LEGISLATIVE COUNCIL

Wednesday 30 October 2013

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 11:01 and read prayers.

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (11:02): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time, statements on matters of interest, notices of motion and orders of the day, private business, to be taken into consideration at 2.15pm.

Motion carried.

MOTOR VEHICLES (DRIVER LICENSING) AMENDMENT BILL

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (11:03): Obtained leave and introduced a bill for an act to amend the Motor Vehicles Act 1959. Read a first time.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (11:03): I move:

That this bill be now read a second time.

This bill amends the Motor Vehicles Act 1959 to enable the minister to issue exemptions from certain licensing requirements of the act for Aboriginal people living in remote communities—initially, the Anangu Pitjantjatjara Yankunytjatjara lands (known as the 'APY lands') and the Maralinga Tjarutja lands, but with the capacity to prescribe other areas by regulation, should the need arise.

The requirements of the current driver licensing system present many obstacles to people in remote and Indigenous communities. Currently, only an estimated 17 per cent of eligible Aboriginal people living on the lands hold a valid driver's licence, in comparison with the state's licensing rate among eligible non-Aboriginal people of almost 90 per cent. Similar low participation rates apply in other remote Aboriginal communities.

Extensive research on this issue, conducted by the Department of Planning, Transport, and Infrastructure, Austroads and various state and territory governments, shows there is overwhelming evidence that the current driver licensing system often provides insurmountable regulatory and financial obstacles to Indigenous people gaining and retaining a driver's licence.

Aboriginal people living in remote communities face a number of issues that are not faced by those in urban areas, including: graduated licensing scheme requirements that are prohibitively expensive and onerous to comply with in remote communities; a lack of qualified supervising drivers due to the low licensing rate; access to registered roadworthy vehicles for learner drivers, especially for learner drivers who are trying to obtain their 75 hours of supervised driving; difficulties in undertaking a practical driving test due to the booking requirements; difficulties acknowledging notices of disqualification; problems understanding driver licensing related communication due to language difficulties; and the overall complexity of the driver licensing system.

As a result of these obstacles, the low rates of driver licensing exacerbate various social issues arising in remote Aboriginal communities. Evidence suggests that the lack of mobility acts as a barrier to employment and creates difficulties accessing healthcare facilities, schooling, sporting and social events. Data nationally also suggests that Aboriginal people are already significantly overrepresented in road crash statistics, and without a driver's licence the likelihood of incurring financial penalties and interactions with the justice system for minor traffic and regulatory offences increases.

Given the social costs and the fact that Aboriginal people living on the lands are not progressing through the graduated licensing scheme to a full driver's licence at acceptable rates,

the government proposes to assist them to obtain or regain a driver's licence by reducing existing barriers by means of an exemption scheme. The proposed exemption power would only apply to licensing provisions in part 3 of the Motor Vehicles Act surrounding eligibility for a learner's permit or provisional licence.

Depending on age and previous driving experience, an exemption may be granted to enable a person to complete a reduced number of hours of supervised driving for a learner's permit or spend less time on a P1 or P2 licence. Conditions could be placed on an exemption to ensure that road safety is not being compromised. All licence conditions and road traffic laws, including offences and disqualifications, would continue to apply to drivers once licensed.

A ministerial policy would guide the issue of exemptions. Initially, the exemptions would only apply to a small number of members of the local community who are not currently disqualified or subject to Mandatory Alcohol Interlock Scheme conditions and are selected by community elders. It is anticipated that in 2014 a road safety education and intensive driver training program would be established on the lands, based on the DriveSafe NT remote program. The Northern Territory DriveSafe program has issued 894 learner's permits and 217 provisional licences during the past 18 months, and it has been an overwhelming success.

In addition, community support for parents and other community members would be provided to help them understand the requirements of the licensing system and support participants in the driver training program. The ministerial policy that will guide the operation of the exemption scheme will be evaluated after four years to determine its effectiveness both in road safety outcomes and in terms of access to licensing for Aboriginal people living in these remote communities.

It is anticipated that the exemptions will have a significant positive impact on the lands by allowing community members to take advantage of employment opportunities, to more easily access healthcare facilities in Alice Springs, to access social, sporting and community events and, importantly, to reduce instances of debt and incarceration that have arisen due to difficulties arising from the current licensing system in remote communities. I commend the bill to members.

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

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 October 2013.)

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (11:09): I understand that there are no further second reading contributions to this bill and, by way of summarising, I wish to thank honourable members for their contributions and for their indications of support for the bill's passage through this chamber.

In making their contributions, a number of honourable members raised issues such as statutory reviews of a code of practice, the application of lockout provisions in the late night code of practice to the Casino, and the regulation of entertainment in licensed premises that are to be the subject of amendments in the committee stage. I think it best, obviously, that we deal with those particular issues in the context of the amendments at the appropriate time in the committee stage.

One issue I would like to deal with before we do go into committee is one raised by the Hon. Kelly Vincent. The Hon. Kelly Vincent notes that clauses 5 and 25 of the bill introduce amendments to the offence of serving or supplying intoxicated persons. As with the current offence, the amended offence provision defines intoxicated by reference to whether a person's speech, balance, coordination or behaviour is noticeably impaired. If I understand the Hon. Ms Vincent's concern, it is that untrained staff may wrongly assume that a person whose speech, balance, coordination or behaviour is affected by a disability is intoxicated and could refuse them service.

The Hon. Ms Vincent has asked that the government and the Australian Hotels Association ensure that staff receive training to assist them to distinguish between a person whose speech, balance, coordination or behaviour is affected by alcohol or drugs and a person with a disability. The government is advised that a number of the larger organisations providing training in response

to service of alcohol in this state, including the AHA and Clubs SA, do not include in their training instructions on how to distinguish between a disability and intoxication.

If this becomes a problem, it may be that the government and the liquor industry will need to look at some form of mandated training in this area. However, as the larger training providers are clearly moving to incorporate disability training into their RSA courses, the government believes a watch and wait strategy is best at this stage. Again, I would like to thank honourable members for their support for the bill and look forward to discussing those other issues raised during the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: I just want to address some general procedural issues at clause 1, and I seek guidance from the minister and others. Arriving in this chamber just 10 minutes ago, I note what would appear to be three new amendments that have been filed this morning by both the government and the Hon. Tammy Franks. The Hon. Tammy Franks' office at least had the courtesy, just before 11, to email her second draft of amendments, which I obviously have not had a chance to look at yet or, indeed, have any consultation with stakeholders.

On arriving in the chamber, as I understand it, there appeared to be two new sets of amendments from the minister, one which was drafted at 9.47am this morning and tabled at 11, which I have not seen, and another one drafted at 9.45am this morning, which would appear to be an amendment to an amendment from the Hon. Mr Brokenshire. Again, I have not seen them or had the opportunity to consult with the shadow minister responsible for the bill, and I have not had an opportunity to consult with stakeholders in relation to the impact of the amendments and what they are seeking to achieve and, indeed, what our attitude and the attitude of stakeholders will be.

In relation to the Hon. Ms Franks' amendments, as the cover note from her office indicates, whilst it is broadly the same intention as her original amendments, there are obviously some important changes to them in relation to limiting, in parts, the operation of her amendments. Again, I have not had an opportunity to read the amendments or have a discussion with stakeholders in relation to the drafting of the amendments.

I know there are two separate issues here. One is that Liberal Party at one stage flagged the final passage of this legislation should not pass until after the court proceedings on Friday. The government and other members have a different view from that, and obviously that will need to be determined today or tomorrow, prior to Friday's court proceedings. I have no idea how the majority of members in this chamber will vote on that particular issue. What I am arguing is that that issue should be addressed separately; that is, if a majority of members insist that before we get up tomorrow afternoon this bill has to be finally resolved, that ultimately is a decision for the majority of members in this chamber.

However, the point that I want to raise here and why I flagged that I intend to move to report progress at least for this morning is that it is entirely unacceptable, I would hope to all members in this chamber, irrespective of how they might vote on whether or not we debate the whole bill this week or the next sitting week, to force the consideration of amendments we have not seen, have not discussed, or had an opportunity to look at this morning. It is completely unacceptable in terms of the normal practice of this chamber and it is also unacceptable in terms of good legislative practices.

We do have some options. The house clearly can sit this evening, and if there is a majority view that we want to insist that these particular amendments be considered this evening, that would at least give those of us—and I am not sure how many others there are—who have never seen the government amendments and have only just seen the Hon. Tammy Franks' further amendments to her own amendments as of 11 this morning an opportunity, first, to read them, and then do some urgent consultation before being forced into a position of having to vote on the issue.

It would be my preference that the minister and other members would see the good sense at least in the second part of the argument that I have just put, that is, reporting progress this morning to allow members to at least read the amendments and do some consultation. I am sure that does not lock members into a position in relation to the more difficult issue for some members, and certainly one that will not be supported by the government, which is to delay the final consideration of this bill until the next sitting week. What I am suggesting is that it be broken down

into two stages and I would hope there would be acceptance by the government and the majority of members. At least this morning members should be given the opportunity to try to understand what it is that the government is doing.

If the government was agreeable, it might be useful to have the government outline on the record at clause 1 what their two amendments are meant to do so that we can understand what the government is doing. The Hon. Tammy Franks might also want to indicate at clause 1 what her new amendments are seeking to do. That way all of us can hopefully report progress, and if need be come back this evening to further consider debate on both the amendments and the other amendments which have been on file and I am sure all members are in a position to debate.

The Hon. G.E. GAGO: The government has indicated that liquor licensing is its number one priority for this sitting week. We indicated our priority for progressing through committee stage for yesterday's sitting and the Liberal opposition indicated that it was not ready. I understand the reason that it gave was that it was not going to progress it until the court case had been completed, so we have delayed it a full day.

We indicated quite clearly that it was our number one priority for today. We have come in this morning to progress the government's priorities. We take liquor licensing and the consequences of alcohol abuse very seriously, and this is a significant piece of legislation which we wish to progress today and this morning. In terms of the amendments, the government's amendments are quite minor. They are consequential on the Hon. Robert Brokenshire's amendments and if the Hon. Robert Brokenshire's amendments do not get up then these amendments will not be progressed. One is a drafting issue and the other addresses a minor technical problem, but I am happy to give a little bit more detail here.

Amendment No. 1 most recently filed, addresses a minor drafting issue with the Hon. Robert Brokenshire's amendment to clause 6. This amendment deletes subclause (3) from clause 6 of the bill which inserts a new paragraph after paragraph (e) into section 11A(2). The Hon. Robert Brokenshire's amendment No. 1 deletes section 11A(2) (to which new paragraph (ea) relates) and replaces it with an entirely new subsection. As I have indicated, it does address a very minor technical drafting issue.

The second amendment is consequential upon the Hon. Robert Brokenshire's second amendment which validates a code of practice published before the date the amendment commences. The Hon. Robert Brokenshire's validation provision provides that a code of practice published before the commencement of the clause will be taken to be valid and always to have been valid if the code of practice or provision would have been valid had it been published under section 11A, as amended by the bill.

In order to be valid under section 11A (as amended), a code must have been the subject of prescribed consultation. Consultation on both the late night and general codes of practice was extensive, but was carried out before the new consultation requirements imposed by the Hon. Mr Brokenshire's amendments were known. This raises a possibility that someone wishing to challenge the validity of the late night code will argue that the consultation carried out by the commissioner in his office, although extensive, could not have complied with the new requirements.

To put the matter beyond doubt, government amendment No. 4 inserts a new subclause (1)(a) into clause 3 of schedule 1. This new subclause makes it clear that the consultation requirements in new subsection (4a) of section 11A do not apply to the code published before those provisions commenced.

The Hon. R.I. LUCAS: The minister has indicated that this bill is a priority for the government for this week, and the opposition acknowledges that that is what the government has indicated. I have said that this issue as to whether it is debated this week or next week can be, in my view, a separate issue determined by the majority in this council. However, the minister incorrectly put the opposition's position yesterday.

The opposition's position yesterday was in two parts, again. That is, our general position was that we did not want to see this bill determined until the next sitting week, and we accept that the government has a different view on that. In relation to progressing it yesterday, the government says that the reason we did not want to do it yesterday was that we wanted to put it off until the next week. As I said, that is in part correct, but the second part is inaccurate. That is, that the Hon. Tammy Franks said to us yesterday that she was looking at amending her amendment and, if we were going to do the committee stage yesterday, we actually had not seen the Hon. Tammy Franks' amendment, and that was not available until 10:23 this morning. It is a nonsense for the

minister to indicate that the government could have proceeded yesterday because we did not have the Hon. Tammy Franks' amendment, so there was no delay by the Liberal Party yesterday. We did not have an amendment from the Hon. Tammy Franks.

The second point I make is: the minister says that she wanted to do it yesterday, but she did not table the two amendments from the government until this morning. They were not actually produced by parliamentary counsel until 9.45am and 9.47am today. How does the minister justify this furphy that they were going to proceed yesterday? These two particular amendments were not even filed by the government yesterday. The government was not ready to debate the bill yesterday because the government did not table its amendments. We did not see the amendments until 11 o'clock this morning. So, let's not be led down the garden path by the minister's claim that the government was ready to debate the bill yesterday, because they did not table their amendments until 11 o'clock this morning.

The Hon. T.A. FRANKS: For the benefit of the council, I rise to address my two sets of amendments, both of which reflect my private member's bill, which has been on the *Notice Paper* since 2012. Indeed, many members would have received a significant number of emails, particularly from Raise the Bar and Save Live Australia's Music, about it.

My amendment to remove the entertainment consent provisions currently under the act, under section 105, has been a long-held campaign. It is well known to those stakeholders. I have briefed several opposition spokespeople in this area on this issue. The fact that I have filed an amendment this morning to tweak the amendment, in consultation with the government, to simply pare it down a little, is something I could have moved on the floor in the debate. However, I thought, for the sake or clarity, that I would file the amendment to specify that, in agreement and in consultation with the government, I am happy to accept a compromise position on removing the entertainment consents not in their totality but between the hours of 11am and midnight, as currently now exists for the small venues licence.

Indeed, when that small venues licence passed this place with great acclaim, it was heralded as a move that could be embraced by other licensees to enjoy the removal of those entertainment consent provisions. In the same way that small venues licensees can now operate free of the burden of the entertainment consents between 11am and midnight, this amendment will replicate that circumstance for other licensees who do need to obtain entertainment consent as a condition of their licence or, indeed, in the CBD or declared entertainment precincts, licensees may be able to have that regulatory and red-tape burden lifted from them between the hours of 11am and 2am.

It is not 24 hours a day. As the Greens' advocate, I would have been happy to remove the 'culture cops' from liquor licensing laws and have that operate 24/7. However, I am happy to agree to compromise with the government, which will have to implement this amendment should it pass. I am happy not to have to progress debate on my private member's bill, given the opportunity of this particular revision of the act before us. Certainly, it is something that has been endorsed by the AHA.

My current set of amendments have been made in consultation with the AHA. This move to remove the entertainment consents from liquor licensing has been supported by the AHA, Music SA, the Musicians Union, Save Live Australia's Music and Raise the Bar. I have to say, when all of those groups can agree on something, when the AHA, Music SA and Save Live Australia's Music can agree on something, then I think we actually have an amendment worth debating on this bill. The amendment I have tabled this morning simply tweaks the hours that it will apply to 11am through to midnight or 2am inclusive.

If the Liberal opposition would like to support my first set of amendments in totality then I am happy to proceed with that, although I think the writing was on the wall. The indication I had was that the opposition was not looking to support my first set of amendments. Certainly, if the government was willing to support a pared back set of amendments then that is what I have put before the council today in the hope that it might actually pass. This debate has been before the council since 2012. It is not a new issue and there is certainly no excuse to hold the debate on the bill before us.

The Hon. R.I. LUCAS: As I have said, I am putting aside the issue of whether we debate the whole bill this week or next week. I am arguing that that is a separate argument. All I am going to indicate at this stage is that if members in this chamber are going to force a vote on these particular amendments when, as the person handling the bill for the Liberal Party who does not

actually handle the portfolio area, so it is not my responsibility, has had no chance to read them, has had no chance to speak to the shadow minister in relation to them and has had no chance to speak to one or two of the key stakeholders before resuming the debate tonight, well then they will be the new rules.

If that is going to be the arrangement in relation to forcing people to vote on an issue when they are not in a position to adequately represent the views of their party on the floor of the chamber then so be it, they will be the new rules as we move forward. I think it would be unfortunate if that was the case, but so be it if that is going to be the view from henceforth in relation to this particular issue.

Can I also say that I hear from the minister that this is just a technical change. The Hon. Tammy Franks says this is just a tweaking. From my experience in this parliament in relation to liquor licensing, it is the technical changes, the tweaks, the minor amendments, etc., that end up being litigated and causing all of the grief and the problems in liquor licensing law in South Australia. So, with the greatest of respect to the minister and members who say to me, 'This is just a technical issue. It's consequential,' or, 'It's a tweak,' I am not disputing that; it may well be, after we have had a chance to look at it.

There have been many examples when this chamber and the parliament have been told, 'Well, this is just consequential, it's just technical, it's just a tweak and you should just accept our assurance in relation to it.' As I said, it is not as if, in relation to this particular debate, we are saying, 'Okay, we don't accept that in the end the majority in this chamber might force a vote on these issues this evening, in this evening's session, that is, in the same day, on this particular issue.' Then, at least, the opposition and those members who do want to be briefed on it will have a number of hours to have a look at it and to prepare for it.

There are two issues. We take the position, which we have explained, that at some stage we will test as to whether or not the whole bill should be debated before Friday or not. That is not the argument I am putting at this stage. This issue about being technical and tweaking is completely unacceptable to those of us in the Liberal Party. As I said, if it is to become the law of the jungle from here on that the majority of people, if they have a view and they can jam an amendment on at 11 o'clock in the morning that no-one has seen and then just say it is technical and a tweaking and then say, 'We are now going to jam this through,' if the law of the jungle is going to prevail here in the committee stage, then let the buyer beware.

The Hon. G.E. GAGO: The Hon. Rob Lucas is being overly dramatic. No-one is setting any new rules here. The government has established this bill as its highest priority for this sitting week. We have delayed it a day because of the Liberal opposition.

Members interjecting:

The Hon. G.E. GAGO: We would have been ready. We were willing to progress it. We failed to progress it yesterday because the Liberal opposition refused to progress it. So it is on the list today as a priority. These are minor amendments—

Members interjecting:

The CHAIR: Order! The Hon. Mr Lucas and all other contributors were heard in silence. Minister.

The Hon. G.E. GAGO: —and we will have as much time as we need through the committee stage today (this morning and this evening), however long we need to debate this during the committee stage. Honourable members will have ample time to discuss and consider and question this, but the government takes this piece of legislation extremely seriously. We have indicated that it is our priority to progress this matter this sitting week, and we intend to progress it this morning.

The Hon. A. BRESSINGTON: I am inclined to support the view of the Hon. Rob Lucas. We have had these sorts of stoushes before, about late amendments being dropped on us. I can actually remember when the Hon. Mark Parnell was the only Green in here and at times he would kick up a stink because we could not be on top of these amendments and understand what they were about when they came in at quarter to midnight all the time. Now that there are two Greens in the council it seems that the pressure is off.

I have not had an opportunity to look at the Hon. Tammy Franks' amendments, I have not had a chance to look at the government's amendments, and I am not prepared to proceed based

on the assurances of either the minister or the Hon. Tammy Franks. As the Hon. Rob Lucas says, the devil is always in the detail. No doubt, in times gone by, when we have allowed late amendments to be debated and supported, it has never gone smoothly. So, I would be inclined to ask the government to please reconsider, and I will be supporting the Liberals' call to have this at least postponed until later in the day to give the Liberals time to consider what their position would be, as well is myself.

The CHAIR: The Hon. Mr Brokenshire.

The Hon. R.L. BROKENSHIRE: I gather I am not talking to my amendments at this point.

An honourable member: We are on clause 1.

The Hon. R.L. BROKENSHIRE: Yes. All I would say on the amendments at this point is that obviously, as I have indicated to colleagues and as I have put in writing over a week ago, the amendment that we have put up needs to be debated this week.

The Hon. A. Bressington: It's not about your amendment. It's about the government's late amendments.

The Hon. R.L. BROKENSHIRE: Yes, I know. The fact of the matter is that we have been ready to debate this for some time. I indicated that to my colleague the Hon. Rob Lucas yesterday so, in this instance, we would be supporting the government because we think everyone needs to get on and get this sorted out one way or another.

The Hon. J.A. DARLEY: I have listened to the comments of the government, the Hon. Tammy Franks, the Hon. Ann Bressington, the Hon. Rob Brokenshire and also the Hon. Rob Lucas and I would be more than happy to come back tonight and consider the bill.

The Hon. R.I. LUCAS: If no-one else wants to speak, I move:

That progress be reported.

The committee divided on the motion:

AYES (8)

Bressington, A.	Darley, J.A.	Dawkins, J.S.L.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Ridgway, D.W.	Stephens, T.J.	

NOES (11)

Brokenshire, R.L.	Finnigan, B.V.	Franks, T.A.
Gago, G.E. (teller)	Hood, D.G.E.	Hunter, I.K.
Maher, K.J.	Parnell, M.	Vincent, K.L.
Wortley, R.P.	Zollo, C.	

PAIRS (2)

Wade, S.G.	Kandelaars, G.A.

Majority of 3 for the noes.

Motion thus negatived.

The Hon. R.I. LUCAS: Can the minister indicate the government's intention in relation to the final passage of the legislation, if it is concluded today or tomorrow, in terms of assent and proclamation?

The Hon. G.E. GAGO: I have been advised that proclamation will depend on the success of the Hon. Robert Brokenshire's amendments. If the Hon. Robert Brokenshire's amendments succeed then we will move to proclaim those amendments as soon as possible—so straightaway. I have been advised there are regulations required to support some of the remaining amendments and we will progress with those regulations as quickly as we possibly can.

The Hon. R.I. LUCAS: But I am assuming that the government will partially proclaim those sections of the bill prior to Friday's court case. Whilst the minister says that the intention is as soon as possible, is it the government's intention that the proclamation of these provisions, which have been referred to by the minister as the Brokenshire amendments, will be proclaimed before Friday?

The Hon. G.E. GAGO: I am advised that if we can we will, but we are not particularly confident that we necessarily will be able to do it in that time frame.

The Hon. R.I. LUCAS: That would be my understanding, that it would be extraordinarily difficult to conclude it before Friday. If that is the intention, what is the legal impact then on the position of the court case? I presume it then continues on Friday on the basis that this legislation has no legal impact—on Friday.

The Hon. G.E. GAGO: I am advised that the codes will be legally valid at the time of proclamation. The codes will be validated at that time and taken to have always been valid.

The Hon. R.I. LUCAS: That was not my question, though. My question was: given that the Brokenshire amendments, as the minister has referred to these particular provisions of the bill, will not be law at the time of the court hearing on Friday—because the minister has indicated it is going to be extraordinarily difficult to be able to proclaim those sections by Friday—is the legal position therefore that the court case will proceed on the basis of the current law and not on the basis of the soon-to-be-proclaimed law at some stage after Friday?

The Hon. G.E. GAGO: Obviously we cannot anticipate the court's decision; however, it is anticipated that the court would make its decision based on existing law and then the codes would be validated post that case once they have been proclaimed.

The Hon. R.I. LUCAS: We have listened for a week or so to the Attorney-General and the government's defenders of the bill saying that these provisions need to be rushed through the parliament because this is going to prevent unnecessary costs and expenses in relation to the court proceedings. The minister has just made it clear, which would seem logical advice that she is receiving now, that the court can only proceed on the basis of the law as it stands, and the law as it stands will not include any potential changes which occur today or tomorrow, including the Brokenshire amendments. Can the minister outline to the house where the savings or the reduction in court costs for individual stakeholders and others is going to accrue, as claimed by the Attorney-General, in relation to the court case on Friday? The minister seems to concede that the court case will proceed on the existing law.

The Hon. G.E. GAGO: That is why the government is doing everything it can in its power to progress this thing today. We would hope to have this completed today so that there is a chance we can have this matter proclaimed prior to the court case. It is our intention to do the very best we can to progress this as quickly as possible so that it can be proclaimed prior to the case.

The Hon. S.G. WADE: Considering that the minister has indicated to the council that there is a real possibility that the case will be determined on current law, is the government not forgoing the opportunity to actually get the judgement out of the Supreme Court, perhaps get a better understanding of the legislation, so that the Legislative Council in the next sitting week might be able to have not just the benefit of the government's advice and amendments, but also the considered view of the Supreme Court? Then perhaps we do not need to come back to this council again for yet another tweak to the licensing laws.

The Hon. G.E. GAGO: As I have said, it is the government's preference and our priority to finalise these matters prior to the case. That is our intention and that is where all our efforts will be directed.

The Hon. R.I. LUCAS: The minister, on advice, took advice that—*Hansard* will recall the words—it is highly improbable or unlikely that this is going to be able to be proclaimed, even if passed today, prior to the court hearings on Friday. The point that the Hon. Mr Wade has made is entirely on the mark; that is, that many in the community and many members have been led to believe that this was all to be done to prevent this particular court decision being determined under the current arrangements, but the minister is now conceding the reality that that is improbable. It is unlikely. What is going to happen is the decision will be determined Friday on the existing law.

It may well be that this attempt to tidy it up, and whatever else it is, is the appropriate way to tidy it up, but it may well be, as the Hon. Mr Wade indicates, that something comes out of the court decision that indicates to the government and to the parliament that maybe a better way of tidying it up and fixing it is a different set of amendments in relation to it. Heaven only knows we

have seen the government's attempts in relation to a number of other areas where the courts have indicated that the government's thinking has been wide of the mark in terms of resolving the issue.

I will not enter into that particular debate or argument, but in this case what we are now being told is, lo and behold, the court is going to determine the case on the existing law on Friday. That is what is highly likely. That is what is highly probable. We may well confront the circumstances that the Hon. Mr Wade indicated, where we have to come back again for further technical amendments or tweaking, to use the phrases used by the minister and other members in this chamber. That is obviously a decision for the government.

I can only repeat that the minister claims that the government was ready to proceed yesterday. Let the *Hansard* record that that is not true. The government was not able to proceed yesterday because it did not table its amendments until about 10 o'clock this morning. So, how can the minister can keep a straight face and say that the government was ready to proceed yesterday, when two further amendments, moved by the government to their own legislation, were not moved until this morning?

How can the minister can keep a straight face and claim that the government was ready to proceed yesterday and that it was only the Liberal Party and other members that prevented them? That is palpably untrue and demonstrated by the fact of the government tabling amendments this morning.

The Hon. G.E. GAGO: The government's intention is to complete this bill today. We believe that it certainly increases our chance of being able to have this matter proclaimed prior to the court case. We indicated those intentions well in advance and the reasons for them. This laborious discussion the honourable member is undertaking is simply the opposition's intent to delay this. The opposition is intent on making sure that this bill is not progressed prior to the court case. It has made its position very clear and it has made its views very clear: it does not want this progressed prior to the court case.

The government does want it progressed for very good reason. We believe we can deliver this prior to Friday, but this would have to be completed today. In my earlier response, I believe I said words to the effect that we are not confident that we will be able to deliver this.

The Hon. R.I. Lucas: You said 'highly unlikely', or 'highly improbable'.

The Hon. G.E. GAGO: I believe I said I am not confident but, anyway, the reason government is not confident we are going to complete this is that we know that the opposition is hell-bent on using every strategy it can, every devious tactic it can, to delay and to stop this, because we know that they are great friends of the industry involved, and their position is quite clear. If we want to deliver these savings, we need to get on with the real debate around the content of this bill and progress it as expediently as possible.

The Hon. S.G. WADE: I appreciate the government would have had advice on the form of words in the amendment itself in relation to liquor licensing legislation. Has the government had specific crown law advice in relation to the issues of the independence of the Supreme Court in making decisions and whether its amendment risks constitutional issues?

The Hon. G.E. GAGO: I have been advised no.

The Hon. R.I. LUCAS: As I said, the minister again in her last contribution repeats an untruth when she indicates that it was that it was the Liberal Party that held up debate yesterday: it was the government that held up the debate yesterday because they did not table their own amendments until this morning. The Liberal Party has not moved amendments this morning: it is the government that has moved two further amendments to their own legislation this morning. The untruthfulness of the statement that the government was ready to proceed yesterday is self-evident to anyone who looks at the facts in relation to the situation.

Again, the point is that as the minister has indicated—and she will not be able to rewrite *Hansard*—her statement based on advice was quite clear that it was either unlikely or improbable, words to that effect, that this will be able to be proclaimed. She went on to answer further questions on advice that it was likely that the decision on Friday would be determined on the current law. The *Hansard* record is clear for everyone so the minister cannot rewrite the *Hansard* record because it is now inconvenient. She has found herself in a corner and it is now inconvenient for her to have answered in that way earlier. But the reality is, her answers are on the record.

My question relates to the government's position on the timing of the proclamation and the determination of the court decision on Friday. The government has tabled amendments today which we will debate the detail of later on, and as I have said, we have not seen them or consulted with them. Can the government indicate whether the two amendments that they have dumped on the table at the last moment today have received consultation with key stakeholders, and if they have, who were they and what were their views?

The Hon. G.E. GAGO: I have been advised no in relation to the first amendment because it is a drafting instruction or drafting issue. I will have to take the second amendment on notice and get back to the honourable member.

The Hon. R.I. LUCAS: Can the minister clarify: given there were two amendments dumped at the last stage, she has referred to one as the first amendment and one as the second. Can she indicate which is the first amendment that was not consulted and which is the second amendment?

The Hon. G.E. GAGO: The first amendment is to delete subclause (3) which is a minor drafting issue. The second amendment is the consequential amendment to the Hon. Robert Brokenshire's amendment.

The Hon. R.I. LUCAS: The first amendment to which the minister refers is the 9.47am amendment and the second amendment is two minutes earlier, which is the 9.45am amendment. Can I clarify that what the minister is saying is that, with the first amendment, there has been no consultation with anyone on this particular issue—any stakeholder or any group in relation to that—and we are to accept her assurances. 'Trust me, we're from the government, we know best: (a) we haven't consulted anybody; (b) none of you saw this until 11 o'clock this morning when you sat in the house; (c) we, together with our fellow travellers in this house, will force you to vote on it this morning.' What a tangled web the government weaves in relation to this particular issue.

Regarding the first one—and the minister has conceded—there was no consultation at all, just 'Trust us, we're from the government; we know best; we're here to help you.' Can the minister clarify the second amendment, which is the 9.45am amendment. The minister said there has been no consultation on the first one, but can the minister clarify with this particular amendment what the consultation was again and who was consulted and what their attitude was to the proposed amendment?

The Hon. G.E. GAGO: In relation to the first amendment, if our amendment is not passed it will refer to a clause that simply will not exist. There is no-one relevant to consult with. It is a technical drafting issue: if not passed, there will be a subclause that will be sitting there in complete isolation because the Hon. Robert Brokenshire's amendment takes the clause out. So, it will relate to a clause that simply will not exist. As I said, it is a minor technical drafting issue. In relation to the second amendment, I have already put on the record that I would need to seek advice on what level of consultation took place.

The Hon. R.I. LUCAS: The minister is the one who is insisting on this being voted on this morning, so how are we to know whether stakeholders, such as the AHA, the individual proponents in the court case, or indeed others, have been consulted on the issue? If the minister wants this bill to be debated this morning, then it is incumbent on her to indicate whether or not there has been any consultation and whether or not there has been support for the amendment.

The opposition is not in a position to consult stakeholders because the government and its fellow travellers in the chamber are forcing a vote on it. So, we are not in a position to consult stakeholders to say, 'Have you seen it? Have you had legal advice on it? Do you accept that it's a technical amendment, a drafting amendment or a tweaking amendment?' It may well be. I am not in a position to argue that it is not. I am not a lawyer. I do not handle liquor licensing for the Liberal Party; I am representing the shadow minister who does.

It is entirely different in a chamber where you are the responsible person on behalf of the opposition who has handled all the negotiations, and this is all foreign ground to me in terms of the detail. I am just representing the views of the Liberal Party and the shadow minister who has handled all the negotiations on the issue. I ask the minister again: is she in a position to indicate to the committee which groups have been consulted and what their attitude has been to the proposed amendments?

The Hon. G.E. GAGO: I have already indicated that I would need to take that question on notice and seek advice. The second amendment is, again, a very minor amendment consequential

on the Hon. Robert Brokenshire's amendment. I have already indicated that I would need to seek advice, and I will bring that information back to the chamber when I have it.

The Hon. R.I. LUCAS: Isn't that lovely? The minister will take advice and bring back an answer when she gets it. So, it may well be that the government and the fellow travellers in this chamber can jam the legislation through before we have even had an opportunity (a) to do any consultation ourselves, or (b) find out whether the government has consulted at all on any aspect of this further amendment, as I said, dumped on the table at 11 o'clock this morning.

Clause passed.

Clause 2.

The Hon. R.I. LUCAS: We were talking specifically about the provisions that might relate to the court case on Friday, but I will now turn to the wider issues. The minister said that there are regulations to be developed. My first question is: will there be consultation with stakeholders in relation to the regulations and what is the government's proposed time frame for the regulations?

The Hon. G.E. GAGO: I have been advised that consultation around the regulations has already commenced and has involved key industry stakeholders, including the AHA. The time frame for, I think the question was the completion of the regulations, again this is a rough estimation, but it could be about a month, as a rough indication.

The Hon. R.I. LUCAS: I accept the government is probably not in a position to know a specific date for the proclamation of the total act, not just the provisions that might have been moved by the Hon. Mr Brokenshire, but is it the government's intention to have the total act proclaimed by no later than the end of this calendar year?

The Hon. G.E. GAGO: I have been advised that we are working with the industry to negotiate on a final date.

The Hon. R.I. LUCAS: The minister is indicating that it is possible, after those negotiations, that the proclamation of the final act will not be until next year. It could be this year, but it could be next year. There is no definite time commitment to have this done before the end of the calendar year.

