LEGISLATIVE COUNCIL

Thursday 18 October 2012

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 14:18 and read prayers.

STATUTES AMENDMENT (NATIONAL ENERGY RETAIL LAW IMPLEMENTATION) BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:19): By leave, I move:

That the sitting of the Legislative Council be not suspended during the continuation of the conference with the House of Assembly on the bill.

Motion carried.

STATUTES AMENDMENT AND REPEAL (TAFE SA CONSEQUENTIAL PROVISIONS) BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:19): By leave, I move:

That the sitting of the Legislative Council be not suspended during the continuation of the conference with the House of Assembly on the bill.

Motion carried.

GRAFFITI CONTROL (MISCELLANEOUS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:19): By leave, I move:

That the sitting of the Legislative Council be not suspended during the continuation of the conference with the House of Assembly on the bill.

Motion carried.

PAPERS

The following papers were laid on the table:

By the President—

South Australian Ombudsman—Report, 2011-12
South Australian Ombudsman—Final Report on the District Council of Yorke Peninsula

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

Reports—2011-12
- Department of Treasury and Finance
- Equal Opportunity
- WorkCover Ombudsman SA
- WorkCover SA

Reports—2012
- Listening and Surveillance Devices Act 1972
- South Australian Classification Council

South Australian Electoral Report—By-Elections 11 February 2011, Port Adelaide and Ramsay

Review of the Execution of Powers under the Serious and Organised Crime (Control) Act 2008 exercised during the period 1 July 2011 to 30 June 2012

WorkCover SA Financial Statements, 2011-12

By the Minister for Industrial Relations (Hon. R.P. Wortley)—

Health and Community Services Complaints Commissioner—Report, 2011-12

By the Minister for Communities and Social Inclusion (Hon. I.K. Hunter)—

Surveyors Board SA—Report, 2012

FORESTRYSA

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:22): I table a ministerial statement relating to the sale of ForestrySA's forward rotations made earlier today in another place by my colleague the Treasurer (Hon. Jack Snelling).

WIND FARMS

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:22): I table a copy of a ministerial statement relating to Statewide Wind Farms DPA made earlier today in another place by my colleague the Hon. John Rau.

VICTIMS OF CRIME FUND

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:22): I lay upon the table a ministerial statement relating to victims of crime, alleged fraud, made earlier today in another place by my colleague the Hon. Jennifer Rankine MP.

QUESTION TIME

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:25): I seek leave to make a brief explanation before asking the Minister for Tourism questions about support for South Australian companies.

Leave granted.

The Hon. D.W. RIDGWAY: In February, the minister approved the sacking of the Tourism Commission's CEO, Mr Ian Darbyshire. Mr Darbyshire was summonsed to the office of Jim Hallion, the head of the Department of the Premier and Cabinet, on 2 March and told that his contract would be terminated. That same day, after weeks of duplicitously denying that Mr Darbyshire would be knifed, the tourism minister announced the new CEO, the commission's chair, Jane Jeffreys. Ms Jeffreys would be—and, in fact, remains—both chief executive and chair.

As boss of the board, Ms Jeffreys has overall responsibility for the commission's strategic directions, its goals, its operational performance, industry partnerships and corporate governance. In other words, as the South Australian Tourism Commission chair, Jane Jeffreys has to monitor and judge the performance of the chief executive, who is Jane Jeffreys. This intolerable situation has been tolerated for eight incredible months, which is not credible.

Now, finally, at last the minister is looking for a new Tourism Commission CEO. I have learnt that applications for the position will be advertised in *The Advertiser* and *The Australian* newspapers on Saturday. The pay is not bad: well over $300,000 per year, which is more than you get, Mr President, despite your extraordinary talents and capacity for hard work. It is more than the minister herself gets. It demands an understanding not just of the tourism industry but of South Australia's tourism industry. Just yesterday, the Tourism Commission launched the latest phase of its Best Backyard campaign to encourage South Australians to holiday in their home state, with a renewed focus on why locals should holiday at home.

So, what is the employment agency taking care of this recruitment process and the search for the right applicant? It is a Sydney firm called Watermark, a company with its offices in downtown George Street—closer to Circular Quay than to Glenelg, closer to Garden Island than to Kangaroo Island, closer to the Hunter Valley than to McLaren Vale, closer to the Blue Mountains than to the Flinders Ranges, closer to the Opera House than to the Festival Centre and, in fact, closer to Brisbane than to Adelaide—and it is going to take care of choosing our South Australian Tourism Commission chief executive. My questions are:

1. Why did the government not insist on the appointment of a South Australian recruitment firm?

2. Why is it good enough for South Australians to holiday in South Australia but it is not good enough for the commission to search for a new CEO in South Australia?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:28): Indeed, the honourable member knows that the day-to-day administration matters of the South Australian Tourism Commission are operational matters; it is an independent body. The commission makes the decisions on how it operates and administers in terms of employment and other such practices. They are operational matters.

However, I can shine some light on this matter. My understanding is that the chair, Ms Jane Jeffreys, and the board decided that they would put out an expression of interest for a recruitment firm, with the idea of trying to ensure that they get the best possible firm to assist them in the selection for this very important position. So, they ran an expression of interest, and they did indeed decide on a Sydney-based firm. I have been advised that they were, from that process, the best firm that put in an expression of interest.

There was, I understand, a South Australian firm that did also put in an expression of interest, but this Sydney-based firm competed more favourably. My understanding, in terms of the advice I have received, is that one of the particular advantages that this firm had was that it had some of the best national and international networks for selection. Obviously, what we are looking for is the best talent possible, and we obviously want to look as broadly as possible.

I think that if SATC had selected a South Australian company and selected a South Australian for the position, I could guarantee you that, in the next question time in this place, the Hon. David Ridgway would be jumping to his feet and demanding to know why we are so parochial and why we had not looked further abroad. He would be here in this place criticising us for being too parochial. I could guarantee you that, Mr President; I could absolutely guarantee you that that is what he would be doing.

As I said, these are decisions of the board; they are made independently of me. I don't have input into those decisions; they are operational decisions. As I said, they are an organisation that runs relatively independently of the government, and I don't interfere with those operational matters. The board makes those decisions. They did advise me of the outcome of that, so I am aware of that, and they did advise me of the reasons why that Sydney-based firm competed more favourably than any of the other applicants in relation to the consultancy firm.

I could guarantee you, Mr President, that it would not matter what process they used, what outcome they did or what due diligence was done, the Hon. David Ridgway would be jumping to his feet and whingeing and whining, complaining and criticising the South Australian Tourism Commission, as he always does, because that is his nature. He likes to knock and pull down and destroy and criticise. He does not like to talk up this state, and he does not like to talk up our organisations which are pivotal to the prosperity and long-term financial sustainability of this state.

The PRESIDENT: A supplementary question from the Hon. Mr Lucas.

TOURISM COMMISSION

The Hon. R.I. LUCAS (14:32): Given the minister's claim that the removal of the last CEO was due to the need to meet budget savings and to establish a part-time CEO position, how is the minister justifying meeting budget savings and a full-time position at the salary outlined by the Leader of the Opposition?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:33): Who said it was going to be a full-time position?

TOURISM COMMISSION

The Hon. R.I. LUCAS (14:33): A supplementary question arising out of the answer: has the minister been advised that the $300,000 salary is for a part-time position?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:33): I have not been advised that the position is either full-time or part-time; that would be up to negotiation. The outcome of that process—

Members interjecting:

The Hon. G.E. GAGO: The outcome of that process will be determined according to the applicant that is selected at the time, the requirements for the job and the hours that they are prepared to commit to that. Those are matters for negotiation. Whether it is a full-time or part-time job, I am not aware that the position is being advertised as a full-time position. I am not aware that it is, so that is why I said: who said it is a full-time position?

TOURISM COMMISSION

The Hon. R.I. LUCAS (14:34): I have a supplementary question arising out of the minister's answer. Mr President, given the minister is saying she has no knowledge as to whether the $300,000 is for a part-time position of 2½ days a week. Does she support—

The Hon. I.K. HUNTER: Point of order, Mr President. This so-called supplementary in no way arises out of the original answer. It is actually a supplementary on a supplementary.

The PRESIDENT: Thank you for that. I have you on the call list, Hon. Mr Lucas.

The Hon. R.I. LUCAS: A supplementary question arising out of the original answer, Mr President.

The PRESIDENT: Okay, you will give it another go?

The Hon. R.I. LUCAS: Does the minister support the payment of $300,000 for a 2½ day a week part-time position, if that is the decision of the Tourism Commission?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:35): These are matters for the board. My understanding is that that figure—and I do not have the details of this at all—would be the figure if a full-time position was to be selected. My understanding is (and again I am happy to check the detail) is that the position that is being advertised is not a full-time position. My understanding is that, if the position is a full-time position, that would be the pay associated with it, or part thereof.

The thing that is important and underlying this is that the initial decisions around the change of the chief executive position were made at the time, based on savings that had to be made and on structural issues at the time as the organisation was too top heavy and needed flattening. There were a range of issues at the time and they were the reasons a decision was made to pay out the chief executive at the time and replace him. A review was then requested of the new chief executive, who was employed part-time on an interim basis. We were always committed to replacing the chief executive.

The Hon. R.I. Lucas: Gail, cut your losses now. Just sit down—cut your losses. I won't ask you any more supplementaries.

The Hon. G.E. GAGO: The truth hurts. They do not like to listen to the truth.

The PRESIDENT: Don't worry about them: you're telling me.

The Hon. G.E. GAGO: This is some reality checking. At the time I said that the part-time position would be interim only and that it would be replaced somewhere by the end of the year, early next year, and that is exactly what we are doing. That position will be replaced. I have never said whether it would be replaced by a part-time position or a full-time position—ever. I just said at the time that it would be replaced. A review has been conducted by the chief executive, and that is still being discussed with me and has not been finalised.

Those matters have been put in place, they are about to be completed and a decision will be made whether that position needs to be filled with a full-time or part-time position. I have never said that it will necessarily be replaced with a full-time position. Honourable members come into this place and make up things as they go along, and the very competent board will make a decision. It has hired a recruitment selection company and it will go through a process of selecting the most suitable person to fill the position.

The PRESIDENT: You have a question Mr Lucas?

APY LANDS

The Hon. R.I. LUCAS (14:39): No more supplementaries after that one! I seek leave to make explanation prior to directing a question to the Minister for Communities and Social Inclusion on the APY lands.

Leave granted.

The Hon. R.I. LUCAS: Yesterday I outlined a letter written in April of this year to the minister from Mr Willy Pompey, a senior Aboriginal leader from the Aboriginal lands who had waited six months for the minister because the minister had refused to reply. It would appear from the minister's answers in parliament yesterday that he obviously does not think Mr Pompey is important enough to merit receiving a response from him as minister.

I am informed that, due to the anger and frustration amongst the Aboriginal community on the APY lands at not receiving a reply from the minister for six months, on 8 October this year Mr Pompey wrote another letter, this time not to the minister because the minister was not replying, but to a senior officer within the minister's department who I will not name at this stage. In that letter Mr Pompey states:

> The truth is that it is the non-Anangu who are eating up the vast majority of the money. We see them fly in-fly out. We see them stay in motels and even resorts when they go to Uluru. The high-up government people who come to give us workshops to educate us don't stay in the same basic accommodation as my Centrelink paid people do. No, because they believe they are better than us and so deserve better than us and so they are provided for better than us.

Further on he states:

> We have many service providers on the Lands. They have come here with big government contracts to 'help' Anangu. These people make lots and lots of money to do a job. What is their job? To train Anangu so that they can be full-time employed and support their families. I think they call this Closing the Gap and Aboriginal self-determination??? The problem is that the non-Anangu are employed full-time and the Anangu work for Centrelink money. Even worse, I am seeing our young people being used to sign in each day to be 'trained' and then they can go home for the day without any training. As long as the service providers have them on their books they are happy as they get more funding.
>
> Why should my people feel intimidated by members of non-Anangu staff from DCSI for meagre Centrelink payments? Your staff have disrespected us many many times. You are not listening nor are you caring. Some staff of DCSI have had entry permits taken from them, yet they still come onto our property. How would you feel if people came onto your property and would not leave when you asked them? I am sure you would take legal action. These staff members have seriously offended Anangu and are not permitted to enter our Lands. Heed this warning.

