

Schedule 2—Statute law revision amendment of Mining Act 1971

This schedule contains various statute law revision amendments.

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

### **ANANGU PITJANTJATJARA YANKUNYTJATJARA LAND RIGHTS (MINTABIE) AMENDMENT BILL**

Adjourned debate on second reading.

(Continued from 1 December 2009. Page 4148.)

**The Hon. R.L. BROKENSHIRE (11:16):** I rise to support the second reading of this bill. I will begin by indicating that I am a member of the Aboriginal Lands Parliamentary Standing Committee. Through my role with that committee and other contacts, I indicate that the common complaint I hear in relation to the lands is the problem of substance abuse. In fact, this problem discourages the community. In relation to the substance abuse problems, many people I have spoken to in the lands have alleged that the illicit drugs are primarily sourced from the Mintabie area, and I know that the residents of Mintabie take issue with this allegation. However, according to some of the sources I have spoken to, on face value, the evidence is that Mintabie is a strong source for illicit drugs, and that is the reason the government is looking to move this amendment.

It is therefore appropriate that the government has introduced legislation to resolve the impasse that has developed between the Mintabie Miners Progress Association and the APY council, but legislation will never be a replacement for resources on the ground, and I will come to that later in my contribution.

However, I will first direct my comments to the fact that legislation is the enabler for action on the ground. I am told that both the miners association and the APY council have accepted the bill as it currently stands as a compromise. I put on the public record that, whilst we have received that advice from the government, my office has received no material to the contrary.

I commend the miners association for getting in touch with me earlier and proactively in November last year—that association was very proactive, frankly. It is helpful for Independent members on the cross-benches for representative groups to be proactive, as the miners association has been, and we have paid attention to the concerns expressed by that association.

I also believe there is scope for a different arrangement; for instance, that alcohol restrictions be relaxed if some trust can be developed between the two bodies. As I understand it—and the minister can correct me if I am wrong—from my understanding of the bill, it will effectively prohibit people living in Mintabie from consuming alcohol in their own home, which is a very unusual step. I acknowledge that some people living in Mintabie would see legislation prohibiting them from drinking in their own homes as an extreme measure. Unfortunately, I believe the present circumstances are so grave in relation to a number of issues that have been put to me when I have visited the area and the way in which the government has put this bill forward that, in the first instance, we are in a situation where we need to support the legislation.

I also want to put on the record that I believe that it needs to be redressed and reviewed down the track when the real concerns and issues around substance abuse and other issues that are really damaging a lot of the communities in the APY lands have been hopefully corrected, in the interests of equality and democracy for those people.

I will not labour for long on our views in relation to this bill, but it is a remarkable situation where there are four general stores in Mintabie servicing a local population of about 100 or so residents. Of course, the reality is that the APY residents make up the majority of the clientele of these stores, and there is considerable controversy over the book-up arrangements that have been developed for the clientele of those stores.

We have also heard allegations from a number of people that some of the Aboriginal community provide their plastic cards and that they also buy cars there at up to three times the true value of the car, and that they do not have any real control over how much money comes out of their plastic card after their pension money goes in, and so on. So, there are real issues right across the spectrum when you look at what is happening in that area.

Family First is looking to the Office of Consumer and Business Affairs to become much more active when it comes to acting on behalf of the APY consumers who are indebted to these stores. Frankly, the complexity of these matters is no excuse for being inactive. Family First

supports the development of communities, and we see an opportunity for strong communities in the APY lands through strengthening the local stores in the APY townships.

It is strange that so many of the APY residents shop at Mintabie when there are general stores that could be much more viable if they were supported by their local community. A lot of those stores are really well run, and a lot of effort goes into social support by the managers of those stores, yet they are not always supported by the local community.

It is heartening to hear that there are plans for local Centrelink service delivery through the PY Ku network, because it is very difficult on the ground for APY residents to interact with Centrelink at the moment. The collocation of those facilities at the stores could be something worth exploring so that staff could be employed part time, if need be, on government service delivery, with the rest of their time being spent working in the store.

The scourge of cannabis is very concerning. It has been suggested that, after the introduction of Opal fuel, substance abuse has shifted from petrol sniffing to cannabis. I am hearing stories of community and family breakdown over cannabis and also other illicit drugs in the lands, and this simply has to be stopped.

