LEGISLATIVE COUNCIL

Tuesday 13 November 2012

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 14:16 and read prayers.

CHARACTER PRESERVATION (BAROSSA VALLEY) BILL

His Excellency the Governor assented to the bill.

CHARACTER PRESERVATION (MCLAREN VALE) BILL

His Excellency the Governor assented to the bill.

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): I move:

That the sitting of the Legislative Council be not suspended during the conference 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): I move:

That the sitting of the Legislative Council be not suspended during the conference 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) (14:20): I move:

That the sitting of the Legislative Council be not suspended during the conference on the bill.

Motion carried.

PAPERS

The following papers were laid on the table:

By the President—

Reports, 2011-12—
- District Council of Berri Barmera
- Rural City of Murray Bridge

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

Reports, 2011-12—
- Capital City Committee Adelaide
- SA Rock Lobster Industry
- South Australian Motor Sport Board
- State of the Sector

Regulations under the following Acts—
- Liquor Licensing Act 1997—
  - Dry Areas—
    - Lobethal Area
    - Mount Gambier
    - Strathalbyn
    - Two Wells Area
- Lottery and Gaming Act 1936—Revocation of Regulation 48

Guidelines pursuant to the Classification (Publications, Films and Computer Games) Act 1995

Instrument for the Purposes of Clause 5.2 of the Variation Clause pursuant to the Roxby Downs (Indenture Ratification) (Amendment of Indenture) Amendment Act 2011
Statistical Returns relating to Road Block Establishment Authorisations

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

Forestry SA—Report, 2011-12

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

Reports, 2011-12—
Adelaide Convention Centre
Adelaide Entertainment Centre

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

Reports, 2011-12—
Barossa & Districts Health Advisory Council Inc.
Bordertown & District Health Advisory Council Inc.
Construction Industry Training Board
Country Health SA Local Health Network Inc.
Eastern Eyre Health Advisory Council Inc.
Eudunda Kapunda Health Advisory Council Inc.
Far North Health Advisory Council
Freedom of Information Act 1991
Gawler District Health Advisory Council Inc.
Hills Area Health Advisory Council Inc.
Kangaroo Island Health Advisory Council Inc.
Leigh Creek Health Services Health Advisory Council
Lower Eyre Health Advisory Council Inc.
Lower North Health Advisory Council Inc.
Loxton and Districts Health Advisory Council Inc.
Mallee Health Service Health Advisory Council Inc.
Mid-West Health Advisory Council Inc.
Mining and Quarrying Occupational Health and Safety Committee
Mount Gambier and Districts Health Advisory Council Inc.
Police Superannuation Board
Port Augusta Roxby Downs Woomera Health Advisory Council
Port Lincoln Health Advisory Council
SA Ambulance Service
SA Metropolitan Fire Service Superannuation Scheme
SAAS Volunteer Health Advisory Council
SafeWork SA Advisory Committee
South Australian Parliamentary Superannuation Scheme
South Coast Health Advisory Council Inc.
Southern Flinders Health Advisory Council
Waikerie and Districts Health Advisory Council
Whyalla Hospital and Health Services Health Advisory Council

By the Minister for Food and Fisheries (Hon. G.E. Gago) on behalf of the Minister for Communities and Social Inclusion (Hon. I.K. Hunter)—

Reports, 2011-12—
Administration of the Radiation Protection and Control Act 1982
Animal Welfare Advisory Committee
Department of Environment, Water and Natural Resources
Environment Protection Authority
Marine Parks Council of South Australia
Pastoral Board
Rail Safety Regulator's Report to the Minister for Transport and Infrastructure
South Australian Heritage Council
South Australian National Parks and Wildlife Council
South Australian Rail Regulations

Tarcoola-Darwin Rail Regulation
Wilderness Advisory Committee and Wilderness Protection Act 1992
Zero Waste SA

Regulations under the following Act—

South Australian Ports (Disposal of Maritime Assets) Act 2000—Port Adelaide Container Terminal Monitoring Panel

OLYMPIC DAM EXPANSION

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) (14:25): I table a copy of a ministerial statement relating to BHP Billiton made earlier today in another place by my colleague the Premier, the Hon. Jay Weatherill.

BUSHFIRE UPDATE

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) (14:25): I table a copy of a ministerial statement relating to bushfires made earlier today in another place by my colleague the Premier, the Hon. Jay Weatherill.

CHILD PROTECTION

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) (14:25): I table a copy of a ministerial statement relating to child protection made earlier today in another place by my colleague the Premier, the Hon. Jay Weatherill.

QUESTION TIME

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:28): I seek leave to make a brief explanation before asking the Minister for Tourism a question in relation to the use of taxpayers' money.

Leave granted.

The Hon. D.W. RIDGWAY: In a moment of apparent lunacy, and with the former minister's concurrence, the Tourism Commission's visitor information centre moved out of its ideal premises on King William Street to a dungeon in Grenfell Street. The experiment, sadly, was not success. A private company called Holidays of Australia was contracted by the Tourism Commission to market, book and promote South Australian holidays.

The company alleges (and there seems to be convincing proof) that the commission dudded the company. The promised returns were not there. Holidays of Australia was running at a loss because the commission had oversold its product, and Holidays of Australia believed it had been so seriously misled that it had a legal case for recompense.

The Tourism Commission immediately sent for the Solicitor-General, asking for help. The board members, acting together as a board, took their own legal advice. They went collectively to the firm of Fisher Jeffries and sought advice as to whether they—the members of the board of the South Australian Tourism Commission—were liable under the law.

The opposition today has irrefutable evidence on information that the legal costs incurred by the board of the commission totalled more than $150,000—to be exact, $150,487. That may still not be the end of the story. My questions to the minister are:

1. Did any member of the board of the SA Tourism Commission seek any legal advice regarding the Holidays of Australia contract on an individual basis?

2. If so, did the commission then reimburse the individual board members for those legal fees?

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) (14:29): I thank the honourable member for his important question. With the moving of the visitors centre to Grenfell Street, unfortunately those arrangements fell through, and I have spoken at length about what occurred and the SATC's response to that to assist the owner through

that very difficult time. We were able to reach a mutually agreed position in relation to that, and it is a testament to the skill and expertise of the SA Tourism Commission and also of the goodwill of Holidays of Australia that we were able to land on a mutually agreed outcome.

The issue of the contracts at the time was a complex one and it would be irresponsible of the Tourism Commission going through that process not to seek legal advice. It would, indeed, be extremely irresponsible, so that is not an unusual practice at all and, in fact, it is good practice when it comes to what can be complex and very technical contractual obligations, and particularly when aspects of that are in dispute it is absolutely reasonable, and the responsible thing to do is to seek legal advice.

I am aware that the board did seek advice. I have no knowledge of any individuals seeking advice. I do not know the answer to that; that is an operational matter, and that is a matter for the board. I am happy to take that question on notice and bring back a response but, as I said, I would expect that the board receive the legal advice that it needs to make prudent decisions that are in the best interest of South Australians.

LOCAL GOVERNMENT BUILDING LEGISLATION

The Hon. J.M.A. LENSINK (14:32): I seek leave to make a brief explanation before directing a question to the Minister for State/Local Government Relations on risks to councils from dodgy builders.

Leave granted.

The Hon. J.M.A. LENSINK: Currently in the New Zealand community, local councils are calling on the government to introduce warranties into building legislation to protect ratepayers and councils from the financial fallout of dodgy builders and to hold builders responsible for their work. In the past, councils and ratepayers have been left to foot the bill of building works that have failed to meet construction standards with many businesses opting to go bankrupt in order to forfeit any financial obligation. There is a proposal which suggests a warranty scheme to protect consumers and local authorities from liability when builders fail to meet standards, improve accountability and require builders to fix unsatisfactory work within 12 months. My questions for the minister are:

1. Is he aware of similar problems facing our local councils in South Australia?

2. With the Local Government Association calling on the government to assist in stimulating the building industry, has the minister considered any such legislation to ensure the integrity of the industry and prevent unnecessary financial burden on councils and ratepayers?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:33): I thank the honourable member for her very important question. I am not aware of the position over in New Zealand but I will undertake to actually find out exactly what their legislation provides. In regard to what is happening in South Australia, we have no plans to introduce any legislation protecting people from shonky builders but we are in discussions with the LGA in regard to a provision for where there is damage to footpaths and the like left behind when a builder finishes their work, so we are looking at and discussing those sorts of issues.

LOCAL GOVERNMENT CONSULTATION

The Hon. S.G. WADE (14:34): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about local government consultation.

Leave granted.

The Hon. S.G. WADE: The Development (Private Certification) Amendment Bill was tabled on 18 October. The bill proposes to make significant changes to the Development Act and the state planning system. Under the 2012 State/Local Government Relations Agreement, state and local government jointly commit to:

> ...regular and effective communication, consultation and negotiation on the formulation and implementation of key policies, legislative programs and significant programs/projects that affect the other party.

In particular, the agreement has a legislative protocol and, under that protocol, as the bill clearly has a significant impact on local government, the government commits to undertake an advance consultation phase with the Local Government Association with a view to an agreement being reached before the bills are tabled in parliament. The Local Government Association advises that it did not have an opportunity to comment on the private certification bill prior to its introduction. My questions to the minister are:

1. As the minister responsible for local government and state/local government relations, what steps did he take to consult the Local Government Association on proposed changes to the Development Act?

2. Did the minister ensure that the Minister for Planning consulted the LGA on the proposed amendments to the Development Act before they were tabled, as required by the intergovernment agreement?

3. Given that this is yet another example of the government failing to consult with local government, what is the minister doing to address the flagrant and persistent disregard of the State/Local Government Relations Agreement?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:36): I thank the member for his very important questions. The member is right; we do have a memorandum of understanding where there is a commitment to consult with councils in regard to various bits of legislation. I know that that occurs very often with various ministers and various proposals that are put up. There are cases where, unfortunately, negotiation is not possible—that sometimes occurs.

I always consult, naturally, being the minister for local government, and I also advise and encourage my cabinet colleagues to consult with the LGA when legislation is proposed. In general, I think the LGA is quite happy with the amount of consultation which takes place between it and the government. However, as I said, there are occasions when, for one reason or another—and I cannot go into that right now but I can refer it on to the Minister for Planning—that may not have occurred. However, in general, there is very good contact and negotiation between the LGA, councils and the government.

VINE INN BAROSSA

The Hon. G.A. KANDELAARS (14:37): I seek leave to make a brief explanation before asking the Minister for Tourism a question about tourism development.

Leave granted.

The Hon. G.A. KANDELAARS: The minister has spoken in this place before about the support provided by the South Australian Tourism Commission for the development of appropriate tourism experiences and products. Will the minister tell the chamber about a recent grant to the Vine Inn motel?

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) (14:38): I thank the honourable member for his most important question. Indeed, the SATC supports a great number of tourism developments, including infrastructure and new products. The Vine Inn motel has received a grant from the Tourism Development Fund which is an application-based grants program designed to assist tourism infrastructure projects which address and identify product gaps and add to the tourism product available in key areas of the state.

The grant provided to the Barossa's historic Vine Inn motel will see it upgraded to a four-star level, assisting to grow tourism and financial returns for the community. I am advised that the Vine Inn is more than 150 years old and has been community owned for the past 75 years. As a community-owned business all hotel profits are returned to the region through sponsorship and donations to local sporting and service clubs, schools, kindergartens and community projects.

This is part of what makes the Vine Inn motel in Nuriootpa such a unique Barossa property. As a community-owned motel, increased visitation to the property results in benefits for the whole community. Under the $33,000 grant from the SATC Development Fund, 18 rooms will be upgraded from 3.5 to 4 star level, and the .5 star upgrade will enable the property to offer quality facilities in the Barossa region at a competitive rate.

The South Australian Tourism Commission and the Weatherill government have made their commitment to facilitating the development of accommodation in the regional areas very clear. We know that visitors and locals alike love our regions, so we need to ensure that we have high quality accommodation available to meet their needs.

The Vine Inn upgrade will occur over two stages to minimise the effect to the motel's operations. Six rooms have already been upgraded to a high 4 star standard. The remaining 12 rooms are intended to be upgraded by March 2013. This upgrade to the Vine Inn motel is in line

with, and has been driven by, the Destination Action Plan (DAP) for the region launched in May, which outlines 22 actions to increase visitation to the Barossa region.

This project aligns with our objective to upgrade 30 rooms within the Barossa region to a 4 star standard by 2020 to cater for increased demand from both the high-yielding domestic market and also the high-yielding and rapidly growing Asian market. I was delighted to be advised that the upgrades are being completed and facilitated through local trades and suppliers, thus ensuring financial stimulus for the Barossa businesses in what is obviously a tough economic market.

GLENCOE NURSERY

The Hon. R.L. BROKENSHIRE (14:41): I seek leave to make a brief explanation before asking the Minister for Forests a question regarding the Glencoe Nursery.

Leave granted.

The Hon. R.L. BROKENSHIRE: The Glencoe Nursery in the South-East, north-west of Mount Gambier, has produced seedlings for ForestrySA and the forest industry generally. It is a significant employer in the Glencoe area. According to ForestrySA annual reports, the nursery has produced 26 million seedlings and cuttings over the last four years. The most recent annual report states:

> As part of ForestrySA's genetic strategy, additional investment in seed orchard capacity is underway to ensure the best genetic material is available into the future.

The government tenders website indicates that the Glencoe Nursery is under a service agreement starting on August 2011 and expiring on December 2014. My questions to the minister are:

1. Was the Glencoe Nursery included in the forward sale of harvesting rotations?

2. If not, as Minister for Regional Development, noting the local employment and additional investment that was underway last reporting year, will the government continue that investment despite the forward sale?

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) (14:43): I thank the honourable member for his question. My understanding is that the forward sales did not include the Glencoe Nursery. That is unaffected by the provisions within the forward sale agreement, and the provisions around that remain unchanged.

In terms of any future developments, we continue to look at strategic ways to manage our forests, and we need to continue to look for opportunities for further development and suchlike. So I certainly could not stand here today and say that there would be no change at all in the forests that ForestrySA retain.

As I said, it is a very competitive industry out there. It is a very tough industry at the moment, and we continue to look for opportunities and continue to develop our industry in a responsive way to be able to maximise the opportunities ahead. Indeed, the decisions we make are obviously in the best interests of the purview for ForestrySA, and they are obviously looking for long-term, sustainable returns for the state.

GLENCOE NURSERY

The Hon. R.L. BROKENSHIRE (14:45): I have a supplementary question arising from that last part of the answer. Given the minister's answer about long-term opportunities for the industry, can the minister therefore say why the government said it had to sell the forestry due to the alleged risk in continuing to run a forestry enterprise?

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) (14:45): The rationale for the sale of the forests has been talked about at length in this place. The Hon. Robert Brokenshire can keep going back and revisiting that. That decision was made; it was made on a sound basis. We believe the decision was made in the interests of South Australia and we have got on with the job of governing this state in a responsible way.

The Hon. J.M.A. Lensink: Slash and burn.

The Hon. G.E. GAGO: The opposition talk about slashing and burning. They want to slash between 25,000 and 35,000 public sector jobs, so what a pack of hypocrites! We are in very tight economic times and this government has worked very hard to manage its services in such a way

as we retain critical front-line services and we attempt to ensure that they remain intact wherever possible. We have looked for efficiencies elsewhere where possible, particularly administrative efficiencies. We have to balance the budget, and that is exactly what we have done.

The Hon. R.I. Lucas: You can't. You've never been able to.

The Hon. G.E. GAGO: The opposition have just said that we haven't been able to balance a budget. What a joke! The opposition—eight years of government—not one surplus budget. Look at the track record of this government. Not only have we been able to balance our budget but we have been able to deliver surpluses, so what a pack of hypocrites! In eight years, not one surplus budget. They are not fit to be in opposition; they are certainly not fit to be in government.

SAFE WORK WEEK

The Hon. K.J. MAHER (14:47): My question is to the Minister for Industrial Relations. Can the minister advise the chamber of the recent events that took place at Safe Work Week and the outcome of the Safe Work Awards?

Members interjecting:

The PRESIDENT: Order! Hang on. I can't hear you, minister.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:48): I would like to thank the honourable member for his very important question. I acknowledge the long-term commitment that the Hon. Mr Maher has had for working people in this state. Safe Work Week 2012 was held on 22 to 26 October across metropolitan Adelaide. Once again, a high number of businesses and individuals demonstrated their keen interest in making their workplaces safer. The resounding success of the Safe Work Week program of events has confirmed its importance and value.

This year more than 83 workshops were held at the Education Development Centre at Hindmarsh attended by more than 3,800 registrants. These sessions provided high quality, relevant information on topics as broad as the harmonised work health and safety legislation and as specific as how to improve safety of loading and unloading operations for trucks and forklifts. More than 360 businesses also signed up to receive the Take 10@10 packages which provide training material on 12 work health and safety topics. Participants can then discuss these topics at their own workplace, meaning that many more South Australians can participate in workplace safety awareness training than only those who can attend Safe Work Week.