And then finally:

> I intend making sure that this degrading state of affairs is made known to all Australians. I will go to politicians, the media, international human rights, anyone who will listen to tell the story of the ongoing destruction of my people. Other communities have their own similar stories that they are telling.

My questions to the minister are:

1. Will he ensure a thorough investigation of the concerns outlined in this letter of 8 October this year to a senior member of the department reporting to the minister and, in particular, will he have investigated the particular complaint that young Aboriginal people are being used to sign in each day to be trained but then go home for the day without any training?

2. Is the minister concerned that a senior Aboriginal leader such as Mr Pompey believes that departmental staff in his department have disrespected Aboriginal leaders such as himself and others, and does he concede that the minister's disrespect to Aboriginal leaders in not responding or being prepared to respond to Mr Pompey's letter from six months ago has set a sad and unfortunate example to the staff in his own department, which they are now evidently following?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:43): It is a very sad day when we stand here and listen to the fabrications made by the honourable member in his brief explanation. I reject the premises, I reject the brief explanation, I reject also the incorrect information that he has read into the record. My department and my staff work very closely with Anangu on the APY lands. They seek to work in partnership with the community and they will continue to do so, respecting those members of the community.

SNAPPER FISHERY

The Hon. J.S.L. DAWKINS (14:44): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding the changes to the statewide snapper annual spawning closure.

Leave granted.

The Hon. J.S.L. DAWKINS: As part of the work undertaken by PIRSA Fisheries to introduce a new management arrangement to effectively control the level of fishing effort on snapper stocks, changes have been made that will impact on charter boat fishers. These effects will be experienced by charter boat fishers throughout the duration of the newly extended snapper fishing closure. This situation was brought to the attention of the member for Goyder in another place by charter boat operators who feel they will be adversely affected by these new limits.

While charter boat fishers will be permitted to operate during the 15 day extension period (30 November to 15 December this year), reduced individual and boat limits have been introduced. It would appear that there is an inconsistency between the reduced individual and boat limits for snapper over 60 centimetres. For a charter boat with four to six passengers the new restrictions set a limit of three snapper per boat. However, the individual daily catch limit on a charter boat carrying seven passengers or more is one snapper per person. This is quite puzzling for those involved in the industry and certainly puzzling to me, sir, who is not as adept at fishing as you are. My questions for the minister are:

1. Will the minister explain the inconsistency between the reduced individual and boat limits for snapper over 60 centimetres and the basis by which these have been determined?

2. Will the minister indicate whether she or PIRSA fisheries have been approached by charter boat fishers with their concerns in relation to the inconsistency of the individual and boat limits?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:46): I thank the honourable member for his important question. As we know, there has been a review undertaken around the management of snapper fishing in this state. There has been extensive consultation. I think an option paper and background paper were released and went out for an extensive period of time. People had an opportunity to put in their submissions and comments were collated. A working group was also formed to assist in the development of options around the sustainable management of this very important fishery.

It is an increasingly popular fishery. Snapper is a fish that many of us enjoy, including myself. PIRSA has been working with key stakeholders over a considerable period of time, and all sectors, commercial fishers and recreational fishers alike. A key outcome from that review is to optimise the snapper spawning and recruitment and effectively control the level of commercial impact on snapper stock and support sustainable snapper fishery. There was evidence that there was a potential for this fishery to be over-fished.

There are a number of control measures in place and we have recently made announcements of some changes to that. SARDI indicated that there were some concerning indicators to do with particularly the Northern Spencer Gulf and Southern Spencer Gulf and what appears to be a lack of recent recruitment of fish stock to those regions. The Marine Scalefish Fishery Stock Status Report, published in November 2011, indicated five breaches of reference points which relate to the highest commercial catch in history, reflecting the highest levels of longline effort and catch per unit effort. The total statewide commercial snapper catch was 972 tonnes.

In 2007-08, I am advised that the South Australian Recreational Fishing Survey estimated recreational snapper catch was also significant, 177 tonnes, which includes a catch from charter boats of about half of that, about 94 tonnes. So, interim measures were introduced from January to restrict the daily limit. These measures have recently been extended with a package of other measures made. As members would be aware, we had planned to bring in these measures late this year in December, but given charter boat operators and such had made bookings and people had made holiday arrangements that included snapper fishing, we felt that there was not adequate time to advise the people who had made arrangements, so an extension period has been made.

However, because, obviously, we need to be putting in place measures to ensure that we take care of this fishery given some of the adverse indicators that I have alluded to, it is a responsible thing to put some measures in place, so we have put some limits on charter boats and some limits on the bag catch for recreational fishers. My understanding is that considerable dialogue has been occurring between both recreational fishers and charter fishers, and that has been ongoing.

We are well aware of their concerns, including the fact that they were very pleased that we made the extension past this season, so they were very grateful for that. They are not completely

happy about their bag and catch limits but, nevertheless, we believe that measures need to be put in place to start to reduce the take of this important species. We are not going to make everyone happy all of the time. We believe that this is a fair and balanced position. The objective is the long-term sustainability of this fishery and that is our main focus.

SNAPPER FISHERY

The Hon. J.S.L. DAWKINS (14:51): I have a supplementary question. I thank the minister for that answer but will she bring back the basis on which the determination was made to have a different limit for boats with four to six passengers, as against the boats that are carrying seven passengers or more?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:52): My understanding is that these came from discussions with the industry, based on the figures which I have alluded to in terms of the burden of catch. We have tried to land in a position that is reasonably fair and balanced, and that is where we have landed.

MARINE RESEARCH

The Hon. CARMEL ZOLLO (14:52): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about marine research.

Leave granted.

The Hon. CARMEL ZOLLO: Continuing on the fish line; the aquatic world is one of fascination to many of us, perhaps inspired by wonderful documentaries on the works of Jacques Cousteau and later explorers, but the mystery of how fish species live and interact in the aquatic environment is being teased out by scientists developing their research over time. Can the minister advise the chamber about how this work is accomplished?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:53): I thank the honourable member for her most important question. Obviously this fine weather has brought out a fishing interest—there is a bit of a theme here in the chamber today. I am very pleased to announce that Marine Innovation Southern Australia (MISA) (of which SARDI is a part) will be holding a symposium on Friday 19 October and in Port Lincoln on Tuesday 30 October. This information sharing not only looks at the target species for fishing but is more holistic, taking in habitats, food webs, predators and prey of target species, ocean current systems, and other fishing and human activities that are part of the target species environment.

I understand that this complex type of work helps ensure that a healthy environment and fishery are maintained and the best possible science and practices are used to manage South Australia's important fisheries. MISA, established in 2005, has significantly boosted South Australia's expertise and infrastructure, laying the foundations for this type of large-scale marine study which will improve our understanding of the marine environment and further support our premium seafood industry.

MISA is an initiative of the government of South Australia and is in partnership with the South Australian Research and Development Institute and the University of Adelaide, Flinders University, the South Australian Museum, Primary Industries and Regions SA, the Department of Environment, Water and Natural Resources, and the SA seafood industry. The state government has provided $18.5 million towards the MISA initiative over the past seven years. This investment has led to the employment of 40 researchers, a major expansion of the Lincoln Marine Science Centre at Port Lincoln and the establishment of a South Australian Aquatic Biosecurity Centre at Roseworthy campus and delivered more than 280 projects.

It is a testament to the value of scientific organisations working together and is a very pleasing result. Working with other organisations is not a new concept or practice for SARDI. It has a history of delivering robust scientific solutions to support sustainable and internationally competitive primary industry interests. Scientists create knowledge platforms, technology and products to promote growth, productivity and adaptability of food and aquatic and bioscience industries while ensuring that they remain ecologically sustainable.

SARDI has a history of working together with the tertiary education sector, in particular with the University of Adelaide. The relationship between SARDI and the University of Adelaide is not a new one. Over the last 18 years they have developed a very strong collaborative relationship with

significant benefits to both parties. I am advised that in 2010 a joint working group was established between PIRSA and the university to develop the relationship further and, in particular, to report opportunities for the two institutions to work closer together for the benefit of both organisations—and I think I have spoken about this matter in this place before.

This detailed discussion and exploration has been very fruitful, as has been my dialogue with the Vice-Chancellor of the university. This dialogue has led to a joint view of the university and the South Australian government that a formalised research partnership would boost the state's research and development capabilities in agrifood and primary industries. The aim of this partnership will be to enhance our position as the leading primary industries R&D provider in the southern hemisphere.

An examination of the best means to achieve the relationship will continue with consideration of models to better position SARDI to participate in the partnership. I am advised that consideration will be given to options for models for SARDI as a stand-alone entity in the coming months including, for instance, as a public non-financial corporation or attached office. Establishing SARDI under a new governance arrangement while formalising the research partnership with the university is expected to, obviously, bring benefits to both the university and to SARDI. I am confident that through the continued collaboration, the University of Adelaide and SARDI will be able to concentrate on areas of strong synergy and increase the overall research and development capacity.

FORESTRYSA

The Hon. R.L. BROKENSHIRE (14:58): I seek leave to make a brief explanation before asking the Minister for Forests a question about ForestrySA.

Leave granted.

The Hon. R.L. BROKENSHIRE: The Labor government that previously promised there would be no privatisations has today announced it has privatised ForestrySA plantation harvesting rights in the South-East for $670 million. On the last reported figures in 2010-11, the green triangle plantations covered almost 75,000 hectares. The government retains ownership of standing forests—so let us call them legacy forests—in the Mount Lofty Ranges and the Mid North covering approximately 14,000 hectares. Previous analysis conducted for the government and performed by others indicates that, as a stand-alone venture without the support of the green triangle plantations, the legacy forests are not economically viable. In fact, ForestrySA will now have more proclaimed native forest reserves under its management than it has standing timber. My questions are—and I would appreciate an answer to the four questions, so I will go slowly:

1. Has the government conducted a business plan for the legacy forests?

2. At what point did the government abandon trying to sell the legacy forests?

3. Will the government commit not to privatising the legacy forests?

4. As per the recommendations from the select committee, will the Minister for Forests agree to table all sale conditions imposed upon the Campbell Group?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:01): I thank the honourable member for his most important questions. Indeed, we have not privatised our forests. We have looked at the sale of ForestrySA's forward rotations, and that has been completed. It was announced today that it was acquired by a consortium led by the Campbell Group. The Campbell Group trading in Australia is a 141 plantation, and it is representing a number of institutional investors, including Australia's Future Fund. So, it is a highly credentialled and very reliable organisation. It is one of the world's largest timber investment managers, and it currently manages over three million acres of timberland assets.

As announced today by the Treasurer, Jack Snelling, we have secured $670 million for the taxpayers of South Australia to continue to invest in future infrastructure, core government services, such as health, education, and law and order. The $670 million figure, I have been advised, is substantially above our reserve price.

I have spoken in this place about the round table that was established to look at conditions for the sale to ensure that employment risks were minimised and to ensure the long-term sustainability for forestry in the region. The round table came up with conditions, and those

conditions were incorporated substantially into the contract. So, those commitments have been made. In terms of the—

The Hon. R.L. Brokenshire interjecting:

The Hon. G.E. GAGO: Are you talking about the native forests?

The Hon. R.L. Brokenshire: I am talking about the Kuitpo Forest, the Mid North forest and the western forest.

The Hon. G.E. GAGO: I have already talked in this place before about our forestry industry strategy. We have a strategy, and that strategy is about identifying our priorities, such as the policy position on the forest industry to increase investor confidence, and that remains a priority for all of our forests. Increasing the resource base and processing capacity to enhance industry international competitiveness remains a priority, as well as capturing new value-adding opportunities to maximise returns from plantation resources; achieving operating environmental issues across South Australia; harmonising regulatory regimes with other states; expediting planning, development and transport; promoting the environmental benefits of forestry and forest products to the public; establishing better consumer understanding and demand and also developing additional support and funding for things such as training and education; and fostering the capacity to pursue regional actions in support of that strategy. So, there is an industry plan in place.

One of the things that the round table was also asked to do was to look at some of the long-term industry sustainability propositions for the region. There is some work that they have begun with that. They have written to me and I have looked at those considerations and will determine the best way to go forward in terms of developing up industry policy and looking at some of those sustainability issues. That will be a comprehensive industry development proposition.

