LEGISLATIVE COUNCIL

Tuesday 5 February 2013

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 14:20 and read prayers.

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

CRIMINAL LAW (SENTENCING) (GUILTY PLEAS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

PAYROLL TAX (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

CRIMINAL LAW (SENTENCING) (SUPERGRASS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

INDEPENDENT COMMISSIONER AGAINST CORRUPTION BILL

His Excellency the Governor assented to the bill.

DEVELOPMENT (PRIVATE CERTIFICATION) AMENDMENT BILL

His Excellency the Governor assented to the bill.

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

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (NATIONAL ENERGY RETAIL LAW IMPLEMENTATION) BILL

His Excellency the Governor assented to the bill.

TELECOMMUNICATIONS (INTERCEPTION) BILL

His Excellency the Governor assented to the bill.

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 the Status of Women, Minister for State/Local Government Relations) (14:25): I move:

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

Motion carried.

GRAFFITI CONTROL (MISCELLANEOUS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:26): I move:

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

Motion carried.

ANSWERS TO QUESTIONS

The PRESIDENT: I direct that the following written answers to questions be distributed and printed in *Hansard*.

PY KU CENTRES

189 The Hon. T.A. FRANKS (9 February 2011) (First Session).

1. What State Government services could be accessed at each of the six PY Ku Centres located on the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands as of 1 February 2011?

2. What additional State Government services will people be able to access from the PY Ku Centres by the end of June 2011?

3. Will these additional services be available at all six centres and, if not, at which specific centres will they be available?

4. How much funding has the Department of the Premier and Cabinet's APY Lands Taskforce provided Service SA to ensure State Government services can be accessed from the PY Ku Centres during the 2010-11 financial year?

5. On what specific projects and activities will this funding be spent?

6. What steps has Service SA taken to improve access to State Government information and services in Pukatja and other APY communities that do not have a PY Ku centre?

7. How much funding did Service SA expend on the establishment and running of a freecall number in the Amata family centre during the 2009-10 financial year?

8. How many calls did Service SA receive from this freecall direct dial phone?

9. Is this freecall direct dial phone still in operation and, if not, when did it cease operating?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): The Minister for Aboriginal Affairs and Reconciliation has been advised:

1. The Centres provide Centrelink and Australia Post services. Since November 2010, Service SA has been providing additional services from the Mimili and Amata Centres. These include facilities to pay for: driver's licences; vehicle registrations; court fines; and firearm licences. In addition, certificates for births, deaths and marriages can be obtained.

Five of the six centres are operational; the Watarru centre is closed and discussions are underway regarding its future.

2. In 2012, Service SA is providing EzyReg—an online system for vehicle registration—in Amata, Mimili and Fregon.

3. There are no plans to introduce EzyReg in other communities at this time.

4. In 2010-11, Service SA received funding of $403,000 from the Department of the Premier and Cabinet to deliver services from PY Ku Centres.

5. The 2010-11 budget was spent on delivering State Government services through the PY Ku Centres at Amata and Mimili. The funding also covered the cost of a pilot program to run a Virtual Call Centre (VCC) operator in the APY Lands, as well as the continuation of the free-call number.

6. Service SA has established a freecall number (1800 656 279) across the APY Lands so that people can gain access to State Government information and services.

7. In 2009-10 Service SA expended $28,370 on the establishment and running of the freecall number in the Amata family centre.

8. In 2009-10 Service SA received 469 calls.

9. The freecall number is still in operation.

DEPARTMENTAL EXPENDITURE

223 The Hon. R.I. LUCAS (7 July 2011) (First Session). Can the Premier advise the actual level for 2010-11 of both capital and recurrent expenditure underspending (or overspending) for all departments and agencies (which were not classified in the general government sector) then reporting to the Premier?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations): The Premier has been advised of the following:

All agencies reporting to the Premier in 2010-11 were classified within the general government sector.

PAPERS

The following papers were laid on the table:

By the President—

Corporation Reports, 2011-12—
- City of Adelaide
- Adelaide Hills
- Burnside
- Campbelltown
- Charles Sturt
- Gawler
- Holdfast Bay
- Marion
- Mitcham
- Norwood, Payneham and St. Peters
- Playford
- Prospect
- Salisbury
- Tea Tree Gully
- Walkerville

District Council Reports, 2011-12—
- Barossa
- Barunga West
- Ceduna
- Clare and Gilbert Valleys
- Coorong
- Copper Coast
- Elliston
- Grant
- Kangaroo Island
- Karoonda East Murray
- Kimba
- Kingston
- Light
- Loxton Waikerie
- Mallala
- Mid Murray
- Mount Barker
- Mount Gambier
- Naracoorte Lucindale
- Onkaparinga
- Port Augusta
- Port Pirie
- Robe
- Roxby Downs
- Streaky Bay
- Tatiara
- Victor Harbor
- Wattle Range
- Yorke Peninsula

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

Reports, 2011-12—
- Country Arts SA
- Disability Information and Resource Centre
- State Opera of South Australia

Regulations under the following Acts—
- Carrick Hill Trust Act 1985—General
- Development Act 1993—Water Industry—Division of Land Assessment—Water and Sewerage

Electricity Act 1996—General—National Energy Customer Framework Implementation
Fisheries Management Act 2007—Blue Crab Fishery—Zone—Gulf St. Vincent
Freedom of Information Act 1991—Exempt Agency—Education
Gas Act 1997—National Energy Customer Framework Implementation
Harbors and Navigation Act 1993—Restrictions—Lake Bonney—Middle Beach
Liquor Licensing Act 1997—Dry Areas—
Ceduna and Thevenard
Kingscote Area 1—Kangaroo Island Cup Carnival 2013
Meningie Area 1—Port Noarlunga Area 1
Morgan Area 1—Wilmington Area—New Year's Eve and Rodeo 2013
Prospect Area 1—Tourrific Prospect 2013
Spalding Area 1—Spalding Rodeo
Unley Area 1—Tour Down Under 2013
Various Councils—Boxing Day—New Year—Australia Day Celebrations
Various—New Year's Eve 2012
Mining Act 1971—Fees and Annual Rents
Motor Vehicles Act 1959—Licence Examination
National Energy Retail Law (South Australia Act) 2011—Local Provisions
Parliament (Joint Services) Act 1985—Retention Entitlement—Leave
Public Corporations Act 1993—Southern Select Super Corporation
Public Sector Act 2009—Retention Leave
Rail Safety National Law (South Australia) Act 2012—
Drug and Alcohol Testing
General
Transitional Arrangements
Road Safety Act 1961—
Corresponding Road Laws
Speed Limit Signs—Short Term Low Impact Exemption

Rules under Acts—
Road Safety Act 1961—Vehicle Standards—
Electrical Wiring—Braking System—Drawbar Couplings
State Government Enforcement Vehicle Definition

By the Minister for State/Local Government Relations (Hon. G.E. Gago)—

District Council By-laws—
Coober Pedy—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Local Government Land
No. 4—Roads
No. 5—Dogs
No. 6—Nuisances
No. 7—Cats
Mallala—
No. 2—Local Government Land
Wattle Range—
No. 6—Foreshore

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

Regulations under the following Acts—
Education Act 1972—Budget 2012—Retention Leave
Food Act 2001—Prescribed Water Suppliers—Revocation of Regulation
Health Practitioner Regulation National Law (South Australia) Act 2010—Transfer of Authority—Pharmacy Fees
Marine Parks Act 2007—Zoning
Natural Resources Management Act 2004—Eastern and Western Mount Lofty Ranges—Prescribed Water Resources—Exemption of Certain Existing Users—Secondary Existing User
SACE Board of South Australia Act 1983—Fees

Safe Drinking Water Act 2011—General
Report to the Environment, Resources and Development Committee of Parliament on the making of the Environment Protection (Used Packaging Materials) Policy and Notice 2012

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

Regulations under the following Act—
Water Industry Act 2012—General

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. CARMEL ZOLLO (14:32): I lay upon the table the report of the committee, entitled Waste to Resources, which was ordered to be published pursuant to section 17 of the Parliamentary Committees Act 1991.

The Hon. CARMEL ZOLLO: I lay upon the table the annual report of the committee, 2011-12, which was ordered to be published pursuant to section 17 of the Parliamentary Committees Act 1991.

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. CARMEL ZOLLO (14:33): I lay upon the table the report of the committee on the inquiry into the Environment Protection Authority, which was ordered to be published pursuant to section 17 of the Parliamentary Committees Act 1991.

ELECTORAL FUNDING REFORM

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:34): I table a copy of a ministerial statement by the Premier, Hon. Jay Weatherill, on public funding.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:39): By leave, I move:

That, pursuant to section 10 of the Aboriginal Lands Parliamentary Standing Committee Act 2003, the Hon. Russell Wortley be appointed in place of the Hon. Kyam Maher.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:40): By leave, I move:

That, pursuant to section 21(3) of the Parliamentary Committees Act 1991, the Hon. Russell Wortley be appointed to the committee in place of the Hon. Carmel Zollo (resigned).

Motion carried.

NATURAL RESOURCES COMMITTEE

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:41): By leave, I move:

That, pursuant to section 21(3) of the Parliamentary Committees Act 1991, the Hon. Russell Wortley be appointed to the committee in place of the Hon. Gerry Kandelaars (resigned).

Motion carried.

SELECT COMMITTEE ON WIND FARM DEVELOPMENTS IN SOUTH AUSTRALIA

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:41): By leave, I move:

That the Hon. Russell Wortley be substituted in place of the Hon. Carmel Zollo (resigned) on the committee.

Motion carried.

SELECT COMMITTEE ON LAND USES ON LEFEVRE PENINSULA

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:41): By leave, I move:

That the Hon. Russell Wortley be substituted in place of the Hon. Gerry Kandelaars (resigned) on the committee.

