LEGISLATIVE COUNCIL

Tuesday 19 February 2013

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

GRAFFITI CONTROL (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

SPENT CONVICTIONS (MISCELLANEOUS) AMENDMENT 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) (14:20): I move:

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

Motion carried.

PAPERS

The following papers were laid on the table:

By the President—

District Council Report, 2011-12—
- Wakefield

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

Reports, 2011-12—
- Australian Energy Market Commission
- Energy Consumers' Council

City of Unley—Local Heritage Places—Unley (City) Development Plan—Development Plan Amendment by the Council

Regulations under the following Acts—
- Criminal Law (Sentencing) Act 1988—Fees—Vehicles
- Development Act 1993—Control of External Sound
- Liquor Licensing Act 1997—Dry Areas—
  - Bordertown Area 1
  - Naracoorte
- Magistrates Court Act 1991—Fees—Criminal Division
- Youth Court Act 1993—Fees Increases

Codes of Practice—
- Abrasive Blasting
- Confined Spaces
- Construction Work
- Demolition Work
- Excavation Work
- First Aid in the Workplace
- Hazardous Manual Tasks
- How to Manage and Control Asbestos in the Workplace
- How to Manage Work Health and Safety Risks
- How to Safely Remove Asbestos
- Inspector Attendance at Workplaces SafeWork SA Policy
- Labelling of Workplace Hazardous Chemicals
- Managing Electrical Risks in the Workplace
- Managing Noise and Preventing Hearing Loss at Work
- Managing Risks of Hazardous Chemicals in the Workplace
- Managing the Risk of Falls at Workplaces
- Managing the Risks of Plant in the Workplace

Managing the Work Environment and Facilities
Preparation of Safety Data Sheets for Hazardous Chemicals
Preventing Falls in Housing Construction
Safe Design of Structures
Spray Painting and Powder Coating
Work Health and Safety Consultation, Co-operation and Co-ordination
Welding Processes

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

Reports, 2011-12—
Office for the Ageing
South Australian Public Health Council
Regulations under the following Act—
Health and Community Services Complaints Act 2004—Code of Conduct
Response to the Social Development Committee on the Inquiry into Food Safety Programs

NATURAL RESOURCES COMMITTEE

The Hon. R.P. WORTLEY (14:24): I bring up the report of the committee on foxes.

Report received.

INDEPENDENT COMMISSIONER AGAINST CORRUPTION

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) (14:24): I table a ministerial statement by the Premier, Jay Weatherill, on the appointment of the Independent Commissioner Against Corruption.

STATUTORY OFFICERS 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) (14:26): By leave, I move:

That pursuant to section 21(3) of the Parliamentary Committees Act 1991, the Hon. Stephen Wade be appointed to the Statutory Officers Committee in place of the Hon. David Ridgway (resigned).

Motion carried.

QUESTION TIME

MARINE PARKS

The Hon. J.M.A. LENSINK (14:26): I seek leave to make a brief explanation before directing a question to the Minister for Sustainability, Environment and Conservation on the subject of the marine parks advertising campaign.

Leave granted.

The Hon. J.M.A. LENSINK: The Labor government's marine parks sanctuary no-take zones advertising campaign package was launched at the start of February with a total cost of over $1 million. The centrepiece of this campaign is a TV ad featuring a young fisherman crabbing on the Port Noarlunga jetty, an act which is illegal at this site, not under the Marine Parks Act but actually through regulation under the Fisheries Management Act. My questions are:

1. How can this government claim any credibility on marine parks when it cannot even get the details right in a feelgood ad?

2. Given that the government's ad is advocating an illegal activity, will it be a defence to people who are caught in future that they were educated to do it because they saw it in an official government ad?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:27): I thank the honourable member for her most important question because it gives me the opportunity to once again extol the virtues of our marine parks and also the virtue of our education campaign.

The Hon. D.W. Ridgway: Answer the question.

The Hon. I.K. HUNTER: So, the government—you'll get your answer, just hang on.

The PRESIDENT: He will once you—

The Hon. I.K. HUNTER: You get to ask your questions in this place as you like—

The PRESIDENT: The Hon. Mr Ridgway, the minister will answer the question.

The Hon. I.K. HUNTER: —I get to answer them as I like.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: I'm not bound to please thee with my answer.

The PRESIDENT: Order! The minister will answer the question once you stop interrupting.

The Hon. I.K. HUNTER: Possibly.

The PRESIDENT: Minister.

The Hon. I.K. HUNTER: Thank you, Mr President, for your protection. They are a rowdy lot over there today. The government is committed to ensuring that marine parks will provide greater protection to South Australia's marine environment while minimising the impacts on our state's valuable commercial fishing industry. Minimal displacement of commercial fishing should also result in minimal effects on allied industries such as processors, exporters and transporters. The government's longstanding position has been to utilise the following sequential steps for managing our displaced effort: avoid displacement; redistribute effort; market-based buyouts; and a last resort option, compulsory acquisitions.

We also have consulted very heavily with the communities of our coastal towns and we have come up with a solution that has pleased almost everybody. We said initially that we would restrict the impact on our commercial fisheries to around a level of 5 per cent—well we have got it down to 1.7 per cent. By talking to our local communities and working very closely with them, we have got that impact right down to 1.7 per cent. That is how we work as a government; we work in consultation with communities, unlike those opposite.

With regard to the commercial the honourable member is asking about, the jetty concerned was being used as a backdrop for the film. I understand that some people have identified the jetty because they know it very well, and they saw on the TV a child holding a crab net. While fishing is allowed at the Noarlunga jetty, as the honourable member outlines, crabbing is not. However, the purpose of the commercial was to depict a typical family fishing situation.

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

The Hon. I.K. HUNTER: Did you see, anywhere on the ad, the Hon. Ms Lensink, a little notice saying, 'This applies to the Noarlunga jetty only'? Did you?

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

The Hon. I.K. HUNTER: No, you did not, because it is a generic TV ad to indicate a generic activity purpose. The commercial was not representing specific information about Port Noarlunga. The education campaign is about raising awareness, and I am sorry the Hon. Ms Lensink has not had her awareness raised. But, the fact that people are asking questions and seeking more information is a good thing; our campaign is working. Changes for recreational fishers are due to take effect in October 2014, so there is plenty of time for people to adjust and familiarise themselves with these changes.

The PRESIDENT: A supplementary question, the Hon. Ms Lensink?

MARINE PARKS

The Hon. J.M.A. LENSINK (14:30): Just a minor detail, minister: that was the wrong jetty.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:30): Well, would you be happy if we used another jetty?

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

The Hon. I.K. HUNTER: What we have done is used a jetty for a backdrop. You would not have known unless someone told you; when was the last time you were there?

MARINE PARKS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:31): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question in relation to the marine parks advertising campaign.

Leave granted.

The Hon. D.W. RIDGWAY: On 5 February the minister referred to this advertising campaign in this place as 'a public education program'. This education program features a young fisherman without any sun protective wear, which is inconsistent with the government's 'Slip, Slop, Slap' policy. The same picture also features on the Premier's website. My questions to the minister are:

1. Can the minister explain how the advertising of illegal—the crabbing—and unsafe activities can be classified as an education program?

2. Can the minister please explain how he intends to rectify this, and what will it cost to rectify?

Members interjecting:

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:32): Mr President, who would have thought the leader of this place would come in here and talk about an advertising campaign? Mr President, I—

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

The Hon. I.K. HUNTER: Bring it on. Bring on more of it; I would love to talk about it even further. Sir—

Members interjecting:

The Hon. I.K. HUNTER: I will. Sir, the establishment of this network of 19 marine parks has been more than 10 years in the making and is a major investment in the long-term future of our environment and the prosperity of our state. The aim of the 'Enjoy life in our marine parks' education campaign is to raise awareness of our marine parks with the South Australian community.

Over 35,000 people have been involved in consultations over the past few years, but there are many more South Australians who haven't, and they need to know the information about where the marine parks are, where the boundaries for the sanctuary zones are, and what you can and cannot do in those marine parks. That is why we need a public education campaign now—to make the broader South Australian community aware of our new marine parks, why the parks are so important, and how they can use and enjoy them.

As I have previously advised, the marine parks education program will include TV, print, digital and outdoor advertising, as well as a range of educational resources, online information, and a range of community engagement activities. 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 about 6 per cent of state waters, fishing won't be permitted from October 2014. The education program will reassure people they will still be able to fish from all jetties, boat ramps and popular beaches, even next door to sanctuary areas. We are confident people will do the right thing once they know where the sanctuary areas are and where they can fish.

There are a range of resources available to show people where they can fish, including maps, brochures, and the *MyParx* smartphone app, which can be downloaded from the marine parks website. In addition, a recreational fishing magazine is being developed with RecFish SA and the *Sunday Mail* to help people to get to know some of the best places to fish in our state.

The money will be well spent. There is a great deal of misinformation that has been spread about marine parks, particularly by those opposite today. South Australians have a right to know that their parks are theirs to visit and to enjoy. This is going to be a valuable education program

aimed at informing our community—and that is what we should be doing; not misleading them, as members of the opposition are doing.

The PRESIDENT: The Hon. Mr Ridgway, do you have a supplementary?

MARINE PARKS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:34): Yes, I have a supplementary question coming out of the minister's answer. Will the minister guarantee to this chamber that all future advertisements will show people paying particular attention to being sunsafe and sunsmart?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:35): I look forward to the next forensic dissection of our campaign ads. You can come back here, Leader of the Opposition, and give us a report next time.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: You are not helping me. Now, the Hon. Ms Lensink, you have a supplementary question?

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) (14:35): The honourable member probably should have led her question with 'will' not 'can'.

APY LANDS, FOOD SECURITY

The Hon. T.J. STEPHENS (14:35): I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation questions about food security on the APY lands.

Leave granted.

The Hon. T.J. STEPHENS: The minister is aware that I have brought this issue to the government's and the council's attention on many occasions and have indeed asked the relevant minister a question on the issue of fresh food transport subsidies four times since November 2011 with little meaningful response. Given that the Minister for Aboriginal Affairs and Reconciliation now sits in this place, I hope today will be the start of a real and meaningful answer.

In November 2011, the minister in response to a supplementary question stated, 'I hope that the Liberal opposition will join the Labor government in a serious attempt at solving these issues.' However, the opposition already has attempted this in concert with the Greens. It is the government who now must come to the table. On 28 February, the then minister, minister Portolesi, advised that there is no evidence to support the view that a transport subsidy of $300,000, as requested by Mai Wiru, provided by the government, would be a complete response to this very complex issue. We believe that this would be a very, very good start.

The government's sole policy action in regard to this issue has been the establishment of market gardens in the arid APY lands. On radio in September, then minister Portolesi defended a question asking how these gardens would grow in the tough conditions on the lands, stating, and I quote:

> Each garden is fully irrigated. They are powered by solar. We can very successfully grow market gardens. It has been completely tested by environmental people.

My questions are:

1. How did the gardens fail if they were so rigorously tested and had irrigation and power systems in place?

2. Given that the government has now wasted $228,000 on the failed market gardens project, a core part of the government's APY food security strategy, why was a $300,000 fresh food transport subsidy not considered?

3. The minister stated in 2011 that a subsidy was not the only way to solve these issues. Other than the failed market gardens, what other ways has the government come up with?

4. He also stated that he had only been a cabinet minister for 47 days and therefore he was not in a position to comment on this issue. Does the minister have a position considering he has now been a cabinet minister for 16 months; and if so, what is it?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:38): I thank the honourable member for his very important question and for his ongoing interest in this area. He has also, of course, exposed the great hole in his argument and that of many others. He says that this is our sole policy on the issue. The key point is that it is not. It is not our sole policy on the issue.

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

The Hon. I.K. HUNTER: No, well, it is not spin, the Hon. Ms Lensink. You might want to listen and you will find out what is actually going on.

Members interjecting:

The Hon. I.K. HUNTER: There are seven food security priority areas that this government, the federal government and the APY have been working on. This strategy is overseen by the APY executive action team which includes state government, federal government and non-government members, and the policy areas that we are addressing are consumer protection, financial wellbeing, home management supports, freight improvement, store management support, education and discrete projects, including community gardens and programs such as Come Cook with your Kids school holiday programs. So these programs can only work if we deal with them together.

There is not one silver bullet to fix this problem. The problem, for example, if you are talking about a fresh food transport subsidy on its own, is what happens when you get the fresh food up on the lands and the diesel generators are off in a particular store? The food will spoil, and that is what happens now. But this government has been spending $288,000 to put backup generators in place to make sure that spoilage is not the feature that it has been in the past.

It is accepted by most people, I suspect—outside of this chamber, at least—that improving the food security in the APY lands, like many other areas, will require sustained, long-term cooperative efforts between the APY executive and Anangu, the non-government sector and governments of all persuasions. This government is committed to improving the health and wellbeing of Aboriginal people living on the lands and is following through with its plan to increase the availability and consumption of healthy foods. There will not be one quick fix. It is a long-term program and we must approach it from many different avenues.

APY LANDS, FOOD SECURITY

The Hon. T.J. STEPHENS (14:40): My supplementary question is: have you seen any improvement in food security in the APY lands in the 10 years that you have been in government; and why will you not do the simple thing and provide the food transport subsidy?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:40): The Hon. Mr Stephens learns nothing, sir. I just said to him that there is no one, simple, quick fix.

The Hon. T.J. Stephens interjecting:

The Hon. I.K. HUNTER: If there was, you would have made it. You would have done it when you were in government.

The Hon. T.J. Stephens interjecting:

The PRESIDENT: Order! I am listening, minister.

The Hon. I.K. HUNTER: But, if the Hon. Mr Stephens is telling us today that his party is going to commit to a subsidy, then let us get that costed. Let us see what he is going to promise to the electorate before the next election and, if that is his firm commitment on behalf of his party and that is all they are going to do, we will very easily and happily go up against him on a more comprehensive plan which has some chance of having an impact.

APY LANDS, FOOD SECURITY

The Hon. T.A. FRANKS (14:41): I have a supplementary. Does the minister consider, as part of the seven points of the plan, that, in fact, the workers for the DECD (Department for Education and Child Development) should, in fact, order their foods from the lands and not from Alice Springs?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:41): That is a question that I need to direct to the Minister for Education in another place.

APY LANDS, FOOD SECURITY

The Hon. T.J. STEPHENS (14:41): I have a supplementary question. Will the minister answer the question: has there been any improvement in anything you have done with regard to food security?

The PRESIDENT: The honourable minister has answered that.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:42): The fact is that we have been working on this program for a considerable amount of time. We have been approached by community members—not as asserted this morning by the Leader of the Opposition in the other place—who want to see the community gardens, for example, rolled out into other areas of the lands. It is a program they want to see put through by the government, and it is one that we will continue to support.

APY LANDS, FOOD SECURITY

The Hon. T.A. FRANKS (14:42): I have a supplementary. Does the minister stand by the previous minister's decision to spend $18,690 on a flight and trip to the lands of less than 24 hours to promote the Watarru garden with a PR exercise, while the shop itself at Watarru had actually remained closed for a week before that, and continues to be closed?

The PRESIDENT: I am certain that that is no supplementary but, however, minister, if you wish to provide an answer.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:42): The honourable member embarrasses herself when she comes in here and wants to talk sincerely about these issues and raises these old tired questions. Let me say this. APY lands food security strategy is in its third year of a six-year implementation and includes seven key focus areas, as I have outlined. These areas range from consumer protection and financial wellbeing to store management support.

One example is the Come Cook with your Kids program. For the past 12 months, this program has been conducted each school holiday period to engage children and adults in learning how to cook healthy foods. I am pleased to report that this program will continue in 2013.

I know the gardens have received some attention in this place, sir, but I say again that the community wants these programs. The community is asking for these programs, and we will continue to work with local communities to provide programs they indicate to us they want.

APY LANDS, FOOD SECURITY

The Hon. T.A. FRANKS (14:43): I have a supplementary. Is the minister, unlike his predecessor, actually going to look at the lessons learnt from the Mimili bush garden and the Amata gardens in the gardens program and actually involve, also, in the EAT committee, NPY Women's Council and Mai Wiru?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:44): I understand the annual evaluation report is due next month, and I will consider all those things that are put before me.

REGIONAL TELEVISION SERVICES

The Hon. K.J. MAHER (14:44): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about regional television news services.

Leave granted.

The Hon. K.J. MAHER: Members would have heard late yesterday that WIN Television Network will cut its news bulletins in both the Riverland and Mount Gambier. Like a number of honourable members in this chamber and many members past, my understanding of the events in the world around me were shaped by local regional news—in particular, Channel 8. Can the minister explain how significant the loss of these bulletins will be for these two regional areas?

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) (14:45): I thank the honourable member for his most important question and his ongoing interest, particularly in the South-East. As mentioned, we have all heard by now that the WIN TV Network is closing its doors on two of its TV news programs. Both Mount Gambier and the Riverland TV news bulletins, we have been advised, will end. While the network has not released a public statement, there has been no comment to the contrary, so it appears that both of these TV programs will stop production. This loss is extremely disappointing for the regional community who rely on these programs for part of their news. Of course, it is also terrible news for those reporters, camera operators and staff who work in the newsrooms. Job losses in the regions always have a negative impact on tight-knit communities.

This loss will leave an enormous gap in regional media. We all turn to the TV news and learn what is happening in our backyard and also to learn about the people in our communities who are making news. With the shift in some media away from local content, particularly on weekends, learning about local news is becoming even more difficult. South Australia's regional communities are no different, and now it will become more difficult for people in the South-East and the Riverland to learn about daily developments in their local communities.

This news leaves just one regional network, Southern Cross TV, covering the Far North and West of the state's regional television news. I have been advised that we have one regional network left in all of regional South Australia, and I think that is a real tragedy. There is now a massive gap in local regional content for television news in the South-East and the Riverland areas of South Australia. In my time as Minister for Regional Development, I have enjoyed my relationship with the television reporters who work in regional TV newsrooms.

The Hon. D.W. Ridgway: You feature prominently in the bloopers each year.

The PRESIDENT: And you don't?

The Hon. D.W. Ridgway: No.

The PRESIDENT: You don't feature?

The Hon. G.E. GAGO: I have always been impressed with how supportive regional media are of local businesses. Regional reporters are always the first to chase a story about one of their own and these stories often make their way into metropolitan media.

This news is also extremely disappointing for the news staff who put together bulletins. I have enjoyed watching the level of enthusiasm and dedication that regional reporters demonstrate when they are out gathering news. Regional television reporters are often a one-stop show. They are multiskilled and run the whole lot themselves, generally. Many of them are trained to put an entire news package together from scratch and this means that they often conduct interviews, write their own stories, film and edit vision, and then put their stories to air.

One of my first experiences when being interviewed by a regional reporter has stayed with me vividly. I will not forget the level of professionalism that this young woman had when she was interviewing me. She was truly a one-stop shop. She arrived carrying large amounts of equipment (a heavy camera and tripod, microphone and lighting). She set everything up, she conducted the interview whilst recording it. She knew the subject really well, she had researched the topic really well and conducted an excellent interview and went into quite a level of detail that was impressive. I could tell that she had prepared and researched the topic thoroughly. So I have enormous admiration for the way these reporters have to work and the amazing quality of their work as well, even when I am on the receiving end occasionally. Obviously that is how media is often carried out in these regional centres. It is carried out by very resourceful and multiskilled people, who are very passionate about what they do and the communities they work in.

These jobs are also seen as important training opportunities for multiskilling young journalists, who become highly sought after in newsrooms all around Australia. Some of our

newsreaders and news people have become quite famous around Australia and overseas as well. The news of these changes is very disappointing for everyone concerned, and it is obviously a real blow for the Riverland and the South-East in particular.

POKER MACHINES

The Hon. R.L. BROKENSHIRE (14:50): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations, representing the Minister for Business Services, a question regarding poker machine harm reduction.

Leave granted.

The Hon. R.L. BROKENSHIRE: In 2005, the state government declared that it would reduce poker machine numbers by 3,000 and soon afterwards automatically remove some 2,200 gaming machine entitlements from the market. However, the target of 800 more machines, to reach the 3,000, has taken a painfully long time to reach. Some would say it is the longest breaking of a promise in political history. For a long time there was a fixed price for entitlements, against the advice of many, including myself, on this matter. Unsurprisingly, the trading market was stymied by the fixed price.