The Hon. G.E. GAGO: That is what I have been advised.

Clause passed.

Clauses 3 and 4 passed.

Clause 5.

The Hon. T.A. FRANKS: I do not propose to move [Franks-1]; I propose to move [Franks-2] only. Given the indication that I do not believe the amendments [Franks-1] will have the support of this council, I do not propose to waste the time of the council and so indicate that. So, I withdraw [Franks-1].

The Hon. R.I. LUCAS: My question is to the Hon. Ms Franks. Given that I have not had the opportunity to have any consultation in relation to [Franks-2], which was a part of this package of amendments, part of the original package of amendments moved by the Hon. Tammy Franks was this amendment to clause 5 which was to delete the definition of 'entertainment'. The definition of 'entertainment' in the bill was:

entertainment means a dance, performance, exhibition or event (including a sporting contest) calculated to attract and entertain members of the public;

Can I ask—because, as I said, I have not had a chance to read all of the Hon. Ms Franks' new amendment 2—why is the member, in moving from [Franks-1] to [Franks-2], now removing her deletion of the definition of 'entertainment'?

The Hon. T.A. FRANKS: Chair, would it not be more orderly to address the amendment I have when I actually move it? I have withdrawn my amendment No. 1 [Franks-1] and I have just been asked a question on amendment No. 1 [Franks-1], not on amendment No. 2, which we have not come to yet.

The CHAIR: The Hon. Mr Lucas.

The Hon. R.I. LUCAS: The Hon. Ms Franks is obviously entitled to not answer questions at this stage because she has withdrawn her amendment. I accept that. I can put the question

again at a later stage. However, given that we are now passing over this particular provision and given that we are trying on the run and without consultation to understand the tweaking that the Hon. Ms Franks says she has achieved in amendment No. 2, the issue I want to pursue at this stage is this definition of 'entertainment'. Under the definition of 'entertainment' in the bill, it includes a wide variety of entertainment, obviously a dance performance, an exhibition or an event, including a sporting contest calculated to attract and entertain members of the public.

The Hon. Tammy Franks in her original amendment (which we have seen) was removing that particular definition of entertainment, we assume for some reason or purpose. We assume that there must have been some problem with the government's new definition of entertainment according to the member's argument and the stakeholders that she consulted. It is only an assumption because it was removed from the Hon. Tammy Franks' original amendment.

When we come to debate the second part of this package, we note from the amendments that have been tabled only this morning that, on a very quick read, there does not appear to be that provision in the new package. For some reason, the Hon. Tammy Franks, we assume, is now happy with the government's definition in the bill of 'entertainment', whereas in the first amendment she was not. I assume that that is on the basis of stakeholder consultation or somebody saying, 'Hey, if you remove this particular definition there's an unintended consequence or there's a problem.' That was the purpose of the question.

I accept entirely that it the prerogative of the Hon. Tammy Franks not to respond to that particular question during the definition stage, but that is the only part of this bill where we are going to be able to look at the definition of entertainment in particular, because when we get to the insertion of new clause 24A, which I think is the Hon. Ms Franks' new provision, there is no reference to the government's definition of entertainment. So my question to the minister is: has any concern been raised with the government by stakeholders regarding the definition of entertainment as included in the bill?

The Hon. T.A. FRANKS: Given the opposition member's questions and his statement that the government has somehow inserted a new definition of entertainment, I would just like to clarify that there is no new definition of entertainment inserted in this bill. Certainly there is a provision—and I welcome this provision from the government—that now excludes television sets exceeding two metres by two metres square from the current definition of entertainment. That is a very welcome change in this bill. However, there is certainly no new definition of entertainment inserted in this bill. I believe it would be better and more orderly for me to present my amendment when we get to it and then speak to it and address questions.

I can jump at shadows and try to second-guess the opposition questions with regard to entertainment. I would certainly say that my redrafted amendments have the same effect as the original amendments; there has certainly been no backing away from addressing the issues arising from the need for entertainment consents, which have been a red tape regulatory burden on licensees in this state for decades and which have been constantly raised with me. No doubt other members who deal with liquor licensing have had these issues raised, and I look forward to presenting my amendment when we get to it.

The Hon. G.E. GAGO: It just may assist the Hon. Rob Lucas: my understanding around the definition of entertainment is that, in relation to [Franks-1], the definition of entertainment ceased to be relevant, but it remains relevant to [Franks-2]. I think we should stop the filibustering and move on. In relation to a question asked of me about whether concerns were raised with the government, the advice I have received is, no, in terms of the definition of entertainment.

The Hon. R.I. LUCAS: I thank the minister for that. Can the minister indicate then, given that she has given that answer, why it was not relevant in relation to [Franks-2] and was relevant in relation to [Franks-1]?

The Hon. G.E. GAGO: No, it's the other way around. The definition of 'entertainment' ceased to be relevant in [Franks-1], but it remains relevant to [Franks-2], so that is why it was deleted.

The Hon. R.I. LUCAS: My question is the same: what is the reason for the relevance in one amendment and not in the other?

The Hon. G.E. GAGO: I cannot speak for the Hon. Tammy Franks, but the advice I have received in relation to the government's understanding of this is that, in relation to the [Franks-1] amendment, it removed the requirement for the licensee to seek an entertainment consent, so

therefore the definition of 'entertainment' was irrelevant, but in [Franks-2] it only removes the requirement to seek consent of entertainment between certain hours, so therefore the definition remains relevant.

The Hon. R.I. LUCAS: I thank the minister for that explanation. I point out to members that, as I indicated, this is a new definition of 'entertainment' being inserted in the bill, contrary to the assertion by the Hon. Ms Franks. The Liquor Licensing Act indicates:

> entertainment means:
>
> (a) a dance, performance, exhibition or event (including a sporting contest) calculated to attract and entertain members of the public; or
>
> (b) a visual display but not if provided by means of a television screen not exceeding dimensions fixed under the regulations;

So, it is clear that this is a new definition of 'entertainment' being inserted by the government in this bill and does amend the definition of 'entertainment' that is in the act, and there are further definitions on 'live entertainment' and others included in the parent act as well. I thank the minister for her response to the question.

The Hon. G.E. GAGO: It might also assist if I advise the chamber that the AHA requested the amendment to remove the reference to TV screens in the definition.

Clause passed.

Clause 6.

The Hon. R.L. BROKENSHIRE: I move my amendment, which has two parts:

Amendment No 1 [Broke–1]—

Page 4, lines 9 to 12 [clause 6(1)]—Delete subclause (1) and substitute:

(1) Section 11A(2)—delete subsection (2) and substitute:

(2) Without limiting the matters that may be included in a code of practice, a code of practice may include measures that can reasonably be considered appropriate and adapted to the furtherance of the objects of this Act.

(1a) Section 11A—after subsection (4) insert:

(4a) The Commissioner must, before making or varying a code of practice, undertake consultation (in such manner as the Commissioner thinks fit) with persons or bodies that the Commissioner is satisfied represent the interests of licensees affected by the proposed code or variation.

The CHAIR: You may speak to both as well.

The Hon. R.L. BROKENSHIRE: Last week or it may have been the week before—it probably was the week before—I sent a detailed paper to colleagues in the Legislative Council relevant to these amendments. The purpose of this amendment is to simplify the working of the powers under the act and work hand-in-hand with my second part, which is not consequential on this amendment. The commissioner could have power to introduce codes in this area. As I said, I sent a memo to MLCs on 15 October explaining the rationale for this amendment so I will not go into that now unless members want me to. The AHA has indicated opposition to this aspect and I accept the council's view in relation to the amendment. The second part of the first amendment (to insert new subsection (4a)) states:

> The Commissioner must, before making or varying a code of practice, undertake consultation (in such manner as the Commissioner thinks fit) with persons or bodies that the Commissioner is satisfied represent the interests of licensees affected by the proposed code or variation.

The intention of this aspect of the amendment is for certainty and the comfort of licensees that they will have to be consulted at law if there are future changes to the code. Family First accepts the economic interest licensees have in being consulted. As I indicated, this is not consequential on the earlier part but stands alone. I have moved that two-part amendment in my name, and that is all I have to say at this stage.

The Hon. G.E. GAGO: The government rises to support both parts of this amendment. In relation to amendment No. 1 the honourable member would be aware that the commissioner's late night trading code of practice is subject to legal challenge. I can advise that the current restrictive wording in section 11A(2), which sets out the measures that can be included in the code of practice, is central to the plaintiff's case. This amendment replaces subsection (2) with the

straightforward provision that provides that a code of practice may include measures that can reasonably be considered appropriate and adapted to the furtherance of the objects of this act.

We believe this is a sensible approach. The objects of the Liquor Licensing Act are set by parliament and it is the government's opinion that it is entirely reasonable that the commissioner's power to regulate licences through a code of practice extends to measures to promote compliance with the provisions and objects of the act.

In relation to the second part, this amendment inserts a transitional provision into the act which retrospectively validates a code of practice. It is the government's view that the consultation and other work that has gone into the late night code of practice should not be undone by an adverse ruling on its validity. As honourable members would be aware, the consultation of the late night code was extensive. A draft code was released for public consultation for a period of six weeks from 17 October 2012. Targeted industry consultation with organisations such as the AHA took place. A consultation draft was discussed at the meeting of the Adelaide Liquor Licensing Accord on 19 November 2012. The Adelaide Liquor Licensing Accord is an agreement between licensees, the Adelaide City Council, the commissioner's office, South Australian police and other interested parties.

In all, 46 submissions on the consultation draft were received by the commissioner's office. A number of changes were made to the draft code to reflect comments made in those submissions. The code was approved by the minister in May 2013 and published in the *Government Gazette* on 6 June 2013. The code is expressed to commence operation on 1 October. On 24 June 2013 the commissioner wrote to licensees authorised to trade after 3am advising them of the code's gazettal and inviting them to attend a further information session. This session was held on 8 July and I am advised about 28 people attended, including representatives of 15 licensees.

In addition to the extensive consultation on the code, the government has put in place a number of measures in support of both licensees and patrons. The commissioner's office has provided licensees in the Adelaide precinct with information packs on the late night code. These packs included stickers for licensees' entrances advertising the late night restricted entry requirements 'no entry or re-entry after 3am' and information cards for patrons on the after midnight bus service.

The commissioner's office has also prepared and provided to licensees a poster aimed at explaining the intended application of the code and a frequently asked questions document in respect of the code. The commissioner's office has also undertaken an advertising campaign specifically addressing the target market of 18 to 29 year olds. This campaign included targeting FM radio, street press including *Rip It Up* magazine, and social media to ensure patrons who wish to depart the city at 3am are able to do so. The Department of Planning, Transport and Infrastructure has arranged for 20 extra after midnight bus services to operate on Saturday nights.

The late night code is gazetted as a result of extensive consultation and demonstrates the goodwill that exists between government, the AHA and licensees, the vast majority of whom conduct their businesses in an entirely responsible manner. Both the government and licensees have invested much in preparing the code's commencement. It seems to the government irresponsible in the extreme not to do everything possible to put beyond doubt the validity of the code that the government and the industry have put so much collective effort into. For these reasons we are supporting both parts of amendment No. 1. Can I move both of my amendments at this point?

The CHAIR: Yes.

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

Amendment No 1 [AgriFoodFish–1]—

Page 4, after line 12—After subclause (1) insert:

(1a) Section 11A—after subsection (3) insert:

(3a) A code of practice may include provisions regulating the entry and exit of persons in and out of licensed premises at any time, or for periods of time, during which a licensee is authorised to sell liquor but may not include provisions preventing all sales of liquor on licensed premises at any time that the licensee is authorised to sell liquor on the licensed premises.

(1b) Section 11A—before subsection (5) insert:

(4b) The Commissioner may, in his or her absolute discretion, call for submissions to be made in relation to a proposal to make or vary a code of practice.

(4c) The Commissioner must have regard to any submissions made—

(a) in the course of any consultation undertaken in accordance with subsection (4a); or

(b) in response to a call for submissions under subsection (4b).

Amendment No 1 [AgriFoodFish–2]—

Page 4, lines 17 and 18 [clause 6(3)]—Delete subclause (3)

I have already outlined the amendments at clause 1 and I do not have any additional information to add.

The CHAIR: You have moved amendment No. 1 [AgriFoodFish–1] which is at clause 6, page 4, after line 12?

The Hon. G.E. GAGO: That is right. It deletes subclause (3) from clause 6.

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

The Hon. G.E. GAGO: Just for clarification, the amendment that I have is amendment No. 1 [AgriFoodFish–2], clause 6, page 4, lines 17 and 18 [clause 6(3)]—delete subclause (3).

The CHAIR: Minister, we will get to that amendment later. The Hon. Mr Darley, you also have an amendment?

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

Amendment No 1 [Darley-2]—

Page 4, after line 12—After subclause (1) insert:

(1a) Section 11A(3)—delete 'A code' and substitute:

Subject to subsection (3a), a code

(1b) Section 11A—after subsection (3) insert:

(3a) Nothing in subsection (3) authorises the Commissioner to exempt—

(a) the casino (within the meaning of the *Casino Act 1997*); or

(b) a gaming area (within the meaning of the *Gaming Machines Act 1992*),

from a code of practice, or specified provisions of a code of practice.

As mentioned during my second reading contribution, the amendment seeks to prevent the commissioner from exempting the Casino and gaming machine venues from the late night code of practice or specified provisions of that code and, indeed, any other code. In particular, it would mean that the 3am closure would apply equally to these venues.

The decision by the government to exempt the Casino from the lockout has certainly been the subject of some intense criticism and, according to the AHA, it is this aspect of the proposal that has caused the most anger and angst among its members. There are definitely warranted concerns that the Casino is receiving preferential treatment over other licensed venues when it does not in fact hold a liquor licence that is any different from any of its competitors.

There has in the past been some argument that the Casino attracts a different clientele to that of nightclubs or that people who go to the Casino go there with a different attitude. Personally, I do not buy this argument. The Casino would be rubbing its hands with glee over this proposal, because there is no question that this move will see more late-night partygoers funnelled through their premises. What this signals is that the government is not serious about the harmful impacts of gambling.

In its most recent report, the Productivity Commission found there is evidence that higher risk gamblers represent a much greater share of those people playing late at night. Moreover, at that time gamblers are more likely to be playing under the influence of alcohol, reducing the capacity for informed consent on a potentially very costly activity where impulsivity and faulty cognitions are already widespread.

The Productivity Commission concludes by suggesting there would be significant benefits from requiring hotels and clubs to shut down their gaming rooms no later than 2am. Of course, as we would all be aware by now, the government likes to pick and choose from the Productivity Commission's findings and recommendations according to what best suits its needs rather than those of the community. We saw that during the recent debate on the Gambling Reform Bill.

As I mentioned at the outset, the amendment would not apply only to the Casino but to other gaming machine venues as well. The negative effects of alcohol are not limited to violence. Excessive drinking and gambling are not a healthy combination—plain and simple. I urge all honourable members to support this amendment.

The Hon. G.E. GAGO: The government rises to oppose the Hon. John Darley's amendment No. 1. It just might help if we indicate at this point that we will be supporting his second amendment. In relation to amendment No. 1, the effect of this amendment will be to prevent the commissioner from exempting the Casino or a gaming area from a code of practice or a specified provision in a code of practice. It is, the government understands, a response to late-night codes exemption of the Casino from the 3am lockout provision. Casinos in all other Australian capital cities have 24-hour trade. Enforcing a late-night restriction entry at the Casino would place South Australia at a disadvantage in comparison to other states.

The Casino has always been understood to be an anomaly, if you like, in local licensing terms. In addition to being covered by the Liquor Licensing Act, it is also covered by its own unique act. Concerns have been raised that if the Casino is the only venue exempt from late night restricted entry provisions this may increase the potential of alcohol-related antisocial behaviour at the Casino. This risk will be mitigated by the fact that the Casino is subject to very strict capacity thresholds in respect of each of its licence areas, which are monitored and enforced. If issues of overcrowding arise at the Casino, there are overcrowding provisions in clause 7.10 of the approved licensing agreement between the state government and the Casino that can be utilised.

Furthermore, amendments to the Liquor Licensing Act, passed in 2011, equip the commissioner with additional powers to respond to issues affecting public order and safety. In a particularly serious situation, the commissioner could order the temporary suspension of the Casino's liquor licence. This would effectively require the cessation of the service of liquor at the Casino for a period of time and assist in defusing a situation affecting public order or safety whilst not breaching the approved licensing agreement.

The appropriateness of exempting the Casino from the 3am lockout aside, this amendment will prevent the commissioner from exempting the Casino from any provision of a code of practice significantly disadvantaging one of the state's major entertainment drawcards. The commissioner has advised the government that he has granted exemptions to the Casino for provision of the late night code. For example, the restriction on using glassware in premium gaming areas does not apply.

The government stresses that it is not just the Casino that has received the benefit of exemptions. The commissioner advises he has granted exemptions to the 3am lockout provision of the code to a number of venues for the gaming area only and for patrons participating in gaming.

The Hon. R.I. LUCAS: Mr Chairman, we have a real dog's breakfast before us at the moment on this. I wonder if you can clarify for those of us who have had some of these amendments dumped at a late stage—and we currently have Mr Brokenshire's amendment which we have had plenty of notice of—which of the minister's amendments are we currently considering of those that she dumped on the table this morning?

The CHAIR: None.

The Hon. R.I. LUCAS: We are not considering any? But the minister spoke to one of the amendments and moved it.

The CHAIR: Yes, that was later. All we are dealing with is—

The Hon. R.I. LUCAS: Mr Chairman, she spoke to an amendment and moved it.

The CHAIR: No.

The Hon. T.A. Franks: No, she—

The Hon. R.I. LUCAS: Well, she did.

The Hon. T.A. Franks: If you listened—

The Hon. R.I. LUCAS: I listened, and she did.

The CHAIR: It was wrongly moved under advice because there was amendment No.1 and amendment No. 2.

The Hon. G.E. Gago: That's right.

The Hon. R.I. LUCAS: So, we are not considering either of the minister's two amendments at this stage?

The CHAIR: We are not considering amendment No. 1 which the minister has withdrawn.

The Hon. R.I. LUCAS: Withdrawn?

The CHAIR: Well, wrongly moved.

The Hon. R.I. LUCAS: But are we considering any of the minister's amendments at this stage?

The CHAIR: No.

The Hon. R.I. LUCAS: So, all we have before us is the amendment from the Hon. Mr Brokenshire and an amendment from the Hon. Mr Darley?

The CHAIR: Correct.

The Hon. R.I. LUCAS: Okay, thank you. In relation to the Hon. Mr Brokenshire's original amendment, as he said, he has given the opposition and all members considerable notice of this and we thank him for that. The member indicated that he had sent around an email to members on 15 October which explained his reasons for it and he was not going to go into the detail. That is wonderful for those of us who received the email, but this is a critical issue and the debate ultimately will be followed by those in the industry with some interest, I am sure, and I would hope that at some stage the member might at least briefly place that on the record, because I think he would be the first to acknowledge that sending an email around to members is not part of the record in terms of his explanation and justification.

In the email that he is referring to—and I think it is the same email, because there are so many emails in relation to this issue—which came from Mr Rikki Lambert on behalf of Mr Brokenshire, in speaking on behalf of Mr Brokenshire his argument in part is as follows:

> If you like, this amendment resets the rationales for issuing a code of practice giving broad powers to the commissioner who firstly has shown a responsible and even hand in his regulatory activities since his appointment and who, secondly, is formerly the police commissioner for the Northern Territory. I have—

I assume that is Mr Brokenshire rather than Mr Lambert—

> full confidence that the commissioner will give effect to the objects of the act with these prescriptive provisions removed.

Even if that is true in relation to the commissioner, I do not offer a personal view but I think it will not surprise either the commissioner or the Hon. Mr Brokenshire that that is not necessarily a unanimously held view. But I hasten to say that I am sure that has never been the case that that would be a unanimously held view of all stakeholders in the industry about any commissioner, so I do not make that comment as any specific criticism of the current commissioner.

The point that I make—and I will expand on this with the legal advice that has been provided to a number of members—is that the legislation that we are putting down here is not solely dependent on the current incumbent in the position of the commissioner. Whether or not he is a good person, a capable person or a former police commissioner is interesting for however long the current commissioner may hold his position, but I am sure he would be the first to acknowledge that at some stage he will be replaced by a future commissioner who might have an entirely different skill set base and be seen by the industry in an entirely different manner.

In terms of the legislation that we put down, that is one of the reasons why we believe—and no-one is ever 100 per cent pure in relation to this, and by that I mean both Labor and Liberal governments—that, in terms of the continuum, the parliament can indicate what its powers are, and the courts have indicated to them what their powers are, and then the third category that I would nominate in my hierarchy of importance is, with the greatest of respect, unelected officials or unelected public servants.

The Hon. Mr Brokenshire is the first to rail passionately against the powers of public servants and unelected officers in a number of pieces of other legislation. Those in this chamber have had the benefit of listening for many hours to him speaking about those pieces of legislation and the powers that parliaments have bestowed on unelected officials.

As I said, we in this chamber are intrigued that the Hon. Mr Brokenshire is a passionate supporter of the current commissioner in terms of his capacity and, as I said, I will not offer a personal opinion on that because it is neither here nor there. The point I make is that, as to the principle that the Hon. Mr Brokenshire and others espouse in many other pieces of legislation, he clearly is very comfortable, as per this particular amendment, in essence, to say that, 'There is the position of the parliament, there is the position of courts that may well have made decisions based on the law in relation to licensing issues, but we are going to give unfettered discretions to an unelected officer to make his decisions on this particular issue.'

I will read some legal advice from people much more experienced in liquor licensing law than me, because (a) I am not a lawyer and (b) I do not practise in the jurisdiction, obviously, and I do not profess to be an expert in the area of liquor licensing. I understand the Hon. Mr Brokenshire and other members are aware of the considerable experience that this particular lawyer has. This is his advice in relation to section 11A:

> Section 11A has been in the Act since 2009 and commenced operation from 26 November 2011 after considerable discussion and debate. There was one amendment effective 5 March 2012 adding an additional 'purpose' for measures which could be included in a Code of Practice. The Section in its present form contains eight such specific permitted purposes, and a number of examples for two of them. Some of them use language mirrored elsewhere in the Act and which has been the subject of interpretation and application over many years by the Licensing Authority.
>
> The Section gives clear guidance to the Commissioner, the liquor industry and the general public as to the content of Codes of Practice, which, in turn, the Act makes conditions of licences affected. It gives Parliament some control of what can properly go into a Code.
>
> The proposed amendment to Section 11A(2) removes the purposes and examples altogether, and gives the Commissioner virtually a totally unfettered discretion as to what measures he considers appropriate to go into a Code to further the objects of the Act.

I interpose at this stage to say that the Liberal Party's position in relation to the Hon. Mr Brokenshire's amendment has been that we believe that there should be a court decision on Friday, the parliament should be informed as a result of that and then we can make a judgement as to whether we believe we should support the Hon. Mr Brokenshire's amendments, or versions of them, in the future. That is, if there are weaknesses in the legislation identified then we can address them at that particular time with the full knowledge of what the court has decided.

The concerns of many experienced in liquor licensing law, and some of the stakeholders, is that the Hon. Mr Brokenshire, in concert with the government, is seeking, in essence, to confirm the government's position on the court case on Friday, and that is understood. The concern is that in doing so he is giving such a broad and unfettered discretion, not just to solve the problem of Friday's case but in a much wider area than might otherwise have been required. That will be confirmed, or not, on Friday in terms of the court decision because it is highly likely that is going to be based on the current law anyway, as we discussed earlier.

What these experts in liquor licensing law are saying is that in seeking to fix the particular problem on Friday, what the Hon. Mr Brokenshire is doing and what the government is very happy to do, of course, is to give a completely unfettered discretion to the commissioner over not just the issues that are in dispute on Friday but on a whole variety of other issues. I repeat what this very experienced lawyer says:

> ...and gives the Commissioner virtually a totally unfettered discretion as to what measures he considers appropriate to go into a Code to further the objects of the Act.

So, it is what he considers; it is not what the parliament considers, not what the elected members representing the electorate consider. We might all be elected with views being expressed to us in a government or opposition as to what the community's views are on liquor licensing issues and codes, but it is not going to be an issue there, it is going to be an issue for the commissioner in his discretion as to what is going to go into the code. Let me continue with this legal advice:

> A degree of certainty and control is being removed. The proposed requirement for the Commissioner to consult with industry bodies is no real restraint or control, because the Commissioner alone is given the right to determine the manner of consultation and is not required to take any notice of matters raised with him during any consultation that does occur. I consider the proposed amendment a dangerous one for the liquor industry. It simply

further increases the already considerable powers of the Liquor and Gambling Commissioner, and also potentially would permit trading hours and other licence conditions authorised by the Act and/or fixed by experienced Licensing Court Judges over the years, to be arbitrarily reduced and/or taken away.

That is the end of the legal advice. Let us be clear on the last part of that advice from this experienced lawyer in the jurisdiction. It increases the already considerable powers of the commissioner and, potentially, would permit that trading hours and other licence conditions which have been authorised by the act and/or fixed by an experienced licensing court judge be arbitrarily reduced and/or taken away.

What this licensing lawyer is saying is that the amendment being moved by the Hon. Mr Brokenshire, supported by the government and others, is basically saying that where you have trading hours for a licensed premises, you have licence conditions authorised by the act and they have then been fixed by licensing court judge decisions, judicial decisions, over a period of time. So, you have the act, you have licensing court decisions in relation to trading hours and licensing conditions. What this lawyer is saying is that we are going to give an unfettered discretion to the licensing commissioner to arbitrarily reduce those trading hours or licence conditions or to take them away. That is the power that we are going to give to the commissioner.

I think it is important, because clearly the Hon. Mr Brokenshire, the government and others are going to impose these particular legislative changes, that this advice be put on the record. That is why I am saying that I think it is important for the Hon. Mr Brokenshire to indicate his explanations for the amendments because he may well not agree with the learned legal advice I have just put on the record and if that is the case it is important for that to be on the record. There is a second letter from the same legal adviser which I place on the record as well.

The Hon. R.L. Brokenshire: Legal adviser or lawyer?

The Hon. R.I. LUCAS: Lawyer; yes. I guess they are both. A lawyer is a legal adviser. It reads:

In this letter I am making separate comment on the second of the proposed two amendments likely to be debated later today, namely a deeming provision that all Codes of Practice published under Section 11A of the Liquor Licensing Act to date, including the Late Night Trading Codes of Practice, are valid.

This amendment appears to be an 11th hour attempt at very short notice to interfere in the Full Court of the Supreme Court hearing listed this month. That hearing can be expected to give the Liquor and Gambling Commissioner, the Police, the Government and the industry guidance and direction with the new Late Night Code of Practice. The respective arguments for all relevant parties are, I understand, prepared and ready to be put to the Full Court. There will be submissions on behalf of affected licensees, the Liquor and Gambling Commissioner, the Commissioner of Police and the Government. The expensive and almost complete litigation in the Supreme Court should be allowed to proceed and be completed and not rendered academic. The proposed amendment would be totally unnecessary should the Full Court rule the Late Night Code of Practice to be valid and enforceable. Regardless of what the Full Court says, Parliament should not at such a late stage and at short notice meddle and interfere with the important work of the Supreme Court as a matter of principle.

That is the second of the legal opinions in relation to the amendment.

In concluding, the Liberal Party's position, as I said in the second reading, is that our preference was to await the advice of the court decision on Friday and then determine a position on the Hon. Mr Brokenshire's amendments or some tweaking or further amending of the Hon. Mr Brokenshire's amendment based on the advice that the court gives us on Friday.

Given that we are not in a position to be able to do that, we are in a position where, even though there might be some merit at some stage given a court decision to make some amendments to these provisions, we would not rule that out completely. At this stage we will not be supporting the Hon. Mr Brokenshire's amendment.

In relation to the Hon. Mr Darley's amendment, which relates to the operations of the Casino, vis-a-vis other licensed establishments in South Australia, the Liberal Party's position has been on the record for a long period of time. As I said, we have accepted for a long period of time that it is a separate and unique establishment, so much so that it has its own legislation in relation to the Casino Act, and there are many provisions which apply to the Casino which do not apply to other licensed establishments.

Indeed, over the years there have been many onerous security and oversight requirements that apply to the Casino that do not apply to licensed establishments, particularly in relation to gaming machines. They have become less different over the years—I concede that—but there are still significant differences. So from our viewpoint, we see it as a unique establishment with its own legislation and we do not support the Hon. Mr Darley's amendment.

The other point—and I guess only the government would be in a position to advise the committee—is that it is likely, I suspect, that if something like this was to occur, the taxpayers and the government might be exposed to compensation, given the long-term agreements that have been entered into by the government and the Casino (although I have not seen them), which I am sure probably relate to issues such as their operations. It might well be argued by the Casino that this impacts on them and it might well trigger compensation provisions. I do not know that for a fact because I have not seen the Casino agreements with the government, but certainly I know that that would certainly have been the case in other cases for legislative change. It might well be the case in relation to this, but I just do not know.

The Hon. T.A. FRANKS: I rise on behalf of the Greens to address, first, the amendment put forward by the Hon. John Darley with regard to removing the exemption that the Casino has from the 3am lockout. The Greens certainly support that amendment and do not believe the Casino should be exempted from the rules that are to now apply under the late night code to all other venues in that category.

I do note that it is often argued that somehow the Casino is a unique venue or destination, and that it is competing against the other casinos. The reality is that, if the other venues which hold a licence subject to this particular code are not able to let in patrons after 3am, then those in the CBD, or indeed those in the suburbs, where patrons are looking to continue to be on licensed premises will head to the Casino. Yes, they may also head to a restaurant, and so on, but I note that I have actually spoken to a particular licensee who has a restaurant licence and who has put up all the 3am lockout signs because they certainly do not want people walking from venues into their premises after 3am, and they fear they will become a place where people will seek to continue to stay out and socialise, and that is not their business model. So it is affecting them in that way in that, prior to this, they would have taken in people after 3am. I seek leave to conclude my comments.

Leave granted; debate adjourned.

[Sitting suspended from 13:01 to 14:17]

PAPERS

The following papers were laid on the table:

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

Variation of the Indenture under the Whyalla Steel Works Act 1958 Variation Agreement between the State of South Australia and OneSteel Manufacturing Pty Ltd

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

Reports, 2012-13—
- Flinders Ranges National Park Co-management Board
- Native Vegetation Council
- Premier's Climate Change Council
- Wilderness Advisory Committee and Wilderness Protection Act 1992

Ministerial Response to advice received from the Premier's Climate Change Council to the Climate Change and Greenhouse Emissions Reduction Act 2007—Sea Level Rise

By the Minister for Water and the River Murray (Hon. I.K. Hunter)—

River Murray Act 2003—Report, 2012-13

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.A. DARLEY (14:18): I bring up the 36th report of the committee.

Report received.

QUESTION TIME

INTERSTATE TOURISM OPERATORS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:19): I seek leave to make a brief explanation before asking the minister representing the Minister for Tourism questions about Victorian businesses.

Leave granted.

The Hon. D.W. RIDGWAY: This week the Minister for Tourism, the Hon. Leon Bignell, announced a $35,000 grant to a Victorian company, Adventure Air Australia, to provide three new air safaris for regional South Australia. The company's main base is not in South Australia; its administration personnel are based in Victoria and its aircraft and pilots are supplied by Sharp Airlines, which also has its main operations base in Victoria. Local companies already provide air safaris into these regional destinations and work with accommodation operators such as Southern Ocean Lodge to which the minister referred in his media release. Many of the local air safaris operate out of Adelaide and so support hotels, eateries, car transfer companies and also employ residents of South Australia; however, departures from Melbourne are already available as required. My questions are:

1. Why are South Australian taxpayers providing a grant of $35,000 to an interstate company to develop tourism products which will be in direct competition with existing South Australian operators?

2. Why has the minister spurned South Australian operators who have used their passion, time and own money to already develop air safaris to destinations described in the minister's media release?

3. Does the minister give a fig about tourism in South Australia and why is he supporting interstate operators at the expense of South Australian operators who pay taxes in South Australia, employ South Australians and work with other South Australian tour operators to provide a proudly South Australian product?

4. Is the minister aware that South Australian tour operators have one crucial advantage that other states cannot provide—South Australian tour operators actually vote in South Australia?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:20): I thank the honourable member for his most intriguing question. I must say, I struggle to find anything other than opinion in a lot of that question.

Members interjecting:

The Hon. I.K. HUNTER: Mr President, I probably jumped in before you were going to make such a comment yourself. All I can say is, the question really is a little odd. Would the honourable member be in a similar position when he is criticising the Minister for Tourism, for example, in encouraging international airlines to come to Adelaide? Is that what he is saying? Is he saying that we should not actually be getting interstate and overseas operators into South Australia and spending their money in this state? Frankly, I think he has got the wrong end of the stick.

DESALINATION PLANT

The Hon. J.M.A. LENSINK (14:22): I seek leave to make a brief explanation before directing a question to the Minister for Water and the River Murray on the subject of the environmental water provision required for the desalination plant funding.

Leave granted.

The Hon. J.M.A. LENSINK: I understand that as part of the state's agreement with the commonwealth to receive $228 million for the desalination plant, South Australia has agreed to provide an average of 12 gigalitres, or some amount between 0 and 24 gigalitres, for water for the environment and up to 120 gigalitres over a 10-year period. My questions to the minister are:

1. Under what circumstances would South Australia provide 24 gigalitres in one year for environmental water?

2. From which component of South Australia's River Murray water entitlement is this environment provision taken and is it ever potentially part of our carryover provisions?

3. Can the minister guarantee that our efficient food producers will not be impacted?

4. What are the triggers for turning on the desalination plant?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:23): I thank the honourable member for her most important question—

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: —and the prompting from the honourable Leader of the Opposition—

The PRESIDENT: Which is out of order.