Motion carried.

QUESTION TIME

CHINA TRADE LINKS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:42): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding China.

Leave granted.

The Hon. D.W. RIDGWAY: Last year, South Australia signed a memorandum of understanding with the Fujian Provincial Government and the People's Republic of China to 'open trade links and gateways for South Australian premium food and wine'. At the time, the minister boasted that the agreement would benefit South Australian food and wine producers by opening up access to Fujian. She called it a big win for South Australia—not just a win, not even a moderate win but a big win. The MOU, she bragged, would improve the awareness of the quality and production integrity of South Australia's premium food and wine to Chinese consumers.

Then the minister claimed that South Australian food and wine would be showcased in two one-stop shop outlets in China, giving local producers and exporters direct access to a market of more than 7.6 million Chinese consumers. These outlets in Fujian province, she imagined, would feature restaurants, shops and information, while also operating as a wholesaler to Chinese outlets. My questions are:

1. Are the shops open?

2. If not, why not?

3. If not, when will they open?

4. The minister guaranteed that one shop would be in Nanping, with a population of three million, and one would be in Zhangzhou, with a population of 4.6 million. How many of these 7.6 million people have availed themselves of South Australian produce since the minister made this faux promise?

5. What percentage of those 7.6 million people are now aware of South Australia's food production integrity?

6. What South Australian food and wine would the minister see if she walked into those one-stop shops today, six months after the minister had a photograph taken of herself with a prawn for the grand announcement?

7. If the minister can find these shops, why are they invisible to the Chinese?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:44): I thank the honourable member for his important questions. Indeed, they are questions that help the government to showcase the work that it has done in assisting to advance our markets. A very important plank of this government, of course, is the premium food and wine from a clean environment.

One of the strategies to assist with increasing our markets and investments here in South Australia is to create opportunities in China. We know that it has a burgeoning middle class and a strong economy at the moment. I and a very small delegation from this government visited China, including Fujian province, to explore ways of tapping into the wonderful produce that we have here

in South Australia. We know that South Australia is renowned for quality primary produce and we have an exceptionally clean environment. We know that food security is a big issue for the Chinese, and with a burgeoning middle class they are looking for premium products as well. As I said, South Australia is renowned for premium food and premium wine.

We were able to negotiate an MOU, which is a high-level overarching agreement to work together, and I am very pleased to be able to report that the negotiations around this new venture have progressed very well. A number of pieces of correspondence have taken place, where people have committed to progressing this very important relationship. We have established an expression of interest process whereby PIRSA has invited those industries and businesses that might be interested in setting up markets in these new establishments in China in the Fujian province, setting up a process to collect those interested parties.

You would think that the member of the opposition would be singing our praises at putting together such a fabulous opportunity, engaging with the industry and pulling people together to work out those who might be interested in progressing this. What we plan to do is to bring potential investors over to match investment interests with product or industry potential. We have invited a delegation here and we understand that a number of potential investors will be visiting. We will be taking them around and showcasing the potential here.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: The level of the questions asked by the Leader of the Opposition shows how completely out of touch he is with dealing with China and with a project of this scope. He has no idea. One of the problems that our primary producers have had is entering the Chinese marketplace, because it is very different to what we have. It is very challenging and by our experience quite complex. We have this arrangement whereby the Chinese are involving investors there in China to build these operations, to establish food health safety standards, and they are looking at buying in some of our technology to help them with that.

Food health and safety is of primary interest to the Chinese—and to the Japanese, and to the Indonesians as well. We are dealing with a lot of these markets at the moment, but China in particular is very interested in looking at the technologies and the systems that we have in place, the quality assurance systems, and putting in place those that they find suitable to their particular situation. They are very interested in that. We have had people from Flinders University travel there to discuss those technologies.

There are lots of opportunities on a number of different fronts, and Jay Weatherill's government has been a conduit to help bring those parties together, to bring potential businesses and markets here in South Australia together with potential investors in China. I am very pleased to have this opportunity to give an update on how well this particular project is progressing.

CHINA TRADE LINKS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:50): Supplementary question: when will the establishments or shops, as the minister called them in her original announcement, open?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:50): As I said, it shows just how ignorant, out of touch and naive the Hon. David Ridgway is. What China is doing is looking to attract investors to build these establishments that look on two levels at introducing food, health and safety standards and processing those. Also, there are retail opportunities, both wholesale and retail. There are no time frames set as yet. It is a huge project, as I outlined, and negotiations are well underway.

CHINA TRADE LINKS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:51): As a further supplementary, what is the budget for bringing the delegation out to South Australia from China, and will South Australian taxpayers be paying for it?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:51): I have extended an invitation for a delegation to come out. There has not been a response as yet. I am happy to see what interest that has

stimulated and then work out the costs from there, but I have to say that this offers enormous opportunity and potential for economic activity here in South Australia—

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: The Hon. David Ridgway has no idea. He is completely out of touch. An investment in assisting a delegation to come out has enormous financial potential for economic drive. We will look at the level of interest that is generated and determine what costs are incurred at the appropriate time.

The penny-pinching and the small narrow-mindedness of the Hon. David Ridgway—he has no idea. This has enormous investment potential. It has enormous economic flow-on effects. One of our priorities is to expand our market share, to find new markets for our primary producers. You would think that the opposition would be supporting this government going out and actively trying to find new markets for our primary producers, not sitting on their tails like they do, whingeing, whining and carping, completely out of touch.

CHINA TRADE LINKS

The Hon. R.L. BROKENSHIRE (14:53): I have a supplementary further to the minister's answer and given the fact that the Chinese are looking at over $200 million worth of baby formula milk processing opportunities in New Zealand. Has the minister and her department approached the Chinese authorities to see whether a baby milk formula processing plant could be established in South Australia to help dairy farmers?

The PRESIDENT: I am not sure about the link there.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:53): The honourable member will be pleased to know that during my last visit we promoted a wide range of South Australian primary products, including dairy. We took a presentation with us that outlined the potential for our dairy industry. We did not talk about specific products per se, but we certainly indicated that we had a vast potential in terms of dairy products, beef, wheat and sheep. As I said, we promoted very strongly all of our major primary producers, fisheries and aquaculture. As I said, we put forward a presentation that really did very much show the potential for South Australia. What we were doing was putting out where opportunities were and trying to attract interest. I am returning to China early this year and we will be again picking up on those relationships that we commenced and working to generate as much interest as we possibly can.

CHINA TRADE LINKS

The Hon. A. BRESSINGTON (14:55): Given the community's angst over—

The PRESIDENT: Are you asking a supplementary?

The Hon. A. BRESSINGTON: I am.

The PRESIDENT: So you will ask it, thank you.

The Hon. A. BRESSINGTON: Thank you. Can the minister either confirm or deny, given community angst over foreign ownership, that these negotiations that she is undertaking with China do not involve China coming in and buying vineyards, dairy farms, etc., in order to have that trade agreement settled on?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:55): This government is very preoccupied, very focused, on ensuring the prosperity and sustainability of this state. We are looking to work every economic driver that we possibly can to create jobs and economic prosperity in this state. That is against a backdrop of the global economic crisis that we have had and now some quite devastating slowdown effects that we have seen right across the economy, almost around the world. South Australia is a small state. We are proud of our history of punching above our weight, and we will continue to do that.

One of the key planks to that strategy is attracting foreign investment into this state because, without foreign investment, plus the other strategies that we have, we would shrivel up and become a little Third World state. So it is outrageous to be suggesting that foreign investment is not welcomed in this state, because it is. We could not survive without it. In fact, a lot of our

standard of living today is actually dependent on foreign investment that currently exists in this state, and has existed for a number of decades.

CHINA TRADE LINKS

The Hon. A. BRESSINGTON (14:57): I have a supplementary, sir. Given the minister's answer—and not a definite answer, because we are not talking foreign investment but foreign ownership that is the concern—can the minister confirm or deny that these properties, vineyards and primary production areas are not going to be sold off to the Chinese government, given the concern that foreign ownership by China means the Chinese government owns sovereign land in this state and in this country?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:57): I have already answered the question, Mr President, and this government supports foreign investment in this state, as well as in this country.

HANSON BAY

The Hon. J.M.A. LENSINK (14:58): I seek leave to make a brief explanation before directing a question to the Minister for Sustainability, Environment and Conservation on the subject of property at Hanson Bay on Kangaroo Island.

Leave granted.

The Hon. J.M.A. LENSINK: I understand that in October last year the state government spent some $1.8 million buying property at Hanson Bay on Kangaroo Island. My questions are:

1. Can the government explain the rationale behind the purchase of this property?

2. Can the minister explain the due diligence which was undertaken by the government in determining that this was an effective use of funds?

3. Did the government consider that the $1.8 million may have been better spent on the River Murray or numerous other essential environment programs which have been slashed by this government?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:59): I thank the honourable member for her most important question on the subject of the Hanson Bay property purchase. I am not aware of the details of any such purchase. I will undertake to investigate the matter and bring back a response at my earliest convenience.

MARINE PARKS

The Hon. S.G. WADE (14:49): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question relating to the marine parks advertising campaign.

Leave granted.

The Hon. S.G. WADE: On the weekend, the minister announced a marine parks advertising campaign, which would involve television, cinema screen advertising, print, billboards, bus shelters and the internet. The controversial aspects of the marine park sanctuary zones do not come into effect until October next year. I ask the minister:

1. What is the total budget for the government's proposed marine parks advertising campaign?

2. Why does the government consider that it is timely to launch a multiplatform advertising campaign 18 months before the marine park sanctuary zones take effect?

3. Does the government's advertising campaign comply with all relevant government guidelines authorising government advertising?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:00): I thank the honourable member for his very, very important question on what will ultimately be the jewel in our parks' crown, our marine parks system in South Australia. The

establishment of the marine parks program is one of the most significant and important conservation programs ever undertaken in our state.