That work is in the pipeline, and I have committed to do that. I will determine the appropriate structure needed to do that. I do not know whether the continuation of the round table is in fact the appropriate structure to do that, but I have started some dialogue with the chair and we are looking at these matters. Currently, the industry board is in place, but I do not know whether that is the best structure either; we need something in between that. So, discussions are happening around what is the best way to go forward to develop a base so that we can develop up a very strong industry-based policy for our state.

The PRESIDENT: The Hon. Mr Brokenshire has a supplementary.

FORESTRYSA

The Hon. R.L. BROKENSHIRE (15:06): What will the net cost or net return be to the minister's department for the remaining forests staying in the ownership of the minister and her department per annum?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:06): I am happy to take that question on notice. I do not have that figure in my head, but as I said, I am happy to take that on notice and bring back a response as soon as I am able to.

SAFE WORK AUSTRALIA

The Hon. G.A. KANDELAARS (15:06): Can the Minister for Industrial Relations advise the chamber about South Australia's performance as identified in the annual Comparative Performance Monitoring Report recently released by Safe Work Australia?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:07): I thank the honourable member for his very important question, and I recognise and acknowledge the many, many years that the Hon. Mr Kandelaars has spent looking after the health and safety of his members. On 5 October 2012, Safe Work Australia released the 14th edition of its annual Comparative Performance Monitoring (CPM) Report. This measures the incidence of work-related injury and disease across the country. The report assesses the work health and safety performance of the states and territories.

The CPM report outlines the process of each state and territory towards meeting the objectives of the National Occupational Health and Safety Strategy 2002-12. The strategy's nationally agreed target is for every state and territory to achieve a 40 per cent reduction in the rate

of workplace serious injury claims by June 2012. This goal was also adopted into South Australia's Strategic Plan as target T21—Greater safety at work.

I am pleased to be able to inform the chamber that South Australia is the only jurisdiction to not only meet, but also exceed, its target against the national measure. Data from the CPM report indicates that South Australia's claims rate for injury and musculoskeletal disorder has fallen by 41 per cent since the national strategy's commencement in 2002.

In other words, since Labor won government in 2002, workplace injury rates have fallen by over 40 per cent. This improvement rate is also higher than the 36 per cent rate required by each state and territory in achieving the national target. Furthermore, the rate of serious injury claims in South Australia has fallen by 25 per cent from the 2006-07 financial year to the 2009-10 financial year—a significantly greater improvement that the national decline of 10 per cent in the same period.

The CPM report's encouraging figures show that South Australia continues to lead the nation in the reduction of work-related injuries. They demonstrate that South Australia's strategies in meeting the national target for greater safety at work are operating effectively. Importantly, the CPM report measures each state's regulatory safety performance against an agreed national occ health and safety strategy. I repeat that South Australia was the only jurisdiction to exceed the 36 per cent rate required to achieve the national target.

Following the release of the CPM report, Victoria's minister for WorkCover, the Hon. Gordon Rich-Phillips, made the absurd and misleading assertion that Victoria is the safest state in Australia in which to work. Comments like that emphasise the ignorance of the Baillieu government and the disdain for workplace safety of Liberals in general. If the Victorian Liberal government really cared about improved workplace safety it would do the responsible thing and progress the harmonised work health and safety legislation.

While the CPM report results are positive for South Australia, we must not be complacent. South Australia must always strive to do better. To do this it is vital that we move towards the nationally harmonised work health and safety regime, and I thank those crossbenchers who have sensibly and professionally looked at the proposed laws, with worker safety at the forefront of their minds rather than using the health and safety of workers for their own political gain. The new regime will now allow us effectively to build on the work already done in providing safer workplaces for the safety of all South Australians.

POLICE RECRUITMENT

The Hon. A. BRESSINGTON (15:11): I seek leave to make a brief explanation before asking the minister, representing the Minister for Police, questions about South Australia's police recruitment policies.

Leave granted.

The Hon. A. BRESSINGTON: Recently my office learnt of the failure of the South Australia Police to recruit an international police officer through failing to recognise his prior service. This man had risen through the ranks of the South African police service from uniformed officer to VIP protection, to detective and ultimately inspector. However, South Africa can be a very dangerous place and he sought a safer city to call home for his family.

Having decided to move to Australia, he decided on South Australia as this offered the lifestyle he hoped for. He also looked forward to resuming his career with the South Australian police force. A year after migrating, and having first obtained permanent residency, he pursued his original intention and applied to the South Australia Police. He included his South African police force service number and numerous references from high-ranking officials in the full expectation that his prior service and experience would be recognised and valued.

Having completed his medical, psychological and other preliminary assessments, and due to start at the Fort Largs Police Academy, he inquired with his recruitment officer what recognition he would receive for his prior service, knowing that recruits from the United Kingdom were exempt from some requirements and were able to undertake some exams earlier than local recruits. The response was as blunt as it was condescending.

He was told he would receive no recognition for his extended service and position in South Africa and would be required to undertake the full training period and would graduate as a probationary constable. Understandably, he viewed being forced to join the ranks of the fresh-faced

probationary constables as demeaning, believing he had done his time riding the police pushbikes and doing the grunt work. Lamentably he instead chose to pursue a career in the private sector.

To illustrate this point, compare this gentleman's experience with that of one his colleagues from the South African police service who was recruited by the Western Australian police force. Like the gentleman I referred to, he had also risen to the rank of inspector. In recognition of his service in South Africa, however, he was required to undertake only a shortened three-month training course to familiarise himself with Western Australian laws, and on graduation was elevated three ranks to senior constable, with the main role of supervising and mentoring junior officers. My questions to the minister are:

1. Does the minister agree that the South Australia Police have missed out on this man's extensive experience and knowledge?

2. Does SAPOL recognise an international recruit's prior police service and, if so, how?

3. Has SAPOL reviewed why recruits from the United Kingdom have left in droves, as has been reported to me and, if so, will the minister detail the outcome of that review?

4. Given that South Australia has an ongoing shortage of detectives, will the minister review SAPOL's international recruitment policy to enable suitably qualified recruits to transition into such roles?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:14): I thank the honourable member for her most important question and undertake to take the question to the Minister for Police in another place and seek a response on her behalf.

NON-GOVERNMENT ORGANISATION GRANTS

The Hon. T.J. STEPHENS (15:14): I seek leave to make a brief explanation before asking the Minister for Communities and Social Inclusion a question relating to grants to non-government organisations.

Leave granted.

The Hon. T.J. STEPHENS: On page 235 of the Auditor-General's Report released yesterday, the Auditor-General raised a number of concerns about the process of grant funding within the Department of Communities and Social Inclusion. In one instance, 'an NGO received $1.5 million of payments for services that were not covered by a grant agreement'. My questions to the minister are:

1. Which NGO received the grant the Auditor-General was referring to?

2. From which subprogram within the department was the funding provided?

3. Why was no grant agreement initially established?

4. For what purpose was the funding provided?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:15): I understood that we might be having a special question time on the Auditor-General's Report at a later stage but, given the detail requested in the honourable member's question, I will have to take that on notice and come back to him with a response.

Members interjecting:

The PRESIDENT: Order!

WORLD HOMELESS DAY

The Hon. K.J. MAHER (15:16): My question is to the Minister for Social Housing. Will the minister please tell the council about the recent World Homeless Day event held here in Adelaide?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:16): I thank the honourable member for his most important question and I will update members opposite about the importance of socialising. Socialising is a very important part of people's lives, particularly

those who want to have further social inclusion than what they already have. Connections with community are very important and one should not demean socialisation at all.

World Homeless Day is held on the 10th day of the 10th month each year. It is not so much a celebration, but a recognition of people who find themselves homeless for many different reasons. It provides the opportunity for the community to get involved in responding to homelessness by using the recognition of an international day to facilitate this. Homelessness is often defined as the condition and social category of people who lack housing—unsurprisingly—because they cannot afford it or are otherwise unable to maintain a regular, safe and adequate shelter.

The Universal Declaration of Human Rights (article 25, paragraph 1) states that everyone has a right to a standard of living adequate for the health and wellbeing of themselves and their family, including food, clothing, housing and medical care, along with necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in a circumstance currently beyond their control. When trying to calculate just how many people in the world are homeless, it is often difficult because the word 'homeless' is interpreted very differently in different countries, and, of course, that is to be expected.

In 2005, the United Nations Commission on Human Rights estimated that more than 100 million people live without adequate shelter or in unhealthy and unacceptable conditions. Additionally, another 100 million have no shelter whatsoever, and the UN commented that the health consequences of this level of homelessness have a profound effect on those experiencing this issue and the health systems required to support them.

While we are not immune to the problem here in Australia, our rate of homelessness is much less compared to other countries around the world. While places like India have up to 25 per cent of their population being classed as homeless, Australia's numbers are less than half of 1 per cent. Despite this low figure, we continue to work towards achieving even lower rates of homelessness in this country. The hidden problem often relates to those people who are couch-surfing with friends or family, and this was the key theme for the Service to Youth Council's event this year in the Rundle Mall, especially when it comes to homelessness amongst young people.

The Service to Youth Council is a not-for-profit organisation established in South Australia in 1958 by volunteers and now has more than 380 staff across South Australia and Victoria. It is committed to helping young people find a safe and affordable place to live that is sustainable.

In 2011-12, the Department for Communities and Social Inclusion provided more than $1.2 million in grant funding across seven discrete services. The Homelessness Strategy, as part of the DCSI division, manages the three largest of these: the Youth Homelessness Gateway (formerly known to many of us as Trace-A-Place), the Eastern Adelaide Youth Homelessness Service and Integrated Housing Exits, which functions through youth justice. All of these are under the banner of HYPA, which stands for Helping Young People Achieve.

HYPA was established in 1995 as a Service to Youth Council initiative and established (initially) six units for homeless youth in the Adelaide CBD. Further recent capital funding from projects such as A Place to Call Home, the Affordable Housing Innovations Fund and the National Partnership Agreement on Social Housing (with the federal government) has assisted in expanding their services. DCSI recently provided $5.5 million to build 32 accommodation units across three sites at Westwood, Smithfield and Munno Para West. HYPA accommodates young people ranging from 17 to 25 years of age who are homeless or at risk of homelessness and aims to assist them to turn their lives around by providing medium-term housing solutions and support.

This week is also Anti-Poverty Week. It has been reported that, potentially, one in eight South Australians live below the poverty line. This figure is higher for those in rural areas, but is also higher for young people who have higher unemployment rates and are generally paid lower wages when they are in employment. While older generations tend to be better educated with their money and have the skills to make it go further, most young people need help and assistance in this area. That is why the work of organisations such HYPA is so important in helping young people who are homeless or at risk of homelessness gain some stability through supported housing. The state government is very proud of its partnership with the Service to Youth Council around HYPA accommodation and looks forward to a long involvement with that organisation.

CHILD EMPLOYMENT IN LAW ENFORCEMENT

The Hon. T.A. FRANKS (15:21): I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question on child employment in law enforcement.

Leave granted.

The Hon. T.A. FRANKS: On page 6 of the annual report of the Office of the Employee Ombudsman tabled this week, it is noted that the Office of the Employee Ombudsman, in the preceding year, became aware of a program by a government department, specifically, I understand, the Department for Health, utilising children to determine compliance with public health regulations. Put simply, children are being used to test retailers by attempting to illegally purchase cigarettes. I understand from media reports that the participation by children in this employment has included both paid and voluntary work and remuneration by way of gift cards or vouchers and, more recently, in the form of wages.

Significantly, the Ombudsman has expressed strong concern for the potential implications for these children, or other children, and recommended that 'children be proscribed from participation in law enforcement activity in this state'. Media responses I have observed from the Minister for Health indicate that this recommendation is likely to be rejected by the government. I stress this question is not on the merits of measures to address underage smoking. My concerns here are regarding the broader employment conditions of these children and other children who may be employed in law enforcement in this state. Therefore, my questions to the Minister for Industrial Relations are:

1. When were the Office of the Employee Ombudsman's concerns regarding children participating in law enforcement first brought to your attention as Minister for Industrial Relations?

2. What actions and responses to these concerns have you, as Minister for Industrial Relations, initiated or implemented?

3. Is the practice of child involvement in law enforcement confined only to the Department for Health, or is the minister aware of other instances in other arms of state government?

