LEGISLATIVE COUNCIL

Tuesday 19 March 2013

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 14:17 and read prayers.

SUMMARY OFFENCES (FILMING OFFENCES) 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) (14:19): I move:

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

Motion carried.

FERGUSON, MR D.M.

The PRESIDENT (14:19): I rise to express, on behalf of the Legislative Council, my deep regret at the passing of Mr Don M. Ferguson, former member for the seat of Henley Beach in the House of Assembly from 1982 to 1993.

Mr Ferguson was deputy speaker and chairman of committees in the House of Assembly from 1992 to 1993. He served on the then joint committee on subordinate legislation from 1982 to 1986 and briefly served on the public accounts committee before becoming a member of the new economic and finance committee. Mr Ferguson was a strong local member, taking up many issues on behalf of his electorate, including unfair rents for small business, protection of privacy, petrol pricing, the problems in the car industry, the encouragement of housing development, consumer protection and environmental problems, as well as being an advocate for community employment programs within his electorate.

Mr Ferguson led a push to extend daylight saving past the original early March conclusion to 1 May, which today we enjoy through the whole of March and the festival period. As chairman of committees, he used his casting vote to break the deadlock on the bill imposing on-the-spot fines for simple marijuana possession.

During an earlier election campaign, Don Ferguson fought the campaign whilst battling cancer, a condition from which most of his constituents had no idea he was suffering before the election. Following a redistribution, Mr Ferguson's seat disappeared, and he considered standing for the Legislative Council. To Don's family and friends, I express, on behalf of this council, our sincere sympathy.

PAPERS

The following papers were laid on the table:

By the President—

District Council Report, 2011-12—
Renmark Paringa
Park Lands Lease Agreement Between the Corporation of the City of Adelaide and the University of Adelaide

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

Climate Change and Sustainability: Modelling Framework for Strategic Responses for New and Existing Areas Technical Report, dated August 2008
Greater Adelaide Economy and Employment Background Technical Report, dated September 2008
Greater Adelaide Transit Corridors Study Report, dated October 2008
Housing Affordability: Planning Strategy for Greater Adelaide Technical Paper, dated September 2008
Investigations for Mount Barker Report, dated December 2008
Metropolitan Adelaide Residential Development Criteria Study Technical Report, dated August 2008

Planning Strategy for Greater Adelaide Activity Centre Review Technical Report, dated September 2008
Road Block Establishment Authorisations for the period from 1 October 2012 to 31 December 2012, pursuant to section 74B of the Summary Offences Act 1953
Second Amending Agreement to the Railways Agreement between the Commonwealth of Australia and the State of South Australia, date 28 February 2013
Urban Growth Expansion of greater Adelaide Report, dated June 2009
Water Security, Urban Development and Population Growth Technical Paper, dated September 2008
Regulations under the following Acts—
Criminal Law Consolidation Act 1935—Prescribed Occupations
Liquor Licensing Act 1997—Dry Areas—Coober Pedy Area 1
Petroleum and Geothermal Energy Act 2000—General

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

District Council By-laws—
Port Pirie Regional Council—
No. 6—Cats

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

Reports, 2011-12—
Adelaide and Mount Lofty Ranges Natural Resources Management Board
Alinytjara Wilurara Natural Resources Management Board
Art Gallery of South Australia
Eyre Peninsula Natural Resources Management Board
Kangaroo Island Natural Resources Management Board
Natural Resources Management Council
Northern and Yorke Natural Resources Management Board
SA Murray-Darling Basin Natural Resources Management Board
South Australian Arid Lands Natural Resources Management Board
South Australian Film Corporation
South East Natural Resources Management Board

QUESTION TIME

AGRICULTURAL RESEARCH AND DEVELOPMENT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:27): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, and Forests a question about research.

Leave granted.

The Hon. D.W. RIDGWAY: South Australia has had a long, proud history of world-class research in agriculture and primary industries. As members would know, and I have spoken about this before, one of those research stations was Flaxley, in the Adelaide Hills. The government has closed that facility and it is selling or has sold the research station lock, stock and barrel—the locks on the doors, stock that roamed the paddocks and the storage barrels—to the highest bidder.

At the time it was closed, the deputy chief executive of PIRSA at the time, Mr Don Plowman, said:

> The move is in line with the National Primary Industries RD&E [research and development] Framework under which South Australia has a leadership role in pigs and poultry, wine, fisheries and aquaculture, grains and biofuels.