Management plans for South Australia's 19 marine parks were finalised and adopted in November 2012. The establishment of a network of marine parks has been 10 years in the making and has been a major investment in the long-term future of our environment and the prosperity of our state. I understand that over 35,000 people have been involved in consultations over the past few years, but many other South Australians may not be aware of the changes that have been associated with marine parks. That is why we need to embark on a public education program, to ensure that the South Australian community is aware of our new marine parks, of why the parks are so important, and how they can best use and enjoy them.

The marine parks education program will include TV, print, digital and outdoor advertising as well as a range of educational resources and other online information. It will also include a range of community engagement activities, such as shopping centre information days and regional roadshows. The education program will help people understand that they can enjoy all their favourite activities in marine parks but that in the sanctuary areas of marine parks, which take up only about 6 per cent of state waters, fishing will not be permitted from October 2014.

The program will reassure people that they are still able to fish from all jetties, boat ramps and popular beaches, even next to sanctuary zones. We are confident people will do the right thing once they know where the sanctuary zones are and where they can fish. There is a range of resources available to show people where they can fish, including maps, brochures and the MyParks smartphone app, which can be downloaded from the marine parks website (and which I cannot do because I do not have a smartphone). In addition—

The Hon. D.W. Ridgway: Not smart enough to use one, that's the trouble.

The Hon. I.K. HUNTER: That's probably true, too. The Hon. Mr Ridgway says that he and I probably cannot use one. I see that he is trying to make sure that his works now, with no great success that I see from over here.

The PRESIDENT: You will ignore his interjections, minister.

The Hon. I.K. HUNTER: That's right, sir, I will. In addition, a recreational fishing magazine is being developed with RecFish SA and the *Sunday Mail* to help people get to know some of the best places to fish in marine parks. Sir, I understand that some of your favourite secret places might find their way into that publication as well—you probably should not have made a submission. Marine parks will provide protection for some of South Australia's—

The Hon. G.E. Gago interjecting:

The Hon. I.K. HUNTER: Knowing you, Mr President, you might have been misleading people as to your favourite places to fish! However, I should not be reflecting on the position of the Chair and I withdraw that unreservedly.

The PRESIDENT: I agree. Get back to the question, will you?

The Hon. I.K. HUNTER: Marine parks will provide protection for some of South Australia's most iconic and ecologically important areas. Our marine parks are zoned for multiple uses, meaning that people can still enjoy their favourite pastimes and activities, whether it be swimming, diving, boating or fishing.

Sir, as an angler yourself you would understand how important it is to protect our fragile habitats and breeding sites of some of our best loved marine life. There is a great deal of evidence that tells us that global marine environments are under pressure from human activity. Marine life is increasingly under threat due to human population growth and the development that goes along with that, and pollution. Given that there is a greater variety of marine life, I am advised, in southern Australian waters than is present on the Great Barrier Reef, the state government recognises the importance of protecting and preserving this habitat for future generations. Here in South Australia it is important to consider that about 85 per cent of the marine plants and animals living in southern Australian waters cannot be found anywhere else on earth.

The state government expects that marine parks will bring many economic benefits to our state. Industries such as seafood, tourism and recreational fishing all rely on a healthy and sustainable marine environment. The creation of marine parks will support the long-term security of these industries. Where marine parks have been created elsewhere, we know that significant benefits to industry, local communities and economies have resulted. I am confident that the former

minister for tourism, the Hon. Gail Gago, my leader, will agree the addition of marine parks to the South Australian landscape will only boost our already thriving tourism industry.

The Hon. D.W. Ridgway: That's why Qantas stopped the flights, is it? There are so many mixed messages today, so many mixed messages.

The PRESIDENT: The Hon. Mr Ridgway!

The Hon. I.K. HUNTER: I am sure the current minister in the other place would agree as well. As I said earlier, our marine parks are some 10 years in the making and the state government is confident that, through the extensive and thorough consultation with the community and stakeholders that has taken place, we have struck the right balance in protecting the environment and keeping our economy and regional communities strong.

We have ensured that recreational fishing is largely unaffected. As I have previously stated, you can still fish at all jetties, breakwaters and popular beaches—boat ramps, I should say—and the management plans for South Australia's 19 marine parks were adopted on 29 November 2012 and implementation of the marine parks is well underway. This is a fantastic outcome for our state, for all South Australians and will help to keep the South Australian habitats as beautiful, rare and unique, to be enjoyed by all of us.

MARINE PARKS

The Hon. S.G. WADE (15:05): A supplementary question: minister, what is the cost of the program and does it comply with government guidelines?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:05): I can advise the honourable member that the approximate total cost of the education campaign is $1.18 million which is standard for a campaign of this size utilising TV, print and digital and outdoor advertising as well as online and face-to-face community engagement. I am confident this money will be very well spent indeed.

There is a great deal of misinformation that has been spread about marine parks. It is very important that South Australians know, and they have the right to know, that parks are theirs to visit and to enjoy. This is also a cost-effective way of letting people find out about their responsibilities and obligation in marine parks. So we all want South Australians to be proud of the marine habitats we are protecting and get out and enjoy them.

MARINE PARKS

The Hon. A. BRESSINGTON (15:06): A supplementary question: can the minister quantify how many kilometres 6 per cent of our coastal waters will be affected? What is 6 per cent in kilometres? Can he also answer how the Kangaroo Island economy is going to be affected by these marine parks?

The PRESIDENT: Is that square kilometres or nautical miles or square nautical miles? Kilometres.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:07): I thank the honourable member for her most important question and though I must confess I don't quite understand what she is asking for—

The Hon. A. Bressington: How many kilometres is 6 per cent of our coastline that will be affected by marine parks?

The Hon. I.K. HUNTER: Sir, she may be referring to square kilometres, I'm not quite sure—

The PRESIDENT: Maybe.

The Hon. I.K. HUNTER: —or she may be referring to the length around the boundaries and adding them all up into linear nautical miles perhaps.

The Hon. A. Bressington: Square kilometres will be fine.

The Hon. I.K. HUNTER: What I will do is undertake to ask my department for that exact amount and come back to her with the answer.

The Hon. A. Bressington: What about the economy of Kangaroo Island?

The Hon. I.K. HUNTER: The economy of Kangaroo Island—can I say that I have every faith in the fact that our tourism potential that comes from these marine parks will mean that our coastal towns and communities will benefit hugely from increased patronage. People want to come and recreate and fish and swim and boat next to our marine parks, particularly the sanctuary zones, and I am very confident in the fact that the economic effects of tourism will be very large—huge, indeed—for places such as Kangaroo Island.

The PRESIDENT: The Hon. Ms Bressington, you have a further supplementary?

MARINE PARKS

The Hon. A. BRESSINGTON (15:08): I do. Can the minister confirm that, for people who fish for their livelihood on Kangaroo Island, their livelihoods will not be threatened by these marine parks?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:08): Can I say that the government committed earlier on in these stages that we will keep any impact on the commercial fisheries to around 5 per cent. We have gone better than that. We have got the commercial displaced total value of the catch down to 1.7 per cent. We are confident that the impact on the industry will be minimised and we are also on the record as saying that any fishers that are impacted by these decisions, we will make fair recompense to them on the basis of their commercial activities.

MARINE PARKS

The Hon. J.M.A. LENSINK (15:09): A further supplementary: based on the minister's original answer, the minister referred to the investment that had been made by the state. Can he provide a dollar figure for how much has been spent on marine parks in total to date?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:09): No, I will have to go back to I think 2000 when the Liberal Party started talking about this and I will see if I can come up with a figure when I go back to my department.

RIVERLAND REGIONAL DEVELOPMENT

The Hon. G.A. KANDELAARS (15:09): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about regional development in the Riverland. The Riverland is an iconic area for many South Australians, both as the source of horticultural produce, such as citrus, stone fruit and grapes, and also as a destination for relaxation. Now that the drought which so devastated the area and the River Murray is a fading memory, some may think that there is nothing happening to the development of the economic base in the Riverland. Can the minister advise the chamber about a recent grant in the Riverland?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:10): I thank the honourable member for his most important question and his deep interest in regional matters. I am very pleased to have the opportunity here today to talk about further developments in the Riverland.

The government has worked through the Riverland Sustainable Futures Fund to ensure that there are tangible benefits for this very important region, and I believe we have made considerable headway. The Riverland Sustainable Futures Fund was established to assist industry restructuring and to promote sustainable economic and social development in the Riverland.

The futures grants have helped to provide up to 219 jobs for the region in areas including education, tourism, local business, local business development, and the food and beverage sector. So today, I am very pleased to advise the chamber that I have committed approximately $1.2 million from the fund to a Berri manufacturing company, Valls Styrene. This company plans to use the funds as part of a $2.64 million project to expand its operations for the manufacturing of environmentally friendly building insulation products. These include expandable polystyrene insulation which is attached to the Colorbond roofing materials at the time of manufacture.

These building systems have the advantage of saving construction time, cutting out several steps in the building process and obviously the need to add separate insulation. I understand that

this building material is both safer during building construction, as it reduces the number of processes used in roofing work, and has lower costs than some of the alternatives in the market. Manufacturing these products in the Riverland adds to the region's manufacturing capacity, and these new products will bring increased export opportunity for Valls Styrene, as well as millions of dollars of revenue to the region and obviously further diversification of the Riverland's economic base.

The funding will be used towards building infrastructure in Berri, as well as plant equipment, and I think it is also industrial land. Valls Styrene is a local firm which was established in 1983 and they started by supplying polystyrene packaging to Riverland fruit growers. It has expanded its Berri operations now to four sites, offering a diverse range of products and mouldings to include industrial and refrigeration packaging and building products.