That brings me to my next point, and that is policing. This is a very important component of policy on the APY lands. It has been disappointing that for several years now we have seen low police deployment on the lands. I know there are logistical and recruitments issues but, clearly, there needs to be a more concerted effort to get more officers into the lands and possibly even more into Marla.

Family First also appreciates the difficulties presented by apprehending people for dealing drugs on the lands, and we understand the desirability of shutting off a supply route by putting tighter controls over Mintabie. This will put pressure on the tri-state law enforcement initiative, which is potentially a good initiative because ultimately shutting down one supply route for cannabis might simply make the Western Australian or Northern Territory routes more attractive, if not simply through other avenues around Mintabie. I would never say that all drug trafficking occurs through Mintabie, but lots of issues are allegedly arising from the Mintabie area.

All of that will come down to a strong police presence on the lands and along the highway from Coober Pedy through to Alice Springs, and the new permit laws for Mintabie under this bill will give police the right to remove people from Mintabie if they do not have a lawful excuse or licence for being there. The government ought to give consideration to a police presence at Mintabie, which I know is not far from Marla. However, it seems that lots of the locals on the lands, and even in Mintabie, are well aware of illegal activities that occur in Mintabie, and maybe if they had a resident police officer right in Mintabie that might assist policing efforts out of Marla—even if it was only a trial for six months to a year to assist with the transition into this new licensing arrangement we are talking about here now—and send a message to any rogues operating out of there that the government is watching and that it is time they shifted out if their intentions in Mintabie are not noble.

In a briefing it was put to us that a licensing station for permits be established at Marla police station, so that even the casual visitor can arrive there and seek a permit to go through the lands. The Miners Association said in November last year that they would like Mintabie to perform that function as a gateway to the lands. This bill does not address that. These are questions of policy, but I hope that the government can consider the options put before it. There is some attraction to the Marla option as it is certain to involve police, again as a deterrent to those who come there with bad intentions, but it is relatively convenient being right on the Stuart Highway. However, Mintabie has some capacity for this function, so it would be worth considering.

I finish by dealing with the question of take-home liquor, which I touched on earlier. It has been put to me that this has been part of the deal breaker for the opposition. I am sympathetic to the law-abiding people of Mintabie who have no bad intentions with their liquor consumption and wish, like any other South Australian, to be able to get home, particularly in that hot region, have a stubby and relax in an armchair. It is a shame that we have come to a situation where the liberties of those people need to be surrendered due to the misbehaviour of a few, and from that viewpoint I have sympathy. However, we take note that the entirety of the APY lands is a dry zone. It is not always observed and policed, but it is a dry zone and the APY hold freehold over all the land, including Mintabie, for which Mintabie residents have a lease.

Those residents are, with some assistance from the government, largely at Mintabie at the pleasure, in a sense, of the APY community. I am encouraged that the APY have indicated that

they could see a relaxation of the alcohol policy if there were an improvement in the situation, and I urge all parties to work on this issue. I ask the government for the next parliamentary term to re-evaluate this matter as soon as practicable to see whether or not there could be further support for those residents with these consequences.

Surely it would be a shame if in future alcohol was coming onto the lands from a different location, yet Mintabie is still blamed. Surely if that is the argument, disclosure of sales records from the liquor outlets, some police work and consultation with Mintabie licence holders will assist in getting to the bottom of that. Having visited there several times and stayed in the hotel/motel at Mintabie, I have noticed how careful the licensees are in ensuring that anybody purchasing liquor there signs the required documentation, and that needs to be pursued and continued throughout all liquor outlets in that region to assist in overcoming this serious alcohol problem.

To summarise on take-home liquor, I support these aspects of the bill at this point in the earnest hope that the APY will look at reviewing that matter, and that it will be a temporary measure to stem what no-one can deny is a serious problem on the lands concerning which the government has had to take this action. I have talked to the Minister about this matter and he has looked at it very carefully. It has been a tough decision for him also, but in this instance we need to support the minister and the government.