Only recently has the government abandoned the fixed price and created a new complex mechanism. The minister has not made it clear how many machines short of the target the government is, but it appears that the number is in excess of 700. Based on calculations of poker machine revenue since 2005, when the promise was made, it seems that the state government has benefited by some $9 million or more in tax revenue from these machines remaining in circulation.

The last trading round saw only 13 machines removed. I have a constituent who has not been able to sell the machines at his country venue for some time now in the trading rounds, even after the fixed price cap was removed. He is desperate to get rid of his entitlements, as are other country venue operators who have been in contact with my office. On the current pace of the trading rounds, we estimate that it is the longest breaking of a promise in South Australian history and will only be an unbroken promise if we allow 20 more years at that pace, making it 27 overall.

I note that the government has made much of the expansion of the Adelaide Casino's capacity for poker machines and, as such, its expectation that trading will proceed at a quicker pace in the next trading round.

In conclusion, the Minister for State/Local Government Relations might be interested to note that, in New Zealand, the Māori Party last year moved to introduce a gambling harm reduction bill, which would see local government given a far greater say on whether pokies come in to, or continue in, a local community. The Māori Party states that pokie venues tend to be over-represented in lower income communities and town centres, with Māori and Pacific Islander people disproportionately targeted and harmed. The bill would also send a far greater proportion of pokie revenues back into the communities they are sourced from to support local charities. My questions are:

1. Exactly how many machines short of the 2005 target is the state government at the time I ask this question?

2. How much tax revenue has the government received from those machines since it made the initial promise to remove them?

3. Will the minister, in her capacity as the local government minister, look at the New Zealand Māori Party approach to pokies reform and respond to the parliament on whether it supports any of those initiatives at the state level?

4. Why should my constituent share the government's hope that Adelaide Casino's entry into the buy-in market might finally give him an opportunity to sell his gaming entitlements when nothing the government has promised so far has accelerated the end of the longest broken promise in South Australian history?

5. Why will the government not enter the market and purchase entitlements from willing sellers, given that it has profited by millions?

6. Is the truth of the government's inertia on poker machine reform due to the biggest problem gambler in the state being the state government itself?

The PRESIDENT: In answering, I ask the minister to ignore the opinion and debate.

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): Thank you for your advice, Mr President. I thank the honourable member for his questions and will refer them to the appropriate minister in another place and bring back a response. In relation to his question relating to the new legislation in New Zealand involving local government, I am happy to look at that matter. I always welcome looking at different ways of approaching issues, but my view is that our current measures serve the community very well. However, I would be pleased to look at the new legislation.

MURRAY RIVER

The Hon. CARMEL ZOLLO (14:56): My question is to the Minister for Water and the River Murray. Will the minister explain to the chamber why it is important for water and the River Murray to have a voice in cabinet?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:56): What an excellent question, at last. I thank the honourable member for her very important question. As I am sure all members would be aware, since this government assumed office in 2002 South Australia has faced significant challenges with regard to water security and the River Murray, 2002 being the beginning of what became this country's most severe drought, with record low rainfalls and flows into the Murray-Darling Basin. The Murray was already under pressure as a result of decades of overallocation of water by the upstream states. At that stage South Australia was almost entirely reliant on the River Murray as a source of water.

The drought had a devastating ecological, cultural and social impact on our state, in particular the Coorong and Lower Lakes region. The drought saw flows into the lakes dry up. The water level in lakes Alexandrina and Albert fell substantially, causing the existence of native plant and fish species to be threatened. With record low water levels in the lakes and the Goolwa Channel came acid sulphate soils, causing concern that the acid in the soil could leach into the water, acidifying the water body.

The Liberal Party had left our state, its people, its business and its industry at the mercy of the climate, which is changing in ways likely to lead to more frequent and intense dry periods into the future. Faced with these challenges, the Labor government took decisive action to guarantee Adelaide's water security, whilst also ensuring the health of the River Murray, which is the life blood of our state. This action would not have been possible had the portfolio of water and River Murray been relegated to the status of outer ministry as the Liberals have done. By 'outer', I mean not at the cabinet table.

With the intention of securing South Australia's water supply to 2050, the government launched Water for Good. The plan, released in 2009, outlines 94 actions to ensure that our water supplies are secure, safe, diverse, reliable and able to sustain a growing population—

Members interjecting:

The PRESIDENT: Order! I can't hear the minister.

The Hon. I.K. HUNTER: —and a growing economy in a changing climate. In order to guarantee South Australia's water security and reduce our state's reliance on the River Murray, particularly in periods of drought, the government committed to building the Adelaide desal plant. The plant provided its first output into the customer supply system in October 2011. Unlike the opposition, unlike the Liberals, we do not build one-way roads and we do not build half a desal plant. The project was completed on time and on budget, with handover of the plant to its operator.

Members interjecting:

The PRESIDENT: Order, the Hon. Mr Ridgway, the Hon. Mr Dawkins!

The Hon. I.K. HUNTER: The project was completed on time and on budget—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Ridgway!

The Hon. I.K. HUNTER: —with handover of the plant to its operator, AdelaideAqua Pty Ltd.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Ridgway! Minister, just let them settle down.

The Hon. I.K. HUNTER: It will take some time, sir.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Ridgway, just relax; just relax for another 27 minutes.

The Hon. I.K. HUNTER: The project was completed on time and on budget, with handover of the plant to its operator, AdelaideAqua Pty Ltd, on 12 December 2012. As at mid-January this year, the Adelaide desal plant had more than 22 gigalitres of desal drinking water put into the SA water supply network and, over the course of this year, it is expected that the plant will run at between 50 and 60 per cent capacity, delivering 50 to 60 gigalitres of potable water into our system. The Adelaide desal plant is a key component of this government's strategy to guarantee Adelaide's water security.

In addition, this government has fought hard in the development of the Murray-Darling Basin plan to ensure the health of our most important natural asset, the River Murray. The leadership of Premier Jay Weatherill and the former minister for water (Hon. Paul Caica) brought together government, irrigators and river communities. This united approach resulted in significant gains for our state in the final basin plan. The campaign was based on best available science which showed that 3,200 gigalitres were required to ensure the health of the Murray-Darling Basin.

The Hon. J.S.L. Dawkins: Four thousand, he wanted.

The Hon. I.K. HUNTER: The Hon. Mr Dawkins reminds us of figures, so let me remind them of a figure that they wanted to accept—22. They wanted to put their cards on the table to Victoria and say, 'Please give us 22; we'll take that.' We did not do that. We fought for this state. Premier Jay Weatherill fought for this state and he won. The Liberals would have sold us well and truly down the river. Under the leadership of the Premier, we actually achieved a much greater outcome.

This united approach resulted in significant gains for our state in the final basin plan. The campaign was based on best available science, and those opposite begged us not to push for a better deal. They were cowed by the Eastern States' Liberal Party governments. As a result of our negotiations and our commitment to securing Adelaide's water supply, $1.77 billion in commonwealth funding has been committed to the additional 450 gigalitres of water recovery and to address constraints. Approximately $200 million of this funding will be spent on addressing those constraints.

The additional 450 gigalitres will be recovered in a way which ensures there is no negative socioeconomic impact on communities and will include recovery of water through on-farm water efficiency measures and other measures proposed by the state. The final plan also includes improved salinity targets and minimum water level objectives for the river below Lock 1.

The Weatherill government secured commonwealth government funding commitments of up to $240 million for water recovery, industry regeneration, regional development and environmental works and measures projects in South Australia. Two hundred and forty million dollars of this funding is allocated to the Water Industry Alliance River Murray Improvement Program which is a great example of government and industry working together to benefit our environment, our communities and our industries. The program will support regional development and industry redevelopment projects to recover water for our river.

The construction of the Adelaide desal plant on time and on budget and this government's important victories in the negotiation of the Murray-Darling Basin Plan were a priority for this state. These achievements, which mean that for the first time since 1836 South Australia has water security for the future, would simply not have been possible for a second-rate outer ministry. They required the attention and leadership that cabinet delivers to government—

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

The Hon. I.K. HUNTER: —and demonstrate the importance of water and the River Murray having a voice in those very important forums. Where will the Hon. Michelle Lensink be? Not at cabinet.

The PRESIDENT: Supplementary question, the Hon. Mr Ridgway.

MURRAY RIVER

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:03): When will the water quality in Lake Albert improve and the remnants of the bund be removed by the cabinet minister who sits at the cabinet table?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:03): I advise the Hon. Mr Ridgway to watch my future press releases.

CHILD PROTECTION

The Hon. K.L. VINCENT (15:03): I seek leave to make a brief explanation before asking the minister representing the Minister for Education and Child Development questions regarding child abuse, including psychological abuse.

Leave granted.

The Hon. K.L. VINCENT: My office has been contacted by the family of a child whom I regard as being at severe risk. Since the first contact, news has come through that the child has been tested and found to have hepatitis C. I also understand that she has tested positive to HIV. In the midst of a cabinet reshuffle, it appears that this child is sinking through ever-widening cracks and her family are understandably desperate to help her.

I should clarify that statement, because while some of her family are desperate to help, one of her cousins is in fact engaged in a sexual relationship with her and has brought her from New South Wales to South Australia where they are living together in an on-site caravan park, sharing a bed. The child's cousin is a 35-year-old man who has, I understand, been a prisoner on more than one occasion and who has a history of psychologically controlling vulnerable teenage women, and of fathering five children. He has had sex with his cousin knowing that he has hepatitis C and is HIV positive.

I was advised by the former minister for police that the matter had been forwarded to the police commissioner in December. I have received a request to obtain the child's permission to share her information but her mother believes that, as her daughter is only 16 years of age, her consent does not need to be given. The mother is frantically hoping for some intervention to protect her child's safety. Although it has been over two months since I first alerted the government to this matter, it has not brought about any change to the situation, and any reasonable person would, of course, despair. My questions to the minister are:

1. Can anything be done when a child with an intellectual disability is removed from her family home by her 35-year-old male cousin and taken interstate to be kept in a caravan?

2. Has this child been investigated as a school truant?

3. What has been done to investigate the domestic circumstances of this child?

4. What has been done to remove the child from the caravan park where she is living with her cousin?

5. Can the minister assure South Australians that situations such as this will in future be treated in an appropriate and timely manner?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:06): I thank the honourable member for her most concerning question and I undertake to take that question to the Minister for Education and Child Development in another place and seek a response on her behalf.

STATE/LOCAL GOVERNMENT RELATIONS

The Hon. S.G. WADE (15:06): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question relating to the minister's compliance with the State/Local Government Relations Agreement.

Leave granted.

The Hon. S.G. WADE: Minister Gago has previously held the position of Minister for State/Local Government Relations twice: firstly, from 24 July 2008 to 8 February 2011; and then

again from 21 April 2011 to 21 October 2011. Clause 10(d) of the State/Local Government Relations Agreement states:

> State and Local Government jointly commit to:
>
> Hold at least annually a Minister's State/Local government Forum to tackle significant issues that arise at the interface between State and Local Government. These matters would be agreed in advance and may include matters identified in an Annual Schedule of Priorities or other agreed topics.

I stress the agreement states that these fora shall be held annually. The minister's last two stints as Minister for State/Local Government Relations were for a total of three years in office, yet only one State/Local Government Forum was held in that period, on 3 February 2010.

The council needs no reminding that the minister repeatedly avoided meeting with the board of the South Australian Tourism Commission as the board is an independent statutory body, and in her words all of their decisions are 'operational matters'. My questions to the minister are:

1. Considering that councils are independent statutory authorities, will the minister take the same approach to local government?

2. Why did the minister not hold a state/local government forum at least once a year while she was the Minister for State/Local Government Relations in previous ministries?

3. Will the minister commit to hold at least one state/local government forum for each year she is the respective minister in this ministry?

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) (15:08): I thank the honourable member for his question even though parts of it are inaccurate and the information contained within it are inaccurate. I have not previously had two stints as minister for local government: I have only had one previous stint and I am now currently the minister. I believe—and I am certainly happy to have this checked—that in the time that I was previous minister, I did in fact conduct a forum in a 12-month period. I can double check that just to verify, but I am pretty certain that I did comply with that whilst I was minister.

I have previously spoken about it quite a bit in this place—when I first became Minister for State/Local Government Relations—that I was met with significant complaints from a wide range of members from local government—various members of the LGA, and various councils expressing their dissatisfaction with the forums. Their view was that it had initially been set up and had filled a gap that had not existed before. A large number of issues were identified that were very successfully dealt with by that forum; it was a very active agenda for some time. I think that was when minister Rankine was the minister.

Then, the view coming from local government was that they virtually ran out of topics. They did a lot of the hard work, and there was a high level of dissatisfaction with the forum, that it was really a bit a bit of a waste of people's time, that it had served a purpose and people weren't getting a great deal out of it, even though they had input into setting the agenda.

The view that was expressed to me when I first became minister was that the value of that forum had significantly declined. What I did was set in place a process where I spoke to different members of local government far and wide, spoke to the LGA, and looked at how we could reinvigorate, and make better use of that time. The result of that was some changes to the way the forum was conducted, and we talked about it being an issue-based forum for both information exchange and learning. We looked at changing things slightly, and thus I conducted a forum at that time; and in line with the debates and discussions and extensive input from local government, that forum took place.

Since then, I had a change of roles. The Hon. Russell Wortley was minister for some time, and I know he conducted a forum. As Minister for Regional Development, I was invited to attend that forum, and I think that was just towards the end of last year. I am quite happy to again consult—as I always do—with the Local Government Association and local councils about their views about the forum to see whether they believe any further changes need to occur and whether they are satisfied with the way that the forum is currently being conducted.

I will listen to local councils and the LGA, and heed any advice and information that they have to share in relation to that, because what we do not want to do is waste people's time. We are all very busy people and we all sit in a lot of meetings; it is most important that we make absolutely

efficient and effective use of our time, so I will be engaging with the LGA and local councils again to make sure that whatever takes place is in line with their contemporary needs.

LIVESTOCK PRODUCTION

The Hon. G.A. KANDELAARS (15:13): I seek leave to make a brief explanation before asking the Minister for Agriculture a question about developments for graziers.

Leave granted.

The Hon. G.A. KANDELAARS: At this time of year, as the pastures in regional and rural areas dry off, graziers may be looking for supplementary feed for their livestock. Can the minister tell the chamber about developments in alternative feeds to help support livestock?

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) (15:14): I thank the member for his most important question. I am very pleased to be able to tell the chamber that researchers are continuing to assist farmers in finding new and innovative ways to manage livestock, including through new feed sources.

One of the strategies used by some graziers is the use of Australian native shrubs. This is particularly the case for some of the mixed properties which can gain an economic and environmental advantage from this practice. There are now financial incentives to introduce perennial plants. Under a program managed by the Coorong and Tatiara Local Action Plan, farmers can tap into expertise on the topic, I should say, with advice and guidance from Dr Jason Emms, a senior scientist with the South Australian Research and Development Institute (SARDI). Dr Emms is the senior research officer on the Future Farm Industries CRC's Enrich program, which is identifying a range of native shrubs best suited to shrub-based grazing systems across Australia.

Dr Emms will be providing advice about the grants for introducing alternative fodder shrub species available in South Australia's Upper South-East. Graziers in the Coorong-Tatiara region of South Australia can apply for funding, including assistance to plant demonstration sites of fodder shrubs such as saltbush, under the federal government's Caring for our Country funded program. Using native species could potentially lift whole-farm profits and demonstrates the impressive capabilities of South Australian scientists. It is a great way to tap into available resources, such as native shrubs, to boost farm production while encouraging biodiversity on farms.

The Enrich research has found adding native perennial forage shrubs to the menu in mixed livestock and cropping systems can lift profits by up to 20 per cent, while contributing to sustainable land management across southern Australia. Work so far has found a range of positive reasons to plant fodder shrubs in the Coorong and Tatiara districts. Saltbushes, emu bush and other alternative fodder shrub species can be used to help fill the autumn feed gap, better use marginal land and create a feed reserve during drought conditions. In addition, these species help to reduce groundwater recharge and the risk of erosion and obviously offer wind protection for stock as well.

The project is spreading awareness about other attributes of using Australian perennial plants in grazing systems, including their potential to raise whole-farm profits and the efficiency of production, as well as to reduce emission intensity. Economic modelling through the Enrich project, which commenced in 2005, found planting 10 per cent of a typical WA central wheat belt property to native forage shrubs could lift whole-farm profits by 15 to 20 per cent, from about $102 per hectare to $117 per hectare.

GLENELG TO ADELAIDE PIPELINE

The Hon. J.A. DARLEY (15:17): My questions are to the Minister for Water and the River Murray and are further to my questions of 6 February 2013. Can the minister provide a list of clients who took up the initial offer to purchase recycled water? Can the minister provide a list of current clients who are purchasing recycled water? If the number of clients purchasing recycled water has decreased, could the minister advise what reasons, if any, were given for discontinuing. Finally, can the minister advise the prices charged for recycled water for all clients?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:18): I expect I can. I will seek those answers and bring them back in due course.

ABORTION DRUG

The Hon. J.S. LEE (15:18): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about an abortion drug.

Leaved granted.

The Hon. J.S. LEE: *The Advertiser* of Monday 11 February stated that women are buying abortion drug RU486 online and having abortions on their own at home because they cannot afford a doctor's prescription or cannot get to a clinic. Experts have warned that women getting the abortion drug via the internet could be getting a corrupted version and be putting their health at risk. Dr Peter Sharley, South Australian President of the Australian Medical Association, stated on ABC rural radio:

> The services for abortion in South Australian country areas are extremely thin and I do not think there are clinics in country South Australia that provide this service.

He also stated:

> I'd have to warn listeners to the greatest extent that to get any drug over the internet from overseas introduces a danger that is not worth taking—we don't know what's in that drug...it is a gamble.

My questions to the minister are:

1. What educational and safety programs will the minister advocate to safeguard South Australian women from the risks of bleeding and infection that may be associated with the abortion drug?

2. As the Minister for Women, what conversations has she had with the Minister for Health about setting up services in regional 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) (15:20): I thank the member for her most important questions and, indeed, the public should be extremely careful about buying any medications online because one has no control, or very little control, over what is actually in the medication and the quality of it—whether it has actually been through appropriate standards testing and is, in fact, safe for a person to take. So, irrespective of what the medication is, we certainly advise against that.

In terms of health education programs, that is obviously a matter for the Minister for Health, and I am happy to refer that part of the question to the appropriate minister. In terms of making sure that women are aware of the dangers associated with buying the abortion drug RU486 online, we have made sure that we have circulated the information that has come out about dangers associated with it. Certainly, the Minister for Health promotes that all medication should be taken under the advice of a qualified medical practitioner and, as I said, we advise against anyone going online for medications: it is just too risky.

In terms of health spends in country areas and the sort of commitment we have there, this government has invested significant funds in the country to ensure that patients receive medical care close to their homes and in modern facilities. Compared with the last year of the previous Liberal government, spending on country public health services has increased by $348.2 million, or 91.5 per cent. That is how much we have increased funding compared to the previous Liberal government. The 2012-13 state budget committed $728.5 million to public health services in the country, and I am advised that the following expenditure has occurred:

- an increase in haemodialysis activity in rural areas, up 17 per cent;
- the number of procedures conducted under the elective surgery strategy was a new maximum of 17,394 in 2011-12;
- $2.283 million was spent on minor works, with the major expenditure for upgrades to emergency departments at Cummins, Mannum and Victor Harbor;
- high voltage switch replacement at Port Pirie;
- a wide range of other minor works, in addition to $1.735 million spent in 2011-12 to purchase biomedical equipment, including replacement of anaesthetic machines in Port Pirie, Gawler and Mount Barker and other monitoring systems.

In terms of hospital beds, I am advised that there were 2,834 overnight hospital beds available on average across our system in 2011-12, and this is four more beds than the previous year and more than 233 extra beds than we had in 2001-02 when the Liberals were last in power. So, that is 233 extra hospital beds compared to the former Liberal government.

Under this state government we have also employed staff across the health system. In June 2012 there were 3,517 doctors working in South Australia's public system, and that is 119 more doctors in that year and 1,336 more doctors than in 2002 under the former Liberal government. So, 1,336 more doctors are employed now than the former Liberal government employed. There were 16,154 nurses and midwives—609 more than the previous year, which is a 3.9 per cent increase, and 5,178 more than in 2002. So, in terms of nurses and midwives, that is 5,178 more nurses and midwives than the former Liberal government had in place in 2002. There were 3,245 allied health and scientific professionals—175 more than the previous year, which is just under a 6 per cent increase, and 1,321 more than in 2002. Again, that is allied health and scientific professionals at 1,321 more than the former Liberal government in 2002. We not only deliver the goods, we put our money where our mouth is.