The Hon. I.K. HUNTER: Which indeed it is, sir, and I will ignore them as I usually do. The offer of environmental water from SA Water up to the commonwealth was made, as I understand it, well over 12 months ago and that offer has not, as far as I am aware, been taken up by the commonwealth. The offer still stands, of course.

The matters in terms of the desal plant and when it will be utilised will essentially depend on the local climate and environment that we are in at the time. The government has always said, and I repeat now, that we will be using the cheapest possible water for the consumers of the water that SA Water provides, and the cheapest possible water is always reservoir water, water that falls in the Adelaide Hills catchment and is held in our reservoirs. The second cheapest is pumping water from the River Murray and, of course, the next cheapest or most expensive is the desal water option.

Honourable members will know that the desal water option is one that is essentially for us a guarantee of dependable water supply independent of the River Murray in times of drought and environmental crisis when water may not be in the river for us to pump into our reservoirs. Honourable members will also know that our reservoir levels, even when they are at their highest, still won't get us through a full year of full consumption of water without restrictions. So, we are always going to be dependent on one or the other of those water supplies.

The 50 gigalitre desal plant, as far as I understand it, was a proposition that was supported by both the Labor and Liberal parties.

The Hon. R.L. Brokenshire: The 50 gigalitre one was, not 100.

The Hon. I.K. HUNTER: The Hon. Mr Brokenshire, if you weren't having your own private conversations in this place, you would have just heard that that is what I said. The extra 50 gigalitres give us the opportunity to provide half of Adelaide's drinking water supply in times of drought and, as I have said before—

The Hon. R.L. Brokenshire: At what cost?

The Hon. I.K. HUNTER: —at an average cost, Mr Brokenshire, of about $30 per consumer per year. That is cheap insurance at any price, and that is one that I am sure most South Australians would be very happy to pay when we are back in a drought situation.

DESALINATION PLANT

The Hon. J.M.A. LENSINK (14:26): A supplementary question arising from the answer: would the minister be able to provide to the chamber his workings and calculations behind his claim that it is $30 per person? Secondly, when he referred earlier to having made an offer to the commonwealth, does that mean that unless the commonwealth agrees in any given year to take the environmental water that it is not used for environmental purposes?

The PRESIDENT: Minister, I reckon there was a supplementary in there somewhere.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:26): Indeed, sir, and I will obey your ruling, as always, in these things. Yes, the calculations I think can be brought back. I will ask for those and bring them back to the chamber. In terms of the environmental water, that is something we need to negotiate with the commonwealth. As I say, we have made that water available. They have not yet indicated to us that they will be wanting it.

DESALINATION PLANT

The Hon. R.L. BROKENSHIRE (14:26): A supplementary, as a result of the minister's answer: does the $30 per head include every man, woman and child in this state and does it also include all those people contributing who have no access whatsoever to mains water?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:27): My advice—and if the honourable member would like to check his *Hansard* or indeed listen to the answers I give in this place—is that the $30 applies to the average water customer.

BANGALORE HOMESTEAD

The Hon. S.G. WADE (14:27): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question relating to the Bangalore homestead.

Leave granted.

The Hon. S.G. WADE: The responsibility of the heritage-listed Bangalore homestead in Renmark lies with the Department of Environment, Water and Natural Resources. In 2005, the Friends of Bangalore Volunteers Group was formed to help maintain the property in response to concerns the property was becoming run down.

Most of the gardens, vines and fruit trees on the property have died, and I am advised that the house is approaching a state of total disrepair. The entrance gates to the property are padlocked, and the property has become an eyesore in the town. Last Friday, a fire broke out at the property. Fuelled by overgrown weeds and dead trees, the fire came within 20 metres of the historic homestead.

The government has provided minimal assistance for the maintenance of this 100-year-old property, though I am advised that the government did complete a conservation plan for the property in 2010. My questions are:

1. Can the minister advise of the actions and outcomes from the conservation plan for the Bangalore property?

2. Has the state government drawn up heritage agreements for the Bangalore homestead?

3. Given the risk highlighted by the recent fire, is the government considering increasing support for Bangalore to protect and preserve this important part of the heritage of both the Riverland and the state?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:28): Bangalore is a fruit block and homestead located in Renmark. I am advised that the property was established in the 1890s and covers an area of about 12 hectares. In 1985, it was included in the South Australian Heritage Register as one of South Australia's best surviving examples of a diverse and historically significant fruit production property. I understand that the open channel system is one of only three that remain in Renmark and that the house represents unusual design and construction techniques.

The property was purchased by the Morant family in the 1890s and developed by them over the next 100 years. The government purchased the property at a time when a number of heritage-listed properties were being purchased to help preserve their heritage significance.

After the purchase, Ms Beryl Morant, the daughter of Arthur Morant, was granted life tenancy of the property, I am advised. From 1991 until her death in 2007, the state appointed a series of managers and lessees to continue the operation of the property. I am advised that the property has remained vacant since 2007, and the Department of Environment, Water and Natural Resources has been unable to secure a tenant or a lessee for the property.

A conservation action plan was prepared in 2009, which provided specific recommendations for the ongoing protection and management of the site's remaining heritage values. The recommendations of the plan are guiding the current actions of the department, including maintenance. I am advised that the department is working towards finding suitable adaptive re-use options that are sustainable and will help to protect the heritage values of the

property. Departmental staff have met with Friends of Bangalore, a community-led group, and will continue to keep the group involved in the decision-making process about the future of the site.

The current on-site maintenance undertaken by the department is valued around $12,000 annually, I am advised. In the past financial year, the department has undertaken and removed public risks, including asbestos and tree limbs, and has reclad the original pickers' kitchen and undertaken pest management and grass slashing.

In relation to the fire, I am advised that a grass fire occurred at Bangalore on 25 October and was attended by the Renmark Metropolitan Fire Service. I am advised that the fire started outside the property and spread through the property, affecting the very low dry or dead vines. The cause of the fire is currently being investigated. The fire did not threaten the house. The total area affected by fire has not been finalised, but I am advised that it is expected to be less than half a hectare.

I am also advised that the slashing program is undertaken at Bangalore two to three times a year, depending on the seasonal conditions. My department tells me that a contractor was engaged in August of this year to slash the grass at the site to reduce fire risk and that this contractor was scheduled to re-slash the grass at the site in mid-November of this year.

FISHERIES

The Hon. CARMEL ZOLLO (14:32): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about fisheries management.

Leave granted.

The Hon. CARMEL ZOLLO: As we all know, fishing and our seafood are an important part of South Australia's self-image, providing not only wonderful food, a valuable industry and regional jobs but also recreation. My question is: can the minister advise the chamber of recent developments to help support the management, longevity and health of our fisheries?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:32): I thank the honourable member for her most important question. Of course, fisheries is an extremely diverse industry, operating right across South Australian waters, ranging from small family operations to large corporations. They also operate in cooperation with Wildcatch Fisheries SA and PIRSA to ensure that the resource which they harvest is managed and harvested in a sustainable way.

With the backdrop of myriad fisheries, a new policy is being developed to guide the development of the comanagement of our fisheries. A policy for the comanagement of fisheries in South Australia has been adopted by my agency following advice from the Fisheries Management Council, and this provides clarity and confidence to the industry and key stakeholders and strengthens relationships with government.

We have for many years favoured working in partnership with the fishing industry and other stakeholders on fisheries management. I have to say that there has always been a very good vibe across those industries, a very good vibe indeed. The level of cooperation and the preparedness to work together and share responsibility for the fisheries is well developed here in South Australia and something we should be very proud of.

This partnership has been strengthened in recent years with a more collaborative comanagement approach in some fisheries, which has provided favourable social, environmental and economic outcomes and led to more efficient decision-making, among other things. Some South Australian fisheries now operate within strong comanagement arrangements, such as the Spencer Gulf Prawn Fishery, which is recognised internationally as one of the world's best-managed fisheries. This is another development which is of particular relevance to our pristine waters of Spencer Gulf.

It therefore gives me great pleasure to announce today that SARDI has developed a new super computer-based model to help management the resources of Spencer Gulf. This new model will help scientists take into account a number of quite complex interactions which can affect the environment in the Spencer Gulf and help deliver the best balance between developing new aquaculture opportunities and maintenance of the long-term health of this marine environment. Of course, the Spencer Gulf, as well as being the site of many people's favourite fishing spots, also

provides many economic and commercial opportunities for SA, so it is really important that we understand how to manage this area sustainably, for both current and future generations.

SARDI has developed the model with funding from the Fisheries Research and Development Corporation and Primary Industries and Regions (PIRSA) under the Innovative Solutions for Aquaculture Planning and Management program. This new model, created by SARDI's oceanography group, simulates the ocean's circulation and the biological response to nutrient inputs from aquaculture, shipping wastewater, environmental flows, and also from land and natural resources that provide food for phytoplankton, which is a very important, very small plant that is part of the marine environment.

I am advised that the model is based on the best science and knowledge of the natural ecosystem that is available. It has benefited from the robust data collected through the Southern Australian node of the state-of-the-art Integrated Marine Observing System (SA-IMOS), which is a $10 million program established five years ago by SARDI, Flinders University and the Australian government to monitor the coastal boundary currents and planktonic ecosystems.

This information has provided new information about how the ecosystem works, meaning that this model can take into account a wide range of factors, including ocean circulation, seasonal variations in climate and rainfall, and waste nutrients produced by farmed finfish and industrial sources. As a result, the model, which includes more factors than previous attempts to replicate this complex environment—and, of course, the more our scientists know the better informed our fisheries management and environment management of the Spencer Gulf system will be. It is a great achievement by SARDI. In particular, I congratulate Associate Professor John Middleton and his team of SARDI aquatic scientists for this wonderful advancement in our fisheries.

WINGFIELD WASTE DEPOT

The Hon. D.G.E. HOOD (14:37): I seek leave to give a brief explanation before asking a question of the Minister for Sustainability, Environment and Conservation concerning the recent fire at the Wingfield dump.

Leave granted.

The Hon. D.G.E. HOOD: The fire this month at the Wingfield dump burned for a number of days and caused a thick pall of smoke over parts of suburban Adelaide, as members would be aware. The fire occupied 16 MFS trucks and 60 firefighters working in horrendous conditions. There are reports that there were three fires there in three months back in 2012 as well.

A *Channel 7 News* report on 25 October stated that a year ago SA Water had requested the operator to upgrade the infrastructure in the vicinity. This was apparently a reference to installing fire hydrants and industrial water pipes in particular. The report states that the request was ignored. My questions to the minister are:

1. Was the lack of an adequate water supply in the locality a problem for the firefighters in this particular instance?

2. Did, roughly a year ago, SA Water request the operator to install fire hydrants and industrial water pipes so that fires, such as the one that actually occurred, could be put out easily and in a timely manner?

3. If the issue is the lack of an adequate water supply and it was identified a year ago, why was it that neither the Environment Protection Authority nor any other government agency ensured that appropriate action was taken during that time?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:38): I thank the honourable member for his most important question. Early on 16 October 2013, the Environment Protection Authority was notified by Adelaide Resource Recovery of a fire that had taken place at its site at Wingfield overnight. Adelaide Resource Recovery operates an EPA-licensed construction and demolition recycling business on the former Wingfield landfill at Wingfield. I have been informed that the fire has been extinguished, noting that some material continued to smoulder for some time. The Metropolitan Fire Service remained on site, I am advised, until 23 October to manage the smouldering material.

The cause of the fire is not yet known (or it has not been advised to me) and I suspect it will be in the near future. It is believed to have been started in a mixed waste storage area of the site. The Environment Protection Authority was on site every day since the fire began to engage

with Adelaide Resource Recovery and the Metropolitan Fire Service to ensure there are no environmental impacts as a result of the fire or the management of it. The EPA undertook air monitoring, specifically the monitoring of particulate matter, comprising of 10 microns in diameter, during the fire. The results of the air monitoring are currently being reviewed by the EPA air quality experts. The EPA will undertake further site visits, of course, and will undertake an investigation to determine whether any potential breach of licence or legislation has occurred.

I am also advised that the Minister for Emergency Services called a meeting on Friday 25 October to discuss the incident. I understand that this meeting included representatives from the EPA, MFS, SAPOL, the local council, DTF and SA Water. I understand that this incident and any future plans for mitigation of and response to potential fires were discussed. As a result of this incident and discussion I am advised that the EPA is reviewing Adelaide Resource Recovery's licence, with the expectation that licence conditions will be changed.

Changes to the licence conditions are likely to involve stockpile heights being limited to four metres in height, and the separation distance around each stockpile is likely to be adjusted. I also understand that the MFS has commented on the amount of water available on the site to put out the fire. SA Water has advised me that the property is a large site and located at the end of a water main in a relatively low pressure area, which can impact the ability to draw large volumes of water from the main. The pressure is, however, within the requirements for SA Water customers.

Often large sites, such as hospitals or universities, will arrange for additional fire services for this reason, as it is the property owner's responsibility to ensure they have adequate on-site fire protection systems. I am advised that there were tanks on site, but these only provided a limited capacity for firefighting crews. I understand that SA Water has had discussions with the site's owners in the past about improving the water supply to the site to assist with firefighting, recommending they consider applying for either an enlarged water meter to supply the site or a 100 millimetre dedicated fire connection.

I understand that on this occasion SA Water's contractor, Allwater, was called for assistance and a network technician from Allwater arrived on site. I understand that the Allwater technician provided assistance to fire crews in relocating their filling point to an additional main in Wingfield Road where they could source adequate flow to assist in the firefighting efforts. We will continue to work with this company to make sure they apply the standards at their business that are expected of other businesses.

WINGFIELD WASTE DEPOT

The Hon. J.M.A. LENSINK (14:42): By way of supplementary question, in the discussions between multi-agencies, has the issue of stockpiling to avoid the waste levy been raised as an issue?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:42): I do not have that specific advice.

KAUWI INTERPRETIVE TRAIL

The Hon. K.J. MAHER (14:43): My question is to the Minister for Water and the River Murray. Will the minister inform the house about the recent opening of the Kauwi Interpretive Trail at the Adelaide desalination plant?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:43): I thank the honourable member for his very important question and his very impressive pronunciation. Just a few weeks ago I had the pleasure of launching the newly completed interpretive trail at the Adelaide desal plant. The Kauwi Interpretive Trail makes its way around the perimeter of the desal plant, some 2.3 kilometres. The trail was developed in partnership with the Kaurna people, and it shares stories of the countryside and the coastline. There are three lookout points along the trail, providing impressive views of the southern coastline and Gulf St Vincent.

As part of the construction of the desalination plant, thousands of local native plants were used to revegetate the site. This trail provides an excellent opportunity to view this local flora. The walk also provides an opportunity to view the wetlands and creek that have been created and rehabilitated, creating a vital habitat for some of our endangered fauna and of course an opportunity to view the architecture of the desalination plant itself.

Along the pathway are information panels, which not only detail local Kaurna knowledge but also provide visitors with information on the local flora and fauna. In this way the trail complements the Kauwi Interpretive Centre, which provides a venue where community groups, students and industry experts can learn more about desalination water and the cultural history of the local Kaurna people. This facility has proved to be extremely popular, I am advised, with more than 3,200 people expected to visit the plant to utilise the educational and recreational facilities in this year alone, and that number will increase following the opening of the trail.

I would encourage all members, if they haven't already, to visit the interpretive trail, (but take your Aerogard) or indeed the Kauwi Centre, enjoy the flora and fauna and spectacular views and learn more about the local Kaurna history and heritage and South Australia's unique and important water supply systems. The trail presents an excellent educational and recreational opportunity for people of all ages and is the most recent milestone in the project, which has been recognised the world over.

Just last weekend, the Adelaide desalination project was recognised with yet another award, winning the Project Management Institute's Project of the Year Award. The award, announced in New Orleans, recognises the achievements of the project team for superior performance in project management. The purpose of the PMI awards is to honour organisations, companies and institutions who set the standard for creating successful and innovative projects throughout the world. The award recognises the efforts of a dedicated team who delivered a complex and challenging project which has ensured South Australia's water security to 2050. This is an exceptional achievement indeed.

Adelaide's desalination plant is one of the world's most technologically proficient and cost effective desalination plants. The SA Water project delivery team, the project's contractors and the wider workforce successfully delivered the largest water infrastructure project undertaken in this state and they deserve to be congratulated for it. The desalination plant provides a reliable, sustainable and secure water supply for all South Australians, and this will ensure there is enough water for future generations. I cannot stress how important this will be into the future, with impacts of climate change fast encroaching upon us.

This is not the first time in the last few months that the plant has been honoured. In September, the project was also named the International Project Management Association Gold Winner for Project Excellence in Mega Sized Projects. The launch of the trail and the winning of the PMI award coincided with another important milestone for the desalination plant, which has now produced 50 billion litres of high quality desalinated water since October 2011. This is enough water, I am told, to fill 20,000 Olympic size swimming pools.

As I have said many times in this place before, the desalination plant is cheap insurance for our state. It provides a climate-independent source of water for our state, which is essential given that we will inevitably face more frequent and prolonged drought in the future, but this mob across here has no clear idea about the future, they do not want to plan for the future, they are being irresponsible with our state's future.

The 50 billion litres produced by the plant so far is 50 billion litres that we have not taken from our most precious resource, the River Murray. It appears that reducing our reliance on the River Murray is even more important, given that the federal Liberal government seems so intent on undermining the historic Murray-Darling Basin Plan. We already know the federal government will cap water buybacks, which casts serious doubt on the plan's ability to deliver the water committed to be returned to our river.

South Australian Liberal Senator Simon Birmingham has been quoted in the media as saying he doubts the viability of a fund to deliver an extra 450 gigalitres to South Australia by 2024. This is the 450 gigalitres that South Australians fought so hard to achieve. New South Wales Liberal MP Sharman Stone reportedly says that she intends to fight the extra 450 gigalitres the South Australian government achieved through its negotiations.

It is clear that the Liberals simply do not care about the health of the River Murray at the South Australian border, and they are back-pedalling on the deal with South Australia. Once again, the interests of the upstream states are being protected while the Liberals try to force South Australia to accept a clapped out Mazda model of water recovery. All I can say is, thank goodness we locked in our climate-independent water source, thank goodness Premier Jay Weatherill fought the federal government and the Eastern States, because the basin plan that we fought so hard to

win to ensure the health of our river and water supplies is already being undermined by the federal Liberal government, aided and abetted by the Liberals sitting opposite.

Thank goodness this Labor government knows what it takes to fight for this state. Thank goodness this Labor government stands up for South Australians because the rabble opposite will never do so. We will continue to stand up for South Australia. Where is Mr Marshall? Where is Mr Marshall talking to the Liberal government in Canberra, saying to them, 'Deliver on the promises that the federal government has given to this state. Don't renege, don't pander to the Eastern States Liberals who control your federal caucus.'

IMPORTED FRUIT JUICE

The Hon. J.S. LEE (14:49): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about imported juices.

Leave granted.

The Hon. J.S. LEE: Apple and citrus growers are forming a strategic plan to submit to government highlighting the financial impact that cheap concentrated fruit juice from China and South America has on the industry. Australian growers are feeling frustrated as imported fruit is squeezing them out of the market. As reported in *The Advertiser* on 25 October, the growers 'aim to prove that imported concentrate being "dumped" in Australia at below the cost of production is undercutting their livelihoods'. Riverland citrus grower Ron Gray said:

> Riverland growers were being paid only $110 a tonne for Valencia oranges this year. Imported juice is costing processors $350 a tonne when you include the handling, shipping, reconstitution and addition of colour.

Mr Gray continues to say:

> More than 650,000 tonnes of juice equivalent is coming into Australia each year, mainly from Brazil. We are now down to less than 35,000 tonnes of Valencias grown in the Riverland for juice each year.

My questions to the minister are:

1. What consultation has the minister had with Riverland apple and citrus growers about the importation of concentrated fruit juice?

2. What actions will the minister take in conjunction with industry and relevant authorities to address the Riverland's concerns about the high level of imported juices?

3. What measures will the minister introduce to protect the livelihoods of local growers?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:51): I thank the honourable member for her most important questions. The policy to do with imports and the dumping of products on the Australian marketplace is of course a federal government issue. It is not actually a state government responsibility, so I would urge the honourable member to take these matters up with her federal colleagues.

Given that South Australia's opposition is simply an apologist for the shortcomings of the Abbott government, I cannot imagine that we will get a lot of joy on that front either. Anyway, I look forward to seeing the opposition champion South Australians with their mates in the federal government. I look forward to seeing any evidence of that.

The issue of dumping cheap imported products on the Australian market is not a new thing and it is certainly not new for South Australia. It has potentially serious implications for our markets. There are antidumping legislation provisions in place and there has been a significant push to tighten up those provisions given the view that they do not go as far as they could or should.

I was asked what dialogue had taken place with the industry. Over the years I have met with a number of peak primary industry organisations, their advocacy groups. I visit the Riverland regularly (I was there again just the other week) and am in constant discussion and dialogue with the industry. The industry understands that these are federal issues. These matters are very rarely raised directly with me because the industry understands that they are federal issues and they pursue them with their federal members.

I am always interested to hear not just from the citrus industry affected by this but particularly from our seafood and prawn industries, which are often affected by very cheap imports

from overseas countries. As I said, it impacts on a wide range of products. So this is much bigger than just citrus, although I do understand that there have recently been issues to do with juice being dumped on our markets. These are matters that I look forward to pursuing through the equivalent of our federal ministerial councils as the new federal government rolls out its dates and times for those new forums.

TRANSPORT SUBSIDY SCHEME

The Hon. K.L. VINCENT (14:55): I seek leave to make an explanation before directing questions to the minister representing the Minister for Transport Services about the South Australian Transport Subsidy Scheme (SATSS).

Leave granted.

The Hon. K.L. VINCENT: My office receives calls from constituents every week voicing serious concerns about the inadequacy of the current SATSS regime which fails to meet their transport needs. As a state government website states:

> The South Australian Transport Subsidy Scheme (SATSS) is a State Government subsidised taxi travel program. It is for people with permanent and severe disabilities who, because of their disabilities, cannot safely use public transport either independently or accompanied by a companion/carer.

The SATSS provides up to 80 vouchers per six months per client, or just over three vouchers per week, and will be either a 50 per cent subsidy for people who are ambient or 75 per cent subsidy for people who are permanent wheelchair users. There are also supplements to the scheme: the Journey to Work vouchers for getting to work and the Tertiary Access Assistance for getting to approved study institutions. These are only accessible to those who permanently use a wheelchair. Both the study and work vouchers are printed with only one address from home and one address for work and study on them.

People with disabilities need to get around. They need to attend appointments, go to family events, get to work, study and training commitments, go shopping and maybe even enjoy a social event. Given that our metropolitan public transport system is very limited—for example, you still cannot go to Noarlunga on a train after 10 months of closure of that line, and there is no public bus service to Strathalbyn—it is even more important that those with additional mobility needs are provided with adequate support to get around Adelaide using taxis through the SATSS system. According to constituents who call my office this is not occurring.

There is not adequate support, and the inflexibility of the scheme is making it very difficult to get around for work, study, socialising, shopping and general living. My questions are:

1. Can the minister provide an explanation as to why SATSS Journey to Work vouchers only allow the client to have one work or study address and one home address?

2. Will the minister remove this limiting factor of only one printed address from the SATSS voucher scheme that prevents SATSS clients from having more than one home address or more than one work or study address?

3. Does the minister believe that people with disabilities are only able to live in one house and do not have a lifestyle or living situation that might see them at different parents' houses or staying at their partner or boyfriend's/girlfriend's house?

4. Does the minister think that people with disabilities only study at one campus or in one work location?

5. Why does the inflexibility of the SATSS limit study and work opportunities for people with disabilities when they are already limited by so many other societal factors?

6. Can the minister explain why client applications for the SATSS are rejected on the ground that someone is able to catch public transport even if there is no public transport available in that area?

7. When will the minister increase the maximum subsidy rate (either 50 per cent or 75 per cent of $40), since it has not been increased in more than half a decade?

8. Will the minister index a SATSS subsidy rate increase to the CPI on an annual basis?

9. Why does the minister insist that a SATSS voucher cannot include a stop, such as a quick stop at an ATM on the way to the doctor or a hair appointment?

10. Why are only 80 vouchers provided every six months per client, equivalent to only 1.5 return trips per week, effectively locking many people with disability in their homes and preventing them from the freedom of social access?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:59): I thank the honourable member for her most important and multifaceted questions on the South Australian Transport Subsidy Scheme (SATSS). I undertake to take those questions to the Minister for Transport Services in another place and seek a response on her behalf.

COORONG NATIONAL PARK

The Hon. T.J. STEPHENS (14:59): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation questions about the Coorong National Park.

Leave granted.

The Hon. T.J. STEPHENS: My colleague the Hon. Michelle Lensink asked a number of questions of the minister regarding the Coorong National Park in this place on 17 October this year. The state government and the Ngarrindjeri people have been negotiating future management arrangements and ownership of the Coorong National Park. A new arrangement for the management of the Coorong National Park has been proposed which would see greater involvement and participation of the Ngarrindjeri people.

The state government has also proposed that the Coorong National Park be owned by Ngarrindjeri after the comanagement three-year period, provided that good management has occurred. Since the questions were asked of the minister, the Ngarrindjeri Regional Authority has met to discuss the proposal. My questions to the minister are:

1. What was the outcome of the meeting with the Ngarrindjeri Regional Authority with regard to the comanagement of the Coorong National Park?

2. What safeguards will be in place to ensure that the park's management remains transparent and accountable?

3. What access arrangements will be available to people who are not of Indigenous descent?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:00): I thank the honourable member for his most important question about one of our most important parks. I can say at the outset that I am not aware of the outcome of that meeting as yet. I have not received any advice, so I am awaiting that eagerly but, as I said in the answer to the previous question asked by the Hon. Michelle Lensink, my understanding is that the Liberal Party actually supports comanagement of national parks and we welcome that. That is a position that we adopt as well.

Our comanagement system is working well throughout the state, and I am a little lost to understand why people would think the comanagement process in the Coorong would be any different from the comanagement that we undertake elsewhere in the state. I do not know that there has been any restriction on access to any of our national parks that have been comanaged elsewhere in the state, and I don't expect there will be in the Coorong either.

AQUACULTURE

The Hon. R.P. WORTLEY (15:01): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about aquaculture.

Leave granted.

The Hon. R.P. WORTLEY: Many of us enjoy fish, though I suspect few of us have a real appreciation of one of the ways these fish are brought to market, and that is through aquaculture. My question is: will the minister provide to the chamber details of the economic impact of this form of food production?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:02): I thank the honourable member for his most

important question. It is very pleasing, as Minister for Fisheries, to bring to members' attention confirmation that our aquaculture industry is doing extremely well. A report by independent consultancy EconSearch examined the effect this form of activity has in South Australia, under the title 'The economic impact of aquaculture on the South Australian state and regional economies 2011-12', a very catchy title, Mr President, you will note.

This annual examination of the industry found that the value of aquaculture production grew by an impressive 11 per cent, or more than $23 million, which is quite a significant contribution to our economy—and that is just from the previous financial year. Scanning the industry as a whole, it found that the growth was driven by an increase in production of our fabulous seafood and, in particular, in the 2011-12 year, the southern bluefin tuna harvest, which increased by 22 per cent during the period 2010-11, and oysters increased by 18 per cent during that period as well, so both of those, in particular, are doing extremely well.

Most of these aquaculture businesses are regional businesses, and it is a testament to the ingenuity and enterprise of our regional communities that they have grown so quickly. I am advised that aquaculture now makes up 54 per cent of our seafood production—and 54 per cent is a remarkable statistic.

Added to their production growth, this sector is also a very significant employer. It provides around 1,147 full-time jobs directly created by aquaculture and a further 1,510 FTEs through indirect employment. Most of these jobs, as you would expect, are located in regional South Australia, with 65 per cent of them based outside the Greater Adelaide area, and the bulk of those regional jobs are, I am sure you would not be surprised to know, to be found on Eyre Peninsula.

Members have previously heard me speak glowingly about our fabulous seafood and aquaculture industry, whether it is growing tuna or oysters, it definitely exemplifies our premium food and wine from our clean environment, the attraction of wonderful seafood which is produced in a pristine environment and obviously also helps drive the regional tourism. In 2011-12 data was collected for the first time on aquaculture operations which also acted as a tourist drawcard.

I understand that swimming with the tuna in their pens was undertaken during that period by two tuna farms and the report found that about 12,000 visitors at an estimated $620,000 were recorded, and that activity is expected to be even more popular in future. You can see how important it is that we are able to bring visitors—particularly interstate visitors—to South Australia out to our regions so they can enjoy these incredible tourism experiences.

Much of our valued aquaculture product is exported with Japan being a major market for our tuna, while South Australian oysters continue to grow from a small base of Asian markets including Hong Kong and Singapore. It is a varied sector with production in aquaculture including mussels, abalone, freshwater finfish, marine finfish, as well as marron and yabbie farming, with much of the product being eaten here in Australia.

South Australia benefits from this innovative industry and I can announce that this innovation will be on show when the world's aquaculture producers come to Adelaide for the World Aquaculture Conference and Trade Show. That will be held between 7 and 11 June 2014. This conference has not been hosted here since 1999 so it will be a great opportunity to highlight our successes and show the world how it is done. If members would like more information, the conference can be found online and I encourage members to put those dates in their diary and to come along and have a look at that wonderful trade event.

LOCAL GOVERNMENT COUNCILLORS

The Hon. J.A. DARLEY (15:07): My questions to the Minister for Agriculture, Food and Fisheries, representing the Minister for the Public Sector, are:

1. Can the minister advise how many public servants, police officers or other government staff (including ministerial staff) are also local government councillors.

2. Are these staff required to obtain approval from their respective departments to engage as councillors?

3. How frequently are they required to obtain this approval?

4. What administrative arrangements are in place for councillors to attend council business during core working hours?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:08): I thank the honourable member for his important questions and will refer them to the relevant minister in another place and bring back a response.

HOSPITAL SECURITY

The Hon. R.I. LUCAS (15:08): I seek leave to make a brief explanation prior to directing a question to the minister representing the Minister for Health on the subject of security costs in major Adelaide hospitals.

Leave granted.

The Hon. R.I. LUCAS: Members will be well aware of the many examples in the media and from consultation with constituents of the significant security costs incurred by our major metropolitan hospitals ensuring security of staff and other patients in relation to some patients who are suffering either mental health issues, drug issues or indeed they may well be issues in relation to being held in various forms of custody and needing to be secured for those reasons as well. My question to the minister is: can he provide for each of the last three financial years and the year-to-date figures for 2013-14 the costs incurred by SA Health for additional security in the circumstances that I have outlined at the Royal Adelaide Hospital, Flinders Medical Centre, Lyell McEwen Hospital and Queen Elizabeth Hospital in Adelaide?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:10): I thank the honourable member for his most important question. I undertake to take it to the Minister for Health and Ageing in another place and to seek a response on the honourable member's behalf.

CYCLING FOR CULTURE

The Hon. CARMEL ZOLLO (15:10): My question is to the Minister for Aboriginal Affairs and Reconciliation. Will the minister advise how the culture of the Kaurna people, the traditional owners of the land we stand on today, is being conserved and shared with the wider South Australian community?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:11): It is with surpassing pleasure that I can say, yes, I can. It is well known that, as a result of colonial settlement, many Aboriginal languages around Australia have been lost forever. Aboriginal culture is traditionally oral based, which has meant that, when a teacher of the language has died without passing on that knowledge, that knowledge has been lost to the community.

The Kaurna language of the Adelaide Plains was believed to have been last spoken on a daily basis during the 1860s. Since then, the language has remained in a dormant state, if you like, and most of what is known of the Kaurna language was found in the recordings of a number of now deceased Kaurna elders recorded by German missionaries many years prior.

It was not until the early 1990s that a concerted effort by a number of Kaurna elders in Adelaide and surrounds led to a decision to begin a reclamation effort of their language. Not long after that, thanks to the efforts of these trailblazers, the Kaurna language began being taught at the Kaurna Plains School. Since then, much progress has been made in recognising Kaurna culture and the Kaurna language. Many places in Adelaide have Kaurna names and so do many services and support networks for Aboriginal people in Adelaide.

In 2002, the Kaurna Warra Pintyandi (or KWP), a school and place of research for the purposes of reclaiming the Kaurna language, was established by a number of Kaurna elders, teachers, linguists and other researchers, with the support of the University of Adelaide. Today, the KWP is now the lead body in developing and promoting the Kaurna language. Of course, as with all bodies such as this, they rely significantly on community support.

In respect of this, the KWP, the Kaurna elders and Kaurna people themselves, together with their supporters, launched Cycling for Culture, a fundraising program that helps not only conserve and promote Kaurna culture but also health and wellbeing through the physical pursuit of cycling. Just last week, I had the pleasure of attending the launch of a three-day ride, led by the program's celebrity riders, Mr Patrick Jonker, a well-known Australian professional cyclist and, of

course, the 2004 first overall Tour Down Under winner, and the Port Power All Stars Gavin Wanganeen and Che Cockatoo-Collins.

This bike ride lasted over three days and followed a route designed in conjunction with Kaurna elders which shows off Kaurna country's beautiful landscapes, cultural sites of significance and teachings from the Tjilbruke Dreaming. Riders travelled over 275 kilometres from the Kaurna Living Cultural Centre in Marion and then along the South Coast to Normanville on the first day. They then travelled up through Willunga and McLaren Vale on day 2 and back through Mount Lofty up to Salisbury and back to Adelaide on day 3. The ride had a core group of riders but also a number of participants who took up the ride on certain days, including His Excellency the Governor, who participated in the last day of the ride. I am sure he was a much safer rider than I would have been.

The Hon. R.L. Brokenshire: Did you do any riding with them, minister, up Willunga Hill?