4. What is the scope, including the number, the ages, the employment status and, where applicable, relevant awards of the children who have been involved in law enforcement in South Australia in the past year?

5. How likely are any of these children to be required to attend court and give evidence and, where applicable, will that giving of evidence be linked to any further remuneration or reward?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:23): I would like to thank the honourable member for her very important questions. You cover quite a few areas there. I think the actual question is very important and it deserves a thorough answer, so I will have my department prepare a report and get that to you very shortly.

AGRICULTURAL RESEARCH AND DEVELOPMENT

The Hon. J.S. LEE (15:23): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about agricultural research and development.

Leave granted.

The Hon. J.S. LEE: According to ABS statistics released on 3 October, South Australia's export performance fell by 9.1 per cent in the three months to August. In the last 12 months, South Australian export growth was also the worst in the nation. South Australia was the only state to record a decrease while the national trend shows a 1.1 per cent increase.

I met a number of exporters and farmers at the Business SA Export Awards and the Advantage SA Regional Awards on Friday last week. They expressed that they are struggling to compete internationally due to the lack of government funding for research and development. The President of the South Australian Farmers Federation, Mr Roger Farley, stated in a press released on 4 October:

It's time to draw a line in the sand. South Australian agriculture cannot afford any more cuts to its research and development capabilities.

He continues to say:

The continual downgrading of the few remaining agricultural resources such as Struan, shows that the state government has very little understanding of what is required for a sustainable farming sector.

My questions to the minister are:

1. The government has substantially cut the funding for SARDI and PIRSA. Can the minister outline what is the future for both the Struan Agricultural Centre and the Jamestown office of PIRSA?

2. Can the minister provide any assurance to farmers that there will be no further downgrade or funding cut for R&D facilities in the South Australian agricultural sector?

3. What assistance will the government provide to help farmers develop sustainable export capabilities in the highly competitive international market?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:26): I thank the honourable member for her most important question and, indeed, this government is very committed to sustainable and socially responsible economic development in agriculture, food and fisheries. The approach is one of robust flexible and adaptive policy to address global market volatility, food security and also things like climate change.

The role of the South Australian government through PIRSA is to develop and implement policies and programs that ensure that this state remains competitive, profitable and sustainable. The government has recently announced our seven key priority areas that are the focus of government policy and activity going forward, and premium food coming from a clean environment is one of those priority areas.

The details supporting the development of this theme are currently being developed by a cabinet taskforce chaired by the Premier which is supported by a high-level, whole of government senior officer group. I come into this place time and time again and complain that all we hear is the opposition talking down our state. They talk down our tourism sector, and they talk down our agriculture sector.

All they spruik is gloom and doom, and it is irresponsible and disgraceful. We have seen a wide number of achievements in our agriculture sector: significant increases in the production and processing of chicken meat; record levels of grain exports and shipping from South Australian ports; record exports of red meat from South Australia; and the list goes on. As I said, we do a great deal.

In terms of research and development I will not insult the chamber by going over this. I spoke at length during a reply to a government member on the work that we are doing with SARDI and how we will end up with one of the best R&D facilities in the Southern Hemisphere, so I am not going to insult everyone by going through that again. To suggest that we are not committed to research and development is an absolute nonsense and, as I said, I am not going to insult the chamber by repeating all the good work that we are doing on research and development.

ANSWERS TO QUESTIONS

WOMEN'S EDUCATION

In reply to the **Hon. T.A. FRANKS** (9 November 2011) (First Session).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women): I am advised:

Certificate IV in Women's Education is not currently being offered at TAFE SA Port Adelaide campus for semester 1, 2012. Certificate II and III in Women's Education is currently being offered at TAFE SA Port Adelaide campus for semester 1, 2012.

Certificate IV in Women's Education is currently being offered at Adelaide, Elizabeth and Noarlunga TAFE campuses for semester 1, 2012.

At the time that the question was asked on 9 November 2011, no decision had been made about the prospect of the Certificate IV in Women's Education going ahead in Semester 1, 2012 and was therefore advertised online through the TAFE SA web-site.

TAFE SA reviews, on an on-going basis, the provision of courses across their campuses based upon a range of criteria including the number of students enrolled and student demand, the cost of providing courses along with ensuring that South Australians have the skills to meet the needs of South Australian businesses and industry.

ROCK LOBSTER FISHERY

In reply to the **Hon. T.J. STEPHENS** (13 March 2012).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women): I am advised:

1. As part of Primary Industries and Regions SA's (PIRSA) ongoing Education and Awareness Program, FISHCARE Volunteers and Fisheries Officers provide the public with Rock Lobster measuring gauges and the Recreational Fishing Guide (the Guide) free of charge. The size limit for the Southern Zone Rock Lobster is 9.85 cm carapace length. This has remained unchanged for many years and is clearly articulated in the Guide. The Guide is a booklet which includes a depiction of how to accurately measure Rock Lobster. If the gauge is used in accordance with the information provided in the guide, they are accurate to an acceptable standard. Although the gauges are not certified, they are similar to those used by Fisheries Officers. In addition, all measuring instruments provided by PIRSA are marked 'Guide Only'.

2. PIRSA distribute approximately 8,000 Rock Lobster gauges annually for a cost of about $5,000. In relation to the Guides, on average PIRSA hand out about 50,000 annually at a cost of approximately $20,000. This will vary from season to season and is dependant on a number of factors including changes to fishing rules and demand.

3. Fisheries Officers identify a Rock Lobster as undersized using a similar gauge as those issued to fishers. They then use certified vernier callipers to provide an accurate measurement to determine the significance of the breach. This forms part of the evidence presented to the Court should that be required.

4. Without more specific details it is difficult to comment on the circumstances mentioned, however in general terms, Fisheries Officers treat every breach of the Fisheries Management Act 2007 objectively and assess the evidence before them on its own merits.

NATIONAL VISITOR SURVEY

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (13 June 2012).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women): I am advised:

The survey the Leader of the Opposition refers to is the National Visitor Survey (NVS) conducted by Tourism Research Australia, a division of the Federal Department of Resources Energy and Tourism. The NVS is Australia's primary measure of domestic tourism activity, being the major source of information on the characteristics and travel patterns of domestic tourists.

Respondents are interviewed against NVS definitions based on those provided by the World Tourism Organisation (WTO). Therefore interviews are conducted with people who have travelled for purposes including holiday, visiting friends and relatives, business, education and employment, and must not have been away from home continuously for more than a year. Being relocated in the Cudlee Creek Caravan Park would not qualify under WTO standards as having 'taken a trip, or as being a visitor', and therefore these people would not be included in the NVS.

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:29): Obtained leave and introduced a bill for an act to amend the Construction Industry Long Service Leave Act 1987. Read a first time.

Leave granted.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:30): I move:

That this bill be now read a second time.

The portable long service leave scheme for construction industry workers was established in 1997 under the Long Service Leave (Building Industry) Act 1976, and continues today under the Construction Industry Long Service Leave Act 1987. Despite South Australia's referral of certain industrial relations powers to the commonwealth, these laws remain within the state jurisdiction. The purpose of the act is to enable workers in the construction industry to qualify for long service leave based on service in the industry rather than service to a single employer. Each Australian state and territory provides for a similar scheme.

The scheme is administered by the Construction Industry Long Service Leave Board. Board members are appointed by the Governor after taking into account nominations from relevant industry associations and unions. The scheme is funded through employer levy contributions to the Construction Industry Fund and investment earnings. This bill seeks to achieve greater efficiency in the management of the fund after bringing greater clarity to the application of the act. The key proposal will build upon the success of the scheme by extending the board's power to vary the levy rate within prescribed parameters. The levy is defined in the act as a percentage of the total remuneration of employers and construction workers.

Currently the levy rate can be adjusted on the advice of the actuary who must be a Fellow or Accredited Member of the Institute of Actuaries of Australia. Any adjustment is then subject to the board providing a report to the minister recommending a change to the levy rate. The levy rate is then prescribed by regulation and a copy of the report must be laid before both houses of parliament. The bill gives the board the capacity to vary the levy rate upon the recommendation of the actuary so long as the variation does not take the levy above 3 per cent.

This will eliminate delays in changing the levy rate which would provide greater flexibility for the board to protect the fund from potential losses of levy income and to ensure employers are paying levies appropriate to the relevant financial position of the fund. The board will be required to inform the minister of its intention to vary the levy rate and there will be a 14-day grace period to allow the minister to seek any clarification from the board if necessary. Since 1 January 2008 the levy rate has been fixed at 2.25 per cent and has never been higher than 2.5 per cent.

Another feature of the bill is to remove ambiguity surrounding the predominance rule so that its intent is clear. The predominance rule determines whether an employer is liable for paying into the fund on behalf of a particular employee because that employee is deemed to work predominantly in the construction industry. Those who do not meet the requirements of the predominance rule still accrue long service leave under the Long Service Leave Act 1987.

The board considers the rule to be ambiguous in its current form and has sought a minor adjustment to remove any ambiguity from its interpretation. This should also eliminate the potential for challenges by employees and employers regarding registration eligibility. Lastly, the bill amends the list of industrial awards and occupations contained in schedules 1 and 1A of the act, to update it in the context of modern awards.

Particular care has been taken with this amendment as it is not intended to alter the current coverage of the act in any way. To put this beyond doubt, schedule 5 has been added to ensure that the scope of coverage of the act is neither extended nor contracted. All proposals in this bill have been the subject of extensive consultation with the tripartite Construction Industry Long Service Leave Board who, with the government, has consulted extensively with the broader construction industry, including the Civil Contractors Federation. Consultation also occurred with the Industrial Relations Advisory Committee, whose membership during consultation included SA Unions, Business SA and the Master Builders Association. I commend the bill to members. I seek leave to have the explanation of clauses inserted into *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Construction Industry Long Service Leave Act 1987*

4—Amendment of section 5—Application of this Act

This clause proposes to amend section 5 of the *Construction Industry Long Service Leave Act 1987* ('the Act') to clarify the test used to determine whether the Act will apply to a person's employment.

Firstly, the clause inserts reference to Schedule 5 (see clause 9 of the measure) in section 5(1aa).

Secondly, the clause proposes to clarify part of the test used in section 5(1)(c)(i) to determine if a person is within the ambit of subsection (1) by including reference to the relevant period of employment of the person.

Thirdly, the clause proposes to exclude a person from the operation of subsections (1) and (1a) if the person is employed in the civil construction industry (as defined in the *Building and Construction General On-site Award 2010*) (unless the person is employed in building work that wholly or predominantly involves working on structures within the meaning of this Act) or if the person falls within a class of employee excluded by the regulations.

5—Amendment of section 24—Investigation of the Fund

Currently section 24 of the Act requires the Board to provide the Minister with a copy of the report of the actuary appointed by the Board along with the Board's recommendation as to any change in the rates of contribution to the Fund. This clause amends section 24 to require that the Board must, when supplying a copy of the report to the Minister, include an indication as to whether the Board intends to vary, or leave unaltered, the rates of contribution.

6—Amendment of section 26—Imposition of levy

Section 26 of the Act currently provides for the percentage of total remuneration to be paid by an employer as a levy to the Board to be fixed by the regulations. This clause proposes to amend section 26 to allow the Board to fix the percentage rate by notice in the Gazette. The percentage fixed by the Board may only be varied by the Board in accordance with, and after 14 days of, an indication to the Minister under proposed section 24(4)(b) (see clause 5) and must be must be less than or equal to 3%.

7—Substitution of Schedule 1

This Schedule lists the awards for the purposes of section 5(1) of the Act.

8—Substitution of Schedule 1A

This Schedule lists the awards for the purposes of section 5(1a) of the Act.

9—Insertion of Schedule 5

This Schedule defines the limits of the application of the Act to a person's employment by reference to provisions of any award that applied under the Act on 31 December 2009. In the event of an inconsistency between such an award and an award referred to in Schedule 1 or 1A the former prevails to the extent of the inconsistency.

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

CRIMINAL LAW (SENTENCING) (GUILTY PLEAS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 October 2012.)

The Hon. S.G. WADE (15:36): My remarks are in continuation, and I thank the house for leave to do so. Both the previous bill and the bill before us today seek to create a graded scale of sentencing discounts available to those who plead guilty in the early stages of proceedings.