ANSWERS TO QUESTIONS

COLES CAMPAIGN

In reply to the **Hon. R.L. BROKENSHIRE** (15 September 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 Manufacturing, Innovation and Trade and Minister for Small Business has advised:

1. The Coles 'Down, down and staying down' campaign complies with the *National Code of Practice for Sponsorship and Promotion in School Education* which was developed by a working party of the Australian Education Council (AEC) in conjunction with the Industry Education Forum and the Business Council of Australia, parent and school council organisations, and teacher unions established to examine school-industry links. The joint working party was established at the 66th AEC Meeting (Melbourne, October 1991). The draft code developed by the working party was considered by Ministers at the 68th AEC Meeting (Auckland, September 1992).

Consultation with the Australian Competition and Consumer Council (ACCC) confirms that; 'It is difficult to see that such sponsorship would give rise to any competition issues under Part IV of the *Competition and Consumer Act 2010*'. Individual businesses could contact any school to engage in any sponsorship arrangements and provided the company does not present an ethical conflict, i.e. an alcohol, tobacco or similar business, then it is the decision of the school whether it engages or not.

Participation on the program is not in breach of any existing policies or guidelines and is entirely voluntary, however I understand that Hon. Peter Garrett AM MP, Minister for School Education, has raised the issue with the panel in charge of reviewing school funding arrangements. While many South Australian public, private and independent schools have chosen to participate in the program so far, I am also aware there are many South Australian schools that are not participating.

The Minister for Education and Childhood Development has advised:

2. Within the Department for Education and Child Development, participation in the Coles program is an individual decision for school principals and is not something that has been promoted by the department to its staff or schools.

3. Participation on the program is not in breach of any existing policies or guidelines and is entirely voluntary but principals are expected to always work closely with their school community to make decisions in the best interests of students and the local community.

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 February 2013.)

The Hon. S.G. WADE (15:28): I rise to speak on behalf of the Liberal opposition in relation to the Residential Tenancies (Miscellaneous) Amendment Bill and, in doing so, indicate our

support for the bill. Housing is one of the most basic needs of citizens. Having a stable home in which to build a life is one of the most important foundations of success in work earnings, education, maintaining positive relationships and the development of community spirit.

However, ensuring this foundation is fair, encouraged and sustainable is a delicate matter. The kind of arrangements dealt with by this bill quite clearly affect many of South Australia's most vulnerable. Tenants traditionally have been students, the elderly, those from lower incomes and those in transition. As urban lands become scarce and therefore more expensive we may well see renting become more common.

The ratio of average earnings to average house price has been increasing in recent years, meaning that owning a home in today's market is becoming more expensive proportionately than in previous decades. In contrast to the average tenant, landlords are often much more financially secure and independent. On the one hand they seek to be good custodians of their money; on the other hand they are providing a valuable social good.

Any market is susceptible to failure or vulnerable to malpractice. In a market for such an important social good as housing, it is in the public interest that fairness be promoted by an appropriate regulatory framework. As stakeholders have raised with us, there are few instances in life where such a power imbalance exists within a relationship between two parties to a contract. Because of this, there can be tension between landlord and tenant as each seeks to get the best deal from the arrangement. However, for any tenancy to be sustainable, it needs to be a mutually beneficial arrangement. The tenant needs to have the benefits of a stable home to base their life; the landlord needs to receive fair compensation for the use of their property, which will be at least sufficient to provide for the maintenance of that property.

For the most part, the opposition considers that this bill appears to get the balance right. The bill makes a number of changes, many of which provide for greater flexibility in the arrangements between landlords and tenants. This includes the new right of landlords to ask for an additional bond if a tenant intends to keep pets at the property; the restriction of property inspection hours; the right of tenants to seek compensation for losses incurred from the failure of a landlord to repair, or to take reasonable steps to repair, after notification by the tenant; and greater recordkeeping requirements.

The opposition has consulted widely with a number of stakeholders representing different parts of the sector, and we appreciate the wide-ranging advice we have received. A number of submissions raised the issue of balance between landlords and tenants and called for increased rights for one party or another. Other submissions raised concerns about perceived discrimination in the legislation and about the listing of persons on the tenant blacklist. Other concerns related to the enforcement of rights under the act through the tribunal and difficulties in the practicality of complying with measures.

The opposition has listened to these concerns and, as a result, we will be filing a number of amendments. I understand that the Hon. Mark Parnell and other members may also be filing amendments. It is my view that, rather than detail our concerns at this stage, it would be best to file the amendments and explain our position in relation to each amendment. With those words, I reiterate that the opposition will be supporting the bill but will seek to have it improved through amendment.

The Hon. G.A. KANDELAARS (15:31): I rise to speak on the Residential Tenancies (Miscellaneous) Amendment Bill 2012. Access to secure, appropriate and affordable housing is a vital element in meeting a number of the government's seven strategic priorities. These priorities include providing an affordable place to live, safe communities and healthy neighbourhoods, as well as creating a vibrant city.

The bill specifically seeks to provide a series of new protections for renters. It provides an increased level of certainty and control for anybody who rents a home in South Australia at all stages of any agreement they enter into. From the time they begin a tenancy, a standard form written tenancy agreement will be introduced, which will provide parties with an understanding of their rights and obligations.

The bill also provides protection for the tenant while they pay rent. Rent under a fixed-term tenancy will not be able to be increased unless at least 12 months have passed since the rent for the property was fixed or last increased. Currently, rent can be increased every six months. Also, landlords will need to allow tenants to pay their rent by at least one means that is not cash or the use of a rent collection agency. This provides greater flexibility for the tenant and prevents them

from being forced to pay through a collection agency, the service of which the tenant pays for. If a tenant provides a written request for a copy of a rent record, the landlord must produce one within seven days, limiting the chance of disagreements over rent payment.

Tenants' requirements are now better taken into account. Landlords will now be required to attempt to negotiate an entry time with tenants if they wish to be present during the entry. Currently, a landlord is entitled to enter a property, provided they have given valid notice, regardless of the tenant's wishes or commitments. Inspections and work on the property arranged by the landlord will only be allowed to occur at certain times, unless the tenant agrees otherwise, protecting the sanctity of the tenant's home and providing them with greater certainty.

In regards to ensuring the property is well maintained, a landlord will not be able to unreasonably withhold consent for an alteration or addition to the premises by the tenant. Landlords will be responsible for compensating tenants for their reasonable losses resulting from a failure to carry out repairs. Providing greater certainty while living in the property, landlords will be required to give tenants written notice of their intention to sell the property within 14 days of entering into a sales agency agreement or determining to make the property available for inspection. If the agreement needs to be terminated, the tenant will be able to terminate the tenancy agreement if, within two months after the start of the agreement, the landlord enters into a contract for sale of the property; and, the landlord did not, before the agreement was entered into, advise the tenant that they intended to advertise the property for sale or had entered into a sales agency agreement.

Parties to a fixed-term tenancy agreement will be required to give a notice of termination within 28 days of the tenancy, otherwise the tenancy continues on a periodic basis. Under this bill, people who rent a property in South Australia will be able to feel more secure in their rights, the agreements they enter into and the property they rent.

While doing all of this, the bill provides benefits to investors and the industry. The bill also provides protections for landlords, some of which include that landlords will be able to recover their reasonable expenses where the tenant is at fault, for example, replacement of rent books or fees associated with dishonoured tenant cheques. Tenants will be responsible for compensating landlords for ancillary property loss, for example, keys, and remote controls for doors and gates. Landlords who have properly served tenants with a form 2 for rent arrears twice in 12 months will be able to apply directly to the tribunal for vacant possession if the tenant is in arrears for a third time.

Improvements to the Residential Tenancies Tribunal process that will assist all elements of the industry include: the jurisdictional limit of the tribunal will be raised from $10,000 to $40,000, meaning that more matters can be settled through the tribunal rather than going to court; the tribunal will be able to determine an application without hearing based on documentation provided by the parties; and, allowing for a more smoothly-run tribunal with a broader scope.

Given the significant improvements this bill provides to tenancy agreements, the rights of tenants and landlords, as well as the Residential Tenancies Tribunal, I commend the bill to all members.

The Hon. M. PARNELL (15:38): The Greens support the bill. We believe it contains many worthwhile reforms and, whilst I do not propose to go through the list of 80 reforms, I point out that some that have had universal support across the whole spectrum of this debate—landlords' advocates and tenants' advocates—are things like: limiting the right of inspection to certain times of the day and certain days of the week; reform of the regime for abandoned goods; and, provisions providing for more notice to tenants if a property is being put on the market or to be sold.

A whole lot of issues generally have not been contentious and will be supported, I think, by everyone. As is the nature of these debates, my focus will be on the things we do not like in the bill and on the missed opportunities for further reform that can be addressed as we go through the committee stage of this debate. The Greens will have some amendments, and I will not go through them in detail now (I will do that in committee), but I will touch on some of them as I go through my remarks.

Before I start, I do want to put on the record, by way of declaration, a number of past interests that I have in this topic, none of which amounts to a conflict of interest but, since both my wife and I have worked in this field, I want to put these on the record now. Firstly, I am a former honorary convener of the South-West Tenants Legal Advisory Service which was a free legal

service advising residential tenants in the regional city of Warrnambool in western Victoria in the mid-1980s.

In relation to my wife, I acknowledge that she was a member of the Residential Tenancies Tribunal here in South Australia for 10 years in the 1990s and the 2000s and she had previously been employed in this sector in Victoria. So, on the subject of residential tenancies, I bring around 30 years of both personal and professional experience in this matter, and I guess I am not Robinson Crusoe in having been a tenant myself; most of us have at some stage.

In terms of what we are talking about in relation to this legislation, I am grateful to Shelter SA and to Dr Alice Clark for having pulled together a number of statistics which I think help frame this debate. The first thing to note is that around 25 per cent of private dwellings are rented and that means that a similar proportion of people—it is around 26 per cent of South Australians—live in rented accommodation. The bulk of these people, about 19 per cent, are in the private rental sector.

These figures do change a little bit over time because there have been some changes in emphasis, mainly driven by government policy. For example, up until the 1980s, there was a significant shift of people into public housing but after the eighties, and through the nineties and the noughties, there was a shift from public housing to private rental housing which was driven in part by the sell-off of public housing but more particularly by the shifting of federal funding from building houses for disadvantaged people to rent assistance.

Australia wide, according to a report by the Australian Housing and Urban Research Institute, more than one million low-income households that comprise the lowest two quintiles of household income are renters and twice as many lower income households live in private rental compared to public housing. So, whilst residential tenancies legislation only affects about a quarter of all South Australians, it plays a significant role in the lives of low-income households and low-income South Australians.

It is probably also fair to say that, traditionally, renting your accommodation was regarded as a transition to a more desirable form of tenure, namely, home ownership, but it is probably fair to say now that, whilst that still applies to many people, there is now more of a theme that renting is a residual tenure of last resort, to use the words of Shelter SA. How tenancy is perceived in the community has a strong bearing on the legislative framework and how the balance between the rights and responsibilities of landlords and tenants is struck, and I think everyone who speaks to this debate will refer to the balance—the rights and responsibilities of landlords and tenants.

I note that, certainly in this country, we do not have a culture of very long-term residential tenancy, long-term rentals. In some European countries, as people are aware, such arrangements can go for decades and they can even transcend generations, with the same family renting the same home over a very long period of time. We do not have that culture in this country and I think our legislation reflects that in the balance between landlords' and tenants' rights. It is, I think, reasonable to say that the balance is struck more in favour of landlords than it would be in countries where the culture is one of long-term renting by all sectors of the community, not just low-income families.

The balance between the rights and responsibilities of landlords and tenants can be looked at in a number of ways. At one level we are talking about someone's income-producing asset—or, in reality, their negatively-geared investment—and we are comparing that to the same property being someone else's family home. Whenever there is a debate around shifting the balance between landlords and tenants, it is always said that, if you get the balance wrong in terms of giving tenants too many rights, then that will have negative impacts in relation to the supply of housing, in particular the supply of housing for low income people. I am grateful, again, to Shelter SA for having addressed this in one of their submissions to this law reform process, and I will read a few sentences from the submission. Shelter SA refer to a report by Wait, and say:

> Wait writes that whenever tenant advocates focus on the need to offer greater protection to tenants through tenancy legislation, there is a cry from industry that it will lead to disinvestment. Concerns about landlord disincentives are not supported by research that indicates how taxation incentives have more influence on landlord decisions to invest in properties for lease rather than tenancy legislation.

They go on to say:

> While residential tenancies legislation may be perceived as an impediment to control of their investment by some investors, data suggests that there is no discernible effect on the supply of private rental housing from the introduction of reforms to tenancy legislation.

What that means is that members here need to be very careful whenever a measure is put forward that might be seen to give tenants greater rights, and members need to be very careful about getting on a bandwagon that is not supported by evidence and assuming that that will mean that private landlords will abandon the sector. There is no evidence that that happens.

In terms of tenure, the role of the state has been one of consumer protection to make sure that tenants have a right to quiet enjoyment. In other words, the role of legislation is to recognise that, whilst a property might be owned by someone else, the tenant has a right to live in that property with minimal interference, provided they meet their obligations in terms of payment of rent and keeping the property in good order.

So, freedom of contract is still the overriding consideration when it comes to the key elements of the residential tenancies contract, that is, the term of the lease and the rent that is payable, but there are other aspects that are regulated. One key issue is the notice period for ending periodic tenancies. Fixed-term tenancies are fairly straightforward. If you have rented a house for a year, you have got it for a year, but with periodic tenancies, whether it is a fixed-term tenancy that has, by the effluxion of time, morphed into a periodic tenancy, or whether the arrangement was always a month-by-month or a week-by-week proposition, there are statutory protections for both the landlord and the tenant, and the law recognises that people's circumstances change.

On the landlord side there may be a desire to sell the property, there may be a desire to undertake extensive renovations, or for the landlord to move in themselves or have a family member move in, and the law recognises that these circumstances should be able to be relied upon to end a tenancy provided that sufficient notice to the tenant has been given, and in those cases I have described, that is two months.

But there is also a provision that a landlord can enter a tenancy agreement and evict a tenant for no reason whatsoever provided they give three months' notice. In other words, if they do not like you, they can get rid of you, and the landlord is under no obligation to justify their action. Members will know what that means in practice, that tenants who request repairs or who dispute unreasonable landlord demands can be evicted, and proving that it was retaliatory or unlawful is almost impossible.

I would say that of all the provisions of the act that require reform, getting rid of no cause evictions would be the greatest reform that this parliament could make. Having that provision in the legislation is the clearest indication that the tenant is a second-class citizen whose desires will be subservient to those of the property owner. I refer to the submission of Adjunct Associate Professor Michele Slatter, who has also called for section 83 of the Residential Tenancies Act to be reformed. She says:

> A strong case may be mounted that this provision in the context of the Act breaches basic human rights. The Tribunal has no overriding discretion, as is found in overseas legislation. This means that [section] 83 constitutes an occasion of arbitrary eviction...It's time that [section] 83 was repealed.

Members might think that is sounding pretty tough and pretty radical, but what you have to remember is that no-one is forcing a landlord to keep a rental property as a rental property for ever and a day. If the owner wants to sell it, if the owner wants to move in, if the owner wants to renovate it, or if the owner wants to demolish it, all of those are covered in the legislation. What we do need to reform is getting rid of no-cause evictions.

In relation to disputes between landlords and tenants, the situation in South Australia is that we have a Residential Tenancies Tribunal, and that tribunal is overwhelmingly funded—it is paid for—by tenants. The main source of funding for the Residential Tenancies Tribunal is tenants; it is tenants' bond money that has been lodged with the department on deposit, and the interest on those funds pays for the tribunal.

So the tenants pay for it, but who uses the tribunal? It is available to both landlords and tenants but, in practice, 75 per cent of the applications are by landlords, and the bulk of those applications are to evict tenants. What we have is a dispute resolution mechanism funded by some of the lowest income earners in the state to provide a service that is used by some of the wealthiest people in the state to evict them; that is just wrong.

That is a very poor system, and this bill seeks to compound that situation in a number of measures, which we will get to in committee. One of the things that I think would be a worthwhile reform—it will not be part of our amendments; it is a broader issue—is that, if the tenants were credited with the interest on their money that is being held in this account, there would be no need

for landlords to seek further bonds once the value of the original bond has depreciated as a result of inflation.

A bond that represents four weeks' rent now will not represent four weeks' rent in 10 years' time, and so we have a system where the landlord can go back and say, 'You don't have four weeks' rent in the bond account anymore; you've only got two,' and the landlord can ask for more money. That would not be the case if the tenants were credited with the interest on their bonds.

I think it also invites us to revisit a decision the government made some time ago, and that is to charge people an application fee for applying to the Residential Tenancies Tribunal. It might not be a lot—I think it is about $37.50, from memory—but I think there is a case to be made that, given that the tenants are already paying for that service, they should not have to pay that extra levy as well.

One section of the Residential Tenancies Act that features a great deal on talkback radio, *A Current Affair* and *Today Tonight* is the section that deals with the tenant from hell—section 90. This section allows neighbours to get together and seek the eviction of a tenant as a result of unacceptable behaviour.

It is quite a remarkable provision when you think about it, because I can think of almost no other area of contract law in our country where third parties are allowed to interfere with a contract between two other parties. In fact, I will put a question on notice: can the minister outline any other area of contract law in this country where third parties have the right to interfere with privity of contract?

It is an unusual position, and therefore I think it is probably unique, but that is not to say that the harm that it seeks to address is not real. All of us are familiar with stories of appalling situations out there in the suburbs where people are running riot and are making their neighbours' lives an absolute misery. The question for us is: how do you deal with that sort of behaviour?

Much of that behaviour is criminal and needs to be dealt with through the criminal justice system, but the unfairness of allowing neighbours to get together to evict a tenant is that the same provision does not work in reverse. In other words, if the person who is causing the unacceptable behaviour in the community is the freehold owner of the property, then there is no capacity for anyone else in the community, at any stage, to seek for their removal.

People might have a prejudiced attitude and say, 'Well, bad behaviour only comes from tenants.' Well, of course it does not. I imagine most of the bikie fortresses and headquarters in our suburbs are probably owned freehold, probably paid for by cash, no doubt, knowing some of the activities these people get up to. My recollection is that Martin Bryant—who is probably never to be released from Risdon gaol—was a freehold property owner. There is all manner of people who own properties who have the capacity to behave very badly in the community, but no-one is allowed to do anything about that.

What would be really courageous of the government would be to introduce a neighbour from hell provision that treated badly behaved tenants exactly the same as badly behaved freehold owners. But certainly the government is proposing in this legislation to increase the range of people who can seek to intervene in a contract and to have a tenant evicted, and I do not think that that is the right direction to be going in.

One issue that is controversial in the community is the issue of pets in residential premises and the idea that a landlord can charge an additional bond—an additional security—for keeping a pet. The section, as worded in this amendment, is not at all clear. It talks about the keeping of animals, and it would seem to me that a person keeping a St Bernard dog is in the same position as a person with a goldfish in a bowl. Both of them are animals and for both of them, if they are being kept at the residential premises at the request of the tenant, the landlord is entitled to charge an extra week's rent by way of security bond.

The Hon. K.L. Vincent interjecting:

The Hon. M. PARNELL: The Hon. Kelly Vincent interjects in relation to goldfish, but it could be a lizard in a tank, it could be any kind of pet that causes either no or minimal risk to the property. So the approach that has been taken in various jurisdictions differs. Certainly in most of the UK and in America pet bonds are common. The RSPCA here in Australia has studied this area and they have shown that up to 30 per cent of surrendered animals are due to people moving house and moving into properties where pets are not allowed. The RSPCA has supported pet bonds in the past.

There are various other organisations, such as the Australian Companion Animal Council, that have not opposed pet bonds. Other groups have been more supportive. Certainly in the veterinary community there has been support for it, but in other areas they have been strongly opposed; for example, the Tenants Union of NSW strongly opposes pet bonds. They say it is discriminatory and they say, 'Why shouldn't we have children's bonds or mother-in-law bonds' and ask the question about whether pets are necessarily more destructive than children in rental properties.