Meanwhile, with the closure of Flaxley, on central Eyre Peninsula, 600 kilometres north-west, is the Minnipa agricultural research centre. It was once known as the Minnipa experimental farm and it has been around for almost 100 years, established in 1915. It is operated by Primary Industries and Regions South Australia. Minnipa serves the cereal growing areas of Eyre Peninsula and, in fact, the southern dryland zone in Australia. In South Australia, Eyre Peninsula produces some 40 to 45 per cent of South Australia's wheat.

Research at the Minnipa centre is crucial to South Australia's excellence in dryland broadacre farming, water use efficiency, herbicide tolerance and farming systems. In fact, Minnipa rightly boasts that it is the centre of excellence in low rainfall farming in southern Australia and the Minnipa Agricultural Centre operates as a commercial farming enterprise and as a certified seed grower. Also, there is even an Eyre Peninsula Agricultural Research Foundation to give strategic support and planning to the centre. I am also advised that an adjoining property is now on the market and would be a valuable addition to the important research activities at Minnipa. My questions are:

1. When Flaxley is sold, will the proceeds go into general revenue where other ministers can reach out for their cut or will the minister guarantee, like former member Kevin Foley's 'over my dead body' guarantee, that the proceeds will remain in South Australian research?

2. More importantly, will the minister quarantine those funds and do what Labor promised it would do and honour its commitment to maintain a leadership role in research including valuable work at the Minnipa Agricultural Centre?

3. When was the last time the minister visited the Minnipa research centre?

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) (14:30): I thank the honourable member for his most important questions. Indeed, I have really spoken on this issue before in this place and outlined the government's intention and strategy. I have already spoken in this place before about the change in the nature of research conducted here in South Australia. We no longer rely on the large research farms of yesteryear in the same way as we do today. Research and improvements in technology mean that we conduct our research in a very different way, so we no longer need those large research stations in the same way today.

I have come into this place before and been quite open about assessments done on those properties that are surplus to our requirements, and those that are deemed to be surplus are planned to be sold. I am quite sure I have already outlined in this place the current arrangement for proceeds from those sales and I believe, if I recall correctly, it is fifty-fifty: the agency is able to take 50 per cent of the proceeds to use on that agency's initiatives and 50 per cent goes into general revenue. I will need to check that and if that figure is not accurate, I will make sure that the chamber is made aware of that. I have given that information in this place before and we have been quite open and direct about that.

I have talked before also about the changing structure of research. The states used to beaver away and try to do a bit of everything in terms of research, and that has now changed. We now proceed with a much more coordinated and nationally consistent approach. We work now within a national R&D and extension framework. Of course here in South Australia, SARDI is the national leader in the areas of grains, wine grapes, fishing and aquaculture, pigs, poultry, climate adaptation and animal welfare, so they are the areas we mainly focus our activity on.

I have also talked about the SCoPI and the PISC process and pre-existing national coordination and collaboration which has meant that the primary industries' R&D community over the last five years has significantly delivered on the development of a national coordination and also collaboration in a number of areas. Some of the examples of the really valuable work that we continue to do include the consolidation of multiple national wheat breeding programs, of which South Australia has two based at Waite and Roseworthy respectively, to three majors—Australian Grain Technologies Proprietary Limited, Intergrain and LongReach.

Barley breeding is another example, with a national consortium of the three barley breeding programs of the University of Adelaide, Western Australia's Department of Agriculture and Food and also the Queensland Department of Primary Industries. The executive director of SARDI chaired the national review team that resulted in the formation of a BBA, and a three-year review of the arrangement is expected to result in Western Australia's and the University of Adelaide's teams remaining servicing the national needs, which is quite a feather in our cap.

The Australian Winter Cereals Pre-breeding Alliance is a national collaboration between all of the major agricultural and molecular biological genomics, phenomics and metabolomics discovery institutions. This aims to coordinate the development of molecular-derived outputs, gene sequencing, gene adaptation, trait development, germplasm enhancement, as well as the mutually beneficial management of intellectual property and the end-point royalty screens.

Another is the South Australia and Victoria memorandum of understanding on aquatic sciences research and services to industry, which is a joint venture and a national collaborative research infrastructure strategy, which involves a number of the commonwealth NCRIS programs. Again, it involves the Australian Genome Research Facility, Airborne Research Australia, Integrated Marine Observing System, Biotechnology Products, Terrestrial Ecosystem Research Network, and so it goes on. Of course, we have our cooperative research centres (CRCs), which are a major national collaborative issue as well, in which SARDI participates. They involve our Australian seafood, beef genetic technologies, sheep industry, poultry, future farm industries, pork, and the list goes on.