The Hon. I.K. HUNTER: In answer to the Hon. Mr Brokenshire's interjection, I did not ride with the participants. I thought it safer—

The Hon. G.E. Gago interjecting:

The Hon. I.K. HUNTER: My honourable leader is flattering me, sir. I think that, for community safety and wellbeing, my not being in lycra is probably the best course of action for me! This event, Cycling for Culture, is a great way to raise money and awareness for the Kaurna culture, as well as the health and wellbeing benefits a big ride like that can achieve, I am told.

At the launch, Che Cockatoo-Collins told me how this ride had inspired him to get fit again and also to reconnect with the many Kaurna elders he has met and come to know throughout his life in South Australia. I think he probably dropped about 10 kilograms in preparation for this ride and, indeed, he did look very fit. I hope he had a very enjoyable ride.

Whilst we still have a long way to go in recognising and conserving Kaurna culture, there is no doubt that we have come a long way in the past few decades. Kaurna language is being taught to a number of Aboriginal and non-Aboriginal students at all levels of education, I am told—early childhood, primary, secondary and, indeed, tertiary. We now have over 40 per cent of public schools offering Aboriginal cultural studies in their curriculum.

Events like this one help get the message out about the need to preserve Kaurna culture and also provide new ways for those not yet exposed to Kaurna culture to hear more about that culture and the traditional owners of this place that we call Adelaide.

I congratulate the Cycling for Culture team for organising this event. I particularly congratulate Ms Katrina Power and Stephen Goldsmith, who were instrumental in its development. I commend to the chamber this event and, if honourable members would like to look it up on search engines, they can make a contribution to this very worthy cause.

INNER CITY REVITALISATION

The Hon. M. PARNELL (15:15): I seek leave to make a brief explanation before asking a question of the Minister for State/Local Government Relations about state/local government relations.

Leave granted.

The Hon. M. PARNELL: The minister and other members would have perhaps seen in today's version of *InDaily* the article by Liam Mannix, entitled 'Mayors angry at loss of planning powers'. In this article, Mr Mannix refers to the state government's Inner Metropolitan Growth Development Plan Amendment, which came into force yesterday. The article points out that any development projects that are in the areas rezoned by that DPA that are five storeys or higher will now be assessed by the state government's Development Assessment Commission, rather than by the local council's development assessment panel.

According to the article, mayors in Unley and Norwood say that the first time they heard about this move was when Premier Jay Weatherill announced it at a press conference yesterday. To quote the article:

'We are very unhappy with that,' Unley Mayor Lachlan Clyne said this morning.

Clyne's council area covers Greenhill Rd and Unley Rd, parts of which the State Government's DPA rezones for higher density development.

Another quote from mayor Clyne:

'Councils are the best placed to assess development and the State Government is taking control and the decision-making away from us,'...

Norwood, Payneham and St Peters mayor, Robert Bria, is also referred to in the article. He said that his council was being unfairly tarred as antidevelopment. The quote from mayor Bria in the article was:

'I think that as a matter of good faith they—'

meaning the state government—

'should be giving councils at least an opportunity to see how they go processing applications for that sort of density.'

My questions of the minister are:

1. Before making the announcement yesterday to strip local councils of development assessment responsibility, did the government consult with any local councils about that move?

2. Did the government consult with the Local Government Association and, in particular, did the government consult with the President of the Local Government Association, Mr David O'Loughlin, who also happens to be the Mayor of Prospect, which is another council affected by the DPA, and who also happens to be the director of major projects at the Urban Renewal Authority and also happens to be the Labor candidate for the seat of Adelaide?

3. If Mr O'Loughlin—

The Hon. R.P. Wortley: He will do very, very well. Using parliamentary privilege to attack the integrity of the Local Government Association.

The Hon. M. PARNELL: Parliamentary privilege!

The Hon. R.P. Wortley: How do you live with yourself?

The Hon. M. PARNELL: If I can finish my question free from—

The PRESIDENT: Order!

The Hon. M. PARNELL: —the Hon. Mr Wortley's interjections:

3. If Mr O'Loughlin was consulted, was it expected that he would advise the other mayors of the government's proposals, if the government in fact did not consult the other mayors itself?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:18): I thank the honourable member for his questions and I will refer those to the Minister for Planning in another place and allow him the opportunity to respond to those questions.

I have to say I am surprised at the Greens, although I should not be. The planning that this government has brought into place, and the remodelling that has taken place, is about trying to improve efficiencies, particularly of our infrastructure. It is about increasing residential density and other activity along really important transport corridors and using infill sites to be able to increase and expand to our population needs, rather than urban sprawling, which of course has huge infrastructure costs and greater inefficiencies.

This model helps not only improve the efficiency of our infrastructure but also reduces the reliance on the use of cars and increased public transport. That is the real issue—that is the policy underpinning this, and we get no acknowledgment from the Greens. They don't stand up in this place and acknowledge the important policy work behind these decisions. No, no, he wants to nitpick about consultation. We know a number of these local councils are very protective of any changes to their own backyards, so it is not surprising that we hear the response from some of those councils, as we have.

It is a matter for the Minister for Planning, and I will refer those to him and he will respond as he sees fit. I would like to think that the Greens would at least be acknowledging some of the important policy and environmental values underlying these decisions.

MATTERS OF INTEREST

DISABILITYCARE AUSTRALIA

The Hon. R.P. WORTLEY (15:21): I rise today to discuss the care and support of disabled members of our community. I necessarily refer to federal issues in my remarks. I employ a young woman as a personal assistant in my office one day a week. Her name is Georgia, and she has cerebral palsy. She has provided me with a great deal of research and anecdotal evidence to which I will refer over the next few minutes, and I thank her for her work.

In 2008, Australia ratified the United Nations Convention on the Rights of Persons with Disabilities. Just five years later, we have the National Disability Insurance Scheme. That commitment is worth celebrating, in my view. As Nicola Roxon pointed out in her John Button Memorial Lecture in Melbourne just a couple of weeks ago:

> When Bill Shorten first started advocating for [the NDIS], it was not government policy and money had not been allocated...the reasons for acting become overwhelmingly clear...This vital social policy change was handled so well that the Liberals had no choice but to adopt it as their policy too. This was a sign of success, policy wise, but it was also...designed to neuter the political impact of such a substantial reform.

We now know that the rest is history. We are assured that this landmark Labor reform will be retained by the new federal government, although some tinkering obviously can be predicted.

For disabled members of our community and their carers this has been a very long wait. Access to the scheme for children with disability here in South Australia began on 1 July this year, covering participants in disability support programs aged from birth to 24 months. Children up to five years will join by July 2014. The age limit will then extend to 13 years and, by the following year, all children from newborns to 14 year olds will be able to access the scheme.

According to current agreements, all eligible South Australian residents will be covered by July 2018. While I acknowledge that that means an additional wait for Georgia, at least the vision and the passion of the former federal government will enable her sooner rather than later to participate in a structured system that will assist her to make her own life decisions.

What do those life decisions entail? Amongst other matters, the issue of independent living remains a primary concern for Georgia and her family. Presently, she receives less than 19 hours of carer support per week, which is typically used to enable independent recreational and other activities—for example, coming to work, exercising, participating in meal preparation and enjoying various opportunities for interaction and creativity. But if personal care were not carried out by Georgia's family to make time for these external activities, her carer support allocation would be used up, and if that happened Georgia would be at home, isolated from the social life that we just take for granted.

More hours would cover independent activity and personal care and relieve Georgia's family because, as her parents age, equipment will be needed. Georgia says, too, that there is a need for more trained, reliable support staff. One example: an injury that was a direct result of poor personal care once resulted in two weeks leave from work. On another issue, I know from Georgia and others that once the school years are over there are relatively few options for organised activities for young adults with disabilities throughout the week. More is needed.

So, how will the National Disability Insurance Scheme help Georgia with these issues? For a start, DisabilityCare will enhance her opportunities for independent living, a desire all young people share. DisabilityCare will provide increased family support and allow her parents to transition their care responsibilities as they age. It will provide guidance as to the most appropriate equipment for Georgia's safety and wellbeing, and individualised funding will give Georgia control over spending priorities without jeopardising essential services.

These are all opportunities to move away from dependence and towards a better quality of life. Georgia concedes that the scheme presents changes and challenges, yet believes that it will provide security, enhance independence and deliver increased autonomy for clients and their families. Disability support in Australia has the potential to transform the landscape of our community. Georgia and I commend the scheme.

VISITORS

The PRESIDENT: Before I call on the Hon. Mr Stephens, I wish to acknowledge the Australian world champion F-Class rifle team. The president, Mr Cramwell, welcome, and team members, Richard and Stuart Braund and Mr Mike Willment. I invite you to enjoy the

Hon. Mr Stephens' hospitality account. He has a huge account in this place, it has no limit. I wish you well and welcome. The Hon. Mr Stephens.

MATTERS OF INTEREST

F-CLASS RIFLE SHOOTING WORLD CHAMPIONSHIPS

The Hon. T.J. STEPHENS (15:26): Thank you, Mr President, for that welcome for my guests. I wish to speak today on our world champion sporting shooters in this state. Recently, I had the pleasure of attending the South Australian state rifle championships at the Lower Light Rifle Range. I was given the honour of presenting trophies during the formalities of the event. I was lucky enough to meet some gentlemen, who are guests of mine in the gallery today, from the 2013 F-Class world champion side and I just want to make a few comments on the significance of their achievement.

For those who do not know, F-Class is a class of rifle shooting which uses rests and enhanced sights and targets are shot at distances of 300 and 1,000 yards. The 2013 World Championships were held in Raton, New Mexico, USA, over two days in August. This type of shooting was only introduced into Australia in 2000. This was the fourth world event since the inaugural championships were held in 2002. Previous world champions have been the USA in 2002, South Africa in 2005 and Great Britain in 2009.

Preparations began 12 months earlier when a goodwill team competed at a domestic event at the same venue, bringing back valuable information for the Australian team. From here, there was then the search for the best wind coaches to get the most of the marksmen and women. A wind coach's pivotal role is to guide each shot to the centre by reading the prevailing environmental conditions. Apparently, altitude was something else that the team needed to acclimatise to before the match, with the complex at Raton being 2,150 metres above sea level. Finally, the team's ammunition needed to be sorted upon arrival, as there were issues getting more than the bare minimum through airport security—understandably, I guess.

Moving onto the actual competition now. There were six teams competing in the F-Class open category, each with eight marksmen, from: Australia, Canada, Great Britain, Ireland, South Africa and the United States. I have been informed that the Americans were very confident and, in typical style, were not quiet about it. The American captain was quoted as saying, 'Barring equipment failure, we will certainly win gold.' In the second category of field target rifle, there were seven teams from: Australia, Canada, Great Britain, Ireland, South Africa, Ukraine and the United States.

The F-Class open team contained three South Australians: Richard Braund, the master wind coach, as well as marksmen Stuart Braund and David Zerbe. Sadly, David is not with us today. In the field target rifle team, Mike Willment was the sole South Australian representative. As I mentioned, these gentlemen join us in the gallery, along with F-Class president of South Australia, Mr John Cramwell, and I am sure you will welcome them to this place warmly, Mr President—as you already have—particularly given their skills.

I am informed that Mike Willment performed well in the individual event, finishing 16th out of 189 competitors. It seems that this win was considered rifle shooting's equivalent to winning the America's Cup and that our winged keel came in the form of an innovative wind coaching system developed in North Queensland. After shooting had finished on the first day, a support team in North Queensland were sent the plot sheets and wind calls. All this data was analysed using a tailor-made computer program which further refined the coaching systems back in New Mexico.

The Aussies led the Americans by four points at the beginning of day 2 but, by the end, the lead was 15 and Australia were the champions of the world against the odds. The Field Target Rifle team put in a solid performance and finished fourth overall. The F-Open team performance was a remarkable achievement not only to those involved in the sport of shooting but sport in general, and that should be recognised as it is a sport that does not often get the attention it deserves.

I congratulate the team and these gentlemen and wish them all the best for their future endeavours. They have been very welcome guests in this place and I wish them every success in the future.

Honourable members: Hear, hear!

MENTAL HEALTH

The Hon. K.J. MAHER (15:30): Earlier this year I, like all other members of parliament, received a letter from the Mental Health Coalition of South Australia inviting MPs to visit a mental health service in the lead-up to Mental Health Week. The Mental Health Coalition of SA is the peak body for the non-government mental health sector in South Australia. Their mission is to influence the development, range and responsiveness of services to support those affected by mental illness. This is the first time they have arranged the initiative to involve members of parliament. Their aim is to support members of parliament to learn more about mental health and meet the people involved, and I commend the Mental Health Coalition for this initiative.

Mental illness is a significant issue in Australia and one that touches the lives of most Australians. Many of us will experience a mental illness at some point in our own lives or we will see someone dear to us experience it. The impact can be devastating and, for some, lifelong. Mental illnesses include depression, bipolar disorder, schizophrenia, anxiety and personality disorders.

Australian data shows that one in two people aged 16 to 85 will experience mental illness at some time and that one in five people will experience mental illness in any given year. It is even more common in young adults, affecting 25 per cent of this age group. It is felt across all sections of society.

People who experience mental illness have a higher risk of social isolation and economic disadvantage and people who experience social and economic disadvantage have higher rates of mental illness. According to the Red Cross, people with mental illness generally have poorer physical health, are more likely to abuse alcohol and other drugs and have higher rates of suicide. They are also more likely than the rest of the population to experience homelessness, be imprisoned, have their children placed in out-of-home care or be unemployed.

For Aboriginal and Torres Strait Islander people, there is an even greater prevalence of mental health issues compared to the general population. According to the Red Cross, research indicates that 27 per cent of Aboriginal and Torres Strait Islander people experience high or very high levels of psychological distress, twice the rate of the non-indigenous population. Additionally, Aboriginal and Torres Strait Islander people are hospitalised for instances of self harm at twice the rate of non-indigenous people.

I was one of a number of members of parliament who took up the offer from the Mental Health Coalition, visiting the Mental Illness Fellowship SA (MIFSA) centre called Panangga. MIFSA is a community-based not-for-profit organisation providing a range of services to people with mental illness, carers and the community since 1983. MIFSA has locations around SA, including Wayville, Reynella, Christies Beach, Port Lincoln and Mount Gambier.

MIFSA provides activity programs such as learning new skills, becoming active and productive, connecting with the community and generally having fun and reintegrating with society. They also run therapy groups, facilitate peer worker support and provide personal helpers and mentors. For families and friends of those with a mental illness, they have a respite program to provide carers with a short-term break from their caring responsibilities. They also have support groups for carers.

I was very impressed when I attended Panangga recently and had a chance to spend time with their friendly and capable team. The Panangga Activity Program is a community-based service run by staff and volunteers in conjunction with participants. Any person who is living with a disability (in particular individuals with a mental illness), their carers, relatives and friends can access the services. No referral is required.

The centre promotes wellbeing in a supportive environment by offering opportunities for individuals to progress their recovery and prevent a relapse by improving their ability to manage their illness. This occurs by providing a place where people can participate, build skills, develop friendships, be accepted and connect with the community. The Panangga centre provides a flexible and supportive environment in which people can choose to participate in structured activities, meet and socialise. Staff are friendly and approachable and support and assist people with a range of programs.

Some of the activities at Panangga include physical and outdoor activities such as tennis and bike riding, lunch groups, over 60s fitness, quizzes, computer skills, tenpin bowling, outdoor trips, fishing, cooking, and a music group. I would like make a personal apology to the staff and

participants at Panangga. When I visited them, I took part in their music therapy group and I do not think any of them appreciated my rendition of *Crocodile Rock*, but they put up with me and for that I am very grateful. I would like to again congratulate the Mental Health Coalition of SA for what I think is a fantastic initiative.

MORRIS, MR R.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:35): I want to talk about process. Process involves the rule of law. It means that the law rules and no-one is above or beyond the law, not even kings and emperors and certainly not premiers or ministers. The Oxford Dictionary definition of the rule of law is the principle whereby all members of society, including those in government, are considered equally subject to publicly disclosed legal codes and processes.

In 2011, I raised concerns about the appointment of the government's propaganda chief to one of the state's top public service jobs. Rik Morris, a former media secretary to the trio of sacked or dumped ministers was anointed as the general manager of the Tourism Commission. It was an instance, I thought, of rampant nepotism, which kept Morris dancing. Tourism is a multibillion dollar industry. It should not and must not be the lifeboat for a survivor of the Rann government's shipwreck.

Who gave him the reference when the commission was already embroiled in a conflict of interest controversy about the chairman's son-in-law being awarded a contract to run the SA Travel Centre? Was it the brutal troika of Michael Atkinson, Kevin Foley or Mike Rann—ex-Labor ministers all? All of them were eventually sacked, demoted or dumped, and all of them ex-bosses of Rik Morris. If you employ Mr Morris, your days are probably numbered.

I want the premier to explain Mr Morris's qualifications. As an apologist for the dark side of Labor, Mr Morris failed to impress me as having the skills to work in the Tourism Commission. When tens of thousands petitioned for a Port Adelaide bridge to be named after the local war hero and Victoria Cross winner, 'Diver' Derrick, Mr Morris was on radio saying, 'The Port community doesn't have strong feelings about this.'

Mr Morris then insulted Port Adelaide by labelling the petitioners as a bunch of renegades. These are not the actions of a person worthy of an important job in tourism. Mr Morris was getting almost $160,000 a year from his job in the Premier's office. His job at the Tourism Commission probably pays more than that—I say 'probably' because freedom of information requests blocked out his pay. We do know that this contract states that Mr Morris is not allowed to do any paid work outside of the SATC.

At the commission, he is responsible for initiating, managing and evaluating tourism projects and initiatives. Who can forget Word Adelaide, or Dumb's the Word? *The Advertiser* called it 'flaccid'. Crowds, if they could be called that, were so dismally small that venues had to be cancelled and free tickets given away. The event was a mitigated disaster—mitigated because international guests thought it was a doozey: they were paid to attend, they were dined and entertained and, I suspect, flown out first class. The festival cost more than $400,000—an act of genius!

As general manager of corporate and strategic communications, Mr Morris oversees apps that do not work, like the Fleurieu Peninsula guide which reckons you are on Eyre Peninsula, hundreds of kilometres away, instead of the one on the Fleurieu. The boss of corporate and government relations might think that it is good corporate relations to have a website that works; not under Mr Morris' tutelage—try finding the commission's latest annual report on its own website. It is not there. Who is trying to hide what?

As the boss of the Tourism Commission's familiarisation program, Mr Morris oversaw visits by foreign journalists to South Australia. What oversight is there of this program? What is the process? Does it follow the rule of law? What prior or continuing relationship or relationships does he have with one or more of those reporters? Is it always a strictly professional relationship?

Mr Morris, now living in Australia, once lived in Blackheath. The commission spent $6,100 on a trip to London for the London Wild Bird Watch Consumer Show, a trip the commission tried to keep secret, making no announcement or public statement. The opposition's research next discovered that Mr Morris's nest egg at the commission paid airfares, accommodation and other expenses for six foreign journalists to come to South Australia and supposedly write stories about birdwatching in South Australia. The government was unable to name these journalists, their

magazines or newspapers, and could not identify a single word, let alone a news story, article or radio or television broadcast written by these journalists.

Mr Morris spent more than $3 million on such familiarisations and now comes today's news that Mr Morris has taken secondment from his onerous task: today he has moved back to the Premier's office to run Labor's media unit. His job there is to try to save Labor from electoral doom. He says he will return to the Tourism Commission and I quote him directly, 'when we have won the election'. The previous premier Mr Morris tried to save was sent packing by his own party, the object of ridicule and derision.

While Mr Morris was in the employ of the attorney-general, Michael Atkinson maintained we did not need an independent commission against corruption in South Australia. Mr Morris and Mr Atkinson were wrong then and they are wrong now. We need an independent commission against corruption. We need, here in South Australia, proper process and the rule of law.

CDW STUDIOS

The Hon. J.A. DARLEY (15:40): I rise today to speak about CDW Studios. CDW Studios is a school of visual effects and entertainment design which was established in late 2012 by Mr Simon Scales. After graduating with a visual communications degree in Adelaide, Simon briefly worked as a children's book illustrator before deciding he wanted to move into animation. Unfortunately, as there was no opportunity to learn these skills in Australia, Simon enrolled into the Concept Design Academy in Los Angeles and in 2008 he became one of the first international students to attend the academy.

Upon returning to Adelaide, Simon wanted to give the opportunity for others in Australia to learn visual effects and entertainment design skills, such as those he had acquired in America, without having to go to the expense of going overseas. As a result, in 2011 Simon held an intensive visual effects and animation workshop in Adelaide. This two-week workshop completely sold out.

Following this success, Simon held four more similar workshops around Australia and New Zealand, which featured international presenters and attracted students from around the country. Feedback from the workshop was overwhelmingly positive; however, many expressed their frustration that outside of these workshops there was nowhere in Australia to learn these skills and techniques. This led Simon to establish CDW Studios.

For those who are not aware, visual effects artists work in the television, movie, video game and graphic novel industries. They create, design and develop stories, characters and games and are responsible for bringing these ideas to life. The creativity of these artists is remarkable and is only rivalled by their technical abilities.

CDW offers courses for all areas of the visual effects industry from drawing for comics to 3D animation. All the teachers and presenters at CDW are well-respected, world-class experts who work within the industry. Projects that CDW staff have been involved in previously include *The Lord of the Rings* films, Disney productions, Lego and the movie adaptation of *Hunger Games*.

Since the workshops began in 2011, CDW has seen 700 to 800 students come through their doors. The calibre of CDW's teachers means that the school's reputation is second to none and students love that they are learning from world-class industry artists. The courses offered are in such demand that they have been digitally purchased by thousands around the world.

Aside from the school, CDW Studios also offers co-sharing office space for other businesses and freelancers. This produces a creative environment which encourages and inspires creativity. The site is currently hosting a number of small enterprises, including mobile app development company Mighty Kingdom.

There is simply nothing else like what CDW offers in Australia. It is unique to Adelaide and, as such, attracts students not only from interstate, but also international students who choose specifically to come to Adelaide to study their craft. This in turn increases economic activity in the state and enhances Adelaide's reputation around the world. I congratulate Simon on all he has achieved in establishing CDW Studios and hope it continues to grow in the future.

INDIAN COMMUNITY

The Hon. J.S. LEE (15:44): I rise today to pay tribute to and acknowledge the very active and vibrant Indian community in South Australia. When we look at the community information produced by the Department of Immigration and Citizenship, the Indian migrants of Australia have enriched our country for over 200 years. The earliest Indian migrants were brought to Australia

between 1800 and 1900 as agricultural labourers and hawkers, and some of them also worked in the goldfields. By 1981 the Indian-born population reached 41,657 and the new arrivals included professionals such as doctors, teachers, computer programmers and engineers. This trend has continued until now. Today, India is one of the top three source countries of migrants to Australia. The latest census in 2011 recorded 295,362 Indian-born people in Australia—an increase of 100.8 per cent from the 2006 census.

Due to their adaptability, English proficiency, as well as a high standard in educational achievements and qualifications, the Indian community makes a significant social and economic contribution to Australia. Indian culture is rich and diverse. They are proud of their traditions and heritage and continue to pass them on from one generation to another.

As the shadow parliamentary secretary for multicultural affairs, it is a great honour to be invited to many functions hosted by the vibrant Indian community in South Australia. The months of October and November are important occasions for the Indian community as they celebrate major festivals such as Navaratri and Diwali (the Festival of Lights). Navaratri literally means nine divine nights. During Navaratri believers embrace the energy of the universal mother, Durga, the goddess of energy.

Navaratri is divided into sets of three nights to worship different aspects of the supreme goddess. On the first three nights, the 'mother' presents herself as the powerful force called Durga in order to destroy all impurities. The next three nights the 'mother' becomes a giver of spiritual wealth—Lakshmi. The final set of three nights is spent worshipping the 'mother' as the goddess of wisdom—Saraswati. In order to have all-round success in life, Indian culture believes that people need the blessings of all three aspects of the divine mother.

Thanks to many hardworking community groups I had the pleasure of attending three Navaratri celebrations. The first event was organised by the Gurjarati Community Group and was a Garba Dance/Navaratri Festival, with special thanks to Mrs Gautami Patel and her team. The Garba dance is a joyful dance with participants wearing colourful traditional Indian costumes, moving in unison in a circular pattern and characterised by a sweeping action from side to side.

The second function was held on Sunday 5 October and organised by the JET Australian Foundation which was a spiritual and multicultural event called the Navaratri Festival, with thanks to Mr Krishna Kasuba and his team. The third Navaratri function was organised by Swarnim SA (a multicultural volunteers team), with thanks to Ajay Pradhan and the volunteers.

The next auspicious Indian festival I would like to speak about today is the Festival of Lights—Diwali. It is perhaps the most well known of the Indian festivals: it is celebrated throughout India as well as in Indian communities across the world. Diwali is known as the Festival of Lights and signifies the renewal of life and hope for a bright future.

I am privileged to have been invited to four Diwali functions and would like to congratulate and thank the following organisations for their wonderful work: first, the Punjabi Association of South Australia, with thanks to Dr Kuldip Chugha and his committee; secondly, the Punjab Aussie Association of South Australia, with thanks to Mr Rajesh Kumar and his committee; thirdly, the Telegu Association of South Australia, with thanks to Mr Adireddy Yara and his committee; and, fourthly, the Indian Australian Association of South Australia, with thanks to Dr Rakesh Mohindra and his committee.

In conclusion, I place on record my special thanks and appreciation to all the Indian groups and associations for preserving the wonderful traditions and cultures and making cultural and economic contributions to enrich South Australia.

EVIDENCE (JOURNALISTS) AMENDMENT BILL

The Hon. S.G. WADE (15:51): Obtained leave and introduced a bill for an act to amend the Evidence Act 1929. Read a first time.

The Hon. S.G. WADE (15:51): I move:

That this bill be now read a second time.

The state Liberals are committed to strengthening transparency and openness in South Australia by providing legal protection to journalists' sources through shield laws. This stands in stark contrast to the Weatherill Labor government's commitment to secrecy, such as with suppression laws and the ICAC and its highly-controlling approach to the media. These laws will help to ensure that media sources receive the protection they need to support and inform public conversation. The

public interest is best served by an open and transparent public conversation, rather than one where people are afraid to speak out. The Public Service and others should feel free to provide frank and fearless advice without fear of retribution from ministers or their staff.

Shield laws aim to provide protection to journalistic sources by suppressing their identity and providing journalists with confidential source-to-journalist privileged communication. While whistleblower laws provide limited protection once a source has been disclosed, shield laws act to protect sources by protecting anonymity. Australian common law does not provide any protection to journalistic sources. As the Senate Legal and Constitutional Affairs Legislation Committee said in their report on commonwealth shield laws:

> Journalists' privilege operates not only to protect the privacy of the source and the relationship of trust between the journalist and the source, but also to protect public interests in the accountability of public officials, an informed public and the free flow of information, all of which are vital components of a democratic society.

Shield laws operate in most other states in the commonwealth. They ensure that journalists are not forced to reveal their sources unless there is a clear public interest in their needing to do so. Such laws encourage sources to provide information to journalists without fear of retribution. In doing so, they support a healthy democracy. Only the Northern Territory, Queensland and South Australia have not legislated to provide such protection.

During the development of the bill I have tabled today, we considered in detail the existing provisions of other states. The commonwealth, New South Wales, ACT and Victorian provisions are worded in such a way as to require the journalist to promise to the source that they will not disclose the source's identity. For example, in New South Wales, under section 126K, it states:

> If a journalist has promised an informant not to disclose the informant's identity, neither the journalist nor his or her employer is compellable to give evidence that would disclose the identity of the informant or enable that identity to be ascertained.

The Western Australian and Tasmanian provisions require it to be shown that there is a protected confidence, protected identity or a document that records a protected confidence.

The bill we are introducing today does not require an explicit promise between the journalist and their source that the information is privileged. It is the nature and circumstance of the communication that should determine whether protection applies. It may be that the nature and circumstances of the communication are implied, rather than stated to be confidential. Proposed section 72B(2)(d) of the bill states that if:

> (d) the informant reasonably expected that his or her identity would be kept confidential (whether because of an express undertaking given by the journalist or otherwise),
>
> then the person does not incur civil or criminal liability for failing or refusing to answer any question, or produce any document or other material, that may directly or indirectly disclose the identity of the informant.

The provision of the information must only occur with the expectation that the information may be published in a news medium. The opposition also wants to warmly acknowledge the work that the Hon. John Darley has done in initiating debate on these laws within the South Australian parliament. Whilst our bill differs from that of the Hon. John Darley in a number of respects, we share both his general approach and his commitment to strengthening our democracy.

One significant difference between the Darley bill and the bill I have tabled today is that in our bill there is no criteria of 'professional' in the definition of journalists. It extends more broadly to other journalists, such as those operating as contractors and freelancers. This approach is consistent with the scope of the commonwealth provisions. This change, we hope, would futureproof the laws to some degree, in the sense that they should be able to accommodate the changing nature of news media and news organisations.

Media, journalism and news dissemination are evolving at a rapid pace and increasingly rely on contributions from the public, from ad hoc journalists and from non-professional sources. Even established professional journalists blend their media sources, such as where journalists use blogs and Twitter to comment on mainstream stories. It is not yet clear how investigative journalism will evolve over the months, years and decades ahead.

Under current New South Wales law, a professional journalist who blogs at home in a forum other than their workplace may not even be covered. The opposition believes that it would be valuable to provide clarity that circumstances like these are indeed covered by the protections proposed in the bill. Secondly, unlike the Hon. John Darley's bill, which does not provide protection to journalists when their sources are being questioned by the ICAC, the Liberal bill provides the

same level of protection for journalists and their sources throughout. Of course, in consideration of proceedings in the ICAC, the public interest test in the bill would be overriding.

The Liberal bill also ensures, as the Hon. John Darley's bill does, that the protection cannot be circumvented by targeting journalists' employers. The commonwealth, New South Wales, Australian Capital Territory and Victorian provisions all explicitly grant protection not just to the news provider but also to their employer. Neither the employer nor the journalist are compelled to provide the name of the source unless ordered to do so by a court. Western Australia and Tasmania's provisions relate to the nature of the information and the means in which it was provided, so do not have a specific provision to cover certain classes of people or their employers.

The definition of journalist in our bill covers anyone who is engaged and active in the publication of news. Proposed section 72B(5) of the bill also extends the protection to journalists' employers, people who engaged the journalist under a contract for services, and other persons prescribed by regulation. This ensures that an editor, for instance, who is aware of a journalist's sources, receives the same protection as the journalist themselves.

The Liberal Party believes that the bill before us represents a robust approach to shield laws, and we believe it would be one of the best examples in the country; nonetheless, there is always room for improvement. As such, I am introducing the bill on behalf of the opposition today to provide the public, stakeholders and other members the opportunity to consider the proposed changes. We would welcome any feedback to improve the laws further. Given that there are only two scheduled sitting weeks left before the March 2014 election, individuals and organisations interested in providing feedback will have at least five months to comment before the parliament convenes after the election.

These laws represent a clear contrast in the approach of the Marshall Liberal parliamentary team and the Weatherill Labor government. Under Steven Marshall's leadership, we look forward to advancing the interests of transparency, openness and informed democratic debate through this bill and other initiatives. I commend the bill to the house.

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

CRIMINAL LAW CONSOLIDATION (PROVOCATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 May 2013.)

The Hon. S.G. WADE (16:01): I rise on behalf of the Liberal opposition to indicate our support for the second reading of the Criminal Law Consolidation (Provocation) Amendment Bill 2013. The Hon. Tammy Franks introduced the bill into the Legislative Council on 1 May 2013. The bill seeks to remove the homosexual advance test as a partial defence to murder. The test is an expression of the partial defence of provocation. In the case of Masciantonio v The Queen, the High Court set out the boundaries of the defence, and I quote:

> Homicide, which would otherwise be murder, is reduced to manslaughter if the accused causes death while acting under provocation. The provocation must be such that it is capable of causing an ordinary person to lose self-control and to act in the way in which the accused did. The provocation must actually cause the accused to lose self-control, and the accused must act whilst deprived of self-control before he has the opportunity to regain his composure.

The homosexual advance test was applied in the case of Green v The Queen (1996). Green hit and stabbed his friend to death after an unwanted, non-violent, sexual approach. The High Court found that the law of provocation should have been considered, and ordered a retrial in the case. At the retrial Green was found guilty of manslaughter and sentenced to 8½ years gaol. The Law Society has provided advice that the case of Green v The Queen was decided on its facts as a jury question. Green was reviewed because the jury was not asked to consider questions it ought to have been asked.

The Hon. Tammy Franks makes a strong case that a non-violent homosexual advance should not constitute a partial defence. I would commend the honourable member on three counts: first, for bringing the bill before the parliament; secondly, for broadly consulting on the issues; and, thirdly, for bringing the fruits of that consultation to not only this house but also to other members so that we can all be better informed of the range of issues that the bill raises. In those consultation responses, the Law Society made it clear that it opposed the bill on the ground that it would confuse the area of law and alter the common law defence of provocation to exclude or otherwise limit the occasions in which a sexual advance may constitute provocation.

Other consultation responses received by the Hon. Tammy Franks included responses from a group of Adelaide University academics from the Law School and the Commissioner for Victims' Rights. Both the commissioner and the academics supported the removal of the homosexual advance test but called for the abolition of the partial defence of provocation. Tasmania, Victoria and Western Australia have all done away with the defence of provocation entirely: Tasmania in 2003; Victoria in 2005; and Western Australia in 2008. Some jurisdictions have chosen not to abolish the defence but rather to limit it from applying in certain circumstances. In the Northern Territory and the Australian Capital Territory a non-violent sexual advance towards the defendant cannot, without other factors, constitute provocation.

A recently released select committee report of the Legislative Council of New South Wales recommended a similar provision for that state and, only last week, the government of New South Wales announced that it will be legislating in accordance with the recommendations of the select committee. In Queensland, I understand, they have made it such that ending or changing a relationship cannot constitute provocation.

