LEGISLATIVE COUNCIL

Thursday 8 February 2007

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11.01 a.m. and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Police): I move:

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

Motion carried.

NATURAL RESOURCES MANAGEMENT (EXTENSION OF TERMS OF OFFICE) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 6 February. Page 1355.)

The Hon. G.E. GAGO (Minister for Environment and Conservation): I would like to thank honourable members (or an honourable member, as the case may be) for their contributions. I would particularly like to thank the Hon. David Ridgway, and I am heartened that the opposition supports the bill and will provide surety of membership for the NRM Council and regional NRM boards over this critical phase in the development of their comprehensive regional NRM plans, which is a process that they have yet to complete.

I would like to take this opportunity to clarify any misunderstandings in relation to this small bill which were raised by the Hon. David Ridgway. The governor appoints members to both the NRM Council and to the regional NRM boards for a term not exceeding three years. Some members of the council, and also boards, were appointed for a term of two years; approximately half were appointed for two years and the remainder, the other half, were appointed for the full three years. This is an administrative policy—and it is only an administrative policy—which the honourable member recognises has been adopted to mitigate the risk that an entirely new body of membership be appointed at one time.

The policy provides for some overlap in membership to underpin the effective continuity and transfer of knowledge and experience from one body of appointment to the next. This administrative policy can and has been adopted within the current provisions of the act and is not contingent on the amendments being considered by the bill before us.

The purpose of the amendments put forward in the bill is to enable the governor to extend the term of appointment of a person who has been appointed for less than the maximum of a three-year term, to be extended up to a maximum of the three-year term, without having to go through a statutory appointment process. Potentially, this is going to result in an anomaly, with about 33 NRM and council positions having their appointment term extended by one year. It is not three years that it would be extended by but one year, and it is a one-off provision only and this particular bill cannot be used again. The bill does not allow the governor to appoint a person for another three-year term.

In practice, this amendment will allow all current members, who are initially appointed for a two-year term, to be extended to the full three-year term expiring in 2008. This is important for providing continuity on the NRM Council and the NRM boards, as they are at a very critical stage of development in relation to their very first comprehensive regional NRM plan.

In 2008 the terms of appointment of all members will then expire concurrently. The administrative policy to stagger appointments will be applied again at that time, resulting in some of the members (approximately half) being appointed for two years to 2010, and some (the other half) for three years to 2011, with subsequent appointments being for the full three-year term, to always provide for that desired overlap. Of course, that does not account for casual vacancies.

It is anticipated that some of the members whose terms of appointment expire in 2008 will seek reappointment through the statutory appointment process, thereby providing continuity between the first body of membership and the second. With those concluding remarks, I again thank honourable members and look forward to expediting this very small bill through the committee stage.

Bill read a second time and taken through its remaining stages.

FISHERIES MANAGEMENT BILL

Adjourned debate on second reading.
(Continued from 23 November. Page 1131.)

The Hon. CAROLINE SCHAEFER: It is somewhat of a pleasure to speak to this bill, which has had a gestation period longer than any elephant. I think that anyone who has followed its progress, or lack thereof, is now worn down to such an extent that we are delighted to at last have something to debate. The draft of this bill reached public consultation stage under a Liberal government in 2001. In November 2004, as shadow minister, I put out a press release criticising minister McEwen for taking 2½ years to release the draft bill for discussion. Little did I know that it would take another 2½ years before it became an actual bill.

If there has ever been an argument for a bicameral system it exists within the debate of this bill, because, before Christmas, in the lower house, there was extensive questioning of the minister. He agreed to go back to industry and to make the necessary changes for industry to be happy with the bill. There have been, I think, four amendments tabled in this place by the Minister for Emergency Services. However, there is still no definition of 'entitlements'; there is still no definition of 'gear entitlements'; and there is still no formula that actually reaches the percentage, which the industry has been assured it will get. So, unfortunately, I am in a position where I too will move a number of amendments to this bill.

I understand that, with these amendments about which both the industry and I are happy to speak to the government, the key stakeholders will then be happy to proceed. The main object of this bill is to ensure the sustainability of the South Australian fishery into the foreseeable future, and we would all agree with that aim. In particular, the fishing community agrees with that. They certainly want their children and grandchildren to be able to catch fish for pleasure. In the case of the commercial fishery, it of course has a vested interest in seeing the sustainable continuity of its industry and resource, and it is very aware that it must maintain both the supply of the resource and the ecosystem to remain sustainable.

We have, in most cases, a very mature industry in South Australia, with some of the best practices in the world. For the first time, there is recognition of Aboriginal traditional fishing rights under indigenous land use agreements. However, I note in the minister's second reading explanation that he speaks of traditional Aboriginal fishing rights. He states:

> This provides for cultural access for a native title group, which has reached a formal agreement with the government through an Indigenous Land Use Agreement under the Commonwealth Native Title Act. The Aboriginal Legal Rights Movement in South Australia, which represents native title interests, commercial fishing industry groups and local governments have endorsed this approach. For the first time, this will provide clear access arrangements to fisheries for Aboriginal people for their cultural community purposes. Commercial fishing opportunities will also be progressed by this government within the current limited entry licensing framework for commercial fisheries. In other words, no new licences will be created but investment opportunities may be provided to buy existing commercial licences on the open market.

My first question to the minister representing the minister for fisheries is: do those commercial opportunities apply to only Aboriginal interests, and how will they be obtained? Will they be obtained by compulsorily acquiring other commercial fishing licences, and under what scheme will that happen? This bill seeks to guarantee resource share, that is, to introduce a method whereby a percentage share is allocated to each interest group; for example, commercial, recreation or Aboriginal, and to pay compensation if that percentage share is transferred from one group to another.

If the industry restructures of its own volition, then it will pay for that restructure itself, as it has done in the past and as it is happy to do. This is an important part of the bill, as it will deliver social justice to those who, through no fault of their own, lose their right to a living. They will be compensated. However, the industry seeks more clarity than is in the current bill, and I will be seeking to include a formula to determine the initial resource share.

There are approximately 320 000 people in South Australia who claim to be recreational fishers at least once a year, and they are passionate about their fishing. This bill introduces a possession limit to legislation. When minister McEwen tried to introduce a possession limit in 2004, I as shadow minister at the time was swamped with messages from people objecting to a possession limit. Their reasoning was quite simple: it would not work. The people who go to the more remote parts of the state do so once a year to stock up on fish and bring them home. The only thing a possession limit does is prevent them from bringing the fish home. They can still fish to their boat and bag limits every day, sometimes twice a day, eat them, give them away or store them in their neighbour's fridge—they just cannot have them in their freezer to eat later.

The minister in his second reading explanation said that we are the only state that does not have a possession limit. He does not say that we will be the only state, as far as I can determine, that has not only a possession limit but also a bag limit, a boat limit and a size limit. This will make South Australia the most regulated recreational fishery in Australia, and frankly we do not have the resources to enforce these laws. I have the faintly ridiculous picture in my head of a roadblock at Poochera, not to stop overloaded trucks or peddlers in contraband but to check that mum, dad and the kids do not have too many fish on board on their way home from their holiday. I realise that this is an effort on the part of the government to stop shamateurs from black market trading, and I wish it well in its endeavours, but I think it will catch the wrong people.

Having said that, I admit that, unlike the last time, not one person has contacted me with any concerns about a possession limit—neither SARFAC nor any individuals have mentioned this matter. I have checked with the Hon. Rob Kerin, and no-one has contacted him. I can only assume that the public concern has disappeared for some reason. I will not mention this matter again, other than to say, 'I told you so' when an overzealous inspector books some innocent holiday maker.

This government has decided that under this legislation a fisheries council of South Australia will be established of not fewer than 10 members. Each member will have expertise in fisheries management and the council must include people who have expertise in:

(a) commercial fishing and processing of aquatic resources;
(b) recreational fishing;
(c) relevant research and development;
(d) socio-economics;
(e) business; and,
(f) law.

All will be nominated by the minister and appointed by the Governor. I respect the right of the government of the day to change the nature of advisory committees to the minister but acknowledge the tremendous work done by the fisheries management committees, who truly did represent the fishing communities. I point out that, even though most fisheries have operated under full cost recovery for many years, this new council will give them less autonomy and less rather than more access to the minister than they had previously. For this reason I am considering moving an amendment seeking to establish a selection committee representing the peak bodies to short-list for and make recommendation to the minister, who would still have the final say as to who was on the council.

I also seek clarification from minister Zollo as to appointment (a) under this section of the bill—in other words, commercial fishing and processing of aquatic resources. I would assume that the wording should be 'commercial fishing or processing of aquatic resources', because very few would have expertise in both. Other issues I wish to raise for the minister's comment in reply are as follows. Under the objects of the act, clause 7(3), with regard to management recovery costs, appears to make no mention of the government's obligation to fund that part of management costs that can be legitimately attributed to the recreational sector. It has long been acknowledged that under full cost recovery the commercial sector should not be expected to pay for the costs incurred by the recreationals and that the government has traditionally contributed part of that cost.

I understand the contribution has diminished over the years, but minister McEwen has publicly acknowledged the need for such funding. However, there is no mention of it in the bill that I can find. Have I missed that acknowledgment or is the minister prepared to make that statement in her speech? Further, will she outline what percentage of management costs will be attributed to the recreational sector and what percentage will be contributed by the government?

I have spoken about the appointment of a council versus fisheries management committees, and the latter would be my personal preference. I notice that the council may appoint advisory committees. These committees will be vetted by the minister. Surely a fully funded and respected council such as

this should have the right to appoint its own committees and second the people it deems to have the necessary expertise to them and not have its choice vetted by the minister, who would in fact be represented by the Director of Fisheries. I seek the minister's explanation as to why the legislation has been written this way. I am concerned that there will be a diminishing of the powers of those who are actually engaged in the fishing industry and an increase in bureaucratic power.

I seek further explanation of section 44(7)—'all matters raised as a result of public consultation under this section and alterations that the authority proposes should be made to the draft management plan'—with regard to the preparation of a management plan. This reads as though all advice given should be made part of the plan. Surely it should be given due consideration but not necessarily included, because what would happen if one set of advice said one thing and another set of advice said another thing? Surely in the end due consideration should be given, but I fear that no management plan would ever be written if every set of advice given under public consultation had to be acted upon. I seek the minister's explanation of that clause.

I am also concerned about the issuing of licences under the management plan, and I seek a guarantee that licences will continue beyond the life of a plan, or at least overlap from one plan to the next. Otherwise, as I see it, it would be possible to say hypothetically that, for instance, there would be no commercial whiting fishing in Gulf St Vincent in the next management plan and that, because it was part of the plan, no compensation would be payable. I sincerely hope I am wrong, but I seek the minister's assurance in black and white in *Hansard*. I also note that management plans are to be tabled rather than being made by regulation. This removes the ability to disallow and, as I see it, reduces transparency and protection for the licence holder. Am I correct?

Finally, I wish to raise my concerns with the 200 points demerit scheme. Under this new bill, when a licence holder accrues 200 demerit points they must sell their licence or have it compulsorily acquired by the government. I am sure that all honest operators want to be rid of the rogues in the industry; however, when the licence is sold some, but not all, demerit points are discounted. So, a new purchaser would be buying a licence with demerit points which they had not acquired and which were not their fault.

I seek the minister's reply on the record: what is the purpose of this? Is it to write down the commercial value of the licence? Is it to dissuade new entries into the industry? Is it to reduce the size of the industry without compensation? If the government compulsorily acquires, does it have to do so at commercial value, and does it have the right to on-sell that licence? If so, would that be with or without demerits? How will this affect a multiple licence holder, who might acquire multiple demerits on, say, their whiting licence but still hold a snapper licence and a crab licence, or whatever? Could the government then de-register their boat without compensation?