Approximately 20,000 free safety publications were distributed throughout Safe Work Week, covering a wide range of topics. This information enables people to make a difference to the safety of their workplaces. In the lead-up to Safe Work Week, SafeWork SA also delivered presentations to various regional areas of the state. This enabled SafeWork SA to bring the work health and safety message to the doorsteps of regional workplaces and the industries at times that suited them.

To conclude another successful Safe Work Week, it was my privilege to present the 2012 Safe Work Awards at a ceremony on Friday 26 October at the Adelaide Convention Centre. The Safe Work Awards are the annual celebration and recognition of the achievements of those employers and individuals who have demonstrated their commitment to work health and safety by making significant contributions to safety in their own workplaces.

StaminaLift International won the award for Best Solution to an Identified Workplace Health and Safety Issue. The StaminaLift bed mover has revolutionised healthcare delivery by eliminating manual handling risks when moving beds in hospitals. The bed mover was developed in consultation with hospital staff over several years. It provides a safer work process for staff, with fingertip control of a joystick being the only force required to fully manoeuvre beds weighing up to 500 kilograms. The Hon. Ms Gago would appreciate the benefits of that, being a past secretary of the nurses' federation and would realise how many injuries occur to working people while moving people through corridors and lifting them onto and off their beds.

A commendation was also awarded to the City of Charles Sturt, whose staff instigated changes to a vehicle for sign installation and maintenance and worked with management to ensure a safer workplace. The Best Workplace Health and Management System award saw a commendation awarded to OneSteel Recycling for establishing a systematic approach to risk management in a hazardous industry. A commendation was also awarded to Bowhill Engineering

for its commitment to developing and implementing a workplace health and safety management system to ensure the health, safety and welfare of its regional workforce.

Harcourts Mile End won the award for Best Workplace Health and Safety Practice in a Small Business for its excellence in developing practical solutions to address worker safety within a busy and dynamic small business environment. The business addressed issues including remote and isolated work, psychological hazards such as public aggression, physical and verbal abuse, general staff health and office ergonomics.

I also congratulated Ms Rebecca Chapman from Flinders Medical Centre, Ms Sue Newberry from MyBudget and Mr Tim Cotton from McMahon Services, all of whom received awards in the category of Best Individual Contribution to Workplace Health and Safety. Ms Chapman, Ms Newberry and Mr Cotton have demonstrated the positive impact that individuals can have on workplace safety. Mr Leroy Cook, from Coles Distribution Centre, was awarded a commendation for Health and Safety Representative of the Year. The winners in these categories will now contest the national Safe Work Award to be held in Canberra in April 2013.

In addition, an Augusta Zadow scholarship, which supports occupational health and safety projects that are undertaken by, or for, South Australian women, was awarded to Dr Moira Jenkins of Aboto and the University of Adelaide. The scholarship of $16,900 is to support the development of a program to help workers return to safe work after sustaining psychological injury as a result of workplace bullying and harassment.

I congratulate all the Safe Work award winners and entrants for their contribution to advancing the safety of South Australian workplaces. I also extend my thanks to the SafeWork SA Advisory Committee, which has worked in partnership with SafeWork SA, WorkCover SA, South Australian Unions and Business SA, together with the Australian Industry Group, the Master Builders Association of South Australia and the South Australian Farmers Federation. Their dedication and collaboration in the delivery of this year's Safe Work Week has ensured its continued success.

LEVEL CROSSING PEDESTRIAN SAFETY

The Hon. K.L. VINCENT (14:54): I seek leave to make an explanation before asking the minister representing the Minister for Transport Services questions regarding pedestrian safety at level crossings.

Leave granted.

The Hon. K.L. VINCENT: Around Australia and the world there is serious understandable concern about the impact on personnel involved in rail accidents. According to the TrackSAFE Foundation:

> The rail network is a workplace...train drivers and rail employees who experience an incident can have lasting mental, physical and emotional trauma from witnessing such event.

A survey of the Belair line conducted on 12 November 2012 indicates that as few as four out of 24 pedestrian crossings are marked with a white safety line on the western side. There has been no change 12 months after a similar question to the minister. In what may now become an annual survey, it was observed from Lynton station to Adelaide on the western side of the railway: Barrett's Road, Clapham—two crossings, no lines, and one faulty level crossing light.

There are no lines at the following crossings: Price Avenue between Clapham and Torrens Park; Wattlebury Road at Lower Mitcham; south-west of Mitcham station; Mitcham station; north of Mitcham station; Grange Road, Lower Mitcham; Angus Road, Hawthorn; Egmont Terrace, Hawthorn; Sussex Terrace, Hawthorn; Unley Park station; Llanfair Terrace; Cross Road; Jellicoe Avenue; Ningana Avenue; the Goodwood overpass; and Goodwood Bowling Club. My questions to the minister are:

1. Is the state government responsible for line marking on rail pedestrian crossings?

2. If this task is outsourced, what is the value of the contract and does it include line marking on both sides of the rail line and, if not, why not?

3. Will an audit of line marking on all metropolitan pedestrian rail crossings be undertaken?

4. Is there any plan for appropriate signage to be posted at locations known to be frequented by large numbers of people with intellectual disabilities?

5. Were any South Australian public servants funded to attend the 12th Global Level Crossing and Trespass Symposium from 7 to 12 October in London?

6. Will line markings be in place before the scheduled closure of the Belair line on 2 January?

7. When will the faulty level crossing light on Barretts Road, Lynton, which was reported on 5 November, be repaired?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:57): I thank the Hon. Ms Vincent for her very important questions. I will take them on notice and refer them to the Minister for Transport Services in another place and get an answer as soon as possible.

LOCAL GOVERNMENT ROAD FUNDING

The Hon. J.S. LEE (14:57): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about funding for local government roads.

Leave granted.

The Hon. J.S. LEE: The National President of the Local Government Association and Mayor of Marion, Ms Felicity-ann Lewis, mentioned on ABC Radio on 4 October that councils are about $1.2 billion short for current spending on Australian roads. Money has to come on a federal level as they are the only ones that have money. She said that the states do not have money, which is why giving them the responsibility for roads is problematic.

During the ABC radio interview the Mayor of Port Adelaide Enfield Council, Gary Johanson, revealed that there were at least 10 motions concerning the lack of funding to councils to pay for their roads at the Australian Local Government Conference in Canberra this year. On radio a caller by the name of David said:

> I am old enough to remember that our registration fees on our cars and trucks and trailers have gone up umpteen times to pay for the roads. I'd like to know from the minister where is all this money gone that we were paying for the roads and why isn't it actually being spent on the roads?

My questions to the minister are:

1. What consultations have taken place between the minister and the Minister for Transport and Infrastructure to ensure that South Australia is not missing out on road funding?

2. What efforts have been made to improve the efficiencies between state and local government to address a lack of funding for local government roads?

3. When will the state government consult with the community and stakeholders about a better funding model for South Australian roads?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:59): I thank the honourable member for her important question. There are three main funding programs for local roads in South Australia: identified local road grants, supplementary local road funding and the Roads to Recovery Program. Identified local roads grants for South Australia for 2012-13 amount to $37 million, an increase of 4.4 per cent from 2011-12, reflecting an increase in the total national pool. This supplementary local road funding—and this was a fund only for South Australia—was extended for a further three years from 2011-12 to 2013-14, and will provide $16.9 million in 2012-13, which reflects the increase in the financial assistance grants pool. South Australia will receive $28.4 million in Roads to Recovery funding for 2012-13.

For all these three road funding programs, 85 per cent of the funds provided to South Australia is allocated by formula funding and 15 per cent is distributed to councils by the South Australian Local Government Grants Commission under the Special Local Roads Program for roads of regional significance.

The Roads to Recovery component is paid directly to local government. Funding for the Special Local Roads Program for 2012-13 is $12.34 million which is made up of $5.55 million from identified local roads grants, $2.53 million from the Supplementary Local Road Funding and $4.26 million from the Roads to Recovery funding.

Distribution of the Identified Local Road Grants between states is based on principles existing prior to 1991-92. The South Australian share of our Identified Local Road Grants is fixed at 5.5 per cent of the national pool. Although South Australia maintains 11.5 per cent of the nation's local roads, it receives only 5.5 per cent of the available funding. This inequity has been addressed in part by the Supplementary Local Road Funding which runs from 2011-12 to 2013-14. This program is unique to South Australia.

This program was extended in the 2011-12 budget for a further three years, providing an expected $50.9 million to South Australian councils during this time. The Roads to Recovery program, provided initially for four years from 2001-02 to 2004-05 and extended from 2005-06 to 2008-09, has been further extended from 2009-10 to 2013-14. This program has addressed the funding inequity for South Australia as this state now receives 8.33 per cent of the available pool funding.

GLENCOE NURSERY

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 seek leave to make a personal explanation.

Leave granted.

The Hon. G.E. GAGO: Earlier today I was asked a question about the Glencoe Nursery being included in the forward sale and I stated that it was not. However, I have since been advised that it was in fact included in the final stages of negotiation for the sale. I am advised that this was considered an important part of the OneFortyOne Plantations' ability to meet their replanting obligations under the contract and, as I stated, it was in fact included in the final stages of the negotiations.

The Hon. D.W. Ridgway: 'I don't know what day it is, I'm sorry.'

The PRESIDENT: You should look at the calendar, Mr Ridgway. The Hon. Mrs Zollo.

QUESTION TIME

TOUR DOWN UNDER

The Hon. CARMEL ZOLLO (15:02): I seek leave to make a brief explanation before asking the Minister for Tourism a question about the Tour Down Under.

Leave granted.

The Hon. CARMEL ZOLLO: During this time of the year, more and more interest is growing for one of the biggest events on the South Australian calendar. My question to the minister is: can she please outline for the chamber some of the recent developments for the 2013 Santos Tour Down Under?

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) (15:03): I thank the honourable member for her important question. I know that we are all very excited about the 2013 Santos Tour Down Under because it really is one of the nation's most popular events. I am very delighted to advise that budding cycling stars can seize their moment to shine by taking part in the Bupa Mini Tour for Kids next January.

The event is part of the 2013 Santos Tour Down Under and is presented by UniSA and will be on 27 January along the Adelaide City Council street circuit from King William Road to Elder Park. Children aged between six and 12 can enter the Bupa Mini Tour for Kids and it is obviously a wonderful opportunity for young riders to use the UCI WorldTour track, just like the professionals. Mini tour participants will ride along the start/finish straight of the street circuit only hours before the world's elite cyclists battle it out for the final stage of the Santos Tour Down Under.

Bupa Mini Tour for Kids entrants will be split into age groups, with each allocated 20 minutes to ride as many laps of the special track as they possibly can, so they can really get in there and knock themselves out. The entry is $30 per child and includes exclusive access to stage 6 Adelaide City Council street circuits, a special Bupa Mini Tour for Kids t-shirt to wear while riding, and refreshments and a gift bag. I am advised that children need a bike that is in good condition, an Australian Standards approved helmet and, obviously, permission from their parent or guardian to participate.

I would also like to inform members that package tours to the 2013 Santos Tour Down Under are being sold by an Asian travel specialist for the first time. I am advised the Hong Kong based Elite Sports is among 11 international companies offering package tours for next year's event. Package tours for next year's race are sold around the world, with cycling fans in New Zealand, Italy, France, the UK and the US catered for by local specialists. Elite Sports is owned by Alan Ho, a professional cyclist in Hong Kong, and focuses on promoting active and environmentally sensitive holidays.

I am really thrilled that the specialist packages for the important Asian market are available, and of course Australians keen to purchase a package tour for next year's Tour Down Under are also well supported, with seven specialists busy promoting our festival of cycling. Santos Tour Down Under event specialists offer a range of holiday packages to suit keen amateur cyclists right through to avid specialists.

Those staying for a full week can enjoy the very best of the event, with the entire VIP Club Tour experience, which includes trackside viewing and attendance at Club Tour events, and anyone with just a weekend to spare obviously can select our Club Tour Classic or Weekender options, tailored for their particular time of stay. The 2013 Tour Down Under will be held from 20 to 27 January, and I obviously encourage all members to get involved in the tour.

SHACK LEASES

The Hon. J.A. DARLEY (15:07): My question is to the Minister for Communities and Social Inclusion representing the Minister for Sustainability, Environment and Conservation. With regard to shack sites on crown land, annual rent is calculated using a rate of return multiplied by the unimproved land value. My office has received conflicting information with regard to the definition of unimproved land value the department is using. Could the minister provide the official definition of unimproved land value the department is supposed to be using for the purposes of determining rent?

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) (15:08): On behalf of my colleague, I am happy to take that question on notice and refer it to the appropriate minister in another place and bring back a response. I have been provided with some information about shack rent increases that I am happy to share with the chamber. I am advised that the lease conditions for non-transferable shack leases on crown land and in national parks provide for the periodic re-evaluation of the annual rent to be paid to the Crown for the right to occupy the land. I am advised that the lease rentals have always been based on the policy premise that the Crown should realise a fair return for the private exclusive use of land assets.

I am further advised that an independent valuer provides a report on the values of individual shacks and the rationale for the valuation, and I am advised that the advice takes into account market evidence, such as the significant upward trend and the value of the waterfront land. I am advised that the leases of shack sites on crown land at Fisherman's Bay, Glenelg River and others were determined by applying a 4 per cent rate of return to the unimproved land value of the shack site.

I am further advised that, of the 88 shack revaluations, 19 are at Fisherman's Bay and Milang, and 23 are at Glenelg River. In June 2012 lessees of shack sites on crown land along other sites on the Glenelg River and the Coorong National Park were advised of new rents and the same methodology was applied. The lease conditions also provide an opportunity for lessees to lodge an objection to the new rent within 28 days of being notified. I am advised that a number of objections to shack rental increases have been received from shack lessees at Fisherman's Bay, Glenelg River, Coorong National Park and Milang.

I am advised that the Department of Environment, Water and Natural Resources is conducting a review for those sites that are subject to an objection by reviewing their processes and any supporting evidence provided by the lessees. As I said, I am happy, if that answer does not satisfy the honourable member, to refer it to the appropriate minister in another place and bring back a response.

PRINTER CARTRIDGE SCAM

The Hon. T.J. STEPHENS (15:10): I seek leave to make a brief explanation before asking the Minister for Industrial Relations, representing the Minister for Finance, a question about the new contractual arrangements for government stationery orders.

Leave granted.

The Hon. T.J. STEPHENS: Recently the government put a freeze on the power of departments and individual offices to negotiate their stationery contracts. Presumably this was a kneejerk reaction to the 'cartridgegate' fiasco a few months ago. Obviously, while something needed to be done, this seems to be a clear case of throwing the baby out with the bathwater.

The individually negotiated contracts often led to better deals being negotiated which were tailored to the specific needs of the office or department. My office has been contacted by a number of local stationers who have lost their contracts, which were offered on a very low margin basis, a situation that was mutually beneficial to the government and South Australian businesses. I have recently learned that Shared Services has directed that all future purchases must be made through two specific multinational suppliers which are based interstate. My questions to the minister are:

1. Can the minister explain why individual departments and offices were stripped of their power to negotiate their own stationery contracts to the detriment of departmental budgets and local businesses?

2. How can the government say it supports local business when it has so blatantly harmed them?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:12): I would like to thank the honourable member for his very important questions. I will take them on notice and refer them to the Minister for Finance in another place and get a response as soon as possible.

MURRAY MALLEE LOCAL GOVERNMENT ASSOCIATION

The Hon. G.A. KANDELAARS (15:12): My question is to the Minister for State/Local Government Relations. Can the minister provide information on the recent Murray Mallee Local Government Association's first annual priority setting day?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:12): I thank the honourable member for his very important question. Last Friday I had the pleasure of speaking at the Murray Mallee Local Government Association's first annual priority setting day. The Office for State/Local Government Relations is currently assisting regional LGAs in establishing annual planning or priority setting days. The $30,000 program funded by the state government provides a practical training ground for regional councils.

The Murray Mallee LGA planning day was the first of these days to be held and it was organised around the theme 'Premium food and wine from our clean environment'. This was a theme that they chose themselves and, therefore, it was important to have a number of state government agencies in attendance. I am pleased to advise that the Department of Primary Industries and Regions South Australia (known as PIRSA) was represented by Mr Ian Nightingale, chief executive, along with other senior representatives from the Department of Environment, Water and Natural Resources, the Department of Planning, Transport and Infrastructure, and the Department of Further Education, Employment, Science and Technology.

Each of these representatives gave a short presentation outlining their agency's priority for the next 12 months in the Murray and Mallee region. General discussion throughout the day then assisted in forming a relatively short list of key priorities for the region and participants assigned responsibility for pursuing these priorities. The intention of holding annual planning days will ensure that these priorities are reported on and further discussed over the next 12 months. I am pleased to see that the state/local government sector has put in place what is really a very simple idea: getting state government agencies and councils together once a year to talk about what their plans and priorities are, where these intersect and where they may diverge.