Family First has been very critical of the failures of the Amata substance abuse facility because, whilst a couple of million dollars has been spent on capital infrastructure there, only a handful of local residents have been put in there for any form of detoxification and they have been in there only for a couple of days. We found that builders were using that facility more so than it was being used to detox people with serious alcohol and substance abuse problems. Part of the problem is that we have state and federal governments undertaking capital works in the area and not providing human resource and general support to then address the problem. We are critical of the failure of the federal and state governments to deliver proper services on the lands, and we will watch the bill's progress and implementation in future as part of our advocacy for constituents on the land generally and, in particular in this instance, in Mintabie. We will support the government with this bill.

**The Hon. A. BRESSINGTON (11:29):** I rise briefly to indicate my support also for this bill and to congratulate the government and people of the APY lands on being able to come to an arrangement that is in the best interests—God forbid we should use that term—of the people of the APY lands. I understand, as the Hon. Robert Brokenshire just said, that there is concern about the civil liberties of the residents of Mintabie in not being able to consume alcohol in their own home. However, there is the bigger picture here. The APY lands have been a struggle for every government to try to get people back on track, living functional lives and trying to reduce the level of alcohol and drugs that is occurring there. I think that, in the general scheme of things, the people of Mintabie have to understand that they are on Aboriginal land; they are there by the grace of the Aboriginal people. They have endured the kind of dysfunction that has been going on now for some 20 years, I believe, waiting for this lease to come up for renegotiation. I am pleased to see that people in the APY are actually putting their foot down, taking a stand on this and insisting on an alcohol-free zone.

I have received information that some of those businesses in Mintabie are holding the cash cards of the Aboriginal people and having access to the PINs of those accounts. That is, basically not enough money for food for the week. The people there can book it up and it seems there is an ongoing situation of being indebted to some of these shop owners.

I also have information about second-hand car dealers who are also selling cars that are not roadworthy, that have bald tyres. An account from one person was that they bought a car for X amount of dollars, drove 500 metres up the road, and the car died, and there was no warranty. All of these sorts of things that are going on will now, I believe, start to be handled for the Aboriginal people there.

I am surprised that the opposition is opposing this bill. It is their right. I am not critical: I am just surprised. How many times have we had debates, questions and whatever about the APY lands in this council? Here we now have a situation where these people are prepared to take a level of responsibility and make determinations and decisions about their future. For me, they have made sensible and tough decisions in the best interests of their own people.

**The Hon. R.D. LAWSON (11:33):** I rise to outline the opposition's position in relation to this bill. It was outlined extensively in another place by the shadow minister for Aboriginal affairs,

Duncan McFetridge, who has a very good knowledge of activities on the lands and has a great interest in it. He knows well many of the personnel involved. The Hon. Graham Gunn, who made an extensive contribution—perhaps his last in his long and distinguished term of office in this parliament—has great experience and historical knowledge, not only of the Aboriginal land rights act introduced by the Tonkin government but also the history of Mintabie. I commend their contributions and I certainly do not intend to repeat all they said.

This is quite a complex bill. It will amend the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act, and it also amends the opal mining act. It varies certain bylaws made under the Pitjantjatjara land rights legislation—for example, the control of liquor, gambling and petrol bylaws. So, these bylaws are being amended by legislation of this parliament.

An important document in relation to this matter is the proposed lease between APY, the Minister for Mineral Resources Development, the Minister for Aboriginal Affairs and Reconciliation, the Mintabie Miners Progress Association and the Wallatina Aboriginal Corporation. That lease is important because it was the expiration in 2002 of an earlier lease that has given rise to the necessity for this legislation.

I want to acknowledge at the outset that the Liberal Party is proud of its record in relation to Aboriginal affairs, and we will support legislation which we believe will advance not only the Aboriginal community but the whole South Australian community. We respect the decisions of the APY executive and of its present chairperson, Bernard Singer. Mr Singer has been a breath of fresh air on the lands. Certain of his predecessors have not fulfilled the functions of this important post with the degree of diligence and common sense of Mr Singer. I add that Mr Singer is a person who, when himself charged with criminal offences, was the subject of a vicious attack by members of this government, particularly the Attorney-General, who, on that occasion, felt no constraint at all about commenting on matters before courts of law and put a great deal of pressure on Mr Singer in the support of other Aboriginal interests on the lands.