The state Liberal team supports removing elements of the criminal law that discriminate between victims or accused persons on the basis of their gender or their sexual orientation. We indicate our support for the second reading of the bill and, specifically, our interest in addressing the issue of the so-called gay panic defence in the context of broader reconsideration of the partial defence of provocation. In that context, I have had discussions with a range of honourable members from the government, the opposition and the crossbenches. In particular, I have discussed the best way forward with the mover and we would both suggest to the council that these discussions would best be progressed through a reference to the Legislative Review Committee.

The bill itself only deals with a part of the partial defence of provocation. I advise the council that if it is minded to refer the bill to the committee, I will, as a member of that committee, move a committee's own reference motion under section 16(1)(c) of the Parliamentary Committees Act. That motion would involve the committee reviewing the partial defence of provocation in the broad sense and the bill in that context. I move:

Leave out all words after 'that' and insert 'the bill be withdrawn and referred to the Legislative Review Committee.'

The Hon. K.L. VINCENT (16:07): I take the floor to speak in very strong support, on behalf of Dignity for Disability, of the Hon. Tammy Franks' Criminal Law Consolidation (Provocation) Amendment Bill 2013. We have before us a bill with a very simple but very positive aim: to remove from our laws the homosexual advance test, more widely known as the gay panic defence. I understand this law is supported, in particular, by a number of professors from the University of Adelaide Law School. I also note with some sadness and disbelief that South Australia is the only remaining national jurisdiction not to have repealed or at least modified provocation as a potential defence to murder, and I am very glad that we have the opportunity to do so today.

There are a few factors which point, I believe, to the idea that this defence no longer has a place in our statute book. First, is the fact that the defence in this case strictly relates to an unwanted advance made by a supposedly same sex attracted person toward a person assumed to be heterosexual. So, for example, if I were a lesbian and I were propositioned by a man, or if I were an asexual and/or aromantic person propositioned by someone of any gender, no such partial defence would be available to me in the event that I react to this proposition by attempting to murder these people. This is surely illogical. Violence is violence and murder is murder and we, as a parliament and as a society, have a duty to stand up and call those things for what they are. The view that a person's life is somehow worth less because they are, or they are believed to be, same sex attracted is, frankly, archaic, barbaric and irrational.

There was once a time in our human history at which it was considered pretty reasonable to kill a person on the grounds that their skin was a certain colour. There was once a time when all of us here may have been considered somewhat noble for taking the life of a woman suspected of witchcraft. This gay panic defence deserves to join those two ideals in the past. Because what we are really talking about here is a law that says that you may have committed a lesser offence if the person you murdered was different. If we as a parliament accept the existence of this 'gay panic' defence, why should someone not be able to murder me and appear in court pleading for a lesser charge on the grounds that they murdered me because I have a disability? This is, after all, a

potential point of difference. Difference comes in many forms and, as long as it does not hurt anyone, it should simply be accepted as a normal part of the human experience.

Putting these things aside for a moment, I want to turn—or perhaps return—to a slightly broader question, one that is perhaps the underlying question of the topic at hand: when is it acceptable (or is it acceptable) to respond to an unwanted proposition of any kind from anyone with violence? I understand that many people have different views and different values and that often we find the views and values of others disagreeable in some way, but is it acceptable for violence to be the medium through which we express that disagreement?

The consumption of meat, for example, is against my personal values, but if I am at a dinner party and someone who does not know this offers me a slice of meat lovers pizza, for example, do I then punch or stab that person and later appear in court claiming 'pepperoni panic defence'? No. Perhaps more relevantly, if more than once in my life I have received what I suppose was unwanted romantic and/or sexual attention, as I assume many of us here have at some point—

The Hon. S.G. Wade: Speak for yourself.

The Hon. K.L. VINCENT: The Hon. Mr Wade says, 'Speak for yourself.' I am sure his wife will be glad to know that. It has never even crossed my mind to react to this violently. Yes, I may react with disdain and, depending on the situation, with some anger, but never with violence. I do not think that this is the way most of us would ordinarily react or that this is a reaction that most of us would think appropriate.

The very raison d'être of our statute book is to present and enshrine the values by which we as lawmakers demand South Australians conduct themselves. I would dearly hope, or rather expect, that violence is not one of those preferred values. This being the case, we must stop our laws from protecting even partially, as is the case here, a very dangerous minority.

It is not through violence that we should express our disagreement or seek to change or alter the behaviour of others: it is through clarity of intention. It is through rational debate, through patience and respect for individual circumstances, and perhaps most of all, it is through leading by example. We have here in this bill a great opportunity to lead by example to make South Australian law more just and respectful of the diversity of the people it is supposed to serve. I hope that other members will join Dignity for Disability in grasping that opportunity.

As an addendum, after conversations with both the Hon. Ms Franks and the Hon. Mr Wade earlier, we will be supporting the referral of this bill to the Legislative Review Committee so that we can tackle the issue of provocation more holistically. That is certainly something that is very important. Hopefully we can get an expeditious result on that. With those words, I commend the bill to the chamber but I am also happy to support its referral to the committee.

The Hon. T.A. FRANKS (16:13): I rise briefly to thank both those who have made a contribution to the debate here today in this council—being the Hon. Kelly Vincent and the Hon. Stephen Wade—and also those who have contributed to our engagement in community consultation on this matter.

In particular I would like to note much appreciation to Kate Fitz-Gibbon, who is a lecturer in criminology at the School of Humanities and Social Sciences in Victoria; Kellie Toole more locally, who is at the Faculty of the Professions at Adelaide Law School, where she is an associate lecturer; Anne Gale, the Commissioner for Equal Opportunity; and Michael O'Connell. Among many other submissions, those people I have noted in particular not only supported the intent of my bill but were supportive of an analysis of the partial defence of provocation more broadly; in particular, on not only sexuality but gender grounds. Certainly all have raised the option that perhaps this bill, while it would be a welcome step forward, is not the only step that we need to take.

With that I would like to place on record some of the words received in response to the bill before us today. From Anne Gale, Commissioner for Equal Opportunity:

> I fully support and endorse the proposed amendment to the 'gay panic' defence in the law as it currently stands.
>
> I agree that the defence is no longer reflective of community attitudes in our society today and has no place in our justice system. It is a relic of a bygone era where homophobic attitudes were rife and accepted in our community and I agree that the law should be amended to reflect a zero tolerance approach towards discriminatory treatment of individuals based on sexuality.

Michael O'Connell, Commissioner for Victims' Rights, notes the following:

Thankfully campaigning by the women's movement and feminist scholars as well as men's activities such as the White Ribbon Campaign has significantly shifted attitudes and made inroads into behavioural changes, so violence against women and girls is widely understood as an abhorrent violation of females human rights.

Thankfully also the gay and lesbian communities have forged a social shift in public opinion, as evident, for instance, in the broad support for same-sex marriage.

The dead person—no matter his or her gender or sexuality—deserves justice. Those bereaved by the unlawfully killing of a 'loved one' deserve justice. Indeed all people, irrespective of their sexuality, gender, ethnicity, race or other personal characteristic, have a fundamental right to security of person. All in addition have a right to be free of violence.

Cases you cite and others serve as the impetus for law reform. I do not want to be seen to be dismissing your argument for change but I do not support the exclusivity of your proposed reform; rather I urge law reform in a broader context, as mentioned above.

I urge law reform mindful that, on the one hand, unlike some jurisdictions, South Australia has mandatory life imprisonment with a twenty year minimum non-parole, unless there are exceptional circumstances. On the other hand, South Australia has a discretionary life sentence for manslaughter. Thus, any amendments should be based on an awareness of the implications for the existing homicide offences and sanctions.

I am eager that South Australia joins the growing list of jurisdictions where the law on provocation has been repealed or dramatically clarified so as to inspire a bold and fresh law that is relevant to a civil, tolerant and culturally aware society.

With this in mind, I hope that other Parliamentarians seize the opportunity your Bill affords them for a sound analysis of the law in words and in practice, and a wholesome debate. If so, then there is a strong probability that the rights of all 'potential' victims of violence will be extended.

Killing people in response to provocation, such as sexual jealousy or non-violent sexual advances, is unacceptable. Holding those who perpetrate violence culpable is acceptable.

Finally, Kellie Toole, from the University of Adelaide Law School, states:

I write in support of the Criminal Law Consolidation (Provocation) Amendment Bill 2013.

This is a much overdue reform to the South Australian law and I commend you for introducing the Bill.

I support the intention of the Bill unreservedly, but request that you consider:

1. advocating for the complete abolition of the partial defence of provocation, or, alternatively,
2. rewording the proposed s 11A, and
3. broadening its scope to prohibit provocation from applying where a person has killed an intimate partner in the context of the breakdown of a relationship.

South Australia is lagging behind every other Australian jurisdiction in reviewing the partial defence. I understand that you propose the Bill for a particular and important purpose, however, having the issue before Parliament provides an invaluable opportunity to address broad issues regarding provocation.

Certainly, I agree and, knowing that we are very much in the last weeks of our sitting calendar, I do not believe, unfortunately, that full and necessary debate will be possible in this council in coming weeks.

However, I am very supportive of a referral to the Legislative Review Committee to look at this important issue—an issue where we lag behind other jurisdictions in this country, where the voices of the victims should be heard, where it is a gender and sexuality discrimination issue, where there are inequalities in the way that we treat a person in regard to availing themselves of this defence that are, indeed, absolutely imbued in either their gender or their sexuality, and where other jurisdictions have led the way and we can take advantage of the fine work they have done.

Most notably and most recently New South Wales has done an extensive examination of this issue. I am glad that they have progressed, although we all in South Australia like to claim that we are leaders in terms of social reform. This is clearly yet another area where we are not; however, we can learn from the experiences and the inquiries that have gone before us.

I hope that in coming months this issue will not be consigned to be forgotten with the coming election excitement but that its importance and its value are recognised. I believe I do trust the Legislative Review Committee members to take this issue seriously and for us to be further debating important reforms on the suite of the partial defences of provocations in this state with a view to removing those gender and sexuality inequalities. With that, obviously, I will be supporting the motion to refer.

Amendment carried.

The Hon. S.G. WADE (16:21): I move:

That this order of the day be discharged.

Motion carried; bill withdrawn.

ROAD OR FERRY CLOSURE (CONSULTATION AND REVIEW) BILL

Adjourned debate on second reading.

(Continued from 6 February 2013.)

The Hon. G.A. KANDELAARS (16:22): I rise on behalf of the government to oppose this bill. The bill imposes two major requirements; firstly, it would require public consultation and consideration of submissions before a determination to close a public ferry service could be made. In the case of a ferry service, the ferry, in broad terms, forms part of the road network and there is no objection to consultation on a proposed closure.

Such consultation is already required for the closure of a road under section 27AA of the Highways Act 1926 (the Highways Act) and under the Roads (Opening and Closing) Act 1991 (the roads act). Rather than a stand-alone bill as proposed here, the Highways Act, which already provides the power to establish ferry services, could be amended to include consultation requirements where the permanent closure of a ferry is contemplated.

Secondly, the bill would require the closure of a ferry service and any other road, other than a road closure by a local council under the roads act, to be approved by both houses of parliament. This requirement is opposed. Roads closed by local councils under the roads act or by the Commissioner of Highways, under section 27AA of the Highways Act, both require notice and consideration of submissions before they can be made.

There is no clear reason why the bill differentiates between local councils and the Commissioner of Highways, as similar processes are involved if these powers are exercised. The Hon. Mr Brokenshire says in his speech that the powers in section 27A relate to major developments. This is incorrect. It is the general power to close roads and it is likely to be the only power the commissioner could rely upon to close roads outside a council district. Where a mandated process for the closures is imposed, it should not be necessary for parliament to be required to consider such closures. Community views arising from a required consultation can be brought to parliament's attention in the normal way.

Many road closures are carried out for administrative purposes; for example, where a road has moved and the old road is no longer used. Consideration of these closures is not good use of parliament's time. In other cases where the government is closing a ferry service or a road for strategic reasons, requiring consultation by both houses could prevent the government making effective financial decisions about the network and its strategic development.

In the case of ferry services, the Department of Planning, Transport and Infrastructure is responsible for operating 12 River Murray ferry crossings at 11 locations—

The Hon. J.S.L. Dawkins: Name them.

The Hon. G.A. KANDELAARS: —with two ferries at Mannum (the busiest crossing)—

Members interjecting:

The ACTING PRESIDENT (Hon. R.P. Wortley): Order!

The Hon. G.A. KANDELAARS: —which operate 24 hours a day, seven days a week. Ferry services are currently provided by the state government free of charge to the public.

The government spends about $5.2 million each year operating ferries and a further $2.9 million per annum maintaining them. Refits of the ferry fleet are additional to these costs, and $800,000 has been allocated for that purpose in 2012-13. Despite this investment, there are significant cost pressures associated with increased operator costs and maintenance of the ferry fleet.

There are five timber hull ferries in excess of 60 years old that will require replacement in the next two to five years. Replacement ferries are estimated to cost $3 million each. The current level of the River Murray ferry services cannot be sustained without investment in the replacement of the five timber hull ferries. Other road closures which would be subject to the agreement of both houses of parliament include:

- Under the Roads Act: closures made by the Development Assessment Commission or the Minister for Sustainability, Environment and Conservation if they are the relevant development authority and it is part of, or directly associated with, a development under the Development Act 1993.
- Part 7 of the Roads Act: closures made by the Minister for Transport and Infrastructure if all the land adjoining the road is crown land or it is a road not within a council area where the minister is satisfied that the road is not in public use and will not be required for such use in the foreseeable future. This can only be used in limited circumstances.
- Part 3 of the Highways Act (Authorised Transport Infrastructure Projects): closures made as part of an Authorised Transport Infrastructure Project. This power is rarely used and the project must be defined by regulation which allows parliamentary scrutiny of the project.
- Section 71 of the Crown Law Management Act 2009: closures made by the minister; if the land ceases to be comprised in a town the minister may close roads on that land. This is presumably rarely used.
- Several special purpose acts or regulations for developments which are now complete.

Rather than a general requirement for both houses of parliament to approve a closure applying to all road closures except those accepted, it would be recommended to include a requirement in specific acts or parts of acts. This would allow proper consideration of the need for the provision in each case. Only 11 acts require agreement by both houses of parliament. For example:

- the Marine Parks Act 2007, regarding a decision to exclude land from a marine park;
- the Linear Parks Act 2006, where land ceases to be included in a linear park; and
- the Adelaide Park Lands Act 2005, where land would cease to be included in the Adelaide Parklands.

These decisions would not occur frequently and are likely to be associated with areas that are directly established by parliament. This is not the case with roads and ferry services. The bill is also deficient regarding what constitutes 'closure' of a ferry service. Clause 3(2) of the bill specifically sets out the following:

> (a) the closure of a ferry service does not include—
>
> (i) a closure reasonably required for the purposes of inspection or repair of the ferry or associated structures or equipment; or
>
> (ii) a reasonable reduction in services based on a reduction in the demand for those services;

I understand that the Hon. Robert Brokenshire has an amendment to remove this clause. There are occasions where ferry services have to cease due to a drop in water levels, for example, on the River Murray during the most recent drought and the Cooper Creek on a regular basis. Flooding may also necessitate closures. Such closures should be added to the list in clause 3(2). Given this specific exception provision, there is a risk that, without this, a closure associated with a flood or drop in water levels would be considered a closure for the purpose of the bill. Expanding the definition would put beyond doubt that these are not closures. As I said, the government opposes this bill.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:31): I rise on behalf of the opposition to speak to the Road or Ferry Closure (Consultation and Review) Bill 2013, which was introduced by the Hon. Robert Brokenshire. The opposition has always had a concern with the lack of consultation from this government on a whole range of issues it has thrust upon the community, and it has come to a head. I think that it was in this budget that it was announced that the Cadell ferry was to be closed, but we have also seen the Keith hospital, the Parks Community Centre and the wind farms DPA, which was not part of a budget measure but, again, there was no consultation of the statewide development plan amendment.

I will not speak for terribly long because I know that it is private members' day, and we do wish to clean up the *Notice Paper* before parliament rises for the election. I think we have only six or seven sitting days left. The opposition is happy to support the Hon. Robert Brokenshire's bill in the context that we want to send the government and the rest of South Australia a message that we have not been happy with the way in which the government has treated the community and the

arrogant way the government has made decisions, such as the closure of the Cadell ferry, without consulting, in this case, the local council, but also without consulting the local community.

We have read the Hon. Robert Brokenshire's bill and, in a sense, I am saying that we are supporting it because we support in principle his notion that the government has been arrogant and negligent in its role and in its duty to keep the community informed. If we were in government, we might draft a different style of bill. Nonetheless, we would have something that provides some confidence to the community that we would consult and negotiate with them if at any point in the future a future Liberal government wishes to do anything in relation to roads or ferries, not that at this point in time we are likely to. Nonetheless, the indication we want to give the community is that we are not happy with the government.

The Hon. Robert Brokenshire's bill includes some aspects in relation to representation and consultation. In clause 6—Consultation, the bill provides:

> (1) Where a ferry authority proposes to close a public ferry service maintained by the authority, the authority must give notice of the proposal to the following persons...
>
> (a) the Commissioner of Highways;
>
> (b) if the service is in a council area—the council for the area;
>
> (c) each owner of land adjoining a principal ferry road...

The bill then goes on to provide that the ferry authority must also advertise in the local newspaper they are going to do that. Also, clause 6(3) provides that they must also specify:

> that representations on the proposal may be made to the authority by a date that is not less than 28 days from the date of the notice...

So it is a fairly comprehensive way in which the community is informed. Then, of course, in clause 7—Order for closure, it provides:

> (1) After considering any representations made in accordance with section 6—

that is the one I have just quoted—

> the ferry authority may—
>
> (a) determine not to proceed with the proposed closure; or
>
> (b) make an order that, subject to confirmation under section 8, the ferry service be closed.

Clause 8 is confirmation that an order for closure under section 7 will not come into operation until it is passed by both houses of parliament.

It can be seen that this bill proposed by the Hon. Robert Brokenshire is one that will force the government of the day to inform the community—and for roads he has a very similar process. As I said earlier, the current opposition supports the intent of what the Hon. Robert Brokenshire is saying; that is why we are happy to support his bill today. We may look at the drafting, if we are fortunate enough to be in government after the next election, to draft something that suits the new government but also gives the community some confidence that we will not be forcing things like ferry closures upon them without any consultation. With those few words, I indicate that we will be supporting the bill.

The Hon. R.L. BROKENSHIRE (16:35): I rise first and foremost to thank all colleagues who have contributed to this debate. I thank the honourable Leader of the Opposition, Mr David Ridgway, for his support. I thank the Hon. Mr Gerry Kandelaars for his contribution. Unfortunately, he is a puppet for the government and the minister, and I would be surprised if he even believed all he read on behalf of the government, but someone had to put the government's case.

I found a couple of interesting points in the Hon. Gerry Kandelaars' contribution; one is that if he says that the statutory requirements are already there in law then, frankly, the minister must have been breaching the law, so the minister needs to come in and explain why he was prepared to breach the laws of this parliament.

The Hon. D.W. Ridgway: That's the minister who works for Minters now, so he has gone.

The Hon. R.L. BROKENSHIRE: So he might need to get some legal advice on explaining why he, basically, must have broken the law, according to the Hon. Gerry Kandelaars. Having said that, I have done my homework, and we would not be debating this bill today if the legislation currently enshrined were adequate. With the lack of consultation, the appalling behaviour of the government, I think at the end of the day even the Premier was embarrassed by what his

government proposed with the closure of the Cadell ferry. All this is about is having a proper process for consultation.

I am not a fearmonger, but I do fear now for what may or may not happen under this government with ferries in the future because I heard some warning signs from the Hon. Gerry Kandelaars when he talked about these wooden hulls that need replacing at $3 million each. He talked about the annual costs, the running costs, the maintenance costs, etc. It sounded to me like they had done a lot of homework on what it was costing to run these ferries. If they are not happy with the cost of running the ferries then, rather than closing a ferry service, I suggest that it might be best to look at building some more bridges across the river, as has been done in many other states and as we saw done very successfully at Berri.

I did make comments when I introduced the bill, so I will not spend too much longer on summing up. Colleagues made speeches on the bill on Wednesday 27 June, as we had seen the government backflip on the issue. I want to place on the public record again the excellent work done by the Cadell and Riverland communities in fearlessly, and without fear or favour, fighting to save the Cadell ferry. I also acknowledge the member for Stuart, Dan van Holst Pellekaan, who worked with his constituents in that unique River Murray corner of Stuart to campaign to keep the ferry open.

The loophole I described in my second reading explanation on this bill whereby the minister can simply close a ferry service or road without any consultation does still exist, contrary to what the government is saying. Family First wants to close the loophole, not the ferry services, as this government once wanted to do.

It is worth noting that ferries are only mentioned by statute in the Highways Act as allowing the Commissioner of Highways to open and operate a ferry service, but the law is silent on what happens when you close one. The only other legislative references to ferries are generally the penalty provisions that apply for offences on ferries. We have seen other threats in country South Australia and our regions and the only way to give peace of mind is to look at supporting this bill.

I want to finish by saying that the razor gang that made the recommendation to close the ferry service at Cadell should have also looked at the annual traffic volumes because those annual traffic volumes show that that particular ferry service is not the least used at all. These services are also important for tourism, and the fact and reality are that a lot of city people appreciate the opportunity of using our ferries, including clearly the Cadell ferry. I think that weight of influence on the government also caused the backflip because not only was there a revolt in the Riverland and Cadell but also a serious revolt in some of the marginal Labor seats. With those few remarks, I commend the bill to the house.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

The Hon. R.L. BROKENSHIRE: I move:

Amendment No 1 [Broke–1]—

Page 3, lines 15 and 16 [clause 3(2)(a)(ii)]—Delete subparagraph (ii)

The Hon. Gerry Kandelaars very articulately explained why I was moving the amendment. In short, the LGA was very supportive of the consultation process for the ferry and road closures but were concerned about that particular aspect of the bill. In order to facilitate that, after consideration I move this amendment.

For the record, and while I am on my feet, for the benefit of the Hon. John Dawkins, who travels all across South Australia on these ferries, there are 13 River Murray services operating in South Australia: Lyrup, Waikerie, Cadell, Morgan, Swan Reach, Walker Flat, Penong, Mannum, Tailem Bend, Wellington and Narrung.

The Hon. D.W. Ridgway: That's not 13—it's only 11.

The Hon. R.L. BROKENSHIRE: I can't count.

The Hon. D.W. RIDGWAY: The opposition is happy to support the Hon. Mr Brokenshire's amendment. We are bending all the rules: usually, the opposition would take amendments to the

party room. It was only tabled yesterday but, in the spirit of goodwill and trying to get the *Notice Paper* somewhat cleared before the end of the parliamentary session, we are happy to support it, but only this once—we will not let him get away with it again.

Amendment carried; clause as amended passed.

Remaining clauses (4 to 10) and title passed.

Bill reported with amendment.

The Hon. R.L. BROKENSHIRE (16:47): I move:

That this bill be now read a third time.

Bill read a third time and passed.

DEVELOPMENT (REGULATED TREES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 November 2012.)

The Hon. K.J. MAHER (16:47): Whilst most of us will certainly acknowledge the enthusiasm and vigour with which the Hon. Mark Parnell pursues these sorts of issues, I am going to entirely surprise the honourable member and let him know that the government does not support this particular bill. The government has made regulations relating to these matters, following much consultation with a wide range of interested people over many months. This is an issue where people have strong views and the government will continue to work with interested parties to achieve the right balance.

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

The PRESIDENT: The Hon. Ms Lensink, if you wish to interject do it from your place and I will still call you out of order for doing that. The Hon. Ms Lensink, you have the call.

The Hon. J.M.A. LENSINK (16:48): The Liberal Party will be supporting the second reading of the bill to enable us to examine it in some detail. However, we are not going to be supporting the third reading. Let me explain the reasons for that. Significant trees is something I have, obviously, taken a significant interest in, if you will excuse the pun. I think the real villain in this whole debate is the Minister for Planning, who has some fairly inconsistent regulations that several members of parliament have tried to point out to him need to be corrected, but he has done nothing at all and has ignored our pleas. Through the bill that the Hon. Mr Parnell has put forward, he has highlighted a few of those specific issues.

I actually have a current disallowance motion on the regulations and have spoken several times in this place on my difficulties with the minister's regulations, so you will be pleased to know that I will not go over those matters again. However, I would like to discuss some elements of this particular legislation.

The Hon. Mark Parnell might be wondering why we are supporting the second reading but not the third. It is so that I can adequately explain my reasons therefore and prevent that little green method of emailing all his constituents saying, 'Those nasty Liberals haven't supported our bill.' Then I get all these angry emails, as I did following the Nyrstar bill, where they say, 'We're not supporting you because you're not very green.' Sometimes the Hon. Mr Parnell may advance what he would advocate is a very environmental cause, as is his wont, but sometimes he goes too far and ties things up in green tape. The Liberal Party would seek to find a better balance in these matters, where we do not have unnecessary regulation but do provide adequate protection, in this case for significant trees. So, I will explain them in a bit more detail.

As I have said, there has been ongoing discussion on this bill by several members of parliament and particularly by TREENET, which is located at the Waite Arboretum. One of the advocates there is Mr David Lawry OAM and now Glen—I will have to remember his surname—who was with the National Trust, is also located there. We have also had the South Australian Society of Aboriculture, which has had ongoing involvement in this, as has the National Trust. Between those organisations and a few members of parliament, we have nutted out what we think would be a preferable regime, which, as I have said, the minister has not taken on board. The Hon. Mr Parnell says that he has written to 18 of the 21 relevant councils—

The Hon. M. Parnell: No, I wrote to 21 and 18 wrote back.

The Hon. J.M.A. LENSINK: Oh, 18 wrote back. I assume the Hon. Mr Parnell is saying that there is some consensus among those councils for this.

The Hon. M. Parnell: Pretty much.

The Hon. J.M.A. LENSINK: Given that he gave notice to us recently that he wished to progress the bill, I have not had the opportunity to speak to any of those councils, so I do not feel as though I have been able to do due diligence with these particular provisions. There are largely three areas that the bill covers. There is the 10-metre rule, which basically means that significant trees that are within 10 metres of dwellings or swimming pools can be removed, unless they fall into a particular exempt species list, which species list is wrong, but I will not go into that again. Do not get me started.

The Hon. Mr Parnell says—and I share his concerns—that the 10-metre rule will lead to trees being removed that possibly should not be removed. Ten metres is quite a lot of space, particularly with the size of blocks being much smaller. His proposal is not just to remove that rule altogether; as I understand it, he does not replace it with some other regime such as five metres. He also is establishing a regime whereby there has to be an application to try to prevent a situation where somebody puts up a structure and then, because the tree is within 10 metres, tries to pre-empt that particular provision.

The particular clause that he is proposing I do not think quite addresses that issue. I would like to see some more discussion around what is an appropriate distance between dwellings and pools and, indeed, whether pools should be included in the regime. That is a debate that I do not think has been had and has not been allowed to be had because the minister does not want to engage in the discussion anymore.

The second point he makes is in relation to arborist reports which has had a bit of a vexed history. I think the reason for the arborist assessment being removed from the significant tree regimen was that a lot of councils had become quite risk averse and so they were just telling residents in the first instance that they had to get an arborist's report—which is not cheap, particularly for pensioners and for families with increasing cost of living problems. I think we need to try to avoid—as much as I appreciate the services that they provide—as much as possible the requirement for an arborist's report; whereas this bill is seeking to reinstate it under a number of circumstances which I think would probably be viewed as unnecessarily onerous in a number of circumstances.

The third aspect that the member is tackling is the maintenance pruning. This is where in the regulations the definition of 'maintenance pruning' is not more than 30 per cent of removal of the crown of the tree. This is an issue that has certainly been identified by the Society of Arboriculture. Mr Parnell is concerned that it would be used in subsequent years to basically take the tree down in three years because you cut it down by 30 per cent on each occasion and, lo and behold, you only have 10 per cent left and that is really not much of a tree.

I share that concern and my preference is that the Australian standard be used. That is something that is well understood by industry; it covers all aspects of pruning regulation and it is subject to update through the usual process of industries. When I put a question to the minister's adviser back in January 2011, about the basis of the definition being 30 per cent, the reply was:

> The existing legislation excludes from the definition of tree damaging activity 'maintenance pruning that is not likely to affect adversely the general health and appearance of a tree'.
>
> At the moment many metropolitan Councils have a policy that pruning of less than 10% of a tree is regarded as maintenance pruning, some do not have a policy and others determine the issue of maintenance pruning on a case-by-case basis.
>
> The regulation to define a set figure is aiming to ensure that there is a consistent approach across all councils.

My response is that I do not think that is an appropriate response and that the Australian standard would be better. I then did specifically ask a question of the minister's staff as to the concern about consecutive bouts of 30 per cent pruning or, indeed, poisoning, and applications for pools within the 10-metre zone being a sneaky way of removing trees. The reply from the minister's office stated:

> It is acknowledged that, as a result of consultation, there have been a number of submissions arguing that the 30% pruning definition would allow for a tree's eventual removal. Officers of the DPLG consider that the provision allows only for up to 30% pruning at a time. Were a property owner to seek to exploit the provision and undertake further pruning some time later (another 30%) then that would more than likely be tree damaging activity (as it would

in many cases result in the killing of the tree or lead to substantial damage to the tree). As such, this additional pruning would not be exempt. DPLG will take further advice on this issue to confirm this position. Poisoning would still remain a tree damaging activity for which an owner could be prosecuted.

With regard to the exemption for pools being a possible loophole, DPLG has acknowledged this and is proposing to amend the provision so that the exemption applies only to existing in-ground pools. This would ensure that applications for a pool where it would require a tree removal or would result in tree damaging activity would continue to require approval.

I think in those responses on the 30 per cent rule, in some ways that has actually been addressed.

I have one question for the proponent of this bill and that is: which other organisations did he consult with? For instance, the Native Vegetation Council, natural resources management boards, the CFS or any other organisations beyond the local government sector. With those comments, I look forward to perhaps the committee stage at some point and indicate we will support the second reading, but will not support the third reading.

The Hon. M. PARNELL (17:01): In summing up, I would like to thank the Hon. Kyam Maher and the Hon. Michelle Lensink for their contributions. The Hon. Kyam Maher was probably assuming that his brief but powerful contribution would have led to a lay down misère and me abandoning the bill with shame. It did not achieve that end. The only thing I really got out of his contribution is yes, this is a controversial topic that attracts passions which is why I have introduced it.

Despite the Hon. Michelle Lensink's cynicism, I do appreciate that the Liberal Party will be supporting this bill at the second reading and, as a result of that indication, I will not proceed with the bill beyond the second reading vote today. Maybe the honourable member and I can have a chat in the next week or so to see whether there are some aspects of it that the Liberal Party is able to support because, as she points out, nobody is suggesting that the current system is working well. It does need reform. It is complicated and there are, in fact, I would be the first to admit, better ways of fixing the system. Unfortunately they are not tools that are in my particular toolbox.

The government does need to look again at the regulations. They do need to look again at the development plan provisions, but for now I have introduced this bill to achieve, as the Hon. Michelle Lensink pointed out, three major changes. I should point out that in my original consultation with local councils, I think I proposed 10 or more changes. The other seven were knocked out because some of them either did not have any support or did not have much support but, again, the spirit with which the 18 local councils responded to me was one where they absolutely recognised what we were trying to achieve and the issues that are remaining in this bill are the ones that had general support.

I want to put a couple of brief quotes on the record just to remind members of what this bill is ultimately about. Back at the end of last year the Aboriculture Australia secretary, Henry Haavisto, weighed into the debate and he told *InDaily* late last year in November that since the legislation had been introduced it had been 'a free for all'. Haavisto told *InDaily*:

It has been a lot easier to remove trees and a lot of times reason for removal is because we can. There have been a lot of trees removed that probably should not have gone but they were given the opportunity so people panicked and they took the tree out.

Haavisto said that the previous laws required developers to work around trees, now they could just take many out. He also said:

We worked with developers and builders in regard to saving some of these trees and it was good from the environmental perspective that trees were being saved but from the developers' perspective they'd rather start with a blank canvas.

That is what is at the heart of a lot of this concern and so these amendments are designed, in part, to address that concern, and the concern that the environment court has identified over many years of hearing these cases—the death of a thousand cuts, if you like—where a tree is encroached upon by development to the point where it is no longer viable and the tree is what ends up going. Hence, there is a provision in this bill that provides that any development that is within 10 metres of a significant tree ought to be regarded as both the development application—for example, the spare room or the swimming pool, whatever it is—as well as an application for a tree-damaging activity.

The Hon. Michelle Lensink asks which other organisations have been consulted, and I will go back through my files. Primarily, this was a bill where local councils were the key stakeholders. They are the ones who administer these laws and who either receive applications for tree-

damaging activities or, as a consequence of the government's changes, no longer receive applications for tree-damaging activities; they just witness the consequences of what Henry Haavisto described as a 'free for all'.

I appreciate the Liberal Party supporting the second reading. We will take it that far today, if the council wishes, and come back on the next Wednesday of sitting to see whether we can finetune the detail and see this bill through to completion then.

Bill read a second time.

The Hon. J.S.L. DAWKINS: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

SOUTH AUSTRALIAN HOUSING TRUST (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 February 2013.)

The Hon. R.P. WORTLEY (17:10): I rise to address the South Australian Housing Trust (Miscellaneous) Amendment Bill. The South Australian Housing Trust was established in 1936 to support working families and as a tool for the state government of the time to make our state an attractive investment opportunity for industry. Over time, the role of the South Australian Housing Trust has evolved to provide housing for our most vulnerable community members. The government's current policies ensure that our housing assets continue to be targeted to South Australians most in need.

The Department for Communities and Social Inclusion is often viewed as the last resort for many disadvantaged households, including people who are homeless or at risk of homelessness, many of whom have complex needs. Essentially, it is seen as a benevolent landlord. Just as an example, the department considers a range of support options and opportunities to modify tenant behaviour prior to seeking the eviction of tenants with complex needs.