I want to make sure that councils and the state government in each region are having an ongoing conversation so that everybody knows what the other party is doing and, importantly, what our shared priorities are. I would like to congratulate the Murray Mallee LGA on a successful first annual planning and priority setting day, and I look forward to updating the chamber on the progress of these priorities in the coming months.

AUDITOR-GENERAL'S REPORT

The PRESIDENT (15:15): Before I call the Hon. Mr Parnell, I refer to a question he asked concerning the Auditor-General's Report in which the Auditor-General once again qualifies his report in relation to the Joint Parliamentary Service. This has occurred over many years since the previous Auditor-General requested unrestricted access to the minutes of the Joint Parliamentary Service Committee and the internal finances of the catering division, including records relating to personal accounts of members and staff.

The committee, on each occasion, has declined this request as the internal accounts of the catering division are audited by Edwards Marshall & Co. Members should be aware that all expenditure of public moneys is audited by the Auditor-General and this includes the wages of the catering division. Members should also realise that the comments made in the Auditor-General's Report do not reflect on the Auditor's access and capacity to report on parliamentary finances, in other words, the legislature, which is divided into the Legislative Council, the House of Assembly, and the Joint Parliamentary Service. These are distinct, separate entities which make up the legislature.

In accordance with the Parliament Joint Services Act 1985, the Joint Parliamentary Service Committee administers the staffing of the joint services, those being parliamentary reporting, parliamentary library, catering and the Joint Services Division which consists of both finance and building services. As previously mentioned, the Auditor-General must have free access to the public accounts and salaries paid to all of the staff involved under the Joint Parliamentary Service Committee.

The budgetary allocation to the legislature as a whole is, of course, contained within the budget papers, and the Auditor-General obviously conducts an audit of all expenditure emanating from the annual appropriation. Members should be well aware that this information is most certainly available on the public record and is subject to the usual estimates committee examination, and the accountability and scrutiny which is open to all members through question time, particularly the specifically allotted times in this chamber for questioning the budget and the Auditor-General's Report.

LOCAL GOVERNMENT ELECTIONS

The Hon. M. PARNELL (15:17): I would like to thank you, Mr President, for that comprehensive answer to that question that I had asked earlier. I now seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about transparency in local government elections.

Leave granted.

The Hon. M. PARNELL: At the 2010 Local Government Association AGM a resolution was passed calling for an amendment to the Local Government (Elections) Act 1999 that would require candidates for local government elections to declare their membership of political parties. In February last year I asked the then minister for state/local government relations whether he intended to act on that recommendation. The minister stated that the government was reviewing public integrity structures and it would be considered as part of that process.

On 16 October this year, a draft code of conduct for council members was circulated for comment. This was prepared by the LGA in consultation with the Office of State/Local Government Relations. Disappointingly, it did not contain any discussion on transparency over the political party affiliations of council members.

As members here are aware, there is a live debate in the community over the influence of political parties over ostensibly independent council members, for example, ongoing concerns raised again in July this year about the influence of the member for Croydon over the Labor-affiliated members of the Charles Sturt council. Many in the community are disappointed when so-called independent members of local government turn out to be card-carrying members of political parties. This information should be available to voters before they cast their vote. My questions to the minister are:

1. Have you ever discussed with the LGA the issue of declaring political party affiliation as part of the conduct of local government elections?

2. Do you think voters are entitled to know whether a candidate for local government is a member of a political party or not?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:19): I thank the member for his questions, and my answer is yes to both questions.

LOCAL GOVERNMENT ELECTIONS

The Hon. M. PARNELL (15:19): I have a supplementary question. I thank the minister for his comprehensive answer.

The PRESIDENT: Don't thank him; just ask the question.

The Hon. M. PARNELL: I ask him what does he intend to do if he does agree that voters are entitled to know, as he said, that a candidate is a member of a political party? What does he intend to do about it?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:19): We have had quite a bit of discussion on whether or not members should be members of a political party, and it was part of the discussion paper that was sent out to councils and local government recently. There are some wide-ranging views that people should not be able to stand for elections if they are members of a political party. I personally believe that, if a person is a member of a political party, they should declare it and then it would be up to the people to decide whether or not they want to endorse them. That is as far as we have gone at this stage.

TRADING HOURS

The Hon. R.I. LUCAS (15:20): I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question on the subject of the shop trading and public holidays legislation.

Leave granted.

The Hon. R.I. LUCAS: There was a recent decision of the Fair Work Ombudsman which in part outlined a number of decisions. One outlined the case of Stephanie, who was a full-time cook at a registered club at Adelaide with ordinary hours of work from 2pm to 10pm. In this case, Stephanie had a rostered day off on 24 December. The Fair Work Ombudsman has ruled that even though Stephanie has a rostered day off on that day she will be entitled to an extra day's pay, an alternative day off within 28 days or an additional day of annual leave. In the case where Stephanie is a full-time cook at a restaurant in Adelaide with ordinary hours from 2pm to 10pm with a rostered day off, again, the Fair Work Ombudsman has ruled that Stephanie is entitled to an extra full day's pay, an alternative day off within 28 days or an additional day of annual leave.

In the case of Matthew, a cook at a roadhouse in Adelaide, who works from 2pm until 10pm on New Year's Eve, the Fair Work Ombudsman has ruled that Matthew is entitled to a full day off in lieu or a day added to the annual leave entitlement under clause 28(1)(c) of the restaurant award. There are a number of other similar rulings by the Fair Work Ombudsman in that particular decision.

When these issues were raised during the debate on the legislation in the last year by Minter Ellison, the Motor Trade Association, the Printing Industry Association and a number of other stakeholders, and the minister was explicitly warned of these consequences of the legislation, the minister in part responded as follows:

> Recently, through the media and other sources, I have also heard all sorts of scaremongering about the unintended consequences that could be created by part-day public holidays. This has now been extended to how many annual leave entitlements might be affected.

He went on to say:

> The commonwealth Fair Work Act clearly contemplates part-day public holidays under the state and territory public holiday laws. The supposed loopholes being raised are mischievous.

In summary, having heard the warnings by all of those stakeholders and Minter Ellison, the minister dismissed them as scaremongering and mischievous. My question to the minister is: does he now accept that he was warned about these consequences of the government bill during the debate on the bill and that he misled this parliament and the community by dismissing the warnings as mischievous and scaremongering, and, if not, can he explain his position in relation to the statements he made during debate on these issues in the bill?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:23): I thank the honourable member for his important question. The government introduced part-day public holidays on the evenings of Christmas Eve and New Year's Eve to recognise the importance of these special times of year for many of our citizens: nurses, police, carers, firefighters and people who work serving us our meals at restaurants and in hotels. We did this because we believe strongly that by declaring this as a part public holiday, under the national employment standards, people are entitled to refuse to work.

So, if they wanted to spend time with their families on Christmas Eve, wrapping presents, putting up the Christmas tree and putting toys under the tree, they could decide to do that legally, and they could do the same on New Year's Eve, when everyone is out celebrating the end of a hard year and the beginning of a new one. But to make sure that employers have enough people to provide adequate labour, public holiday penalty rates would come in enticing people who did not want the time or who needed the money to work appropriately. This is good public policy. It is very well accepted out there amongst the people of South Australia, and we think it is a great piece of legislation.

Recent media coverage related to advice from the Fair Work Ombudsman has created some hysteria over the interaction of South Australia's part-day public holidays with certain industrial instruments. However, it should be pointed out that the advice of the Fair Work Ombudsman in relation to public holiday provisions in these instruments highlights anomalies and shortcomings with these awards that already exist for all public holidays and not just part public holidays.

For example, the hospitality industry raises the issue of some workers being entitled to a full day off in lieu or an additional day's leave for working on a public holiday, even when only a small portion of that shift occurs on a public holiday. The situation is not arising merely because of the creation of part public holidays. This provision in the hospitality award and the restaurant award is relevant to all public holidays. I am aware that several modern awards have favourable outcomes for some employees when their shift straddles a public holiday whether that public holiday commences at 12 midnight or at 7pm as in the case of the part public holidays, so the Fair Work Ombudsman has only highlighted to industry groups aspects of their award that exist already in relation to public holidays and shift workers.

It is important to note that the hospitality industry is one of the highest employers of casual labour in the state and that the public holiday entitlement scenarios advised by the Fair Work Ombudsman only relate to a small number of workers on annualised salaries and full-time and part-time employees. Fair Work Australia commenced a statutory review of all modern awards under the national system earlier this year and this review is ongoing, with some of the many applications to vary awards still being considered.

The part-day public holidays became law on 2 April 2012 and I would be surprised if those industry groups that have issues with public holiday provisions in modern awards have not made an application to Fair Work Australia to deal with the issues of concern. I intend to lodge a submission to Fair Work Australia to also request it look at the modern award provisions in the context of the new part-day public holidays with a view to clarifying any ambiguity resulting from their creation.

It is also worth noting that the Holidays Act 1910 requires a review of the impact of the introduction of part-day public holidays on government, business and the community, and I am pleased to inform the house that the South Australian Centre for Economic Studies, a joint research unit of Adelaide University and Flinders University, has been appointed to conduct this review. This independent review will see consultation with all who have an interest in the part-day public holidays, but I am sure the final report will fully examine the impacts, both positive and negative.

TRADING HOURS

The Hon. R.I. LUCAS (15:28): I have a supplementary question arising out of the answer. The minister indicated that the Treasury estimate of the impact on the public sector was $4.65 million. Will he take on notice to bring back whether there has been any change in that estimated cost to the budget?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:28): I will take that on notice.

VISITORS

The PRESIDENT: I draw honourable members' attention to Dr Mohamed Saleh from Egypt. He is a member of parliament over there. Welcome, Doctor. It is good to see you here. May you be hosted very well by Dr Duncan McFetridge from the other place.

Honourable members: Hear, hear!

STATUTES AMENDMENT (COURTS EFFICIENCY REFORMS) BILL

Consideration in committee of the House of Assembly's message.

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

That the council do not insist on its amendment No.5 but agree to the alternate amendment made by the House of Assembly.

The reason the government opposed amendment No.5 was that the amendment would have meant that a person who became Chief Magistrate and, by virtue of being appointed Chief Magistrate become a District Court judge, could then immediately resign as Chief Magistrate and we would be left with a District Court judge we did not expect and no Chief Magistrate. The alternative amendment moved by the government in the House of Assembly has the effect that a person holding such a position can only resign as Chief Magistrate and sit on the District Court bench with the approval of the Governor. My understanding is that the alternate amendment is acceptable to the opposition. The House of Assembly has agreed to amendments Nos. 6 to 13 made by the Legislative Council.

The Hon. S.G. WADE: The minister has appropriately addressed her remarks to one particular amendment, but if I could just reflect on the progress since the matter was last before this chamber. I thank the government for its constructive engagement on the issues. In relation to the first matter, the Chief Magistrate and their status as a District Court judge, the opposition said that we supported that as long as the Chief Magistrate did not sit as a District Court judge. Whilst the government initially disagreed, it has agreed to that amendment, but it agreed as long as, if the Chief Magistrate resigns as the Chief Magistrate, they also resign as a District Court judge, and the alternative amendment being offered to us achieves that purpose and we welcome that.

The Legislative Council also insisted that this was not a case for retrospectivity, and the government has accepted the Legislative Council amendments in relation to retrospectivity. The government rejected the Legislative Council's proposal in relation to increasing a magistrate's retirement age. The government has acquiesced and a magistrate's retirement age will increase to 70. In relation to small claims, the government has now accepted the proposal to increase the limit to $25,000 rather than the $12,000, and to amend the minor statutory proceedings similarly.

I thank the government for their constructive approach on improving the bill. I believe this bill is another example which exposes the government's hollow rhetoric in relation to obstructive behaviour by this chamber. The Attorney-General, in particular, complains that, to use his words, his masterpieces are defaced by this council. I would not describe them as such. I remind the council that, in relation to the weapons bill, three-quarters of the Legislative Council's amendments were incorporated in full or in terms of their intent. In relation to parole, if the Legislative Council had not done what it did to amend the bill, the government's parole provisions were, in the view of the police, unworkable.

In relation to the ICAC Bill, which we are to consider subsequently, no matter what happens with the amendments before us this afternoon, 20 Liberal amendments were accepted by the government, some with modification. I believe that this bill and other bills that have been before this council highlight the valuable role this council plays. I urge the council to yet again remind itself that, in spite of bleats of obstructionism, in spite of long delays in the consideration of bills, we should not be bullied by the government into backing down on what we think is right for the people of South Australia.

The Hon. M. PARNELL: The Greens will be supporting the alternative amendment put forward by the government, and we are pleased to see that the lower house has accepted the other amendments that the Legislative Council passed.

Motion carried.

MOTOR VEHICLES (DISQUALIFICATION) AMENDMENT BILL

In committee.

(Continued from 16 October 2012.)

Clause 1.

The Hon. D.W. RIDGWAY: I move:

Page 2, line 3—Delete '(Disqualification)' and substitute '(Miscellaneous)'

This amendment is, in a sense, a test of the four amendments that we have. I think it is probably best that I explain the nature of this amendment and the subsequent ones because, while I will move the others, I suspect this will be a test to see whether we have support for them. I will just make a brief explanation of these proposed amendments. Firstly, in our amendment to clause 1, we are simply seeking to remove the word 'disqualification' from the title and substitute it with 'miscellaneous'. This is because the bill itself does not automatically disqualify drivers from having committed offences under that relevant provision.

The second amendment will be to insert new clause 3A. If a person is charged or given an expiation notice, the Commissioner of Police or a person can make an application to the registrar that compels the registrar to provide a certificate specifying whether or not a renewal notice has been issued to the registered owner. We are seeking to enable somebody to have proof that they were issued a renewal notice.

Our third amendment seeks to insert subsection (6d) which provides that if an offence has been committed within 30 days of the registration expiring, the person can rely on the two new defences that the registrar did not issue a renewal notice at least 14 days before the registration expiry date and that the driver did not know the vehicle was unregistered. Finally, the insertion of new clause 26A by amendment No. 2 means that the registrar must issue a renewal notice at least 14 days before the registration expires.

In summary, our amendments fill gaps in the proposed bill and seek to further strengthen the bill and I remind the chamber that, if the amendments are not passed, there will not be an extra level of protection for motor vehicle owners. New defences will not be available and motor vehicle owners will not be aware that their motor vehicle registration has expired. Therefore I urge all members to think carefully about voting against these amendments, because we think they do give motor vehicle owners just that little bit of extra protection if their registration expires without their knowledge.

The CHAIR: The Hon. Mr Ridgway, you have moved your first amendment, but spoken to both?

The Hon. D.W. RIDGWAY: Basically, yes.

The Hon. R.P. WORTLEY: The government opposes this amendment. For many years the registrar has sent renewal notices about six weeks before the registration is due to expire, even though there is no legislative requirement to do so. In addition to the renewal notice, Service SA has developed a registration application for smart phones which can remind you of the registration renewal date, and it will shortly offer registered owners the option of an additional reminder by email or SMS two weeks before registration is due to expire. The registrar also sends a reminder notice two weeks after registration has expired.

There is a perception in the community that the removal of registration labels has increased the number of people inadvertently letting their registration expire and then getting expiation notices for driving unregistered or uninsured. In fact, the number of light vehicle owners who pay the registration after the actual date of expiry has not increased. The percentage has actually decreased by a small amount. This indicates that owners have adjusted to the absence of labels. They are using the reminder options provided by the government. As well, some organisations offer reminder labels to their members, and there is nothing to stop owners placing their own label in the vehicle to remind themselves of the registration expiry date.

The amendments would apply to both light and heavy vehicles, despite the fact that heavy vehicles still display registration labels and the driver has no excuse for not being aware that the vehicle was unregistered. The government believes the amendments would increase costs, complicate the administration of the registration system and enforcement of registration offences, and undermine the longstanding responsibility of vehicle owners to ensure that if their vehicle is to be used on the road it is registered.

The onus must be on owners to comply, just as they are obliged to ensure that their vehicle is roadworthy and their driver's licence is current. The government is not aware of any systemic

issues with registration renewals not being sent that would necessitate this amendment. There are many reasons outside the government's control that mean the owners may not receive a reminder notice, for example, failure to notify the registrar of a change of address, failure to lodge the registration transfer application when purchasing a vehicle, or failure by Australia Post to deliver. An obligation to send a notice would not remedy these problems.

The registrar's longstanding practice is to assist people by issuing renewal notices for such things as driver's licences, vehicle registration trade plates and motor driving instructor licences, but there is no legislative requirement to do so and failure to issue notices does not negate the initial requirement to be registered or hold a licence.

In the case of demerit points, when the registrar is required to give a person notice when they reach a certain number of points, under section 98B(1) of the Motor Vehicles Act, the legislation specifically states that failure to do so does not affect the person's demerit point record or the consequences of the demerit points. All jurisdictions send registration renewal notices, but no other jurisdiction has this type of legislative requirement.