I know we are here legislating and we need to draw the line somewhere, but that is making a reasonable point. We are going to be debating the ability to discriminate against children. But certainly when it comes to pets, we know that pets are important to many people, we know they are good for the mental health of many people and we do need to get the balance right.

In Western Australia they have a more nuanced approach. They focus on the real action which is cats and dogs; it is not goldfish. They focus on cats and dogs and they focus on that extra week of bond money being purely for fumigation or cleaning of premises that relates to the keeping of the pet. In other words, not just a bit of extra bond for some extraneous purpose.

In terms of other issues that we will be debating in more detail in committee, there is the question of whether a person, either a landlord or tenant, wants to go back to the tribunal for a second go, if you like, to seek a vary or set aside order, perhaps because they were not in attendance at the first hearing for whatever reason, and what should that window of opportunity be? The government is proposing to reduce it to two weeks: the Community Housing Council, for example, say that keeping it at three months actually can have a great deal of benefit for their vulnerable tenants. So that is, if you like, a landlord perspective saying: keep more flexibility and give a longer window of opportunity.

I have referred to no-cause evictions. Certainly the Greens have an amendment on that topic. With regard to the collection of additional bond money part way through a tenancy, as I have said, if tenants could keep the real value of their bond by having interest credited to it, there would be no need for that provision.

In relation to discrimination against children, I think that will be an interesting debate because, at present, it is unlawful to discriminate against children in residential tenancy accommodation, with a couple of exceptions. One exception is if you are living in the same house yourself, and people might think that is fair enough. If you are renting your back room, maybe you should be able to say, 'I don't want children.' But what if it is next door? What if it is an adjacent premises?

To what extent should landlords be able to try to socially engineer the demographic of their neighbourhood by actively discriminating against children in an adjoining property? You can see the situation where a landlord owns the property one side but not the other side, so they can keep children out of one side but they have no ability to keep them out of the other side because they do not own that, and they certainly cannot stop someone else moving in there with children. I think that is an issue we do need to explore.

Of the last two issues I want to raise, one has become a problem interstate, and that relates to the rollout of the National Broadband Network. What they found in Victoria is that the take-up was lowest in those areas that had a higher proportion of renters. The main reason for that was how difficult it was to get all the landlords to agree to sign the forms for the free NBN connection to be put through to their house. Most people would think you would have to have rocks in your head not to agree to have the fibre optic cable and the broadband connected for free to your house, yet it has been a real sticking point interstate. So the Greens are proposing that we add a provision which, basically, says that it is a tenant's right to have access to this infrastructure and the landlord should not unreasonably withhold consent.

The final point I would make is in relation to the increase in jurisdiction of the tribunal and the tenure of members appointed to that tribunal. What we are looking at here is a forum that exercises judicial or, if you like, quasi-judicial functions. They are going to have jurisdiction up to $40,000, yet they remain in their position, effectively, at the whim of the attorney-general of the day, with no formal process of either appointment or reappointment. The Greens' view is that, if we are going to give people quasi-judicial or judicial functions that provide for the exercise of powers that create rights and responsibilities, then we need to guarantee that the people who exercise that power are free from arbitrary dismissal or, in this case, non-reappointment after a fixed term period has expired.

That is a range of the issues that the Greens want to explore in the committee stage. As I have said, whilst it might all seem a very negative contribution, overwhelmingly the provisions of this bill are supported, and we look forward to its passage through committee.

The Hon. D.G.E. HOOD (16:03): Family First rises—I think it makes it unanimous, now—to indicate our support for this bill as well. There are a number of useful amendments to this bill which seem to have widespread support across the chamber, and we add our voice to that support. However, there are a number of concerns that Family First has with the bill. They are not what I would say barriers to our support for the bill but we would like to see them amended, if that is possible and appropriate.

I indicate that some of the issues raised by my colleagues who have spoken on this bill prior to me will, possibly, subject to the detail, enjoy Family First support as well. Those issues have tended to concentrate on the issues affecting tenants and, for that reason, I will not focus on that as much in my contribution today: I will focus more on the issues that affect landlords as such. However, we are sympathetic to the issues that have been raised affecting tenants, and will look upon them favourably when we get to the committee stage of this debate.

This bill contains a significant number of improvements and adjustments to the laws governing residential tenancies, as we know in this place. I approach these issues on the basis that the law should strike a fair balance. I think that the Hon. Mr Parnell said that all of us would say that, and he is quite right, between the rights of landlords and tenants. If, for example, the balance favours landlords, then hardship for tenants can result. If, on the other hand, the balance favours the tenants, this would have the effect of discouraging homeowners from offering their houses for rent in some cases. That could result in a shortage of houses on the rental market which could lead to higher rents in some cases.

My view is that, from an overall perspective, these amendments strike a fair balance and, as I said, Family First will support this bill. I do not intend to give a summary of the provisions in the bill, even though I have given them consideration; however, I intend to refer to several issues that my study of the provisions has raised. I put these forward by way of suggestions for members of this house to consider; they are not really matters that are in any way political in nature and they are matters that I think would not prevent me from supporting the bill but nonetheless require consideration of members.

The first matter concerns clause 22 of the bill which amends section 48 of the act. The heading is 'Information to be provided by landlords to tenants'. The clause provides that a landlord must take reasonable steps to ensure that a tenant is given manufacturers' manuals or written or oral instructions about the operation of any domestic facility requiring instructions. As I understand the term 'domestic facility', it refers to things such as ovens, heaters, dishwashers and the like that would be contained in a typical rental property.

The issue that concerns me is that if a landlord fails to comply with this requirement, he or she commits a criminal offence by failing to provide a manual and would be subject to prosecution and a fine of up to $1,250. The authorities also have the option of an expiation fee of $210 but they may or may not choose to utilise this option.

The words 'take reasonable steps' are vague and difficult to define. Many houses offered for rent are old and have older appliances in them. My expectation is that in many cases the owner will have lost the manual for the oven, for example, or perhaps it will have been lost by a previous tenant or perhaps the owner of the property. Perhaps the landlord never possessed the manual for the particular item (the oven or whatever it may be) installed in the house.

So, the question is this: is the landlord obliged by this provision to seek out a further copy of the manual from the manufacturer? In many cases, old instruction manuals would be obtainable but with some difficulty and in some cases, of course, they simply will not be obtainable. It seems to me that under this provision, every landlord will be obliged to make inquiries as to whether every lost manual can be replaced for every item in every house that they may or may not own and to take all appropriate steps to obtain a replacement where possible. Some manuals are available on the internet, and that is not too difficult to find, but many are not. Presumably those that are on the internet could be accessed just as easily by the tenant as the landlord.

It is my view that if a landlord has lost the manual for an old oven, whether through their own fault or that of a previous tenant or the fact that they never received it in the first place, and does not seek a replacement from the manufacturer, such failure should not result in a landlord

being prosecuted and gaining a criminal record possibly, as I read the bill, or even having to pay an expiation fee. It is simply over the top.

I acknowledge that a good landlord should provide the manuals and this is good practice; I am not saying that it is not. Indeed, I expect that most would do so in the hope that this would result in the item being looked after properly. I do not see that the creation of a criminal offence is appropriate here. For that reason, I would prefer to see the proposed section 48(2) deleted from the bill.

Another provision concerning the same issue is clause 41 which enacts subsection 69(3a). This provides that if a tenant unintentionally causes damage to the premises or ancillary property as a result of the use of a domestic facility requiring instruction (the oven, for example), the landlord is not entitled to compensation unless he or she has provided the instruction manual.

To illustrate the effect of this, consider a tenant using an oven where the instruction manual has not been provided. The tenant may be lifting a heavy cooking pot, for example, into the oven and may drop it, breaking the glass door of the oven. Even though the lack of the manual was in no way the cause of the damage, the landlord loses his or her right to recover any damage under this provision because of his or her failure to provide the manual. This just seems plainly silly. That is an inappropriate result. In my opinion, it would be best to leave such situations to the common law to sort out because we cannot legislate for every single eventuality. Far reaching and inflexible provisions such as this should not be enacted. I would prefer to see the proposed subsection 69(3a) deleted.

A different problem arises under clause 40, which amends section 68. An example is if a dishwasher does not work when a house is offered for rent. A tenant may specifically agree that the dishwasher is not required for their own purposes. The rent may possibly be discounted by, say, $25 per week, or something in that order, specifically for that reason and an agreement reached between the tenant and landlord—both parties are happy.

Under the existing law, and also under the bill, the tenant may still require the landlord to repair the dishwasher. This is because the obligation to repair is a statutory obligation that applies regardless of any agreement between the two parties. I see this as inappropriate. Why should the tenant not be able to get cheaper rent if they do not need that particular item repaired? A proviso should be added to the effect that the obligation to repair does not apply if the tenant has agreed willingly, in writing, that he or she does not require the repairs. This proviso, however, should not apply in relation to repairs required to make the premises safe, or anything that could pose a risk to anyone's safety.

My final point relates to clause 46, which adds section 73(3). This provides that a tenant is not required to pay rates and charges for water supply if either (a) the landlord fails to require payment from the tenant within three months of the issue of the bill; or (b) the tenant requests a copy of the bill but the landlord fails to provide a free copy within 14 days.

It sounds somewhat reasonable, but it is always the practicality that can be difficult in these circumstances. These provisions, particularly the latter one, may be very severe. If the landlord or his or her agent, for example, happen to be on holidays for a fortnight and for that reason fail to provide a copy of the bill, the tenant would obviously not have to pay the bill at all under this bill, which could be quite a substantial amount. This seems unreasonable if somebody is simply on holidays for two or three weeks.

If a landlord thought that he or she had sent a claim for water charges to a tenant but, three months later, realises that they had been mistaken or, indeed, could not prove somehow that the tenant had received the account—and how you would do that I think is somewhat contentious—then the tenant would obviously receive an unexpected windfall because they would not have to pay the bill. I do not favour provisions that provide for the adjustment of rights of parties other than on a fair and reasonable basis. In my opinion, this provision needs to be deleted or amended to provide for greater fairness.

Some of these are fairly minor points—and, as I said, I am not duplicating here: I am raising points that have been raised by other members—but they do have the potential to create some levels of injustice for either party on some occasions. As I said before, and I stress this: this bill is overwhelmingly beneficial and balanced, and Family First proposes to support it. I will leave the small number of specific issues, as I have raised here today, for consideration by other members.

I should just put on the record that I have never rented a property in my entire life. The Hon. Mr Parnell said that all of us have probably rented at some stage. I have not, but I will be a tenant very soon. We sold our property in recent days, and we will be renting for a little while, so I will be able to experience it from both sides. I look forward to bringing that experience to the next debate.

Debate adjourned on motion of Hon. R.P. Wortley.

FINANCIAL TRANSACTION REPORTS (STATE PROVISIONS) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 February 2013.)

The Hon. S.G. WADE (16:13): I rise on behalf of the Liberal opposition to indicate our support for the Financial Transaction Reports (State Provisions) (Miscellaneous) Amendment Bill 2012. On 14 November, the Attorney-General, the Hon. John Rau, introduced the bill in the House of Assembly. The bill amends the Financial Transaction Reports (State Provisions) Act 1992. This act forms part of a national regime created by the commonwealth's Financial Transaction Reports Act 1988 to monitor suspicious financial transactions. The commonwealth's Anti-Money Laundering and Counter-Terrorism Financing Act 2006 extended the regime to require a broader range of entities to report these types of transactions to AUSTRAC.

The government's proposed amendments to the Financial Transaction Reports (State Provisions) Act clarify the obligations imposed by the act on cash dealers to report financial transactions to AUSTRAC. The amendments are intended to make the obligations under the Financial Transaction Reports (State Provisions) Act consistent with those imposed by the Anti-Money Laundering and Counter-Terrorism Financing Act.

The national scheme requires transactions relating to events against South Australian law to be reported to AUSTRAC; however, the national scheme does not enumerate which laws specifically. The Financial Transaction Reports (State Provisions) Act obliges cash dealers to report to AUSTRAC any transaction that they suspect could be relevant to an offence against any law and the Criminal Assets Confiscation Act 2005.

The bill proposes to oblige cash dealers to report a transaction where they suspect the transaction is relevant to an offence under the Serious and Organised Crime (Unexplained Wealth) Act 2009. The amendment to the Financial Transaction Reports (State Provisions) Act merely emphasises the requirement for cash dealers to report transactions to AUSTRAC that relate to offences against South Australian law.

Currently the state act provides that, once information has been reported to AUSTRAC, the Commissioner of Police or an investigating SAPOL officer may only request further information from the cash dealer where further information is narrowly defined to be information relevant to the investigation or prosecution of an offence, or would assist in enforcing the Criminal Assets Confiscation Act 2005.

The government suggests that, on the advice of SAPOL, this definition is unduly restrictive and the definition consistent with the commonwealth's Anti-Money Laundering and Counter Terrorism Financing Act 2006 is appropriate. The bill proposes to expand the scope of further information to include information which relates to any purpose, power or function of SAPOL under any act or law. It is intended that this amendment will give SAPOL greater power to undertake necessary investigations.

Further, the state act will be amended so that persons who become aware of information as a result of the regime will be prevented from disclosing the information unless the disclosure is in the course of their duties. We are advised that this is intended to cover forensic accountants, lawyers, police and officers of the DPP, and so on. The Liberal opposition commends this bill to the council and will be supporting 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) (16:17): I do not believe any other members wish to contribute to the second reading of this bill, so I will sum up. I thank the Hon. Stephen Wade for his support and, as has been pointed out, the South Australian Financial Transaction Reports (State Provisions) Act, being amended by this bill, is part of a national regulatory regime set up by the

commonwealth. The current South Australian legislation complements the commonwealth's Financial Transaction Reports Act. The national regime was established to monitor suspicious financial transactions and requires certain entities to report information to the commonwealth about suspicious financial transactions.

The amendment made by the bill will ensure that the South Australian police are able to obtain information from the commonwealth that is reported to them under both commonwealth acts. The South Australian police are also able to request further information from entities that have made reports to the commonwealth. These amendments ensure that the current reporting requirement contained within the South Australian Financial Transaction Reports (State Provisions) Act extends to those entities now covered by the commonwealth anti-money laundering laws. I thank members for their support and look forward to this bill being dealt with expeditiously during committee.

Bill read a second time.

Bill taken through committee without amendment.

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) (16:19): I move:

That this bill be now read a third time.

Bill read a third time and passed.

LIQUOR LICENSING (SMALL VENUE LICENCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 February 2013.)

The Hon. S.G. WADE (16:20): I rise to speak on behalf of the Liberal opposition and express our support for this bill. The bill proposes to introduce the 12th class of liquor licensing in South Australia. We seem to have a liquor licence category for every situation imaginable, from clubs to hotels, special circumstances to entertainment, direct sales, retailers, wholesalers and restaurants. Now this bill proposes that a new class of licence be established, called the small venue licence.

We firmly support the idea of a licence that makes business more affordable and more attractive to entrepreneurs and adds life to our CBD. The government seems to be suggesting that by doing this, and in particular by removing the rights of residents, they are helping to deregulate the industry and therefore creating a more competitive market, but the proposal in itself is an admission of the failure by this government to provide the conditions for competitive business in South Australia. It is an admission that, after 11 years, the government has failed to establish a business environment that supports small business operators.

Businesses have been starved of opportunities. South Australia has the worst business conditions in Australia. South Australia has the highest taxes in Australia. In the September quarter of 2012, South Australia experienced a 28 per cent increase in insolvencies, the highest increase of all mainland states and almost three times the national increase. Winston Churchill once said of taxes:

> For a nation to try to tax itself into prosperity is like a man standing in a bucket and trying to lift himself up by the handle.

This bill is also an admission that this Labor government's bureaucracy has become so onerous that the only response they can think of is adding another one on top. Adding another layer of bureaucratic regulation does not equal deregulation.

On top of that, the Labor government has gone out of its way to promote a people-free zone in the CBD, including fighting tooth and nail in 2008 to close Adelaide's bars and clubs at 3am—a policy it still supports—introducing a new car park tax in the Adelaide CBD and introducing two part-day public holidays, which resulted in 66 per cent of South Australian restaurants closing for Christmas Eve and New Year's Eve in 2012, up 19 per cent from the previous year.

It is little mystery why small businesses are struggling to stay afloat and compete in Adelaide and across the state. Labor has been slamming on the economic handbrake while claiming to be pushing hard for economic growth, but this Labor government is relying on the

economic pedals being hidden from view to hide the fact that they have never known how to accelerate the economy or steer us towards growth.

The lack of direction is not just on the economic front. When it comes to alcohol policy in the CBD, they have been all over the place, swerving from one extreme to the other. While calling for a thousand flowers to bloom to unleash a new era of city vibrancy, the government has become tied up in its own contradictions, trying to be everything to everyone without delivering for anyone a coherent way forward.

They are calling for more bars while also saying they want bars closed. They say they want a vibrant city life but only for a few hours a night. They cut fees for small bars but only because they have put other licences out of reach of small businesses by jacking up licensing fees. They say they want to crack down on the availability of alcohol while proudly announcing they will put alcohol in every supermarket across the state.

They say they want to increase the number of live music venues by replacing licences that require venues to offer music with those that do not. They say they are responding to the needs of locals while removing the voice of the residents to be heard. They say that more police means less alcohol-fuelled violence but they cut $150 million from the police budget. This Labor government is drunk on power and has retreated to gutter politics to hide its consistent failings over 10 years.

They have accused us of opposing small bars when they knew clearly we supported them all along. They have attacked us for standing up for residents' rights by misleadingly claiming that it is about protecting the big end of town. The big end of town is strong enough to stand up for itself. These rights are there for residents and other South Australians. Let us remember that this bill allows any part of South Australia to become a prescribed area. That means it could potentially apply to any suburb, any neighbourhood, any street. It means that families are losing the right to say what happens in their neighbourhood.

The government proposal means that a large venue that has a capacity of 1,200 people would need to apply with all the usual appeal and community consultation provisions, but 10 venues side by side of 120 people capacity each would not. Throughout the debate on this issue the government has engaged in a dirty smear campaign in an attempt to impugn the integrity of the Liberal Party position. Not only did they incorrectly assert that the opposition was receiving direction from the AHA, but the Deputy Premier sent a threatening letter to the Law Society criticising them for standing up for residents and taking a position against the government.

Let me read a line from the Law Society's submission that the Deputy Premier was critical of, and I quote:

> In our view, the proposed amendments have placed too much emphasis on benefiting licence holders and licence users at the expense of others, especially residents and neighbours.

That the Deputy Premier would be so offended by such sentiment says a lot about the mentality of this government. This Labor government has repeatedly tried to stifle dissenting voices, from residents to independent organisations like the society.

The provisions within the act to provide for a right of objection and the ability for councils to intervene were designed to protect community interests. The government appears to be arguing that small venues should not have to comply with the usual community considerations provided they have a small venue (and they are therefore potentially a small/low risk problem). Ironically, the government's vision is to have a series of these small/low risk venues clustered together.

The government has shown that it is hell-bent on removing the right of residents to have a say about what happens in their neighbourhood, and it is a shame that they have tried to tie the fate of the small bar licence class to yet another attempt to silence community participation. The Liberal Party supports enhanced choice for consumers and a more vibrant city—small bars are a part of that bigger challenge. But the government seems to only know one way of operating: announce and defend. The short-lived mantra of 'consult and decide' hardly left the Premier's mouth before it was consigned to being yet another broken promise from a government that is clueless about what real leadership means.

It does not mean telling people just to live with the government's decision. It does not mean replacing residents' rights with a right to be ignored. Over the last decade of the Labor government, we have seen countless examples of the government riding roughshod over concerned residents, and repeatedly cutting them out of having a say about developments in their area. Need I mention the Cheltenham Park Residents Association, the Save the St Clair Group, the Mount Barker and

District Residents' Association or any of the thousands of other residents who have been treated with contempt by the government? The government has made it clear that it thinks it knows it all.

The government refers to other similar bar scenes in Melbourne and Sydney, both of which introduced a class of licence for small venues. But compare the government's capacity limit of 120 to that of Queensland where a small bar is defined as being licensed for 60. New South Wales has also announced that its small bar licence will soon have a capacity of 60 in some areas.