At common law, a criminal sentence may be reduced in response to an early guilty plea by between 25 and 33 per cent. Despite the Attorney-General's assertion that the maximum discounts are consistent with existing common law guidelines, the discounts available under this bill go beyond the common law and can be as high as 40 per cent.

Over 10 years, this Labor government has constantly repeated its mantra that it is tough on crime by ramping up penalties, but now the government is proposing to introduce the highest sentence discounts in Australia. Increase the penalties and increase the discounts, you end up with a zero sum game. However, the council needs to consider whether the changes in this bill go far enough to redeem a bill that previously did not win its confidence. Discounts for early guilty pleas, as I said in my contribution on the sentencing considerations bill, are often criticised. As one article put it in relation to sentence discounts:

[They are]...[a] plea bargain in its crudest form. It puts an inappropriate burden on the accused's choice to plead guilty, undermines proper sentencing principles, risks inducing a guilty plea from the innocent, undermines

judicial neutrality and independence, and does not directly address [the issue of]...time and delay which motivated its introduction by the courts.

In addition, sentencing discounts, if too broad, can undermine public confidence in the courts. It is important that we consider the impact of this bill on the confidence of the public in the justice system. Experience of a similar bill in the United Kingdom is salutary. A proposal in the United Kingdom to decrease the sentence for early pleas was mauled by the popular press. Under the heading, 'Ken Clarke, the paedophile's pal', *The Sun* newspaper of 17 June 2011 railed:

Ken Clarke was blasted last night over the latest scandal in his crusade for soft justice—halving sentences for thousands of paedophiles.

Within four days, Prime Minister Cameron scrapped the proposal because, in his words, sentences would have become too lenient and criminals would have been sent the wrong message. This parliament needs to be careful that it does not undermine public confidence in the sentencing process by changes that it makes.

Repeated efforts by this government to enshrine secrecy, to underfund the courts and to replace public information with propaganda have already significantly undermined trust in the courts and the wider justice system. We need to be careful as a parliament that the legislation we pass does not do further damage.

Many in the community do not understand the sentences delivered by the courts and may well be baffled by a sentence discount regime such as this, which is not simple. It may well provide less clarity to offenders, victims and the community.

I think that the other point that needs to be made is that this initiative focuses very much on the behaviour of defendants and their lawyers. But there are a whole range of other initiatives that could be taken to reduce court backlogs, and many of those initiatives would have a lower risk to public confidence. Some of these matters might be reforms in relation to the committal process, prosecution disclosure, early prosecution decisions on charging and matters such as legal aid funding, yet this government is not foreshadowing action on any of them.

In that context, it was extremely disturbing this morning for me to receive correspondence from the Aboriginal Legal Rights Movement. Only today, that movement provided me with advice which undermines the government's rationale for this bill. Let me outline their argument. The Attorney-General John Rau tried to justify these measures in the other place, saying that 24 per cent of matters in 2008-09 and just over a third of matters in the following two years did not proceed to trial because of defendants pleading guilty in the late stages of proceedings. This, he says:

...represents a waste of limited court, prosecution, police, forensic science, Legal Services Commission and prison resources.

What the government did not indicate was that, of the 161 late vacations of trial related to late guilty pleas in the Adelaide courts in 2008-09, 43 per cent of these were entered for lesser charges offered by the DPP. In other words, the Office of the DPP offered late reductions in charges in return for a guilty plea.

Conversely, then it means that only 15.6 per cent of the late vacations of trial in Adelaide were due to a defendant pleading guilty late to the charge which was originally put against them. This compares to 15.4 per cent which were vacated in Adelaide due to a nolle prosequi (a decision of the DPP not to proceed) and 15.7 per cent of trials that had to be vacated due to no judge being available.

Considered as a whole then, the late decision of the Office of the DPP resulted in approximately 27 per cent of cases being vacated compared to late guilty pleas contributing to 15 per cent. This bill aims to incentivise an early guilty plea for that 15 per cent, but even if as much as a third of these defendants would have otherwise pleaded guilty earlier under the scale proposed in this bill, that would only equate to 5 per cent of the total Supreme and District Court trials that were vacated.

This information undermines the government's rationale for the bill. The bill may, at best, address a few cases, but it is arguable whether it will have the significant effect the government is assuring us that it will have. In this regard, I will be quoting from a copy of a letter attached to the letter to me from the Aboriginal Legal Rights Movement addressed to the Attorney-General, dated 16 October 2012:

...You will note that a significant number of the late guilty pleas which resulted in late vacation of trials had resulted from late concessions by the DPP in relation to pleas to lesser charges. It seems to ALRM that these figures are very significant, and indicate that late guilty pleas occur because of late decisions of the DPP, as well as from late decisions by defendants.

As such a Defendant in that predicament should not be prejudiced as to loss of appropriate discount in circumstances where they had offered and had had rejected an early plea and the matter was only resolved on the court house steps, by the DPP accepting the plea originally offered. I ask that you give this matter due consideration in the Parliament.

The opposition has received a number of representations raising concerns about the detail of this bill. Some of these matters are matters for judgement. The opposition will not be moving amendments to the bill on all these matters, but we will be monitoring the impact of the bill as a whole. The opposition will be moving to see South Australia follow the lead of Western Australia in amending the maximum sentence discount for an early guilty plea to 25 per cent.

As I indicated earlier, the Weatherill government has chosen to lift sentence discounts beyond the common law level to a top discount of 40 per cent. Since the sentencing considerations bill was tabled in this parliament, the Western Australian parliament has legislated in this area. Western Australia has chosen not to establish a graduated regime of sentence discounts as this bill does. Western Australia is setting a maximum discount of 25 per cent.

In this context, I would like to quote the second reading speech on the bill by the Western Australian Attorney-General, the Hon. Michael Mischin, delivered on Thursday 16 August 2012:

This bill continues the government's program of making court processes more transparent to the community by setting a maximum discount of 25 per cent for a guilty plea and requiring courts to openly state the percentage discount they grant in recognition of a plea of guilty. It demonstrates the state government's commitment to ensuring that the Western Australian criminal justice system is simple, transparent and understandable to both the general public and offenders facing courts, and produces results in sentencing that accord with community expectations.

The government recognises that some credit should be given for a plea of guilty for essentially utilitarian reasons, against a backdrop of the presumption of innocence and the entitlement of an accused to have the prosecution prove its case against him or her beyond reasonable doubt.

Currently in Western Australia, cases suggest an early plea of guilty may attract a sentence of between 20 per cent and 35 per cent, depending on the circumstances. However, the trend has been for a standard discount of 25 per cent to be given for a plea of guilty, and not only for one at the earliest reasonable opportunity. Limiting the discount available for a plea of guilty will assist with addressing community disquiet about the sentencing process.

The Sentencing Amendment Bill 2012...limits the discount to a maximum of 25 per cent off the sentence that an offender would otherwise serve.

The Liberal opposition thinks this is a strong argument. This discount level of 25 per cent provides the incentive to offenders, whilst still protecting the interests of victims and the wider community. The government's focus is all about an incentive to offenders: fess up early and we will give you 40 per cent off. You can commit the crime; you won't necessarily have to do the time.

We consider the government has gone too far and that we should legislate in a similar manner to our sister state of Western Australian and limit the maximum discount to 25 per cent. After all, on one hand Western Australia and South Australia both share the same common law. The Western Australian government has, consistent with the common law, suggested a discount of 25 per cent.

The South Australian government wants to give what is more than 50 per cent more, namely, 40 per cent. Secondly, as we hear repeatedly from this government, we are part of a national community. What message does it send to defendants if, in Western Australia, they are offering 25 per cent discount yet in South Australia you get 40 per cent?

In contrast, the opposition's focus is on the victim and their best interests. We acknowledge that there is a community benefit and in fact a benefit to victims in having guilty pleas made early, but this should not go so far as to undermine the interests of victims and the interests of justice in fair penalties. The most objectionable element of the original bill was the 'no discount' period.

While there is now a residual 10 per cent discount, I seek an explicit confirmation from the government as to whether the good reason discount available at the door clearly covers the benefit to victims and witnesses of a full trial being averted. That question is fundamental, and I seek an answer from the government in the summing-up stage.

The courts are about delivering justice, justice that the community can have confidence in, justice for the offender and the victims and the community. In closing, I go back to the question I raised earlier: is this bill worth supporting?

As I noted, the bill contains a number of changes that address some of the concerns raised during the debate on the last bill and it again vindicates the good work of this council to produce better laws. The question we need to ask ourselves and which we will continue to consider in the second reading and the committee stages is whether this bill is worth supporting. We look forward to that discussion.

The Hon. CARMEL ZOLLO (15:49): I rise to add my support to this bill. The Hon. Stephen Wade has just placed on the record some statistics attached to a letter he received from the Aboriginal Legal Rights Movement, and I am certain the minister will be responding to him, either in summing up or in committee.

The bill before us is an important measure to both improve the effectiveness of the criminal courts and help tackle present delays and ease the pressures on victims and witnesses. The bill introduces a formal graduated framework to regulate the granting of discounts in sentence for pleading guilty. Such a scheme has been widely supported, both in South Australia and elsewhere, by lawyers, judges, law reform agencies and victims groups.

In essence, the earlier the plea, the greater the potential discount in sentence. This is how it should be. The courts should be able to list cases in the most effective manner. Victims and witnesses should know at the earliest possible time that they will not have to testify and can try to get ahead with their lives without the grim prospect of a trial hanging over their heads. This legislation is about assisting victims and witnesses. At present, the theory is: the earlier the guilty plea, the greater the discount in sentence should be; but it is well known that, in practice, defendants may well receive a significant discount in sentence despite literally pleading guilty on the day of trial.

As former Justice Duggan noted in the consultation process, the theory that the guilty plea should be early to attract a significant guilty plea is often ignored in practice. This is wrong. Defendants should not be able to delay—often for tactical reasons—without some good reason, pleading guilty at a very late stage and still receive a significant discount in sentence for their belated plea of guilty.

This bill encourages defendants to plead guilty at an early stage and seeks to tackle the real problem of delays due to late guilty pleas. However, the present bill, consistent with the amendments that were moved in the Legislative Council on the last occasion, confers ample discretion to the court to avoid penalising defendants who may have delayed pleading guilty through either no fault of their own or for some other good reason. I have to stress that it is about ample discretion to the courts.

There is ample protection for defendants in the bill. The Law Society accepts that, with these changes, its original main concerns regarding the previous bill are allayed. This bill will not lead, as was asserted last time in debate by the opposition, to undue leniency in sentences. If anything, by preventing significant and undeserved discounts for late guilty pleas, the bill will help prevent undue leniency. The figures in the bill do not prescribe discounts: they merely fix the maximum amount a court can go to in its discretion. In the consultation process, different people had different views about the precise figures. Some wanted a little more, some wanted a little less. It would be impossible to achieve uniformity. The figures in the bill are consistent with what in theory should be the existing practice.

The Hon. Stephen Wade mentioned what has occurred in Western Australia. Clearly, after a consultation process here in South Australia, what I have outlined would appear to be the consensus. It was most unfortunate that this bill was defeated in a previous version when it was last before this chamber. It was difficult to identify any consistent or coherent theme to the opposition's position on that occasion. As was highlighted by the Attorney-General in the House of Assembly debate, a great deal of work and preparation over several years had gone into that bill. The previous bill, and indeed this bill, draw on the important work of His Honour Judge Rice, the Criminal Justice Ministerial Task Force and an extensive consultation process.

This bill is an important measure to promote court effectiveness and to assist vulnerable witnesses and victims who should not have the prospect of a trial hanging over their heads for many months only for the accused to plead guilty on the day of trial. I urge all honourable members to give this bill on this occasion their support.

The Hon. K.L. VINCENT (15:53): I will be brief, as I merely wish to place on the record my concerns regarding this bill, and I note that they seem to be concerns that several members also share. I would first like to point out that I am not opposed, as a general position, to codifying in legislation the discounts that the judiciary might elect to give to an accused person in the event that they choose to enter an early guilty plea. I am, however, unable to support this particular bill as I believe there are some serious problems with the way the issue has been approached.