Western Australia and the Northern Territory send notices under an administrative policy as South Australia currently does. In the remaining jurisdictions, the legislation allows for, but does not require, a registration renewal notice to be sent, and further, it states that if a renewal notice is not sent, the failure does not affect the expiry of the registration or the obligation to renew the registration.

The Motor Accident Commission does not consider the amendments are likely to have any major impact on its business. SAPOL has advised the government that it opposes the amendment. SAPOL has advised that in every case it would need to know whether a notice has been given before proceeding with an unregistered vehicle offence. This would require an additional check before issuing an expiation notice. With the quantity of notices issued each year, this would be an administrative burden that would add unnecessary cost to the expiation notice system.

The registrar would have to provide the information to SAPOL, and computer systems changes would be needed by the Department for Planning, Transport and Infrastructure and SAPOL in addition. If SAPOL required a certificate from the registrar before proceeding, thousands of certificates per year may be produced and these costs are unbudgeted.

Another problem with the amendment is that it would also require a renewal notice to be sent in every case even where it was not appropriate to send one. For example, if a vehicle is recorded as stolen or wrecked and written off on the vehicle register, or has an interstate address and is therefore obliged to be registered in that jurisdiction, the registrar does not send a renewal notice. When the ownership of the vehicle is transferred, there are legislative obligations on both the transferor and the transferee to notify the registrar.

If the transferee does not lodge an application to transfer the registration in a timely fashion, the registrar should not be required to send a renewal notice to the transferor, who is still listed as the registered owner despite having advised that the vehicle has been sold. In conclusion, the amendment will create a number of problems and costs and will only assist the very few people who are not sent a notice through an administrative error. The amendment undermines the fundamental duty of a vehicle owner to register the vehicle if it is used on the roads and, for these reasons, the government believes the amendments should be rejected.

The Hon. M. PARNELL: Before putting the Greens' position on the record, I would like to ask the minister a question in relation to one of the reasons that he gave for this legislation not being workable, in his view. He said that the police would need to check the status of not just a person's registration, which they can do online, but I think, as the minister said, they would need to check whether in fact a renewal notice had been issued or they would not be able to issue an expiation certificate.

The reason I ask that question is that it would seem to me that a police officer would look on his or her computer, find out whether or not a vehicle was registered, issue the ticket, and then, under this amendment, I would have thought, the main incentive is on the person who has got the ticket to say, 'Hang on, I don't think I got a reminder notice. I didn't know that my rego was out.' My question to the minister is, why would the police need to satisfy themselves that motor registration had sent a renewal notice? Why don't they just issue an expiation and make it the problem of the person who has received the ticket to then take steps if that person thought it was warranted?

The Hon. R.P. WORTLEY: I thank the honourable member for his question and, hopefully, you will be supporting this amendment if I give you a satisfactory answer.

Members interjecting:

The Hon. R.P. WORTLEY: No, oppose the amendment of course! Before the police can issue an expiation notice, they have to be sure that there has been an offence committed, so they need to find out whether a notice has been sent or not, and this is the reason given by the police. We have no reason to dispute the issue, and hopefully that will be enough to satisfy your question.

The Hon. M. PARNELL: I thank the minister for his answer and I do understand that, even if an offence is being expiated, the officer still needs to believe that an offence has been committed. The indication to the police, I imagine, under the old system would be that they would look in the corner of the windscreen and they would see a sticker and it would have a number on it. If it did not have the up-to-date sticker on it, then that would be an assumption, I guess, that the car was not registered and the driver would perhaps be asked to produce the sticker from the glove box (because they had not got around to putting it on yet) or maybe they do not know whether it is registered or not. I do not imagine that if a person said, 'It's not my car,' that the police are, all of a sudden, going to say, 'Oh, well, nothing we can do about it; the sticker is out of date but we're not going to give you a ticket.' They are still going to give you a ticket, I would have thought.

In relation to this amendment, it seems to me that what it is trying to do is to provide some fairness to the regime where we have done away with the stickers. That fairness arises from people having the right to be told when moneys are owed, especially when the moneys owed are statutory amounts for which there is a criminal penalty for not paying it. It is one thing to not pay your phone bill or whatever and perhaps you will get cut off, but those things never happen without reminders. It seems to me that the minister's difficulty with this is that, even though he says that the practice has been to always remind people that their registration is due—they remind them before and they remind them after—they do not want to put it in the legislation. They do not want to have it a requirement that a renewal notice has to be given.

My understanding of how this amendment would work in practice is that, when a person gets a ticket or is charged with not having a registered vehicle, they are either going to say, 'It's a fair cop; I didn't pay it,' or if their response is, 'Well, I don't think I ever got a renewal notice'—and this amendment gives them the right to contact motor registration and say, 'Did you ever send me that notice?' If they come back and say, 'Well, our records show it went out,' then that is conclusive. It is no good for the person to say, 'Oh, well, the kids in the street must have nicked it out of my letterbox' or 'Australia Post has been getting it wrong.' None of that stuff is part of the defence. If motor registration goes back to its computer records and says, 'Yes, on 13 June your renewal notice went out,' then that kills your defence. Your defence is also dead if you actually knew that the motor vehicle was, in fact, unregistered.

So it seems to me that this amendment basically allows a small number of people who, through no dishonesty—and I would not even say through any inadvertency because we live busy lives and we all get lots and lots of bills—did not pay their bill a defence. I must admit that it is always a shock to me when my trailer registration comes up. I do not use the trailer very often and I have no idea when it expires. If I did not get a letter I would not pay it because I have no idea—actually, that was until I downloaded the EzyReg app. Of course, I put my numberplate in the EzyReg app and I do now know when my trailer expires but until then I would not have had any idea until I got a letter in the post.

I appreciate what the minister is saying, that a lot of us now have new tools at our disposal to be able to keep track of when these amounts are due. That is not going to be sufficient for everyone. If the minister wants to go away, perhaps between the houses or whatever, and come back with some solution that, for example, exempts the heavy vehicles—because he said it was an inadvertent inclusion that the heavy vehicles were included. The minister said that they have labels and, therefore, there is no excuse. Touché. That is the whole point. When you had labels you did not have an excuse because you had the label and you had that constant reminder.

If the difficulty is that these amendments cover heavy vehicles which have labels and, therefore, that is a duplication, let us come back and we will remove the heavy vehicles from this requirement, if that is an issue. However, for now, the Greens will be supporting all of these amendments. We will be supporting the requirement for the registrar to send out renewal reminders, as the registrar already does, and we will be supporting the new defence (as limited as

it is) that does allow those people where administrative error got in the way of them paying their bills, that they should not be criminally liable for failing to register their motor vehicle.

The Hon. A. BRESSINGTON: I rise to indicate that I will not be supporting this amendment. I would just like to put on the record for everybody to recall that I was the person in here who voted against abolishing the stickers in the first place, so if we had not have done that I doubt we would even be having this discussion. I had a briefing this morning with police and with the Commissioner for Motor Vehicles, I think it was, and the explanations that I was given for not supporting this amendment made sense to me.

With the issuing of the expiation notice, it would seem that there is a 24 hour delay between motor vehicle registration computer systems and the police systems. If an expiation notice was to be issued and, in fact, in that 24 hour period that person had registered their motor vehicle either online or in an office, there is no way for the police to actually know that that has occurred for that 24 hour period.

If we do go with this amendment, it means that an update, an upgrade for both lots of computer systems—quite complex—would be necessary, because we are now providing a defence where there was no defence prior to this for driving an unregistered car. In providing a defence for this, it means that the police would then be obliged to undertake an investigation into the so-called offence which means more use of police resources where it was not necessary before.

Also, we know from the conduct of people with speeding fines that it is not uncommon for people to sign a statutory declaration or people get other people to make out a statutory declaration saying that they were not driving a car for a speeding offence if someone is low on points, or whatever reason. This actually allows the opportunity for someone to present to court.

When they are pulled over by the police, they are not obliged to answer any questions at all, and it allows them 30 days to prepare a defence and perhaps have somebody come into court and say, 'I was actually driving the car at the time; it was not the person who owns the vehicle' and that makes that defence null and void, or it makes the police prosecution null and void. So there is that 30 day period that they have got to actually be able to prepare that defence.

Also, the number—on the information I got this morning—that have actually been affected by this legitimately has only been three people in a two and a half year period. So this bill, as I understand it, was about the glitch in the system and the 8,000 suspended licences. This particular amendment goes absolutely nowhere to addressing the problem that this bill was introduced for and it is for those reasons, that I think are quite legitimate, that I will not be supporting the honourable David Ridgway's amendment.

The Hon. J.A. DARLEY: I will not be supporting the amendment either.

The Hon. D.G.E. HOOD: We are not supporting either.

The committee divided on the amendment:

AYES (8)

Dawkins, J.S.L.	Franks, T.A.	Lee, J.S.
Lucas, R.I.	Parnell, M.	Ridgway, D.W. (teller)
Stephens, T.J.	Wade, S.G.	

NOES (11)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Finnigan, B.V.	Gago, G.E.	Hood, D.G.E.
Kandelaars, G.A.	Maher, K.J.	Vincent, K.L.
Wortley, R.P. (teller)	Zollo, C.	

PAIRS (2)

Lensink, J.M.A.	Hunter, I.K.

Majority of 3 for the noes.

Amendment thus negatived; clause passed.

Remaining clauses (2 to 4), schedule and title passed.

Bill reported without amendment.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (16:05): I move:

That this bill be now read a third time.

Bill read a third time and passed.

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

Adjourned debate on second reading.

(Continued from 18 October 2012.)

The Hon. D.G.E. HOOD (16:07): I understand there is widespread support for this bill, so my comments will be relatively brief. I am conscious that this bill is intended to bring uniformity in Australian law as to the classification of computer games, but I—

Members interjecting:

The PRESIDENT: Order! It is alright, the Hon. Mr Hood, I am listening.

The Hon. D.G.E. HOOD: Thank you, sir. Well, that is the one that matters, sir, so thank you. I do have some concerns about this bill. In particular, this bill will allow computer games that were previously refused classification, and therefore not publicly available, to become available to persons over 18 once it passes and, given the numbers in this chamber that appear to be supporting the bill, it looks as though it will.

In practical terms, computer games that until now have been classified as too violent or too sexually explicit to be allowed will be allowed under this bill. No-one is suggesting that there is any social benefit in allowing more violent or more sexually explicit games to be sold, as I understand it. I do not see any harm in the present situation where a relatively small number of computer games are refused classification. In the absence of any justification for change, in my view, we will be opposing this bill. I simply cannot see any other action to take, although I acknowledge that it is likely to pass.

I note with some concern that the explanatory memorandum for this bill does not deal with any of the kinds of issues which I will raise in a moment, and I believe they are absolutely critical to the passage of this bill, and that is puzzling, but I think that there may be an explanation as to how this situation arose. In order to understand this, it is necessary to go back to the origins of the classification scheme that is in use today in our country.

On 28 November 1995, the commonwealth and all states and territories (except Western Australia and Tasmania) agreed on a cooperative legislative scheme for the censorship of publications, films and computer games. Under recital H to the agreement, any amendments to the National Classification Code or the guidelines must be agreed to by the relevant state and commonwealth ministers. National Classification Code and guidelines were subsequently published. For computer games there was a classification of MA15+, meaning 'mature, accompanied and suitable for persons over 15 years of age'. There was no classification above that, so more extreme computer games were refused classification and therefore not to be made available to the public and in a general sense.

Subsequently there was discussion about the fact that for films there was a classification being suitable for persons over 18 years, but there was no equivalent classification for video games. There was a meeting of attorneys-general on 10 December 2010, at which the attorneys agreed that further work needed to be done on the option of an R18+ classification for computer games. It is most important to note that it was expressly agreed by the ministers that they would consider draft guidelines to develop the classifications of computer games, including the possible R18+ classification, and that the ministers 'do not support the dilution of the refused classification category'. Precisely what that meant was not explained, but what it appears to mean is that a new R18+ classification will be considered, but that any computer games that would presently be refused classification would continue to be refused classification under any new scheme. That is the simple and obvious reading of it.

In other words, it appears to mean that the present MA15+ classification will be split into two classifications, that is, one for more violent video games, to be called R18+, and one with more moderate games to be kept as the MA15+ category that currently exists. One can understand the sense in that. That appears to be the only interpretation if the new classification was not to dilute the refused classification category. However, it does so.

I have spent some time explaining this history because it seems to me to be important in explaining the later events. As at the March 2011 meeting of the attorneys, there was agreement to make a decision regarding the introduction of an R18+ classification at the July meeting. Presumably this was on the previously agreed basis that the change would not dilute the refused classification category (certainly there was no statement to the contrary). At the July 2011 meeting there was an agreement to commence drafting on the R18+ category.

On 12 September 2012, earlier this year, the commonwealth Minister for Home Affairs, Jason Clare, announced that the state and territory ministers with responsibility for classification matters had agreed to the revised guidelines after extensive consultation. The consequence of that is the bill now before us.

The second reading speech for the commonwealth bill that corresponds to the bill before us today, given by the Minister for Home Affairs, Jason Clare, did not address the question of whether or not the refused classification category will be diluted. He simply said that the July 2011 meeting of ministers supported the bill. The speech by Michael Keenan, a Liberal from Western Australia, did address the issue, and he said:

> With no R18+ [category] there is evidence that games meant for adults were rated MA15+, making them available to minors and confusing parents who try to do the right thing. We understand that shoehorning has occurred of videogames which might usually be classified R18+ into the MA15+ category. Clearly adult games, we believe, should be restricted to adults. It is more appropriate that they are classified in this new category rather than being shoehorned into a lesser category of MA15+.

Similarly in Western Australia the second reading speech by the Attorney-General, given recently on 19 September, included the statement:

> Importantly, ministers have agreed that there shall be no dilution of the RC classification and RC material will not be included in the proposed R18+ classification. Therefore, the introduction of an R18+ classification is a new, adults-only classification that can be applied to some of the more extreme material that may currently fit within the MA15+ classification.

It is clear from the above two quotations that the persons making the speech were under the clear impression that the change to come into effect is that the MA15+ classification will be split, with the more violent video games presently in that classification being reclassified as R18+, thus reducing the more violent games presently available to 15 to 18 year olds, something Family First would support.

The report accompanying this bill only addresses this question indirectly, but it is clear that it takes the opposite view of the changes—opposite to those which have just been explained by members actually supporting the bill in other places. It states:

> In particular, games that are R18+ overseas should no longer be modified in an attempt to fit with 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.

It is clear from this passage that this government expects that the RC classification will be diminished. In other words, the report for this bill says that games that are presently banned as being too violent will be permitted under the new classification system. It is important to note that this is actually quite contrary and the opposite view to that put forward in both the commonwealth and Western Australian parliaments. In order to find out who is correct and who is incorrect in all of this, I have compared the current classifications—that is, as they currently exist in law—with those that will come into effect under this bill if passed, i.e., the new legislation.

The new classification guidelines are publicly available on the internet. On looking at the proposed guidelines for the classification of computer games, it is immediately apparent that the R18+ classification does significantly expand the range of computer games that will be permitted and thereby clearly dilutes the refused classification category, contrary to what was previously stated.

The following is a list of some of the changes that the new R18+ classification for computer games will bring. Firstly, presently, so-called 'strong themes' must be justified by context. The proposed guidelines for R18+ under this bill and in the guidelines on the internet state that 'there

are virtually no restrictions on the treatment of themes'. Secondly, as to violence, presently under the present law, implied sexual violence is simply not permitted. The proposed guidelines, however, allow implied sexual violence with some restrictions, to be fair.

Thirdly, sexual activity may only be implied at present under current law, but the proposed guidelines state that depictions of simulated sexual activity may be permitted, provided they are not explicit. Fourthly, as to language, presently there is a restriction that aggressive or very strong, coarse language should be infrequent. That is the current state of play. The proposed guidelines, however, state that 'there are virtually no restrictions on language'. Fifthly, as to drug use, present law dictates that drug use should be justified by context. The proposed guidelines state:

> Drug use is permitted. Drug use related to incentives and rewards is not permitted. Interactive illicit or proscribed drug use that is detailed or realistic is not permitted.

Then finally, as to nudity, presently nudity should be justified by context, as the current law dictates. The proposed guidelines, however, simply state that nudity is permitted. There are no restrictions. The above comparison is between the existing MA15+ guidelines and the proposed R18+ guidelines, but the point that I believe is clearly made is that the change will significantly increase the range of computer games that will be available, including all the sorts of examples that I have just outlined.

If the new classification scheme is adopted—and, as I said, it looks as though this will pass this chamber easily—the games to be made available may have implied sexual violence, they may depict simulated sexual activity, there will be virtually no restrictions on language and the range of drug use available to be depicted will be significantly expanded from the current situation. It is apparent that certain parliamentarians who made speeches in parliaments elsewhere were under very serious misapprehensions about this fundamental issue in this bill. What they said in their speeches clearly does not line up with what is actually said in the bill and in the proposed guidelines.