This further diversification project will enable the building on a Berri site for the company to house its operations to manufacture lightweight environmentally friendly insulated roofing and wall building products and as well, I am advised, seeing up to 12 new full-time positions being created. So this is another fabulous project initiative being supported from our futures fund to assist the Riverland in its diversification program and helping it to sustain a strong and viable economy.

ZERO WASTE SA

The Hon. R.L. BROKENSHIRE (15:15): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question regarding Zero Waste SA.

Leave granted.

The Hon. R.L. BROKENSHIRE: On 20 December 2012 the former treasurer released his Mid-Year Budget Review, and on page 16 it reads:

> Waste policy reform—$8 million per annum (indexed) from 2015-16 by ceasing the operations of Zero Waste in South Australia in 2015-16. The government will develop a model for the continuation of the functions of Zero Waste SA as a non-government organisation. A grant of $1 million per annum will be retained to support the non-government organisation in this role.

I have a transcript from this morning, 5 February 2013, where the minister, the Hon. Mr Hunter, presented on FIVEaa. Mr Byner said:

> Alright. Let's talk to the Environment Minister...thanks for coming on...now you're going to abolish the agency.

The minister says:

> Well no, not exactly...I don't know where this came from.

Then Mr Byner tries to qualify it a bit and says:

> There was an announcement made that the government was going to disband Zero Waste. Not true?

Then the minister said:

> Well, no, let's be quite clear. The government has decided that it no longer would be ideal to keep Zero Waste inside of government. We are looking at ways of how we can actually talk to the stakeholders, the community, councils and industry and commercial users to take more control over their own recycling needs.

Then he goes on to say:

> So, we will investigate with our stakeholders how we might best position Zero Waste into the future to continue doing the job that it's been doing since 2003.

The Auditor-General highlighted in his report tabled in this place on 16 October last year a table showing that revenues from solid waste levy have increased from $26 million in 2010-11 to $40 million in 2011-12. Zero Waste South Australia has historically been a recipient of 50 per cent of the funding from the levy, but the Mid-Year Budget Review says that that agency will now cease.

When the former Liberal government introduced a levy in 1994, which the Local Government Association supported at the time, the levy was $2.07 a tonne in metropolitan areas and $1.07 a tonne in country areas. Under the Liberal government that had risen to only $5.09 and $2.56 a tonne over its period, but in the 11 years under Labor the levy has risen to $42 a tonne in metropolitan areas and $21 in country areas. Finally, the Sustainable Budget Commission recommended that Zero Waste SA be abolished but also recommended on page 80 of volume 1 of

its report that the solid waste levy lift from what was then $25.50—and is now about $42—to $54 a tonne. My questions to the minister are:

1. Is the government ceasing the operations of Zero Waste SA as per the Mid-Year Budget Review?

2. If so, (a) did the minister mislead FIVEaa listeners this morning; and (b) when will the minister be repealing the act?

3. Was the act reviewed during Zero Waste's eight-year history?

4. How is it that there is to be a saving of $8 million per annum from ceasing Zero Waste SA but only a $1 million per annum cost in running its functions? Is it the minister's premise that the remaining $7 million will be handed over to a non-government organisation purely for solid waste functions?

5. Given that the government appears to have adopted the Sustainable Budget Commission's recommendation to abolish Zero Waste SA, will it also be adopting its recommendation to lift the solid waste levy to $54 a tonne as a 'price signal' to landfill users?

6. Will the minister guarantee to the house that the Department of Environment, Water and Natural Resources has used every cent of this levy for solid waste purposes and will continue to do so in the future?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:20): I thank the honourable member for his very important questions, although I have to say that the only person who has been misleading the audience of FIVEaa today and on previous days has been the Hon. Mr Brokenshire.

Zero Waste SA Act 2004 was passed in February 2004 to establish Zero Waste SA, an agency dedicated to progressing the state government's desire to continuously improve the way in which South Australians manage their waste. The primary objective of Zero Waste, at section 5 of the act, is to promote waste management practices that, a far as possible, eliminate waste or its consignment to landfill, advance the development of resource recovery and recycling and are based on an integrated strategy for our state.

Key functions required under section 6 of the act include regional waste management for regions and industry sectors, market development for recovered resources and recycled material, assistance to local councils, contributing to the development of waste management infrastructure, technologies and systems and commission, and supporting and collaborating on research into waste management.

Section 17 of the act establishes the Waste to Resources Fund, which receives 50 per cent of the solid waste levy. The act dedicates the fund to the purposes of the act. Section 14 of the act requires Zero Waste to submit a business plan to the minister setting out its major projects, goals and priorities on a rolling triennial basis, including the budget for the next financial year.

South Australia released its first waste strategy in 2005, South Australia's Waste Strategy, which sets ambitious targets and actions to reduce waste to landfill, requiring innovative policy and regulatory solutions. Achievements under the first strategy include the rollout of high-performing kerbside recycling systems, investment in important waste infrastructure, improvements in the recovery of materials from regional areas, industry resource efficiency, and commercial recycling incentives.

Zero Waste SA has had a remarkable history of achievement. In 2003, South Australia's waste was fundamentally sent to landfill; we were reliant on landfill. Because of Zero Waste and its activities, we have now turned that right around. Zero Waste set about changing the culture of community and industry through financial incentives, education and advocacy. From 2003 to December 2012, Zero Waste SA expended $68.9 million of waste levy funds into programs and projects that stimulated councils, businesses and the community to reduce, recover, re-use and recycle, thereby cutting the amount of waste going directly to landfill.

Our target as set out in South Australia's Strategic Plan is to ensure South Australia reduces its waste by 25 per cent by 2014 and 35 per cent by 2020. We know that Zero Waste's endeavours to change community views and behaviours have been incredibly successful. We know this because South Australia has reduced the amount of waste going to landfill by 17.32 per cent since between 2002-03 and 2009-10. Between 2005-06 and 2009-10, waste levels

to landfill in the Adelaide metropolitan area declined at an average rate of 25,000 tonnes per annum. South Australia's recycling rate is among the world's best; we are diverting more than 70 per cent of all waste generated.

Zero Waste's achievements have been recognised by its being awarded the Premier's Award for Attaining Sustainability in both 2007 and 2009. South Australia's waste management has been acknowledged as world's best practice by the United Nations. Zero Waste was tasked with changing the culture of this state with regard to waste, and it has done so.

Continual improvements in recycling behaviours and, more importantly, waste avoidance, are required. Now is the time for the next stage of that process. The hard work has been done by Zero Waste; it has delivered on its objectives and dramatically changed the culture of our state. It is now up to industry and the broader community to take the torch and run with it. That is not to say that the government will not continue to invest in waste reduction initiatives. Of course we will; we just will not be playing such a major directing role. We want industry and the consumers to direct that role themselves.

Instead, as of 1 July 2015, industry and community organisations and local government will be expected to take a more active leadership role. At that time, the government will refocus its support and realign Zero Waste to sit outside of government. As detailed in the Mid-Year Budget Review, we will provide grant funding for a non-government organisation to continue the promotion of recycling and efficient resource use and management.

ZERO WASTE SA

The Hon. R.L. BROKENSHIRE (15:24): I have a supplementary question. Given the minister's answer, can the minister assure the house that there will be a reduction, if not abolition, of the levy?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:24): Why would we reduce the levy when it is doing such a good job? We need to keep the price incentive in place. Why would we reduce the levy when our counterparts in Victoria and New South Wales have a levy higher than ours? That will only give people an incentive to come over the border and dump their waste at a lower cost. Why would you do that? That is nonsense.

GREEN CARPENTER BEE

The Hon. CARMEL ZOLLO (15:24): My question is to the Minister for Sustainability, Environment and Conservation. Can the minister inform the chamber about the work being undertaken to determine the green carpenter bee population on Kangaroo Island?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:25): I thank the honourable member for her very important question. The green carpenter bee (*Xylocopa*, or as it used to be known from about 1856, *Lestis*; some of the members opposite might remember it from then) can only be found on Kangaroo Island and in some coastal parts of Queensland and New South Wales.

The Hon. D.W. Ridgway: I don't think you'll get a gig at the Fringe. Stay where you are.

The Hon. I.K. HUNTER: I have no intention of going anywhere, Mr Ridgway. The green carpenter bee has become extinct on mainland South Australia and Victoria, I understand, most probably as a result of land clearing activities. Kangaroo Island has the last remaining vegetation for the native bee in southern Australia. *Xylocopa* is the largest native bee in southern Australia and plays an important role in the ecosystem of Kangaroo Island. Its unique blue-green colour and its two centimetre body length, along with its buzz pollinating method of pollinating, make this a very distinctive bee indeed.

Buzz pollinating bees vibrate the pollen out of the tube-like anthers of buzz pollinated plants. Native plants reliant on buzz pollination and seed production include guinea flowers, bush tomatoes, chocolate and flax lilies, and velvet bushes. I am advised the introduced Ligurian honey bee cannot pollinate buzz pollinated plants as it does not collect pollen through buzzing, and this underlines the importance of the green carpenter bee to the local environment.

After the 2007 wildfires on Kangaroo Island, the bee populations are believed to have been dramatically reduced. Remarkably, this bee is known to be a solitary animal; it does not live in a hive and can generally be found on its own or with one or two others. The green carpenter bee

nests in dry flowering stalks of yaccas and in the trunks and branches of dead banksia. The bees mate in each spring and the offspring stay in the stalks until the following spring.

I understand the Foundation for National Parks and Wildlife has funded the Department of Environment, Water and Natural Resources with a grant of $18,000 to run a program to determine the current numbers and key habitats of the green carpenter bee on Kangaroo Island. The Department of Environment, Water and Natural Resources is working closely with both the local community and the Friends of the Green Carpenter Bee to develop a program which will also seek to raise the profile of the bee.