I hold grave concerns that the bill holds far too optimistic a view of this state's criminal justice system. I fear that the expectation that within four weeks of their first appearance in court a defendant will have all the information before them to enable them to confidently enter a plea and that they will have, in the first instance, been charged with the appropriate offence is a fanciful one.

While I recognise that there are a range of discounts available, it seems highly unusual to me that we should, in effect, punish the accused for the failure of those prosecuting them to lay the appropriate charges or provide accurate information in a timely manner. I hold similar concerns regarding the need for the judiciary to consider—when determining how great a discount to provide—whether or not a defendant has pled guilty to all of the charges laid against them. The apparent presumption here is that an accused person must be guilty of all the charges brought if they are guilty of one of them.

This section makes no reference to whether or not a finding of guilt must be made in relation to such charges. Is the accused to be penalised for pleading not guilty to charges in relation to which they are found not guilty or charges upon which the prosecution tenders no evidence? While I reiterate that, again, I am not opposed to the general objectives of this bill, the apparent deficiencies that I have highlighted prevent me from supporting its passage in its present form.

The Hon. M. PARNELL (15:56): The last time we considered this issue we had a single bill before us, the Criminal Law (Sentencing) (Sentencing Considerations) Amendment Bill 2012. The government has now seen fit to divide that into two bills and, in the process, make some changes. I last spoke on this matter on 29 September 2011. I do not propose to go over all of the issues I raised back then, but I do want to touch on a couple of issues. I say at the outset that I will speak briefly to this bill but my remarks can be taken to equally apply to the second bill, as I consider that the two form part of a package. I will just speak the once but I will have my remarks considered as part of each bill.

Last time, I said that the Greens supported the concept of sentencing discounts being applied by judges and magistrates in certain circumstances, such as early guilty pleas and for cooperation with the police. That position stands, and that is basically the subject matter of these two bills—they are two principles that we support. The question that was before us in the earlier sentencing bill is the question that is before us now; that is, whether or not the regime currently contained (primarily) within the common law should be codified and, if so, whether the range of sentencing considerations and discounts in the bill are, in fact, an improvement on current arrangements. That is the fundamental question before us.

I also note that one of the key considerations for the Greens in these matters is the extent to which it is appropriate or desirable for the parliament to interfere with judicial discretion. We have seen in the past that where the parliament has gone too far in trying to direct judges as to what to do the High Court has come down on us like a tonne of bricks, and we have seen that in the serious and organised crime legislation. We have also seen, in relation to His Honour Chris Kourakis' decision as to the validity of the hoon driving and car crushing measures, that there are some serious doubts that arise when you try to overly constrain the judiciary from performing its role.

I have serious fears for other legislation that is before this parliament, such as the notion of confiscating every asset owned by a drug dealer regardless of how that asset was acquired. I think that that is certain to be the subject of court action if it gets further, but also, on the same issue, I notice that sometimes the government is prepared to go in the other direction and tries to give the courts a little more latitude and a little more ability to exercise their discretion. Again, another bill before us in relation to the non-publication of the identity of defendants in sexual offences is a case in point. So with the majority of bills it seems we are trying to constrain the judiciary but there is occasionally one that crops up where the government tries to give the judiciary a bit more latitude.

I was very interested to hear the statistics which the Hon. Stephen Wade alluded to. I have not seen that letter which he referred to but, if the contents of it are correct, it would appear that the

contribution made to cases falling over in the superior courts due to late pleas of guilty has been overblown. If the figures that the Hon. Stephen Wade referred to are correct, then it looks like it is only some 15 per cent of cases where that is the problem, which means that 85 per cent of the problem is elsewhere.

Again, if the Hon. Stephen Wade's figures are correct, it seems that the unavailability of judges is as significant as late pleas of guilty in terms of cases not proceeding. The Hon. Carmel Zollo suggested that the Attorney would be keen to address those statistics and I think she is right. I am very keen to hear the response of the government, because it is one thing to identify one part of the problem but we need to identify the whole of the problem.

The Greens' position, as I have said before, is that we prefer in matters of sentencing that the balance should be struck by the parliament determining the considerations to be taken into account, and then the judges being given some latitude to determine how those sentencing considerations are applied. That is basically how it works. We have a list of things that judges have to take into account in section 10 of the sentencing legislation but this bill goes that step further in applying actual percentage figures.

I note that the opposition has some amendments on file which we need to thoroughly consider but, at first blush, it seems as if the Liberal approach, which is to reduce the percentage discounts available, in fact, makes it much harder for judges to exercise discretion and the range within which they can move is reduced. I am not sure that that is the right way to go but I look forward to the debate on that point.

One issue that I raised in the briefing that I had with government officers was to what extent the judiciary has the ability to work around this legislation. When I say 'work around', I do not mean to suggest that judges would not comply with the law of South Australia, but it seems to me that the work around goes like this: if a judge decides that an appropriate penalty for someone is two years in gaol, and if a 30 per cent discount was available, then the judge would sentence them to three years in gaol, apply the 30 per cent, and it comes back to two years.

If the judge is thinking that two years is an appropriate period and there was only a 15 per cent discount available, they would sentence them to 2½ years gaol, apply the 15 per cent and we are back at two years. In the lowest of the proposed statutory figures, with the 10 per cent discount, (my maths might be a bit rubbery here) the judge would sentence them to two years and a month and a half or something and then apply the 10 per cent discount and we are back to two years.

At one level I am wondering whether the parliament is perhaps being too clever by half because it would also seem that applying these statutory figures for discounts could have implications for the appeal process where people appeal against their sentence. I do not pretend to be an expert in this field, but my guess would be that whether it is an appeal by the prosecution because a sentence was manifestly inadequate or an appeal by a convicted person that the sentence was manifestly excessive, it would seem that at present they could appeal on a range of grounds.

It could be the head sentence and the quantum of any discount that was applied. If the quantum of discount is actually set out in legislation, presumably all that is left is the head sentence. Given that in most of our criminal provisions it is only a maximum that is set out in the legislation, there is a great deal of discretion for the judge to work out where on the scale of offending a certain person's conduct fits.

I might put that as a question on notice for the minister: what is the implication for appeals against sentence by either the prosecution or the defence by locking in certain percentages? Does that make it less likely or more likely that appeals will succeed? With those observations the Greens, whilst we have serious reservations, as I say, about the fundamental principle behind the legislation—which is that codification is good—are happy to see this bill through the second reading stage and we look forward to the debate in committee.

Debate adjourned on motion of Hon. G.A. Kandelaars.

CRIMINAL LAW (SENTENCING) (SUPERGRASS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 September 2012.)

The Hon. CARMEL ZOLLO (16:06): I urge honourable members to support this important bill on this occasion. As the Attorney-General made clear in his contribution to the debate in the other place, the problems posed to our community by organised criminal gangs are very real. These criminal gangs indulge in serious crimes such as manufacturing and trafficking illicit drugs and all too often, as we have seen over recent years, resort to thuggery and the indiscriminate use of firearms to resolve their internal disputes and to enforce their criminal will.

These gangs, especially their leaders, consider that they are above the reach of the law and can operate with impunity. Conventional law enforcement has often proved ineffectual to deal with such criminal gangs, as witnesses are all too often scared and are unwilling to testify or assist the authorities in the investigation and prosecution of such criminals.

This bill draws on established practice and sends a clear message and encouragement to offenders involved in serious and organised crime to provide full and frank assistance to the authorities and to turn on their criminal associates, especially the so-called Mr Bigs of these gangs. The bill does this by providing a court with a limited discretion in the context of serious and organised crime to grant an at large discount in sentence for truly exceptional cooperation to the authorities.

The accused does not walk away scot-free in such circumstances. Rather, the court in deciding the sentence to be imposed, weighs up the nature and gravity of the crime and the offender with the nature and importance of his or her exceptional contribution to the authorities in the context of serious and organised crime.

The bill deals with exceptional cooperation prior to sentence. The bill is in identical terms to the procedure already in the Statutes Amendment (Serious and Organised Crime) Act 2012 for exceptional cooperation for serious and organised crime after sentence. It may strike some as unpalatable to give criminals a substantial discount in their sentence for providing valuable assistance to the police, but it has long been recognised that this is something necessary to get at the Mr Bigs in serious and organised crime and to bring to justice criminals who very well otherwise may be beyond the reach of the law.

I highlight the very positive contribution to the House of Assembly debate in the other place by the member for Morphett, the shadow police minister. The member for Morphett said he wanted to make sure that the South Australia Police are given every opportunity to do their job, to obtain the evidence and solve the crimes, particularly when it involves serious and organised crime. He is right.

The member for Morphett highlighted the code of silence and the intimidation and threats which frustrate the police investigation into serious and organised crime. The member for Morphett rightly noted that, if we can get those involved at the coalface of serious and organised crime to spill the beans and to tell the truth, even at the cost of a very large discount in sentence in an appropriate case, that is something we should be doing. It is important, as the member for Morphett noted, to get those involved in serious and organised crime to help the police and to break the code of silence, or concrete barrier, as he described it. I wholly agree with the comments offered by the member for Morphett in the other place.

The bill will not be a complete solution in itself, but it tackles the code of silence that typically arises in cases involving serious and organised crime. I remind honourable members that the bill again supports the identical existing procedure in the Statutes Amendment (Serious and Organised Crime) Act 2012 for exceptional cooperation for serious and organised crime after sentence. I urge honourable members to give this bill their support on this occasion.

The Hon. A. BRESSINGTON (16:11): I rise to speak to the Criminal Law (Sentencing)(Supergrass) Amendment Bill 2012. The bill seeks to codify the existing common law regarding sentencing discounts for those who cooperate with the police, but only if the information they have relates to serious and organised crime, as defined in the Criminal Law Consolidation Act 1935. Discounts applying to cooperation relating to other offences will be left to the existing extensive common law that has developed.

For a defendant to be eligible for the sentence discount, the court will also need to be satisfied that the cooperation is provided in exceptional circumstances, which I shall refer to later, and contributes significantly to the public interest. Being so satisfied, the court is then directed to have regard to some 11 factors, such as the nature and extent of the defendant's cooperation or undertaking and the timeliness, significance and usefulness of the defendant's cooperation, in an

attempt to balance the public interest of punishing the defendant with prosecuting another due to his or her cooperation.

While the bill theoretically enables the sentencing court to impose a discount of up to 100 per cent, I indicate that, having met with the Director of Public Prosecutions, I understand that currently discounts given to those who cooperate range up to 50 per cent and, in exceptional cases, as high as 60 per cent. The director indicated that, if a discount was to exceed this, he would strongly consider appealing such a sentence on the grounds that it is manifestly inadequate.

The bill before us is by far a significant improvement on the first attempt in the Criminal Law (Sentencing) (Sentencing Considerations) Amendment Bill, which sought to codify the discounts available to all who cooperate and to impose arbitrary discount limits available to them. That bill would also have permitted a discount only to those who plead guilty, which I believe would have significantly reduced the number of individuals willing to share what they know.

Common sense would suggest that a defendant who believes that they had even the slightest prospect of beating a charge is not going to plead guilty just so that they can risk life and limb to cooperate with the police. The supergrass bill, however, will at least allow such defendants to plead not guilty and, if following their trial, they are found guilty, to come forward in an attempt to reduce their gaol time.

Of course, the sentencing court must take this into consideration as one of the 11 factors to be considered when determining the discount. But the fact that a person was found guilty should not preclude them from a benefit for sharing what they know. This will also bring the bill in line with the relatively new section 29E of the Criminal Law (Sentencing) Act, which enables inmates serving a term of imprisonment to come forward with what they know and, if valuable, to apply to the courts to be resentenced.

Obviously, this is available to all inmates, regardless of whether they plead guilty or were found to be such after trial. That said, the supergrass bill does seek to narrow the availability of the discount it proposes to those whose cooperation is provided in exceptional circumstances.

Whilst the term 'exceptional circumstances' was repeated often by the Attorney-General when introducing the bill in another place, I struggle to ascertain the intended utility of this requirement, and how the circumstances of one guilty person's cooperation could be any more or less exceptional than another's, particularly given that the bill no longer insists on the defendant pleading guilty.

I ask the minister to clarify this, either when summing up or during the committee stage, and I look forward to further debate and listening to further views on this bill as the debate progresses. I do not believe that I am attempting to amend this bill, but I am considering some amendments by the Liberal Party, I do believe, so I will leave it at that.