They are just a few examples of the collaborative way that we now partner to ensure that South Australia remains part of world-leading research in a number of different areas in a nationally coordinated way, and that is what we focus on. The honourable member is quite inaccurate and quite misleading when he suggests that we are not committed to research; indeed, we are, it is just that the face of research has changed significantly. We need to move on. We need to adapt and adjust to new ways of conducting research, and we are doing it in a far more efficient and effective way at present.

AGRICULTURAL RESEARCH AND DEVELOPMENT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:37): Supplementary question: part of the South Australian commitment to the National Primary Industries Research Development and Extension Framework was an undertaking given not to reduce the effort in research or the assets for research.

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) (14:37): What are you talking about?

The Hon. D.W. Ridgway: When you signed up for it when you were in government.

The Hon. G.E. GAGO: I would need to take that on notice and bring back a response but, as I have said, our effort indeed continues. We remain active in research. We remain active in world-leading and cutting-edge research. As I said, we have remained very active in that space. What we have done is change the way we are engaging in research and we are involved in much more elaborate partnerships and collaborations with other sectors and other parts of the industry, which is how it should be. That is a smart way to do research.

AGRICULTURAL RESEARCH AND DEVELOPMENT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:38): Supplementary: given it is a smart way to do research, why won't the government or the minister commit 100 per cent of the funds from Flaxley to South Australian agriculture and research in South Australian agriculture?

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) (14:38): I have already answered that question, Mr President.

AGRICULTURAL RESEARCH AND DEVELOPMENT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:38): I have a further supplementary question. Sorry to the chamber, Mr President. Given the minister says we have changed the way we do research, can she explain how we have changed research in excellence in dryland broadacre farming, water use efficiency, herbicide tolerance and farming systems? How have we changed the research into those disciplines?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:39): I am happy to take those very detailed questions on notice and bring back a response.

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

AGRICULTURAL RESEARCH AND DEVELOPMENT

The Hon. R.L. BROKENSHIRE (14:39): Given the minister's answers, is the minister telling the house that SARDI will receive all proceeds of Flaxley or partial proceeds of Flaxley?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:39): Not only did I answer that question today, but I have also provided that information in this place on other occasions. It is really offensive to waste the time of this chamber when I just gave the answer. For goodness sakes, listen. It is just wasting this chamber's time, Mr President—it is offensive.

The Hon. R.L. Brokenshire: In light of the answer they are going to siphon the money off from Flaxley into general revenue rather than it going to SARDI—that's what it will do.

The Hon. I.K. Hunter: That is just wrong. Open your ears and listen to her answer.

The Hon. D.W. Ridgway: That's what she said—50 per cent has gone into the big black hole you've developed.

The Hon. G.E. Gago: He said 100 per cent. Open your ears!

The PRESIDENT: Let it go; the Hon. Ms Lensink is waiting for the call.

WATER SECURITY REBATE

The Hon. J.M.A. LENSINK (14:40): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray questions about the water security rebate.

Leave granted.

The Hon. J.M.A. LENSINK: The state Labor Weatherill government announced the water security rebate in May 2012 to help reduce the cost of living impacts associated with inflated water prices associated with the desalination plant. Eligible SA Water customers have been entitled to a one-off rebate of either $45 or $75 from their first water bill after 1 January 2013. Whilst most residential properties were eligible for the rebate, SA Water guidelines state that the rebate does not apply to non-residential or commercial customers, which includes properties listed by SA Water as 'country lands'.

A number of constituents in the electorate of Chaffey have expressed concerns after being excluded from the rebate due to their property being classified as 'country lands', and some of these constituents reside on the outer edges of a township. However, they all receive the same amenities as those living within the boundaries of the town. According to the local council and the State Valuation Office, these residences are classified as residential, not country lands. My questions are:

1. Will the minister explain the terms in which certain properties are classified as country lands under the water security rebate, compared with residential properties?

2. If a one-acre residential property in a township receives the rebate, how can the minister justify a one-acre residential property on the outskirts of a township, which was also affected by rising water prices, not being eligible to receive the rebate?

3. When considering the rebate, did the government take into account that former irrigation properties are now used for domestic purposes?

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): I thank the honourable member for her most important questions. This government has made a significant investment to guarantee South Australia's water security. This investment was made necessary due to the recent drought, and the overallocation of the Murray-Darling Basin's waters by the upstream states has shown that we can no longer rely on our traditional sources of water to meet our water needs. A one-off water security rebate has been introduced to help alleviate the costs of increased water prices. The rebate is going to more than 600,000 residential customers, as the honourable member noted.