The questions now before us are twofold. Firstly, should the important matter of defining the boundaries of acceptability be left to the guidelines, which are not part of this legislation? The guidelines may be changed at any time by the commonwealth minister with the agreement of each participating state minister. Parliament has no say. Secondly, and perhaps more importantly, what benefit is there in allowing more violent and more sexually explicit games than are currently available?

The report on this bill lists some benefits and states the following. Firstly, Australian classifications will be brought into line with the classification systems in many overseas countries. It will no longer be necessary for games manufacturers to modify games to fit into the Australian classification system. Speaking for myself, I am not at all concerned that games manufacturers presently have to make modifications to games to tone down sexual activity, including rape and violence in order to sell them in Australia.

Secondly, it seems to be suggested in the report that sexually explicit or violent games that are presently available to persons over 15 years will be placed in the R18+ classification rather than the current MA15+ classification and therefore 15 year olds will receive greater protection. I have looked carefully at the classifications and I can see no basis for concluding that the MA15+ category will be restricted in any way whatsoever.

It is true that there are some changes that relate to the fact that games are interactive, which aspect had not previously been addressed but, overall, I do not see the proposed MA15+ category as being significantly different to the present MA15+ category—very little change indeed. I now turn to the harm that can be caused by violent or sexually explicit computer games. I think we all instinctively know that violence in computer games must have some impact on some people playing and can in fact be contributors to violence in our society.

I also suggest that violent video games must have a greater effect than violent films, for three reasons. Firstly, violent computer games usually centre on violence from the outset and the violence can be a major feature and the theme throughout the game, not just merely in segments of a movie, for example. Secondly, in a game the player generally must play the role of the aggressor; that is the nature of the game. Thirdly, the aggression is repeated and practised in a game and obviously is interactive as well.

I have considered research material on violence in computer games and spoken about that in this place on many occasions, as members would be aware. I relied particularly on research by

Craig Anderson of the Iowa State University, who has a PhD in psychology and has conducted extensive research in the area. Research into violent video games has indicated five conclusions that I have noted from the research.

The first is this. Experimental testing showed that participants who had just played a violent video game where violence was rewarded or punished, depending on the particular game, and were then asked questions to ascertain a variety of hostility related dimensions, were more hostile—statistically significantly so—than non-violent video game participants.

Secondly, in one experiment, children were shown violent and non-violent scenes from commercially released movies while functional magnetic resonance images of the brain were collected. The results demonstrated that violence viewing activated a network of brain regions involved in the regulation of emotion, arousal and attention, memory encoding and retrieval, and motor programming. This network of activations may be linked to increases in aggressive social behaviour with violent media exposure.

Thirdly, the conclusion from experimental and MRI testing was that short-term exposure to violent video games produces immediate increases in aggressive behaviour—this is the research—aggressive cognition and aggressive effect. Repeated exposure leads to the development of stable individual differences in aggressiveness.

Fourthly, specifically, five separate effects emerge with considerable consistency. Violent video games are statistically significantly associated with: increased aggressive behaviour thoughts and affect; increased psychological arousal; and decreased pro-social (that is called helping others) behaviour. Fifthly, there is some evidence that highly aggressive individuals are more affected than non-aggressive individuals, but to be fair this finding does not consistently occur. Even non-aggressive individuals are consistently affected by brief exposures, according to the research.

To me, these conclusions by experts undertaking research over many years, who took account of both experimental testing and MRI imaging of brain function, confirms what we instinctively suspect—or certainly what I instinctively suspect—and that is that violent video games have a tendency to make some people more violent.

Whilst this would not cause every person to commit crimes of violence, clearly—and I am not suggesting that—we know that there is presently a spate of violence which is frequently sought to be explained as being alcohol induced. Of course, common sense tells us there are multiple factors that lead to acts of violence, and certainly alcohol can be one of them. The point of the research is that violent video games can be one of those factors and no doubt is a factor in some cases. We have enough violence in our society without introducing factors that are likely to increase the level of violence.

We must also ask ourselves what sort of people would specifically seek out particularly violent video games, or video games with depictions of simulated sexual activity (even rape) and what the effect would be on those particular individuals. I am not persuaded that violence or simulated sexual activity and again, as I say, rape, or nudity or whatever it may be, adds to the sense of fun and competition necessarily that a computer game should bring about.

I appreciate there will be differences of opinion on that, but the fact that the research says that it can lead to increased violence is a great concern. It appears to me that these elements are introduced by manufacturers with a view to satisfying a very small market and to increase their profit from greater sales.

I wish to also say a few words about the protection of minors, who are particularly vulnerable to inappropriate content. Does anyone really believe that restricting sales of violent computer games to those over the age of 18 will prevent these games from being played by minors? When a person buys a computer game, they take it home and load it onto a computer. One can then expect that they will leave the disc of the game in its cover or somewhere around the house, wherever it may be. In many instances minors will have access to the disc, but I am sure in many cases minors will also be able to access the computer itself and therefore be able to play the game.

It would be naive in the extreme to believe that access to violent video games will be limited just to adults simply by creating an adult category. The argument that these new laws will strike a fair balance that still protects minors is wrong, in my view. Those in favour of this bill should be aware, or consider the fact, that to allow more violent and more sexually explicit computer

games onto the market, including those which will include rape, I say again, will undoubtedly be accessed by minors in some cases.

The fact that some minors can presently access video games through the internet is not a reason to make it easier for others to access this material. My conclusion is that there are no real benefits to the public from allowing more violent and more sexually explicit video games onto the market. The only benefit will be to the manufacturers and a very small portion of the market who are seeking this material. There are many reasons not to allow more violent video games that I have outlined. There is already too much violent crime and, clearly, the research shows that this material does have an impact even if we choose to believe otherwise. For that reason I oppose the bill.

The Hon. S.G. WADE (16:25): This bill is the product of years of discussion, opposition, lobbying and compromise. It represents a collective agreement of attorneys-general from across the country. Censorship and classification in Australia is managed under a commonwealth/state cooperative scheme. As legislative power rests with the state, it is a requirement that all states agree to the scheme which essentially gives each state a veto.

It is this veto power that the former attorney-general Atkinson used for so long and so proudly to censor R18+ video games. His opposition to the reforms was so vocal and uncompromising that a political party was formed to attack him on his home turf. The party was called Gamers for Croydon. It should not be understated just how widespread was the angst towards the former attorney-general's views.

Some of the founding members of Gamers for Croydon travelled from interstate to create the party and run their campaign against him. Of course, both sides of the debate claimed the high moral ground. Each side claimed to be protecting children and acting in their best interests. However, the member for Croydon's approach was very much grounded in a censorship model that at its core believed that if something could possibly be harmful then it should be banned altogether.

That is a recurring theme in the Labor Party's approach to risk, and we see that across a whole range of legislative measures from business regulation to video games. It makes a series of condescending assumptions that individuals are not empowered to make decisions in their own best interests, or for the interest of those for whom they are responsible to care. This condescending tone continued from the member for Croydon even in the recent House of Assembly debate. On 17 October 2012, during debate on this legislation in the other place, the former attorney-general said:

> I cannot fathom what state-enforced safeguards could exist to prevent R18+ games being bought by households with children and how children can be stopped from using these games once the games are in the home. Parents rely on the state in these matters. Access to electronic games, once in the home, cannot be policed, as I know, and therefore the games are easily accessible to children. If adults think they can devise a lockout system to defeat children, tell 'em they're dreaming.

He then attributes the current law to keeping the most extreme material off retail shelves. Ironically the member for Croydon now claims to support the changes in the bill saying:

> This is exactly the kind of compromise which would have led to my supporting the creation of the new category.

This is despite the fact his statement makes a clear implication that changing the law will allow some 'extreme material' to become available and his explicit statement that parents are incapable of stopping their children from accessing adult content. Furthermore, there is little doubt what the member for Croydon is saying when he says that he 'cannot fathom what state-enforced safeguards could exist to prevent R18+ games being bought by households with children'.

The philosophical position from the member is crystal clear: the state should determine what adults can and cannot access for the sake of the welfare of their children. It is contrary to a state which values education, individual responsibility and parental responsibility and authority. The opposition believes that an appropriate balance has been struck with this legislation.

The member for Croydon, as much as it pains him to acknowledge, has not held sway as this bill has progressed. The Liberal Party has been calling for an open, transparent and consistent standard of regulation for media content across all platforms, and we believe that that will actually strengthen the capacity of adults to clearly understand and control their children's access to material.

We believe that this bill contributes to that consistent standard of regulation. Such standardisation of classification across media provides parents, children and other consumers with a clear indication of what is portrayed in that content. The proposed guidelines strike a balance between the protection of children from adult content and legitimate access to that content by adults.

The current laws aim to restrict the sales of computer games to persons who are eligible to play the relevant game—for example, only persons aged 15 years and over can buy or access MA15+ content. The new R18+ classification is consistent with this. At present, computer games that exceed the MA15+ classification are rated as 'refused classification'. As a result, games available in most jurisdictions internationally have not been allowed into the Australian market.

Of course, in the age of a globally connected society through the internet, this restriction was, at best, a small attempt to stop the sanctioned sale of extreme content. With the free exchange of legitimate and illegal content between jurisdictions the ability to restrict access to content for certain classes of people will always be difficult. It will have no effect on those who are prepared to break the law and download pirated material.

Indeed, the legitimate purchase of games through an online download is an increasing trend, one that is likely to continue to grow. This legal content which respects copyright law can be downloaded from other jurisdictions upon payment. National classification schemes will have limited effect on restricting access to the sale of this content. Nonetheless, this bill represents a step forward towards a liberal society that respects the choices of adults while protecting the rights of children.

Over 2011 and 2012 the Standing Council on Law and Justice (formerly SCAG) negotiated a compromise over computer game classification standards that has satisfied the concerns of the majority of stakeholders and the respective attorneys-general, including Liberal attorneys-general in Western Australia, Victoria, New South Wales and Queensland. The bill provides for the implementation of the agreement. Commonwealth legislation enabling the R18+ classification level passed the Senate on 18 June with bipartisan support. New South Wales passed their enabling legislation on 19 September 2012.

Unlike the practice of their South Australian state government counterparts, the federal government consulted extensively. National consultation in May 2011 on the draft guidelines for the introduction of the R18+ regime received 10,334 responses; 71 per cent of responses supported the introduction of an R18+ classification; 63 per cent supported having an R18+ classification and also supported the guidelines; 8 per cent supported the introduction of the R18+ classification but did not support the guidelines; and 27.4 per cent did not support either.

In contrast to the more than 10,000 organisations and individuals consulted by the commonwealth government, the state government consulted two bodies about related amendments: the Interactive Games and Entertainment Association and the Australian National Retailers Association. These bodies raised concerns about the current restricted display for R18+ videos, a scheme which is also proposed to apply to video games. Under the scheme a separate part of a retailer or hirer store must be demarcated for these products. In particular, the IGEA and the ANRA had concerns about the strict liability offences contained in the act. In response, the government is proposing that a further defence be created whereby if a store is complying with the industry code (to be determined by regulation) then that would provide a defence against the offence for films and computer games.

Curiously, the government is essentially proposing that these retail industries be self-regulating by allowing them to develop and be bound by their own code of practice should they choose that form of regulation. While the opposition will not oppose this approach, we do have concerns about laws which legislate by external reference and have filed an amendment to deal with that issue. I will provide a further explanation of our concerns at the committee stage.

The bill also proposes to introduce a range of offences related to the sale and supply of restricted games. Consistent with the current legislation, it is proposed that children would also be liable to the sale and supply offences contained in the act, not just adults—for example, if a child supplies another child with an R18+ game, they would be liable for a $5,000 fine. However, the current exemption for minors from the offence of producing false identification under section 144B of the Criminal Law Consolidation Act 1935, continues to apply for instances where they use false ID to access adult material or products such as purchasing R18+ games.

This has been a point of ongoing contention between the government and the opposition for a number of years across a range of legislative measures. The government has consistently said that it wants minors to be able to use fake ID without being penalised, which in the opposition's mind undermines the control regime and the deterrent value that the respective laws seek to impose. So again, despite the government's claim that this is about protecting children, its own ideological agenda undermines its primary stated concern. All that said, the opposition considers that this legislation represents a balanced step forward, and we look forward to its passage through the remaining stages.

The Hon. T.A. FRANKS (16:35): The Greens rise to support the bill before us, the Classification (Publications, Films and Computer Games) (R18+ Computer Games) Amendment Bill 2012. We note that this bill amends the Classification (Publications, Films and Computer Games) Act 1995 to allow for an R18+ classification for video games. It is consequent upon the commonwealth act of the same name, which passed through the federal parliament in June, I understand, with multipartisan support. I also understand that subsequently every state and territory has either passed or has currently tabled a similar bill with an intent that this scheme in fact come into play on 1 January next year.

Prior to the agreement reached by the Standing Committee of Attorneys-General, as the Hon. Stephen Wade noted, a change to video classification required agreement from all attorneys-general, as the Australian Constitution gives power to the commonwealth to classify, but empowers the states to censor and enforce. In fact, it was this state of South Australia and our South Australian Attorney-General who vociferously enforced that veto power of this state. I think this state is unique in terms of having had this debate in our public arenas and having a political party dedicated to the creation of an R18+ classification for computer games, that being Gamers for Croydon.

This bill also deals with the regulation of the display and advertising of R18+ DVDs and computer games. It allows some flexibility for retailers in relation to inadvertent breaches of section 40A. Indeed, the proposed amendments will allow retailers to comply with a code of practice that is, I understand, to be prescribed by the regulations. I understand that we will debate an amendment with regard to that area, and certainly the Greens look forward to that debate.

This bill, like the bills being moved or passed around the country, is a recognition that after over 10 years of quite heated debate at times and despite overwhelming popular support—in fact, I note that the Attorney-General's Department, when it did the public consultation on this issue federally, received 58,437 submissions, 98 per cent of which were in favour of this new R18+ classification category.

This debate is often focused on the children involved, but what I would like to note is that the R18+ classification will enable adults to access these particular computer games. It is hardly surprising that there is such a large amount of support for such a classification given that the average age of a gamer currently in Australia, according to the biannual Bond University study, is in fact 32 years of age, clearly an adult. In fact, 75 per cent of all gamers are over the age of 18.

I would note that that figure has been steadily rising, and certainly the gender balance between male and female gamers has also been diminishing, with 47 per cent of gamers currently, I believe, being female, which may come of some surprise to those who have previously engaged in this debate.

The classification system for games was last changed 16 years ago, and there have certainly been a lot of changes in the gaming industry and culture since then. The industry has expanded dramatically, games have become more sophisticated, the methods by which people can access games such as online distribution and imports have significantly multiplied, and certainly it is a misnomer to assume that computer games are things that are played on computers and that one inserts a disk into a computer.

There is a range of ways by which one can access computer games and certainly I, like over 90 per cent of the population, have a device at home. I have my Xbox 360. Many Australians have some sort of device where they can play computer games in their home. It is a commonly engaged in pastime and, in fact, some 83 per cent of gamers are parents with children under 18 and about 88 per cent of those parents who are gamers themselves play games with their children.

I would say that not all games are focused on sex or violence and the vast bulk of the industry will not be greatly affected by this new rating system. It will certainly remove the unusual situation that Australia found itself in with a rapidly changing and growing industry where, because

we only had a rating system that allowed classification up to MA15+, games that would have been only accessible for adults overseas were often reclassified to fit the Australian market and in fact became more available for children as a result.

There are many ways that parents can take measures to limit children's exposure to games, and it does not have to be R18+. Parents are often not aware of the ways that they can change the technologies and put on passwords and so on, and that is an area of education that I think needs further work in terms of using parental controls on consoles. I understand that about 40 per cent even of game-playing parents had little or no familiarity with the content-locking features, and that has increased upon non-gamer parents where only 35 per cent had knowledge of how to restrict the access for their children.

The Greens welcome this bill before us. It has been a long time in coming and South Australia has played a role in slowing the debate beyond what was the reality for most Australians and for Australian gamers in accepting that the typical gamer in this country is by and large an adult, roughly about 32 years of age, and increasingly that adult is likely to be a woman, not a man. It is an area that I understand is incredibly profitable and, for South Australia and our quite innovative companies that we have had based here, this has been a great area for bringing economic benefit into our state. I should imagine that not only those people but also those 3.7 per cent of South Australians who supported the Gamers4Croydon candidate, Kat Nicholson, who was their lead candidate, certainly put paid to the fact that this issue would have no traction within the politics of this state.

I note the hard work of Gamers4Croydon in originally raising this issue in South Australia and I particularly note David Doe, Chris Prior, Josh Holloway and Kat Nicholson as having been people I have referred to and been educated by on this issue. We welcome this bill here today. It has been a long time in coming and well overdue. I hope that in the future where issues around gamers are discussed, whether it is a venue for social gaming like what is now known as The Pad in Adelaide (formerly The PiMP PAD) or whether it is an R18+ rating, the vast majority of gamers who are adults can access games that are suitable for adults if they wish to partake in them as an adult in many other countries could and that the hysteria and the fear factor will not be the forefront of the debate but will, in fact, be based on statistical and empirical evidence in the future. With that, we look forward to the committee stage and commend this bill to the council.