During January an initial survey was carried out in Flinders Chase National Park by insect specialists and enthusiasts. Active nests were found at the western end of the island, a great start to this important program. Kangaroo Island residents and visitors are encouraged to help with the survey by reporting sightings to the South Australian Museum Ecosystem Services. Public seminars are to be held on the island this month to increase awareness about the green carpenter bee. A field day for volunteers is currently scheduled for spring this year, and I encourage honourable members who may have an interest to let us know and we will try to accommodate their interests.

The Hon. J.M.A. Lensink: Will you be there?

The Hon. I.K. HUNTER: We will see if it fits into my hectic diary. But if the Hon. Ms Lensink wants to come, let me know.

The Hon. T.J. Stephens interjecting:

The Hon. I.K. HUNTER: I do, Terry. I will go with you any time you like to look at green carpenter bees. A brochure to promote the survey of the green carpenter bee has been produced and is available from the Natural Resources Centre located at Kingscote.

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: The Hon. Mr Ridgway will know it is probably best not to transfer gumnuts or any other vegetation on your boots around this state, for obvious reasons. I am advised that the survey will end in early 2014, with a report on the findings due in June. It is anticipated that the survey will provide much needed population information about this wonderful bee. The ongoing existence of the green carpenter bee on Kangaroo Island is something for conservationists on the island and the wider community to be excited about.

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

The Hon. I.K. HUNTER: Thank you, Michelle! The state government remains committed to the ongoing protection of our vast and diverse habitats and ecosystems, and this program is one example of our efforts in this area.

SERIOUS CRIME EVIDENCE

The Hon. A. BRESSINGTON (15:29): My questions to the minister representing the Minister for Police are:

1. What powers, if any, do the police have in relation to compelling a witness of an offence of a serious criminal nature to produce any evidence they have of the commission of that offence when it is not clear whether the witness was indeed party to the crime?

2. Under the new Serious and Organised Crime Act, does SAPOL have the ability to search and seize evidence of the commission of an offence when there is some question as to whether the witness is associated with a serious and organised crime group?

3. Why would SAPOL refuse to act and indeed categorically state that they are unable to compel a witness to supply them with video-recorded evidence of the commission of a serious crime?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:30): I thank the honourable member for her important question. I will refer it to the Minister for Police in another place and bring back a response.

WORKCOVER CHIEF EXECUTIVE OFFICER

The Hon. R.I. LUCAS (15:30): I seek leave to make a brief explanation prior to directing a question to the minister representing the minister for WorkCover on the subject of WorkCover.

Leave granted.

The Hon. R.I. LUCAS: On 18 September, WorkCover announced that the former CEO, Mr Thomson, had resigned immediately for personal reasons after serving just over two years of his contract. On 28 September, the Liberal Party submitted under freedom of information laws a copy of any letter sent to either then minister Snelling or the chairman of the WorkCover board expressing concerns about the behaviour or actions of the CEO. WorkCover's response confirmed that there had been a letter expressing concerns about the behaviour or actions of the CEO. They refused to release it under clause 6(2) of the Freedom of Information Act, which states:

> A document is an exempt document if it contains allegations or suggestions of criminal or other improper conduct on the part of a person (living or dead) the truth of which has not been established by judicial process and the disclosure of which would be unreasonable.

The clear inference from WorkCover's response to the freedom of information request is that (a) there was a letter and (b) the letter not only expresses concerns but contains allegations or suggestions of criminal or other improper conduct on the part of a person, living or dead.

More than four months later, neither minister Snelling's office or Mr Snelling have responded to the freedom of information request as to whether or not he had received a letter of concern about the behaviour or actions of the former CEO of WorkCover.

On the last sitting week of November (29 November), I put some questions to the minister in relation to the release of a contract of the former CEO, Mr Thomson. To this stage, there has been no response to that question either. My questions to the minister representing the minister for WorkCover are:

1. When will the minister's office respond to the freedom of information request, which is now over four months in duration, in relation to whether a copy of a letter expressing concern about the behaviour or actions of the former CEO had been received?

2. When will the minister respond to the questions put almost two months ago in this chamber in relation to compliance with government policy on the release of government contracts of the former WorkCover CEO?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:33): I thank the honourable member for his question and will refer it to the appropriate minister in another place and bring back a response.

UPPER SPENCER GULF

The Hon. R.P. WORTLEY (15:33): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Upper Spencer Gulf.

Leave granted.

The Hon. R.P. WORTLEY: The Upper Spencer Gulf has been lauded as an area with enormous potential. The combination of an existing workforce and established population centres with amenities and their proximity to some of the exploration and mining activities all augur well for the future. Can the minister update the chamber on a recent development for the area to help raise its potential?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:34): I thank the honourable member for his most important question. He certainly is correct that the Upper Spencer Gulf has enormous potential, a great deal of opportunities before it, which this Jay Weatherill government recognises. That is why the government dedicated funds to the Upper Spencer Gulf Outback Enterprise Zone Fund, a $4 million over four years commitment to help communities in this region grasp the opportunities which mineral and energy exploration and development present. So it is pleasing to be able to tell the chamber about a $2 million grant recently made to E&A Contractors Pty Ltd, a Whyalla manufacturing and fabrication company, from the Enterprise Zone Fund—Upper Spencer Gulf and Outback.

E&A Contractors (EAC) is a subsidiary of E&A Limited, an engineering company that specialises in design, project management, procurement, manufacturing and fabrication and on-site services to the defence, energy, heavy engineering, mining and water industries. EAC originated in 2010 through the merger of E&A's subsidiary Louminco Pty Ltd and Whyalla Fabrications Pty Ltd, and already has an established presence in the Upper Spencer Gulf.

EAC's principal manufacturing and fabrication operation is located at Port Augusta Road in Whyalla, and this will be upgraded through the planned project which is set to see a minimum of $6.13 million dedicated to improving the company's ability to provide engineering and maintenance services to businesses in the region and increase the company's capability to diversify and undertake large mining, renewable energy and defence sector work.

The project includes upgrading the existing buildings and the acquisition of heavy engineering equipment, including specialist wind tower fabrication plant, and to refurbish blast and paint facilities. The project is set to include an $880,000 upgrade of the main fabrication hall, $1 million to improve the western shed, and improvements to the blast and paint facility upgrade at a cost of around about $700,000, as well as nearly $2 million on the wind tower fabrication equipment. It is expected that the expanded facilities will create around about 100 full-time jobs over four years and boost skilled staff, with $700,000 slated to be spent on training and development.

This is just one way the government is supporting jobs and economic diversity in the state. The development of both the technical capability combined with manufacturing capacity to service this industry within Whyalla will position both E&A and the Upper Spencer Gulf region to become a major supplier of towers and other components for these systems. The Whyalla workshop facility is also strategically positioned to service mining, processing and infrastructure developments in the Upper Spencer Gulf and Eyre Peninsula, and also at Roxby Downs as well.

The expansion is expected to give the region a competitive edge and build local capacity to service mining, processing and infrastructure developments in the Upper Spencer Gulf, Eyre Peninsula and Roxby Downs. The project is consistent with the state government's Growing Advanced Manufacturing priority, while positioning Whyalla as a manufacturing hub and service centre for the renewable energy industry. The capital works and training of wind tower staff are expected to be completed by mid-2013. I commend the company on its project and look forward to seeing the completed works.

DISABILITY SERVICES

The Hon. T.A. FRANKS (15:38): I seek leave to make a brief explanation before addressing a question to the minister representing the Minister for Disabilities about the review of the Disability Services Act.

Leave granted.

The Hon. T.A. FRANKS: I remind the minister representing the minister that, when he was minister for disability services, in this place on 29 November he was asked by the Hon. Kelly Vincent why he had not yet introduced legislation under this portfolio to reform the outdated Disability Services Act. In response, on 29 November he advised the house:

> ...that the legislation is before parliamentary counsel as we speak. I would like to have introduced it before the end of our year, but that is not to be.

He went on to say:

> Well, we can come back next week, I suppose. But I am not sure that parliamentary counsel would have it available even then.

My questions to the minister are:

1. Is the bill now drafted?

2. When will it be introduced into this parliament?

3. Has the minister in his capacity as the previous minister ensured that the new Minister for Disabilities will introduce a bill to reform the Disability Services Act in this sitting week?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:40): I thank the honourable member for her most important question. I am pretty sure, in terms of protocol, that I am not allowed to answer this question on behalf of another minister, even

though I may be tempted to, but I do undertake to take her very important question to the minister in another place and bring back a response on his behalf.

DISABILITY SERVICES

The Hon. K.L. VINCENT (15:40): I have a supplementary question. Could the minister representing the minister also ask the minister whether he has taken, or will take, the time to personally read my draft bill?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:41): I will of course undertake to give the minister advice if he asks for it. I am pretty sure he is quite able to seek out the information that will be before him. He will have excellent advice from his advisory committee and excellent advice from his officials and I am sure, if I were in his place, that I would want to read the Hon. Ms Vincent's draft bill, at the very least to inform myself of the antecedents, if you like, of the legislation.

However, I am very confident that he will see that the draft bill that comes from parliamentary counsel will have picked up many of the issues that the Hon. Kelly Vincent has raised in this place a number of times, and he will take that into account, as I would have done myself. I think the Hon. Ms Vincent will be pleasantly surprised when she does see the bill. I think honourable members across the aisle will also be quite pleasantly surprised when they see the bill—

An honourable member: We'll be looking.

The Hon. I.K. HUNTER: I am sure you will, and I will take any questions you have to the minister in the other place. As I said, should he ask I would be very happy to advise him, but he is quite able—

The Hon. S.G. Wade: Keep going; another seven seconds.