Debate adjourned on motion of Hon. G.A. Kandelaars.

EVIDENCE (REPORTING ON SEXUAL OFFENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 September 2012.)

The Hon. A. BRESSINGTON (16:16): I rise to indicate my opposition to the bill. It may also come as a surprise to members that I will also be opposing the Liberal amendments to the bill, for I support the current suppression regime. Mr Acting President, you and other members in this place should have no doubt about my abhorrence of child sex offenders, and my opinion of sex offenders more generally is no different.

As you would be aware, I have introduced in this place a bill that would see child sex offenders receive minimum gaol sentences many years in excess of the penalties currently imposed. I also spoke at the 'Keep Mark Trevor Marshall in Jail' rally last year, which I hope is partly attributable to Mark Marshall, whose heinous crimes I have detailed before in this place, still being behind bars. However, my disgust is rightly directed at those who are convicted—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The Hon. Mr Brokenshire might like to respect the member on her feet.

The Hon. A. BRESSINGTON: In a just society, this is how it should be. You would be aware that I have also demonstrated my concern for those wrongly accused and, worse, wrongly convicted. I was the first in this parliament, and indeed the country, to introduce a bill to establish a

criminal cases review commission for their benefit. Just as an aside, I note on the record the Attorney-General's commitment to giving effect to the Legislative Review Committee's recommendations for an alternative appeal right for those alleging they have been wrongly convicted.

The Hon. S.G. Wade: I hope you're patient.

The Hon. A. BRESSINGTON: We have had a meeting. However, unlike being accused of other offences, being falsely accused of being a paedophile is potentially life-destroying. As the Law Society states in their submission to the government's review of section 71A, dated 19 August 2011, 'to be branded a paedophile is arguably the most insulting label one can place on a person'. Some even have credited—one hopes wrongly—the fear of being falsely accused with the decline in male primary school teachers.

Whilst the existing suppression regime of course means that there will be some paedophiles who escape the public's anger and angst by either not being charged, having their charges withdrawn, or by having the case dismissed in the summary jurisdiction, it also means that those who have been falsely accused are not burdened by the inescapable societal condemnation. The Law Society, having discussed the child sex offenders register, makes this point in their submission, stating:

> Publication of the identify of a child sex accused who ultimately is not found guilty is tantamount to entry on such a register for life. An innocent child sex accused will forever be marked and carry the overwhelming stigma to his/her substantial prejudice.

They added:

> An illustration of how the community views child sex offenders is the way they are treated by the prison community. The prison community is, in one sense, the most dishonourable and undesirable of any community in the land. Notwithstanding this, the prison community does not tolerate child sex offenders and targets them for violent retribution.
>
> It is our firm submission that no child sex accused should ever be identified, unless they have been found guilty and convicted.

This point actually argues for suppression until the defendant either pleads or is found guilty, something we are not being asked to consider, but we clearly have support amongst the legal fraternity.

Whilst recent cases have demonstrated the futility of suppression orders in high profile cases, with interstate media reporting suppressed details and this subsequently being readily accessible to South Australia via the internet, I see absolutely no justification to remove the suppression. Nor do I believe the benefits that may be derived by releasing details of an accused outweigh the harm it will cause to those who are wrongly accused and who are ultimately found not guilty. It is for these reasons that I do not support this bill.

The Hon. S.G. WADE (16:21): I rise on behalf of the Liberal opposition to indicate that we do not support the Evidence (Reporting on Sexual Offences) Amendment Bill as it stands and that I will be moving an amendment to the bill. South Australia has a reputation for being suppression city—the suppression city and the suppression state. The Labor Party's fondness for secrecy and disregard for transparency is reflected in our laws. One such law is the Evidence Act 1929.

Section 71A(1) and (2) of the Evidence Act 1929 prohibits the publication of evidence given in proceedings against a person charged with a sexual offence, and the identity of a person who is charged or is about to be charged with a sexual offence until the accused has been committed for trial or sentence or, in matters determined summarily, until a plea of guilty is entered or a finding of guilt is made following a trial. These provisions put a presumption on secrecy rather than transparency and treat offences of a sexual nature in a manner different from other offences.

In April 2011 the Hon. Bernard Finnigan was arrested and charged in relation to sexual offences. He resigned from cabinet and is no longer a member of the Labor Party. However, it was a further 17 months before he was publicly identified. The then premier made a ministerial statement in which he committed to a review of suppression orders.

In July 2011 the Hon. Brian Martin AO QC, former chief justice of the Northern Territory, was appointed to undertake an independent review of these provisions. His report was completed on 30 September 2011. The primary recommendation of the Martin report was that section 71A(1) and (2) be repealed. To summarise Justice Martin I will quote from a few passages of his report, as follows:

In my opinion the interests of the few who would be adversely affected by removing the automatic prohibition currently mandated by section 71A do not justify the constraint on the principle of open justice effected by section 71A. To the extent that the few adversely affected by publication of identity, their personal interests are outweighed by the greater public interest in adhering to an open system of justice.

He goes on to say later:

Removal of the automatic prohibition on publication of identity in these cases will remove the source of rumour and innuendo which currently accompanies the charging of sexual offences in any cases which attract media interest. Publication of identity might also promote the possibility of witnesses coming forward.

Consistent with the Labor government's lack of commitment to transparency and full debate, I understand the Martin report has not been publicly released. I formally ask the government to table the report. I further ask the minister at the second reading summing up stage, if the government will not table the report, whether there is any reason I should not table the copy I have. In considering the bill and my alternative amendments, I would want all members to have access to the report on which both their bill and my amendments are based. In any event, the government has rejected the primary recommendation of the independent Martin review. On 21 November 2011, the government announced that it would implement recommendation 4 of the Martin report and merely amend the Evidence Act 1921.

The government's bill, the Evidence (Reporting on Sexual Offences) Amendment Bill 2012, gives courts the power to lift the suppression of the details of people accused of sexual crimes and details of the proceedings if there is a strong public interest in so doing or if the court is satisfied that it may assist in the investigation on the offence.

The government is maintaining the presumption of secrecy, supporting Adelaide's moniker as 'suppression city'. Perhaps this is part of the Weatherill government's state-branding endeavours. This is not the first time these provisions have been reviewed and considered, and it is not the first time that the opposition has called for the veil of secrecy to be lifted. In 2006, the Legislative Review Committee reviewed and reported on the Evidence Act 1929 in relation to section 71. Again, the opposition supported reducing our state's reliance on suppression orders.

Earlier in this parliamentary session, I introduced the Evidence (Suppression Orders) Amendment Bill 2012 in an effort to increase transparency and make justice more accessible. This bill would have, amongst other things, repealed section 71A(1) and (2).

The courts need the ability to give appropriate directions in all the circumstances to protect the presumption of innocence and to prohibit publication of evidence and identity if the prohibition is required in the interests of the administration of justice.

The government has taken over year to act on the recommendations of the Martin report, even when the then premier acknowledged that this issue was a matter of public concern. Now the government has rejected the primary recommendation of the report and implemented the third alternative. Again the Liberal opposition is committed to increasing transparency and the accessibility of justice. The government has resisted our efforts to reduce South Australia's reliance on suppression orders.

The Martin report emphasises that open justice is a part of the proper administration of justice and that it is enough that section 69A of the Evidence Act empowers courts to override the public interest in open justice by making a suppression order where it is necessary to prevent prejudice to the proper administration of justice. I urge the council to support the opposition amendments to this bill.

Debate adjourned on motion of Hon. G.A. Kandelaars.

CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDER ASSETS) AMENDMENT BILL

Second reading.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (16:27): I move:

That this bill be now read a second time.

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

Leave granted.

Labor's 2010 Serious Crime election policy stated that 'This proposal will amend the *Criminal Assets Confiscation Act*…to target persistent or high level drug offenders to provide for total confiscation of the property of a "Declared Drug Trafficker"'. The policy details were:

New powers will be given to the Director of Public Prosecutions to allow criminal drug dealers who commit three prescribed offences within a span of 10 years to be 'declared a drug trafficker.

Under this proposal, which targets high level and major drug trafficking offenders, all of a convicted offender's property can be confiscated, whether or not it is established as unlawfully acquired and whether or not there is any level of proof about any property at all. Property and assets could also be restrained pending prosecution of matters before the court.

The legislation will attack repeat drug offenders. The offences that will attract the declaration if committed 3 or more times within a span of 10 years include:

- *Trafficking in controlled drugs;*
- *Manufacture of controlled drugs for sale;*
- *Sale of controlled precursor for the purpose of manufacture;*
- *Cultivation of controlled plants for sale;*
- *Sale of controlled plants; and*
- *Any offence involving children and school zones.*

The Bill, with a modification, fulfils this election pledge.

Prescribed Drug Offenders

The idea that all of the property of certain drug offenders (described in the Bill as prescribed drug offenders) should be confiscated, whether or not it has any link to crime at all and whether or not legitimately earned or acquired, originated in the Western Australian *Criminal Property Forfeiture Act 2000*. If a person is taken to be a declared drug trafficker under either section 32A(1) of the *Misuse of Drugs Act* of that State or is declared under section 159(2) of the *Confiscation Act*, then, effectively, all of their property is confiscated without any exercise of discretion at all, whether or not it is lawfully acquired and whether or not there is any level of proof about any property at all. The two situations are a convicted drug trafficker of a certain kind and an absconding accused. The first category is the most general.

With respect to convicted drug offenders, there are two situations catered for. The first is the repeat offender. The second is the major offender (whether repeat or not).

The repeat offender is caught if he is convicted on a third (or more) offence for nominated offences within a period of 10 years. The nominated offences are: possession of a prohibited drug with intent to sell or supply, manufacturing or preparing; or selling or supplying, or offering to sell or supply, a prohibited drug; possession of a prohibited plant with intent to sell or supply, or selling or supplying, or offering to sell or supply, a prohibited plant; attempting to commit these offences; and conspiring to commit these offences.

The major offender is caught if the person commits any one offence at any time about a prohibited drug or prohibited plant that exceeds a prescribed amount. Those amounts are prescribed in Schedules to the Act (not regulations) and list, for example, 28 grams of amphetamine, 3 kilograms of cannabis, 100 grams of cannabis resin, 28 grams of heroin and 250 cannabis plants.

Section 159(2) says that a person will be taken to be a declared drug trafficker if the person is charged with a serious drug offence within the meaning of section 32A(3) of the *Misuse of Drugs Act 1981* and the person could be declared to be a drug trafficker under section 32A(1) of that Act if he or she is convicted of the offence, and the person absconds in connection with the offence, or dies, before the charge is disposed of or finally determined. A serious drug offence within the meaning of section 32A(3) of the *Misuse of Drugs Act 1981* means a crime under section 6(1), 7(1), 33(1)(a) or 33(2)(a) of that Act. The content of these crimes has been outlined immediately above.

The Northern Territory *Criminal Property Forfeiture Act* contains very similar provisions, obviously modelled on the Western Australian Act. However, the Northern Territory Act contains only the repeat offender version of the first category and extends to death and absconding. It does not contain what is described as the major offender category described above. No other Australian jurisdiction has anything like either of these Acts.

Under the WA scheme and its counterpart in the Northern Territory, all of the declared drug trafficker's assets are subject to forfeiture - everything. The Government has taken the view that it will ameliorate the harshness of the scheme by providing that the prescribed offender forfeit everything except what a bankrupt would be allowed to keep. These rules are to be found in regulation 6.03 of the Commonwealth *Bankruptcy Regulations 1996*. The lists are extensive, but the general principle is:

> *Subsection 116(1) of the Act does not extend to household property (including recreational and sports equipment) that is reasonably necessary for the domestic use of the bankrupt's household, having regard to current social standards.*

High Level or Major Traffickers

Whether or not a person can be presumed to be, in common usage, a high level or major trafficker will depend largely, but not wholly, on the amount of the drug with which he or she is associated. The SA amounts listed

in the SA *Controlled Substances (General) Regulations* as indicating commercial activity are those prescribed as a result of a national consultative process fixing amounts on the basis of research across Australia on the actual activities of the illicit drug markets informed by police expertise. The obvious way to proceed is to fix on the amounts already settled.