We understand that many of the provisions we find unacceptable in this legislation are supported by the APY executive and, therefore, we do not demur without considerable hesitation. The trouble with this legislation, as we see it, is that it goes a step too far. Legislation of this kind has to strike a balance between the interests of those people who have lived at Mintabie for a very long time, have not broken laws, who want to continue to live and have businesses in Mintabie, and they have legitimate expectations which ought be met. At the same time, we acknowledge that the people on the lands and their elected executive also have interests which must be respected, and striking the appropriate balance is important.

However, this legislation, in a couple of minor respects, does not strike the balance correctly. We regret to say that, in our belief, this legislation is relying on a paternalistic view of Aboriginal affairs which we thought, in the current climate, had been abandoned. We see that the Northern Territory government, the commonwealth government and our own state government are making considerable changes in the way things are done on the APY lands and in Aboriginal communities across the country, yet here we have a return to the philosophy—which is best characterised as a sort of East German philosophy—of putting a wall around the problem and that will solve it.

The experience is that putting a wall around problems of this kind does not solve them: it leads to displacement of problems. The road to hell is paved with good intentions. We understand that there are good intentions on the APY executive in relation to this legislation but we are sure that their solutions will not have the desired effect of improving conditions on the lands. It will simply displace problems which exist already.

If it be the case that Mintabie is the source of so much of the evil on the lands, why has the police presence, which has been put on the lands, not been focused on Mintabie, with all the resources of government being devoted to stamping out this noxious place—if you can believe the detractors of Mintabie?

If people in Mintabie are doing the wrong thing, not only legal things but ripping off Anangu with illegal or unfair trade practices, then there are solutions other than simply seeking to move them on to another corner, moving them on down to Coober Pedy, up to Marla or Alice Springs, Curtin Springs or across the border to Western Australia.

Petrol sniffing, substance abuse generally and cannabis supply to the lands is an ongoing issue. It is interesting to note that in September 2002 the then South Australian coroner published the results of inquests into the death of a number of persons who had been affected by protracted

petrol sniffing. In a series of recommendations, the then coroner—a magistrate who was very experienced in affairs on the lands—suggested a number of things, some of which have been adopted. However, the principal one, the establishment of a secure facility on the lands to address petrol sniffing and other substance abuse, was not adopted. We also note that the one recommendation of the Mullighan commission of inquiry in relation to abuse on the lands—that there be a secure facility on the lands for criminal justice purposes—has not been adopted by this government.

The issue that means that this legislation is a bridge too far for us is that it imposes undue restrictions on those existing residents of Marla who will no longer be able to enjoy a right enjoyed by every other South Australian, even where dry zones apply, to consume alcohol in their own house. We believe that is unfair. We believe that the proposal to restrict businesses at Mintabie is wrong, improper and unfair—for example, to ban the sale of a second-hand car in Mintabie because there are some dodgy dealers there. There are dodgy dealers all around metropolitan Adelaide. What you do is close them down by exercising the powers that already exist in relation to the sale of second-hand vehicles. Having a blanket ban on the sale of dodgy cars in Mintabie is not going to make any difference at all: it will simply move the dealers off to Coober Pedy or some other location.

Many Anangu buy vehicles in metropolitan Adelaide. There is one particular dealer who specialises in selling dodgy vehicles to Aboriginal people. The way to address that is not to simply say, 'Well, you can't have one of those people operating in Mintabie', and banning the sale of all second-hand vehicles there.

It is also proposed, by the lease conditions, to limit the way in which businesses can operate in Mintabie. It is true that one of the problems on the lands for years has been the fact that key cards, issued to social service recipients, are held by businesses for credit to be extended. That has been going on for years on the lands. Many of the stores operated by communities were engaged in this particular practice. It simply meets a need of Aboriginal people. They want their money. They want to borrow money like anybody else in the community but here it is decided that that will not happen in Mintabie; you will have to go further to hock your key card to get credit. We simply do not believe that will work.

We do not believe that these measures will have the desired effect of improving conditions: they will simply move the problem elsewhere. These provisions, well intentioned as they are, will ultimately be ineffective. Yet another measure that the APY executive and many people are trying to encourage is that the stores only stock nutritious food rather than the fast food that Aboriginal people actually like buying. This highly paternalistic view that you can prevent people buying Coke and chips and get them to—

*The Hon. A. Bressington interjecting:*

**The Hon. R.D. LAWSON:** Indeed. The Hon. Ann Bressington says that that leads to obesity and diabetes—sure, and the way to overcome that is by better education and better facilities; it is not simply by banning people from running a business. We know that Aboriginal people go to the roadhouses along the Stuart Highway and buy these goods if that is what they want to do. It is for all those reasons that we think this package of measures should not be supported. We note that the Mintabie Miners Progress Association has made representations and that it has been involved in the negotiations, as the Hon. Robert Brokenshire said, and made its position clear.