I am seeking answers to these questions now, in the hope of a more expeditious process when the bill reaches the committee stage; however, I cannot guarantee that I will not have another series of questions at that time. Given that there have been 20-odd years since the last act and six or seven years in the making of this bill, I believe it is important that we get it right. I support the second reading.

The Hon. I.K. HUNTER secured the adjournment of the debate.

SUMMARY OFFENCES (GATECRASHERS AT PARTIES) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 6 December. Page 1288.)

The Hon. S.G. WADE: I do not propose to speak long on this bill. My colleague in another place, the member for Heysen, has outlined the opposition's few points of concern with this legislation and I will briefly explain those for the benefit of members.

The opposition supports the move to minimise occurrences of unwanted and uninvited guests at private parties, recognising that these occurrences frequently lead to altercations and violence. We believe that a person should be entitled to hold a private party on premises without uninvited people attending—even more so if they disrupt the event. Given that it is not possible to prevent gatecrashers by any pre-emptive measures short of private security, it makes sense that a person organising a party should have the power to remove a gatecrasher from their party. For this reason the opposition supports the bill.

However, as I mentioned, the opposition does have some concerns relating to the specifics of the bill, as outlined by the member for Heysen. Our first concern is the exclusion of parties or events held by or on behalf of a company or business. I understand that a major corporate function could be reasonably expected to engage the services of security staff to prevent gatecrashing, but there may often be circumstances where it is a small gathering on residential premises—say, if one employer hosts a small drinks function for their staff at home. Assuming it is paid for by the business or company, the function will not be covered by this legislation, yet for a party of, say, 10 guests at a private residence it would seem unreasonable to expect security staff to be present.

The second issue is similar and, again, relates to the definition of premises covered by the bill. The bill excludes any parties held 'on premises or part premises in respect of which a licence is in force under the Liquor Licensing Act 1997'. This exclusion seems to be too broad; one can quite easily organise a party or function where alcohol may be sold but which is still private in the sense that it is by invitation only. The function would still require a liquor licence but would be excluded from the protection from gatecrashers that is afforded by this legislation.

The opposition is pleased that the government has tabled amendments which address both the concerns raised by the opposition. It is good to see it taking our suggestions on board and not practising the policy of: 'If it is not our idea then it is not a good idea.' The opposition will support the amendments and the bill as amended.

The Hon. R.D. LAWSON: I, too, speak in support of the second reading of this measure. However, I do not do so with any great pleasure because, despite the government's claims that there has been a significant increase in incidents where groups of uninvited guests attend private functions and cause disturbances, I do not believe this is as serious an issue as the government pretends. I certainly do not accept the government's rhetoric in relation to this matter. Would you believe, Mr Acting President, that the government has said in relation to this measure that it makes no apologies for being tough? That is the standard, ridiculous rhetoric of this government regarding matters of concern which arise in the community.

The way this government addresses these issues is to create a new offence or change the law. Obviously, the question of uninvited guests at private parties is essentially a policing issue. Without any amendment to the law, citizens should be able to call the police, expect a prompt response and expect them to take appropriate police action, given the particular situation in which they find themselves. That is the way these situations are properly handled, and that is the way they have been handled in the past. If there have been faults, the faults have not so much been in the law but in the fact that policing resources have been allocated to other fields. So, I am not convinced that the current law is inadequate to address this issue.

I believe that creating definitions and making a special case of a particular situation where the criminal law in its generality already applies is unnecessary. On previous occasions, I have lamented the fact that this government is turning back the clock by creating many offences to cover specific situations rather than having general offences that cover widespread illegal behaviour. With those brief remarks and that lament, I indicate that I do not oppose the bill, which is hardly necessary and which will not change matters on the ground unless police accord a greater priority to these issues or unless the government gives the police appropriate resources to ensure that these matters are dealt with expeditiously.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak briefly to the legislation. The Liberal Party's position has been put by my colleague the Hon. Stephen Wade and the shadow attorney-general in another place, and I will not repeat the detail. I accept the fact that, certainly, there are occasions when significant numbers of generally young people descend uninvited, in particular, it would seem, on 18th and, sometimes, 21st birthday parties, although these days it seems it would more likely be an 18th birthday party where this occurs.

I guess the only point I want to make in supporting the legislation is to highlight the view that I doubt very much whether there will be many examples of the legislation being utilised in circumstances for which there has been publicity. A recent example of this situation was given on radio talkback where a significant number of uninvited young people turned up at an 18th birthday party in a suburban household. The government's response, through the Attorney-General, was, 'Well, the government is introducing this legislation so that the householder will be able to take action to remove these people from their premises.' In the real world, what actually happened is that, when two officers in a police car arrived at the location, they decided that two police officers were not sufficient to control the madding crowd and removed themselves from the premises to try to get further reinforcements or assistance.

The point I am making is that in the real world—the substance as opposed to the perception—if two fully trained police officers, the best the state can offer, arriving in a squad car, make the judgment that two police officers are insufficient to remove a significant number of young, uninvited people at that location, what on earth does the Attorney-General and the government think the parent at that location will do armed with this very tough piece of legislation? He or she may well be able to belt them over the head with a copy of the statute or something and forcibly remove this significant number of uninvited 18 year olds, or the landowner may well be able to confront them and say, 'I have very tough laws the Rann government has introduced that give me the authority to forcibly remove you from these premises.' With my understanding of the approach of 18 year olds, perhaps fuelled with alcohol and other substances, on a Saturday evening, I am sure that, when confronted by the angry householder and being told the government has armed the householder with the power to remove them forcibly—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Well, perhaps. The Hon. Mr Xenophon says that perhaps there could be a warning on DVD to go out to all householders saying, 'I have introduced tough new laws giving this householder the authority to forcibly remove all 50 of you from these premises immediately.' The police in the police squad car turn away and say, 'Hey, this is a bit too big for us to handle'; nevertheless, the householder, armed with the tough new laws—and, as the Hon. Mr Xenophon suggests, perhaps with a personalised video of the Premier saying, 'I've introduced tough new laws giving this person the authority to remove 50 of you alcohol and drug fuelled young people forcibly from the premises'—can say, 'Beware and look out!'

I support the comments made by my colleagues the Hon. Mr Wade and the Hon. Mr Lawson. I suspect that, in practice, years down the track you will see this legislation, certainly in relation to the cases that are gaining publicity, where we are talking about significant numbers of uninvited guests turning up at a party, that—

The Hon. A.M. Bressington interjecting:

The Hon. R.I. LUCAS: Yes; exactly—you would be a very brave, foolish householder to want to take on 50 uninvited 18 year old young men armed with the tough new laws the Rann government has introduced. As some of my colleagues have interjected, ultimately this has to be an issue for the police having sufficient resources to handle the situation. They have been trained to handle such situations; we just need to try to ensure that they are not having to spend so much time doing their paperwork, filling out forms and those sort of things and that they can spend the time on Friday and Saturday nights, as the Hon. Ms Bressington says, either being social workers or guarding people with mental problems in hospital and health facilities or whatever.

No-one is being critical of the police but of the range of tasks we are asking our police force to undertake, in essence, on Friday and Saturday nights in particular. Having more of them on the beat in places like Hindley Street and their being available at short notice to assist at suburban locations with these sorts of occasional problems is ultimately what the people want to see from their police force.

The Hon. NICK XENOPHON: I believe this legislation is well-intentioned, but I share the concerns of other honourable members, including the Leader of the Opposition and the Hon. Robert Lawson, that it may have some unintended consequences. I wonder whether this may send a signal that people should take the law into their own hands and that they feel they can do more than they can reasonably do in a practical sense, which will have some quite unfortunate adverse consequences. Ultimately, this is an issue of policing and dealing with the causes for that bad behaviour and, again, as in the debate that the Hon. Ann Bressington has been leading this chamber on, on the issue of drug use and the impact of drugs on behaviour and the community generally, we need to look at the causes for that behaviour.

I do not oppose this bill but I believe it is important that we acknowledge that, ultimately, it is a matter of good policing and looking at the causes for that behaviour, whether

it is fuelled by alcohol, drugs or gang-related activities. With those remarks, I look forward to the committee stage of the bill.

The Hon. P. HOLLOWAY (Minister for Police): I thank honourable members for their comments on this bill and their indications of support. First, in relation to the comments of the Hon. Stephen Wade, he mentioned that when this bill was in the other place there was some discussion by the shadow attorney-general in that place about some of the issues that could arise and, as he has indicated, as a result of that discussion and agreement between the government and the shadow attorney-general after the passage of the bill in the other place there are two amendments standing in my name which address issues.

The first of those amendments means that corporate or business functions will be covered by the provisions if they are held on residential premises, and the second amendment, also the result of those discussions and agreement between the government and the shadow attorney-general after the passage of the bill in the other place, means that licensed premises will be covered by the provisions if, and only if, they are subject to what is called a limited licence, and that licence is for less than a 24 hour period. We can go into that in more detail during the committee stage.

As police minister, I would like to respond to the other comments that have been made about these issues and the police in general. I do not think anyone would pretend that, in circumstances where you have a substantial number of gatecrashers arriving at a party, it is particularly easy for police. If a patrol car arrives, obviously, they will make an assessment, and it is appropriate that they should do so, about the particular issues. On many occasions there will be just a handful of gatecrashers that the police will be able to deal with. Of course, there are some occasions when there are large numbers of people where, if action had been taken earlier by those running the party, it may not have got to that stage, because we know that some—

The Hon. A.M. Bressington: These people arrive in groups of 70 or 80.

The Hon. P. HOLLOWAY: I am just saying there are all sorts of cases. Yes, they do, in some cases. Sometimes you get a few and sometimes you get a lot. What I am saying is that in the real world the police have to deal with a range of issues. All I am saying is that sometimes they will be relatively easy situations to deal with and sometimes they will be difficult. I think it is entirely appropriate, in the case mentioned by the Leader of the Opposition, that the police will call for reinforcements. We saw that situation with young people not at a party but at Semaphore on Australia Day at a function that was organised in a dry zone organised by the council where there were fireworks, which would obviously suggest it was a function designed for families and younger people.

Apparently, there was a number of drunken hoons in that area and, of course, as a result of that behaviour, the police brought in significant resources to appropriately restore order in that situation. But there will be a range of behaviours. Some will be very difficult to deal with, and I suggest it is entirely appropriate in those situations that police would call for reinforcements. But, in other cases, it may be possible to deal with the situation easily. I recall reading a report in the paper recently where an authorised person at a party had been accused of assaulting people who had gatecrashed the party. So, there is a range of situations which we need to deal with.

The Hon. R.I. Lucas: Where did you read that?

The Hon. P. HOLLOWAY: It was covered in the media some months ago.

The Hon. R.I. Lucas: What, *The Advertiser*?

The Hon. P. HOLLOWAY: I do not recall which paper, but there have been examples where people have been accused of using too much force. We have seen that when this government—and previous governments, for that matter—clarified the law in relation to self-defence some years ago because there were issues of people coming unwanted into homes in different circumstances than parties.

The Hon. Robert Lawson argues that we should just use general provisions, but the fact is that we will often see lawyers get people off on a technicality within the law. It would be nice if our legal system responded to laws in a general way and used commonsense, but I think there are enough examples (I certainly see them every day) where commonsense does not always apply. Certainly, I suggest, in cases such as this, there should be clarification of the law making it quite clear what trespass is.

There is a regime here for authorised persons. The police get a phone call and arrive at a party and, if there are gatecrashers, the first thing they need to sort out is who is in charge of the premises. The parents might be away. One of the first difficulties police will face in practice is knowing who has authority, because if they are there to restore order they need to know exactly who is authorised to be there and who is not. I suggest the measures we have in this bill will help clarify that, but I do not think anyone is suggesting that the practical difficulties our police face if they turn up out of the blue as a result of a call at a function where there is a large number of gatecrashers will be easy to deal with.

