabilities caused by driving behaviours and attitudes that are considered socially unacceptable.

In addition, an important amendment relating to the awarding of damages under foreign judgements substantially reduces the very real risk of exposure that our Fund has to large claims in other overseas jurisdictions.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Operation of the measure is to commence on a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Motor Vehicles Act 1959*

4—Amendment of section 99—Interpretation

This clause introduces a number of new definitions into the interpretation provision for Part 4 of the *Motor Vehicles Act 1959*, which sets out the third party insurance scheme.

A *heavy vehicle driver fatigue scheme* is a scheme for the management of fatigue in drivers of regulated heavy vehicles. The term *regulated heavy vehicle* is defined by reference to section 110AA of the *Road Traffic Act 1961*. A definition of *parties in the chain of responsibility* is also inserted. A person is a party in the chain of responsibility in relation to a regulated heavy vehicle if the person falls within the chain of responsibility in relation to the vehicle as specified by regulations made for the purposes of the definition. A *relevant offence* against a heavy vehicle driver fatigue scheme is an offence consisting of driving whilst fatigued or exceeding the allowable work time for a driver or failing to have the required rest time for a driver.

Other amendments are made to section 99 for the purposes of clarification and consistency. Examples are added to subsection (3). That subsection provides that, for the purposes of Part 4 and Schedule 4, death or bodily injury will be regarded as being caused by or as arising out of the use of a motor vehicle only if it is a consequence of the driving of the vehicle, the vehicle running out of control or a person travelling on a road colliding with the vehicle when the vehicle is stationary, or action taken to avoid such a collision. The subsection as amended will include examples of situations that would not be expected to fall within the ambit of subsection (3). Those situations are:

- death or bodily injury caused by or arising out of the displacement of goods while a motor vehicle is being loaded or unloaded;
- death or bodily injury caused by or arising out of the unintended movement of a motor vehicle while the vehicle is being displayed, serviced, repaired, restored or equipped.

5—Amendment of section 116—Claim against nominal defendant where vehicle uninsured

Section 116 provides for the making of claims against the nominal defendant if a vehicle is uninsured.

Subsection (7) of section 116 currently provides that if a sum is properly paid by the nominal defendant in respect of death or bodily injury for which the driver of an uninsured vehicle was wholly or partly liable, the nominal defendant may, if the driver drove the vehicle while there was present in his or her blood a concentration of .15 grams or more of alcohol in 100 millilitres of blood, recover from the driver the sum paid by the nominal defendant together with costs. Under subsection (7) as amended by this clause, the nominal defendant will be

entitled to recover that sum, in addition to costs, if the concentration of alcohol present in the driver's blood was .1 grams or more in 100 millilitres of blood.

Proposed section 116(7aa) provides for the recovery from an uninsured driver of a sum properly paid by the nominal defendant if the driver was wholly or partly liable for the death or bodily injury in relation to which the sum was paid and he or she—

- committed an offence against section 43 of the *Road Traffic Act 1961*; or
- if the uninsured vehicle was a regulated heavy vehicle—committed a relevant offence against a heavy vehicle driver fatigue scheme.

In this case, the nominal defendant is entitled to recover the sum paid by the nominal defendant, or such part of that sum as the court thinks just and reasonable in the circumstances, together with costs. A person will be taken to have committed an offence against section 43 of the *Road Traffic Act 1961* or a relevant offence against a heavy vehicle driver fatigue scheme only if the person has been found guilty of the offence.

Under subsection (7a) as amended by this clause, a finding of a court in proceedings for an offence as to whether the driver of an uninsured vehicle is guilty of an offence against section 43 of the *Road Traffic Act 1961* or a relevant offence against a heavy vehicle driver fatigue scheme will be treated as determinative of the issue in an action by the nominal defendant under section 116.

Proposed new subsection (7ac) will provide for recovery by the nominal defendant from a party in the chain of responsibility in respect of an uninsured regulated heavy vehicle if the party aided, abetted, counselled, procured or induced, or was knowingly concerned in, or a party to, the commission of a relevant offence by the driver of the vehicle. The nominal defendant will be entitled to recover from the party so much of the sum paid or costs incurred as the court thinks just and reasonable in the circumstances. The question of whether a person has aided, abetted, counselled, procured or induced, or been knowingly concerned in, or a party to, the commission of a relevant offence is to be determined on the balance of probabilities.

Under proposed subsection (7ae), if an accident caused by, or arising out of the use of, an uninsured regulated heavy vehicle results in the death of, or bodily injury to, a person, a party in the chain of responsibility in relation to the vehicle must not persuade or attempt to persuade the driver of the vehicle to contravene or fail to comply with an obligation owed by the driver to the nominal defendant. A maximum penalty of $10,000 is fixed. (A similar offence is to be inserted into section 124A.)