Now the Deputy Premier has said he does not intend for there to be bars set up in the southern end of the CBD, and in any case the legislation does not allow for a difference in capacity limits between different parts of the CBD. We know that, regardless of the stance of this place, the government has the numbers in the other place. We know the government would quite happily abandon the idea of small bars altogether if they thought they could blame it on the Liberal Party. We know that they have never really had the interests of entrepreneurs or small business in mind. Their economic track record shows that.

We have clearly and publicly stated our concerns about this bill, but we will not allow our legitimate concerns to be used as an excuse by Labor to hold up at least some relief for small business. Our concerns are on the public record. We will not be moving amendments to this bill. We as the Liberal Party have been consistent in our support for small bars, while strongly advocating for community interests. We have presented a coherent position on business trading across the liquor sector and have been strong advocates for opportunities for small business. This stands in stark contrast to the government.

As a Liberal Party, we also know that this reform is not the end point. This is but the start of some long overdue reform. It has taken the Labor Party 11 years to get to the starting blocks, and even now they are taking small steps. We look forward to putting the case to the state over the next 13 months as to why a Liberal government is the natural government for both small business and South Australia as a whole.

The Hon. CARMEL ZOLLO (16:29): I rise in support of this legislation. The creation of a small venue licence provides new commercial opportunities for entrepreneurs in Adelaide. It sits well with the Premier's announcement late last year to transform Adelaide's CBD into vibrant spaces that help to attract people to the heart of our city.

As a member of the Environment, Resources and Development Committee, I had the opportunity to see how a city like Melbourne has transformed its laneways into vibrant areas and allowed those with the initiative to commence new small businesses to take up those spaces and bring people back to the city.

We all want to see a greater population in our city, but clearly we need to provide greater reason to attract people to the city. They need to have a variety of destinations and attractions, and somewhere different to catch up with others if they so choose. This is of course another initiative by the government that will support new private investment in the city.

One of the most exciting developments that we have at the moment is the Riverbank precinct, and this initiative will certainly build on the investment being made along the riverbank. It will assist in the linking of the north and south of city. As an example, we have already seen the success of Leigh Street. I had reason to go out to dinner at a restaurant in Leigh Street recently, and certainly the vibrancy was clearly there for everybody to see.

The aim of the bill is to provide a liquor licence that is flexible enough to accommodate a variety of small business models: small food-oriented businesses that want to sell alcohol; businesses that operate as restaurants during lunch and dinner or on certain nights of the week but as bars outside those times; small specialist bars such as wine or whiskey bars; and small bars that provide patrons with an alternative to large, traditional hotels and nightclubs.

The government understands the importance of reducing red tape, and the small venue liquor licence does just that. We all know that the current forms of liquor licensing give any person the right to object to the granting of a licence, and that the conciliation and legal processes an applicant needs to follow to deal with an objection can be drawn out and time consuming. The process for small venue licences will streamline this process, allowing the licence to be obtained more quickly and subsequently make the small venue licence an affordable option.

We are aware that industry participants have said they find navigating the current liquor licensing system expensive. One owner of Udaberri, on Leigh Street, said last year that the business spent $30,000 trying to find a suitable licence for their business. I reiterate that the small

venue liquor licence supports those wanting to invest in our capital city and is an important step in making a Adelaide a more vibrant city.

As part of the government's plan to activate many of the city's laneways, the licence will generate interest in the establishment of hole-in-the-wall type venues which have flourished well in other capital cities. The sort of venues the licence will encourage fit well with South Australia's passion for good quality wine and food.

We market ourselves in this state as a lifestyle state, with good, clean, green food and wine. We need to offer alternative ways of being able to experience that lifestyle for those who live in the city, for those who work in the city (to give them a further reason for staying on after work), and for those who visit the city.

The sorts of wine bar venues that operate in and around the riverbank in Melbourne have demonstrated how such venues can add to the character of a city. It is something that would certainly be appreciated by the tourists who come here to South Australia and obviously to Adelaide in particular.

The proposal also provides provisions to encourage small venues to host live music—an area in which I definitely know our President has a strong interest. This will encourage business activity and diversification in the liquor market, and promote the live music industry. It will not only help encourage new venues but will assist established ones who want to operate under more flexible licences. Due to the restrictions of small venue licences on capacity and trading hours, venues will be more manageable, limiting the potential danger to patrons, and will encourage a broader range of people into the city to indulge in good quality venues.

I am pleased to hear the Hon. Stephen Wade say that the opposition supports this bill and will not be introducing amendments, but given that some in the opposition have sent out conflicting messages in recent times as to whether they would support this legislation, I think it worthwhile reiterating that this proposed legislation mirrors or is similar to that operating well interstate.

It is also my understanding that up to 12 parties have already expressed an interest in taking up this new proposed licence and there are more to come in the next few years. It makes enormous sense to see a different venue option for the CBD to attract people to the city and to add character to our city and I would urge all honourable members to support this legislation.

The Hon. T.A. FRANKS (16:36): I rise to speak on behalf of the Greens and indicate our support for the Liquor Licensing (Small Venue Licence) Amendment Bill 2012. This bill before us amends the Liquor Licensing Act 1997 and it provides for a new category of liquor licence aimed at providing flexibility to the owners of small venues. I would stress that word 'venues'. It is not just bars that we are talking about. We are talking about a whole range of small venues. It does so by offering a new streamlined process for small venue licence applications and those are applications of up to 120 in capacity. Although I would note that not every one of these venues will indeed be the maximum amount. Many will be much smaller, but some indeed will be that number of 120 and that capacity is both internal and external.

Certainly, to give people an indication, I visited the Cuckoo Bar (which was mentioned in the debate on this bill in the lower house) and I understand that has a capacity of 112 or thereabouts. That is, to my mind, a small venue, and I certainly encourage anyone who is down the west end of Hindley Street to pop in and have a look at their venue at some stage and to see the niche market that they cater to and take note of the licence that sits on their wall, which is an entertainment licence but which prohibits that venue from acting as a nightclub, a karaoke bar and a few other categories.

I asked them at the time whether they had any indication on how they were to avoid being seen as a nightclub given that they actually open until the wee hours of the morning and so, in fact, would not necessarily apply to this particular category of licence given that they go well beyond 2am or, in fact, the midnight standard cut-off for this new licence. They said that, when they did ask, they were told by the licensing official that if they did not have too many flashing lights then they probably would not be mistaken for a nightclub. I did point out that they had a disco ball above a dance floor, they did play dance music and they did operate at night, but so far, luckily for them, they have not had much trouble with the licensing commission.

The licences that we are typically looking at here are restricted to the hours of operation of 11am until midnight, unless there is an application to have an authorised extension of up to 2am. This is important in terms of the standard licence that will, in fact, remove the additional current

consents required around entertainment. Certainly members would be aware that I have a private members' bill to remove the definition of entertainment other than those prescribed adult entertainment areas from the Liquor Licensing Act as they are archaic in their application, and the nightclub definition given to the Cuckoo Bar is just one example where there is certainly a need for better clarity.

Entertainment beyond midnight will, however, still require the additional entertainment consents and will open these small venues, should they choose to open between midnight and 2am, to that quagmire of the liquor licensing enforcement telling them that they can or cannot play particular types of music or that their TV set being two metres by two metres-plus square is, in fact, a form of entertainment. The culture cops may, indeed, be knocking on their door to ascertain whether or not dubstep was on the licence and whether or not techno was played in the wee hours of the morning.

Members interjecting:

The Hon. T.A. FRANKS: You think I am joking. The licensees who had this experience know that I am not. I am deadly serious when I say I am glad to see, and welcome seeing, that particular issue has been addressed with this category of licence, but I put the government on notice that it needs to happen across the board. There are many venues that not only are restricted in the types of entertainment that they can provide, which is legal entertainment, but are given genre restrictions which are dictated by somebody who has nothing to do with the arts industry or, in fact, any expertise in music or entertainment, but by liquor licensing. It is a totally inappropriate level of bureaucracy and simply opens the gates for those people to end up in our court system paying the ridiculous amounts that they end up paying in what I believe is a lawyers' picnic, the liquor licensing regime in South Australia.

Getting back to the specifics of this bill, it will also only specifically apply to designated areas in the CBD. It enables the small operators to avoid satisfying the current needs test and therefore avoid the challenges from the big operators. The example that has been given, but it is certainly a common one, is that of a small operator wanting to provide Coopers' products or Port Dock Brewery ginger beer. They may, in fact, have opposition from their competitors should their competitors already be providing that type of alcohol. They may be providing it in a very different context and, certainly, the people that they would be providing it to may not want to go to their competitors to buy that product but, at the moment, under section 58, their competitors can force the point on that needs test—and, indeed, do.

The Attorney-General in the other place noted that, in fact, it led to particular venues being forced not to provide Australian and local alcohol, and I think that should be taken on board in this debate. In fact, in these particular cultures, we should be really supporting South Australia and supporting local produce, and that includes the alcohol that we serve.

The aim of this licence is, indeed, part of the government's seven planks, if you like, and that is to provide a vibrant city. At the moment it is focused on the CBD but I note that, after a year, there are provisions within this bill to see this particular licence expanded. What I will note at this point is that it was odd listening to the debate in the lower house where the members for Morphett and Schubert wanted the provisions of this bill for their local regions or electorates, yet there were some concerns being raised about how it would work in the CBD.

I believe that the government is taking a positive step in what is, in effect, a trial of these types of licence for South Australia, and working with one single council, which is the prescribed body. Council planning requirements will all still apply to these licences. All of the current regimes around ensuring that all of the due planning and application processes are followed and, in fact, licensing fees and so on, will still apply. Residents and councils will all still be able to ensure that a venue is operating under what are reasonable expectations and, certainly, such requirements as being a fit and proper person, and so on, will still all apply. There will be abilities for a venue to be seen as not appropriate and I would like to hear from the government some further elaboration on how we will ensure that there are not, in fact, undue problems as a result of this new licence category or any conflict with residents in particular in the CBD.

I have heard assurances from the government on this and I am willing to hear those assurances again and on the record in *Hansard*, but the record is not good on proper consultation and so the fact that this bill can be changed by regulation at any stage (I presume after the year trial from the minister) does not give me the greatest of comfort because this government's track record is not the best in terms of real consultation. So, I seek from the government some indication

on how that process of a possible rollout of these provisions will be undertaken and what safeguards there are in the current practice to ensure that this new category of licence will not lead to undue and unforeseen effects, particularly with regard to residents.

However, it will indeed support small business and the diversity of small business. As I said, it will be a boon for live music and the cultural aspects of our city—all very laudable and welcome things. It will encourage diversification of the options available. It will provide jobs and, while they will all be on the smaller side of the industry, I think that is no bad thing. In fact, that is something that the Greens champion—local industry and small enterprise. But we have a long way to go and we are playing catch-up here.

While this is a trial for South Australia, I would note that WA, New South Wales, Victoria and, as was mentioned, Queensland, have all got similar licences to this. They all vary slightly in terms of the exact timing and the exact category but in general you can call them categories of small bar licences around the country. I will take up the point mentioned by the Hon. Stephen Wade and note that Queensland introduced a small venues licence or a small bars licence at the level of 60 but it was raised to 100 in April 2012. It was raised because many of those small businesses were finding that the numbers were not viable to sustain those particular venues. So, that was much welcomed within the industry there.

Now I move to the general debate that we have seen. We have seen this issue, I guess, become a lot more divisive than it needed to be. We have seen the AHA portrayed as being in opposition to this bill. As a Greens member, I would not accept money from the AHA and would not always agree with the AHA, but on this point when we had conversations with them they were far more concerned with the Late Night Trading Code of Practice and the supermarket sales of alcohol than they were with this bill. I put that on record. In fact, while there was some mention of their support for either 80 or 90 being the upper limit of this bill, they have always insisted to me that they would be comfortable with about 100 but, to use the words of Ian Horne, they were not going to die in a ditch over it.

It was a debate where we have seen the AHA in some ways vilified. We know that the AHA is an effective lobby for their members. Many of their members are suffering and trying to support live music and being hampered by the entertainment consents and other issues around liquor licensing, and the AHA knows full well that it is not in their best interests to have a regime that sees their members before the courts unnecessarily as well. They would like to see some of the provisions in this bill extended to their members as well, and I think that is fair enough. Certainly, it should not be an us-and-them debate when we are talking about a small venue versus an AHA member like the Wheatsheaf Hotel in Thebarton. It is a proud supporter of live music. Many members of the AHA are proud supporters of live music.

I wanted to put that on the record and also to note that the Clever Little Tailor on Peel Street has been much touted in this particular debate as well as suffering at the hands of the big players, and yet the AHA has actually been working with the Clever Little Tailor. It does not get the headlines, it does not buy into the polemics that is played out in this debate. I note that Crispian Fielke, one of the directors of the Clever Little Tailor, approached the AHA last September or October. He actually had a good conversation with the AHA. He went to them sounding out any likely objections that their bar might encounter, and my understanding is that they have worked quite constructively together.

What the AHA undertook to do was to help that venue lodge their application in a manner that avoided legal costs and unnecessarily alarming others in the precinct. That venue has now been granted a licence. It was granted that licence on 20 December without the requirement for legal support directly relating to that process. In fact, the AHA now provides the Clever Little Tailor with IR, health and safety and general licensing advice. That is the work of a good advocacy body, a union, if you like, or an industry representative—whichever way you wish to view the body. They are certainly effective in serving their members; they have the expertise. Certainly on this particular issue, I reiterate that they were not lobbying us to oppose this bill, and I thank them for their input.

We did not actually receive a direct submission from the Rundle Mall Management Authority, but I understand that that particular body, as reported in the media—and apologies to them if it is incorrect—was more favourable to an upper limit of 80 for these venues. I do note that Rundle Mall in fact covers a very small part of the area covered by this bill, so, while they may be comfortable with that particular limit in their precinct, it certainly was not something that was widely advocated by other bodies for across the CBD.

I want to commend in particular the active work of those who have a commitment and a passion for live music, not just in Adelaide but across Australia, and in particular SLAM (Save Live Australia's Music) which, for the past three years, has actually been galvanising support for retaining and supporting live music in this country. It has had to do so because live music is indeed under threat.

Members will be aware that I will move a motion tomorrow supporting live Australian music, and indeed SLAM. I note that this Saturday, 23 February, is SLAM Day around the country. There are many venues where people can go to see a live gig this Saturday night. I will provide members with more information about that tomorrow, and I hope to see you out there, Mr President, as I know you often are.

I thank Ryan Winter in particular from SLAM, as well as both the venues and artists who are banding together, most notably led by people such as Paul Kelly, who we know as a proud South Australian musician. Everything from Taasha Coats of The Audreys and bands like the Hilltop Hoods—all proud South Australian musicians who make their living from live music. I hope this bill goes some way to ensuring that future emerging artists can also make such a living from their music.

I also want to acknowledge the work of Raise the Bar. Many members would have received email communications from Raise the Bar over the past year or so. Raise the Bar has been a very successful campaign in alerting us to a really strong community groundswell in support of better liquor licensing laws and also better support in general for live music. In particular, I thank John Wardle for his input. I note that Ianto Ware was recently elevated to the live music coordinator position nationally, and his involvement with Raise the Bar and also locally in ensuring a great culture in Adelaide must be acknowledged.

The Law Society advice on this bill advises a reluctant opposition. I note that the Attorney-General has been highly critical of that advice. Given that it also advises a reluctant opposition of my bill to remove the entertainment definition from the Liquor Licensing Act, I would possibly echo the Attorney-General's opposition and lack of acceptance of that particular advice, possibly not as aggressively as the Attorney-General, but certainly no less passionately in terms of being committed to real reform that supports vibrancy in our city.

I have spoken with a number of venues and licensees over the past year, but also specifically in relation to this bill, many of whom have had terrible journeys. Suzie Wong's Room in the Charles Sturt precinct on Port Road has had all sorts of issues because the licence regime at present does not reflect their particular business model. Certainly they have ended up facing prosecution for the fact that they went with a particular licence, because they could not find quite the right one to fit the square a peg into the round hole, but they have entertainment, food and alcohol and it is a fabulous little establishment. But, whilst they were allowed to have entertainment, of course, as many members would be aware, they were not allowed to advertise that they had entertainment.

They in fact found themselves before the courts, having been monitored by the police who watched not only their Facebook page but also made sure that they did not put up posters outside the venue. They have quite needlessly and unnecessarily faced prosecution for advertising that they have a band on a particular night, playing in the front window while people enjoy their meals. Probably they would have benefited greatly from this particular category of licence, which certainly fits our current business and entrepreneurial climate far more, but certainly it will not apply because they do not fall into the catchment zone of the CBD.

A venue like the Tuxedo Cat will be too large for this. There seems to be some confusion among the general public and some MPs alike (and I will not name them) that this category applies to the pop-up bars we see, particularly around the Fringe and Festival periods. It is certainly not what we are talking about here, but rather the ongoing holes in the walls, for which Melbourne is rightfully known but which are emerging more and more across all the capital and major regional cities in Australia, and Adelaide should be no different.

There is a demand for these venues and, if there is not, they will of course go out of business. The business model will decide whether or not they succeed or fail, but what should not decide whether they succeed or fail is the ability of competitors to drag them through the courts, with tens of thousands of dollars in legal fees racking up before they can even open the door. That sounds a little like a fear campaign, but I have heard time and again of this happening.

Most of the industry I spoke to, however, have just as many concerns regarding the late night code of practice and whether or not their venues of over 200 (which in some cases can be still quite small, if they are just over 200) will be required to have things like metal detectors and CCTV and the onerous burden that that may require of venues that are doing the right thing, that do not have a bad track record, that have never had instances of violence and have never needed the police to come out to their venue for any situations of alcohol-related violence, that do the right thing and provide a convivial and pleasant atmosphere. Those venues are a little concerned that that will similarly see them unable to conduct their business.

I will at this point note that it is nice to see the government championing small enterprise and small bars and not buying into the law and order rhetoric that it normally does, and for a change to be debating a liquor licensing bill in this place without that law and order debate being used to beat the opposition and the crossbenchers on the head. I will at this point acknowledge the work of the Hon. Michelle Lensink of the Liberal Party, who has been a long-time champion of exactly the type of businesses we are talking about in this bill. Certainly she is responsible for the current committee of inquiry that is looking into barriers to small licensees.

Small licensees actually will be greater than the 120 we are talking about in this particular small venue licence, and certainly that work should not be ignored by government. I think it is an important part of the parliamentary process to have proper scrutiny and to give these particular licensees and other stakeholders—not only in the live music sector but across these sorts of cultural and entertainment enterprises—a voice to be heard and to ensure that our legislation in fact reflects the 21st century and not the 19th century as I think, sadly, some of our Liquor Licensing Act does.

While this has been a polemicised debate, it has actually been fantastic to see people actively engaged in this debate. Whether it is the Facebook pages or whether it is people ringing in to talkback radio, it certainly has people fired up. It certainly has Matt and Dave wondering why everyone cares about small bars. I can tell Matt and Dave that it is actually because people do care about culture, music and having a quality of life and not just going to work and coming home and watching TV.

As I said before, a venue with a TV of under two metres by two metres, a poker machine or piped music is not subject to the same restrictions as a venue where you have a poet doing spoken word or where you have a band that plays on a Saturday night or where you have people basically engaging in creativity to while away their leisure time or, indeed, being gainfully employed as a DJ or to be paid a little bit as a musician or to paint a scene and then sell that artwork as often happens at the Dragonfly Bar.

There are all sorts of things that this particular licence will enable that currently our archaic laws in fact restrict. With that, I do welcome that new-found commitment across the board, I believe, and the passion that we have seen from the community, not just from young people but from a wide diversity of ages and types of people who want more out of life. They want a real quality of life and they value the arts.

I would note, however, those people who are very supportive of live music would be very disappointed that, in the past 11 years, this government, which was dragged kicking and screaming to establish a live music fund of $500,000, has in fact never increased that amount by a single cent in the whole term of the Rann-Weatherill government. I certainly call on the Rann-Weatherill government to increase its funding to live music in the near future if they have a serious commitment to live music. If Labor loves live music, as they say both in the New South Wales and South Australian campaign pages, then I would imagine they will back up that loving live music with cold, hard cash.