The Hon. I.K. HUNTER: Thank you, Stephen. He is quite able to avail himself of the information that I left behind for him, and I am sure he will be making his own statement on this matter in the near future.

ANSWERS TO QUESTIONS

ELECTRICITY PRICES, COOBER PEDY

In reply to the **Hon. J.A. DARLEY** (19 May 2011) (First Session).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations): The Minister for Mineral Resources and Energy is advised:

1. The Government had spoken with the District Council of Coober Pedy on a number of occasions in 2010 and in broad terms indicated a tariff increase was likely. As it was to be considered by Cabinet, Officers were unable to discuss specific details until approval was given by the government for the tariff revisions in February 2011.

2. No, the Government will not withdraw the increase.

3. The cost to the Government for the work done by KPMG was just over $80,000.

As a result of the report, further work is being done to assess the opportunity to connect Coober Pedy and Andamooka to the national grid. The cost of the report is very small compared to the potential savings if grid connection is possible.

SOUTH AUSTRALIAN RESEARCH AND DEVELOPMENT INSTITUTE

In reply to the **Hon. R.L. BROKENSHIRE** (16 May 2012).

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

The savings target was announced as part of the 2010-11 budget.

SPENT CONVICTIONS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 November 2012.)

The Hon. S.G. WADE (15:42): I rise on behalf of the Liberal opposition to indicate our support for the Spent Convictions (Miscellaneous) Amendment Bill 2012. The Attorney-General, the Hon. John Rau, introduced the Spent Convictions (Miscellaneous) Amendment Bill 2012 in the House of Assembly on 13 November to deal with certain unintended consequences arising from the Spent Convictions Act 2009.

The act allows for certain criminal offences in certain circumstances to automatically become spent after the qualification period of 10 years, as long as the individual involved has not been convicted of further offences. In most circumstances a spent conviction will not appear in a national police check and need not be disclosed if a person is asked about past convictions.

The Spent Convictions Act does not allow the following two classes of offence to be spent: first, serious offences where an adult was sentenced to 12 or more months' gaol or a minor was sentenced to 24 or more months' detention and, secondly, sex offences. Further, an offence that is otherwise spent must nonetheless be disclosed in situations specified in the act; for example, where the person is applying to care for or work with children. Minor historical sex offences, commonly known as 'young love offences', cannot be spent under the act. This has caused considerable angst in the community. It has inhibited many good people from volunteering or finding gainful employment.

The government knew that its decision not to include a mechanism for these 'young love offences' to become spent would cause grief in the community. In his second reading contribution in the Legislative Council in relation to the 2009 act, the Hon. R.D. Lawson QC RFD discussed the then attorney-general's changing stance on the issue of spent convictions. In doing so, he highlighted the community's widespread concern that some people's historical convictions for 'young love' offences would not be spent under the bill, making it:

> Difficult for people to obtain employment in, for example, the aged care industry, where there are stringent commonwealth requirements that prohibit an aged care operator from employing people who have been found guilty in the past of sexual offences.

The bill did 'not provide any relief for people caught in that situation' and that in some other jurisdictions:

> A person in that situation can obtain an order from the court, for example, expunging the record so that that offence becomes a spent conviction.

A review-based approach to expunging minor historical convictions which would not automatically become spent under the act, such as that in the current act, was discussed in the debate on the 2009 bill. It was already operating interstate at that time. The government decided not to take up that option, deciding instead that there would be no mechanism for individuals to seek relief. The government knew that their approach would create a stigma for people convicted of historical 'young love' offences but it did not act.

The government had the opportunity to spend those additional offences by court order. This would have struck, in our view, a better balance between protecting the community and not unfairly burdening the individual, as the court would be empowered to decide whether expunging the conviction was appropriate after considering the nature of the offending and the rehabilitation of the offender.

The Attorney-General's office received numerous letters from members of the public who have been prevented from volunteering or from employment because of very old and minor convictions appearing on their police check. The government released a discussion paper in late 2011 covering possible amendments to the Spent Convictions Act 2009. The discussion paper ignored the previous proposal for those convictions to be spent by court order and, instead, suggested that very old and minor convictions would become automatically spent, including for excluded purposes after 20 years.

Only after feedback on the discussion paper clearly demonstrated the flaws with the government's proposal did the Attorney-General introduce the court-ordered expunging of convictions. The Spent Convictions (Miscellaneous) Amendment Bill 2012, in that sense, represents a backflip by the Attorney-General on the issue. The bill proposes to amend the Spent Convictions Act 2009 to permit an individual, after 10 years of good behaviour, to apply to a qualified magistrate for an eligible sex offence to be spent. An eligible sex offence is defined as one for which a sentence of imprisonment is not imposed.

The bill further provides that individuals apply to a qualified magistrate for an order that any spent convictions (including a sex offence) may be disregarded for one or more of the following purposes:

- care of, or working with, children;
- care of, or working with, vulnerable people; and
- activities associated with a character test.

The Attorney-General in the House of Assembly moved an amendment in the committee stage of the debate which is intended to prevent an individual from applying for an historic sex offence to be expunged if that person was detained (even if not imprisoned) for that offence, because they were deemed to be incapable of controlling or unwilling to control their sexual instincts. The Liberal opposition supported this amendment in the House of Assembly and continues to do so.

Within mutual recognition principles, section 6 of the act allows convictions for offences of other jurisdictions to be spent. In contrast, section 8A(3) and section 13A(4) of the bill prevent applications being made to the qualified magistrate for minor convictions incurred in other jurisdictions to be declared spent. I cannot see the policy grounds for such a distinction, other than to prevent a flood of interstate applications to the qualified magistrate. The opposition is therefore in discussion with the government on the possibilities of an amendment which would allow applications to be made with respect to interstate convictions on behalf of residents of South Australia. This amendment, in our view, would be a particular assistance to South Australians living in border regions.

The Law Society made the comment in relation to this bill that in the interests of good drafting section 8 of the act, a key operative clause, should be amended so it is expressly subject to the proposed section 8A of the bill. Whilst the Law Society suggests that the bill, as currently drafted, may achieve its objectives, the clause should be redrafted for the avoidance of doubt. I would ask the minister in her summing up or at the committee stage to provide the government's view on the Law Society's advice and whether the government intends to make an amendment on the basis of it.

The bill proposes that if an application to spend a conviction is refused, the unsuccessful applicant may not reapply for that conviction to be spent within two years of the refusal. The Law Society criticised the prohibition for being unduly lengthy, overly harsh and oppressive, especially since the offence, the subject of the application, is at the lower end of the scale of seriousness in that it attracted a non-custodial penalty.

The Law Society argues that, whilst individuals may seek judicial review of a qualified magistrate's decision, given the costs and prospects of successfully overturning a decision, it is likely to be inappropriate in the circumstances. Further, the two year prohibition is thought to be likely to encourage more people to seek a review than would otherwise be the case.

I am in discussions with the government as to the appropriateness of an amendment to the bill retaining the two year prohibition period, but allowing an application to be made by leave to a qualified magistrate in extenuating circumstances. The goal is to allow flexibility in the interests of justice and yet prevent unnecessary reapplications.

I urge the council to give due consideration to our amendments if, following discussions with the government, they are filed. I understand the Hon. John Darley has also filed amendments this afternoon. The opposition looks forward to giving favourable consideration to any suggestion to improve the bill so that South Australians can get not only a bill that provides clarity in people's past criminal activity but also gives people the opportunity to make a fresh start and, having dealt with their offending behaviour, get on with living law-abiding lives.

The Hon. CARMEL ZOLLO (15:51): I rise in support of this proposed legislation. The Spent Convictions Act 2009 came into force on the 13 February 2011. The act was a response to a private member's bill from the member for Fisher from the other place. The aims of the act were admirable. The act sought to introduce a formal framework around when and in what circumstances a conviction could be spent. It is important that minor convictions from years ago do not prevent a person from gaining employment. At the same time, it is important that employers are notified of a person's criminal history before making the decision to employ that person.

What the act attempted to do was to strike that balance, but it has had unintended consequences. I am sure many of the honourable members have received correspondence from

constituents about ancient convictions that have suddenly started appearing on his or her police certificate. The constituent will explain that the conviction had not previously appeared on his or her certificate and will justifiably ask why it appears now when it did not before.

The answer is that the act requires South Australian police to include all old convictions on police certificates, whereas before South Australian police were able to exercise some discretion in this regard. Convictions which were previously not included by virtue of this discretion are now required to be included on the certificate.

The government does not intend to return to a discretion framework resting with the South Australian police. Instead this bill improves the existing framework around spent convictions to better strike the balance between old convictions and the right of employers and others to know another's criminal history. The most important aspect of the bill, in my view, is the fact that a 'no conviction recorded' order by the court will now have the intended effect. It may seem ridiculous to members, but under the existing system, when a court makes the decision to record no conviction, the person's police certificate will still record that conviction, albeit with the words 'no conviction recorded'. Of course, this defeats the purpose of the court's order, namely to ensure that the person's ability to gain employment is not affected by what the court considers to be a very minor matter.

I am pleased that this bill will resolve this issue, that the bill appears to have broad party support and I look forward to the successful passage of this bill through this chamber and no doubt many of our constituents will be very happy with the result.

The Hon. J.A. DARLEY (15:55): I rise very briefly to speak on the Spent Convictions (Miscellaneous) Amendment Bill, and in so doing also commend the member for Fisher in another place for following up this matter with the government. The bill, as we know, provides for individuals to apply to a qualified magistrate to have an eligible sex offence spent after a period of good behaviour. These provisions will only apply where the offender was not imprisoned, whether suspended or not.