Proposed subsection (7e) provides that a court before which an action is brought for recovery from a person of a sum paid by the nominal defendant must, if the court is to determine the amount that it is just and reasonable in the circumstances for the nominal defendant to recover from the person, take into account the extent to which the person contributed to or is otherwise responsible for the liability to which the claim or judgment relates. The court is also to take into account any other matter considered relevant by the court.

6—Amendment of section 118B—Interpretation of certain provisions where claim made or action brought against nominal defendant

Section 118B provides for certain prescribed provisions of the *Motor Vehicles Act 1959* to be taken to apply where a claim is made or an action is brought against the nominal defendant. This clause expands the list of prescribed provisions to include new sections 124AA, which relates to limitation of liability in respect of foreign awards, and 127AB, which imposes certain obligations on claimants.

7—Amendment of section 124—Duty to cooperate with insurer

Under section 124, there is a requirement for written notice of various listed matters to be given to the insurer if a motor vehicle accident results in death or bodily injury. This clause amends section 124 by expanding the list of matters to include the name, date of birth and address of the driver of the motor vehicle at the time of the accident.

Section 124(3a) provides that a person who at the time of a motor vehicle accident that results in death or bodily injury to another was the owner, the person in charge, or the driver, of the motor vehicle must cooperate fully with the insurer in respect of a claim made in respect of the accident. The maximum penalty for a failure to comply with the section is currently $250. This clause increases the maximum to $5,000.

8—Insertion of section 124AA

This clause inserts a new section relating to limitation of liability where damages are awarded by a foreign court. The section will only apply to actions brought in foreign courts. For actions brought in courts of another state or territory of Australia, the general law and rules should continue to apply.

124AA—Limitation of liability in respect of foreign awards

Proposed section 124AA(2) provides that any limitation on liability for damages for death or bodily injury arising out of the use of a motor vehicle that is relevant to the operation of Part 4 (which sets out the third party insurance scheme) and the degree of liability under the policy of insurance under Schedule 4 is a substantive law of South Australia. It is made clear in the section that this includes, but is not limited to, the *Civil Liability Act 1936*. The limitation is intended to apply in relation to any action that arises out of the occurrence of the death or bodily injury. This is the case irrespective of where the death or bodily injury occurred and despite the fact that the court before which the action is brought would not ordinarily apply or take into account South Australian law.

The section further provides that if a court other than a South Australian court awards an amount of damages to a person in excess of an amount that would have been awarded before a court of South Australia, and the insurer is liable to pay the amount awarded, the insurer is entitled to recover the excess from the person to whom the amount is awarded. The section also provides that the insurer may set off the excess against any payment to be made to that person.

As mentioned above, the section only applies in relation to actions brought before courts of another country or state, other than a state or territory of Australia.

9—Amendment of section 124A—Recovery by insurer

Section 124A provides for the recovery of sums paid by an insurer from the insured if the insured has contravened or failed to comply with certain terms of the policy of insurance. Currently, as is the case for the nominal defendant under section 116, the insurer can recover from a driver who drives a motor vehicle while there is present in his or her blood a concentration of .15 grams or more of alcohol in 100 millilitres of blood. This clause lowers the relevant concentration from .15 grams or more of alcohol to .1 grams of alcohol.

As a consequence of an amendment made to section 124A(2), the insurer will be able to recover so much of the money paid or costs incurred in respect of a liability as a court thinks just and reasonable if the insured person contravened or failed to comply with a term of the policy of insurance by committing an offence against section 43 of the *Road Traffic Act 1961* or a relevant offence against a heavy vehicle driver fatigue scheme.

A finding by a court as to whether or not a person is guilty of an offence against section 43 of the *Road Traffic Act 1961* or a relevant offence against a heavy vehicle driver fatigue scheme will be treated as determinative of the issue in an action by the insurer under section 124A. A person will be taken to have committed an offence against section 43 of the *Road Traffic Act 1961* or a relevant offence against a heavy vehicle driver fatigue scheme only if the person has been found guilty of the offence.

The section as amended will also provide for recovery from a party in the chain of responsibility in relation to a regulated heavy vehicle if the party aided, abetted, counselled, procured or induced, or was knowingly concerned in, or a party to, the commission of a relevant offence against a heavy vehicle driver fatigue scheme by an insured person to the prejudice of the insured.