I acknowledge the President's commitment and note that he, Michelle Lensink and I were all at the Jade Monkey some time back, and a then member of the Premier's staff, Lois Boswell, also joined us. It was the controversial 'pizzagate' night when the Lord Mayor, Stephen Yarwood noisily handed out pizza. It was a forum on live music and liquor licensing in this state. It has been fantastic to see the journey we have taken in putting forward issues and barriers that are facing licensees, musicians and those who want this vibrant Adelaide. It has been fantastic to see such a range of activity. Whether it is the live music Thinker in Residence, whether it is this particular bill before us or whether it is a whole myriad of other initiatives, I do welcome them.

However, we still have a lawyers' picnic. We are still far too adversarial in our approaches here when it comes to resolving issues. With the Jade Monkey, of course, that venue still has yet to

open its doors in its new chosen site, and it has yet to do so because they are suffering from the current restrictions of taking up what was the Heaven licence in that particular location at St Paul's, which had quite significant restrictions which applied to a nightclub that had had some issues.

Certainly it was a very different venue in nature to the Jade Monkey, yet it is not the Jade Monkey's record that is being looked at and it is not the Jade Monkey's licence that is being transferred to that new venue. It is in fact the Jade Monkey being required, again, to fit the square peg in the round hole of the St Paul's venue. I do hope that we will soon see the Jade Monkey's doors reopen, and that the next time we are having such a forum we will be celebrating our achievements of actually having extra money for live music in this state, real support for a vibrant city and beyond, and something like what we are seeing in New South Wales—an approach that is much more conciliatory.

I draw members' attention to a particular iconic venue in New South Wales, the Annandale Hotel, which is pretty much dying a death of a thousand cuts as it deals with the legal fees associated with noise complaints from residents. It is a long time venue, and an iconic pub that has had bands there for a very long time, and I commend the work of both Jamie Parker, member for Balmain, and also the new Lord Mayor of Leichardt, in looking at a different way of doing this, in keeping things out of the court, setting up processes for conciliation and monthly meetings between residents and venues, and having accords and so on—the things that the Hon. Michelle Lensink and I have been talking about for many years, and that is certainly the way forward.

I would love to see further legal reform in the area of liquor licensing that looks at these conciliatory approaches, the carrot approach—and creating communities and working with communities and consulting with communities—rather than the stick that I think we are going to be seeing in the near future with the law and order debates, and the Late Night Trading Code of Practice. I will have some questions during the committee stage, and I commend the bill to the house.

The Hon. J.M.A. LENSINK (17:06): I rise to make some comments in relation to this bill and I am pleased to follow the Hon. Tammy Franks in her contribution, and also the Hon. Stephen Wade, who is the lead speaker for the Liberal Party in the Legislative Council on this bill. I note that this is a timely debate as it comes prior to mad March, but the Fringe has opened, and we have the Festival and a number of events coming so, no doubt, this legislation will be passed hopefully in time for some venues to establish and to be able to serve the people who will be in and around the city for those events.

I would like to thank the Hon. Tammy Franks for her contribution and her part in the mutual appreciation society on this piece of legislation. The Liberal Party does support small bars and we always believe in reducing unnecessary red tape. The Hon. Tammy Franks was the organiser of what she titled 'The big night out' in April 2011 when we visited a whole lot of venues for 6½ or seven hours—

The Hon. T.A. Franks: It was daylight saving so there was an extra hour.

The Hon. J.M.A. LENSINK: Daylight saving indeed, so we got the extra hour in there as well. That was a very useful experience to understand liquor licensing issues and issues facing venues, and some of those young entrepreneurs who wish to open venues which perhaps do not fit within the normal constraints of our liquor licensing laws. The Hon. Tammy Franks also referred to the Jade Monkey forum in May last year which was attended by three members of this chamber, and yourself, Mr President, and we look forward to some live music performances by yourself at some stage—

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —when that may occur! There were a range of difficulties that licensees had experienced. Some of them were quite difficult to comprehend and they were having ongoing problems with regulators. I would like to commend the Hon. Tammy Franks for her work. She has a fine-grained appreciation for this particular issue and she ought to be listened to. If the government had any sense, it would consult her on these issues. A number of us have probably also had meetings with Ianto Ware both in his capacity as the CE of Renew Adelaide and his other capacity since he has moved on.

I first raised this issue in parliament in July last year to refer it to a parliamentary committee, which had gone there as of late last year, but the government said no to that particular inquiry so it will be interesting to see whether we can come up with any other provisions that are

not in this bill. It is not what I would describe as a large bill; it has 13 clauses so, in the scheme of things, it is not huge. In moving that motion in July last year on small bars, I made the following comments:

> A number of these people who are involved in starting up small venues do not use merely the selling of alcohol as their primary source of income, but they do require it as a revenue stream to subsidise their core business such as an art studio or a video game lounge and it is something that their patrons expect. They might go there for a show and they want to have a glass of wine, beer or whatever it is they want to have. I think that is perfectly reasonable, and I do not think that those sorts of businesses in any way present a major threat to safety in the city.

Mr President, I stand by those comments. The committee has now advertised, including on Twitter, and has received a number of submissions, so we look forward to its deliberations.

In July last year, when I happened to be in Melbourne on a private trip with my husband, we took the opportunity to look at some of the laneway venues. Melbourne is often cited as a city that does things differently, and I do note that the city of Melbourne includes pop-ups and laneways, as well as what the Hon. Tammy Franks refers to as 'holes in the wall'. By day, the spaces for some of those laneway venues are used as loading zones or for rear access for businesses. By night, adjacent cafes often take over those spaces with alfresco tables.

One venue that Scott and I were particularly taken with was Chuckle Park, located in the CBD, where service was provided from a caravan and the space was decorated with plants and a fair amount of kitsch. I took a picture of its liquor licence, as members of parliament are wont to do, and I do note that it is in fact a restaurant and cafe licence. I think some of the licences that are provided for all those innovative places that operate in Melbourne probably come under various licence classes; maybe they do not have the issue of the culture police that we seem to have in South Australia.

We did not specifically seek out premises which might be covered by different licensing; it was more of an incidental look, so we cannot describe it as anything of great—

The Hon. G.E. Gago: A bar crawl!

The Hon. J.M.A. LENSINK: Not a bar crawl, minister; not at my age. We also attended a live music venue where one of Scott's old band mates was playing; he was once in a band called Kelvinator in his early 20s, and people can see clips on YouTube if they care to do so. So, we visited the Corner Hotel in East Richmond, which is well-known and which is obviously a pub. We did not come across any of the small bar licence venues in our small non-pub crawl.

To return to the issue in South Australia, unfortunately, Labor was not interested in working collaboratively, as far as I am aware, with any of the other parties—certainly not with the opposition, neither through a committee or by sharing the submissions they received. I would like to say more on that towards the end of my speech.

In my understanding and reading of the Liquor Licensing Act, I believe that it must seek to strike a balance. In recent years, this parliament has debated a number of areas which have aimed to update the regulation of liquor licensing: one being preventing harm; secondly, regulation of liquor outlets; and, thirdly, measures which relate to protection for local residents.

In relation to preventing harm from the overconsumption of alcohol, we have had changed definitions of intoxication, but those have not been utilised to any great degree. We also try to prevent harm by preventing the intrusion at licensed premises by undesirables, and so this parliament has supported things such as barring measures and expiations or on-the-spot fines for people who behave badly in licensed premises. My leader in this place, the Hon. David Ridgway, was a very outspoken advocate for that particular measure, and we amended that particular clause to include bad language, which is often a precursor to violent behaviour.

Secondly, in relation to the regulation of liquor outlets, I would also like to refer back to the debate that we had in 2011, which was a ridiculous attempt by this government to shut down the night-time economy. The Legislative Council proudly stopped that piece of nonsense, which Labor's own supporters (particularly United Voice) did not support, and the government's performance left it rather red-faced as it sided with the knee-rug and Horlicks brigade who cannot understand, 'Why do young people need to be out so late?'

One of the documents that was provided to me by the government in favour of that bill was researched by the New South Wales Bureau of Crime Statistics and Research entitled, 'The association between alcohol outlet density and assaults on and around licensed premises'. Its conclusion was that 'limiting the density of alcohol outlets may help limit the incidence of assault',

and while I have just stated that I do not believe increasing the incidence of small bars will lead to increased violence, I do believe that the use of that document shows the level of hypocrisy of this government. Indeed the minister said at the third reading of that bill on 28 July 2011:

It is important that we look at the evidence before us and the evidence is quite clear. The evidence shows that alcohol-related incidents, particularly around our entertainment precincts, are on the increase.

Later in that speech, 'This problem is getting progressively worse.' I put on the record two questions for the government: does the government stand by those specific comments; and, secondly, what evidence can they provide regarding the number of incidents over time?

We then saw the introduction of a new tax on licensed premises which would have sent a lot of small licensees into financial difficulty through the so-called risk-based licensing, which was restructured only after well-known Adelaide DJ, Driller Jet Armstrong, organised a Facebook petition of over 4,000 people. That was two years ago. It has taken the government two years to come up with something as it has tried to rebuild some bridges with the sector, and as has been noted by certain journalists, the small bar licence amendments do not cost anything, so it is something that they can bang on about as an achievement.

I turn now to the third issue that I think the legislation seeks to deal with, which is protection for local residents, and this is something that should be of concern. I think we should try and minimise conflict between residents and licensed premises wherever possible. On radio the Attorney-General and planning minister has been dismissive of potential conflict with local residents, and this is in spite of the fact that he is bringing into the city a regime known as Catalyst Science, which is a really anything goes, mixed-use developments and the very places where residential apartments will exist along with all sorts of other uses including bars.

The Liberal Party believes that the best opportunity to resolve conflict is at the front end and my understanding is that, in practice, the right of objection by residents usually leads to conciliation conferences, and the court process is probably something that is used more often by competing bars and that should be addressed by some other means.

The Hon. Stephen Wade and I did some media on 7 February, and this solicited a letter which was dated the following day by the Attorney-General, and I would just like to read that into the record for the benefit of debate. It says:

Dear Michelle,

I write regarding your comments on Adelaide radio on 7 February 2013 about the Liquor Licensing (Small Venue Licence) Amendment Bill 2012.

In particular I note your remarks about consultation you have undertaken with small venue 'stakeholders' regarding the proposed capacity of a small venue licence.

He then goes on to quote me, and I said:

'Our view, and...representations that we've received from stakeholders, supported 80.' (891 ABC Adelaide. 7 February 2013.)

Over the last six months I have met with a number of key groups in this debate including existing small venue operators and industry bodies on numerous occasions.

The overwhelming feedback of this consultation was that a maximum capacity of less than 120 persons would make such a venture entirely unviable and would remove the very flexibility that this Bill intends to provide. Groups such as Renew Adelaide and the Adelaide Fringe argued strongly for a capacity of up to 150 persons.

In contrast, the only group I am aware that has argued for a capacity of 80 persons is the Australian Hotels Association. A position which is indeed identical to the Liberal Party's current position—

which is not correct—

For my benefit, it would be appreciated if you were able to provide further advice as to what interest bodies have determined 80 persons to be an appropriate number and the arguments that have been put forward by these groups in favour of this capacity, along with any submissions they provided to you.

Yours sincerely, John Rau.

I replied to the Attorney-General and would like to read that into the record. I wrote:

Dear John,

Thank you for your letter dated 8 February 2013 in relation to my comments about the Liquor Licensing (Small Venue Licence) Amendment Bill 2012 made on ABC Radio on 7 February 2013.

The Liberal Party sought feedback from a number of stakeholders as part of our due diligence process. The Law Society of South Australia—

and the Hon. Stephen Wade has made comments on this—

believes that the current legislation does not require amendment. The proposed capacity of 80 was contained in a submission from the Rundle Mall Management Authority.

We did not receive written submissions from Renew Adelaide or the Adelaide Fringe. Indeed, considering the vast resources of the State Government, especially when compared with those afforded to the Opposition, it would be most appreciated if you would supply copies of all the submissions you have received on this issue. In turn, and upon request, I will be happy to retrieve all relevant submissions made to the Liberal Party.

Furthermore and most importantly, it was not an AHA proposal that both you and the Premier continue to erroneously refer to as the source of the Liberal proposed amendment.

Perhaps, also you were not aware that I stated you were misrepresenting the Liberal Party's position in that same interview in which you stated:

...hopefully we'll get it through. But it'll be over the opposition of the Liberal Party, it seems...

As South Australia's chief law officer I trust that you did not intend to utter such a gross misrepresentation of the facts, but rather were uninformed that the Liberal Party does support the bill.

You would be aware that the Liberal Party and the Legislative Council opposed your government's attempts to shut down licensed premises across the State from 4-7am in 2011, so we welcome your belated embrace of the late night economy and the vibrant city agenda.

In closing, I look forward to further cooperative relations with you on this and other issues. Indeed, I would greatly appreciate if you would apply the same haste you have exercised in this matter to your significant tree laws which, despite lobbying from several Members for more than a year, have failed to spur your office into action or resolution.

Yours sincerely, Michelle Lensink.

I am pleased to support the bill. I look forward to further reform and, indeed, I welcome the fact that the Attorney-General acknowledged that this whole debate has highlighted the need for additional reform in the liquor licensing area.

The Hon. K.L. VINCENT (17:22): I will speak briefly this evening on behalf of Dignity for Disability in support of the Liquor Licensing (Small Venue Licence) Amendment Bill. When I say 'briefly', I should say that I mean briefly, unlike some of the ridiculous circus that has been going on in the public realm over this debate in the past few weeks. In fact, I believe a media commentator (in fact, the Hon. Ms Franks mentioned him), Mr Matthew Abraham, speculated recently that this issue is taking up too much of our leaders' time.

Of course, I am always one for healthy debates and discussion and amendment to legislation and, certainly, I think that this issue should matter to all of us, because it clearly matters to a lot of people in our community. However, I will go as far as to say that on this matter we do seem to be going round in circles to some extent. People are not recognising the evolution of culture, venues and entertainment and, especially, of 'hipsterness' in this town.

If you are not sure what a hipster is or, indeed, what a hipster bar is, you should certainly get yourself down to one of them, particularly the ones that the Hon. Ms Franks has already done me the service of mentioning, but I will certainly talk about one in particular, later, because they are an often overlooked and undervalued race in our society, the old hipsters—or young hipsters, as it would be, fittingly.

As members have no doubt noticed, while I am not necessarily the most typical young person you would have come across, as I put it to my staff member just a few minutes ago when we were working on the speech, I am hip to the extent of knowing where it is at: I do not always know what it is, though. But, I am young, and chances are, hopefully, I will be alive further into this century than most of you here in this chamber will be.

Members interjecting:

The Hon. K.L. VINCENT: No offence. In my future years I would like to live in a city where people stop making jokes about the lights turning out at 9pm. I would like it to be a pulsating (I am sick of using the word 'vibrant') place. We need to imagine South Australia as the pulsating state. 'The Pulsate State'—I like it! I would like it to be a pulsating place where people can enjoy a diverse range of arts and culture, live music, festivals and general good times. So, I want young people to be able to do their 'thang'. I would also like international backpackers and world travellers to land here and take advantage of our city centre and all it has to offer. I would like people to add

Adelaide to their itinerary rather than bypassing it on a flight between Sydney and Perth, and that ain't going to happen when you are carrying on like this.

There has been endless harping on about Queensland's similar small venue licence, but I think we could also look further abroad. I think we need to look at places like Spain and Portugal, and I have attempted to research this via the library but it turns out that the provision of information in English is somewhat limited—I guess, for understandable reasons. Unfortunately, when it comes to European languages, French has always been my thing as well as a bit of Spanish but when it comes to Portuguese I let myself down more than I would like. C'est la vie.

In Spain, many people drink and eat at tapas bars. They eat and consume drinks, including alcohol, while standing. Just because they are not sitting down to a five-course meal does not mean they are not eating and consuming alcohol responsibly. It is just often the way they do food in Spain. We have moved past a steak and three veg dinner or a 'schnitty' at the pub being the only food options available in modern multicultural Adelaide. It is 2013, people. Let's get with the program. Debating whether a sit down meal is available is not really relevant to this day and age nor to the type of venue that we are talking about in this legislation.

I believe the city of Lisbon, the capital of Portugal, has the highest density of small bars in the world in the Bairro Alto region. Most are small bars you would not know existed in daylight but that open up onto streets in the evening and, in some cases, the early hours of the morning. Sure, it is not perfect and at times there is antisocial behaviour, as there can be in any size bar, but for the most part residents and bars exist in harmony.

It might be providing entertainment in a different way to what we are used to doing, but I believe that is the way we should be heading. Quite frankly, it is far preferable to the huge venues that need dozens of muscled security and metal detectors to ensure the safety of its patrons with that safety still not guaranteed as we have so tragically seen in recent months.

Udaberri, which has already been mentioned for good reason, in newly regenerated Leigh Street is a good example of what this type of new category licence could apply to. At Udaberri they provide tapas and pintxos and one can consume enough food to account for an ample meal. Whilst I have not been there myself as yet, my staff assure me that the food, drinks, music, service and atmosphere at this venue are fabulous. It is young people doing good things in a new way in a place that was previously a pretty quiet part of town, and I think we should encourage more of this.

The debate about numbers is perhaps a relevant one but I do not think that reducing the number to 80 in terms of capacity under this legislation is necessary. There are significant expenses in providing a bar for up to 120 people. Security, for example, is a considerable cost burden and I believe reducing the numbers to 80 on this licence would make some bars not financially viable. For instance, 120 could be enough to tip over the threshold in terms of needing extra security but 80 patrons would not necessarily provide the opportunity to recoup those costs. A bar like Udaberri, to my understanding, has never had fights or bikie brawls, nor any police callouts. It is really not small bars that are responsible for antisocial behaviours, shootouts and drunken riots. These small venues are not the ones whose operations we need to review. I commend the bill to the council.

The Hon. J.A. DARLEY (17:29): I rise briefly to indicate my support for the Liquor Licensing (Small Venue Licence) Amendment Bill 2012. As members would know, the bill amends the Liquor Licensing Act 1997 to provide for a new category of liquor licence aimed at providing flexibility to the owners of small venues and a new streamlined process for licence applications.

It is intended to encourage small specialist bars, hybrid venues that operate as restaurants during peak mealtimes, small bars outside those times and live music venues, the sorts of venues that are becoming increasingly popular, particularly amongst those seeking an alternative to nightclubs, hotels and large entertainment venues. More to the point, it is intended to rejuvenate the city and make use of the many underutilised laneways in the Adelaide CBD.

In terms of the streamlined application process, the main features of the bill are that applications will be determined by the commissioner and there will be no general right of objection but, rather, a general right to make submissions. Venue capacities will be limited to 120 people. The police commissioner will retain the right to intervene in an application and will retain the right to seek a review of the commissioner's decision in the Licensing Court on 'fit and proper person' and 'public interest grounds'. Applicants will also retain the right to seek a review of the commissioner's decision.

The bill has been the subject of consultation, and I understand that the government has had feedback from stakeholders on these issues. One of the main points of contention revolves around what the magic number ought to be in regards to the capacity of small venues. As it currently stands, the government is sitting at 120 and the opposition, as I understand it, at 80.

Various stakeholders, including the Australian Hotels Association, Renew Adelaide, the Adelaide West End Association, the Rundle Mall Management Authority and the Adelaide City Council, and, importantly, small entrepreneurs, who typically run specialist bars, have also expressed a view on this and other issues to varying degrees.

The AHA's position is that a capacity of 120 is a large venue when considering that there will be no obligation for dining and that the majority of existing licensed venues have a capacity of much less than this in their main bar rooms. They contend that if this category of licence is in fact to be a low entry point for young entrepreneurs then a more realistic capacity reflecting this would be much less than 100, and perhaps around 60 to 80. The Rundle Mall Management Authority has also indicated a preference for a capacity of 80.

Renew Adelaide, the Adelaide West End Association and many small entrepreneurs, on the other hand, have, as I understand it, indicated their support for the government's position, both in relation to capacity and other aspects of the bill. Small entrepreneurs in particular have expressed concern that the current licensing regime simply does not accommodate the kind of businesses that they are seeking to establish in Adelaide, predominantly because of the associated high cost and red tape.

The general consensus appears to be that, under the current regime, applicants seeking to open small or hybrid venues will agree to just about any condition on their licence—including, in at least one case, restrictions on the types of beers they can sell—just to get their foot in the door. Further, they simply cannot compete with larger hotels in terms of objections, red tape and operating costs.