It may be worthwhile at this point to foreshadow that I intend to move one amendment to this bill in relation to juvenile offenders and, more particularly, instances which, loosely, can be referred to as young love or young lust, as the case may be. If a young person aged, say, 17 years is charged with a sexual offence and chooses to enter a plea of guilty, they may very well be handed a suspended sentence. This is something which will remain with that person for the rest of their life. It will impact everything they do in the future.

In some cases of young love this seems a little heavy handed. As such I will be proposing that, if a sentence of imprisonment is imposed but that sentence is suspended in whole and the individual has not reoffended, then they should be able to apply to a qualified magistrate to have that conviction spent. Again—and to be clear—this is only intended to apply to minor sex offences. If the offending is of a serious nature, the magistrate will have the discretion to reject the application. It will not be an automatic process. The amendment will only apply to juveniles and will only apply when any sentence is suspended. It is very limited in its application. With that, I support the second reading of this bill.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:57): I understand that there are no further second reading contributions to this most important bill. By way of summary, I thank those members who have contributed to the debate. As has been pointed out, the bill is a result of public consultation and aims to address community concern that the Spent Convictions Act treats too harshly those individuals who have had very old and minor convictions but who have since attained a long period of good behaviour.

This bill strikes the balance between protecting our community, particularly children and the vulnerable, and allowing persons to seek to have their convictions spent and disregarded, but only by application to a qualified magistrate. The bill also proposes amendments to the act so that, where a court has decided that no conviction should be recorded, then no record of that conviction will appear on a national police certificate and none of the excluded purposes in section 1 apply in relation to quashed or pardoned offences, so the individual is in the same position as if the conviction had never occurred, that is, they are considered spent immediately and for all purposes.

Young people may make a mistake before maturing (and some take longer to mature than others) and going on to lead exemplary lives, but many years later when seeking work or

volunteering in aged care or in their grandchild's school, for example, these individuals are precluded quite unfairly from doing so because of a mistake made in their youth. This bill assists these people by maintaining appropriate safeguards to protect the most vulnerable in our community. I thank members for their support and commend the bill to the house.

Bill read a second time.

ADVANCE CARE DIRECTIVES BILL

Adjourned debate on second reading.

(Continued from 27 November 2012.)

The Hon. D.G.E. HOOD (16:01): The Advance Care Directives Bill is presented as a consolidation of various laws. At the outset, let me say that I personally and my party agree that the consolidation of laws in this area is appropriate, and that aspect of this bill we support; it would assist ordinary people in dealing with health directives, which is highly desirable. As I understand the government's position, it is intended that ordinary people, if I can use that term in a non-derogatory way (that is, non-legally trained people) should be able to draw up their own advance care directives without legal or medical advice. We support that aspect of the bill.

It is appropriate at this point to review some principles of the existing common law that operate in the absence of advance care directives. I have broken that into three categories, the first of which is that many people wish to provide that, in an end-of-life situation, they do not wish to be kept alive through artificial means; I see no problem with that. They are entitled to give such a directive, and the present law says that such a directive should be followed.

Secondly, a person is entitled to refuse medical treatment at any stage of adult life, and this includes measures that sustain life. As an example, a person is entitled to place on record that they will not undergo a blood transfusion. Such a directive must be followed, even if this results in the death of the person. There is no need for any change to that law on this point, in our view.

Where a person attempts to commit suicide, standard medical practice is to revive the person and to deal with all issues that exist for that patient, and this is as it should be. The present law in this regard deals appropriately with the above issues, in our estimation. I am not aware of any problems with the present law with respect to those three issues, or indeed the need for change.

There have been reports of situations where patients have been kept alive in a vegetative state by means of life support for lengthy periods. In some instances, this appears to have been inappropriate and not something we would support. My understanding is that those situations have arisen where the patient did not have an advance care directive. In some cases, the situation arose because some relatives insisted that life be prolonged artificially.

I do not believe that there is presently a problem of doctors prolonging life artificially, contrary to the terms of advance care directives, but there can be pressure on doctors, of course, through various avenues, including relatives, to prolong life in what some might say is an unnecessary way.

We need to look closely at the bill now before us to see whether it makes any changes to these aspects of the existing law and what the consequences of those changes are. There are, in fact, some very major changes to the existing laws contained in this bill, and it is those changes on which I will concentrate in this speech. The most obvious change is that there will be binding and non-binding directives.

I see that the bill, in clause 6, contains very sensible provisions to the effect that a person cannot compel a health practitioner to provide any particular treatment. There may well be medical or public finance reasons why care should not be given in these particular cases, so it is appropriate that a directive that certain treatment should be given can be only non-binding. Clause 19(1) provides:

> Subject to this section, a provision of an advance care directive comprising a refusal of particular health care (whether express or implied) will, for the purposes of this Act, be taken to be a *binding provision*.

The concept of a binding directive is new in this bill. In order to understand what this means, it is necessary to understand the existing law on health directives as it affects the obligations of doctors and other healthcare practitioners as the law currently stands. I found a very useful summary set

out in a policy directive prepared by the New South Wales department of health back in 2005. It states:

> Consideration should also be given to the currency of the advance care directive, and whether it appears to be made in contemplation of the current circumstances (for example, was it made after the diagnosis of the current illness). Medical practitioners should also consider whether there is any reason to doubt the patient's competence at the time that the advance care directive was signed, or whether the patient was under undue pressure to make the directive. If the practitioner establishes that the refusal is invalid, or based on a false assumption or misinformation, he or she can treat the patient in accordance with his or her professional judgment of the patient's best interests.

It goes on:

> Concerns may arise about the legality [or] applicability of an advance care directive, especially where the patient refuses treatment considered to be usual medical practice, and/or where the refusal may be life threatening. In an emergency, the medical practitioner can treat the patient in accordance with his or her professional judgment of the patient's best interests, until legal advice can be obtained—

if appropriate.

> Where there are concerns about an Advance Care Directive in a non-emergency situation, the medical practitioner may wish to consult with the patient's relatives, or those close to the patient, seek legal advice, discuss the issue with colleagues, or other clinicians involved in the patients care.

It is clear from the above summary that the existing law is that health practitioners should ordinarily follow directives. We see no problem with that, but they do retain some discretion when faced with a directive that seems inappropriate in circumstances presented to them. Clause 19 of this bill has the effect of taking that discretion away. This is a very significant change, and I believe it will result in some unintended negative consequences.

Clause 36 of the bill states that a health practitioner, 'must comply with a binding provision of the advance care directive'. Again, we have no problem with that in almost all cases, but there will be exceptions and this law is written in a way that is absolute. There will be occasions when it is not beneficial for the patient. This removes all flexibility to consider whether the directive was really intended to apply in the circumstances or whether the directive was based on any incorrect information when it was formed. Both of these are genuine possibilities.

To put the issue another way, health practitioners at present have an ethical and legal obligation to act in the interests of the patient and also to act in accordance with the directives of the patient. Where those duties conflict, it is appropriate to investigate whether the directive as expressed was based on proper information and was really intended to apply in the situation that presents itself. The present bill will change the law such that the directive must be followed even when that appears to be inappropriate and even if the directive appears to be based on misinformation. This is one of the problems that can arise when common law is replaced by a statute with black and white terms. I put to you that that is the case in this situation.

One might well ask to what extent this matters. One could take the view that people should take proper care in drafting advance care directives and that they are wholly responsible for the implications of them, but the reality is such that we know that many directives have been badly drafted and will be badly drafted in the future, especially if they are done without legal or medical advice. Some will be based on misinformation or misunderstanding and possibly even on an incorrect diagnosis of a particular disease or condition that is later changed. This could result in tragic circumstances which by law could not be changed.

I ask you to consider a hypothetical example. A woman (let's call her Sally) may have a loved one (let's call him Tony) who suffers a stroke such that he is left in a comatose situation for a lengthy period. As a result, Sally may specify an advance care directive that if she suffers a stroke and is unconscious all medical treatment and life support should be withdrawn. It may be that she suffers a relatively minor stroke, for example, while driving a car, and due to being distracted a collision occurs with an impact that causes her to become unconscious.

The directive therefore states that all medical treatment and life support must be withdrawn. This may well, and probably will, result in her death or perhaps, at the very least, a permanent disability. Sally only intended the directive to apply if the stroke itself caused her to become unconscious, but taken literally the directive applies when the impact was the cause of her becoming unconscious. Sally had not intended the directive to be taken in that way and yet it would be quite legitimate, and indeed legal, under this clause of this bill for that directive to be taken literally. Sally would suffer the consequences of that. She would either die—as is quite commonly the case—if she was not treated or she would have a very severe disability, I suspect.

The result of this may be, and presumably will be, that lives will be lost when this is not intended when the advance directive is not taken as intended. Under the existing law, a doctor who was aware of the directive but formed the view that it is not intended to apply in the situation that he or she was presented with simply would not follow it, and that is fine under existing law. However, under this bill, the doctor would have absolutely no discretion whatsoever and would be compelled to follow the direction, even when it is to the patient's detriment.

The literal meaning of the words is clear: he or she would be prohibited (that is, the doctor) from giving any medical treatment whatsoever, even though treatment would result in the full recovery of Sally in the situation I have outlined. The patient could either die needlessly or be left with a permanent severe disability through the lack of medical treatment. Surely none of us want to legislate to require this consequence. We at Family First respect people's rights to prepare advance care directives and, when they do so and the directive actually applies in a situation that they had intended it to be prepared for, we see no problem with it. However, there are risks involved where it is poorly drafted or written in such a way that a circumstance presents itself that was not intended.

My view is that the current common law deals with this situation appropriately and there is no reason to change it. I am talking about that aspect of it, not the whole bill. If it is the government's intention that advance care directives may be drawn up without legal or medical advice—and I believe it is—then we can expect to see many instances where the directives are worded without proper consideration of all the possible circumstances in which they might apply, and, as I say, this could have fatal consequences.