Also, Housing SA has a memorandum of understanding with South Australia Police, which facilitates the exchange of information relating to alleged illegal activities on its properties. However, an individual's criminal record constitutes highly sensitive and personal information, and there is little reason this should be available to Housing SA, unless it relates to activity that has occurred on or in one of Housing SA's properties.

I turn now to the matter of tenant incarceration. If a Housing SA tenant is incarcerated, the tenancy can be retained for up to three months if the property is unoccupied or for up to six months with an approved caretaker. If the tenant is incarcerated for a longer period, Housing SA will take action through the Residential Tenancies Tribunal to terminate the tenancy and to re-let the property.

As I mentioned earlier, Housing SA's disruptive behaviour policy and procedures provide a framework which uses a range of early intervention and prevention strategies to assist tenants to successfully maintain tenancies. Both verbal and written warnings are provided to tenants, depending on the severity of their breaches. Housing SA also offers support and mediation to resolve any substantiated issues as they occur. In fact, the vast majority of Housing SA's tenants have no substantiated complaints recorded against them.

On the issue of rental rates, South Australian Housing Trust rents are already set at an affordable rate of 25 per cent of gross assessable household income. The proposal that South Australian Housing Trust rents should be fixed and varied by regulation would not necessarily achieve a more affordable rent structure and would be more administratively cumbersome. Rents for high-need and vulnerable clients in community housing are currently subsidised through the provision of government funding in the form of properties.

Removal of Housing SA's ability to determine and approve community housing rents would mean that there would be no mechanism to ensure that rent subsidies were passed on to the tenant and not simply retained by the non-government organisation and not misused, given the potential risk for tenant-managed organisations to set rents so as to obtain a direct pecuniary interest.

In relation to the matter of water meter installation schemes, the Minister for Social Housing acknowledges that separate meters are the only means of achieving absolute equity in water usage. However, considering the potential level of recoveries and the capital expenditure involved

in a metering program across some 18,000 tenancies, this cannot be justified. I do not anticipate SA Water would be amenable to bearing this large unforeseen cost.

Housing SA does provide some funding for the separation of water services in instances where it is identified that there is a large disparity in the types of households and their water usage. In such cases, properties can be provided with individual flow meters or, alternatively, conversion to their own dedicated meter. These cases aside, it is worth noting that both the Ombudsman and ESCOSA recently looked at the way Housing SA charges on shared water meter sites. Each concluded, in the absence of individual meters, that Housing SA's 30 per cent landlord rebate was a fair and reasonable compromise for the large majority of tenancies.

In summary, many elements of the South Australian Housing Trust (Miscellaneous) Amendment Bill 2012, as introduced by the Hon. Robert Brokenshire, are covered. The Hon. Mr Brokenshire spends a lot of time sitting on his tractor thinking his deep thoughts. Obviously, this is another one of those thought bubbles that he comes up with, as most of the things contained in the bill are currently covered by existing policies and practices of the Department for Communities and Social Inclusion. It is for that reason that the government opposes the bill.

The Hon. T.J. STEPHENS (17:16): I rise on behalf of the opposition to indicate our support for the second reading of this bill. There are aspects of the Hon. Robert Brokenshire's bill that the opposition wholeheartedly agrees with and there are other aspects where, whilst we may agree in principle, there may be some unintended consequences that need to be thrashed out. We will work with the Hon. Robert Brokenshire and his party over the next short period of time to try to reach a landing on some of those issues. I will say from the outset that one of the first inquiries I sat on with the Statutory Authorities Review Committee was into disruptive tenants.

The Hon. R.L. Brokenshire: It was a long time ago.

The Hon. T.J. STEPHENS: It was a long time ago and it was distressing, at the very least, to listen to many genuine people who had the comfort and reasonable peace and quiet of their lives interrupted by tenants who did not respect the privilege that they had (and have) of public housing. Like all members, I want to see those vulnerable members of our community looked after and I think it is fantastic that public housing is something that the people of South Australia can provide. However, I personally think that public housing is a privilege that should not be abused.

As soon as you throw in the words 'a basic right', people think that they can have public housing and they do not have to give any consideration to the privilege that it is to have public housing. Many good people, many senior people—people who should be able to live out their lives in some form of peace—deserve not to have people who do not respect the privilege that they have of public housing. Among the abuses that we heard about, there were sad cases of people being put into public housing who I suspect should well have been in secure mental facilities or institutions.

We went through this period decades ago where it became quite sexy for governments of perhaps all persuasions to put people from institutions out into the public arena, into public housing, obviously with supports. However, those supports have turned out to be lacking. So you will find that, in good streets, where people have been good public housing tenants for decades, communities of people have had people put in the middle of them who are totally unsuitable. Quite frankly, they probably should have been institutionalised. They were placed there without the supports that they certainly needed. It was one of the most distressing inquiries that I have sat through.

The Hon. Bob Sneath, former President, shared those concerns. Shoulder to shoulder, we were quite strong on our reporting of the fact that people should participate in public housing with respect for others and those around them, and at no stage do the Liberal Party ever want to back away from that.

The three strikes policy we thought was a fair and reasonable policy at the time; anybody can make a mistake or transgress and, with the right counselling and guidance, should be able to get their lives back on track. But, when the quiet and comfort of the lives of people around them were being destroyed—certainly the Hon. Bob Sneath at the time, myself and the Hon. Caroline Schaefer (and I think the Hon. Nick Xenophon sat on that committee as well)—we were as one with regard to the fact that people should not have to put up with that.

I am pleased that the Hon. Robert Brokenshire has brought this issue again to the fore. As I said, there are some parts of the Hon. Robert Brokenshire's bill which, whilst we understand the intent of it and probably support it, we really need to put some more work into it to perhaps try to tweak it, and we will do that over the next period of time. However, with those few words, I indicate the opposition supports the second reading of the bill.

The Hon. R.L. BROKENSHIRE (17:21): I thank all honourable members for their contribution. I place on the public record that what the Hon. Russell Wortley has just placed in *Hansard* in favour of the government is a load of nonsense.

The Hon. A. Bressington: Maybe he should sit on a tractor once in a while.

The Hon. R.L. BROKENSHIRE: Exactly, as the Hon. Ann Bressington said, maybe the Premier needs a tractor to sit on and to think about a few of these things, because he—

The Hon. R.P. Wortley interjecting:

The PRESIDENT: Order! The Hon. Mr Brokenshire, you have the call and the numbers.

The Hon. R.L. BROKENSHIRE: Good thought bubbles are of benefit. To get back to the point, the reality is that the now Premier, when minister, made a commitment to address the issue of 'three strikes and you're out'. That is only in a code and it is soft. I am not sure that anyone has had three strikes and is out—I cannot establish that there has been any. Shared water meters were going to be fixed. They are two examples, and neither have been fixed. Having said that, I am very happy to see what the thoughts are and where the parliament sits with respect to the second reading. I thank the Hon. Terry Stephens for his contribution and I advise the house that Family First would be prepared in committee at some point in the future to take on board any further amendment from any members in this chamber. I commend the bill to the house.

Bill read a second time.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE (PRESIDING MEMBER) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 October 2013.)

The Hon. R.P. WORTLEY (17:23): The Aboriginal Lands Parliamentary Standing Committee was established in 2003 by legislation under the Aboriginal Lands Parliamentary Standing Committee Act 2003. For the most part, I am aware that the committee conducts its business in a collegial spirit so as to effectively serve the purposes for which it was established. I must say that, during the time I have been on it, that is exactly the way it has worked. It is quite refreshing that, as with the Natural Resources Committee, everyone works in a bipartisan fashion to achieve the best outcomes. The committee has now been in existence for 10 years with the Minister for Aboriginal Affairs and Reconciliation being the presiding member.

Although there were grounds for the minister to be the presiding member of the committee when it was first established, this is no longer considered to be the case. I note the concerns of past and current members that the position of presiding member should be allocated to a person with greater opportunity to be fully engaged in the affairs of the committee. It is therefore intended to amend the Aboriginal Lands Parliamentary Standing Committee Act 2003 to remove the Office of the Minister for Aboriginal Affairs and Reconciliation as a member of the Aboriginal Lands Parliamentary Standing Committee.

I understand the bill has the support of committee members and there will be a seamless transition with the minister no longer being a member of the committee. The amendment bill enables the committee to appoint one of its Legislative Council members to be the presiding member of the committee. In supporting the bill, I note the opposition has accepted government amendments in the other place to update references to the Pitjantjatjara Land Rights Act 1981 in the bill to the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981. I understand this legislative change will have no impact on the work carried out, functions performed or Aboriginal community visitations made by the committee. I support the bill.

The Hon. T.A. FRANKS (17:25): On behalf of the Greens, I also rise to support the bill. I commend the member for Morphett for bringing it to the parliament and also his colleague in the upper house, the Hon. Terry Stephens, for bringing it before the council.

Members interjecting:

The PRESIDENT: The Hon. Ms Franks.

The Hon. T.A. FRANKS: Thank you for your protection, Mr President. I do so noting that it has taken the opposition to finally bring this issue before this place and I was trying to commend them, although I am not sure they were comfortable with that just then. This move to, in particular, remove the minister as the presiding member of the committee is most welcome and much overdue and has been called for continuously over many years and many incarnations of this committee.

I acknowledge that at its inception this model did work, but that was due more to the personality and commitment of a particular minister rather than the structural strength of the committee. It is the only committee where the minister sits on the relevant committee. In terms of the burden of workload on a minister, it is an unworkable model, simply for even achieving things like quorum to approve reports and for achieving presence at ongoing meetings, so it will be much welcomed to open up that position for a member who is not a minister to take a more active role in the committee. I certainly appreciate that and I know that many members of the Aboriginal lands committee will be glad that this day has finally come.

The Hon. R.L. BROKENSHIRE (17:27): Just briefly, I concur with other speakers. Family First supports the bill. Having been on the committee myself, I found it incredibly frustrating with the presiding member being the minister. I think in the interests of assessing what we need to do in assisting our Aboriginal communities it will be much better with an independent presiding member. With those few words, we support the bill.

The Hon. T.J. STEPHENS (17:28): I thank the Hon. Russell Wortley, the Hon. Tammy Franks and the Hon. Robert Brokenshire for their indications of support. It is a tripartisan committee at the moment. I am not sure what we would have called it—what do you call it?

Members interjecting:

The Hon. T.J. STEPHENS: Quatropartisan committee—we will call it 'multi'—when the Hon. Robert Brokenshire was there. It is a committee that works with the best interests of Aboriginal people at the forefront. We try to make sure that we bring the right issues and put them before the minister. So, we do work in a multiparty way. I thank members for their indications of support. I commend the good work of the committee and look forward to the speedy passage of the bill.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. T.J. STEPHENS (17:32): I move:

That this bill be now read a third time.

Bill read a third time and passed.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

In committee (resumed on motion).

Clause 6.

The Hon. T.A. FRANKS: I am continuing my remarks, where I was addressing the amendment put before us by the Hon. John Darley. I was noting that there are some venues, certainly in the CBD, that do not fall under the late night code of practice, yet they have put up the 3am lockout signage and are undertaking their business as if they were subject to those provisions. Even though they hold restaurant licences, they do not want the influx of those patrons looking to continue their night out. I find that interesting because if those particular venues are avoiding that clientele, clearly that clientele is going to go somewhere, and it will be no surprise if they head towards the Casino.

I question whether, with the Casino redevelopment, any of the bars that have been outlined—the new bars the Casino plans to have on its premises—will be more appropriately referred to as clubs. I would certainly seek an assurance from government that there will be no nightclubs in the new Casino redevelopment in order to give an assurance to those venues, such as Sugar and HQ, whose businesses were impacted by this lockout move. I sympathise with their concern that the Casino has been privileged over them.

I also ask the government to explain why, if the Casino is a particular destination venue, that destination would need to be arrived at after 3am. Surely anyone who is looking to go to the Casino could sort out their schedule to ensure that they arrived at this particular destination prior to 3am. I would like the government to address those concerns.

The Greens will be supporting the Hon. John Darley's amendment. Time and time again in this place we see that the Casino is privileged. Yes, it has been acknowledged that it has its own act, but that does not mean that it should be given carte blanche to operate without some of the agreed constraints that have been put on other licensed venues. It highlights that what we are doing here is not punishing the venues that do the wrong thing but that we are still taking a blanket approach.

Ruling particular venues in or out simply without that nuanced approach is not the way forward. Not addressing the root of the problem of alcohol-fuelled violence by those who perpetrate such violence rather than necessarily the premises they are around—and, in some cases, not even having attended—does seem to be putting the cart before the horse. In regard to his amendments, the Hon. Robert Brokenshire was quoted on radio as saying:

> The government has pushed for a 3 o'clock lockout which I do support; chose to do it by regulation. Regulation is not as strong as legislation and does open the door for possible challenges in the court; whereas by legislating it's absolutely black and white.

If the Hon. Rob Brokenshire can indicate what legal advice he has had in terms of drafting the amendment before us, and whether he has had any contrary opinions put to him, it would be much appreciated.

The Hon. G.E. GAGO: I believe I have already put on record a number of reasons for the exemption for the Casino, so I will not repeat those. In addition, I can say that the primary focus of the Casino is on gambling or gaming, not clubbing, just as the primary focus of restaurants is on the serving of food, rather than clubbing or entertainment, and restaurants are exempt from the lockout provisions as well. I understand that a different point of view is held amongst some in this chamber, but that is the way the government looks on this.

In terms of the question around the exemption resulting in the Casino being able to set up a nightclub that might compete with other parts of the clubbing industry, we believe not because the exemption is to the primary gaming area only and, although we are still negotiating the definition of that, it is clearly our intention not to capture other general areas.

The Hon. R.I. LUCAS: The Hon. Tammy Franks put a question to the Hon. Mr Brokenshire, but I guess it is for him to respond as he chooses.

The Hon. R.L. BROKENSHIRE: I am happy to. I was just looking around, being a gentleman, as I always am.

The Hon. G.E. Gago: He's not one to push in.

The Hon. R.L. BROKENSHIRE: That's right. I am a very gentle person. I thank my honourable colleagues for their questions and, in order to satisfy a longstanding colleague I have worked with over an extended period of time, the Hon. Rob Lucas, first I will further explain and put on the public record, rather than email, the reasons we are moving these amendments.

The principal concern of these amendments relates to the late night trading code (LNTC), which was gazetted on 6 June and which came into operation nearly four weeks ago, on 1 October. I am satisfied that the LNTC strikes a balance between the need for public safety on the one hand and the freedom of liquor licensees to operate their businesses on the other hand.

I am aware that there is a court challenge to the LNTC by certain venues—two, I understand, and I am advised that one of those is probably reluctant to be there, but I will not go into that—affected by the changes and, whilst those matters are under appeal and therefore sub judice, the parliament is at liberty to clarify its intention on the Liquor Licensing Act by amendments of the nature I propose.

I do not take lightly nor do I apologise for bringing an amendment when there is a challenge to the code and regulations within the court. I also place on the public record that no-one has moved within the 10 sitting day period, which is about to expire tomorrow or thereabouts, to disallow the code of practice and the regulation, but I did look into the issue around being able to bring in an amendment when there is something before the courts.

If members want to have a look at a 2008 paper in the *Sydney Law Review*, the author, Peter A. Gerangelos, who is a senior lecturer in law, faculty of law, University of Sydney, actually acknowledges in the paper that 'the writer especially thanks Sir Anthony Mason for his commentary on this article and his invaluable comments on reading the article in draft'. For the record, Sir Anthony Mason was a former chief justice of the High Court, and it is a very detailed paper.

I will not go through the whole paper now, but suffice to say that it is concluded that it is right and proper for a member of parliament and for the parliament to move amendments to ensure that something that it is an intent is amended and enshrined in law. It is a detailed paper and I am happy for colleagues to have a look at it and, if they want a copy of it, I am happy for them to let me know over the meal break and I will give them a copy. But the bottom line—putting it simply—is that it is very right and proper under the constitution, and ultimately this paper says that parliaments have every right if they want to move an amendment to legislation whilst there is something before a court.

As I said, the parliament is at liberty to clarify its intention in regard to the Liquor Licensing Act by amendments of the nature I propose. I will address the aspects of the amendment step-by-step. The first part of amendment No. 1 is a new subclause 11A(2). The existing list of measures that a code of practice may include has become needlessly prescriptive and unwieldy, and I believe that the act is better served by referring back to the objects of the act itself which for your assistance I restate below:

(a) to encourage responsible attitudes towards the promotion, sale, supply, consumption and use of liquor, to develop and implement principles directed towards that end (the *responsible service and consumption principles*) and minimise the harm associated with the consumption of liquor; and

(b) to further the interests of the liquor industry and industries with which it is closely associated—such as the live music industry, tourism and the hospitality industry—within the context of appropriate regulation controls; and

(c) to ensure that the liquor industry develops in a way that is consistent with the needs and aspirations of the community; and

(d) to ensure as far as practicable that the sale and supply of liquor contributes to, and does not detract from, the amenity of community life; and

(e) to encourage a competitive market for the supply of liquor.

If you like, this amendment resets the rationale for issuing a code of practice. I would have preferred the government—and I have said this before in a place on the public record—to have brought the code and associated statute and legislative requirements into the parliament some time ago rather than through a regulation format. That is why I was so strong on wanting to bring this amendment through. It is one of the reasons why, because at least we can have a democratic debate in the house now.

Secondly, it is important that we give clarity to this situation. I know going back a long time ago when I was police minister I went out on several patrols with police in Adelaide and it is eye-opening to see what goes on. I remind some members of the time we used to sit a lot later than we do now—fortunately we do not often sit late and it is much better. But when we used to sit very late and you would go around the corner of the Heaven nightclub at 2, 3 or 4 o'clock in the morning, you would see people who were totally inebriated and without any self-control doing things that I will not describe in the house before the dinner break. They were in the gutter, on the footpath or falling out over the road. Frankly, those sorts of people did not need to be going back into that venue; they needed a cab and they needed to go home and have a good sleep.

Since then I think it is fair to say that there has been a deterioration, which we have seen in the media over recent years. I am no wowser—and members know that—but there comes a point where if you want to drink anymore maybe you are better off to go home and drink. We have to come to a point where we can agree as a parliament on a way forward, and I am sure that all members agree we do not want to see this situation getting worse than it already is.

If we are going to get recommendations from organisations like Lonely Planet that we are in the top 10 visitation recommendations for 2014 then we need to ensure that, when people come and spend their money here and grow our economy, they can have a safe and enjoyable holiday. I am advised that, in the last few weeks, since the code has been in practice, there has been a huge reduction in behaviour. I have been advised by sources through the police that there has been a much better behaviour pattern. I have also been told that anecdotally by someone who comes into

the city to do their business in the shops on a Saturday morning. They described the difference they now see in the city at 7 or 8 o'clock in morning.

Just to answer the Hon. Rob Lucas's question before I answer the Hon. Tammy Franks' question, I asked Rikki Lambert, because of my workload, to prepare for me an email to all of my colleagues. I instructed my adviser on what I wanted in the email, and I then I read it before it was authorised to be sent off. In the email, I did say:

> If you like, this amendment re-sets the rationales for issuing a code of practice, giving broad powers to the commissioner who,
>
> - firstly, has shown a responsible and even hand in his regulatory activity since his appointment and
> - who, secondly, is formerly the Police Commissioner for the Northern Territory.

I know that, had he not taken on that position, together with the excellent commissioner we have now in Mr Gary Burns, he would have been, together with Mr Grant Stevens and Mr Tony Harrison, I think, in the top four for the police commissioner role. There is no doubt in my mind that they have been for some time the shining lights at the executive level in policing. I do not mind putting on the public record that I do have full confidence that the commissioner will give effect to the objects of the act with these prescriptive provisions removed.

I respect the Hon. Mr Lucas's contribution, but I see it that we have only three options. One option is that the parliament takes more and more responsibility on the micro and macro issues around safety and licensing matters. To me, that would be unworkable and would be a real problem, but that is an option. Another option would be that everything is considered by the courts, but that would be costly and also unworkable. The other option would be that the parliament sets the framework through the objects within the act and then you have faith and confidence in the commissioner of the day.

Yes, I do agree with the Hon. Rob Lucas that I have been critical of some government appointments at executive level, but I think that you will find my criticism has always been directed at political appointments to chief executive officer and deputy chief executive officer positions within agencies and departments. I do not think that I have ever been critical of any appointment the former government or this government have made at commissioner level. For example, I have supported the concept for the current appointment of the ICAC commissioner, which I believe everybody says was a fine appointment. That is why I put those comments on the public record with respect to the commissioner, because when it comes to the workings and the practicalities of—

The Hon. R.I. Lucas: Didn't you move a motion on the Health and Community Complaints Commission?

The Hon. R.L. BROKENSHIRE: Yes, I may have with that one, but that was—

The Hon. R.I. Lucas interjecting:

The Hon. R.L. BROKENSHIRE: No, I will put on the public record the reason why. That was because—

The Hon. R.I. Lucas interjecting:

The Hon. R.L. BROKENSHIRE: He has a memory like an elephant.

The Hon. K.J. Maher interjecting:

The Hon. R.L. BROKENSHIRE: No, I am happy to put it on the public record. They did not fund adequately that whole area; that was the problem. But I do not believe the funding is an issue when it comes to the Liquor and Gambling Commissioner. To get back to the other point, yes, I agree with the Hon. Tammy Franks, I am on the public record saying in a radio interview that I wanted to enshrine in law 3 o'clock, and I stand by that—and this does, for all intents and purposes, as best we can, enshrine in law the 3 o'clock lockout.

When I started to hone in on how you can do that with an amendment, the advice I received was that this was the best way to have the amendment. We support both the Hon. Ann Bressington and the Hon. John Darley's intent to have a review, but if we were to put a simple line in there that said that 'the lockout will occur at 3 o'clock' then any time there needs to be any reconsideration of that it has to come back before the full parliament, which would be cumbersome.

I know the AHA says that, if you are not that specific, then it might be that there could be a shift with the commissioner to 2 o'clock. Alternatively, if there is a review and it is recommended that it is 4 o'clock in six months or 12 months, then the flexibility is there to allow the industry to get on with its job and, therefore, to have the code of practice and the operational work being left with the commissioner. I am told by the AHA that they do not have a problem in respect of the commissioner running that code of practice. I am not a lawyer, but that is the advice I had.

Personally, I sit comfortably with my amendment; whether or not the house does, we will see tonight. However, in response to the Hon. Tammy Franks' good question, I sat comfortably with that answer. I can come back after 6 o'clock with a specific legal answer if you want me to further put that through, because I know the Hon. Rob Lucas wants to sit all night. If we have to sit all night then I guess we have to sit all night. I will leave it at that.

The Hon. G.E. GAGO: I will take this opportunity to place on the record advice that we received today from the Commissioner of Police on the operation of the first four weeks of the late night code. I thought members might find this useful in their consideration of the Hon. Robert Brokenshire's amendment. The total number of alcohol-related offences where the last drink location was a licensed venue in the suburb of Adelaide was 192 for the period 1 October to 31 October 2011. In 2012, it was 205, and it was 152 in 2013.

The figures for 2013 show a 20.8 per cent decrease on 2011 and a 25.8 per cent decrease on 2012. In addition, the levels of intoxication recorded for these offences have shown a significant decrease in the number of people being recorded as grossly intoxicated, as well as those recorded as slightly affected and not affected. The commissioner has also reported that anecdotal evidence from front-line police shows that the mood in and around Hindley Street has vastly improved, with less obvious tension and aggression displayed by people in the street.

The commissioner indicates that there is a high level of compliance with the code and that, generally, licensees are in favour of the code. There has also been a significant decrease in issues associated with licensed premises after 3am, particularly with people loitering in and around licensed premises. Police strongly support the conditions of the code. So, a vote against the Hon. Robert Brokenshire's amendment is obviously a clear attack on the integrity of the code and the government does not want any member voting on this bill to be unaware of the possible consequences. As you can see, there is some clear evidence that this is having a real impact out on our streets, improving the safety and general amenity of the entertainment district.

[Sitting suspended from 18:00 to 19:45]

The Hon. R.I. LUCAS: I do note that I made but one interjection prior to the dinner break, so I do not think the Hon. Mr Brokenshire or, indeed, other members can indicate that any delay before the dinner break had anything to do with me.

The only point I want to put on the record in response to the contribution from the Hon. Mr Brokenshire, the Hon. Ms Franks and others is the position of the AHA in terms of its representations to the Hon. Mr Brokenshire, me and others in relation to the Hon. Mr Brokenshire's amendments. I am aware of the views the AHA has put to the Hon. Mr Brokenshire in relation to the amendments, and this was from Ian Horne, who indicated as follows:

> However, I remain somewhat confused as I heard you [Mr Brokenshire] on ABC 891 suggest that your amendments were designed to put the lockout into legislation rather than regulation, i.e., within the late night code. Your amendments don't do that but would appear to greatly increase the power of the Commissioner, who designs and creates the codes and further remove any legislative discussion.
>
> The amendments seem to further reinforce that lockouts, whether at 3am, 12 midnight, even 4pm in the afternoon or whatever, remain exclusively at the discretion of the bureaucratic and administrative process and not that of parliament. Our problem is we have supported the late night code, warts and all, after significant discussion consultation, negotiation, only to have the very foundations of the code-making process uprooted at the finishing line.

They also indicated again to the Hon. Mr Brokenshire and to other members, including myself:

> Recognising the intention of the Hon. Mr Brokenshire's amendment is to give a level certainty by deleting all of section 11A(2), which was included as a result of a debate in the Legislative Council to provide some guidance to the commissioner and industry of matters that could be included into a code. We are now faced with the commissioner being able to include any measure that can reasonably be considered appropriate and adapted into the furtherance of the objects of the act.

This is a particularly wide discretion and arguably even wider than the current power, given the proposed addition to the objects set out in the government's bill to ensure that the sale and supply of liquor occurs in such a manner as to minimise the risk of intoxication and associated violent or anti-social behaviour, including property damage and causing personal injury. Currently the commissioner must at least apply his mind to the matter set out in 11A(2). He will not be required to do that under the proposed amendment. While the proposed 4A is a laudable provision, in practice places no obligation on the commissioner to properly engage or even take into consideration any or all of our submissions.

I will not go on and read this.

The Hon. R.L. Brokenshire: I've read it.

The Hon. R.I. LUCAS: Well, there are pages of others. The Hon. Mr Brokenshire has read it, as have a number of other members. I wanted to place on the record the position of the Australian Hotels Association in relation to it. It is consistent with the legal opinion I put on the record when we debated this earlier today, and that is the concern that, in seeking to resolve the particular issues in relation to the code, the relatively blunt instrument being used in this amendment and being supported by the government gives an unelected official extraordinarily wide and unfettered powers in relation to the operations of businesses in the way that the lawyer and the AHA have outlined.

The AHA's position, as I just outlined, is that there was a lot of consultation and discussion that went on in relation to the late night code. They have indicated they had concerns, but in the end they signed up, as they say 'warts and all', to the late night code, and what they see from this amendment, supported by the government as they say, is the rug being pulled out of the AHA's position, right at the finishing line, when they believed they had a deal that had been negotiated with the government on this particular issue.

I only place on the record the AHA's position as someone the government has certainly indicated has the support of its proposal in relation to the late night code and this whole debate. They have been oft quoted by the Attorney-General in this particular debate, so it is important to place on the record their concerns about the amendment being moved by the Hon. Mr Brokenshire, and a warning sign, I think. I guess that time will tell; whoever is in government after March next year when the review is conducted can look at the reality of what has occurred.

Just before the dinner break the minister quoted, I think, four weeks figures immediately after the start-up. A review will not be done by the police commissioner. The police commissioner and the police have a strong view in relation to this. If there is going to be a review it would need, obviously, to canvass not only the views of the police commissioner but also we need to look at it, because my understanding, from the discussions last Friday with the member for Fisher in looking at Newcastle, is that the view of police there was that the key thing was not the lockout or lock-in issue but the increased police vigilance and presence in the entertainment precinct—I think $550 on-the-spot fines and a variety of punitive measures in terms of the police presence.

In judging a mechanism such as a lockout, you can only fairly do it if you also compare the police presence during the four weeks of the period and other periods because, if at the same time as introducing the lockout you have a significantly increased police presence (which is something we have always supported), and a crackdown in terms of poor behaviour from the minority who do misbehave in a public place or within licensed premises (we have always supported that), you may well get improved figures, hopefully, and the issue then is which part is due to the increased police presence and vigilance and a crackdown and which part is due to your lockout or lock-in provision?

If you want to support a lockout or a lock in, you say, 'It is all due to the lockout or the lock in,' and you say, 'What a great initiative this was.' An independent review might support that or an independent review might support what many of us have been calling for, for years now: a significantly increased police presence, particularly on Friday and Saturday evenings and early mornings in the entertainment precincts like the CBD. Through that mechanism you are likely to see significantly improved behaviour and reduction in the number of incidents of crime and misbehaviour in a public place.

The CHAIR: The question is that subclause (1) lines 9 to 12, as proposed to be struck out by the Hon. Mr Brokenshire, stand as printed.

The committee divided on the question:

AYES (8)

Dawkins, J.S.L.	Lee, J.S.	Lensink, J.M.A.

AYES (8)

Lucas, R.I. (teller)	Ridgway, D.W.	Stephens, T.J.
Vincent, K.L.	Wade, S.G.	

NOES (11)

Brokenshire, R.L. (teller)	Darley, J.A.	Finnigan, B.V.
Franks, T.A.	Gago, G.E.	Hood, D.G.E.
Hunter, I.K.	Maher, K.J.	Parnell, M.
Wortley, R.P.	Zollo, C.	

PAIRS (2)

Bressington, A.	Kandelaars, G.A.

Majority of 3 for the noes.

Question thus negatived; Hon. R.L. Brokenshire's new subclause (1) inserted.

The CHAIR: The next question is that new subclauses (1a) and (1b) as proposed to be inserted by the Hon. John Darley be agreed to.

The committee divided on the amendment:

AYES (6)

Brokenshire, R.L.	Darley, J.A. (teller)	Franks, T.A.
Hood, D.G.E.	Parnell, M.	Vincent, K.L.

NOES (13)

Dawkins, J.S.L.	Finnigan, B.V.	Gago, G.E. (teller)
Hunter, I.K.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I.	Maher, K.J.	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	Wortley, R.P.
Zollo, C.		

Majority of 7 for the noes.

Amendment thus negatived.

The CHAIR: The question now is that new subclause (1a), as proposed to be so inserted by the Hon. Mr Brokenshire, be so inserted.

Hon. R.L. Brokenshire's new subclause (1a) inserted.

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

Amendment No 1 [AgriFoodFish–2]—

Page 4, lines 17 and 18 [clause 6(3)]—Delete subclause (3)

I have already spoken to this amendment at clause 1 so I have nothing further to add unless there are questions in relation to that. As I have indicated, it addresses a minor drafting issue.

The Hon. R.I. LUCAS: The Liberal Party had a test vote earlier in relation to the Brokenshire-government team's agreement on this particular issue—the 'coalition of the willing'—so we do not seek to delay the proceedings by calling for votes on each and every subsection. However, this was one of the issues that was dumped on the table at 11 this morning.

We were able to consult with some stakeholders this afternoon, and I was also able to speak with the shadow minister. Certainly, the AHA's advice to us during the afternoon was that this was consistent with the package of amendments that the Brokenshire-government team was

moving on this particular issue, and they had no particular concern about this particular element of it. They expressed their reservations about the Family First-government package on this issue, but this is, in essence, a consequential part of that, and we accept that.

Amendment carried; clause as amended passed.

New clause 6A.

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

Amendment No 2 [Darley–2]—

Page 4, after line 18—Insert:

6A—Insertion of section 11B

After section 11A insert:

11B—Review of codes of practice

(1) The Minister must cause a review of the operation of any codes of practice published under section 11A to be conducted immediately following the first anniversary of the commencement of this section.

(2) A review under subsection (1) must be completed, and a report on the results of the review provided to the Minister, within 6 months after the first anniversary of the commencement of this section.

(3) The Minister must, within 12 sitting days after receipt of a report, cause copies of the report to be laid before each House of Parliament.

It is a straightforward amendment. It requires that a review of the operation of any codes of practice be conducted immediately following the first anniversary of the commencement of these provisions. I think we all know the benefits provided by these sorts of reviews by now. I trust this provision will enable us to appropriately assess the impact of the late night trading code and whether it results in the desired effect, especially with respect to alcohol-fuelled violence. In addition to any other benefits, it will enable us to identify any pitfalls and consider the need for further legislative change. I urge all honourable members to support the amendment.

The Hon. G.E. GAGO: The government supports the amendment. The need to review the operation of a code of practice is something the government has already started thinking about in terms of the data that would need to be collected to ensure a review can take place. Mandating a review in legislation poses some challenges in terms of statutory deadlines and the like, but nothing that the government considers unreasonable, particularly in this case with the review to be commenced at the 12-month mark and completion within six months. So, we are happy to support the amendment.

The Hon. R.I. LUCAS: The Liberal Party supports the amendment for review.

The Hon. R.L. BROKENSHIRE: Family First supports this as well. It is always healthy to have a review and keep us busy.

The Hon. T.A. FRANKS: The Greens rise to support this very sensible amendment, and indeed have indicated that without an appropriate review we would not look so favourably on support for the bill overall. We commend the Hon. John Darley for ensuring that we have due process and actually making sure that what this bill purports to do it, indeed, does. I look forward to real information coming from that review and I hope that it is not done in a hasty or non-thorough way.

The Hon. K.L. VINCENT: Not that any further support for this very sensible amendment is required, but just for the record, as I think I mentioned in my second reading contribution on this bill, Dignity for Disability supports this very sensible amendment.

New clause inserted.

Clauses 7 to 24 passed.

New clauses 24A and 24B.