The Hon. A. BRESSINGTON (16:44): I rise to oppose this bill. I will not speak long today as obviously this bill will pass with the support of the government, the opposition and the minor parties. Further, my position remains consistent with my 2008 speech to the Classification (Publication, Films and Computer Games) (Classification Process) Amendment Bill. In that speech I outlined my strong opposition to an R18+ rating being available to computer games, and I did applaud the then attorney-general—which was a rare occasion—for holding out, seemingly alone, despite the national criticism of his position. Unfortunately, the current Attorney-General does not share his resolve, although I note that the member for Croydon did indicate in the other place that he was pleased with the compromise made.

While the honourable member may accept consideration by the Classification Board of the interactivity of such games, such as players mimicking stabbing someone with the Wii 2 remote in games like *Manhunt*, in determining whether to grant a game an R18+ classification or to refuse classification, I do not believe there is any need nor justification for such games. Instead, I believe that the case against such violent and graphic games has only got stronger as time has gone by, with research now demonstrating the lasting impact on the attitudes and behaviours of its users. I will not go into that, because the Hon. Dennis Hood did so in his speech, and quite adequately.

In my 2008 speech I deplored our society's fixation with violence to the point where fights in the schoolyard and on the streets were being recorded and uploaded to the internet and being watched by hundreds of thousands of people. Many are so inured to the extremes of life that they would rather pull out their mobile and record someone being hurt rather than call police or come to their aid. I note this phenomenon has become so prevalent that the Attorney-General now has a bill before the other place to make it an offence to record such things without the permission of the victim. The irony would be quite humorous if it was not so tragic.

I take particular issue with the Attorney-General's suggestion when introducing this bill that by permitting the sale of these games we will not only restrict them to adults but somehow, by making them lawful in Australia, actually 'lower the risk of games that contain high levels of violence being available to minors'. On that point, I will bring up one example of where I think we have lost sight of all this.

My son, who is almost 11 years old, had a sleepover at a friend's place about three weeks ago—or he was supposed to have a sleepover. He got there and they were outside playing for a while and then his friend suggested that they go in and have a short burst of a video game on his father's PS3 or whatever it is these days. The game that this 11 year old was playing had a lot of violence in it, a lot of blood and guts, some nudity—it was his father's game that he was playing.

My son sat in the room for about 20 minutes and got up and left because he found it quite offensive—10 points to him, I might add. However, when my son got up and left the room his friend did not follow and he sat around for three hours waiting for his friend to come out of the room. Eventually he just rang me to come and pick him up, because this obviously was not going to be the sort of sleepover that he had pictured.

My point is that we do not have these sort of games in our home, but there is no way for a parent to protect their children when they do have a sleepover at a friend's place and those kids are allowed access to those adult games. It may be considered poor parenting on the other parents' behalf (I believe it is), but how does a parent trying to instil these values in their own children overcome that? Quite frankly, I do not believe my other children would have got up and left, would have asked for me to come and pick them up, but would have sat there and endured it and eventually, I believe, would have been lured into playing the game to be part of what their friend was doing.

Our kids are exposed to so much of this now that, if they are in front of the TV or on the computer, you literally have to be policing them the entire time. Even a show like *The Simpsons* now has drug references in it. Quite often Krusty the Clown is making references to snort and blow. This is at 7 o'clock at night. We have the bus driver on *The Simpsons* who makes no bones about being a drug user. There are sexual references in it. Just the other night we changed the channel because Marge and whatever is his name were in bed having sex.

There is that, there are the video games, the video YouTube things and music clips. Our kids are absolutely bombarded with this. Here we have something by which we can at least take some steps as a responsible government to try to prevent our children being exposed to such. Just because every other state is doing it, South Australia does not want to be left out. I think the Attorney-General's stand last time was quite honourable, and sometimes I do not find that easy to say.

To use the fact that a whole political party was formed to fight for the right for these games says nothing at all. We have in the Netherlands a political party called the Paedophile Party, which has been formed to lobby to lower the age of consent to 12. So, please, do not use that as an example of how righteous is this piece of legislation in giving people the right to choose. We all have a right to choose, but we all have a responsibility to our children to make sure we are taking every step possible to ensure that they are getting the right messages.

I suggest that anybody here at the moment who does not have a child old enough to be exposed to these sort of games should sit back and think about the number of scenarios where their children are not under their supervision, and where those values they have tried to instil in their child can quite easily be overridden by peer pressure and by exposure through other means. It always comes down to the messages that get sent from above to the people as to how we regulate our activities and our social values.

In relation to this whole argument of rights and liberation, the Hon. Tammy Franks was talking about the number of women who are now gamers. We also hear on the news of the number of young women in the streets whose drunken, violent behaviour is now outranking the men. Again, a very poor example: just because 47 per cent of gamers are women does not mean the impact is any less because, I do not know, women are not vulnerable to this sort of thing. There is plenty of research to show that these games change behaviours and attitudes.

I always believed before I got in here that legislation that we passed was based on evidence, was based on good science, but, in my 6½ years in here, I have seen very little evidence of that evidence being used to make sure that the legislation we pass is reasonable and responsible. Another point that I would like to make is that we are supposed to be here to support our society to be as responsible as it can be, no matter the socioeconomic status or anything else, by the legislation that we pass in here.

I believe that this legislation is a mistake and, no doubt, in a couple of years' time, we will live to learn that tale, and we will be taking measures to rectify yet another mistake that we have made in here because it is a populist attitude that we are supporting, rather than a sensible

attitude. In saying that, I urge members to remind themselves that—and I say this often in this place—we are here to vote on legislation that is supposedly for the true welfare of the people in this state. I ask them to please reconsider the easy passage of this bill for exactly that reason—the true welfare of the people of this state.

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

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 October 2012.)

The Hon. R.I. LUCAS (16:57): The Liberal Party supports the second reading of the bill. It seeks to extend 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. A copy of the report must be laid before both houses of parliament.

This 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. The proponents of the legislation believe that this will increase efficiency in changing the levy rate, providing greater flexibility for the board to protect the fund from potential losses of levy income and ensuring 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. The government has advised that, 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. Under this bill, the levy rate can go up and down, but it cannot go above 3 per cent.

The opposition has been advised that the bill is supported by Business SA, the Australian Industry Group, the Master Builders Association and the Housing Industry Association. Whilst we contacted SA Unions looking for their response, we did not receive any response from SA Unions, but the government and others who claim to be aware of SA Unions' position indicate that they also support the bill.

AIG did indicate to us that it had had some concerns in the lead-up to the introduction of the bill. They included the process by which the levy increases are implemented and the prevention of expansion of the coverage of new areas. In relation to the process to increase or decrease the levy rate, AIG noted that any recommendations of the board need to be approved by the minister and proposed that, once the minister receives such a recommendation, he or she should conduct a wider consultation process. This was because not all stakeholders are represented on the board, despite being asked to put forward nominations to the board. The final decision remains that of the minister.

AIG also asked that the minister's second reading speech, as well as the explanatory memorandum of the bill, would outline that the express intent of new schedule 5 would ensure that the coverage of the Construction Industry Long Service Leave Act 1987 was not expanded from its coverage prior to amendment by the bill. AIG has informed the Liberal Party that it is satisfied that these matters were satisfactorily addressed by minister Wortley's second reading speech on 18 October. For those reasons, the Liberal Party supports the legislation.

The Hon. T.A. FRANKS (17:01): The Greens rise to support the Construction Industry Long Service Leave (Miscellaneous) Amendment Bill 2012. Briefly, this bill will see a series of minor amendments made to the Construction Industry Long Service Leave Act 1987. This act, a precursor of which was established in 1977, is similar to others operating in all other Australian states and territories and allows for workers in the construction industries to aggregate long service leave entitlements according to the length of service that they have in the industry as a whole rather than with any single employer.

The bill seeks to improve the efficiencies in the administration of the scheme that is currently managed by the Construction Industry Long Service Leave Board and also to extend the board's current powers to vary the levy rate within the prescribed parameters but not above 3 per cent. This will allow for greater flexibility in responding to changes in circumstances to protect

the fund and ensure employers are contributing appropriately. It also removes the ambiguities surrounding the predominance rule, whether or not an employer is liable for payment.

We understand, as the opposition also indicated, that this bill has been supported by those relevant stakeholders, including the Australian Industry Group, who, I also understand, received undertakings from the minister regarding clarifications in terms of potential increases to the levy, but also employee and employer representatives, including Business SA, SA Unions, SafeWork SA and various construction industry groups, including the Civil Contractors Federation, support this bill.

The Greens commend this industry for actually addressing the issues of such a transient industry and affording its workers the ability to access long service leave in these particular conditions. Certainly, this is something that would be welcomed in other sectors. I know that the community sector has previously looked to have some sort of portable long service leave program and certainly as jobs become contract and short term, and people in fact do not start their working life in one particular company or industry even, it would be advantageous for all Australians to be able to access portable long service leave. With that, the Greens commend this bill to the council.

The Hon. A. BRESSINGTON (17:03): I rise to indicate my support for the Construction Industry Long Service Leave (Miscellaneous) Amendment Bill. Essentially, the bill proposes three key amendments to the act. Firstly, the Construction Industry Long Service Leave Board would be granted the ability to alter the employer contribution levy rate up to a maximum of 3 per cent. Currently, the levy is altered on the board's recommendation by regulation, which last occurred, I believe, in 2008 when it went from 2.5 per cent to 2.25 per cent.

However, industry understandably complained of the delay between the board's recommendation to lower the levy rate and the minister promulgating the regulation some six months later. To overcome this, the board itself will be able to vary the levy rate provided it notifies the minister within 14 days of its intention to do so.

Secondly, the bill seeks to update the schedule of awards to which the act applies to reflect the new modern awards. Whilst the new awards are referred to in schedule 3, it is schedule 5 which achieves the intention of restricting the scheme to those employees who would have been covered prior to 31 December 2009; that is, the modern awards do not expand nor narrow the scope of employees covered by the scheme.

Thirdly, the bill seeks to address concerns with the existing predominance rule as provided for in section 5(1)(c)(i). The board has identified that the 'whole period of employment' test can lead to situations where employers have been making contributions for an employee who has not worked at least half of their employment on-site and, as such, are entitled to a refund of their contribution. The bill addresses this by replacing the predominance rule with a new scaled rule that requires less predominance on-site the longer the employee works.

As the minister is aware, my office identified a concern with wording of the proposed new predominance rule, specifically new subsection (B). Essentially, subsection (B) deals with employees who have worked longer than a month but less than three months and is written to presume that if they worked predominantly on-site in the first month, then their employer must continue making contributions to the scheme for the second and third month.

However, in doing so, the wording potentially excludes an employee who only works one week and four days of the first month on-site, but works the majority of the second and third month on-site. An example is an employee who has worked 11 weeks, seven of these on-site, but only one of which was in the first month. Unintentionally, this employee is excluded from the benefit of the scheme.

Having spoken to numerous stakeholders and employees of the board, I am satisfied that, whilst this is a possibility, in all likelihood, given modern working arrangements, this is unlikely to occur. Further, from these conversations and having spoken to parliamentary counsel, amending subsection (B) to address this concern could very well have unintended consequences of its own. As such, I have instead approached the minister and requested that subsection (B) be included in the review of the act which is foreshadowed in the board's annual report as part of its 2012-15 corporate plan. I seek from the minister confirmation during committee stage that this issue will be addressed as part of that review.

I also seek from the minister clarification as to why the other legislative amendments seemingly required to the act, as referred to by the board in this year's annual report, which states

'several provisions have been identified as out-dated and requiring amendment to accommodate changes that have occurred within the construction industry', have not been included in this bill. Whilst I know a review is scheduled, if deficient provisions have been identified, then why was this bill not utilised to address these concerns? With that said, I look forward to the minister's commitment and the passage of this bill.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (17:09): I would like to thank all the members for their contributions. I have a number of things that I need to say in regard to the points picked up by the Hon. Ms Bressington but I will say that in clause 1 so that we can go into committee.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.P. WORTLEY: I would like to thank the Hon. Ms Bressington for the point she raises regarding the potential exclusion of some workers under subsection (B) of the act. I would also like to note that the Construction Industry Long Service Leave Board considers the scenario highlighted by the honourable member to be unlikely but, nevertheless, I can reassure the honourable member that the board will be undertaking a review of the operations of the Construction Industry Long Service Leave Act 1987 as part of its 2012-15 corporate plan, and that the concern she raised will be considered as part of that review.

I will be considering any proposed amendment that results from the board's review for future introduction into parliament, including anything related to the issue raised by the honourable member. Also, the board did not request any other amendments as part of this bill. The board was happy and, indeed, keen for the amendments to progress independently of any other issues raised in its annual report, and I will continue to work with the board to consider any future amendments.

Clause passed.

Remaining clauses (2 to 9) and title passed.

Bill reported without amendment.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (17:12): I move:

That this bill be now read a third time.

Bill read a third time and passed.

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

Adjourned debate on second reading (resumed on motion).

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) (17:13): By way of concluding remarks, I would like to thank honourable members for their second reading contributions and their support for this important piece of legislation. This bill seeks to amend the classifications act to provide R18+ classification for computer games and to bring about consistencies with commonwealth classification legislation.

It has taken 10 long years of negotiation between the commonwealth and the states and territories, an incredibly comprehensive and long consultation period where there has been agreement around the nation to introduce R18+ classification system for games. There has been overwhelming support around the nation for this and this will help bring Australia in line with other overseas countries as well. I commend this bill to you.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

The Hon. S.G. WADE: I move amendment No. 1 [Wade-1]:

Page 3, line 9 [clause 5, inserted paragraph (c)]—

Delete 'prescribed by' and substitute 'set out in'

The bill at clause 17 proposes that regulations produced for this section under the Classification (Publications, Films and Computer Games) Act 1995 be allowed to refer to or incorporate:

> ...wholly or partially and with or without modification a code, standard or other document prepared or published by a prescribed body either as in force at the time the regulations are made or as in force from time to time.

This would allow, for instance, an industry code of conduct to be prescribed by regulation without it being promulgated in regulations. Amendment to the code or document by the external body would effectively change the law without parliament having any opportunity to disallow the change. This is confirmed by the Attorney-General's second reading speech on 17 October 2012, where he said:

> So it will be up to the industry to draft a code, to be aware of the code and to decide whether they choose to adopt it.

That is particularly curious, given that this bill is all about a state-imposed censorship regime. The government wants to legislate to control the supply of items but when it comes to the display of such items the government is happy for the industry to write the law itself. The code would not necessarily even be reproduced in the regulation text; instead it may simply be referred to as an external document or code. Whereas regulations and statutes are publicly accessible, such codes may not be. To accommodate access, the government proposes that such a code or document be accessible and states:

> ...for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations.

The opposition sees three potential problems with this approach. First, public access to the law is diminished in that it is left in the hands of a private sector organisation. I note that the Interactive Games and Entertainment Association is based in Sydney and the Australian National Retailers Association has offices in Canberra and Sydney. South Australians cannot know the law without going interstate during office hours, and that is not accessible law.

It is neither difficult nor onerous for such a code to be reduced in the regulations and yet the government is proposing a hyperlink approach to law whereby law is subject to change at any point without the usual period of notice, without the usual process of consultation and without the usual oversight and sign-off by this parliament. This brings me to the second point: the model proposed by the government would potentially allow a parliamentary body to write the regulatory law.

If a document referred to in the regulations is changed by an industry body the change will be immediate without consultation, without the ability of this parliament to disallow the regulation and, quite likely, without the minister even being aware of the change. We consider this devolution of legislative authority to an unelected external body is inappropriate. It should be resisted, especially when compliance with such codes could be vital to establish defence.

Thirdly, the opposition is concerned that the law may also mean that certain industry bodies are given the capacity to control the law governing retailers beyond the scope of their organisation. The Interactive Games and Entertainment Association and the Australian National Retailers Association are not, we presume, representative of all of the relevant organisations and, for that matter, all the retailers within their sectors.

The Hon. G.E. GAGO: The government rises to indicate its support for this amendment; I think it is actually a series of amendments. The government actually does not consider that it is necessary for a code of conduct that does not set down any required conduct or impose any particular sanctions to be set out in regulations. However, as the amendments do not affect the existing display provisions or the proposed R18+ amendments, it is important that we do not delay the passage of this bill any further. Therefore, the government will not be opposing this amendment; we are prepared to support it.

The Hon. S.G. WADE: I would like to challenge the minister's comments that because it does not impose a sanction it is trivial or without import. The fact of the matter is that it is a defence to a sanction, so it effectively does relate to a sanction. We believe that it is worthy of consideration and should be supported.

The CHAIR: The minister just agreed with you and now you are taking issue?