Whilst I prefer to see clause 19, which deals with binding and non-binding directives, removed from the bill altogether, I have prepared an amendment that restricts binding directives to those that apply in end-of-life situations, which is after all what they are intended to apply to. This seems to me to be a reasonable proposition.

Another aspect of this bill also concerns me. Clause 12 sets out provisions that cannot be included in an advance care directive. The clause specifically refers to a provision in a directive that is unlawful, such as a provision that would be a request for euthanasia. It would come as no surprise to people in this chamber that I support that provision. However, this clause needs extending to cover other appropriate circumstances, in my view.

For example, if a person intends to commit suicide and, with that purpose in mind, prepares an advance care directive which says that in the event of unconsciousness for any reason no medical treatment whatsoever is to be applied, that is a binding directive under clause 19. The doctor has no option but to follow that directive. The person may possibly take an overdose of drugs and leave the written directive close by. If someone called an ambulance, the attending ambulance officers would be absolutely bound by the directive and could not take any action to revive the person, who would presumably die. Whilst I doubt that this is the intended consequence of the bill, it is clear that this would be the result that would follow. An amendment is required to correct this. I therefore propose that clause 12 be amended to specifically provide that a directive for the purpose of enabling or assisting suicide is invalid. I see this as an important amendment.

Another issue of concern to some doctors, which they have raised with me and no doubt other members of this chamber, is the question of ordinary feeding of elderly patients who are not mentally competent but are able to take in food and water orally, although they may need some assistance. We are not talking about intravenous feeding here, and that is important. We are talking about normal eating and drinking, if you like, through the mouth. Dementia patients are a good example. These patients are well aware of what is going on around them in most cases, but are often no longer legally competent to make decisions about their particular care. What happens if a dementia patient has made an advance care directive that, in specified circumstances, all nutrition and hydration (that is, food and water), which includes oral feeding and drinking through the mouth, is to be withdrawn? I emphasise that I am now considering the issue of oral feeding and hydration, not intravenous feeding.

There is a legitimate question as to whether the provision orally of food and water under medical direction in this manner is health care. If it is, then such a directive can be made under this bill; that is, that somebody could simply unknowingly refuse to be given food or water by mouth. I doubt that that would be many people's intention. I note that this issue has been considered in relation to substitute decision-makers. Clause 23(4) provides that, subject to an express direction to the contrary, a substitute decision-maker cannot decide to refuse the natural provision of food

and liquids by mouth. This makes sense to me, and this seems to indicate that this is indeed health care, the term used earlier in the bill.

The concern of some doctors, as they have expressed to me and, no doubt, others in this chamber, is that they do not regard provision of food and liquids by mouth as medical treatment or health care at all. If health practitioners are required to refuse to provide food and water to a patient, they become an actor, or a contributor, in causing the death of the patient by direct starvation. In refusing food or water, they are not, in their view, withdrawing medical treatment. This is simply care, not medical care. They are acting as an ordinary person in refusing to provide food and water to a person who needs it.

I personally find the concept of an alert but medically incompetent person being starved to death, essentially against their will (because in many cases they would not have foreseen that circumstance), a horrifying one. It seems that, even if the patient desperately cries out for food or water, it cannot be provided to them if this is what the directive states for those circumstances. In the situation of a patient with dementia, there is no ability for the person to change their mind as to a directive and, essentially, they would starve to death, despite that being no-one's intention.

I assume that this was not an intended consequence of the bill but it is a real consequence, nonetheless. I therefore have proposed an amendment to clause 12(1) to clarify that a directive cannot require the withdrawal of food or liquids taken by mouth, and I stress to members that this applies only to food or liquid given by the mouth and in no way includes intravenous feeding, which is a totally separate matter, in my view. This would not affect the position as to intravenous feeding, which is clearly a form of medical care and, as I say, a separate matter. A person may still direct that intravenous feeding must be withdrawn in specified circumstances. We see no problem with that.

Similarly, I propose an amendment to clause 23(4) to provide that a substitute decision-maker cannot order the withdrawal from the patient of food or liquids taken by mouth in any circumstances. There is a lack of clarity in clause 12 as to the position where a binding directive would require a health practitioner to contravene a professional standard or code of conduct. Subclause (1) sets out certain directives that cannot be made, such as a directive that would cause a health practitioner to contravene a professional standard or code of conduct. Subclause (4) confirms this by providing:

> A provision of an advance care directive that contravenes subsection (1) is, to the extent of the contravention, void and of no effect.

But subclause (2) has an inconsistent provision which states:

> However, nothing in this section prevents an advance care directive from making a provision in respect of the withdrawal, withholding or refusal of health care to a person that would, if given effect, result in the death of that person.

This appears to mean that a health practitioner may be required to withdraw health care even though to do so would breach professional standards that apply either within the state or, more often, nationally. I cannot accept that a directive that health care be withdrawn, which would be a binding directive, must be carried out by a health practitioner if in the particular circumstances this would comprise a contravention of professional standards or a code of conduct established in the medical profession. Professional standards are in place for good reason, and I consider it inappropriate that they can be overridden by a directive from anyone.

The simplest remedy is to delete clause 12(2), and that is proposed in my amendments. It is clear from the bill generally that a directive may result in the death of the person. There is no need for this to be stated, as it was in clause 12(2). The subclause is similarly not necessary.

There is a similar issue arising from clause 36. Clause 36(2) provides (quoting the relevant parts only): 'a health practitioner may refuse to comply with a provision of an advance care directive...if such health care...is not consistent with any relevant professional standards.' So it is already in the bill. But then it goes on to say:

> (3) Subsection (2)—

the one I have just read—

> does not apply...
>
> (b) if the specified health care comprises the withdrawal, or withholding, of health care to a person.

My view is that a health practitioner should be entitled to refuse to carry out a directive where, in the particular circumstances, carrying out that directive would almost amount to unprofessional conduct or would certainly be in breach of their own agreed standards of conduct. I therefore propose an amendment deleting clause 36(3).

I now return to substitute decision-makers and their powers set out in clause 23. A substitute decision-maker is given great powers by this bill; indeed, it is a power over life and death in some cases. This power can be exercised at any stage of the person's life, not just in end of life situations, provided that the person is not mentally competent to make their own decisions.

I wish to give one example for consideration. A man, let us call him Fred, is appointed as substitute decision-maker for his Aunt Bessie. He stands to gain a very large inheritance from her when she passes. This does not disqualify him from acting as her substitute decision-maker according to clause 21(2). Fred has a clear incentive to bring about her early death if he can do so legally. Under this bill, if Aunt Bessie is admitted to hospital for pneumonia and is, or becomes, mentally incompetent (Aunt Bessie may be just 45 years old) Fred can direct that all treatment must be withdrawn, which may result in death—and probably would in Aunt Bessie's case. It seems that such a direction would be binding on healthcare practitioners and fully legal, even though pneumonia might be very easily treatable.

I have considerable discomfort with this situation, which is a direct result of this bill and is again, I expect, unintended. I do accept that a substitute decision-maker should be able to make decisions resulting in the death of a patient in an end of life situation, but not where the ailment is not life threatening if properly treated. I am sure the intention was that this should be limited to life-threatening situations.

I proposed an amendment by inserting a new clause 33A to restrict the power of a substitute decision-maker to bring about death such that it only applies in end of life situations. Of course, the terms of a person's advance care directives will still apply. This amendment concerns only a substitute decision-maker giving a direction that will bring about the early death of a person and is strictly limited to those circumstances.

In summary, I urge all members to carefully consider this bill in great detail. Whilst the intention of consolidating various laws is a worthy objective and one that we would support, there are some very significant changes to the law that will have serious consequences, and I believe a number of the issues I have mentioned today were, in fact, unintended consequences. This bill has not been the subject of any detailed consideration in the lower house—in fact, it went through the lower house very quickly—with the exception, I believe it is worth mentioning, of the issues raised by the member for Hammond, Adrian Pederick. He raised a number of good questions that, in my opinion, have not been satisfactorily answered at this stage.

As I said, I have a number of concerns about this bill that I have outlined. I am proposing these amendments, and I look forward to contributions by other members.

The Hon. T.J. STEPHENS (16:22): I wish to start by indicating that I will be voting against the bill. Aspects of this bill which relate to a person's assets, financial and domestic particulars, and an individual's wishes for the future of those particulars I fully support; however, what this bill refers to as an advance care directive also encompasses future healthcare arrangements. Essentially this can cover provisions for euthanasia, as well. This is my concern.

I do not wish to endorse, through this bill, a pathway to the future ending of one's life, despite the fact that one point in time an individual has indicated that this is the case. As an initial point, people's views change, and an advance care directive made at one point in time may not govern how they feel later down the track.

It is similar to an obsolete will. It has been demonstrated by the courts that the contents of a will made under the law can be picked apart and overruled. This highlights the fickle nature of these supposedly legal documents. Similarly then, I do not wish individuals in this state to have the ability to govern something as serious as the ending of their life made on the basis of a flimsy piece of paper whose legal sturdiness is currently indeterminate.

That brings me to the next point. No bill that has come before either this or the other place during my time here has ever been free of any legal complications, and personally I do not believe there ever will be. I do not wish to open a Pandora's box when it comes to such serious matters, and therefore I have voted against most bills of this nature.

I believe in the dignity of human life, which includes those who are healthy and those who are ill, whether terminal or otherwise. At some point I am sure many in this place have faced the reality of loved ones being terminally ill, and as a result have grappled with the issue of euthanasia in their own mind. I know I certainly have. This is certainly a debate worth having but I am not willing to have it legislated by stealth in an innocuously named bill such as this. I urge my colleagues to strongly consider voting against the bill.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

At 16:25 the council adjourned until Wednesday 6 February 2013 at 14:15.