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

Amendment No 1 [Franks–2]—

Page 7, after line 23—Insert:

24A—Substitution of Part 6 Division 5

Part 6 Division 5—delete Division 5 and substitute:

Division 5—Prescribed entertainment not to be provided without consent

105—Prescribed entertainment not to be provided without consent

(1) A licensee must not use any part of the licensed premises, or any area adjacent to the licensed premises, for the purpose of providing prescribed entertainment without the consent of the Commissioner.

Maximum penalty:

(a) for a first offence—$10,000;

(b) for a second or subsequent offence—$20,000.

Expiation fee: $1,200.

(2) A licensee must not use any part of the licensed premises, or any area adjacent to the licensed premises, for the purpose of providing entertainment—

(a) if the licensed premises are located within a prescribed entertainment area—during the period between 2 am and 11 am; or

(b) if the licensed premises are not located within a prescribed entertainment area—the period between midnight and 11 am,

without the consent of the Commissioner.

Maximum penalty:

(a) for a first offence—$10,000;

(b) for a second or subsequent offence—$20,000.

Expiation fee: $1,200.

(3) A consent under this section—

(a) may be conditional or unconditional; and

(b) may be varied or revoked by the Commissioner.

(4) An application for consent under this section—

(a) must be made in a manner and form determined by the Commissioner; and

(b) must be accompanied by such information as the Commissioner may reasonably require to determine the application; and

(c) must be accompanied by the prescribed fee.

(5) In this section—

Adelaide central business district means the area of the City of Adelaide bounded—

(a) on the north by the northern bank of the River Torrens; and

(b) on the south by the northern alignment of South Terrace; and

(c) on the east by the western alignment of East Terrace and its prolongation north to the northern bank of the River Torrens; and

(d) on the west by the eastern alignment of West Terrace and its prolongation north to the northern bank of the River Torrens;

prescribed entertainment area—the following are prescribed entertainment areas:

(a) the Adelaide central business district;

(b) any other area declared by the regulations to be a prescribed entertainment area for the purposes of this section;

prescribed entertainment means—

(a) adult entertainment; and

(b) a professional or public boxing or martial art event (within the meaning of the *Boxing and Martial Arts Act 2000*),

but does not include entertainment of a kind excluded by the regulations from the ambit of this definition.

24B—Amendment of section 106—Complaint about noise etc emanating from licensed premises

(1) Section 106—after subsection (1) insert:

(1a) However, a complaint may only be lodged under this section in relation to entertainment (other than prescribed entertainment) provided at licensed premises in accordance with this Act on the grounds that the noise emanating from the licensed premises is excessive.

(2) Section 106—after subsection (9) insert:

(10) In this section—

prescribed entertainment has the same meaning as in section 105.

At this point, I would like to address the issues covered by the amendment. The amendment seeks to minimise the impact of what I have dubbed the culture cops in previous media releases, and certainly my private member's bill addresses this issue, and to remove those culture cops from policing the Liquor Licensing Act; not from policing the responsible provision of alcohol but, indeed, from policing entertainment.

It may come as a surprise to members of the community, and indeed some members of this council, that we do actually have archaic laws where a live performance or activity which would be considered a normal activity and an activity not worthy of regulation in hotels, bars, restaurants, clubs and cafes across the entirety of the country falls within the purview of liquor licensing authorities in South Australia.

We have incredibly old-fashioned liquor licensing law provisions in our current practices, and I am certainly keen to remind members of just a few of the conditions we currently see in licensed premises in our state. One is at The Elephant in Cinema Place, which holds a liquor licence. That venue has a special circumstances licence. Clause 3 of that licence states that any live entertainment provided on the licensed premises 'shall be appropriate to and compatible with the operation of a themed Irish bar or British pub'.

Some might think they know exactly what that means. Does that include a U2 cover band or does it strictly cover Irish traditional folk music? Does it include Ronan Keating or indeed Westlife or Coldplay or Spice Girls cover bands? They are either Irish or UK themed. I suspect that should any of those types of cover bands—or indeed a Rolling Stones or Beatles cover band—perform at The Elephant, they may indeed—

The Hon. K.J. Maher: Oasis.

The Hon. T.A. FRANKS: Or Oasis, as another member said, or Pulp or Blur—

The Hon. K.L. Vincent interjecting:

The Hon. T.A. FRANKS: Or the Sex Pistols, as the Hon. Kelly Vincent quite rightly points out. Indeed, we could go on and on. Do they fall within the definition in that particular liquor licence and, as I say, are they appropriate to and compatible with the operation of a themed Irish bar or British pub?

One might think that somebody going to an Irish bar or a British pub might go to hear Irish or British music. One imagines that all of those bands would comply with that definition. What I would say is that there are no guarantees for that venue. Indeed, should they go down the path of the conditions of the former venue down at Glenelg, the Dublin Hotel—clearly also with somewhat of an Irish theme—they may find, to their dismay, where that venue had a specification that it had to play folk music, that folk music is rather limited in the definition that the liquor licensing enforcement authorities placed upon that venue. Indeed, they were prosecuted successfully for having a disc jockey, or a DJ.

The definition of folk music was not ever specified in the actual licence. There is some sort of belief by these enforcement authorities that it must be a particular theme, but I would argue that the word 'folk' means 'of the people'. So how one could define any music that was of the people as not being folk music does indeed throw up a few questions.

Getting back to The Elephant, clause 6 goes on to state that the premises shall not be used as a nightclub, discotheque, rock band venue or similar, while clause 13 adds that entertainment shall not include any disc jockey activity. Now what activity other than playing music a disc jockey might undertake also raises a few questions. In CIBO Espresso's licence it states that

'at no time shall there be any blues, heavy metal or grunge bands, nor any bands which rely on amplified musical instruments.'

Blues bands—I had to refresh my memory—could include The White Stripes, Jimi Hendrix, AC/DC, The Doors, Dr Feelgood, Status Quo, Aerosmith, Eric Clapton, Derek and the Dominos, ZZ Top, the Faces (clearly not necessarily Rod Stewart), the Rolling Stones, Led Zeppelin or the Black Crowes. Should that music be played over the in-house PA, one wonders whether they would fall foul of contravening that no-blues specification.

At Purplez, their special circumstances licence states in clause 8 that no live entertainment will be played on a Monday and Tuesday. Clause 9 states that any live entertainment played on a Wednesday will be limited to solo, duets or one and two-piece bands. I have said this before and I will say it again: I am not quite sure how solos or duets differ from one or two-piece bands but, clearly, there was a need to re-emphasise that point.

Clause 18 of the licence of that particular premises states that they shall always advertise/promote the venue as 'an over-30s venue'. I note that I have no understanding of what, indeed, the promotion of an over-30s venue would entail, other than perhaps they may have to say that you must be over 30 to attend, or attend with somebody over 30 if you are in your 20s. Who knows exactly what that means or why liquor licensing enforcement authorities feel the need to put that in the licence?

The licence also notes that that venue may not advertise/promote or conduct the premises as a rock band or heavy metal venue. Again, I have raised this before. I am not sure there are that many people over 30 into those genres of music, but previously when I said that I was strongly corrected online, so I must say that it is not mutually exclusive for a venue both to be for over 30s and heavy metal focused—in fact, it is possibly more likely. Foxy's Lady has a special circumstances licence, and that states that there shall be:

> ...no musical entertainment on the vessel other than a guitarist/vocalist entertaining without the use of any amplification and background music and that there be no music, amplified sound or other sounds as to cause loud, continuous or repeated noise or so as to cause a nuisance to persons residing within the vicinity of the operation of the vessel or to persons being carried on the vessel.

I imagine they would not be pursuing a very good business model if they were causing a nuisance to the people being carried on the vessel. They possibly would not be paying to be on the vessel in that case or buying their drinks there.

We have also an interesting plethora of licences which specifically define that they shall not play grunge, heavy metal or rock. Why those particular genres—and, indeed, techno, which gets a guernsey more than it should—seem to be repeated through various licences, I do not know, when there are hundreds of genres of music. What one person might call grunge, another person may call a completely different genre. One person may call it retro, particularly in this day and age.

At what point does something become grunge? Why is a Monday or a Tuesday any different from a Wednesday or a Sunday, particularly when you are talking about there being only a duo on those days but perhaps a trio on the following day? What happens if somebody calls in sick that day?

I kid you not: there are licences which specify solos or trios but do not allow for duos. Whether that is a simple oversight and whether that will be policed, one may think it a story that is a little far-fetched. Indeed, at the Seven Stars, you are allowed to have four performers on that stage but not five. I ask: what if the fifth performer was just a dancer, like Bez in the Happy Mondays? Would that count? I am not sure whether we will get an answer from liquor licensing on this.

Some members might think I am being facetious in raising these issues, but I can assure them that there is a lot of bureaucratic, publicly-funded time being spent policing these things which, surely, should not be falling within the purview of liquor licensing. As I said, at least one venue was in fact prosecuted for not playing folk music as defined in its licence, and that venue not only went through that expensive court process but then paid the expense to change its licence.

It was a venue in very much an entertainment area, and certainly a venue that would probably not be able to make a profit if it were only allowed to play what was clearly very narrowly defined as folk music—something I would define much more broadly and, I imagine, most people with a cultural or an artistic description and definition would lean to. Then again, if there is an opportunity to increase red tape and extract more money from the pockets of licensees, it seems to be something that will be pursued under this state government's bureaucracy.

I have not given too much information previously about this particular venue, but I have alluded to it in the past, and I want now to talk about Suzie Wong's Room on Port Road. It has been heralded by the Charles Sturt council as a great boon for that area. Nina, from Suzie Wong's, has very much fallen foul of the culture cops and other liquor licensing enforcement nightmares over the past few years. It is certainly a tribute to her that she continues to keep that venue open.

Nina was charged by the OLGC for operating without a licence when, indeed, she had lodged it and they had lost it. However, even worse, she was monitored by police both in her venue and online, on her Facebook page, and then successfully prosecuted not for providing entertainment, when she was not licensed to, but under the then further restrictions placed by the council for advertising that she was providing entertainment which she was licensed to provide.

On her Facebook site, after she had fallen foul of liquor licensing enforcement for having an A-frame outside her venue promoting the fact that a particular performer or group of performers was playing in her venue, she then resorted to very obscure references to the fact that there would be music playing in what is, in fact, largely a restaurant environment, where there is also a small bar, and that there would be a few people playing music in the front window.

She alluded to that on Facebook by telling people that if they wanted to come in that night they would enjoy 'a jazzy trio melody pizza'. This play on words fell foul of those conditions which were enabled by this culture cop approach to entertainment. She fell foul of the provision that she not advertise the fact that she had entertainment on those premises. How this play on words makes a venue any more dangerous a place to have alcohol is beyond me. As Ianto Ware quipped on his blog:

> But I can only be thankful it wasn't a grunge trio melody pizza in which case it probably would have also been a crime under the prevention of disrespect to Kurt Cobain act.

I have to agree with many of the things Ianto Ware has raised in terms of his concerns about the way South Australia lags behind in terms of what is indeed support for vibrancy in our state.

We hear a lot of talk about vibrancy, but here we have an issue that absolutely kills vibrancy. It absolutely kills those licensees who would like to have entertainment, unfettered and without the threat of police monitoring their Facebook pages to check whether or not there is some sort of reference to something that is not gambling or sitting down and drinking alcohol or, indeed, being incredibly passive consumers in a licensed premises. It is absolutely clamping down on the vibrancy of a premises which has entertainment and interaction and which has what I would define as vibrancy.

Ianto, as many of you would be aware, has made a great contribution to debates about what has led to this vibrancy theme—I am sure he would not use that word anymore. He was at that very early forum at the Jade Monkey as one of the panellists—as, indeed, was Nina from Suzie Wong's Room. Through his work in both Renew Australia and Format, he has gone some way to contributing to exposing some of the absolutely bureaucratic, stifling culture that exists. I thank him and I thank Raise the Bar campaign and, indeed, John Wardle, for bringing these issues to my attention.

Like many of you, at first, when I heard some of these conditions, I did not believe they were real. I did not believe that we would actually see licensing authorities going to such lengths as to sit and monitor for days, and go undercover into venues to clamp down on somebody, as I say, putting on their Facebook page that they had a 'jazzy trio melody pizza' in their venue that night—and then pursuing that to the point of taking it through the courts and prosecuting and fining her.

Had that particular venue been in New South Wales in this day and age, due to the wonderful reforms they have had there in recent years where they had some similar barriers as these culture cops only a few short years ago, Nina would have faced simply a $500 licensing fee where she would have been allowed to provide entertainment, unfettered—and she would have been able to advertise that entertainment, be it on an A frame (should that comply with council regulations and by-laws) or on her Facebook page.

Here we are debating a bill and talking about lockouts and increasing safety, yet one of the things we could be doing to ensure that our drinking culture in this state is a more responsible one and that we are not simply rewarding those venues that offer passivity and have a few pokies and expect people to simply sit and drink and perhaps play the pokies—

The Hon. T.J. Stephens interjecting:

The Hon. T.A. FRANKS: I have no problem with that but, should you throw in some entertainment, some interaction and some actual vibrancy, suddenly that all seems a little bit frightening for the bureaucracy.

This is, indeed, a real and present problem which affects many licensed premises, and I will draw on a final example. The Cuckoo Bar in Hindley Street, which inherited its licence from another group, is a reasonably small venue. It comes very close to, and almost could comply with, a small venue licence, had those existed at the time of its inception. It has a small dance floor and gets in international DJs, and it has a beautiful cocktail bar with high-end and reasonably high-priced cocktails. Its licence on the wall says that it cannot operate as a nightclub or a discotheque—some of those particular phrases which are littered through most of the liquor licensing conditions that I have seen.

I asked the management how they complied with that particular criteria given that, clearly, to me, they had a disco ball over a dance floor and they had DJs in, so how were they neither a discotheque nor a nightclub? They told me that liquor licensing authorities, when they asked them that particular question (having inherited this licence), told them not to have too many flashing lights and everything would be fine. Should another authority come in and perhaps feel that they had too many flashing lights or, indeed, that a dance floor and a disco ball somehow contravened their licence, they may find themselves in undue strife.

My amendment goes some way to removing those ridiculous conditions that have been in place in our state but are not in place in any other state in this country. In compromise discussions with the government I have certainly looked to minimise the timing of when these red-tape restrictions would apply. These restrictions and burdens on the liquor licences of those who seek entertainment consent, if my amendment were to be supported by this council, would only apply for venues in general for the same period of time each day, as now is currently enjoyed by the small venues licence which this council very much supported, that is, between 11am in the morning and midnight at night. Typically across the state these entertainment consent provisions would not apply. That is under section 105 of the act.

What would apply, of course, and what has never been in question is section 106 of the act which deals with noise. All of the provisions around noise and nuisance remain and, in fact, you can have noise and nuisance regardless of the genre that you have in your venue. That is certainly an issue more of management of your venue rather than the type of entertainment you may think will attract people to your venue.

Should a premises be in the CBD, then those conditions would not apply between 11am and 2am in the morning, an additional two hours for those in the CBD and there is provision in this clause to ensure that if there is, say, a festival or an entertainment district identified by government, then they could also enjoy that extra two hours of freedom from the culture cops. With those words, I commend this amendment to the council.

The Hon. G.E. GAGO: The government rises to oppose both amendments Nos 1 and 2. We really see this first amendment as a test case for both amendments. Amendment No. 1 repeals section 105 of the act which is the provision prohibiting entertainment on licensed premises in the absence of an entertainment consent. There is an exception for small venues. A small venue may be used for entertainment other than prescribed entertainment—essentially adult entertainment, boxing, martial arts contests, and such like—between 11am and midnight, provided the conditions of the licence so permit.

In its place, amendment No. 1 inserts a new section 105. The new section 105 provides that an entertainment consent is, as now, required for prescribed entertainment for other than prescribed entertainment: firstly, in the case of a premises located in the prescribed entertainment area, the CBD or any other prescribed area between 2am and 11am; and, secondly, in the case of a premises located elsewhere that is outside of the prescribed entertainment area between midnight and 11am.

As is now, a consent may be conditional or unconditional and may be varied or revoked by the commissioner. As with the Hon. Ms Franks' original amendment, section 106, which provides for complaints about noise emanating from a licensed premises, is amended so that a noise complaint relating to entertainment may only be made if the noise emanating from the premises is excessive. The Hon. Ms Franks' amendment No. 2 inserts a transitional provision into the act. The effect of this transitional provision is to void any existing entertainment consent, other than an entertainment consent applying to prescribed entertainment or an entertainment consent that

authorises entertainment between midnight and 11am, which are taken to be entertainment consents granted under the new section 105.

A consent that is preserved under the transitional provision is taken to be subject to any condition that was in effect immediately before the amendments commence, meaning conditions attaching to a consent permitting prescribed entertainment remain in force, as do conditions imposed on other entertainment, but in the case of the latter only between the hours of midnight and 11am. Under these amendments, entertainment, other than prescribed entertainment, will be permitted in any and all licensed premises automatically without the need for further consent between the hours of 11am and midnight or 2am, depending on where the premises are situated. This is irrespective of the type or size of the premises, the vicinity of the premises to residential premises, the type of entertainment or where—inside or outside of the premises—the entertainment will be carried on. Any existing condition imposed in respect of entertainment between 11 and midnight is also declared void.

Many, if not most, of these conditions exist because they have been carefully negotiated by the parties. They reflect and accommodate the often competing interests of licensees, residents and other businesses. They act to prevent problems associated with entertainment in licensed premises before they arise, cutting down the need for residents and other businesses to revert to the noise complaints regime provided for in section 106 of the act—albeit not a perfect system, as the Hon. Ms Franks has outlined in some examples.

What happens to those existing licences that do not currently have an entertainment consent? It may be that local residents and businesses agree to the primary licence application because the premises were not to be used for entertainment, safe in the knowledge that, should the licensee wish to do so at some point in the future, a separate application would be required, giving them an opportunity to scrutinise and have a say on the licensee's proposal. If these amendments are passed, these premises will automatically be able to have entertainment without a need for a separate application between the hours of 11am and midnight or 2am.

In the government's opinion, these amendments go too far. They fail to strike an appropriate balance between the interests of licensees and nearby residents and businesses. The government accepts that the existing regime of separate entertainment consent is somewhat cumbersome and can lead to overly restrictive conditions being placed upon the type or style of entertainment permitted at some premises. Any solution which must take account of the competing interests of licensees, the live music industry, residents and businesses requires a wholesale examination of not just the liquor licensing laws but also planning and development laws.

The intersection between the two frameworks is something that the government will ask the Expert Panel on Planning Reform to examine; so we do accept there are some real problems in that area. It is far from perfect, and further work should and needs to be done on this, but we do not believe that the amendment before us really fixes that problem. The government is also keen to examine the soon-to-be released report on live music by our live music Thinker in Residence; we are looking forward to that. The government does not, however, agree to the approach that this amendment seeks to take, although we certainly have a great deal of sympathy for the current anomalies.

The Hon. K.L. VINCENT: I doubt that it will come as a surprise to many of us here that I will be supporting the Hon. Ms Franks' amendments, as one of those grungy under-30s who have been discussed, and I guess there are a few points that I want to put forward. One is that I am—and I probably speak for many people in this chamber tonight, although some of them probably will not admit it—sick and tired of hearing the word 'vibrancy' and 'vibrant' bounced about in debate and never actually acted upon. 'Vibrancy' is not a noun: it is a verb. It is something you do, it is something you feel, it is something you experience.

Unfortunately, as much as I love this city and as much as it has its strengths, I do not feel that vibrancy. I do not feel vibrant when I walk down a bike lane in Leigh Street that has been temporarily painted blue. I feel vibrant when I can go out and spend time with my peers and people my own age doing activities that we like to do and doing it in a way that does not define what entertainment is or should be to us. Let us be honest here: how can we possibly, in legislation or otherwise, define entertainment? That is literally impossible because entertainment is a completely subjective experience. I guess I have been giving this a lot of thought, as you can probably tell, and I am probably not articulating those thoughts as well as I would like.

I would like to read a quote from an article by an acquaintance and, I would hope, a friend of mine, Jane Howard, who is a young Adelaide resident, a well-known theatre reviewer and well-respected art critic here in Adelaide. This is from an article she wrote I think about a year ago on why young people and young artists, in particular, choose or feel forced to leave Adelaide. Obviously, it will not be completely relevant because it talks about the arts, but since this is a debate about culture, I want to read just a brief quote from that article. It states:

> It is not only artists who leave, it is the other people interested in punctuating their lives with arts and culture outside of the festival context. The more these people leave, the harder it is for artists to find audiences, and the more artists leave to move interstate. The pull of the Adelaide artists in Sydney or Melbourne grows ever stronger, the pull of Adelaide grows ever weaker. But it's not just the people which contribute to this drain. 'The venues' issue is one which pops up a lot and it is one which has severe ramifications on Adelaide as a presenter of work, and it is directly contributing to the drain.

Even though this article is talking about art venues, I think that it says a lot about cultural venues throughout this fair city of ours. It is hard for us, as people involved in arts and culture, to find the venues to perform our art, let alone find the everyday sort of venues to share with our peers and extend ideas with our contemporaries.

Quite frankly, I am sick and tired of feeling like I have to fly to Melbourne or Sydney just to see a lot of the people I enjoy spending time with because more and more this town is pushing these people out. With those few very inadequate words, I strongly support these amendments.

The Hon. G.E. GAGO: I ask the indulgence of members of the committee. I know that we are all very keen to expedite the passage of this bill, but, in order to be able to accommodate all members through the debate, I seek to report progress to allow for a short, 10-minute break, following which we will resume debate in committee.

Progress reported; committee to sit again.

[Sitting suspended from 20:50 to 21:03]

EVIDENCE (IDENTIFICATION EVIDENCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 October 2013.)

The Hon. S.G. WADE (21:04): I rise to indicate that the opposition supports the Evidence (Identification Evidence) Amendment Bill 2013. In March 2011, the government introduced a bill to remove the common law judicial preference for in-person suspect line-up parades over other forms of suspect identification. The opposition opposed the government bill on the basis that it did not have sufficient regard for the quality of the evidence collected, and the bill was defeated in the Legislative Council on two occasions.

I tabled an alternative bill in the Legislative Council on Wednesday 17 October 2012. As a result of negotiations with the Attorney-General, a government bill, Evidence (Identification Evidence) Amendment Bill 2013—the bill we are discussing here—was introduced into the House of Assembly. Agreed words were incorporated, and this bill has been received by this house.

It is gratifying to see that we have been able to come together on the core elements of the bill, and I will not dwell on the time and money wasted by the government's failure to engage in a collaborative legislative process earlier. But I have enough concerns about the regime we are legislating that I will dwell on my concerns for the future. The story of the development of this bill—sorry, Mr Acting President, I am not sure which conversation I am having.

The ACTING PRESIDENT (Hon. K.J. Maher): I offer protection to the Hon. Stephen Wade from the Leader of the Opposition who will take his conversation elsewhere or sit down. Thank you. So protected.

The Hon. S.G. WADE: I appreciate your protection from at least one group and I am glad the other two have dispersed. The story of the development of this bill is the story of two countervailing tendencies in government. First, there is an eagerness on the part of the authorities to free themselves of legal presumptions on identification evidence which are not substantiated by scientific evidence. On the other hand, the authorities seem reluctant to accept the discipline of scientific rigour in providing assurance of quality in identification processes.

Since March 2011, the government has been singing the praises of Professor Neil Brewer and his work on identification evidence research. The opposition does not demur from the government's high regard and I certainly do not personally because he is my wife's boss. Professor Brewer is a Matthew Flinders Distinguished Professor at Flinders University, South Australia, and a leading world expert in this area. Yet it was two years after that March 2011 legislation that the government started revising the police general order in relation to identification evidence. I understand that that work is continuing but it is baffling that it has taken so long to even get started.

A key concern of the opposition has been to ensure that we drive quality in identification evidence. We consider the imposition of a statutory requirement for an audiovisual record is a major advance in terms of quality and, to give credit where credit is due, the government very early on in this process did accept the value of audiovisual record. Considering the busyness of these discussions, it would actually be a shame if we overlooked the significance of that development in terms of the development of evidence practices in South Australia.

If I could take the opportunity to quote from advice given to the parliament through the Aboriginal Legal Rights Movement which came from Mr Ligertwood, an Adelaide based lawyer who is an Australian expert on evidence law. He provided this comment to ALRM when he was commenting on the government's original report in relation to the Evidence Identification Amendment Bill 2011 and he said:

> But while the report recognizes the fragility of identification evidence in proposing s 34AB(2), it makes no further attempt to protect the interests of the presumptively innocent accused through attempting to regulate the process whereby a witness identifies a suspect. Yet it is universally recognized that the reliability of such identification depends upon the police employing procedures that seek to ensure witnesses are not in any way prompted or encouraged, consciously or unconsciously, to identify a particular suspect, but rather are asked to identify the suspect from a range of persons amongst whom the suspect does not stand out in any particular way.
>
> Where an identification parade is held the presence of the accused and his solicitor and the probable videotaping of the identification parade ensures that the accused is in a position to challenge police evidence relating to this process of identification.
>
> Where the identification is made in the absence of the accused through photographs or videos shown to a witness, in the absence of evidence independent of the police, it is very difficult for an accused to challenge the reliability of the identification process.

Mr Ligertwood was highlighting the value of videotaping in terms of ensuring that appropriate standards are maintained and that where they are not observed that the implications of them can be worked through.

Going beyond videotaping, the opposition considers that we can do more to support quality in identification evidence than just requiring audiovisual records. The opposition has previously proposed other statutory requirements on identification processes and we remain interested in that approach but the government is not. We welcome the revised general order being developed and the fact that it will incorporate best practice but we are concerned that police and the courts may often find it difficult to differentiate the wood from the trees. What may seem a merely procedural element to police and courts may scientifically be fundamental to its quality.

It was my privilege over the past weeks to meet with Professor Brewer. Whilst he was not in a position to give me a copy of the draft general order, he suggested to me some key elements of identification procedure that he felt were very important to protect quality. I want to highlight a couple of them to try to illustrate the point that what might seem a procedural requirement to a police officer or to the courts may from a scientific point of view be fundamental. One of them, for example, was:

> Accompanying the photos (if a photo-array) which a witness may point to should be two other options to point to—one should say *Not There* and the other *Don't Know*. Likewise for a live parade, there should be two equivalent and explicit options that serve the same purpose.

A police officer reading such a requirement in a general order may read it as merely procedural. Professor Brewer says that it is far more than a mere formality, it is a key element supporting quality. Without these two cards—that is, 'not there' and 'don't know'—witnesses are under more pressure and more likely to make an identification where they are not confident and when they are under the misconception that the suspect is present. The risk of false positives significantly increases. Perhaps the most fundamental guidance you would want the police to observe is respecting the witness description, and this has come up in previous discussions on similar bills. As Professor Brewer put it:

When selecting the foils to accompany the suspect in the line-up, the first step is to ensure that all foils match all features of the witness' description (e.g., white male, 20-25 years, shoulder length straight blonde hair, green eyes, small mole on right cheek); once that is done, attempt to ensure reasonable similarity of the foils to the suspect.

However, I suspect the common-sense understanding of most police officers and for that matter most watchers of crime programs on television is that it is not the similarity of the witness description that matters, it is the similarity of one suspect to the other.

The opposition would like to see more steps taken to support quality in the act or in the regulations, but in the context of this act that was not possible. What we are proposing is that the bill be amended to allow for standard-setting regulations. It is not our view that it should require that such regulations be issued, and I fully accept that this government is not likely to put down any regulations beyond audiovisual recording. However, we consider that there should be a capacity for a future government to do so.

Section 2(b) in the legislation would mean that any evidence that would otherwise be excluded for non-compliance with the regulations may nonetheless not be excluded if it is considered to be in the interests of justice that it not be excluded. The opposition welcomes the fact that the government readily agreed to a review and we would suggest that the value of specific standard-setting regulations may well be matters that might be considered in a review in 12 months' time. I hope that the council will support that amendment in the committee stage.

I also would stress that the opposition is not being prescriptive about the nature of the regulations. It is certainly not our expectation that the regulations at any time would replicate the general orders. There is hardly a point in doing that. However, the regulations could highlight the elements of the general orders which are most important to quality, and I have already mentioned about 10 that Professor Brewer suggested to us were fundamental to quality.

Consistency between the general order and the regulations could be maintained by the regulations being expressed in general terms or, for that matter, by specific references to provisions in the general orders. But let me stress the regulations are completely in the hands of the government, and I accept that, as I said before, this government is likely to focus on an audiovisual related regulation if this council was to accept the amendment that the opposition will move.

Beyond the act, I would urge the government to look at opportunities to enhance quality through computer-based delivery of photoboard identification. Certainly, Professor Brewer highlighted the very high value, in his mind, in computer-based delivery. Computer-based delivery gives you the opportunity, with both visual prompts and audio prompts, to have a highly controlled presentation in terms of what verbal instructions are given to the person and how the images are displayed.

There is scientific debate about whether sequential or concurrent image presentation is the most effective, but whatever the preferred model is, the computer can provide that for you. It can also provide you with the capacity to record data. For example, it might tell you how long after an image came to the screen the person activated the keyboard to indicate that it was their identified choice. It also gives you the opportunity to record confidence factors.

My understanding is that Professor Brewer and other researchers in the area are increasingly interested not just in the choice that was made, but how long it took for that choice to be made, and also the level of confidence with which the person made that choice. Professor Brewer would say it is not always the case that a person who takes half an hour to make a choice is wrong, but they are less likely to be right. If a person makes a rapid choice with a high level of confidence, that would provide more reassurance to those who want to rely on that evidence.

Professor Brewer is very clear that, if the whole procedure was done on the computer without any human interaction, all of the key quality elements would be easier to control. The government and the opposition, unlike other members of this house, have to worry about making the budgets match the aspirations, and we in the opposition appreciate that technology is not cheap, but I would be interested in the government actually making an assessment of the net cost benefit of a rollout of computers in this area.

For example, if you were to have a centrally-based database of images and a series of what I would have thought would be fairly basic computers or laptops around the state, you could easily deliver sets of images to officers wherever they are working in the state, transport images to

them, and also get the responses back centrally. I suspect that, considering that we are hopefully going to avoid unnecessary line-ups through this legislation, the savings from that fact alone would help fund these sorts of facilities.

Certainly, in my discussions with the police over the life of these bills, there was also interest in the idea of what I think are called evidence suites. Apparently, they are already being used in the United Kingdom, and that is where you have a, shall we say, controlled environment; not just a computer screen, but perhaps a room in which line-ups and photoboards are also conducted. Again, it is based on the idea that if you have a controlled environment, whether that is a physical environment or a computer, that can help control the quality elements.

Again, I thank the government for the work, particularly in more recent months, to come to an agreed set of words, which I believe will enhance the Evidence Act and identification procedures, and not only protect but also enhance the quality of identification evidence that is produced and presented to our courts.

By way of conclusion, if I could thank some people in particular. Obviously, I cannot go past thanking Professor Brewer. I know that he has been very generous with his time, both with the government (the Attorney-General's Department and the police) and also with the opposition. The input of experts is often invaluable. I would also like to particularly thank the Aboriginal Legal Rights Movement and, through their work, the way they engaged Mr Ligertwood on these issues. On a personal level, if I could thank the Hon. Kelly Vincent. I appreciate that she had a strong interest in this area and it was very helpful to be able to work through the issues with her staff and herself. So, with those remarks, I commend the bill to the council and look forward to discussing the amendments at the committee stage.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (21:20): I do not believe there are any further second reading contributions, so I would like to thank honourable members for their support for this bill. The core proposal of the bill is to put photograph identification evidence on an even footing with identification evidence obtained by way of an identification parade. As set out in the second reading, line-ups require substantial police resources. Amending the legislation will have a number of advantages, including increasing the efficiency of police investigations.

This bill is the government's third attempt to implement this policy. The first two attempts failed in this place. The government has listened to the concerns expressed by members in this place about the content of the first two bills, in particular ensuring that identification parades are carried out in accordance with statutory safeguards. Members will be well aware that the shadow attorney-general, the Hon. Mr Wade, introduced a similar bill in this place in October 2012. That bill, amended by further amendments from the Hon. Mr Wade, passed in this place on 25 September 2013.

The bill now before us in this place incorporates elements of the government's approach to this issue and elements of the opposition's approach. This was achieved via amendments to this bill moved in the other place. A new section 34AB(1) has been inserted that adopts elements of the government and opposition bills. This section now refers to inadmissibility of evidence and the ability to exclude evidence in the exercise of the court's discretion.

The bill previously referred to 'the identity of an offender' and 'the defendant'. The opposition's bill uses 'offender'. After discussion with parliamentary counsel it was agreed that the phrase 'the identity of a person alleged to have committed an offence' would be adopted. The opposition bill adopted a definition of 'identity parade' rather than the definition of 'identification process' used in the government bill. The opposition's definition has been adopted.

Finally, in the interests of securing the passage of the bill through parliament, a review clause was inserted into the bill and I am advised that further amendments have been filed in this place by the Hon. Mr Wade and the Hon. Ms Vincent, and the government will be supporting those amendments during the committee stage. So, I hope that both the amendments of the Hon. Stephen Wade and the Hon. Ms Vincent will be agreed to. I look forward to the committee stage being dealt with expeditiously.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

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

Amendment No 1 [Wade–1]—

Page 2, lines 20 and 21 [clause 4, inserted section 34AB(2)(a)]—Delete paragraph (a) and substitute:

(a) —

(i) an audio visual record of the identity parade is made and kept in accordance with the regulations; and

(ii) if the regulations prescribe procedures for the conduct of an identity parade—the identity parade is conducted in accordance with the prescribed procedures; or

I took the liberty in my second reading contribution to argue the case for it so I have, if you like, shown respect to the record. I thank the minister for her indication of the government's intention to support the amendment, in which case I seek the support of the committee as a whole.