Certainly, if we clarify the levels of responsibility, I suggest it will make it easier for police when they ultimately take action to deal with situations such as this. I commend the bill to the council. I will be moving a couple of amendments which have resulted from discussions between the government and the opposition after the bill passed the other place.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

The Hon. P. HOLLOWAY: I move:

Page 5, line 5—Before 'by' insert:
on premises (other than residential premises)

As I indicated during the second reading response, this amendment is the result of discussions and agreement between the government and the shadow attorney-general after passage of the bill in the other place. This first amendment means that corporate or business functions will be covered by the provisions if they are held on residential premises.

The Hon. R.D. LAWSON: This clause inserts new section 17AB which gives certain powers to authorised persons. For example, an authorised person may require a person who comes onto premises to produce evidence that the person is entitled to be there; in other words, to produce their invitation. An authorised person may tell the uninvited person that they are a trespasser and upon being so advised the person will be taken to be a trespasser for the purpose of the Criminal Law Consolidation Act. The authorised person may ask a person to leave. 'Authorised person' is defined as the 'owner or occupier of premises'. It does not include a minor. This means a person under the age of 18 is not to be treated

as an authorised person. If there is a party of young people, say, teenagers aged 16 years, and the person at home on that particular occasion is under the age of 18 years, they cannot exercise the powers of an authorised person. Why did the government exclude from this bill the right of a minor, in the situation where the minor is the occupier or in charge of a party, to be an authorised person?

The Hon. P. HOLLOWAY: There are two answers to the question. The legal answer is that this new section provides that considerable legal powers are conferred on the authorised person and there are considerable consequences as a result of that. Therefore, we believe that an adult should exercise those considerable powers. Secondly, there is the social reason. If the purpose of this legislation is to require responsible behaviour, we believe that it is appropriate that a responsible adult should be present at these times. In other words, in a legal sense there are likely to be problems if these considerable powers are exercised by someone who is not an adult.

The second reason is that socially it does not reflect, I believe, the government's objective—and I hope the parliament's objective—of achieving more responsible behaviour. I believe adults should be present in those situations to ensure that responsible behaviour occurs at these parties.

The Hon. R.D. LAWSON: Whilst I do not accept the government's decision to exclude minors from exercising these powers if they are the only people present, I move to the next question. New section 17AB(5) provides a maximum penalty of $2 500 for a person using offensive language or behaving in an offensive manner when trespassing. The current maximum penalty for using offensive language or behaving in an offensive manner in a public place is imprisonment for three months. Why has the government decided to allow a lower maximum penalty for using offensive language or behaving in an offensive manner while trespassing on private premises that are being used for a private party?

The Hon. P. HOLLOWAY: The difference in penalties reflects the location where the behaviour takes place and whether it is a public place. If one uses offensive language or behaves offensively in a public place, it is more likely to lead to affray or public disorder, and the penalties in the legislation in relation to that behaviour reflect that fact. Generally speaking, in a private place, a level of tolerance is given that may not be given in a public place and so it is reflective of that. Of course, if one has a situation at parties where that person takes their offensive behaviour and language outside the place and into the street then, of course, that becomes a public place and those other penalties apply. This offence does at least give the capacity for the police to charge people with that behaviour if they are trespassing at a private party.

The Hon. R.D. LAWSON: I remind the minister that the offence for which the maximum penalty is three months in relation to offensive behaviour applies not only to a public place, where the minister says it is more likely to lead to affray than on a private place, but the maximum penalty of three months also applies to using offensive language in a police station, where it cannot be said that there is a greater likelihood of an affray arising than in a public place. What is the basis for suggesting that an affray is more likely to occur in a public place than in a private place where there are trespassers present? A trespasser, by definition, is somebody who has been asked to leave by an authorised person and who has refused to do so.

The Hon. P. HOLLOWAY: My advice is that section 17A of the Summary Offences Act covers trespassers on premises, where at paragraph (2) it provides:

> A person who, while trespassing on premises, uses offensive language or behaves in an offensive manner is guilty of an offence. Maximum penalty: $1 250.

What the government seeks to do in this legislation is to take that offence—trespassing on premises—which currently has a general penalty of $1 250 and double that to $2 500.

The Hon. R.D. LAWSON: My point is that, if trespassers come onto a private place and make it a public place by refusing to leave, they ought to be punished in the same way as they are if they behave offensively on the footpath outside that place. My only other point in relation to this clause is that, if it is taken to have some educative effect, namely, to tell people what their rights are in relation to gatecrashers, why does this particular section of the act not draw the attention of the lay reader to the fact that, in accordance with the government's press release, the householder is given the power to use force to remove a trespasser? Why is that not included in the section but left to inference by making available a defence which appears in other legislation? In other words, the right arises only when you are charged and you seek to defend a charge of assault or causing harm to a person.

The Hon. P. HOLLOWAY: Proposed new section 17AB(2)(b) provides:

> on being so advised, the person will be taken to be a trespasser on the premises for the purpose of this section and section 15A of the Criminal Law Consolidation Act 1935.

Section 15A of the Criminal Law Consolidation Act is the self-defence provision.

The Hon. A.M. BRESSINGTON: I apologise; I should perhaps have asked this question earlier. Where people are holding a party and they employ security guards to act as a deterrent or to provide a level of protection for the invited guests (for example, at a teenage party), given the problems we have had with security guards in the past at hotels and whatever else, if excessive force is required because there is a large number of these trespassers, what protection would the security guard have if, in fact, excessive force is required to remove these people? Are they going to be covered by this legislation, or are they going to be exposed to some sort of civil action because they have laid hands on the trespassers?

The Hon. P. HOLLOWAY: If the authorised person provides the authority for the security people whom they employ, they become authorised persons. The definition provides:

> *authorised person*, in relation to premises that are being used for a private party, means—
>
> a. the occupier of the premises, or a person acting on the authority of the occupier of the premises; or
>
> b. a person responsible for organising the party, or a person acting on the authority of such a person,

If the security guards are acting on the authority of those people, they are covered by the provision that I just mentioned, section 15A of the Criminal Law Consolidation Act, which is the self-defence provision.

The Hon. NICK XENOPHON: I find the honourable Ann Bressington's question very incisive. She might get a bush lawyer's degree yet. Given that answer, does it mean that a security guard employed and authorised (as the minister set out) by the occupiers at a private home can use more force than they could if they were working at a nightclub, for example?

The Hon. P. HOLLOWAY: My advice is, no; the same rules would apply, as covered in section 15A of the Criminal Law Consolidation Act. It sets out that they would have no more and no less power than the householders themselves.

The Hon. NICK XENOPHON: Following from that, they have no more and no less power than the householder, but if you distinguish such a person from a security guard who is working at a licensed premises—not a private home—does that mean that a security guard in a private home can use the same amount of force as in a nightclub or, in fact, more force than, say, in licensed premises? I am not sure of the position, or whether this legislation actually gives more power than, say, what a security guard can do in or outside licensed premises.

The Hon. P. HOLLOWAY: My advice is that this turns on section 15A of the Criminal Law Consolidation Act, the so-called self-defence provisions. It really depends on whether the authorised person is acting on the defence of the person or defence of the property only. If the authorised person (the security guard in the case given by the honourable member) is acting in defence of the person, then under section 15A that would authorise more force than might be the case in a nightclub than on private premises. However, if he is acting just in defence of property the licence would have no more authority than that.

The Hon. NICK XENOPHON: To make this absolutely clear, that means the security guard, if acting in defence of a person at private premises, can use more force than if they were working in licensed premises.

The Hon. P. HOLLOWAY: Yes.

The Hon. R.D. LAWSON: Taking on that point, this section invokes only 15A of the Criminal Law Consolidation Act. It does not seek to invoke section 15C of the Criminal Law Consolidation Act, 15C being this government's much vaunted home invasion provision, the title of which is 'Requirement of reasonable proportionality not to apply in a case of the innocent defence of home invasion'. Will the minister confirm that this section does not invoke section 15C?

The Hon. P. HOLLOWAY: It is important to understand that this legislation affects section 15 of the Criminal Law Consolidation Act in two ways. First, it amends section 15A about the defence of property. That is referred to in schedule 1 of the bill. I am advised that that is for technical reasons. The second impact that this legislation has in relation to section 15 of the Criminal Law Consolidation Act is that it invokes section 15A in order to define who is and who is not a trespasser but, in other respects, the rights that apply under section 15 would still apply. So, I guess if we are talking about home invasion, an extreme case of gatecrashing will merge into home invasion and then section 15C will apply.

The Hon. R.D. LAWSON: On that point, section 15C, which is the government's purported protection against home invaders, can be invoked only if the defendant can establish on the balance of probabilities that the defendant generally believed the victim to be committing or had just committed a home invasion, and 'home invasion' means a serious criminal trespass committed in a place of residence. That section would not appear to apply to the situation of an uninvited guest refusing to leave when requested to do so. That is not the same as a serious criminal trespass committed at a place of residence.

The Hon. P. HOLLOWAY: I can only reiterate the point I made earlier that, if there is a home invasion, as we understand it section 15C applies. The new legislation is to deal with a relatively common problem. In relation to gatecrashing there will be a range of circumstances. We understand that, when people enter a person's home, they may be invited to do so but stay when they are no longer welcome or may come in uninvited. There is a whole range of issues across the spectrum but, if it is a home invasion in the terms of section 15C of the Criminal Law Consolidation Act, that will apply. If it is a situation that fits the definition of trespassing at a private party, or what we are calling in the bill gatecrashers at a party, this legislation will apply. What is important is that all these situations are covered in various ways under the legislation.

The Hon. A.M. BRESSINGTON: Is the government intending to educate the security industry on the fact that they now have a slightly different set of rules for private parties? Amulet Security is a company that I have had quite a lot to do with over the past few months with the gang issue. Apart from being static guards at fast food outlets, they are also commissioned on occasions to be security guards at private parties, and they have come under fire from large groups of armed youths gatecrashing these parties and have been told, so they say, that, because they are static guards, if they use excessive force on these gatecrashers to remove these people, in order to protect either the property or the people at the party, they will be open to civil proceedings because they are not authorised to undertake such activities as working at private parties.

The Hon. P. HOLLOWAY: I understand the point the honourable member is making. There are codes of conduct that apply to the security industry, and the government, broadly speaking, would encourage security guards to behave appropriately. It is in their best interests for a number of reasons to behave with necessary restraint. Circumstances might dictate that they are in a situation where, if people for whatever reason are out of control, to use a colloquial term, they may be forced to deal with that situation. I am sure the police advice would always be that security guards or others should try to avoid conflict wherever necessary. That is a different issue from people's rights under the law, and I have already indicated in a rather technical way that the rights might change, but that is probably a different thing from saying that it is prudent for security guards, given the sort of people they deal with, to behave in a restrained way.

The Hon. A.M. BRESSINGTON: Does the minister think it is necessary to amend the Security Agents Act to make these two pieces of legislation fit together so there is no room for the possibility of security agents or guards actually being sued for assault or whatever else if they are being commissioned to protect people and their property at a private party?

The Hon. P. HOLLOWAY: This legislation does not only apply to security agents but across the board. The issue of security guards is a broader issue and we could spend a whole day talking about that. The government and previous governments have taken a number of measures over the years to try to regulate the behaviour in that industry and ensure that people in that industry are fit and proper persons. There are all sorts of issues one could talk about in relation to the security industry.

Here, with this piece of legislation, we are not just dealing with the issue of security; we are dealing with anyone who might find themselves in the position of having gatecrashers at a party. It is up to the security guards, just like members of the public who might be holding these parties, to inform themselves of the law and to act accordingly.

The Hon. R.D. LAWSON: This will be my final contribution in the committee stage. As I indicated in my second reading contribution, I do not regard this as a satisfactory measure, and I think that that unsatisfactoriness has been highlighted by the fact that it appears to be tied to section 15A of the Criminal Law Consolidation Act, which I will come to and, secondly, for the reasons highlighted by the Hon. Ms Bressington in relation to security guards.