The water security rebate has been factored into the 2012-13 pricing decision, in recognition of substantial price increases experienced by consumers over the past few years. Households using up to and including 120 kilolitres per year are receiving a one-off rebate of $45, while those who have used more than 120 kilolitres—typically a larger family—are receiving a $75 rebate. In line with increases, and because the concession is based on a fixed 25 per cent of the water charges, the water concession paid to most concession holders will increase by around 25 per cent in 2012-13. The maximum and minimum level of water concessions will also increase

in 2012-13. This is an example of the government's ongoing commitment to assist people to deal with cost of living pressures.

The water security rebate is applied to customers who are recognised as residential, based on the Valuer-General's land use codes. This includes normal residential properties, normal residential properties that have not used water in the previous year due to use of a non-SA Water source, that is rainwater tanks, and eligible vacant residential allotments where some water consumption has been recorded for the previous year, for example, water used whilst building a home.

The rebate does not apply to non-residential or commercial customers, as the honourable member noted, and this includes vacant land categories which SA Water, by default, classifies as residential but, based on the Valuer-General's land use codes, do not appear to be consistent with normal residential development. That would apply to median strips, car parks, reserves, etc. Most properties serviced by SA Water in rural areas, i.e. outside of township boundaries, are listed by SA Water as country lands and accordingly are not recognised as residential. Special arrangements are put in place for other properties such as retirement villages and blocks of flats that have multiple residences but are on a single title to ensure these properties receive rebate payments commensurate with the number of residences on that title.

I am advised that the Residential Tenancies Act 1995 has been significantly amended to require landlords to pass on the benefit of the water security rebate to tenants. I am advised that the state budget includes $45.7 million for that rebate.

Since 1995, SA Water's billing system has classified country lands properties as non-residential and applied country lands water rates to them. These country lands properties are located outside of town boundaries that receive water services but not sewerage services. Generally, country land properties are broadacre properties that are used for a range of purposes, not solely as a residential purpose—for example, farming. Country lands customers receive significant ongoing benefit from the government's policy of statewide water pricing.

The customers in more remote and difficult to serve locations pay the same water charges as customers in urban areas. In addition, country lands customers receive a range of ongoing rating benefits that have been tailored to their specific needs. This includes the ability to amalgamate continuous pieces of land. In addition, I am advised that country lands customers have the ability to have multiple meters dependent on the size of the land without incurring additional service rent fees. I am told that approximately 15 per cent of country land customers have multiple meters and benefit in this way.

Finally, water charges to country land use customers are calculated on a flat rate rather than a tiered rate. This means that, unlike residential customers, country land customers do not face the higher tier 3 charge. I am told that approximately 20 per cent of country land use customers would incur the third tier charges if the flat rate did not apply. They are already getting this extra benefit.

LOCAL GOVERNMENT EMPLOYEES

The Hon. S.G. WADE (14:47): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations questions regarding council employees entering and working on firegrounds.

Leave granted.

The Hon. S.G. WADE: The 2005 Wangary fires on Lower Eyre Peninsula claimed nine lives, injured 115 people and destroyed 93 homes. A total of 77,964 hectares of land were also damaged. During the fire, employees of the District Council of Lower Eyre Peninsula attended the fireground and assisted in creating firebreaks using council equipment. The council employees remained on the fireground until 9.30 of that Monday night when it was decided it was unsafe to continue using the council machinery. The Deputy State Coroner found that, had they been asked, the employees would have continued to work on the fireground. The inquest concluded that a significant difference could have been made to fighting the fire which turned into the Black Tuesday fire if the council equipment had been further utilised.

The opposition is advised that council engagement on firegrounds is being inhibited due to a lack of clarity as to who bears the responsibility and liability for the safety of council workers entering firegrounds and operating council machinery on these grounds. Confusion arises in particular where council workers are acting under instructions from the South Australian

Metropolitan Fire Service or the South Australian Country Fire Service and not their employing council. Had the confusion of liability been clearer, work may well have continued and a more extensive series of firebreaks been prepared on Eyre Peninsula. My questions are:

1. Can the minister advise the Legislative Council whether local government councils are responsible and liable for the safety of the employees when entering a fireground?

2. Who is liable for any actions or decisions made by a council employee on a fireground?

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) (14:49): I thank the honourable member for his most important questions. I would need to seek advice in relation to those matters and would be happy to take that on notice and bring back an answer at a later date.

UPPER SPENCER GULF

The Hon. R.P. WORTLEY (14:49): I seek leave to ask the Minister for Regional Development a question about the development of the Upper Spencer Gulf.