The Hon. S.G. WADE: My point, Mr Chair, to clarify it further, is that this is another example of where the opposition believes that external reference to documents is not good legislative practice. Part of the minister's response was not actually to challenge that it was bad legislative practice, but her response was: it is trivial because it does not impose a sanction. It is directly related to a sanction. It is a defence to a sanction, so we do not believe that it is trivial.

We believe that people are entitled to know the law, and I pay tribute to the work of the Hon. Dennis Hood in putting in this provision initially and for working with the industry associations to make sure that the law is workable. We, as an opposition, support the arrangement, which I understand was worked out by the Hon. Dennis Hood in cooperation with the government. I think it is very good that members of this council in cooperation with the government are finding ways to make the law more workable for those that we relate to, but I am not willing to accept that it is trivial when we are talking about a statutory defence to a sanction that this parliament has imposed.

The CHAIR: But we are in robust agreement. The Hon. Mr Hood.

The Hon. D.G.E. HOOD: Just for the record, I am pleased to hear that the government is supporting the amendments. I was not sure that it would support the amendments, but Family First certainly will.

Amendment carried; clause as amended passed.

Clauses 6 to 9 passed.

Clause 10.

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

Page 5, line 20 [clause 10, inserted section 60A(3)(c)]—Delete 'prescribed by' and substitute 'set out in'

Just by way of a footnote comment, this is the second bill today—the other bill was the Statutes Amendment (Courts Efficiency Reforms) Bill—

The CHAIR: Let us stick to this one.

The Hon. S.G. WADE: The point being that this is another amendment to try to resist external reference to legislation. That is a recurring theme in our amendments to bills. In the courts efficiency bill we were reiterating our commitment to retrospectivity. If the government, in its instructions to parliamentary counsel, were to avoid offending good legislative practice, it is less likely to have work to do in this parliament. I seek its support for this amendment.

The Hon. G.E. GAGO: The government rises to support this amendment and, if it is helpful, to indicate that it will be supporting the rest of the Hon. Mr Wade's amendments.

Amendment carried; clause as amended passed.

Clauses 11 to 17 passed.

Clause 18.

The Hon. S.G. WADE: I oppose this clause.

Clause negatived.

Title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (17:27): I move:

That this bill be now read a third time.

Bill read a third time and passed.

EVIDENCE (REPORTING ON SEXUAL OFFENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 October 2012.)

The Hon. J.A. DARLEY (17:28): I rise very briefly to speak on the Evidence (Reporting on Sexual Offences) Amendment Bill. The arguments for and against the need for this bill have

already been canvassed by my colleagues the Hons Ann Bressington and Stephen Wade. The Law Society of South Australia in its submission has made some valid points regarding the devastating impact that the disclosure of an accused's identity can have on that individual in sexual offence cases.

At the risk of repeating what has already been placed on the record by other members, I am sympathetic to the Law Society's view that an accused person who is innocent in the eyes of the law will forever be considered guilty by the community of what is arguably one of the most heinous of all crimes. As a general observation, the Law Society has adopted the view that sexual offences are a special class of offences in that they tend to attract a stigma for both the assailant and the victim and are more liable to false reporting than any other type of offence. Their position is that the combination of these two factors distinguish sexual offences from other offences and as such there should be no publication of an accused's identity unless guilt has been determined by a court.

Under normal circumstances, I do not think many of us would question courts exercising their discretion in lifting a suppression order, particularly where it is considered reasonable in the investigation of an offence or where it is otherwise in the public interest to do so. This bill comes down to the question of whether we are dealing with circumstances that are so out of the ordinary that this discretion should not exist.

The Law Society canvasses many issues which have not been addressed in this bill, but on the question of the discretion of the court they state that courts should be given the discretion to order publication of any information of whatsoever nature in any case in appropriate circumstances. This includes information identifying the accused or complainant in a sex case. My office has spoken with a representative from the Law Society about this matter in terms of whether this position still stands, even without other changes that they have recommended. My advice is that it does.

My office has also spoken to Mr Tony Kerin, President of the Australian Lawyers Alliance, and I am advised that ALA supports the legislation as it stands on the basis that it appears to be working well but are not in principle opposed to a judicial discretion. I am concerned about the ramifications that the disclosure of an accused identity can have on their lives where they are ultimately found not guilty by the courts. I am equally concerned about inflexible rules potentially leading to unjust results, and I can see the merit in giving the courts more flexibility in dealing with these cases.

Having said that, I would question whether these measures are actually necessary or indeed whether they will result in a different outcome. One would expect that any decision to disclose an accused's identity would not be made lightly and that the courts would exercise extreme caution in coming to such a determination. That said, I will not oppose the bill on the basis that in practical terms I do not think it will make a difference. Finally, with respect to the Hon. Stephen Wade's amendments, whilst I fully acknowledge the arguments raised in relation to an open system of justice, I indicate that I will not be supporting those amendments. With that, I support the second reading of the 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) (17:32): I understand there are no further second reading contributions indicated on this bill. I thank honourable members for their second reading contributions and their support for this important piece of legislation and I look forward to its being dealt with expeditiously through committee.

Bill read a second time.

TRUSTEE COMPANIES (TRANSFERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 November 2012.)

The Hon. S.G. WADE (17:33): I rise on behalf of the Liberal opposition to indicate our support for the Trustee Companies (Transfers) Amendment Bill 2012. On 17 October Attorney-General Rau introduced the bill in the House of Assembly. The bill is considered to be consequential to the changes made in the Trustee Companies (Commonwealth Regulation) Amendment Bill 2010 as part of national efforts to create consistent regulation of trustee companies and remove the duplication of state, territory and federal licensing.

The Liberal opposition supported the Trustee Companies (Commonwealth Regulation) Amendment Bill 2010. A trustee company is a company incorporated under the Commonwealth Corporations Act 2001 and authorised under state and territory legislation to perform personal trustee and deceased estate administration services. In June 2008 the Council of Australian Governments agreed that the commonwealth government would assume responsibility for regulating trustee companies at the entity level. This commitment is one of 27 reforms agreed to under the national partnership agreement to deliver a seamless national economy.

Public trustees were not to be subject to the new regulatory regime unless the government consented to this occurring. In 2010, the Liberal opposition were informed that the government did not intend to give that consent. In April 2011, amended provisions of the commonwealth Corporations Act came into effect, providing for the voluntary transfer of trustee business between the companies.

The commonwealth government has advised that South Australian legislation must be amended to operate as required by the April 2011 commonwealth law amendments. The government did not make clear which of the certain conditions are not met by the current Trustee Companies Act. The 2010 act provides for a transitional period during which trustee companies which do not already have an Australian financial services licence will be deemed to hold one until the end of the transitional period.

The transitional period ends on 31 December 2012. Unless the South Australian legislation is amended by that date, companies will be unable to apply for a transfer determination to change from the deemed licence to an ongoing one. The provisions for this transfer are proposed to go in the Trustee Companies Act rather than the supporting regulations, so that both the compulsory and voluntary transfers are contained within the same act.

Despite the commonwealth legislation passing over 18 months ago, the commonwealth has waited until two months before the transitional deadline to introduce the legislative change. If the legislation passes in the next two sitting weeks, trustee businesses that are operating on a deemed licence only have six weeks to apply for and receive an Australian financial services licence. The Liberal opposition supports the bill but regrets the tardiness of the government in introducing and progressing it.

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

FIRST HOME OWNER GRANT (HOUSING GRANT REFORMS) 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) (17:37): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation and explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

This Bill introduces legislative amendments required to implement changes to housing assistance grants to provide an urgent boost to the State's housing construction industry and help stimulate the property sector and secure jobs. The Bill also introduces legislative amendments required to implement changes to the first home bonus grant announced in the 2012-13 Budget.

The property market is soft and the housing construction is doing it tough. The Government recognises that it needs to put in place targeted measures to give confidence to the industry and get more South Australians buying or building a new home. The grants for purchases of new homes provided for in this Bill, together with the off-the-plan stamp duty concession scheme, demonstrate the Government's strong commitment to the housing construction industry. There has never been a better time for South Australians to build a new home or buy an off-the-plan apartment.

The Bill renames the *First Home Owner Grant Act 2000* to be the *First Home and Housing Construction Grants Act 2000*.

This Bill amends the *First Home Owner Grant Act 2000* to increase the First Home Owner Grant for new homes from $7,000 to $15,000 for contracts entered into on or after 15 October 2012. It also reduces the First Home Owner Grant for established homes from $7,000 to $5,000 for contracts entered into from the date the legislation comes into force until 30 June 2014. The First Home Owner Grant will be abolished for established homes from

1 July 2014. A new home is a home that has not been previously occupied or sold as a place of residence and includes a substantially renovated home.

The Bill removes the phase out of the first home bonus grant from $8,000 to $4,000 from 1 July 2012 as announced by the Government in the 2012-13 Budget. The first home bonus grant will remain at $8,000 for eligible transactions entered into between 1 July 2012 and 14 October 2012 (inclusive).

From 15 October 2012, the $8,000 first home bonus grant will be abolished and replaced with a Housing Construction Grant of $8500. The Housing Construction Grant will be available for all new home contracts entered into between 15 October 2012 and 30 June 2013 (or where building commences during that time for an owner builder) and where the property has a value up to $400,000. The Housing Construction Grant phases out for properties valued up to $450,000.

The Housing Construction Grant will be available to natural persons, companies and trusts and only one Housing Construction Grant will be paid per property.

The Bill includes transitional provisions to ensure the grants can be administered appropriately from the date of the Government's announcement of the revised grant arrangements.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be taken to have come into operation on 1 July 2012. This is the date on which *ex gratia* payments commenced in connection with the continuation of the first home bonus grant under section 18BA of the Act beyond 30 June 2012.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *First Home Owner Grant Act 2000*

4—Amendment of long title

It is necessary to amend the long title of the Act on account of the introduction of housing construction grants under this measure.

5—Amendment of section 1—Short title

It is necessary to revise the short title of the Act on account of the introduction of housing construction grants under this measure.

6—Amendment of section 3—Definitions

These amendments relate to new definitions that are required on account of the introduction of housing construction grants under this measure.

7—Amendment of section 5—Ownership of land and homes

Certain adjustments are required in connection with the concept of 'relevant interest' under the Act on account of the introduction of housing construction grants under this measure. It will be possible for a person to have an interest in land that is held subject to a trust but an equitable interest in land will not give rise to an entitlement to a grant in any circumstances.

8—Substitution of heading to Part 2

This is a consequential amendment.

9—Amendment of section 7—Entitlement to grants

A housing construction grant will be payable under new section 18BAB. It will be made clear that only 1 housing construction grant may be paid in relation to any particular new home.

10—Amendment of section 10—Criterion 3—Applicant (or applicant's spouse etc) must not have received earlier grant

11—Amendment of section 11—Criterion 4—Applicant (or applicant's spouse etc) must not have had relevant interest in residential property

12—Amendment of section 14—Application for grant

13—Amendment of section 17—Commissioner to decide applications

These amendments are all consequential on the introduction of housing construction grants under this measure.

14—Amendment of section 18—Amount of first home owner grant

The basic first home owner grant in relation to a new home transaction is to be increased to $15,000 from 15 October 2012. For other eligible transactions, the grant is to be reduced to $5,000 per transaction from the date on which this measure is enacted. No first home owner grant will be payable on or after 1 July 2014 in relation to a contract unless the contract is a new home transaction.

15—Amendment of section 18BA—Bonus grant for transactions on or after 17 September 2010 but before 15 October 2012

The first home bonus grant under this section is to be extended to 15 October 2012.

16—Substitution of section 18BAB

A new housing construction grant is to be introduced. The grant will be payable in relation to new home transactions that occur on or after 15 October 2012 but before 1 July 2013. The market value of the home must be less than $450,000. Various requirements as to completion of the relevant transaction will apply. The full grant of $8,500 will apply in relation to homes with a market value not exceeding $400,000 and the grant will phase out at $450,000. The Commissioner will be able to determine not to pay the grant if satisfied that a contract for the purchase of a new home is not a genuine sale or that the relevant contract has been substituted for an earlier contract entered into before 15 October 2012.

17—Substitution of section 18C

18—Amendment of section 31—Administration

19—Amendment of section 32—Delegation

20—Amendment of section 41—Protection of confidential information

These are consequential amendments.

Schedule 1—Transitional provisions

This schedule sets out transitional amendments associated with the commencement of this measure.

Debate adjourned on motion of Hon. J.M.A. Lensink.

CRIMINAL LAW (SENTENCING) (GUILTY PLEAS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 October 2012.)

The Hon. A. BRESSINGTON (17:39): I was intending to speak to this bill today, but I have a meeting with the Attorney-General tomorrow. I would rather speak to this bill after I have had my meeting with the Attorney-General, so I seek leave to conclude my remarks.

Leave granted; debate adjourned.

SURVEILLANCE DEVICES BILL

Adjourned debate on second reading.

(Continued from 19 September 2012.)

The Hon. A. BRESSINGTON (17:40): I rise to speak to the Surveillance Devices Bill 2012. Prior to addressing my concerns with the bill, I must express my disappointment at the lack of consultation—again. Not for the first time, a bill with significant impact on our constituents has been introduced in another place by the Attorney-General without stakeholder or public consultation. In fact, during the briefing provided by the Attorney-General's office (for which I thank him), my office was informed that the Attorney-General had given very specific instructions not to consult more broadly. Only the police, who have obviously pushed for much of the bill, were engaged prior to this introduction.

Yet again, if it was not for members of the Legislative Council consulting stakeholders and informing the public more broadly, this bill would be debated in a vacuum, with little input on the impact it will have. Despite the Premier's promise of consultative government, we instead see the standard 'announce and defend' strategy the former premier was denounced for. True to this strategy, the Attorney-General has been on radio several times to defend the bill. Each time he has demonstrated that his knowledge of the bill is at best superficial.

Those who have been paying attention to the radio debate will know that one of the main issues with the bill is that the Attorney-General is seeking to remove the existing right to record a private conversation to protect your lawful interests. As I have detailed on radio, I am aware of several constituents who, in reliance of lawful interest exemption, have recorded their interactions

with public servants and Families SA caseworkers. While many never have cause to later use the recording, some do.

In one case, a relatively young couple who had had their six children removed recorded their access visits and meetings with their caseworker, following accusations that they were unsettling their children and being abusive to Families SA staff. However, as they were able to demonstrate from the recordings, it was in fact the Families SA staff and contractors who were traumatising the children and making false allegations against the parents. This recording, I believe, assisted them in having their children returned to their care.

In some cases, professionals also rely on this exemption. As was pointed out in the submission to my office by the National Security Association of Australia, some investigators and security agents also work as process servers. Through experience, many have learnt that it is in their interests to record their interactions with those they are serving, given the propensity for them to become abusive, if not violent, and to falsely allege either that the document was not served or that the servers themselves were abusive.

While the current act permits them to record to protect their lawful interests, the bill as proposed, of course, does not. Instead, the bill narrows the lawful interests defence to all but the most limited of scenarios, in which the person recording a private conversation is the alleged victim of an offence committed by another party to the conversation. As stakeholders like the National Security Association of Australia and Free TV Australia pointed out, this exemption is so narrow that it is unworkable. From the briefing provided, it is my understanding that this narrow exemption has only been included in the bill at the request of the police who, in some cases, rely on recorded conversations between an alleged victim and the offender to bolster their case.

I had initially assumed that the police were behind the removal of the broader lawful interest defence. However, putting this question to them in a briefing, I was informed that this was being led by the Attorney-General himself and the police had (and I quote) 'no official opinion' on whether or not it should be retained. This being the case you would think that the Attorney-General would at least know what this bill proposes. However, as the Attorney-General revealed on radio, he believes that the bill maintains the ability to record a conversation to protect your lawful interest. Having been posed a scenario by Leon Byner on FIVEaa in which a person records a conversation fearing that the other party to the conversation may falsely accuse him or her, and then being asked 'What's wrong with that', the Attorney-General responded:

> I think you'll find, Leon, that the draft bill says that if it is for the protection of yourself, it's okay.

Ignoring the fact that it is no longer a draft bill, given that it has been introduced, this is clearly wrong as the shadow attorney-general later rebutted.

Despite what the bill actually says, the Attorney-General himself clearly believes that, in such a scenario, our constituents would have the right to protect themselves. As such, one assumes the government will be supporting amendments to that effect. In addition to the lawful interest exemption, the existing act also provides for an exemption to the prohibition on recording a private conversation in the public interest which is relied upon by investigative journalists and others from the media.

Again, despite the bill removing this exemption, media networks were not given an opportunity to have any input prior to the bill being introduced. Since being notified by my office and the shadow attorney-general's, media networks including Channel 7, the ABC, and the industry body, Free TV, have all made submissions opposing the bill in its current form. They argue that without the ability to record private conversations in the public interest, legitimate journalists will potentially be prevented from exposing corruption, abuse of public office or other stories of genuine public interest. In a similar vein, Ms Sharon Mascall-Dare, a lecturer at the School of Communication, International Studies and Languages, at the University of South Australia, states in an email to my office:

> The wording of the bill does not accommodate standard investigative practices as pursued by many investigative journalists.