My specific point is that section 15A of the Criminal Law Consolidation Act, which deals—as the minister has acknowledged—with the defence of property, provides already that it is an offence if the defendant genuinely believes the conduct to which the charge relates is necessary and reasonable to prevent criminal trespass on land or premises or to remove from land or premises a person who is committing a criminal trespass. This new section is linked to that, but an essential part of that defence under section 15A of the Criminal Law Consolidation Act is that the person charged must establish that the conduct was, in the circumstances, and as the defendant genuinely believed it to be, reasonably proportionate to the threat that the defendant genuinely believed to exist.

There is, it is alleged, a somewhat wider defence, introduced by this government and much lauded by the Attorney-General under section 15C, which removes that requirement of reasonable proportionality in the case of a home invasion which constitutes a serious criminal trespass—so it is not merely a criminal trespass but a serious criminal trespass. I believe that, contrary to the hyperbole of the government, this new householder's defence rule does not apply in this gatecrash situation.

The Hon. P. HOLLOWAY: I said that there is a range of extremities. My suggestion would be that when this law comes into place that that, combined with 15C, gives coverage to a range of offences that will cover the spectrum of home invasion, from gatecrashing at one end to serious (as we understand it) home invasion at the other end of the spectrum.

The Hon. D.G.E. HOOD: Mr Chairman, I wonder whether I could seek the indulgence of the committee and make a brief comment about this process. By convention we typically ('we' being Family First) would wait for the Liberals (the opposition in this case) to make a contribution before speaking on a particular bill. In this case the opposition has just spoken. So, as a general rule, we would hear the contributions and consider both sides of the argument on whatever the bill is (in this case there was a lot of agreement) before stating our position.

It is very difficult when the opposition's first contribution is on the same day that a bill is set down to go through the council. We do not want to create particular difficulties, because in the case of this bill Family First will certainly be strongly supporting it and we would like to see it progress through the council as quickly as possible. I make that comment as to the process adopted and ask the government and indeed the opposition to consider that in respect of the passage of legislation in the future.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 5, line 8—After '1997' insert:
(other than a limited licence granted under that Act for a term of not more than 24 hours)

This amendment is the result of discussion and agreement between the government and the shadow attorney-general following passage of the bill in the other place. The second amendment means that licensed premises will be covered by the provisions if, and only if, they are subject to what is called a limited licence, and that is a licence for less than a 24-hour period. A limited licence is the appropriate licence where there is to be a private function at a home or other private property where liquor is being provided by a licensed caterer or catering business, or where there is a cover charge for liquor being provided. The idea is to ensure that the regime will cover one-off at-risk parties, functions or events held outside residential premises but in a local hall or other similar premises for hire.

Amendment carried; clause as amended passed.

Schedule and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

[Sitting suspended from 12.30 to 2.17 p.m.]

ELIZABETH SOUTH NURSING HOME

A petition signed by 150 residents of South Australia, concerning the possible closure of the Elizabeth South Nursing Home (also known as Tregenza Avenue Aged Care Service) and praying that the council will prevail up the government of South Australia to maintain funding to the Elizabeth South Nursing Home, allowing it to remain open, was presented by the Hon. Caroline Schaefer.

Petition received.

TRAMLINE

A petition signed by 49 residents of South Australia, concerning the proposal to construct a tramline from Victoria Square to North Terrace and praying that the council will do all its utmost to convince the state government not to proceed to construct such a tramline and remove trees, flag poles and median strip and create extreme congestion in Adelaide's major thoroughfare and also requesting the retention of existing free bus routes in that vicinity, was presented by the Hon. J.S.L. Dawkins.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Environment and Conservation (Hon. G.E. Gago)—

Institute of Medical and Veterinary Science—Report, 2005-06
South Australian Abortion Reporting Committee—Report, 2005.

QUESTION TIME

E. COLI OUTBREAK

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Minister for Environment and Conservation a question about the E. coli outbreak.

Leave granted.

The Hon. R.I. LUCAS: My colleague, the Hon. Terry Stephens, asked a question yesterday in relation to section 35(b) of the Public and Environmental Health Act. For those

who do not immediately recall it, that section of the act provides:

(The department) shall inform a local council of the occurrence of any notifiable disease in its area that constitutes, or may constitute, a threat to public health.

So, there is a specific requirement that the department responsible to the then acting minister for health (Hon. Gail Gago) inform the local council of any occurrence. The reasons are obvious and I do not need to explain why that needs to occur.

Yesterday, in response to the question from the Hon. Terry Stephens, the minister said that she did not have the details of the action she took at the time and that she would need to take advice on that and bring an answer back to the Legislative Council. I understand from my colleagues in the House of Assembly that the Minister for Health has confirmed that, in essence, the only notification was a press release issued on the department's web site by Mr Buckett. No notification was given to the councils as required under section 35(b) of the Public and Environmental Health Act. Given that the minister has now had 24 hours to clarify her recall of events at that particular time, my questions are:

1. Will the minister advise what actions she required to be taken to comply with the Public and Environmental Health Act, in particular section 35B?

2. Will the minister advise whether the councils were specifically informed, as that section of the act requires?

The Hon. G.E. GAGO (Minister for Environment and Conservation): As I indicated yesterday, I understand that all appropriate notifications were, in fact, attended to at the time in due process and in due course of time. In fact, I am advised that the environmental health officers at all local councils across the state were informed of the E. coli cases through a media release that was sent out by email on that particular Thursday.

The Hon. R.I. LUCAS: I have a supplementary question arising out of the answer. Does the minister have answers to questions that were asked yesterday in relation to when she first became aware of the particular incident that she says has now been notified to local councils and to GPs as well.

The Hon. G.E. GAGO: I have had time to check the details of this matter. The public health section of the department informed the Minister for Health's office of the three linked E. coli 0157 cases and the single HUS case late on Wednesday 24 January 2007. Public health staff met with my ministerial office staff to discuss the cases, and they advised that the department was preparing a public health alert to GPs, hospitals and health centres, and an E. coli warning for release to the public. My acting chief of staff provided me with this information and a written briefing shortly after that time. An alert to doctors and a media statement were issued on Thursday 25 January 2007, within 24 hours of the department's being notified of the HUS case. I am also notified that during this period the department was able to confirm evidence and prepare appropriate material for release and alert affected individuals.

The Hon. J.M.A. LENSINK: I have a supplementary question. How does the minister reconcile her response to that question with the Minister for Health's response to questioning by the member for Bragg yesterday that the minister's office was alerted late on the 23rd and issued a warning on the 24th?

The Hon. G.E. GAGO: The member would have to ask the Minister for Health to answer that question. I have answered the question in terms of the advice and details I have, and I have presented that information to the chamber, as requested. Any questions for the Minister for Health need to be asked of the Minister for Health.

The Hon. R.I. LUCAS: Your advice will come back to haunt you. I have a supplementary question arising from the answer of the minister. Does the minister also have a response to the question of whether or not she was asked by the department to provide a public statement herself as the acting minister for health to ensure wider publicity for this public health warning?

The Hon. G.E. GAGO: Mr President, I do not believe this is a supplementary question. It is not arising from the original question, so there is a point of order. But, for the sake of clearing this up once and for all, in respect of being asked about a media statement, the acting minister for health was not, in fact, asked to make the release. I was not asked to do this as acting minister for health, as it was clearly a public health issue and more appropriately dealt with by the department. This is, in fact, consistent with similar public health alerts in the past. That is the information that I have. That is the usual protocol. It is an operational matter, and those matters are dealt with by senior officials of the health department.

The PRESIDENT: The Hon. Mr Ridgway.

The Hon. J. Gazzola: Here we go! Send in the clowns.

The PRESIDENT: Order!

NATURAL RESOURCE MANAGEMENT

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about natural resource management funding.

Leave granted.

The Hon. D.W. RIDGWAY: Over the past few weeks I have been contacted by a number of distressed members of the local government fraternity across South Australia concerned in particular about the government's plans to withdraw funding from a range of NRM regions, leaving the local government component of those regions many hundreds of thousands of dollars short. In fact, the Adelaide and Mount Lofty Ranges NRM region looks like having a cut of $307 000 in the next financial year's funding. The Northern & Yorke NRM region looks like having a cut of $1 080 000, and today I was provided with a comment from *The Border Watch*, I believe, that the Local Government Association has reported that the government has reportedly considered cutting funding to the South-East board by up to $365 000 in the 2007-08 budget.

It then goes on to say that the minister and the department have realised (I suspect under pressure) that they cannot bully the country people of South Australia and just take away their funding. It appears that the minister has done a backflip. The South-East local government executive officer, Mr Ellis, said he believed there had been a reprieve for the 2007-08 funding, but everyone else believes that the state will act on its intention to redistribute the funding to NRM boards. It also appears to be the view of the Adelaide and Mount Lofty NRM board and the Northern & Yorke regional board that the minister has done a backflip. My questions are:

1. What consultation was undertaken prior to making the decision to withdraw the funding?

2. Will the minister confirm that she has backflipped and given the people of these regions a reprieve for the 2007-08 year?

3. Will the minister rule out shifting that funding and taking it away from those regions in the 2008-09 years or any subsequent years?

The PRESIDENT: The minister might want to disregard the large amount of opinion in that question.

The Hon. G.E. GAGO (Minister for Environment and Conservation): And, Mr President, as usual, the Hon. David Ridgway has his information back to front and his facts skewed. He has a lot of trouble with his facts and figures. In fact, you can see how lazy the opposition is. It fails to research or look into any of the substance behind these issues. Oppositions members are plain, outright lazy. They come here ill-prepared with facts that are quite wrong, but this is typical and we are used to it. The state government continues to provide significant funding to support the regional delivery of our natural resources management. In fact, in 2007-08 the state government will provide a total of about $4.6 million.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: I had to listen to all the honourable member's waffle and now it is most important that he actually listen to the real facts and figures behind this. The truth hurts, so he is just going to have to sit there and listen to what is really going on.

Just to get the context right, these funds have been allocated across eight regional NRM boards, taking into account the base funding received in 2006-07, the drought situation and, obviously, their relative needs and relative capacity to raise levy funds from their regional communities. That is what this funding is based on. Through an annual review process, which is underway at present, the NRM boards will also be able to propose changes to their levy structures compared with those raised in 2006-07. They are all well underway with respect to that. Obviously, I will consider proposals arising from that annual review process in early April, after the boards have been able to consult with their communities and other constituents.

Concerns have been raised about cuts to state funding for the Northern and Yorke and other boards. It is hearsay that is reeled off in this chamber. The state government will continue to provide baseline funding and support to the Northern and Yorke NRM Board for 2007-08, in line with the support formerly provided to the soil conservation, animals and plant control boards. During the change process, the state government made significant additional contributions in 2005-06 and 2006-07 to the Northern and Yorke NRM Board. In 2006-07 this additional funding was about $1 million of basically one-off additional money, which was clearly earmarked as such at the time. The board knew the conditions of that funding but, of course, the honourable member would not have bothered to check his facts or figures about that.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: No. I stress again that it has always been understood by the Northern and Yorke NRM Board that this was to help it get set up and that, in fact, the funding was not ongoing. Additional support was provided because there was previously no catchment water management board in place. That was one of the reasons behind that one-off funding. This meant that, when coming into operation, the Northern and Yorke NRM Board did not have a significant funding base to begin with, and no staff, other operational frameworks or infrastructure were able to be put in place. Those funds were, in effect, provided on a one-off basis to allow the board to build a structure to be able to get up and get going. As I said, that money (the $1 million) has always been clearly earmarked as one-off funding specifically for that purpose.