Repeat Offenders

The legislation also attacks repeat offenders. The key to this category is settling the offences to which it applies - that is, what offences will attract the declaration if committed 3 or more times within a span of 10 years. The Bill says that the offences to which it should apply are serious drug offences that are indictable. These are those offences listed in that part of the *Controlled Substances Act 1984* under the headings 'Commercial offences' and 'Offences involving children and school zones'.

The Fund

The proceeds from the existing criminal assets confiscation scheme must be paid into the Victims of Crime Fund (after the costs of administering the scheme are deducted). It is proposed that funds raised by the application of this new initiative be devoted to another fund, to be called the Justice Resources Fund. This Fund will be devoted to the provision of moneys for courts infrastructure, equipment and services and the provision of moneys for justice programs and facilities for dealing with drug and alcohol related crime. Disbursements will not overlap with those made from or eligible for moneys from the existing Victims of Crime Fund. The Government does not believe it to be proper that money from the Fund be spent on law enforcement or criminal investigation purposes.

Other Aspects of the Scheme

The Western Australian scheme has also been modified so that a court has a discretion to ameliorate the inflexible application of this scheme if the offender has effectively co-operated with a law enforcement agency relating directly to the investigation or occurrence or possible occurrence of a serious and organised crime offence. For these purposes, a serious and organised crime offence is defined in a way that mirrors the definition in the *Australian Crime Commission (South Australia) Act 2004*. Every encouragement should be given to serious criminals to inform on their co-offenders and any criminal organisations to which they belong or are party.

As is the case with the WA and NT legislation, a person is a prescribed drug offender where there is sufficient evidence to conclude that a person would have been liable to be a prescribed drug offender and the person either absconds or dies.

The Bill also adopts the Northern Territory innovation that the time period of 10 years in relation to the repeat offender does not run if and while the offender is imprisoned.

This Bill was originally a part of the *Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2011*. The Opposition, with the support of sufficient independents, saw fit to strip out and defeat the substance of this Bill. This time they will have to vote against it as a Bill if they intend the same result.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Assets Confiscation Act 2005*

4—Amendment of long title

This clause amends the long title of the principal Act to reflect the changes made by this measure.

5—Amendment of section 3—Interpretation

This clause amends section 3 of the principal Act to include, or to consequentially amend, definitions of terms used in respect of the amendments made by this measure.

6—Insertion of section 6A

This clause inserts new section 6A into the principal Act. It sets out what is a prescribed drug offender, namely a person who is convicted of a commercial drug offence after the commencement of the proposed section, or who is convicted of another serious drug offence and has at least 2 other convictions for prescribed drug offences, those offences and the conviction offence all being committed on separate occasions within a period of 10 years. However, the 10 year period does not include any time spent in government custody. The proposed section makes procedural provision in respect of the convictions able to be used in the determining whether a person is a prescribed drug offender. The proposed section also defines key terms used in respect of prescribed drug offenders, including setting out what are commercial and prescribed drug offences.

7—Amendment of section 10—Application of Act

This clause makes a consequential amendment to section 10 of the principal Act.

8—Amendment of section 24—Restraining orders

This clause inserts new subsection (5a) into section 24 of the principal Act, which prevents a court from specifying protected property (the definition of which is inserted by this measure) in a restraining order unless there are reasonable grounds to suspect that the property is the proceeds of, or is an instrument of, a serious offence.

9—Amendment of section 34—Court may exclude property from restraining order

This clause amends section 34 of the principal Act by inserting new subparagraph (ia), adding to the list of matters a court must be satisfied of before it may exclude property from a restraining order. The subparagraph is divided into parts dealing with where the suspect has, and has not, been convicted of the serious offence to which the restraining order relates.

The first such matter is that the court can only exclude property where the suspect has not, or would not, become a prescribed drug offender on conviction of the serious offence. Alternatively, the property may be excluded if the court is satisfied it is not owned by, nor under the effective control of, the suspect in the circumstances spelt out in the provision (even if the suspect is, or will be upon conviction of the relevant offence, a prescribed drug offender).

The power to correct an error in respect of the inclusion of the relevant property when making the restraining order is given to the court because the property restrained in respect of prescribed drug offenders is not necessarily proceeds nor an instrument of crime.

10—Amendment of section 47—Forfeiture orders

This clause amends section 47(1)(a) of the principal Act to include the fact that a person is a prescribed drug offender as a ground for the making of a forfeiture order under that section (provided that the relevant property was owned by or subject to the effective control of the person on the conviction day for the conviction offence).

11—Amendment of section 57—Relieving certain dependants from hardship

This clause makes a consequential amendment due to the amendment of section 47(1)(a) by this measure.

12—Amendment of section 58—Making exclusion orders before forfeiture order is made

This clause amends section 58 of the principal Act to provide that property sought to be excluded from a forfeiture order must not, in the case of a forfeiture order to which section 47(1)(a)(ii) applies (ie a prescribed drug offender order), at the relevant time be owned by, or under the effective control of, the prescribed drug offender (unless it is protected property of the person).

13—Amendment of section 59—Making exclusion orders after forfeiture

This clause amends section 59, consistent with clause 15, to provide that property sought to be excluded from a forfeiture order must not, in the case of a forfeiture order to which section 47(1)(a)(ii) applies (ie a prescribed drug offender order), at the relevant time be owned by, or under the effective control of, the prescribed drug offender (unless it is protected property of the person).

14—Insertion of section 59A

This clause inserts new section 59A into the principal Act. That section allows a person to apply for property to be excluded from a restraining order because the person has cooperated with a law enforcement authority in relation to a serious and organised crime offence, be it one that has occurred or may occur in future.

The mechanisms and procedures in relation to an order excluding the property are similar to other such provisions in the principal Act.

15—Amendment of section 62A—No exclusion or compensation where forfeiture taken into account in sentencing

This clause makes a consequential amendment to section 62A (proposed to be inserted by the *Criminal Assets Confiscation (Miscellaneous) Amendment Bill 2012*).

16—Amendment of section 76—Excluding property from forfeiture under this Division

This clause amends section 76 to prevent exclusion of property owned by or under the effective control of a prescribed drug offender (other than protected property).

17—Insertion of section 76AA

This clause inserts a provision similar to the provision in clause 14 allowing for exclusion from forfeiture based on cooperation with a law enforcement agency.

18—Amendment of section 76A—No exclusion where forfeiture taken into account in sentencing

This clause makes a consequential amendment.

19—Substitution of section 203

This clause amends the structure of section 203 of the principal Act to reflect the changes made by this measure.

20—Amendment of heading

This clause is consequential.

21—Amendment of section 209—Credits to Victims of Crime Fund

This clause is consequential.

22—Insertion of section 209A

This clause provides for the establishment of the Justice Resources Fund, to be administered by the Attorney-General, and for the proceeds of confiscated assets of prescribed drug offenders to be paid into the fund.

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

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (R18+ COMPUTER GAMES) AMENDMENT BILL

Second reading.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (16:28): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill amends the *Classification (Publications, Films and Computer Games) Act 1995* (the Act) to provide for an R18+ classification for computer games, consequent upon the Commonwealth *Classification (Publications, Films and Computer Games) (R18+ Computer Games) Amendment Act 2012* and to regulate the display and advertising of R18+ DVDs and computer games.

Australia does not have a classification category for games that are intended for adults. The highest classification currently available for computer games MA15+, which means that many computer games that are classified as R18+ overseas are modified, sometimes several times, to bring them within the MA15+ classification so that they can be sold in Australia.

Following 10 years of negotiations between the Commonwealth, States and Territories and a long and comprehensive public consultation period there is agreement to introduce an R18+ classification for games. The consultation process carried out by the Commonwealth showed overwhelming support for an adult classification for computer games. The R18+ classification will bring Australia into line with the classification systems in many overseas countries and will ensure that games that are unsuitable for minors to play are properly classified as adult material. In particular, games that are R18+ overseas should no longer be modified in an attempt to fit within the MA15+ classification. These games will properly be restricted to adults. This is likely to lower the risk of games that contain high levels of violence being available to minors. The RC, refused classification, will still apply to material that does not come within the national classification guidelines for R18+ games.

The Classification Board and the South Australian Classification Council must classify a publication, film or computer game in accordance with the National Classification Code and the national classification guidelines. New draft guidelines for the classification of computer games have been developed by Classification Ministers. The first draft was publicly released by the Commonwealth in May 2011 for comment. The final Guidelines were recently agreed to by the Classification Ministers. The new guidelines will include the new R18+ classification and have been carefully drafted to balance the underpinning principle of the Classification Code that adults should be able to see, hear and play what they want and the need to protect minors from being exposed to material that may harm or offend them. For that reason, the draft Guidelines take into account the interactive nature of computer games and how that may affect the impact of the content of the games on the individuals playing them. The Classification Board will be required to specifically address interactivity as a separate criterion when classifying computer games.

We have also taken the opportunity in this Bill to address concerns from industry about the regulation of display and advertising of R18+ DVDs, because the same restrictions will soon apply to R18+ computer games. The current provision, section 40A, was the result of amendments introduced by the Hon. Dennis Hood MLC in 2009. Section 40A sets down strict requirements for display and advertising of R18+ films, with a $5,000 penalty attached. The Australian National Retailers Association, following discussions with the Hon. Dennis Hood, has requested amendments to allow some flexibility for retailers who are concerned about the risk of prosecution from inadvertent breaches of section 40A requirements. The proposed amendments will provide for retailers to comply with a code of practice to be prescribed by the Regulations. The Code will be developed in consultation with the retail industry, and it will be a defence to a prosecution for an offence against the display and advertising requirements that the defendant complied with a code of practice prescribed by the regulations.

The introduction of an R18+ classification for computer games is a sensible and long overdue reform.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Classification (Publications, Films and Computer Games) Act 1995*

4—Amendment of section 15—Types of classifications

This clause amends section 15 to provide for an R 18+ classification for computer games.

5—Amendment of section 40A—Keeping R 18+ films with other films

This clause makes a minor amendment to allow a defence where a prescribed code of practice is complied with (consistently with proposed section 60A to be inserted in relation to R 18+ computer games).

6—Amendment of section 56—Demonstration etc of RC computer games

This clause makes a minor drafting amendment to include the matter currently covered by section 58(1) in section 56 (and therefore allowing the substitution of section 58(1), discussed below).

7—Repeal of section 57

This clause repeals section 57 because the offence currently contained in that provision is now being relocated to section 58(1c).

8—Amendment of section 58—Demonstration etc of unclassified, R 18+ and MA 15+ computer games

The offence relating to RC games that is currently contained in section 58(1) is being relocated to section 56 and this clause substitutes new offences relating to R 18+ games and relocates the current offence relating to MA 15+ games from section 57.

9—Amendment of section 59—Private demonstration of RC and R 18+ computer games in presence of minor

This clause creates an offence relating to private demonstration of an R 18+ computer game (by a person other than a parent or guardian), consistently with the provisions in the Act relating to R 18+ films.

10—Insertion of section 60A

This clause inserts a new provision on keeping R 18+ computer games with other computer games, to ensure consistency with the provisions relating to R 18+ films. As discussed above, a new defence is however included which allows for compliance with a prescribed code of practice.

11—Amendment of section 62—Sale or delivery of certain computer games to minors

This clause inserts a new offence relating to sale or delivery of an R 18+ game to a minor by a person other than a parent or guardian.

12—Amendment of section 63—Power to demand particulars and expel minors

This clause makes a consequential amendment to section 63.

13—Amendment of section 64—Leaving computer games in certain places

This clause extends the current offences relating to leaving an RC computer game in a public place or, without the occupier's permission, on private premises to R 18+ games.

14—Amendment of section 69A—Liability of occupier for R 18+ advertisements in video stores etc

This clause makes consequential amendments to section 69A and allows for a new defence which allows for compliance with a prescribed code of practice.

15—Amendment of section 71—Advertisements with computer games

This clause makes a consequential amendment to section 71.

16—Amendment of section 75A—Interpretation

This clause makes a consequential amendment to the definition of *matter unsuitable for minors*.

17—Amendment of section 80—Powers of entry, seizure and forfeiture

This clause makes a consequential amendment to the provision governing powers of entry, seizure and forfeiture.

18—Amendment of section 91—Regulations

This clause is consequential to clauses 5 and 10.

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

At 16:29 the council adjourned until Tuesday 30 October 2012 at 14:15.