The final restriction we regard as over the top is the one that relates to criminal history checks for Mintabie residents if they are Anangu, so it is a discriminatory provision. Provisions of this kind do not apply in other places, and we think it is unnecessary and, ultimately, counterproductive.

So, it is for these reasons—and with great reluctance, I might say—that we are unable to support the passage of this bill. We note that it will be supported by the government and by crossbenchers and other members, so it will undoubtedly pass, and that is not a matter for great teeth-gnashing on our part. However, we think it is important to make statements of principle and to take a principled position.

**The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:47):** I thank the Hon. Mr Brokenshire and the Hon. Ann Bressington for their indication of support for the bill, and I thank the Hon. Robert Lawson for his contribution.

I am pleased that we have sufficient support for this bill to get it through, although I am a little disappointed by the opposition's attitude towards it. We know that the APY lands were handed back to the indigenous owners in the early 1980s under the hand of the Tonkin government. If opposition members do not believe that the indigenous people of the APY lands should have control of the land, why did they give it back to them in the first place?

It seems to me a little odd that members opposite say that indigenous people should have rights over their land but not be able to determine the conditions of that lease. I am sure that, if it were their constituents on pastoral leases or other leases, they would assert the right of the owners of freehold land or lessees to set the conditions that operate on the land.

I have had some dealings with Mintabie over the years, both as Minister for Mineral Resources Development and during the period I was minister for police. In fact, I met with a number of residents there in the local hotel, as it turned out, with the police commissioner and listened to some of the issues raised by local people. There is no doubt that there are issues on the lands, and they have been well canvassed during this debate. However, what is important is that, rather than rolling over the leases, which we have been doing since 2002, we come to some finalisation.

I will make some personal comments on the bill and pay tribute to the leadership of the APY lands. I know they have had their critics but, over the past couple of years as Minister for Mineral Resources Development, I have found the APY executive and other leaders in that community to be very keen to see progress in their communities. I think that they have been very reasonable and that they are looking outwards from the land.

For many years, there was an attitude within the APY area of closing the lands off to outsiders, but I think that is going and that the community increasingly realise that they have to be part of the modern world. I have been pleasantly surprised by the very progressive attitude the APY lands executive has taken to a number of issues in my dealings with them over mining access to their region, for example.

The community are really looking to progress, and part of that is the recognition that the lands, including the lands at Mintabie, belong to the APY executive, and I think that the executive has been more than reasonable in its negotiations on this matter. I think it is unfortunate that the opposition, having handed back that land over 28 years ago, now appears to be attempting to put some qualifications onto what that act really meant. I commend the bill to the council.

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

### **BAHA'I COMMUNITY**

Adjourned debate on motion of Hon. D.N. Winderlich:

That this council—

1. Notes with serious concern that—
  - (a) Seven Baha'i community members in Iran have been charged with spying, insulting religious sanctities and propaganda against the Islamic Republic, and that these charges could attract the death penalty;
  - (b) The Baha'i detainees have not been given any access to legal representation and have not been subject to due legal process;
2. Calls on Iran to respect rights to freedom of religion and the peaceful exercise of freedom of expression and association, in accordance with international human rights conventions; and
3. Calls on Iran to release the seven Baha'i detainees without delay.

(Continued from 18 November 2009. Page 3969.)

**The Hon. D.W. RIDGWAY (Leader of the Opposition) (11:54):** I move:

Paragraph 1(a)—Insert the word 'reportedly' before the words 'charged with spying'

Paragraph 1(b)—Leave out paragraph 1(b) and insert the following—

'Baha'i detainees are reported to have not been given any access to legal representation and concerns expressed about due legal process;'

I rise on behalf of the opposition to support the motion moved by the Hon. D.N. Winderlich that the council notes serious concerns about the Baha'i community and to move this amendment. As members would be aware, it is always the opposition's practice to contact our federal colleagues