The Adelaide and Mount Lofty Ranges NRM Board has recognised that it has the highest rating capacity and can raise substantial income support from within the region. In fact, the board has already released its annual review without an income allocated from the state government (which is interesting) but, of course, the honourable member would not have bothered to find that out, either. I feel that, in the present drought conditions, all boards should be provided with some assistance, and that is indeed what we have done. In the setting of the funds, the issue of the drought was a consideration. There have categorically been no backflips. We are a responsible and sensitive government and we certainly did make sure that we considered the impact of the drought when we allocated the funding for the 2007-08 year. As I said, the Northern and Yorke NRM Board received the additional one-off funding in the first year and it was aware of those arrangements. What was the other board?

The Hon. D.W. Ridgway: The South-East.

The Hon. G.E. GAGO: Yes, the South-East. What a joke! Let me get this on the record so that we get this straight. The 2006-07 state allocation was $365 000, and the 2007-08 allocation was $365 000. So, again, the member is completely wrong. He brings incorrect information into this chamber, and it is quite a mischievous and inappropriate thing to do. In terms of the 2008-09 funding, as we know, that is considered in each annual budget round, so those figures have not come into place.

In terms of planning for the 2008-09 budget, we have indicated to the boards that a process of budget consideration needs to take place with a mind to looking at those boards that do have a high ratepayer base versus those bodies such as the AW Board and the Kangaroo Island Board. Both boards have very little capacity to generate NRM funds. The government is very sensitive to that, and we are looking at working with the boards to determine a formula or a way of dealing with issues to ensure that state funding is provided to those boards that need it the most, and to ensure a fair and equitable funding arrangement. We engaged the boards in that process very early in the new year.

E. COLI OUTBREAK

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the former acting health minister a question about the subject of the E. coli outbreak.

Leave granted.

The Hon. J.M.A. LENSINK: Yesterday, in the House of Assembly the Minister for Health stated, in response to a question, that the department of health was concerned about a possible outbreak and alerted the minister's office late on 23 January. In this chamber yesterday it was reported that a statement was issued by the public health director, Mr Kevin Bucket, on Thursday 25 January. My question to the minister is: why did it take two days for the government to alert the general public about the E. coli outbreak, and what does it say about this government's priorities when it puts out a whimpy release late on the Thursday before a long weekend but can afford to put out a two-page advertisement about the River Murray?

The Hon. G.E. GAGO (Minister for Environment and Conservation): Again, any questions about the information that the Minister for Health has provided needs to be directed to him. However, I understand that the Hon. John Hill made a ministerial statement this afternoon, part of which states:

> In relation to the dates of notification I need to clarify the information I provided yesterday. On advice I am now advised that the department received results linking three cases of E. coli 0157 on 23 January. A HUS case was notified on 24 January, and my office was notified on 24 January. A public health alert was issued by the department on Thursday 25 January.

That is a media ministerial statement made by the Hon. John Hill this afternoon.

AAMI STADIUM

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the South Australian National Football League's proposal to install new lighting at AAMI Stadium.

Leave granted

The Hon. R.P. WORTLEY: For more than 20 years South Australians have enjoyed football and other major events under lights at AAMI Stadium. However, I understand that after two decades of operation the lighting fixtures have deteriorated to a point where they need to be replaced. Can the minister provide details of a proposal by the SANFL to install new lighting at AAMI Stadium?

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I thank the honourable member for his question. It is a pity members opposite were not able to hear it because of their lack of interest, it appears, in such matters, or anything else for that matter. Earlier today I announced that the government has granted major development status to a proposal by the South Australian National Football League to install new lighting at AAMI Stadium. The league has advised the government that the head frames on the four lighting towers at AAMI Stadium have become severely corroded since their original installation in 1984 and, in the interests of public safety, must be replaced.

Most importantly, the league says that the proposed new installation will direct maximum light onto the playing surface, substantially reducing the light spill into the adjacent neighbourhood. Engineering advice provided to the SANFL indicates that, while the existing tower sections are in good condition, the head frame should be replaced before 2008. The light fittings also need replacing as they too have deteriorated during more than two decades of operation. The SANFL has advised the government that the 52 metre height of the existing towers and head frames has caused a number of problems over the years. These problems include uneven illumination across the stadium's playing surface, potentially dangerous glare to motorists on West Lakes Boulevard and excessive lighting spillage on to nearby homes.

The SANFL proposal includes removing existing head frames and light fittings, increasing the height by adding an extra two mast sections to each tower and installing new head frames to each tower with each new head frame supporting 136 2 000 watt light fittings. The proposed new head frames would be designed to minimise the effects of corrosion from salt spray and to direct maximum light on to the playing surface, thereby reducing spillage. The scale of the lighting project and its environmental, economic and social significance means major development status is warranted. Major development status triggers a comprehensive and coordinated assessment path that must be followed by the league, including stringent assessment of the proposal and public consultation.

As is always the case when the government grants major development status to a particular project, I stress that this declaration does not indicate the government's support or otherwise for the proposal—it simply kick starts the stringent assessment process. It would be remiss of me not to commend the SANFL for its professional approach to this matter, especially Executive Commissioner Leigh Whicker and League President Rod Payze.

Along with the need to replace deteriorating equipment, Mr Whicker also makes the point that since the AAMI Stadium lights were originally installed there have been significant technological advances in the area of sport stadia lighting. At the same time, the popularity of night football and other sporting and community events under lights has also grown significantly. The league says that the new lighting system will not only be more aesthetically pleasing to the eye but, importantly, will bring AAMI Stadium into line with every other sporting stadium in the country where night sport is played.

MAGAREY FARLAM

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, questions regarding Magarey Farlam lawyers.

Leave granted.

The Hon. NICK XENOPHON: In July 2005 it was discovered that there was a shortfall of an estimated $4.5 million in Magarey Farlam clients' trust accounts. A former clerk of this firm, William Brenton Willoughby, has been charged with misappropriating those funds, and that matter is now before the courts. It is claimed that the alleged misappropriation took place over a 13-year period and has affected some 35 of about 200 trust accounts of the firm.

Once trust account irregularities were discovered it was immediately reported and the Law Society stepped in to ascertain the amount lost and distribute what remained to the persons entitled to it. In July 2005 the Supreme Court, at the Law Society's request, ordered that all assets, including those of clients not affected by the alleged misappropriation in Magarey Farlam's trust accounts, be frozen until the question about the division of money had been finalised. Since this time there has been a long and protracted dispute between the Law Society and clients as to how the remaining funds are to be paid out and to whom. The dispute centres on so-called pooling and tracing clients, pooling clients being, on the one hand, those who lost money as a result of the alleged misappropriation and who want all moneys remaining to be distributed according to a proportion based on the total of the assets they had before the misappropriation and, on the other hand, tracing clients who did not suffer any loss as a result of the alleged misappropriation and who just want all remaining assets to be released.

In November 2006, after many legal opinions over which method of payment should be employed, clients made application seeking a determination as to whether their costs could be paid out to the Law Society's guarantee fund pursuant to section 47 of the Legal Practitioners Act. The

amount that can be paid out of the guarantee fund, for reasons specified under the act, is capped at just over $1 million, but the Attorney-General has a discretion under section 64(6) of the act to increase this amount.

The Law Society's 2005-06 annual report shows that the guarantee fund holds over $20 million. I am advised that the Law Society was not opposed to payments being made to clients from the guarantee fund, if the court so ordered, but the application was opposed by the Attorney-General, who intervened and is disputing the interpretation of the section. In fact, the Attorney-General lodged an appeal on 22 December 2006. I am also advised that, despite several attempts by clients to meet with the Attorney-General to resolve this matter, he has declined to do so.

I further understand that legal costs in this matter are now in the vicinity of $2 million and escalating. The case is before His Honour Justice Debelle who, during a Supreme Court hearing on this matter on 28 November 2006, in what many commentators would regard as quite an extraordinary statement, expressed his utter frustration with the legal dispute, comparing the case to Charles Dickens' novel *Bleak House*, in that the clients' money may ultimately be entirely swallowed up by their legal costs. He went on to say:

> The more I have to do with this matter, and the more I am concerned as to how people who innocently suffer loss are put to extraordinary cost, the more it seems to me that when this is all over and done with, I will be writing to the Attorney-General, I have to say, to see if some better system cannot be put into place.

I am sure you will agree, Mr President, that it is quite extraordinary for a judicial officer to make a comment in those terms. My office has spoken with a number of victims of this case, who are very distressed about what has occurred, and the distress has been compounded by the uncertainty and, in particular, the Attorney's intervention in this case, and they are now embroiled in a further tortious process and associated legal costs for which they may now be personally liable if the Attorney's intervention is upheld. My questions are:

1. What rationale was behind the intervention on the part of the Attorney to deny access to the payment of client costs from the guarantee fund; is he aware of the extraordinary financial burden this places on innocent victims of the missing funds; and will the Attorney consider withdrawing that application?

2. Will the Attorney use his discretion to authorise the payment of client fees from the guarantee fund and also to lift the cap on payments?

3. Will the Attorney meet with the trust account clients of Magarey Farlam as a matter of urgency to resolve this issue?

4. What action has the Attorney taken in response to Justice Debelle's extraordinary plea for reform?

5. What guarantee can the Attorney give to the many thousands of South Australians who have funds in solicitors' trust accounts that they will not be drawn into a costly and protracted legal dispute should there be another alleged misappropriation or defalcation of funds?

The Hon. P. HOLLOWAY (Minister for Police): I will refer the question to the Attorney-General and bring back a response.

FIELD RIVER, HALLETT COVE

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question relating to the Field River at Hallett Cove.

Leave granted.

The Hon. S.G. WADE: On 28 December 2006 raw sewage spilled into the Field River at Hallett Cove. It was the fifth spill in the area since 2002, and an estimated 100 000 litres of untreated sewage leaked into the waterway. I have been informed by the Friends of the Lower Field River that native flora and fauna have been badly impacted as a result of the sewage spills, with many water-dwelling species wiped out and nutrient increase in the water leading to unnatural blooms. The government's financial draw on SA Water has been almost four times SA Water's spend on capital, yet the member for Bright, in a letter dated 4 January 2007, implied that United Water was responsible for the spill. She stated:

> I firmly believe that private companies have a duty to invest in maintaining utilities.

Will the minister advise the council whether the facility which led to the spill in the Field River is operating subject to environmental legislation or licences which she administers? If so, what has the government done to address this problem, given that it is the fifth sewage spill since 2002? If Ms Fox is correct in asserting that United Water's lack of investment contributed to the spill, what action will she take against United Water?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his questions. I have been advised that the EPI, Marion Council and United Water investigated a sewage spill in the Field River at Trott Park at the end of December 2006 and found that the incident had occurred due to a blockage of a minor sewer main on Young Street. I am informed that the blockage was caused by a tree root intrusion which has subsequently been fixed by United Water. Further investigations involving United Water, the Department of Health and the EPA downstream of the incident area in the Hallett Cove section of the Field River found a second area of contamination, which was considered not to be related to the original sewage spill. Chemical analysis of the contaminated water found it to be of animal origin, not human.

I am informed that the cause of the sewage spill on 28 December was unrelated to previous sewage spills into the Field River. The EPA has formed the view that United Water/SA Water has taken all reasonable and practical measures to prevent further sewage spills into the Field River. I also understand that the EPA considers that United Water's response to this particular situation was timely and appropriately extensive.

As the honourable member points out, there have been a number of sewage spills into the field River in this particular area, including part of the Waterfall Creek and the sea in February 2004, there was also a Hallett Cove spill in June 2004, and there have been other spills as well. I am advised that all these incidents were the result of sewage pump station failure due to power outages. In late 2004 the EPA undertook an audit of SA Water's infrastructure and operations within the Hallett Cove area which, after negotiations with SA Water, led to SA Water's upgrading of 14 pump stations in the area. I understand that the upgrade of these pump stations was completed in June 2006 and included a back-up power supply for those most affected by the power shortages. I am advised that no significant incidents of pump station failures have been reported to the EPA since this time.