The complaints about high costs relate more to the amendments regarding objections rather than capacity, and I tend to agree that a more simplified process, whereby the commissioner can make an assessment of an application without the need for a tribunal hearing and without a formal objection process, would be beneficial.

I have considered the issue of capacity in particular, predominantly from a viability point of view. In fact, just last week, I paid a visit to Udaberri in Leigh Street and discussed the issue at length with Rob Dinnen (one of the co-owners of that venue) to get a feel for what existing venue operators thought about the proposed amendments. I was pleasantly surprised at how nice a venue is Udaberri, and my visit also gave me a pretty good indication of just how small are some of these venues. From memory (and I may have to be corrected on this) Udaberri currently has approval for a maximum capacity of 121 without furniture and 96 with furniture. This includes 16 outdoor places. Given that the venue is furnished, its actual capacity inside is limited to 80. Walking into the venue you get an immediate sense of a different sort of atmosphere to, say, a pub, and there is no question that it caters to a different sort of crowd to large entertainment venues and nightclubs.

I am told that it is the sort of place you go perhaps after work to unwind or for a drink with friends. It is a very relaxed atmosphere. You do not go there to dance and party—you go there to share a bottle of wine with friends and socialise with other like-minded people. It is one of a number of unique boutique-style venues around Adelaide's CBD that is gaining popularity because it provides a long overdue alternative to the venues we are more accustomed to.

Back on the issue of capacity, as I see it there is absolutely no point introducing these new measures if the number we attach to the bill is going to be unviable for the operators of these venues. In terms of other states, we know that some jurisdictions have capacities of much less than 120, and in some cases half that number, but it is important to note that those eastern states also have four times the population of Adelaide. It is therefore much more viable in those states for small venues to operate with smaller capacities than it would be in Adelaide. What is more, a maximum capacity of 120, if that, will probably only be reached on two or three nights a week. During the rest of the week many venues would probably only just break even.

With respect to issues concerning building amenities and the like, I understand that any venue seeking approval for a capacity of 99 or more would have to go through the ordinary Building Code of Australia approval process. This bill will not alter that in any way. For these reasons, I indicate that I will support capping capacity at 120.

In closing, we know that businesses across the board are struggling in today's economic climate. In fact, just today we heard news of the fact that the Norwood precinct is looking very bare because lessees who simply cannot afford their overheads are closing their doors. Any suitable steps likely to inject economic activity back into an area should be welcomed. If the amendments prove beneficial in the CBD, then I would welcome similar measures in other areas of Adelaide as well.

I should add that, like other members, I am concerned about encouraging a culture of alcohol and excessive drinking, and I certainly would not be supportive of the proposed measures if I thought they would contribute to this. In short, I do not think they do. I note the comments of the Hon. Tammy Franks about the regulations, and I would also like to hear from the government on this issue. With that I support the second reading of the bill.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (17:38): I do not believe there are any further second reading contributions, so by way of concluding remarks I thank all honourable members who have contributed to the second reading debate and thank them for their support for this important bill. The bill is a very important step in the evolution of Adelaide becoming a more vibrant city that supports creativity and entrepreneurship. The small venue licence needs to be introduced to provide flexibility and capacity to allow these venues to flourish in our city.

I was particularly pleased to see that the Liberal opposition is prepared to support this bill, even though they were dragged kicking and screaming into this space. We know that they were not particularly supportive at the outset, but I am pleased that they have seen the error of their ways and seen how important it is that this bill go ahead, and I am very pleased that they now bring their support to this important bill.

Bill read a second time.

In committee.

Clause 1.

The Hon. J.M.A. LENSINK: I made these comments in my second reading speech: we were advised in the debate in 2011 that alcohol-related violence in the precincts of licensed premises was on the increase, and it was this minister who made those comments. Does the minister have any data she can provide to support those comments that she made at that stage, and can she comment on what has taken place since?

The Hon. G.E. GAGO: I am not aware of any recent or new data in relation to alcohol-related violence. I am certainly aware of data that I brought into this place some time ago when I was minister for liquor licensing and, if I recall, that data showed a relationship between the hours that a licensed premises was open (particularly around clubs) and alcohol-fuelled violence.

I believe it showed a peak in episodes somewhere between midnight and 3am and then through to 6am. These licences that we are talking about here come under a standard licence until midnight and they would need to apply for an extension until 2 o'clock if they wanted to and they would need to meet provisions required to extend their licence. Our view is that many of these premises will only want to operate until midnight.

The Hon. J.M.A. LENSINK: I thank the minister for those comments. What about the issue of the density of licensed premises?

The Hon. G.E. GAGO: We have put into this bill a number of safeguards to reduce any associated or potentially related episodes, or increase in alcohol-related episodes such as limited hours and the smaller capacity of people.

The Hon. T.A. FRANKS: Can the minister advise if, under any circumstances, a venue applying and holding this licence will be able to trade beyond 2am?

The Hon. G.E. GAGO: No.

The Hon. T.A. FRANKS: Could the minister with reference to the prescribed area outline exactly where this bill will apply, in terms of the prescribed area, and what safeguards there would be in terms of residential areas in the city, and the introduction and opening of venues using this licence?

The Hon. G.E. GAGO: I have been advised that in the first 12 months a prescribed area would be the CBD, so it is limited to the CBD. After that it can be extended beyond the CBD but only by regulation which can be disallowed. There are also requirements around consultation for that with the council and other prescribed bodies in section 40A(4)(a) and (b). I am also advised and reminded that these provisions do not affect planning laws so they remain in place, and these venues can only be placed in those zones that have been appropriately designated for that type of establishment.

The Hon. T.A. FRANKS: Would the minister like to outline which zones that applies to?

The Hon. G.E. GAGO: Basically those zoned to take other than non-residential development.

The Hon. T.A. FRANKS: I note that the provisions of this bill could be expanded beyond the CBD after a year, and that the minister, as she quite rightly identified, under clause 8, new section 40A. New section 40A(5) states:

> The minister must consult in such a manner as he or she thinks fit with the prescribed bodies in relation to any proposed regulations declaring an area to be a prescribed area.

Can the minister outline what that process is intended to be in terms of the government's intentions? Do they intend to expand this bill after a year; how will they consult and work not only with local councils but with other potential bodies who can also be added to this list; and will councils be able to approach government to take up these provisions?

The Hon. G.E. GAGO: I am advised that nothing definitive has been decided at this point in time, but it is believed that it is highly likely that councils will approach us and request to have the same sorts of provisions available to them, particularly in relation to designing, developing or adding to entertainment strips. We have not defined who the prescribed interests are, but obviously all key stakeholders will be consulted. Groups such as the AHA and the unions, etc., are obviously key players in this, and we are committed to consulting in a genuine way.

The Hon. T.A. FRANKS: I have one final question: will venues be able to have burlesque entertainment?

The Hon. G.E. GAGO: I have been advised that, at this point in time, we have not finalised our list of prescribed entertainment; however, I am advised that it has not included considerations around burlesque entertainment, but it has excluded adult entertainment.

Clause passed.

Remaining clauses (2 to 13) and title passed.

Bill reported without amendment.

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) (17:55): I move:

> That this bill be now read a third time.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (CHEATING AT GAMBLING) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (17:55): I move:

> That this bill be now read a second time.

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

Leave granted.

> The risk of match-fixing and allied cheating at gambling is a serious issue. It is now notorious that internationally, links have been identified in professional sport between organised criminal groups and match-fixing, illegal betting, money laundering, and corruption. Allegations of improper behaviour involve not only players, but referees, coaches, officials, support staff and players' agents. It is also notorious that players and those engaged in sporting codes such as international cricket and national rugby and Australian Rules codes have been caught

engaging in various methods of manipulation of games or gambling to gambling ends. For example, Pakistani cricketers' deliberate no-balling incidents are well-known.

The criminal groups which are exploiting professional sport overseas have a strong historical involvement in illegal gambling and gaming and this has been an important source of income for these groups. Sport has simply become a new market for these groups to exploit.

On 10 June 2011, Australian Sports Ministers signed, on behalf of their governments, Australia's first National Policy on Match-Fixing in Sport with the aim of protecting the integrity of Australian sport. Under the National Policy, all Australian governments agreed to pursue, through their Attorneys-General, a consistent approach to criminal offences and penalties, including legislation by relevant jurisdictions, in relation to match-fixing.

At the meeting of the then Standing Committee of Attorneys-General (SCAG) on 21 and 22 July 2011, Attorneys-General agreed to establish a Working Group to develop a proposal and timetable for a nationally consistent approach to criminal offences relating to match-fixing. At the Standing Council of Law and Justice (SCLJ) meeting on 18 November 2011, Attorneys-General supported the development of consistent specific national match-fixing offences with a maximum penalty of 10 years imprisonment.

A suitable standard of offences and penalties needs to be established that would meet the standard required by the National Policy, that is, laws that reflect the seriousness of match-fixing offences and act as a deterrent.

The SCLJ Working Group on Match Fixing held a series of meetings designed to develop nationally consistent guidelines for the development of match fixing offences in each Australian jurisdiction.

In the meantime, the New South Wales Law Reform Commission had been given a reference on 'Cheating at Gambling' and had undertaken considerable research and analysis in this area. The Commission reported on the subject in Report 130 in August 2011.

Existing legislative arrangements vary across States and Territories. All States and Territories agreed that their framework of existing offences, both at common law and in legislation, deal with the agreed match-fixing behaviours in almost all circumstances. These are detailed below. However, it was also acknowledged that there may be some gaps in the coverage required, in particular to achieve a consistent national approach to the criminal offences relating to match-fixing.

The SCLJ Working Party on match-fixing in sport developed a set of descriptions of behaviours that should form the basis of nationally consistent criminal legislation. The descriptors were generally agreed by Attorneys-General at the SCLJ meeting on 18 November 2011.

Match-fixing behaviour 1: A person intentionally fixes or influences the outcome of a sporting event or contingency for the purposes of causing a financial benefit for him or herself or for any other person or a financial detriment to any other person. Actions could include:

- deliberate under performance;
- withdrawal (tanking*);
- an official's deliberate misapplication of the rules of the contest;
- interference with the play or playing surfaces; or
- any other action or omission designed to influence the outcome of a game or contingency.

**Note: actions where the intent is to gain tactical advantage, for example, a more advantageous draw, or more advantageous draft picks are not subject to any offences.*

Match-fixing behaviour 2: A person provides or uses insider information relating to a sporting event for the purposes of directly or indirectly (through a third party) placing a bet on a sporting event or contingency where he or she knows or is reckless as to the fact that the outcome of the sporting event or contingency has been fixed.

Match-fixing behaviour 3: A person accepts a benefit for the purposes of fixing or influencing an outcome of a sporting event or contingency whether or not that action occurs.

Match-fixing behaviour 4: A person offers a benefit for the purposes of fixing or influencing an outcome of a sporting event or contingency whether or not that action occurs.

Match-fixing behaviour 5: A person such as a betting agency or bookmaker accepts a bet on a sporting event or contingency where he or she knows that the outcome of the sporting event or contingency has been fixed.

Match-fixing behaviour 6: A person offers another person a benefit for the purposes of fixing or influencing an outcome of an event or contingency and encourages that other person not to report the approach to the sporting organisation, event or competition organiser, or the police.

So far as the last is concerned, criminal law policy dictates that there should be a positive act of concealment rather than merely a failure to report.

A survey of jurisdictional arrangements found:

- Through existing *Crimes Acts* and *Gambling/Wagering Regulation Acts,* every jurisdiction has legislation that addresses most of the elements of match-fixing behaviour 1 (match-fixing conduct).

- Match-fixing behaviour 2 (misuse of inside information) in its narrower form (that is, knowledge of a fix) is largely addressed by applicable existing legislation in most jurisdictions.
- The majority of jurisdictions, including South Australia, have provisions within their respective *Crimes Acts* relating to provision of secret commissions/bribes that address many of the scenarios anticipated in match-fixing behaviours 3 (acceptance of a benefit) and 4 (offer of a benefit). The coverage of such provisions is likely to depend upon the issue of whether a principal-agent relationship can be established between the parties seeking to fix an outcome.
- The Northern Territory *Totaliser Licensing and Regulations Act* (and a number of other NT Acts), and the *Unlawful Gambling Acts* in NSW and the ACT would cover most, if not all, scenarios anticipated in match-fixing behaviour 5 (betting agency accepts a bet knowing the outcome is fixed). The general fraud offence under section 408C of the *Criminal Code* in Queensland would also cover this behaviour. In situations where the betting agency is aware of the fix because they are part of the scheme, Victoria believes the general offence of conspiracy to obtain a financial advantage by deception may cover this behaviour. South Australian general fraud provisions and conspiracy to defraud would cover these situations.
- Match-fixing behaviour 6 (concealing match-fixing conduct) is covered in most instances in the ACT under bribery and conspiracy to defraud offences, and extensions of criminal responsibility such as incitement and complicity. Attempted fraud offences under Queensland's Criminal Code would also cover this behaviour. No other jurisdiction would seem to directly address this behaviour within any applicable existing legislation, however some jurisdictions are of the view that it would fall within match-fixing behaviour 4 (offer of a benefit for the purposes of a fix).
- The current range of penalties varies across the jurisdictions, with different offences ranging from a fine, to a maximum of 10 years imprisonment depending on the jurisdiction and the offence.

The New South Wales Law Reform Commission reported and included in its Final Report a draft Bill. The draft Bill covers the agreed match fixing behaviours.

The national Working Group developed a set of national drafting instructions. The New South Wales Draft Bill has been used as a template to implement the national agreement.

Despite the coverage by the criminal law described above, the Working Party recommended the enactment of specific legislation. Specific legislation is likely to have a greater impact on preventing and dealing with match-fixing by:

- providing clear signals to the public as to the criminal aspects of match-fixing behaviour;
- clearly defining the reach (on the one hand) and the limits (on the other hand) of the behaviour determined to be criminal;
- enabling law enforcement agencies and the courts to more effectively deal with match-fixing behaviour through a clear set of offences; and
- demonstrating a commitment by governments to addressing the issue of match-fixing.

The Bill proposes a range of offences directed at the determined match-fixing behaviour and modelled on the New South Wales Bill. These are engaging in conduct that corrupts a betting outcome, facilitating the corruption of a betting outcome, concealing the corruption of a betting outcome, and using corrupt conduct information or inside information for betting purposes. Generally, the maximum penalties involved are set at the 10 year level and, again, generally, subjective fault elements of knowledge, recklessness and intention must be proven for such serious offences.

It should not occasion alarm that the definition of 'corrupts a betting outcome' requires proof to the satisfaction of a jury that the conduct 'is contrary to the standards of integrity that a reasonable person would expect of persons in a position to affect the outcome of any type of betting on an event'. Where an offence or offences covers a potentially broad range of conduct that is inherently morally ambiguous, it is not uncommon to include this kind of evaluative element to ensure that those who technically break the letter of the law are not ensnared by a net designed to catch those who are much more seriously involved. Examples that show this are the fault elements of 'dishonestly' in theft and fraud offences, 'improperly' in public corruption offences, 'corruptly' at common law, 'criminal negligence' and 'offensive behaviour'. These evaluative elements function to winnow the wheat from the chaff.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Insertion of Part 5B

A new Part is being added to the Act.

Part 5B—Cheating at gambling

144G—Interpretation

This provision sets out the meaning of various terms used in the proposed new Part.

The offences in the proposed new Part apply where a person engages in various types of conduct, knowing or being reckless as to whether that conduct corrupts a betting outcome of an event. This clause defines what is meant by engaging in conduct that corrupts the betting outcome of an event. This refers to conduct that affects or would be likely to affect the outcome of betting on an event, and that conduct does not meet the standards of integrity that a reasonable person would expect of a person in that position.

Betting is defined to include placing, accepting or withdrawing a bet and a reference to betting on a event also includes betting on any contingencies that are connected to the event. An event is any event, whether or not it takes place in this State, on which it is lawful to bet under an Australian law.

The offences set out in the proposed Part require that the person acted with the intention of obtaining a financial advantage or causing a financial disadvantage. Obtaining a financial advantage is defined to extend to gaining a financial advantage for oneself or for another person, retaining a financial advantage, or inducing someone else to do something that results in a financial advantage for oneself or another person. Causing a financial disadvantage includes causing a financial disadvantage to another person or inducing a third person to do something that results in another person suffering a financial disadvantage. It is not necessary to prove that a financial advantage was actually obtained or that a financial disadvantage was actually caused.

144H—Engaging in conduct that corrupts betting outcome of event

This provision makes it an offence to engage in conduct that corrupts a betting outcome of an event. It is necessary that the defendant knew or was reckless as to whether the conduct corrupts a betting outcome of the event and that the person intended to obtain a financial advantage or cause a financial disadvantage in connection with any betting on the event.

144I—Facilitating conduct that corrupts betting outcome of event

This provision contains three offences. Firstly, it is an offence to offer to engage in conduct that corrupts a betting outcome of an event. Secondly, it is an offence to encourage another person to engage in conduct that corrupts a betting outcome of an event and thirdly, it is an offence to enter into agreement that corrupts a betting outcome of an event. In each case the person must know or be reckless as to whether the conduct corrupts the betting outcome and the person must also intend to obtain a financial advantage or cause a financial disadvantage in connection with any betting on the event.

144J—Concealing conduct or agreement

This clause provides that it is an offence for a person to encourage another person to conceal from a relevant authority either conduct, or an agreement, that corrupts a betting outcome of an event. The person must know or be reckless as to whether the conduct or agreement corrupts a betting outcome and must also intend to obtain a financial advantage or cause a financial disadvantage in connection with any betting on the event. A relevant authority is defined to mean the police or a body that has the official function of controlling, regulating or supervising an event or betting on the event. An authority can also be of a kind prescribed by regulation.

144K—Use of corrupt conduct information or inside information for betting purposes

This provision makes it an offence for a person who possesses either 'corrupt conduct information' or 'inside information' (knowing or being reckless as to whether the information is corrupt conduct information or inside information) and that person either bets on the event, encourages another person to bet on the event in a particular way or communicates the information to another person knowing they are likely to bet on the event. The corrupt conduct information or the inside information must be relevant to the bet. Corrupt conduct information is defined to mean information about conduct that corrupts a betting outcome. Inside information is defined to be information that is not generally available, but if it were, would be likely to influence persons who commonly bet on the event in deciding on whether or not to bet or to make any other betting decision. It is not necessary to prove that the person encouraged to bet or to whom the information was communicated, actually bet on the event concerned. Communicating the information also includes causing that information to be communicated.

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

WILDERNESS PROTECTION (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (17:56): I move:

That this bill be now read a second time.

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

Leave granted.

The *Wilderness Protection (Miscellaneous) Amendment Bill 2012* provides for important amendments to the *Wilderness Protection Act 1992* to ensure the ongoing effective protection of wilderness in South Australia.

The area of land forming wilderness protection areas has increased significantly in recent years to what will be 1.8 million hectares following the proclamation of the Nullarbor Wilderness Protection Area in late 2012. This achievement has highlighted some practical matters that are not adequately addressed by the Act. Changes to the Act to address these issues will facilitate the improved administration of existing, and future, wilderness protection areas.

Principal amongst these is the lack of provision for co-operative management of wilderness protection areas between traditional owners and the Minister.

Provisions enabling the co-management of National Parks and Conservation Parks were introduced into the *National Parks and Wildlife Act 1972* in 2004. Since then the State has entered into 10 Co-Management Agreements providing for co-management arrangements over 18 parks and reserves. These agreements recognise the important connection to Country of traditional owners and the depth of knowledge and understanding of the land that traditional owners can contribute to protected area management. In addition to the environmental benefits, these agreements provide important recognition of traditional ownership. The potential for co-management over parks and reserves is also recognised as an important contributing factor in the negotiation and resolution of native title claims.

The extension of co-management to the *Wilderness Protection Act 1992* is important as a number of conservation parks and national parks have recently become, or are intended to become, wilderness protection areas. An unintended consequence of this is that these reserves can no longer be considered for co-management by virtue of the *Wilderness Protection Act 1992*.

To facilitate co-management of wilderness protection areas, and ensure consistency of process, the Bill proposes to incorporate the co-management provisions of the *National Parks and Wildlife Act 1972* into the *Wilderness Protection Act 1992*, with consequential amendments to tailor the provisions to the *Wilderness Protection Act 1992*.