She added:

> It is not always the case that a person who is the victim of alleged conduct would be party to a conversation being filmed or recorded for bona fide investigative purposes. The law would effectively rule out all investigative work of the victim if the victim is not present party to the conversation. The wording shows a lack of understanding concerning how investigative journalists operate.

Whilst it is true that some other states have sought to place limitations on the use of private material recorded in the public interest, as Mr Peter Campbell from Kelly & Co. Lawyers states in his submission on behalf of Channel 7 Adelaide, the exception in the bill requiring the person recording to be the alleged victim of an offence by another party to the conversation is 'the most restrictive of all Australian jurisdictions'. The Attorney-General is yet to offer an explanation as to why he is seeking to curtail the ability of investigative journalists to do their job.

The only explanation he proffered in his introductory speech was that the terms 'lawful interest' and 'public interest' are poorly defined and open to various interpretations. I may have paid that argument serious regard if the bill did not retain those particular terms. In fact, the term 'lawful interest' is used three times across two clauses. Instead, my suspicion is that this government is seeking to limit its own exposure. Call me cynical.

Other stakeholders who will be severely impacted by the changes proposed in the bill are private investigators. Given that this bill seeks to significantly change the regulatory regime of surveillance devices, one would expect that the Attorney-General would have at least consulted with private investigators who legitimately use surveillance devices in their work. However, they, too, were ignored by the AG, leading to the Australian Institute of Professional Investigators, who were alerted to the bill by my office, to express in their submission their 'complete dissatisfaction that the bill was introduced without consultation with the private sector'.

Mr Jim Corbett, the President of AIPI, then expresses their concerns that the bill will have 'a significant impact on the ability of professional investigators to service their clients' needs'. As an example, Mr Corbett points to the prohibition on using an optical surveillance device on private property without the consent of the owner or occupier, stating that crucial evidence such as footage of an injury claimant working out in a gym would be inadmissible. As stated, the National Security Association of Australia, South Australian branch, has also sent a submission to my office, detailing its concerns with the bill.

In addition to the removal of the lawful interest exception, Mr Charles MacDonald, on behalf of the president of the NSAA, also points to the wording of the prohibition of GPS tracking devices and how this may prevent them detecting theft by clients' employees. Investigators currently use GPS trackers to track their vehicles with the consent of the owner but for the purpose of determining the geographical location of any given driver. A scenario was relayed by Mr MacDonald of an employee of a charity who was suspected of stealing donated goods by using a work van. The charity may engage an investigator to track the location of the van and, in doing so, prove that the employee is regularly making unscheduled stops at a private residence or warehouse.

In one such case, thousands of dollars worth of goods were later discovered to have been stolen. It is Mr MacDonald's concern that because the implicit purpose of the use of a GPS tracker is to track the driver, this would be prohibited under clause 6(1)(a) of the bill which states that it is an offence to knowingly install, use or maintain a tracking device to determine the geographical location of a person without the express or implied consent of that person. If this is the case, it may be necessary for the owner to notify the driver of the intent to track the vehicle. As Mr MacDonald says in his letter, while this may deter the driver from further wrongdoing, it is unlikely to secure evidence for a prosecution.

Whilst these are the issues that have currently been raised with my office by this sector, AIPI has indicated that there are additional areas of concern with the bill which it is further consulting on with its members. This is understandable given that they first learnt of the bill a week or so after it was introduced. The majority of the bill deals with surveillance warrants available to law enforcement. While much of this mirrors the existing act and is to be supported, I have identified numerous issues that I feel require amendment.

The first relates to the definition of a serious offence, which the existing act defines as murder, kidnapping or a drug offence punishable by imprisonment for a period of at least seven years. Somewhat inexplicably, however, the bill seeks to redefine a serious offence to any offence which carries a maximum penalty of three years or more or any commercial drug offence. This is, at least to my memory, the lowest threshold of a serious offence that we have ever been asked to pass in this council.

Whilst warrants can be issued to investigate offences not meeting this threshold, in the briefing provided by the South Australia Police it was made clear that the police themselves could not foresee a case in which they would seek a surveillance warrant to investigate an offence that

did not carry a maximum penalty of three years. In fact, it is my memory that the police indicated that to the best of their knowledge at the time they never had.

As such, it is my belief that the true intention of dropping the threshold of a serious offence is to ensure that the full powers available to the police on being granted a warrant are presumed to apply rather than the police having to convince a Supreme Court justice that they need such powers. This to my mind is an abuse of the Supreme Court's role in granting surveillance warrants and should not be permitted.

I also believe I have identified a flaw in the bill that would enable the police to avoid the Supreme Court entirely. The bill provides for the police to grant themselves emergency authorities, which grants the same extensive powers as a surveillance device (general) warrant. These emergency authorities are intended to enable the police to expedite the approval process in cases where seconds count. However, the bill provides that they must have the emergency authority confirmed by a Supreme Court justice within 48 hours of the authority being granted, but only if the authority is still in force.

If, however, the authority is cancelled because the powers are no longer needed, the bill seemingly does not require the authority to be confirmed. Having queried this at the police briefing, I was later sent an email by the Attorney-General's adviser, who stated that the evidence gathered could, and I quote, 'still be used by police as it was lawfully obtained.' This means that the police can issue themselves with an authority, gather evidence and use that evidence without the Supreme Court ever considering whether or not the authority was appropriately issued.

A sceptic could suggest that SAPOL would use an emergency authority if they believed that a justice may not grant a general surveillance warrant or if their application for a general surveillance warrant was rejected. Further, there is nothing to prevent the police from issuing an authority, then revoking it after 47 hours and, a couple of days later (or even the next day), issuing yet another authority.

Whilst the Supreme Court would no doubt look dimly on this, the bill seemingly permits it. I indicate to the council that I have had amendments drafted to require an emergency authority to be confirmed regardless of whether it is still in force, unless the powers authorised have not been exercised.

I also have concerns about the powers available to the police under the self-issued surveillance device (tracking) warrants, particularly the ability to steal a suspect's car, as was suggested by the Attorney-General in another place. Such powers, at least to my mind, should only be available to the police if granted by the Supreme Court, not by themselves.

In addition to these issues, the Law Society of South Australia in its submission to the bill, at the request of the Hon. Stephen Wade, also expressed its concerns with the removal of the judicial oversight of tracking warrants and emergency authority, the expanded use of intrusive powers by the police, and the drafting of several key provisions.

As I believe I have demonstrated, this bill has serious issues that will have a significant impact on our constituents and relevant stakeholders if not amended. Whilst I have some 16 amendments drafted to the bill, these will have to wait as I am aware that the Hon. Stephen Wade will be moving that this bill be sent to a select committee for consideration which I believe will have majority support. If this is so, at least this parliament will undertake the consultation that the Attorney-General failed to do, yet again.

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

CRIMINAL ASSETS CONFISCATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 October 2012.)

The Hon. A. BRESSINGTON (18:01): I rise to speak to the Criminal Assets Confiscation (Miscellaneous) Amendment Bill which seeks to make relatively minor amendments to the existing confiscation regime, particularly relating to pecuniary penalty orders. As other members have detailed, the provisions of this bill are largely identical to those in the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill except for that bill's harsh and draconian prescribed drug offender provisions which rightly saw it defeated in this place.

The act currently provides that a court must make a pecuniary penalty order requiring a person to pay the amount requested by the Director of Public Prosecutions if satisfied that the person has either derived benefits from the commission of a serious offence or that an instrument of a serious offence is owned by that person.

Whilst I fully support any and all proceeds of crime being confiscated from criminals, as I have previously relayed in this place, I am uncomfortable with the automatic confiscation of the instruments of crime, particularly given the adverse and, in some cases, devastating impact this can have on innocent family members. I have previously detailed in this place two Western Australian cases, one in which the elderly parents lost their family home due to the stupid and selfish actions of their son who was storing cannabis in their ceiling. In the other, a family risked losing everything due to the father's desperation after having lost his job and fallen behind in mortgage payments.

Clearly, I am not alone in this view, with the Full Court of the Supreme Court finding in DPP v George [2008] SASC 330 that to interpret the 'must' in the act to truly mean 'must', with no ability to exercise discretion, would have 'the potential to bring the administration of justice into disrepute' and would result in 'harsh consequences'. As such, the Supreme Court, to quote the Attorney-General, 'strained the ordinary use of language' to read into the act a discretionary power when determining a pecuniary penalty order application. In response, the Attorney-General is proposing to codify the Supreme Court's ruling. Whilst the Attorney-General may suggest that his motivation is to remove from the statutes a law that has to be so creatively interpreted to avoid an outcome that is unfair and unjust, I suspect otherwise.

My reading of the judgement is that the discretion read into the act would apply to a pecuniary penalty order application for both the benefits of crime and/or the instruments of crime. However, the Attorney-General in this bill seeks to limit the discretion only to instruments of crime, with the courts required to make an order relating to the benefits of crime. Whilst I support this, the Attorney-General should be frank so that this parliament's intention is clearly ascertainable to the courts if this is later challenged.

The bill also makes other minor amendments to the act, such as enabling extension periods in which to finalise a challenge to pecuniary penalty orders and ensuring that offenders do not receive a discount on their sentence in recognition of the consequences of forfeiture if they also receive a discount on the amount forfeited for the same reason, and vice versa, all of which I support.

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

DEVELOPMENT (PRIVATE CERTIFICATION) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (18:06): I move:

That this bill be now read a second time.

I seek leave to have the second reading speech and explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

I am delighted to present this important planning reform to the House.

As Members will know, this Bill has arisen from conversations with the housing industry recently hosted by the Premier to discuss the current slump in new housing construction.

The situation for the housing sector is quite poor at present—with a continuing decline in dwelling approvals across the country recorded by the Australian Bureau of Statistics from late 2009 onwards. South Australia has recorded 16 months of continuous decline in the number of dwelling approvals per month and is down some 17.2 per cent from August last year.

It is very clear to the Government that something needs to be done to give more support the industry and the carpenters, brickies, sparkies and other workers whose livelihoods are supported by it.

The Government has, of course, already moved to do what we can to make housing approvals simpler and easier to obtain. In August this year we made a series of changes to the State's residential development code which we believe will ensure that home buyers are able to get a quick turnaround in planning approval—helping to keep downward pressure on housing affordability. These changes have been broadly welcomed by industry.

The code was introduced in March 2009, based on the recommendations of the 2008 Planning Review, with the aim of streamlining residential development that met specific complying standards. Effectively, the code sets up a tick-a-box approach to planning requirements for low risk, low impact detached and semi-detached housing—in other words, the typical house and land package in greenfields areas. The changes were designed to respond to poor take-up of the code in its initial years of operation. By relaxing some of the more prescriptive requirements and clarifying points of ambiguity, we hope the revised code will provide a better vehicle for home buyers and renovators to obtain a planning approval, in most cases, within 10 business days.

However, while the revised code provides for more streamlined assessment processes for new houses and alterations and additions to existing houses, applicants are still required to get a council approval. This contrasts with building assessment, which has allowed for building approvals to be granted by an accredited private certifier since 1997.

This Bill will enable the same process currently applying to building approvals to also apply to residential code approvals.

The residential code is a key vehicle for driving the Government's commitment to a target of 70 per cent of development being assessed as complying. As a consequence of this reform, an applicant will be able to seek all necessary development approvals for a home covered by the residential code through a private certifier. This will greatly improve the prospects of achieving this target in future years.

This one small change will, we believe, have real benefits for all parties in our planning system: making housing approvals cheaper for first home buyers, helping industry in a difficult time in the construction market and reducing development assessment costs for councils—particularly in key urban growth areas where high volumes of new housing development add staffing and budget costs to councils' bottom lines, costs which are funded by existing ratepayers.

Put simply, private certification means that a first home buyer can get their application for planning and building approval dealt with in one streamlined process. It will save applicants money, it will save councils money, it will save ratepayers money and it will mean that the housing industry can reduce its costs as well.

This is a significant reform for South Australia and is, I note, a reform which the Local Government Association has expressed in principle support for in its media release of 19 September.

I am also pleased that the LGA indicated in this release that it is supportive of other reforms to our planning system—particularly to our zoning system. We certainly believe there is much potential to unlock by simplifying and streamlining our zoning system.

The Government fully agrees with the LGA that private certification, while an important reform in itself, is only one part of a larger and much needed reform agenda. That's an agenda we are very happy to discuss with them—and with Members of Parliament once this legislation has been dealt with.

I should clarify that, while this reform is a first for this State, it is modelled on approaches in other jurisdictions. New South Wales and Victoria both provide for private certification for their equivalent of our residential code. The system in all those jurisdictions has worked well—and it will here too.

In terms of machinery, the amendments this Bill will make to the Development Act are extremely simple.

Firstly, the Bill will remove the current provision in the Development Act—section 89(3)—which prohibits a private certifier from granting a development plan consent. The effect of this provision at present is to limit private certification only to building rules matters. Its removal will enable private certification to be applied, by regulation, to other matters. With this subsection removed, the Government's intention is to then make a regulation providing for private certification to be available for residential code applications.

Secondly, the Bill will insert a new section providing for auditing of planning decisions by private certifiers and councils. This new section mirrors existing section 56B which provides for auditing of building decisions by private certifiers and councils. It will allow for auditing of planning decisions prescribed by regulation. It is the Government's intention to apply this provision to residential code decisions, enabling auditing of private certifiers who undertake residential code certification.

Finally, the Bill also makes a number of consequential changes to the Development Act that flow from these first two provisions.

In terms of the regulations to be made, the Government's intention is to allow currently registered private certifier to certify both building code and residential code decisions. We are not proposing to introduce a new class of private certifiers for the residential code.

Fundamentally, there will be no changes to the qualifications, registration processes, insurance requirements, code of practice obligations or auditing arrangements for private certifiers other than minor variations necessary to reflect the ability for private certifiers to grant approval in relation to residential code applications.

It is the Government's intention to have draft regulations prepared and provided to Members prior to debate on the Bill in the Legislative Council. However, as indicated, we do not intend to make significant changes to the existing framework for private certification already applying in the Development Regulations.

This approach will mean that, if Parliament supports this legislation, we can put this reform in place early in the new year—thereby providing an important stimulus to the residential construction sector as soon as practicable.

I should also say that, although the Government is keen to progress this reform now as a means to assist the industry and home buyers in tight market conditions, this is a significant reform in its own right. The original 2020 Planning Review, which drafted the Development Act, foreshadowed the potential for private certification to be used to streamlined planning decisions—as did the 2008 Planning Review and, more recently, the 2012 Productivity Commission benchmarking report into planning, zoning and development assessment systems.

Indeed, this important reform—which will have significant beneficial impacts for an industry currently undergoing difficult times—is the first of a series of planning reforms we in the Government are keen to take forward over the coming year.

We believe that, while there has been much progress made since the 2008 Planning Review, there is a need to continue reforming the State's planning system to make it more competitive, efficient and responsive to community concerns, environmental and economic needs.

Indeed, in debate on the Barossa Valley Character Bill in the Legislative Council, it was indicated that the Minister would be keen to meet with interested Members to discuss potential future planning reforms. As part of this process, I am looking to host a forum with Members of Parliament in the near future to discuss how further planning reforms can be taken forward. Letters will shortly be sent to the opposition and cross-bench MPs inviting them to this forum and I look forward to the policy dialogue I hope will ensue.

In the meantime, this bill puts a stake in the ground. We think this is an important legislative reform. It is an important reform in its own right, but even more so now in the difficult times the housing industry finds itself.

Because of the pressing need to support the housing industry and the workers whose livelihoods this sector supports, the Government will be pushing to secure passage of this legislation before the end of the year. This will enable certifiers to be granting residential code approvals in the new year.

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 *Development Act 1993*

4—Amendment of section 35—Special provisions relating to assessment against Development Plan

This amendment requires a relevant authority to accept that a proposed development complies with the provisions of the appropriate development plan to the extent that such compliance is certified by a certificate from a private certifier.

5—Insertion of section 56C

This amendment inserts proposed new section 56C:

56C—Development Plan assessment audits

Proposed section 56C provides for a scheme that will require a council or private certifier undertaking the assessment of development of a prescribed kind against the provisions of the appropriate Development Plan to have its, or his or her, assessment activities audited by an auditor on a periodic basis.

6—Amendment of section 89—Preliminary

This amendment repeals the prohibition on private certifier granting development plan consent.

7—Amendment of section 93—Authority to be advised of certain matters

This amendment is related to the amendment to section 89.

Debate adjourned on motion of Hon. J.M.A. Lensink.

STATUTES AMENDMENT AND REPEAL (BUDGET 2012) (NO. 2) BILL

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

PAYROLL TAX (MISCELLANEOUS) AMENDMENT BILL

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

At 18:09 the council adjourned until Wednesday 14 November 2012 at 14:15.