The Hon. S.G. WADE: I ask a supplementary question. Did the audit of the infrastructure in 2004 consider the maintenance program of SA Water/United Water for pipes to ensure that tree root blockages do not lead to sewage overflows in that area?

The Hon. G.E. GAGO: I do not know the details of that audit except that it dealt with the pump stations, and the issue of the pump stations was, as I have already reported, to do with power outages. I am not too sure what relationship the member thinks he is drawing, but I am happy to check out that information and bring back a response to that particular question to the chamber at a later date.

TOBACCO CONTROL STRATEGY

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about tobacco.

Leave granted.

The Hon. I.K. HUNTER: Tobacco smoke is one of the biggest health issues facing South Australia. Each year vast sums of taxpayers' money is spent on treating tobacco related illness and disease and each year thousands of lives are lost to preventable diseases caused by this addiction. South Australia's Strategic Plan includes targets to reduce the number of young people taking up this habit. Will the minister inform the council of any new measures to address the number of South Australians who are cigarette smokers?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the member for his question and for his ongoing interest in these important policy areas. I am very pleased to announce that the Rann government continues to crack down on the spread of cigarette smoking. Today I am announcing a proposal for tough new legislation which will outlaw tobacco purchases contributing to store-customer loyalty reward schemes. Smoking is one of the biggest health issues that we face in our community in terms of its contribution to general health status, illness and death, and any scheme that offers an incentive or reward for purchasing tobacco should be discouraged. Rewarding smokers for purchasing cigarettes clearly sends the wrong message, especially when we are committed to reducing the number of people taking up the smoking habit.

There are a number of customer loyalty reward schemes in operation—such as FlyBuys, fuel discount offers, supermarket petrol discount schemes and Jackpot Club reward schemes (which operate in 65 pubs across the state). We do not have an issue with these schemes, except where the reward points can be obtained by purchasing cigarettes or where vouchers can be used to buy cigarettes. We believe that the long-term health benefits a smoker can receive by quitting the habit are the best reward, and one they can give themselves.

As members would be well aware, the Rann government is committed to reducing the number of smokers in our community, and this latest move is another initiative aimed at reaching our Strategic Plan goals. Queensland has already banned loyalty schemes that include tobacco products, and we will begin consulting with the industry regarding these latest measures. Also under the proposed new arrangements, people will no longer be able to buy a packet of cigarettes directly from a vending machine, as these are often unattended and easy for underage smokers to access. The initiative we are looking at is for a person to purchase a token from a staff member in order to access the vending machine.

We have taken the lead in lowering the incidence of tobacco addiction by making it harder for tobacco companies to market their products, such as split packets, in this state. We have introduced legislation to ban smoking in cars when children under 16 are present, and we have also banned the sale of fruit-flavoured cigarettes in South Australia. We have increased licence fees and taken steps to reduce the size of point-of-sale retail tobacco displays.

I, for one, am not shy of these tough new measures. They are important in terms of the health of our community. However, recent news reports regarding the 2007 National Young Liberal Convention (an auspicious occasion) held in Melbourne on Australia Day and attended by none other than the federal health minister, Tony Abbott, suggests that some amongst the next generation of Liberal politicians do not share our vision. If they had their way, tobacco advertising would be back on our TV screens and at our sporting events, telling our children that it is okay, that it is acceptable, to smoke cigarettes.

According to those members of the Liberal movement who want to see tobacco advertising returned, 'Prohibitions on tobacco advertising are an insult to the intelligence of the ordinary Australian.' I believe that that view is totally out of step and irresponsible in this day and age, and I can only hope that the members sitting opposite me, the old and experienced hands who sit in this chamber, will take steps to educate and promote a more responsible attitude amongst their younger members.

The Hon. J.M.A. LENSINK: I have a supplementary question. On what evidence is the minister relying in relation to the contribution loyalty schemes make to the smoking problem in this state?

The Hon. G.E. GAGO: Anything that portrays smoking in a positive light is the wrong message to be sending out into the community. This government believes that anything that rewards a person for smoking is the wrong message. We do not shy away from these tough measures, and we know they are working, because in this state we have reduced—

Members interjecting:

The Hon. G.E. GAGO: They don't like to hear this.

Members interjecting:

The PRESIDENT: Order! I am having trouble hearing the minister's lecture.

The Hon. G.E. GAGO: I just want to make sure that everyone in this chamber hears that our strategies are working. In fact, the smoking rate amongst our young people has declined. So, I guess the proof is in the pudding.

The Hon. A.M. BRESSINGTON: I have a supplementary question. Would the minister describe the government's tobacco policy as a zero tolerance approach?

The Hon. G.E. GAGO: No; obviously it is not. The banning of cigarette smoking is not supported by some of the major health promotion groups in Australia. For instance, I believe the Cancer Foundation does not support the prohibition of smoking because it believes that all that would do is entice young people in particular into prohibited sorts of behaviour—so, that is not supported—and this government has listened to those particular groups. We have educated and promoted the hazards and problems associated with smoking and provided every avenue reasonably possible to assist people to give up smoking.

The Hon. NICK XENOPHON: I have a supplementary question. Does the government consider that its message is compromised by the fact that the Labor Party accepts large donations from tobacco retailers and the tobacco industry?

The Hon. G.E. GAGO: I do not believe that that question deserves an answer. Quite obviously, no.

ANTI-DRUG ADVERTISING

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse—

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! The Leader of the Opposition will come to order.

The Hon. A.L. EVANS:—a question about anti-drug advertising.

Leave granted.

The Hon. A.L. EVANS: As the Hon. Dennis Hood stated in this place yesterday, in the US state of Montana, Montana resident and dotcom billionaire Thomas Siebel sponsored the state government-run Montana Meth Project, which was launched in 2005. The most prominent aspect of the project involves an advertising blitz on state television and radio telling young people about what the Americans call meth.

The 'Not Even Once' advertising campaign is nationally recognised and has been so successful that in October 2006 it drew praise from the White House, which awarded the program a certificate of recognition for being 'one of the nation's most powerful and creative anti-drug programs'. So important is the anti-meth message to the Montana state government that the campaign was the biggest advertiser on Montana television. I note that a recent press report states that the state of Idaho is also likely to adopt the Montana project. My questions are:

1. Is the minister aware of the Montana meth project?

2. Will the minister commit to viewing the Not Even Once material online (I am happy to provide her with the address) and provide this council with a ministerial statement on her view of the suitability of running the same or a similar anti-meth campaign in South Australia as a matter of urgency?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for his important questions. No, I was not aware of the Montana meth advertising program Not Even Once until it was drawn to my attention in this chamber yesterday, and I look forward to seeing that material and would be very pleased to do so. Although I am not familiar with that specific material, I nevertheless understand that the young people in Montana have a dramatically higher than national average incidence of meth abuse in the US. I understand that in the past that region has had particular problems with meth, but that is also an international issue.

South Australia's approach to its drug strategy has been based very strongly on evidence-based practice and also harm minimisation. We recognise that the use of methamphetamines can cause health problems, including psychosis, aggression, depression and, obviously, the risk of blood-borne infections from sharing needles. Also, the social problems associated with meth use have been well documented.

Through the national drug strategy—and this was recently discussed at the latest inter-ministerial meeting, I believe in Sydney—$23 million over a period of four years has been allocated for a national drug campaign to combat new and emerging drug trends. This campaign is to focus on psychostimulant use and, in particular, methamphetamine use, and the campaign will be launched in the first half of this year, I believe—that is the latest information that I have. The campaign is intended to be aired through a range of media, including television, cinema, newspaper, magazines, street press, youth marketing outlets, internet sites and also the national illicit drug campaign website.

The Rann government's drug policy is underpinned by this national drug strategy for 2004-2009 and encompasses what we believe is a balanced approach designed to minimise the harm arising from drug use. Briefly, these strategies include (and I know I have spoken of these strategies in this place before): supply reduction strategies designed to disrupt the production and supply of illicit drugs; demand reduction strategies designed to prevent the uptake of harmful drugs and to reduce drug use; and also harm reduction strategies designed to reduce the harms associated with drug use for individuals and the communities in which those people live.

There is a range of strategies and programs that we have had in place, or intend to put in place, and I know I have spoken at length about those in this place previously. Very briefly, just to remind people, there is the designer drug early warning system, which monitors incidents and clinical effects in the Royal Adelaide Hospital emergency centre. There is another program on the relationship between substance use and psychiatric disorder, and quite a bit of work is going on there. There is an Alcohol and Other Drugs Workforce Development Audit and Capacity Building Project in place. There is a project involving the impact of alcohol and other drugs in the workplace, and amphetamine-type stimulants resources distributed through key Clean Needle Program outlets.

A package has also been developed, particularly designed for young people, called 'The Guidelines for Safer Dance Parties'. There are other treatment programs in which South Australia is leading the way. I will briefly mention these: treatment trials for the use of amphetamines, also our ASSIST screening program which is run through primary health care outlets to help draw attention, particularly to young people, of drug use and its problems, and also helps to link them up with appropriate support services.

The Hon. A.M. BRESSINGTON: Is the minister aware that, about three weeks ago, Dr David Caldicott stated on the ABC that the price we pay for our harm minimisation policy is that more of our young people are using drugs? If so, why are we still supporting harm minimisation?

The Hon. G.E. GAGO: The harm minimisation model is one that is supported at both state and federal level, so the federal government has this strategy in place and it is one that underpins the South Australian strategy as well. Our view is that one size does not fit all. We provide a range of different services from zero tolerance right through to maintenance programs. What we try to do is fit the best service to a particular individual's needs at the particular phase or place that the drug user might be in at that particular time. We try to provide a range of programs to suit a range of different needs and different stages of development of individuals in terms of their state of addiction and drug use.

Members interjecting:

The Hon. G.E. GAGO: Mr President, I find the interjections disgraceful. They show absolute ignorance, total ignorance. It is a real shame to see senior members in this

chamber interjecting with such drivel. These are serious issues. These are particularly young people's lives that are at stake. We have a harm minimisation strategy which is the very same strategy that underpins the opposition whose interjections I refer to. As I said, the harm minimisation model is upheld here, and we believe one size does not fit all and we try to provide access to as many different people at different stages of their drug addiction to basically try to save as many lives as possible.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Hood has a supplementary question. There is obviously plenty of interest in this subject.

The Hon. D.G.E. HOOD: Indeed. Arising out of the minister's original answer, will the minister commit to viewing the material online and then returning to the chamber and giving a report as to the suitability of the Montana Meth Project for use here in South Australia?

The Hon. G.E. GAGO: Indeed, I did commit to looking at the material and consider individual programs. They are done in consultation with the department and the broader strategies and priorities that we have in place. I am always very pleased to hear and see the most recent and up-to-date information and programs. I am always pleased to have those drawn to my attention. I certainly enjoy looking at new developments, but they need to be put into a process of looking at where they fit in terms of our priorities and our programs.

SUICIDE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse questions about suicide prevention.

Leave granted.

The Hon. J.S.L. DAWKINS: The minister and other members of this place would be aware of the significant concern in many rural communities about suicide both directly and indirectly as a result of the drought. As I have pointed out to the minister in the past, people at risk of taking their own lives come from all sections of rural communities, not just farmers. My questions are:

1. Is the minister aware of the successful community response to eliminating suicide—the CORES program—which is operating in two local government areas in Tasmania, sponsored by a community organisation?

2. Will the minister take steps to ensure that her department researches the manner in which the CORES scheme was developed following initial commonwealth seed funding and further financial support from the Tasmanian community fund?