The Hon. G.E. GAGO: The government supports this amendment. The amendment future-proofs the legislation in that it provides for the ability for another set of regulations to be proclaimed in relation to the procedures that should be undertaken when obtaining identification evidence from an identification parade. We support this amendment.

Amendment carried; clause as amended passed.

Clause 5.

The Hon. K.L. VINCENT: I move:

Amendment No 1 [Vincent–1]—

Page 3, line 38 [clause 5, inserted Schedule 1, clause 1(1)(b)(ii)]—Before 'cultural and linguistic diversity' insert 'persons of'

Amendment No 2 [Vincent–1]—

Page 3, after line 38 [clause 5, Schedule 1, clause 1(1)]—After paragraph (b) insert:

Example—

Ensuring that the procedures to be followed are accessible to persons referred to in paragraph (b).

The intent of my two amendments is very simple, particularly the first. It merely corrects a drafting error so that it reads 'people of cultural and linguistic diversity' rather than simply 'cultural and linguistic diversity'. It is always good to remind ourselves that we are talking about people, so I doubt there will be any objection to that.

The second amendment is also very simple and I hope it is one we can all agree to. It simply seeks to ensure that part of the review process of the legislation takes into account ways that the legislation could be improved to allow for accessibility of evidence to people with disabilities and people from cultural and linguistic diversity. We have quite deliberately left the wording of that amendment open so that it reads 'ensuring that the procedures to be followed are accessible to persons referred to in paragraph (b)', i.e. people with disabilities and people of cultural and linguistic diversity, because we do not want to be prescriptive so that we can allow for the best accessible technology of the day to be used.

There are many examples of what that could be. The Hon. Mr Stephen Wade has mentioned a few of them in his contribution this evening and at other times. It could be allowing photographs to be displayed on a computer that could be easily accessed by someone with a variety of disabilities and so on, but I think it is important not to be too prescriptive in this sense. It is a very simple amendment and one that I hope will have the support of the committee.

Amendments carried; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (21:29): I move:

That this bill be now read a third time.

Bill read a third time and passed.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

In committee (resumed on motion).

New clauses 24A and 24B.

The Hon. R.I. LUCAS: I rise to address this particular issue and amendments. The Liberal Party has been sympathetic to the principles behind the issue being raised by the Hon. Tammy Franks. I think, as the Hon. Ms Franks has indicated, back in September of last year, she first raised this general issue in her Liquor Licensing (Entertainment) Amendment Bill. I am not sure whether, at that time, she had discussions with the respective shadow ministers, but certainly I know in recent times she has engaged with the shadow minister, Steven—

The Hon. T.A. Franks interjecting:

The Hon. R.I. LUCAS: Sorry?

The Hon. T.A. Franks interjecting:

The Hon. R.I. LUCAS: I said I assumed the Hon. Ms Franks would have had discussions, but certainly I know in recent times she has continued to have discussions with the member for Goyder, who is the shadow minister responsible for this particular area. The AHA have put a point of view to a number of our members as well, indicating their sympathy for the principles and their support also for, I suspect, the amendment as finally drafted.

Many of the issues that the Hon. Tammy Franks raised in her speech in September of last year and again today most rational members of parliament would support, in my view, but some of them did not seem to make too much sense at all. The final version of this amendment was tabled, as I indicated earlier this morning, just at the start of the session today at 11 o'clock. I must admit that my misunderstanding, obviously, was that the government was going to be supporting the Greens on this particular amendment of [Franks-2] which supersedes [Franks-1]. That was clearly a misunderstanding because the government has spoken strongly against the amendments this evening, for a variety of reasons. However, as I said, my misunderstanding of [Franks-2]—

The Hon. T.A. Franks: You were not wrong at the time.

The Hon. R.I. LUCAS: The Hon. Ms Franks says I was not wrong at the time. I know things do change—but from this morning to this evening. Certainly my understanding was that, therefore, this was an amendment which was likely to pass the Legislative Council because the government was supporting it and the government is obviously in a position with its advisers to look at a lot of the issues that I raised with AHA representatives when they briefly raised this with me last Friday.

I said to them that, in essence, as I looked at [Franks-1], we were looking almost at a blank cheque; that is, there were clearly silly and antiquated provisions in some licences which we would all agree to get rid of but I am assuming that there were some logical ones supported by local residents and others which may well be supported not only by local residents but may well be supported by members of parliament like myself—and others who have a similar view to myself. That was in relation to [Franks-1].

Since then there has been this further work done on trying to refine the Hon. Tammy Franks' first amendment to something that was more acceptable and something that perhaps met that initial view that I know I put to the AHA: how do we know, if we sign up to this, that you (the hoteliers) are not getting away with a blank cheque? That is, you are getting antiquated provisions removed, which we would all agree to get rid of, but at the same time there may well have been logical, hard fought for and well considered restrictions that residents in particular who live near to the venues would be strongly opposed to if they were going to be removed in some way.

As of this morning, when I heard that there was now amendment [Franks-2], my understanding at the time and for the rest of the day—I did not worry too much about it—was that this was going to be supported by the government and therefore would pass through the Legislative Council. Now we find that the government is strongly opposed to it, and I suspect, therefore, some other members in the chamber may also be strongly opposed to it. Given the strong Family First-government position on this particular bill it would surprise me if—

The Hon. R.L. Brokenshire: I think you're drawing a very long bow.

The Hon. R.I. LUCAS: It would surprise me—

Members interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): Order!

The Hon. R.I. LUCAS: It would surprise me if Family First were not supportive of the government's position on this in opposing the amendment—

The Hon. R.L. Brokenshire interjecting:

The ACTING CHAIR (Hon. J.S.L. Dawkins): Order! This is not a conversation. The Hon. Mr Brokenshire can get on his feet in a moment.

The Hon. R.I. LUCAS: The concern I have, in particular—and, again, the dilemma is having had the understanding that this was likely to go through with government support, I have obviously not had the opportunity to have a party room meeting or a joint party room meeting and to say to my colleagues, 'Hold on, there are some particular issues that we need to think about again in relation to this.'

The particular one that I am concerned about is the potential impact on local residents. I was not firing on all four cylinders earlier when I was listening to the minister's response so I only picked up bits and pieces of it. I will read it in greater detail tomorrow in the *Hansard*. However, in looking at the Hon. Tammy Franks' amendments, in particular 24B, there is a new provision to be inserted which comes under 106(1) in the act, the complaint about noise emanating from licensed premises. For the benefit of members, 106(1) states the following:

> If—
>
> (a) an activity on, or the noise emanating from, licensed premises; or
>
> (b) the behaviour of persons making their way to or from licensed premises
>
> is unduly offensive, annoying, disturbing or inconvenient to a person who resides, works or worships in the vicinity of the licensed premises, a complaint may be lodged with the Commissioner under this section.

The Hon. Tammy Franks' amendment package seeks to insert a (1a) after subsection (1) that says:

> However, a complaint may only be lodged under this section in relation to entertainment (other than prescribed entertainment) provided at licensed premises in accordance with this Act on the grounds that the noise emanating from the licensed premises is excessive.

Mr Acting Chairman, I am not a lawyer, I do not practise in this particular jurisdiction and I have not had the benefit of consulting with my joint party room colleagues, such as your good self and others, but my quick reading of that would indicate that, in the act we are talking about, the noise coming from a licensed premises for a complaint to be lodged, and potentially for action to be taken, only has to meet a level of criteria, being 'unduly offensive, annoying, disturbing or inconvenient to a person who works, resides, works or worships'.

The new amendment which says that this complaint can only be lodged on the ground that the noise emanating from the licensed premises is excessive, to me, potentially, would indicate that that is a higher threshold—a higher noise threshold and a higher legislative threshold—that would need to be met before a complaint on the ground of noise can be lodged. I am interested in both the government's views (because they are opposing this amendment) and the Hon. Tammy Franks' views on my interpretation of that.

Certainly, if that is the case—that is, that residents will be placed in a weaker or significantly weaker position in terms of being able to complain about noise from licensed premises—and at this stage I can only speak on my behalf, I believe, and I would be guessing the majority of my colleagues would agree with me, that if we were going to move down that particular path we would need to do that after we had thoroughly considered what the ramifications of that might be in relation to many licensed premises around the state.

We have a dilemma, and this is why, as I said, I recounted the conversation I had with the AHA last week about their almost asking us to sign up to a blank cheque—not them asking: at that stage they were asking us to support the Hon. Tammy Franks' amendment—in relation to removing all these restrictions. I am interested in the government's response to that.

It is issues like that that I am concerned about so, whilst I think we have indicated through the member for Goyder that the principle behind what the Hon. Tommy Franks is seeking to do we

are supportive of, I am concerned about this amendment, and now this refined amendment which the government, on its best advice, is saying is going to create significant problems, from the Liberal Party's viewpoint.

First, before I put down our final position on the amendment, I am interested in getting the minister's response, if I could, and whether the Hon. Ms Franks has a particular perspective on this issue of excessive noise before we could have a complaint, as opposed to something we have at the moment, which appears to be 'offensive, annoying, disturbing or inconvenient'.

The Hon. G.E. GAGO: In relation to the question from the Hon. Rob Lucas about whether the difference in the definitions lifts the height of the bar, the advice I have received is that it is likely to lift the bar a little but probably not a lot.

The Hon. T.A. FRANKS: I thank the spokesperson for the opposition for his contribution and his expression of some sympathy for the intent of the bill, and I note that, while he cited that the government had had strong opposition, indeed, they also expressed sympathy for the intent of the amendment.

In consultation with the government, I was attempting (as a crossbencher without a department and the resources a government has) to come up with a solution to what I believe we are all now agreeing is a real problem. Certainly the aspect of the changed wording to excessive has been remarked upon, both by the Law Society and, as members would be aware, by the AHA. The AHA believes that my amendment does not go far enough and sets the bar too high and makes it too easy for those residents to complain.

The AHA has pointed to a solution to this where, instead of simply one person being able to trigger complaints, that perhaps we set that number, that is also cited currently in the act, as 10. I do have some sympathies in giving some parliamentary guidance to the commissioner that we would see that the number of 10 complainants being the bar that is typically met, rather than simply one which I understand from the representations that I have had from licensees is more commonly the practice. Certainly, I would be open to exploring wording around that, taking on the Law Society's concerns with regard to the definition of excessive as well, itself being open to interpretation, but as is offensive, annoying, disturbing or inconvenient. All those words are quite subjective as, in this case, is entertainment.

The Hon. R.I. LUCAS: I thank the Hon. Tammy Franks and the minister for their responses. I indicate that I think there are potentially a number of ways forward, and I am not the shadow minister responsible in this area. The minister flagged a particular approach. I think there are two possible approaches that merit consideration. The Hon. Tammy Franks has raised a couple of specific issues which I think merit consideration as well. However, in terms of these antiquated provisions (of which she listed many), possibly what a government should be looking at, with all the resources available to it, is to come up with a system which would fast-track changes to licensing provisions.

As I understand it—although I do not understand it as well as the Hon. Tammy Franks—it is the view of some licensees that the current system is cumbersome in terms of making changes to the provisions, so maybe what the government should be establishing is some fast-tracking mechanism for these antiquated provisions. It should not be beyond the wisdom of a government and its officers to come up with a proposal like that.

The other one I raised with the AHA might actually put the mettle on a government of whatever persuasion to move. The Liberal leader Steven Marshall has indicated that, if elected, there will be an annual repeals day. This would seem to be a perfect example—while it is not legislation but it is red tape and removal—of something which could be done. The other option might be that you could sunset clause some of these provisions and basically say, 'You have a year, two years, or whatever it is, to justify the continued retention of them, and if you have not been able to justify them, they will disappear.' There should be possibilities.

Now that everyone—this government, an alternative government, the Greens and others—has acknowledged that there are some problems, I would have thought that, with goodwill, there are a number of potential ways we could tackle some of these issues to the satisfaction of the people who use the premises, the hoteliers and the licence holders, but equally so that we do not disadvantage unduly residents and locals who may well be disadvantaged if we were to go down the particular model that is before us. Having engaged and listened to that debate, I would indicate that at this stage the Liberal Party will not support the amendments before the chamber.

New clauses negatived.

Remaining clauses (25 to 41) passed.

Schedule 1.

The Hon. R.L. BROKENSHIRE: I move:

Amendment No 2 [Broke-1]—Schedule 23—Insert:

3—Certain codes of practice taken to be valid

(1) A code of practice, and any provision of a code of practice, that—

(a) was published under section 11A of the *Liquor Licensing Act 1997* (as in force before the commencement of this clause); and

(b) is purportedly in force on the commencement of this clause,

will be taken to be valid, and always to have been valid, if the code of practice or provision would have been valid had it been published under section 11A of the *Liquor Licensing Act 1997* as amended by this Act.

(2) However, no action may be taken under the *Liquor Licensing Act 1997* in respect of a person's refusal or failure to comply with the provision of the Late Night Trading Code of Practice during the period commencing on 1 October 2013 and concluding on the date on which this clause comes into operation.

(3) In this clause—

Late Night Trading Code of Practice means the Late Night Trading Code of Practice under the *Liquor Licensing Act 1997.*

Note—

The Late Night Trading Code of Practice was published by notice in the Gazette on 6 June 2013 then came into operation on 1 October 2013.

I have already spoken in part to this amendment. I am happy to again reiterate all that I have said in an email if the house so decides. Suffice to say—if I can just do a brief summing up—the practical effect of this amendment is that it does validate the existing late night code of practice and it does bring to an end the questions currently on appeal in the Supreme Court.

As I indicated earlier, personally I make no apology for that. I indicated that very highly educated constitutional legal people confirm that this practice has occurred and can occur. We make the laws in this parliament, not the courts and, where an uncertainty has been identified, the parliament is within its rights to clarify the law.

Firstly, I have moved subsection (2) in this amendment to protect those licensees who might otherwise be adversely affected by retrospectivity of this amendment. They have, if you like, immunity until the new legislatively endorsed code of practice comes into effect. I think that is only fair and reasonable.

Secondly, I urge the government to consider its position on legal costs in relation to the present case before the courts based on what we are doing here and the fact that there was a trial period. Unless there are any requests for me to go into more detail, I think I have covered it in the debate on the previous amendment.

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

Amendment No 1 [AgriFoodFish-4]—

Amendment to Amendment No 2 [Broke—1]—

Schedule 1, page 13, after line 23—After inserted clause 3(1) insert:

(1a) The requirements of section 11A(4a) do not apply in relation to a code of practice referred in to subclause (1).

I have spoken to this amendment in clause 1; it is consequential on the Hon. Robert Brokenshire's second amendment which validates the code of practice published before the date the amendment commences.

The Hon. R.I. LUCAS: The Liberal Party will consider this as part of the package of amendments Family First and the government team are putting in relation to this legislation. We indicated our position earlier; that is, we oppose it. We divided earlier to indicate the strength of our position. We do not propose to divide again.

Amendment carried; amendment as amended carried.

The ACTING CHAIR (Hon. J.S.L. Dawkins): There is one further amendment to the schedule, and that is [Franks-2] 2, schedule 1, page 13, after line 23. I call the Hon. Tammy Franks.

The Hon. T.A. FRANKS: Thank you, Mr Acting Chair. As that is a consequential amendment, I will not move that amendment.

Schedule as amended passed.

Title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (21:56): I move:

That this bill be now read a third time.

Bill read a third time and passed.

YOUNG OFFENDERS (RELEASE ON LICENCE) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (21:57): 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.

It was recently brought to the Government's attention that it would be beneficial to amend section 29(4) of the *Young Offenders Act 1993* (the Young Offenders Act) to reflect both the Government's intention and the current practice of the Supreme Court that any youth sentenced to life imprisonment for the offence of murder is sentenced as an adult. Further, there is a need to resolve the potential conflict between the operation of sections 29(4) and 37 of the Young Offenders Act and section 32 of the *Criminal Law (Sentencing) Act 1988* (the Sentencing Act).

In certain circumstances, a court, when sentencing a youth, has the discretion to deal with that youth in the same way as an adult because of the gravity of the offence for which they are to be sentenced, or because the offence forms part of a pattern of repeated offending (see section 17 of the Young Offenders Act).

As it currently stands, if a youth has been found guilty of murder, then in accordance with section 29(4) of the Young Offenders Act and the *Criminal Law Consolidation Act 1935*, that youth must be sentenced to life imprisonment.

The courts have taken the view that, when sentencing a youth to life imprisonment for murder, it is only appropriate that the youth be sentenced as an adult. However, this position should be clearly reflected in the statute.

The Government supports this view. The crime of murder is so serious that any youth convicted of this offence should be sentenced as an adult.

The Bill therefore makes an amendment to section 29(4) to provide specifically that, when a youth is being sentenced to life imprisonment for murder, they are being sentenced as an adult.

This amendment will also ensure that, in all cases where a youth is being sentenced for murder, the court will continue to apply section 32 of the Sentencing Act due to the operation of section 31A.

When it commenced, the Sentencing Act did not apply to the sentencing of children.

Section 31A was inserted into the Sentencing Act in 1996. Section 31A was amended in 1998 and has not been amended since.

Section 31A states that Division 2 of the Sentencing Act (regarding the setting of non-parole periods and which includes section 32) does not apply in relation to a youth unless:

- the youth is sentenced as an adult; or
- is sentenced to detention to be served in a prison; or
- is otherwise transferred to or ordered to serve a period of detention in prison.

Section 32 of the Sentencing Act states that, subject to the section, if a person is not subject to an existing non-parole period, the court must set a non-parole period. In all but the rarest of cases, this results in the setting of a non-parole period.

Once a non-parole period is set, at the conclusion of that period of time, the offender may apply for release on parole.

Section 31A makes it clear that, when a youth is sentenced as an adult, then section 32 applies regarding the setting of a non-parole period.

Therefore, the amendment to section 29(4) of the Young Offenders Act will ensure that any youth sentenced to life imprisonment for the offence of murder is sentenced as an adult, meaning the court will continue the practice of applying section 32 of the Sentencing Act regarding the setting of a non-parole period.

However, the Young Offenders Act contains a further provision which appears to have complicated the sentencing of young people for the offence of murder.

Prior to the Young Offenders Act, a youth sentenced for murder was subject to the *Children's Protection and Young Offenders Act 1979* (the 1979 Act).

Under section 55(1) of the 1979 Act, a child convicted of murder could only be detained at the Governor's pleasure.

Pursuant to section 55(4) of the 1979 Act, the child, while 'detained in a training centre', could be released on licence by the Governor upon the recommendation of the Training Centre Review Board.

In *R v Marshall* (1986) 43 SASR 448 at 499 White J recommended that the Supreme Court be given the power to fix an appropriate sentence and a non-parole period (see page 500). Section 55(4) provided that the Governor may on a recommendation of the Parole Board or if the child is detained in a training centre, on the recommendation of the Training Centre Review Board, discharge the child on licence.

The 1979 Act therefore required a mechanism by which a youth sentenced for murder could be released. The release on licence was the mechanism by which release occurred.

By 1990 the 1979 Act had been amended so that a child who was convicted for murder had to be imprisoned for life (see section 55(1)).

But section 55(2) stipulated that 'a non-parole period cannot be fixed in respect of a sentence of life imprisonment imposed under this section'.

The absence of a power to fix a non-parole period therefore required a separate mechanism by which a youth convicted of murder could be released.

The 1979 Act was therefore also amended to include the precursor to section 37 whereby a child who had been sentenced to imprisonment for life and who was being detained in a training centre, could be released on licence by the Supreme Court.

The Sentencing Act commenced in 1988 and did not apply to the sentencing of children and the Young Offenders Act commenced in 1994.

The Young Offenders Act retained certain aspects of the 1979 Act, in particular it required that a youth sentenced for murder be sentenced to imprisonment for life (see section 29(4)) and did not expressly prohibit the fixing of a non-parole period for a youth sentenced to imprisonment for life.

The Young Offenders Act also retained the power of the Supreme Court to release on licence a youth sentenced to imprisonment for life who was detained in a training centre (under section 37).

Section 37 of the Young Offenders Act provides that if a youth has been sentenced to life imprisonment and is being detained in a training centre (as opposed to in a prison) then the youth may apply to the Supreme Court to be released on licence.

It was in 1996 that section 31A was inserted into the Sentencing Act which embedded in statute the practice that a non-parole period could be fixed for a youth sentenced as an adult. At that time, section 37 was untouched.

It was in 1998 that the courts took the view that any youth sentenced to life imprisonment for the offence of murder was sentenced as an adult.

However, both section 37 of the Young Offenders Act and sections 31A and 32 of the Sentencing Act remained.

The Government adamantly opposes the idea that a youth convicted of murder can be released before the applicable non-parole period has expired. Therefore section 37 has no work to do.

A non-parole period represents the minimum period of incarceration which the gravity of the crime committed requires and which is transparently set for that purpose. The initial sentencing process would be completely subverted if an offender, who is a youth, serving a sentence in a training centre, could be released on licence before serving that minimum period.

This Bill has been drafted reflecting this view. The remnant section 37 of the Young Offenders Act should and will be deleted.

The Government is of the view that section 32 of the Sentencing Act should cover the field with respect to potential early release on parole, by way of the fixing of a non-parole period, of any young offender:

- sentenced as an adult; or
- sentenced to detention to be served in a prison; or
- otherwise transferred to or ordered to serve a period of detention in prison.

A transitional provision has also been included that reflects the Government's clear position.

Under the transitional provision, any right that has accrued under section 37 that has not yet been exercised is extinguished.

In addition, any right that has accrued, that has been exercised but not yet determined, is also extinguished.

This means that any application that has been made by a youth under section 37 but not determined prior to the commencement of this Act is defeated by force of the Act.

In addition, under the transitional provisions, any youth who has been sentenced to imprisonment for life, and who is being detained in a training centre, will not be able to make an application for release on licence under section 37 once the Act commences. This provision will apply regardless of whether the youth could have made such an application before the commencement of the Act.

So there will be no future applications for release under section 37.

Any release on licence of a youth under section 37 that has not been cancelled at the time of commencement of the Act will be taken to continue in accordance with its terms, even once the Act has commenced. In addition, section 37 of the Young Offenders Act, as in force immediately before the commencement of the Act, will be taken to continue to apply in relation to a release on licence continued under this transitional provision as if section 37 had not been repealed.

This is an anomaly with potentially poisonous and unintended consequences. It should be closed down at once.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Young Offenders Act 1993*

3—Amendment of section 29—Sentencing youth as an adult

This clause amends section 29(4) of the principal Act to clarify that a youth sentenced to life imprisonment for murder is being sentenced as an adult.

4—Repeal of Part 5 Division 2

This clause repeals Part 5 Division 2 of the principal Act, thus repealing section 37 which allows youths convicted of murder and serving a life sentence in a training centre to apply for release on licence.

5—Amendment of section 42A—Training Centre Review Board may direct youth to surrender firearm etc

This clause makes a consequential amendment.

Schedule 1—Transitional provisions

1—Interpretation

This clause defines 'repealed section', namely section 37 of the principal Act.

2—Applications under section 37 of *Young Offenders Act 1993*

This clause extinguishes any applications for release on licence under section 37 of the principal Act that are currently on foot, and prevents future applications from being made, including in respect of youths who could, but for this measure, have made an application but did not.

3—Youths currently subject to licence

This clause provides for the continuation of any current releases on licence under section 37 of the principal Act in accordance with their terms, and continues the effect of that section in relation to dealing with the licences in future, for example where they are to be cancelled or the youth discharged.

Debate adjourned on motion of Hon. R.I. Lucas.

ELECTRONIC CONVEYANCING NATIONAL LAW (SOUTH AUSTRALIA) BILL

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

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (21:59): 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 National Electronic Conveyancing initiative is a Council of Australian Governments reform that is endorsed within the existing National Partnership Agreement for a Seamless National Economy, to which South Australia is a party.

National Electronic Conveyancing will be an electronic business environment specifically implemented to create and settle property transactions prior to lodgement with the Land Services Group and other Australian Land Registries.

The legal framework to support National Electronic Conveyancing has been developed by a team of senior officers and legal representatives from Land Registries in each jurisdiction.

There is broad support across Government and industry nationwide for the introduction of electronic conveyancing.

Banks and other mortgage lenders are increasingly operating on a national basis, rather than at the State level. However, no common regulatory framework exists to enable documents in an electronic form to be lodged under the Torrens land title legislation in each State and Territory, and this impedes productivity, growth and makes it more difficult for businesses to maximise efficiency.

It is therefore critical that the National Electronic Conveyancing system is nationally uniform, with minimal jurisdiction specific variations, in order to derive maximum benefit for all participants.

South Australia's participation in National Electronic Conveyancing will markedly reduce current administrative burdens and costs associated with time and resources currently expended on physical settlements and processing of paper land transactions.

It is anticipated that National Electronic Conveyancing will:

- reduce costs and delays associated with conveying and settling land transactions;
- increase the accuracy of transactional data lodged with Land Registries;
- reduce the complexity and cost of dealing across eight different jurisdictions.

The introduction of National Electronic Conveyancing is estimated to generate national gross savings of up to $250 million per annum and reduce the cost of preparing and settling each transaction by around $230.

In June 2012 the Government approved the signing of the Intergovernmental Agreement governing National Electronic Conveyancing. Following the release of the national Consultation Regulation Impact Statement for the Electronic Conveyancing National Law ('*ECNL*'), minor amendments were made and the Regulation Impact Statement for Decision was approved by the Commonwealth Office of Best Practice Regulation.

The Bill being introduced today, the *Electronic Conveyancing National Law (South Australia) Bill 2013*, is substantially similar to the ECNL.

It is intended that the Bill will not come into operation until the end of 2014, which will allow for the necessary amendments to the *Real Property Act 1886* and other related legislation to be made. A separate Bill will be brought to the Parliament containing those related amendments.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides for commencement of the measure and exempts it from the application of section 7(5) of the *Acts Interpretation Act 1915*.

3—Definitions

This clause defines terms used in the measure.

Part 2—Application of Electronic Conveyancing National Law

4—Application of Electronic Conveyancing National Law

This clause specifies that the *Electronic Conveyancing National Law* applies as a law of South Australia.

5—Meaning of generic terms in Electronic Conveyancing National Law for purposes of this jurisdiction

This clause defines certain terms used in the *Electronic Conveyancing National Law (South Australia)*.

6—Amendments to Schedule to maintain national consistency

This clause provides the procedure for adopting corresponding amendments made by the Parliament of New South Wales to the *Electronic Conveyancing National Law*.

7—Time for appeal against decisions of Registrar

This clause provides that a person who appeals against a decision of the Registrar-General under clause 28(2) of the *Electronic Conveyancing National Law (South Australia)* must institute the appeal within 28 days after receiving the written grounds for the decision.

8—Exclusion of legislation of this jurisdiction

This clause provides that the *Acts Interpretation Act 1915* does not apply to the *Electronic Conveyancing National Law (South Australia)*.

Part 3—Regulations

9—Regulations

This clause allows the Governor to make regulations.

Schedule 1—Electronic Conveyancing National Law

Note—

This Schedule sets out the National Law.

Part 1—Preliminary

1—Short title

This clause sets out the name of the National Law.

2—Commencement

This clause provides for the commencement of the National Law in a participating jurisdiction to be as provided for by an Act of that jurisdiction.

3—Definitions

This clause defines certain expressions used in the National Law.

4—Interpretation generally

This clause gives effect to Schedule 1 to the National Law, which provides for the interpretation of the National Law.

5—Object of this Law

This clause sets out the object of the National Law.

6—Law binds the State

This clause provides that the National Law binds the State.

Part 2—Electronic Conveyancing

Division 1—Electronic lodgement

7—Documents may be lodged electronically

This clause allows a document to be lodged electronically for the purposes of land titles legislation if the document is lodged in a form approved by the Registrar-General and by means of an electronic lodgment network provided and operated under the National Law.

8—Registrar to process documents lodged electronically

This clause requires the Registrar-General to process a document lodged electronically.

9—Status of electronic registry instruments

This clause provides that an instrument executed and lodged electronically under the National Law has the same effect as a paper document.

Division 2—Client authorisations and digital signatures

Subdivision 1—Client authorisations

10—Client authorisations

This clause provides for client authorisations. A client authorisation is a document by which a party to a conveyancing transaction authorises a subscriber to complete a conveyancing transaction electronically.

11—Effect of client authorisation

This clause gives effect to client authorisations.

Subdivision 2—Digital signatures

12—Reliance on, and repudiation of, digital signatures

This clause provides for the digital signing of documents by subscribers and the effect of documents that are digitally signed. The clause sets out the circumstances in which a digital signature may be repudiated, namely, that the digital signature was not created by the subscriber or by a person authorised to create digital signatures on behalf of the subscriber, and the subscriber did not fail to comply with the participation rules or to take reasonable care with respect to the creation of the digital signature. The clause does not prevent the unsigning of a document, which may occur prior to settlement.

Part 3—Electronic Lodgement Networks

Division 1—Preliminary

13—Electronic Lodgement Network

This clause explains what is meant by an Electronic Lodgment Network or ELN. An ELN is an electronic system that enables the lodging of registry instruments and other documents in electronic form for the purposes of land titles legislation.

Division 2—Operation of Electronic Lodgement Networks

14—Registrar may provide and operate ELN

This clause gives the Registrar-General power to provide and operate an ELN.

15—Registrar may approve ELNO to provide and operate ELN

This clause gives the Registrar-General power to approve a person to provide and operate an ELN. Such a person is an Electronic Lodgment Network Operator (*ELNO*).

16—Conditions of approval as ELNO

This clause permits the Registrar-General to attach conditions to an approval to operate an ELN.

17—Effect of approval as ELNO

This clause permits a person approved as an ELNO to provide an ELN in accordance with the approval.

18—ELNO required to comply with operating requirements

This clause requires a person approved as an ELNO to comply with the operating requirements.

19—Renewal of approval as ELNO

This clause provides for renewal of approval as an ELNO.

20—Revocation or suspension of approval as ELNO

This clause permits the Registrar-General to revoke or suspend the approval of a person as an ELNO.

21—Monitoring of activities in ELN

This clause permits the Registrar-General to monitor activities in an ELN.

Division 3—Operating requirements and participation rules

22—Operating requirements for ELNOs

This clause enables the Registrar-General to determine requirements in relation to the operation of an ELNO and the provision and operation, by an ELNO, of an ELN (*operating requirements*).

23—Participation rules

This clause enables the Registrar-General to determine rules relating to the use of an ELN (*participation rules*).

24—Registrar to have regard to nationally agreed model operating requirements and participation rules

This clause requires the Registrar-General to have regard to any model operating requirements or model participation rules published by the Australian Registrars' National Electronic Conveyancing Council in determining the operating requirements and participation rules.

25—Publication of operating requirements and participation rules

This clause requires the Registrar-General to ensure that copies of the current operating requirements and participation rules, and superseded versions, are publicly available.

26—Subscribers required to comply with participation rules

This clause requires subscribers who are authorised to use an ELN to comply with the participation rules relating to the ELN.

27—Waiving compliance with operating requirements or participation rules

This clause allows the Registrar-General to waive compliance with all or any provisions of the operating requirements or participation rules.

Division 4—Appeals

28—Appeal against decisions of Registrar

This clause provides for appeals against decisions of the Registrar-General made under the National Law.

29—Determination of appeal

This clause provides for the determination of appeals by the responsible tribunal (in South Australia, the Administrative and Disciplinary Division of the District Court).

30—Costs

This clause provides for the awarding of costs on appeals.

31—Relationship with Act establishing responsible tribunal

This clause makes it clear that the proposed Division applies despite any Act that establishes or continues the responsible tribunal, but does not otherwise limit such an Act.

Division 5—Compliance examinations

32—Definitions

This clause makes it clear that the Division extends to former ELNOs and former subscribers.

33—Compliance examinations

This clause enables the Registrar-General to conduct an investigation (*compliance examination*) in relation to an ELNO or subscriber for the purpose of ascertaining whether or not the operating requirements and participation rules are being complied with, or investigating any suspected misconduct with respect to the use of an ELN.

34—Obligation to cooperate with examination

This clause requires an ELNO or subscriber to cooperate with a compliance examination.

35—Registrar may refer matter to appropriate authority

This clause allows the Registrar-General, instead of conducting a compliance examination, or during or after the conduct of a compliance examination, to refer a matter to an investigatory, disciplinary or other appropriate authority.

36—Land titles legislation not limited

This clause makes it clear that the Division does not limit any provision of the land titles legislation that also authorises investigations, inquiries or examinations.

Part 4—Miscellaneous

Division 1—Delegation

37—Delegation by Registrar

This clause permits the Registrar-General to delegate functions under the National Law.

Division 2—Liability of Registrar

38—Registrar not obliged to monitor ELN or conduct compliance examination

This clause makes it clear that the Registrar-General is not obliged to monitor activities in an ELN or to conduct compliance examinations.

39—No compensation

This clause provides that no compensation is payable for things done or omitted in good faith in connection with the monitoring of activities in an ELN or the conduct of compliance examinations.

40—Registrar not responsible for additional services provided by ELNO

This clause makes it clear that the Registrar-General is not responsible for the regulation or operation of any services provided by an ELNO that are additional to the ELN.

Division 3—Relationship with other laws

41—Other laws relating to electronic transactions not affected

This clause makes it clear that the National Law is in addition to and not in substitution for the laws of the State relating to electronic transactions or the use of electronic documents.

42—Powers may be exercised for purposes of this Law

This clause provides that a power conferred by the land titles legislation to make an instrument of a legislative or administrative character, or to do any other thing, extends to making instruments, or doing other things, for the purposes of the National Law.

Schedule 1—Miscellaneous provisions relating to interpretation

The Schedule sets out the general interpretation provisions that have effect in relation to the National Law. The provisions have effect in substitution for the provisions of the *Acts Interpretation Act 1915*.

Debate adjourned on motion of Hon. R.I. Lucas.

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

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

HEALTH CARE (ADMINISTRATION) AMENDMENT BILL

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

At 22:00 the council adjourned until Thursday 31 October 2013 at 11:00.