These amendments demonstrate a continuing commitment to the resolution of native title claims. They aim to meet the aspirations of traditional owners for greater access to and connection with Country and strengthen the State's commitment to greater flexibility in the involvement and recognition of traditional owners in cooperative management of protected areas. In particular, the amendments will assist with whole-of-government native title claim resolution processes by providing for co-management of wilderness protection areas. Notably, they will directly facilitate the resolution of the Far West Coast Native Title claim and contribute to whole-of-government native title resolution.

The increased number of wilderness protection areas in South Australia has also highlighted two other practical issues which this Bill seeks to address.

The first is an amendment that recognises that there may be some circumstances where it is appropriate and necessary to preserve existing leases or licences over land on proclamation of a wilderness protection area.

Under subsection 28(2) of the *Wilderness Protection Act 1992*, all leases and licences are voided upon constitution of a wilderness protection area or zone. While this has not created any issues to date, the proposed Nullarbor Wilderness Protection Area includes infrastructure for the Government Radio Network and other purposes that will need to be retained and licensed into the future.

The Bill allows for leases or licences existing prior to constitution of a wilderness protection area to be preserved by the proclamation constituting the wilderness protection area. Only those leases or licences specifically referenced in the proclamation will be preserved, all others are voided upon constitution of the wilderness protection area in line with the existing provisions of the Act. This will ensure that existing critical infrastructure is not adversely affected by the constitution of a wilderness protection area whilst ensuring that wilderness protection areas are not 'opened up' for development of commercial infrastructure, which is inconsistent with the objects of the Act.

Finally, it is proposed that the *Wilderness Protection Act 1992* provide that entrance and camping fees for wilderness protection areas and zones are administered in the same manner as for *National Parks and Wildlife Act 1972* reserves, that is set by the Director of National Parks and Wildlife and payable into the General Reserves Trust Fund under that Act.

At present, the *Wilderness Protection Act 1992* only allows these fees to be set by regulation and separately accounted for, which imposes an unnecessary level of administration. This amendment will bring administration of the *Wilderness Protection Act 1992* into line with the National Parks and Wildlife Act enabling streamlined processes and efficiency of administration.

I commend this Bill to members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Wilderness Protection Act 1992*

4—Amendment of section 26—Prohibition of other activities

This clause inserts new section 26(5) into the principal Act, setting out a list of activities that cannot be undertaken in a wilderness protection area or zone without a licence granted by the Director. Contravention of the subsection carries a maximum penalty of $5,000. The clause also inserts new subsection (6), which makes procedural provision in respect of a licence.

5—Amendment of section 28—Control and administration of wilderness protection areas and zones

This clause substitutes or inserts new subsections (4) to (9) into section 28 of the principal Act.

The new subsections allow leases and licences in force before the commencement of this clause to be continued by proclamation, and set out procedural provisions in respect of the making of the proclamation, as well as the leases and licences.

6—Insertion of Part 3 Division 4

This clause inserts new Division 4 into Part 3 of the principal Act.

New section 33A enables certain wilderness protection areas or zones to be co-managed by a co-management board in the same way certain reserves are co-managed under the *National Parks and Wildlife Act 1972*.

The section applies Part 3 Division 6A of that Act (which provides for the co-management of reserves such as conservation or national parks), subject to the modifications set out in new subsection (3), which reflect the slightly differing nature of a wilderness protection area or zone.

The section also sets out who has control and management of a co-managed wilderness protection area or zone.

New subsection (6) modifies the principal Act as it relates to co-managed wilderness protection areas and zones, reflecting the different underlying status of the relevant land.

7—Insertion of section 38A

This clause inserts new section 38A into the principal Act, providing for the setting of fees in respect of wilderness areas or zones by the Director with the approval of the Minister.

Schedule 1—Further amendments of *Wilderness Protection Act 1992*

This Schedule modifies the principal Act to increase penalties throughout the Act, and to make the penalty provision consistent with current drafting practice.

Schedule 2—Related amendments of *National Parks and Wildlife Act 1972*

This Schedule makes amendments to the *National Parks and Wildlife Act 1972* that are consequential to this measure.

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

STATUTES AMENDMENT (APPEALS) BILL

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

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (17:58): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill is intended to improve the present procedure for appeals in South Australia. There has been some agitation in South Australia for a process to enable renewed appeals against conviction on the basis of fresh evidence. In August 2012 the report of the Legislative Review Committee was released The Committee's inquiry was prompted by a private member's Bill introduced by the Hon. Ann Bressington to establish a Criminal Cases Review Commission in South Australia.

The Committee looked at the many issues associated with a Criminal Cases Review Commission and made seven recommendations. It is timely, in light of the Committee's recent report, to introduce a Bill to improve the present appeal procedure for South Australian criminal cases. While I have been considering reform in this area for some months, the Committee's report has been considered in the drafting and formulation of the Bill.

The Bill introduces four new measures.

First, the Bill provides for new procedures for renewed defence appeals against conviction in the event that 'fresh' and 'compelling' evidence comes to light after the usual right of appeal has been exhausted. These new procedures will apply to convictions imposed in any court. The Bill utilises the definitions of 'fresh' and 'compelling' in Part 10 of the *Criminal Law Consolidation Act 1935* for renewed prosecution appeals against an acquittal for a serious offence. These definitions should not preclude genuine applications, but a reasonably high threshold is necessary to guard against unjustifiable applications by convicted applicants. An applicant must satisfy a court that the evidence is both 'fresh' and 'compelling'.

Second, the Bill provides that a person granted a full pardon for a conviction on the basis that the evidence does not support such a conviction will be eligible to have their conviction quashed.

Third, the Bill provides that if a defendant appeals his or her sentence on the ground of error and therefore that a lower sentence should have been imposed, or alternatively on grounds that the sentence was manifestly excessive, then the prosecution will have an automatic right of cross appeal without the usual need to obtain permission to appeal. The prosecution can appeal on the basis that an error was made by the sentencing court and the sentence should be increased or on the basis that the sentence is manifestly inadequate.

Finally, the Bill provides the Chief Justice with a discretion to constitute the Full Court by a bench of two judges (rather than three) for both sentence and conviction appeals.

The Bill will allow genuine applications by convicted defendants who can adduce fresh and compelling evidence, but weighed against this is the strong public interest in finality in criminal litigation. The Bill provides a sensible and balanced approach to the competing interests in this area.

The Bill was deliberately introduced at the end of the 2012 session so that the Christmas break provided a suitable opportunity for thorough consultation to occur with all interested parties and individuals. Though I note that there was already extensive consultation on the issues involved during the Committee's deliberations and Report, any interested party or individual had ample opportunity to comment on the draft Bill. Any comment received was taken into account in considering if any changes to the Bill were necessary. Indeed, several changes to the Bill were made at Committee stage in the House of Assembly at the suggestion of the Chief Justice.

Background

The present appeal provisions in South Australia, and most of Australia, allow only one right of appeal and do not provide for a further right of appeal against conviction after that right has been exhausted, even if fresh and compelling evidence comes to light. The only avenue of redress in these circumstances is to submit a petition for mercy to the Governor. In practice, the Governor acts on the advice of the Attorney-General and the Government of the day. The practice over recent years has been that the Attorney-General seeks the advice of the Solicitor-General about the petition of mercy. The Attorney-General and Cabinet after receiving any advice from the Solicitor-General makes any decision about the appropriate advice to tender to the Governor about the petition.

The present process appears to work effectively but it is open to criticism as lacking transparency, accountability and independence. The criticisms of the present system were thoroughly ventilated before the Committee.

New Procedure in Detail

The Committee recommended that Part 11 of the *Criminal Law Consolidation Act 1935* be amended to provide that a person be allowed at any time to appeal against a conviction for serious offences if the court is satisfied that: 1. the conviction is tainted; or 2. where there is fresh and compelling evidence in relation to the offence which may cast reasonable doubt on the guilt of the convicted person.

This recommendation forms the basis of the new procedure for renewed defence appeals against conviction but some modifications have been made.

The Committee suggested that for consistency any new model for renewed defence appeals should follow the existing procedure in Part 10 of the *Criminal Law Consolidation Act 1935* that allows the DPP to ask the Court of Criminal Appeal to order the retrial of a person previously acquitted for a serious offence if 'fresh' and 'compelling' evidence come to light that calls into question the original verdict. This procedure has not been employed in South Australia to date. The Bill as far as possible duplicates the existing procedure in Part 10 and adopts the same definitions of 'fresh' and 'compelling' evidence is fresh if it was not adduced at the original trial and it could not, even with the exercise of reasonable diligence, have been adduced at the original trial. Evidence is compelling if it is reliable, substantial and it is highly probative in the context of the issues in dispute at the original trial.

Concern was expressed that the phrase 'the issues in dispute at the trial' was too narrow and may not cover fresh evidence that would open up an entirely new and substantial line of defence that was previously not apparent at the original trial. Though it will be for the courts to apply the test for fresh and compelling evidence on a case by case basis in accordance with established rules of statutory construction and case law on point, this appears to be an unduly narrow view of the phrase 'the issues in dispute at the trial'. One would think that one issue in dispute at the trial will always be whether or not the defendant committed the alleged crime. No change to the Bill is needed in this respect.

The Bill does not make specific reference to a 'tainted' conviction as in practice this will be shown through 'fresh' and 'compelling' evidence and it appears superfluous to make specific mention of a 'tainted' conviction.

The new procedure in the Bill should not preclude or deter genuine applications from convicted defendants. There is a strong public interest in closure and the finality of criminal cases. The public interest in closure and finality is especially important for victims and next of kin as the Committee itself acknowledged. It is important to guard against the potential misuse of any new model by vexatious applicants. The spectre of endless untenable efforts to reopen old convictions should be avoided. A robust threshold is necessary to deter or deny untenable applications.

The Bill strikes a proper balance and allows genuine and meritorious applications but deters or restricts vexatious or unsupportable applications.

The new model should also be available to any convicted defendant who has exhausted their rights of appeal, regardless of the court that imposed the original conviction. The Committee suggested that the procedure should be confined to serious crimes carrying a maximum of 15 years imprisonment. It is preferable to have one similar process for any renewed appeal against conviction. Though in practice the applications that are most likely to attract public and press scrutiny are those from convictions for serious offences, there are many circumstances in which a convicted defendant may wish to challenge a conviction imposed in the Magistrates Court.

The Bill also addresses two linked issues. First, the actual procedure that should be employed to progress renewed defence appeals against conviction on the basis of 'fresh' and 'compelling' evidence, and second, confirmation that the new procedure will be retrospective in its operation.

The procedure in the Bill to determine a renewed defence appeal against conviction will depend upon the procedure that is usually employed to determine appeals from that court. If the Court of Criminal Appeal in an application in respect of a conviction at a higher court finds that the evidence is both 'fresh' and 'compelling', it will possess the usual powers set out in section 353(2) of the *Criminal Law Consolidation Act 1935* on a normal appeal against conviction which will allow the court, if it allows the application, to quash the original conviction and to either direct a judgment and verdict of acquittal to be entered or to direct a new trial.

If the Supreme Court in an application in respect of a conviction at a Magistrates Court finds that the evidence is 'fresh' and 'compelling', it will possess the usual powers set out in section 42(5) of the *Magistrates Court Act 1991* on an appeal against conviction which will allow the Supreme Court, if it allows the application, to confirm, vary or quash the judgement that is subject of the application or to remit the case for rehearing before the Magistrates Court.

Other Measures

The Bill also uses this opportunity to address several relatively straightforward issues regarding the appeal process, including incidental points raised by the Chief Justice after the introduction of the Bill to the House of Assembly.

The first issue is that at present if a defendant appeals his or her sentence, the prosecution has no right of cross-appeal. The defendant has 'nothing to lose' by appealing his or her sentence. The court cannot increase sentence on a defence appeal, no matter how untenable the appeal may be.

The Bill provides that if the defendant appeals his or her sentence and argues that it is manifestly excessive and/or discloses error, then the prosecution will be entitled to an automatic right of cross appeal without the usual need to obtain permission from the court. The prosecution will be able to appeal on the basis that an error was made by the sentencing court and therefore the sentence should be increased or on the basis that the sentence is manifestly inadequate. This power will apply to any defence appeal against sentence, regardless of the court that imposed the original sentence.

This change will ensure grater parity between prosecution and defence in sentence appeals. The process will send a clear message to sentenced defendants that if they seek to appeal the sentence imposed upon them, then they do so at their peril as, if the DPP decide to cross-appeal, all errors will then be up for scrutiny by the Court of Criminal Appeal.

The second issue is that at present the Court of Criminal Appeal when considering an appeal against conviction or sentence must be constituted by three judges. Though the Court of Criminal Appeal in South Australia does not have a lengthy waiting list (unlike some of its interstate counterparts), the present requirement for three judges is not always necessary or an effective use of limited judicial time and resources. There are straightforward cases where two judges would be adequate to properly consider and dispose of an appeal.

The Bill provides the Chief Justice with the discretion to convene a Court of Criminal Appeal with two rather than the usual three judges for both sentence and conviction appeals. The Bill also provides the Chief Justice with this discretion for appeals from sentences imposed in the Magistrates Court which include the sentencing of a major indictable offence. The *Statutes Amendment (Court Efficiency Reforms) Act 2012* will, once brought into effect, allow the Magistrates' Court, with the consent of the parties to the proceedings, to sentence offenders charged with major indictable offences. Appeals against sentence will, once permission to appeal has been granted, be to the Full Court.

The model of a two judge bench to hear appeals has been established interstate, in Victoria (by rules of court) and New South Wales (by statute, section 6AA of the *Criminal Appeal Act 1912*). It has not encountered any apparent problems. The Chief Justice supports this change. The proposal will save precious court resources.

The two Justices hearing an appeal will have the discretion to refer an appeal against conviction or sentence to the normal bench of three Justices if the appeal becomes complex or difficult or they are divided.

The Bill inserts a general provision in the *Supreme Court Act1935* to allow for a single judge to exercise the powers of the Full Court of the Supreme Court in certain limited circumstances. Appeals under section 352 of the *Criminal Law Consolidation Act* against sentences imposed in the District and Supreme Court at present lie to the Full Court by permission. The current section 367 enables the power of the Full Court to be exercised by a single judge. If the single judge refuses permission, the application may be renewed to the Full Court.

The Bill amends the *Supreme Court Act 1935* to allow a single judge to exercise the powers of the Full Court of the Supreme Court in relation not only to appeals against sentences imposed in the District and Supreme Court, but extends the power to include those appeals from major indictable offences in relation to which sentence was imposed in the Magistrates' Court. As the provision is of general application, section 367 of the *Criminal Law Consolidation Act 1935* will now have no work to do and it is repealed.

This Amendment was requested by the Chief Justice.

The third issue is to clarify the procedure to appeal a pre-trial finding. The Chief Justice has suggested that the *Criminal Law Consolidation Act 1935* be amended to allow the Full Court to revoke a grant of permission to appeal given at a pre-trial stage.

When a trial judge makes a decision on an issue antecedent to the trial, section 352 (1)(c) of the *Criminal Law Consolidation Act* enables a defendant to appeal against the decision before the trial starts, but only with the permission of the trial judge. If permission is granted the Full Court must hear the appeal. This amendment gives the Full Court the ability to refuse to hear the appeal and send the matter back to the trial judge for the trial to continue in the ordinary way, in situations where the Full Court believes that it is not appropriate for the trial to be held up.

This provision will promote the expeditious hearing of criminal proceedings and discourage pre-trial satellite litigation. It will not effect a defendant's right to appeal a conviction in the normal way, if that is the outcome of the trial.

The Bill finally clarifies the operation of section 26 of the *Statutes Amendment (Court Efficiency Reforms) Act 2012*. Section 26 states that the appeal right for a defendant who is sentenced for a major indictable offence in the Magistrates Court will lie to the Full Court of the Supreme Court. This amendment clarifies that the appeal lies to the Full Court, not just in relation to the sentence imposed for the major indictable offences but also in relation to the sentence or part of the sentence imposed for any other offence or offences for which the defendant was sentenced at the same time as he or she was sentenced for the major indictable offence.

Conclusion

The Bill may not satisfy everybody. Some may claim that it goes too far, others that is does go not far enough. My response is simple. The Bill strikes a careful balance. South Australia is not Texas. This State is not awash with wrongful convictions and the falsely imprisoned. Equally no system of criminal justice is infallible and there needs to be some means for convicted defendants to bring fresh and compelling evidence that questions the safety of their original conviction before a court. The Bill is a fair and balanced measure to reconcile the conflicting interests in this area.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Amendment of section 353—Determination of appeals in ordinary cases

This clause ensures that the Full Court can revoke a permission to appeal granted by the trial court if necessary.

5—Amendment of section 352—Right of appeal in criminal cases

This clause allows the DPP a cross appeal as of right where the convicted person has been granted leave to appeal against sentence, or deferral of sentence, under section 352(1)(a)(iii).

6—Insertion of section 353A

This clause inserts a new section allowing a second or subsequent appeal (with the permission of the court) by a person convicted on information if the Full Court is satisfied that there is fresh and compelling evidence

that should be considered on an appeal. The concepts of 'fresh' and 'compelling' evidence are defined consistently with the definitions in Part 10 of the Act.

7—Amendment of section 357—Appeal to Full Court

This clause allows the Chief Justice to determine that the Full Court may be constituted of only 2 judges (instead of the usual 3) for the purposes of an appeal under the Act.

8—Repeal of section 367

This clause is repealed consequentially to the proposed amendments to section 48 of the *Supreme Court Act 1935* (because the matters currently dealt with in section 367 will now be dealt with by that general provision).

9—Amendment of section 369—References by Attorney-General

This amendment would allow the Full Court to quash a conviction where a full pardon has been granted.

Part 3—Amendment of *Magistrates Court Act 1991*

10—Amendment of section 42—Appeals

This clause—

- clarifies that the Full Court sentence appeal procedure applicable to major indictable offences (to be inserted by the *Statutes Amendment (Courts Efficiency Reforms) Act 2012*, which is yet to commence) will apply where the defendant has been sentenced in the Magistrates Court for multiple offences, not all of which are major indictable offences; and
- for consistency with the amendments proposed in relation to section 357 of the *Criminal Law Consolidation Act 1935*, allows the Chief Justice to determine that the Full Court may, in such appeals, be constituted of only 2 judges

11—Insertion of section 43A

This clause inserts a new section allowing a second or subsequent appeal (with the permission of the court) by a person convicted in the Magistrates Court if the appeal court is satisfied that there is fresh and compelling evidence that should be considered on an appeal. The concepts of 'fresh' and 'compelling' evidence are defined consistently with the definitions in the *Criminal Law Consolidation Act 1935*.

Part 4—Amendment of *Supreme Court Act 1935*

12—Amendment of section 5—Interpretation

This clause is consequential to clauses 6 and 10(2).

13—Amendment of section 48—Jurisdiction of Full Court, single judge and master

The proposed amendments to section 48 allow a single judge of the Supreme Court to exercise powers given to the Full Court in respect of certain specified matters relating to appeals (provided that if a single judge refuses to exercise any such powers in favour of an appellant, the appellant is entitled to have the application determined by the Full Court).

Schedule 1—Transitional provision

The amendments are to apply to appeals instituted after commencement of the measure, regardless of whether the relevant offence was committed, or allegedly committed, before or after that commencement,

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

LEGISLATIVE REVIEW COMMITTEE

The House of Assembly appointed Ms Redmond to the committee in place of Mr Gardner.

EVIDENCE (IDENTIFICATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 February 2013.)

The Hon. M. PARNELL (18:00): I will be brief. We gave this bill serious consideration back in 2011. We attended briefings, we discussed the bill with academics from the university and with the Commissioner for Victims' Rights and, collectively, this chamber agreed that more work was needed on the mechanics of identification evidence. We gave the government a clear invitation to go away and come back with improved mechanics, and we would consider the bill further.

The government has decided to come back, two years later, with exactly the same bill that we defeated last time, and it is going to get from the Greens exactly the same treatment that it got last time, except this time we will probably oppose it at the second reading, unless the government

gives a clear indication that the concerns we put on the record two years ago are going to be addressed.

I am disappointed that that is the approach the government has taken, bringing back an identical bill with no extra information provided as to why it is now a good idea, when it was not back in 2011. So, at this stage, we will not be supporting it.

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

At 18:02 the council adjourned until Wednesday 20 February 2013 at 14:15.