3. Will the minister also consider providing funding to local government and/or community organisations to develop a similar program which will train volunteers to identify the signs that indicate a person may be considering suicide and to be able to refer them to the relevant health professionals?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for his important questions. Indeed, we are very mindful of the effects that the drought could have and is having on our communities, particularly our rural communities, and we have put in place a range of initiatives to assist those communities. I am not personally aware of the particular initiatives that the honourable member mentioned but, again, I would be very pleased to have a look at the details and consider those matters. Basically, in terms of the current drought and our mental health response, I assure members that we have worked very hard to put supportive strategies in place.

Country Health SA has been working very closely with the locally-based health workers, identifying a range of strategies and practical resources intended to assist farmers who are experiencing difficulty. Country SA has a network of arrangements where local people meet to discuss issues and identify solutions. Mental health consumers and care advisory groups exist in many areas of the state and act as a conduit for identifying community needs as they emerge, and a general alert has been issued to all locally-based community and allied health workers and mental health practitioners regarding the need to be aware of the potential effect of the drought on the mental health of farmers and their families. Country health—

Members interjecting:

The Hon. G.E. GAGO: Mr President, I find it really offensive that members opposite would laugh at the appalling predicament of our country community. They query the mental health services that we are providing for country people throughout the drought, but they are not then prepared to hear the answer and have me outline all the initiatives that we have put in place. They clearly are not aware of those initiatives, otherwise they would not be asking these questions. I will continue to inform them of the supports that we have put in place. It is a serious issue, and it is most important that we support our rural communities.

Country Health SA has put in place a network of local contact people to ensure that local activities in response to the drought conditions are effectively coordinated and people are assisted in accessing the health and counselling services available to them. We have established a drought link counselling position to provide one on one follow up to callers to our drought link support line—our drought hotline service number—so we have linked up mental health services to that. We have two rural councillors to be recruited and based in the Upper South-East and Upper Mid North. We have commenced work on the adaptation of managing the pressures of farming, which is a practical self help check for farmers and their families experiencing stress and business pressure.

Over 35 local contact people have been actively engaged in participating in Primary Industries and Resources SA and the Department of Water, Land and Biodiversity initiated sessions, as well as the country health initiated information forum. We have distributed free of charge over 10 000 copies of the drought affected communities pamphlet and 15 000 copies of the 'Taking care of yourself and your family' booket. We have been and continue to be very active in not only monitoring our country communities to keep a check on their state of health and well-being but also have put in place a wide number of different services to provide support to these communities through this time of extreme duress.

CRIMINAL LAW CONSOLIDATION (DRINK SPIKING) AMENDMENT BILL

In committee.

(Continued from 6 February. Page 1355.)

Clause 4.

The Hon. A.M. BRESSINGTON: I move:

Page 2, after line 21—Insert:

(1a) A person is guilty of an offence if, between the hours of 9 p.m. on any day and 5 a.m. on the following day, the person enters or remains in licensed premises while in possession of a prescription drug or controlled drug that—

(a) is such as to be capable of producing a state of intoxication in a person who consumes the drug; and

(b) is not contained in packaging on which is affixed a prescribed label indicating that the drug was lawfully prescribed for or supplied to the person.

Maximum penalty: Imprisonment for 30 months.

(1b) It is a defence to a charge of an offence against subsection (1a) to prove that the prescription drug or controlled drug was lawfully prescribed for or supplied to the person or that the person had some other lawful reason for being in possession of the prescription drug or controlled drug.

I will make a brief statement that will encompass all of the amendments I have on file. When this bill was introduced to the council, I expressed my support for the intention to prevent or at least minimise drink spiking in South Australia. As I said in my second reading contribution, I do not believe that the bill goes anywhere near far enough. As a result, I moved amendments, as did the opposition, and the government also moved amendments. We all recognise that drink spiking is an issue and that we need to take action to deal with it. Unfortunately on Tuesday the government demonstrated its arrogance and absolute unwillingness to work with other members of the upper house to ensure the safety and well-being of South Australians.

The Minister for Police announced that the Government was being nice by suggesting an amendment of its own, but if we were not going to accept its rules it would take its bat and ball and go home. I had hoped and thought that this sort of childish temper tantrum behaviour had been left behind in the playground when we all grew up. Sadly, it seems that the government is still stuck in the sand pit. The government filed an amendment which reframed the opposition's amendment. The government clearly saw the sense in introducing a preventative tool, but God help anyone who tries to improve on the government's ideas.

As far as the government is concerned, if we are not going to accept its amendments without question it would rather leave the flaw in the legislation. Unfortunately, it is not me or the opposition who are taught a lesson but the innocent South Australians who fall victim to drink spiking. They are the ones who will suffer because the government is too childish to accept improvements and suggestions, which, I might add, is the function of the Legislative Council—to review legislation and improve where necessary. Innocent people will continue to suffer from drink spiking in areas not covered by the original bill because the government does not seem to understand that parliament is a forum for dialogue and not a place that bullies others into submission. Well, frankly, it is not good enough. We do not forget Dianne Brimble, a victim of exactly the behaviour this bill seeks to address.

So, because I am all grown up now and take my responsibility to the people of South Australia very seriously, I will move the government's amendments myself. I am willing to make a compromise, and a big compromise, if it will mean better protection for innocent people—a lesson the government would do well to learn. I will move the government's imperfect amendments to give some protection to the innocent, because limited protection is better than none at all. In moving the government's amendments, I express my concern that, nevertheless, they still do not do enough.

I do not accept the government's focus on high risk times (between 9 p.m. and 5 a.m.) and high risk locations (such as pubs, clubs and the casino). While we all recognise that most incidents of drink spiking may occur during these periods and at these locations, that is hardly helpful to the person who has their drink spiked in a different location or at a different time. What are we going to say to the 15 year old girl who has her Coke spiked at McDonald's: 'Sorry we didn't try to prevent the attack on you. You should have been down at the pub.' Are we just going to tell them 'bad luck'? What about the young teenager who is at the pub during the government's prescribed hours and who has their drink spiked with a drug and outwardly does not appear too intoxicated but whose judgment is impaired?

I add, that there is an outline in the National Project on Drink Spiking which names the drugs that could have been included as a relevant drug in the amendments and which would have made it quite clear for the police to be able to do their job, and not just inside the hours of 9 p.m. to 5 a.m. However, those amendments have been scrapped.

The statistics show that only 21 per cent of drink spiking offences occur in licensed premises. So, that is only one in five victims who will be covered by my amendments. The National Project on Drink Spiking, investigating the nature and extent of drink spiking in Australia from November 2004, is the best authority we have in this country on the nature and extent of the problems with drink spiking. It makes it clear that drink spiking need not be carried out solely or predominantly for the purpose of a sexual assault, although there is an overlap. The report states:

> This report has identified that drink spiking is a complicated phenomenon which can occur at a variety of locations, against a variety of victims, with a variety of different spiking additives, for a number of different reasons. This means that prevention strategies which target only one target audience (e.g. young women or young people at licensed premises) will be limited in effectiveness because the message may not reach or may be inappropriate for other types of audience. For example, this report has found that males can also be victims of drink spiking, but there are currently no awareness campaigns which are targeted towards preventing males from being victims.

It would make sense to ensure that the education and prevention strategies and the legislation are consistent so that all can be supported and all can be a preventative measure. Another concept this government appears to miss over and over again—

The CHAIRMAN: Order! The member should be speaking to the amendments and not giving a second reading speech.

The Hon. A.M. BRESSINGTON: I am speaking to the whole thing and then I will not say another word all the way through this.

The CHAIRMAN: You should stick to speaking to your amendments—to explain to the members your amendments and the reasons they should be supporting them—rather than making a second reading speech.

The Hon. A.M. BRESSINGTON: Sorry. Anyway, I am almost finished. I would be much more comfortable if we did not restrict the time of day when it is an offence and we did not restrict the locations. We could still further minimise the unintended consequences by restricting the definition of 'relevant drugs'. However, even if the government's amendments, which it now refuses to move, do offer protection to

only one in five victims (20 per cent) it is still considerably better than protecting no-one at all.

While I am moving these amendments, I want to say that I will not accept this second-rate legislation as final. At the earliest possible opportunity I will move to give protection to the 80 per cent of people that this government has forgotten—the collateral damage of their school playground behaviour.

The Hon. S.G. WADE: The opposition supports this bill and the amendment moved by the Hon. Ann Bressington. I appreciate her comments that her amendments are not ideal from her point of view, that she would have liked to go further. The opposition would rather have gone further, too, but we have to work with the government that we have, and we have an arrogant one.

Let me remind honourable councillors of the sequence of events. The government introduced a bill to create an offence of drink spiking, and in the House of Assembly the opposition moved an amendment to introduce an offence of possession in order to give authorities the opportunity to intervene to prevent the commission of the crime. Opposition members cooperated with the government by not putting the amendments in the House of Assembly so that the government could consider the amendments between the houses.

On 15 November 2006, the government introduced this bill to the council. On 23 November 2006, the government filed an amendment which supported the establishment of a possession clause but which varied from the opposition's proposal. For example, the government limited the relevant time to 9 p.m. to 5 a.m., excluded restaurants from 'relevant premises', and introduced a fuller statement of defence.

I note that the Hon. Ann Bressington's amendments reflect all those elements of the government amendment. The opposition welcomed the government amendment but filed a set of amendments which followed the government amendment, except where we had a clear alternative view of the preferred set of words. I saw the Hon. Ann Bressington's amendments in the same light. They were amendments to the letter but not the spirit of the government amendments. However, almost two months later, without consultation, the government came into this council and said, 'The government proposed a compromise in the right spirit, but it appears that it is not wanted. Fine. The government will not move it. The government's position is that for the reasons it has given it will also oppose all the other amendments.' It is in that context that the opposition feels compelled to support the Hon. Ann Bressington's amendments.

Let us unpack the government's position. The government says that it undertook to look at the merits. It saw merit in such an offence, clearly, because it introduced its own amendments to provide for such an offence. However, while the government had the right to question and redraft an opposition amendment, it was not willing to be subject to the same scrutiny itself. If the opposition is not willing to ignore the flaws in its amendment and pass another amendment, the government will not put it. This is not the position of a responsible government. This is not the actions of a government that respects the legislative—

The Hon. J. GAZZOLA: I rise on a point of order, Mr Chairman. You have already mentioned that the member should stick to the amendments and the clause. I believe the Hon. Mr Wade is detailing the normal consultative process of negotiation that the government and other parties go through.

An honourable member interjecting:

The Hon. J. Gazzola: Well, you're not the chair.

The CHAIRMAN: Order!

The Hon. S.G. WADE: I have a point of order, Mr Chairman.

The CHAIRMAN: Order! Members will not speak when somebody has raised a point of order.

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

The CHAIRMAN: Order! The Hon. Ms Lensink will come to order. The Hon. Mr Gazzola has raised a point of order. I have already warned the Hon. Ms Bressington about her long-winded contribution which strayed from the amendments. I will also ask the Hon. Mr Wade to stick to the amendments. He has indicated his support for the amendments; he would be better off going about convincing others to support his position.

The Hon. S.G. WADE: With respect to the point of order, Mr Chairman, I am referring to the origins of this amendment. I am explaining—

The CHAIRMAN: The honourable member does not make decisions on points of order, the chair does. The honourable member may continue.

The Hon. S.G. WADE: As I was saying, Mr Chairman, the situation in which we find ourselves is that the government, in spite of indicating the merits of these amendments, chose not to introduce them because the opposition dared to suggest ways in which they could be improved. I am trying to make the point to the committee that I am not enthralled with the amendments proposed by the Hon. Ann Bressington, but she has been compelled to adopt this position because of the petulant behaviour of the government. The opposition feels that it is better to provide some protection for the people of South Australia than none. Faced with a government which is not willing to accept dialogue, the opposition has no alternative.

The government told the House of Assembly that it would consider the merits of the possession offence proposed by the opposition. In filing in this chamber the government agreed that there was merit; however, on Tuesday, even before the minister came to the council, the opposition had had discussions with non-government members and had already decided not to progress the amendments filed in my name. We listen and we respond, but the minister does not even bother to engage opposition members to facilitate the best outcome. He just comes in here and declares that the debate is over before another word is said.