This clause also inserts a new offence. Under proposed subsection (6), if an accident caused by, or arising out of the use of, an insured regulated heavy vehicle results in the death of, or bodily injury to, a person, a party in the chain of responsibility in relation to the vehicle must not persuade or attempt to persuade the driver of the vehicle to contravene or fail to comply with an obligation owed by the driver to the insurer. A maximum penalty of $10,000 is fixed. A similar offence is to be inserted into section 116.

Proposed subsection (7) provides that a court before which an action is brought for recovery from a person of a sum paid by an insurer must, if the court is to determine the amount that it is just and reasonable in the circumstances for the insurer to recover from the person, take into account the extent to which the person contributed to or is otherwise responsible for the liability incurred. The court is also to take into account any other matter considered relevant by the court.

10—Amendment of section 124AB—Recovery of excess in certain cases

Section 124AB provides for the recovery of an excess from an insured person if the insured's liability arises out of an accident that was to the extent of more than 25 per cent the fault of the insured. Currently, if the money paid and costs incurred by the insurer do not exceed $300, the insurer can recover the amount of the money paid and costs incurred. If the money paid and costs incurred exceed $300, the insurer can recover $300. The section is to be amended by replacing $300 with a prescribed amount of $460, which is to be indexed. A person who pays the excess within 1 month of a first request for payment will be required to pay 95 per cent of the prescribed amount (or, if the total amount paid is less than the prescribed amount, 95 per cent of that lesser amount).

11—Amendment of section 127—Medical examination of claimants

This clause amends section 127(5)(c) for consistency with new section 127AB. If a claimant fails to submit himself or herself to a medical examination by a legally qualified medical practitioner nominated by the insurer, he or she is not entitled to damages or compensation for any period during which the failure continues. This clause amends the relevant provision so that the claimant will not be entitled to damages, compensation, interests or costs while the failure continues.

12—Insertion of section 127AB

This clause inserts a new section.

127AB—Certain requirements in respect of claims

Section 127AB will require a claimant to cooperate fully in respect of his or her claim with the insurer. The claimant will be required to comply with any reasonable request by the insurer for information or to produce specified documents or records. The insurer may require a claimant to verify any information, document or record furnished or produced to the insurer by statutory declaration. Furnishing information, or a document or record, that the claimant knows is false or misleading in a material particular is an offence with a penalty of $50,000 or imprisonment for one year. Also, if a claimant fails to comply with section 127AB, he or she is not entitled, until he or she complies with the section, to commence proceedings or to continue proceedings that have

already commenced in respect of the death or injury. He or she will not be entitled to damages, compensation, interest or costs for any period during which the failure to comply continues.

13—Amendment of Schedule 4—Policy of insurance

Schedule 4 sets out the terms of a policy of insurance for the purposes of Part 4 of the Act. Clause 2 of Schedule 4 lists certain things that an insured person warrants that he or she will not do. Under paragraph (c), a person currently warrants that he or she will not drive the vehicle while there is present in his or her blood a concentration of .15 grams or more of alcohol in 100 millilitres of blood. This clause amends paragraph (c) by substituting '.1 grams' for '.15 grams'. As a consequence of further amendments to clause 2, an insured person will warrant that he or she will not, if he or she is the driver of an insured vehicle when it is involved in an accident in which a person is killed or injured, commit an offence against section 43 of the *Road Traffic Act 1961* (Duty to stop, give assistance and present to police where person killed or injured). An insured person will also warrant that he or she will not, if the vehicle is a regulated heavy vehicle, commit a relevant offence against a heavy vehicle driver fatigue scheme.

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *Civil Liability Act 1936*

1—Amendment of section 52—Damages for non-economic loss

This clause amends section 52 of the *Civil Liability Act 1936*, which sets out rules relating to the awarding of damages for non-economic loss. Section 52(2)(a) provides that, if damages are to be awarded to an injured person for non-economic loss, the injured person's total non-economic loss is to be assigned a numerical value on a scale running from 0 to 60. The first amendment made to the section makes it clear that the scale is to reflect 60 equal gradations that are to be strictly applied according to the severity of non-economic loss. It is further made clear that assignment of a number on the scale is to provide, insofar as reasonably practicable, strict proportionality against the standard between injured persons according to the extent of non-economic loss that has been suffered.

An example is also to be added to paragraph (a).

Part 2—Transitional provisions

2—Transitional provisions

The transitional provisions provide that the amendments made to the *Motor Vehicles Act 1959* do not affect a cause of action, right or liability that arose before the commencement of the amendment. However, new section 124AA(2), which relates to limitation of liability in respect of foreign awards, will apply in relation to any action commenced after the day on which the *Motor Vehicles (Third Party Insurance) Amendment Bill 2010* was introduced.

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

At 18:17 the council adjourned until Thursday 24 March 2011 at 14:15.