I indicate that the opposition will be supporting the amendment moved by the Hon. Ann Bressington, and I dare the government to support that amendment. I cannot see how it cannot support it—it is the government's amendment! If it will not consider non-government suggestions then the least it can do is have the integrity to stick with its own. To do otherwise would be to write large for the people of South Australia that the government's pride is more important than the safety of South Australians. As usual the government is hairy-chested about dealing with crimes once they are committed, but it is not willing to do the hard work to try to prevent crime.

The CHAIRMAN: Order! That has nothing to do with the amendment.

The Hon. P. HOLLOWAY: First of all, let us deal with some of this nonsense. We are talking about amendments to a bill which affect people's liberty. One of the amendments that the Hon. Mr Wade was going to move had a maximum penalty of imprisonment for five years. In my speech earlier this week I set out how this all came about—

The Hon. S.G. WADE: I rise on a point of order in relation to relevance. The minister seems to be addressing an amendment that I have withdrawn; it is not before the committee. I cannot see how that is relevant to the clause we are currently considering and the amendment to that clause.

The CHAIRMAN: The minister is responding to your contribution.

The Hon. P. HOLLOWAY: The government has just been accused of arrogance during the debate, and we are told that it is dreadful that this government tries to block improving the bill. Well, just like the bill we dealt with earlier about gatecrashing, dealing legally with these sorts of issues is never easy, and I have great admiration for people such as my adviser, Mr Good, who has to come up with the wording to deal with complex social issues and put them into law when there is a range of things involved. In my speech I quite clearly set out the problems we had with additional amendments—in fact, we said that they were bad law and that the penalties were inappropriate because they did not fit the relevance of the crime. Any government would be negligent, and it would be arrogant of us, to ignore standard legal practice—or best practice, whatever you like to say—and support amendments that are completely inappropriate and that make a mockery of good drafting practice.

Members opposite can do what they like; I am not constraining them. How is the Hon. Ann Bressington constrained? How is the Hon. Stephen Wade constrained? They can move what they like. However, at the end of the day the government has a responsibility to the people of this state; we are the ones who are answerable. If a law comes out of this parliament with the government's imprimatur and people get caught up in unintended consequences they will blame us. That is fair enough; we accept that and we do not complain about it, even though it may not be our legislation. I do not believe it is arrogant that we, as a government, reserve the right to make the final determination about whether or not legislation is acceptable, and we make no apology for that. We are the ones who have to wear it. However, we are not in any way constraining people. If someone wants to come in here and argue a different point of view, and if someone wants to move amendments, we are quite happy for them to do so.

The amendments originally listed came about as I explained the other day. We had some reservations about them but, in the spirit of reaching some compromise, we put them up. As I said, we were concerned that they appeared to be not wanted, because there were fundamental changes that we believed would have put these legal principles and values at risk because of the penalties being disproportionate, and so forth. The amendments that are being moved by the Hon. Ann Bressington were government amendments originally. We will not oppose them, but we will certainly oppose any additional change beyond that.

The Hon. A.M. BRESSINGTON: In relation to this amendment, I will quote from the discussion paper on drink spiking from the Model Criminal Code Officers Committee, which states:

> MCCOC is of the opinion that the comprehensibility and accessibility of the law could be improved if States and Territories enacted its recommendations about serious non-fatal offences against the person. . . there is no warrant for just having the one 'drink spiking' offence. Drink spiking is a continuum of behaviours on a continuum of severity and that should be reflected in the offence structure applicable to the general behaviour, based on degrees of culpability, generally centred around the intention with which the act was done. . .

This between the hours of 9 to 5 makes no sense to anyone—as a matter of fact, not even, I might say, to some of the government's own members, who questioned the relevance of this without realising that these were the government's original amendments. So, this is not about me being obstructive: it is about making sure that the legislation is readable, understandable and enforceable.

The Hon. P. HOLLOWAY: I do not disagree with that at all. However, there will be different views on it and, at the end of the day, it is the courts that have to interpret this. What the Hon. Ann Bressington thinks is reasonable, desirable and good reform may be anathema to someone else—and we face that situation every day with every piece of legislation. Earlier today, we had legislation on gatecrashers, and the eminent QC, Mr Lawson, gave his views—and I always listen to his views. He believes that that legislation is unnecessary, and his is a legitimate legal viewpoint. We can all have these disagreements but, at the end of the day, we all have a responsibility to ensure that the legislation coming out of here is the best possible. Just because the honourable member believes it to be the case does not automatically make it so, any more than my beliefs are automatically correct.

The Hon. A.M. BRESSINGTON: I actually resent the fact that the Minister for Police is insinuating that this is based on my opinion: they are recommendations from the National Project on Drink Spiking and the Discussion Paper on Drink Spiking from the Model Criminal Code Officers Committee. In Western Australia, Tasmania and New South Wales there is no time limit when someone can be searched for carrying drugs that could be used for drink spiking. This has nothing to do with my opinion: it is about precedents in other states; it is about legislation in other states; and it is about recommendations made after credible research.

The Hon. P. HOLLOWAY: Just for the record, my advice is that no other state has legislation like we have here.

The Hon. D.G.E. HOOD: I rise to indicate Family First's support for the Hon. Ms Bressington's amendment. We also feel that the amendments do not go far enough, but we do believe that these are good amendments nonetheless and, for that reason, we support them.

The Hon. NICK XENOPHON: I indicate my support for this amendment, but I share the concerns of other honourable members, in particular the Hons Ann Bressington, Stephen Wade and Dennis Hood that the preferred option would have been to get rid of this time limit as set out in the original amendment proposed by the Hon. Ann Bressington. It does not make sense that you just have this arbitrary time limit. If someone is of a mind to do the wrong thing by people by spiking their drinks and if we are to have a law that provides that from 9 p.m. to 5 a.m. you should not be on these premises with these drugs, why have a time limit?

My prediction—and I hope I am wrong—is that in the next two or three years we may well be back in this place looking at amending that, because a terrible case might have occurred. I think the Hon. Ann Bressington mentioned cases such as Dianne Brimble. I still do not get it, and I regret that the government at the very least did not consider just removing this arbitrary time constraint when we were looking at conduct. It does not matter; if you are doing the wrong thing and undertaking a certain type of conduct at 9.01 p.m.—

An honourable member interjecting:

The Hon. NICK XENOPHON: If you have certain drugs on you at 8.59 p.m. you are not committing an offence, but if you have the same drugs on you on these licensed premises

at 9.01 p.m. it is an offence. It does not make sense to me that we have drawn such an arbitrary distinction.

The Hon. P. HOLLOWAY: I find it disappointing that, clearly, very few members seem to have listened to or read the comments I made the other day about why we put safeguards such as these in the bill. I referred to some of the complexities of this legislation because of the number of elderly people in the community who have drugs that would be a controlled substance under this act but who need to carry them as medication. You can pretend that that does not happen and that there is not an issue, but in the real world there is an issue. We just cannot avoid the fact that people who take a lot of medication—older people—may well carry a pill box with a number of pills as their daily dose and, surely, we do not want to catch people like that.

So, in general terms, the kinds of licences we are interested in go from 9 p.m. to 5 a.m. Of course it is true that anyone can have a drink spiked at any time, but it might happen at a private party, not on licensed premises. It comes back to the point I was making earlier. It is very difficult to draft these sorts of laws to cover everything but, at the same time, we do not want to catch people who legitimately have medications on them. As I indicated in my speech the other day on clause 1, there is a number of common medications such as puffers, inhalers and insulin—the types of medication people carry every day—which are dangerous. We do not want to create unnecessary loopholes through bad legislation. I indicated in my speech the other day that the safeguard of 9 p.m. to 5 a.m. is to try to remove the unintended impacts of this law on people who legitimately may have medications on them but otherwise come under this act.

The Hon. A.M. BRESSINGTON: That is exactly why a further amendment was put forward that dealt with the relevant drug issues—so that the government in the regulations could stipulate what drugs would most likely be used to spike drinks and therefore anyone out on the town at a rave party or at licensed premises, or wherever, would have no legal right to have these drugs on them, unless of course they are prescribed medication and it can be proved that they are prescribed. That recommendation is, yet again, in this report, and it names the drugs that could have been regulated as relevant drugs, quite clearly, and we could have added a couple of our own, as they have done in New South Wales where ketamine has been added to that list. So, that would make the whole 9 p.m. to 5 a.m. timeframe unnecessary.

As far as I know, you do not spike drinks with asthma puffers or indigestion medication. It is ridiculous and confusing, yet this could have been made so easy. We could have followed the model of other states and taken on board the recommendations of these studies, the national drug strategy and discussion paper, and put together a piece of legislation that has teeth.

The Hon. P. HOLLOWAY: Let me first of all make the point that people who are subject to panic attacks carry benzodiazepines which, of course, is the very drug that might be used, because it includes Rohypnol, which is one that is commonly recognised. It is true that the report talks about drugs like that but, again, I point out that nowhere else is there legislation like the particular clauses that are being moved and, indeed, the report itself does not recommend that we introduce legislation of this type.

If we are going to do it, fair enough, it is moved. The government will not oppose it because originally they were our amendments, but it should be understood that the wording of this legislation does not come out of other states; it does not come out of reports; it is new and the government was trying to ensure that it had as few complications as possible.

It is just not possible to think about every case when we are dealing with medications that have multiple uses. It is a bit like dynamite—it is good and bad. Some of these drugs are very beneficial for people, but they are also highly dangerous in the wrong hands. If we are going to have legislation that deals with it, we have to be very careful and have the right sort of safeguards. Surely everyone in this parliament wants to stop drink spiking. There should be universal agreement that it is a curse and we want to get rid of it but, at the same time, we do not want to unnecessarily catch people who, for legitimate reasons, carry medication such as benzodiazepines and which could potentially be used for that purpose.

The Hon. A.M. BRESSINGTON: If they have a prescription and it has a label on it which has their name on it and they can prove lawful reason for being in possession of a benzodiazepine, there is no problem. If they have Rohypnol that is not prescribed for them, if they have midazolam that is not prescribed for them and they cannot prove lawful reason for it being in their possession, it is an offence. Whether it is between 9 o'clock and 5 o'clock does not matter. If we had relevant drugs determined by the regulations there could be no confusion.

Amendment carried.

The Hon. A.M. BRESSINGTON: I move:

Page 3, after line 1—Insert:

controlled drug has the same meaning as in the Controlled Substances Act 1984;

Amendment carried.

The Hon. A.M. BRESSINGTON: I move:

Page 3, after line 3—Insert:

licensed premises means—

(a) licensed premises within the meaning of the Liquor Licensing Act 1997, other than premises in respect of which only a restaurant licence or residential licence is in force; and

(b) the premises defined in the casino licence, within the meaning of the Casino Act 1997, as the premises to which the licence relates;

prescribed label means a label required by law to be affixed to a prescription drug or controlled drug and specifying—

(a) the name (or business name) of the person by whom the drug is sold or supplied; and

(b) the name of the person for whose use the drug is sold or supplied; and

(c) the trade name or the approved name of the drug or, if it does not have either a trade or approved name, its ingredients;

prescription drug has the same meaning as in the Controlled Substances Act 1984.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

E. COLI OUTBREAK

The Hon. G.E. GAGO (Minister for Environment and Conservation): I lay on the table a ministerial statement on the E. Coli outbreak made by the Minister for Health in another place.

LAKE BONNEY

The Hon. G.E. GAGO (Minister for Environment and Conservation): I lay on the table a ministerial statement on Lake Bonney made by the Minister for the River Murray in another place.

ADJOURNMENT

At 4 p.m. the council adjourned until Tuesday 20 February at 2.15 p.m.