Leave granted.

The Hon. R.P. WORTLEY: We have seen that the Upper Spencer Gulf is an area of interest for organisations looking to explore South Australia's mineral resources, and lately there has been an interest in exploring unconventional or shale gas resources. Can the minister advise about recent state government support to better prepare for this area of economic activity?

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) (14:49): I thank the honourable member for his important question. It is correct that the Upper Spencer Gulf is an area of great interest. It has significant advantages, both in the physical proximity of this area to ore bodies and in the existing regional centres of Port Augusta, Whyalla and Port Pirie, with strong social infrastructure and manufacturing bases offering attractive places to live.

Members will recall that this potential has been recognised by the three levels of government in the Upper Spencer Gulf MOU signed in September 2012, which aims to help direct investment strategically and to coordinate the efforts of federal, state and local governments in this area. However, not all those who work in the Upper Spencer Gulf area or in the minerals and energy sectors reside in the region.

I was therefore very pleased recently to commit $428,750 from the Enterprise Zone Fund for the Upper Spencer Gulf and Outback towards the major upgrade of the Port Augusta Airport. This is the first project to be funded from the place-based strategy developed by the three levels of government for the Upper Spencer Gulf.

That place-based strategy is framed around five key determinants of long-term regional economic growth, as agreed by the Council of Australian Governments Standing Council on Regional Australia in July 2012:

1. human capital, particularly education and skills;

2. sustainable (economically, environmentally and socially) communities and population growth;

3. access to international, national and regional markets;

4. comparative advantage and business competitiveness; and

5. effective cross-sectorial and intergovernmental relationships (including through place-based approaches) and integrated and regional planning.

The airport is obviously a key piece of infrastructure which helps buttress the area's competitive advantages. The central Port Augusta aerodrome, which is five kilometres west of Port Augusta, is owned and operated by the Port Augusta City Council. While the airstrip attracts both commercial operators (including the twice-daily service to Adelaide by Sharp Airlines) and charter flights to the Prominent Hill mine site and can accommodate a BAe 146 aircraft (with about 70 passengers), larger craft would require further improvements.

The council has seen the opportunity to meet the increasing demands of the mining industry and to encourage interstate and overseas tourists to visit the area by providing better facilities and to upgrade the existing airstrip apron and terminal facilities available to cater for larger aircraft.

This $857,000-odd project would not only see the extension of the terminal building itself (including amenities, air conditioning and a veranda) and the apron, but also improved and secure car parking for the airport. By upgrading the car park, Port Augusta Airport would be able to provide more long-term secure parking for fly-in fly-out workers, furthering the development of the airport as a fly-in fly-out hub.

The extensions are expected to allow the airport to service greater numbers of flights, with a predicted increase of 7,700 passengers within a five-year period. The airport is also a very valued base for the Royal Flying Doctor Service to provide medical help to outback South Australia and also the Northern Territory, which will also benefit from the improvements to the site. The upgrades are also expected to benefit the region by generating up to 45 jobs through project construction activities, increased tourism, mining and city economic growth.

The Enterprise Zone Fund for the Upper Spencer Gulf and Outback is $4 million over four years directed to capturing the benefits of growing industries to further strengthen the Upper Spencer Gulf and outback communities. Applications are accepted and assessed throughout the year and grant funds may be offered for up to a maximum of 50 per cent of eligible project costs. The fund is accessible by organisations (including local government, businesses and industry associations) in the region.

This key project has been identified in the region's action plan as an important driver for the area's development. The project is anticipated to commence by September 2013 and the upgrade is due to be completed in early 2014. As a gateway to the region, the airport provides visitors with a very valuable first impression on arrival and it is obviously an important statement for tourists, whether local, interstate or international visitors. I am certainly very much looking forward to seeing and visiting the new airport.

WASTE COLLECTION

The Hon. D.G.E. HOOD (14:55): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about rubbish collection fees.

Leave granted.

The Hon. D.G.E. HOOD: In October 2012, the state Ombudsman produced his report on the District Council of Yorke Peninsula's imposition of a waste collection service charge allegedly with an unfair or unreasonable impact upon the complainant. A ratepayer complained in October 2008 that the council of that area had introduced the charge to cover the operating costs of its waste collection service with different policies for town and rural rubbish collection, with rural residents (such as this ratepayer) required to take their bins to the local drop-off collection sites which a truck then serviced.

This particular ratepayer lives in Adelaide with a holiday home at Cockle Beach which is 3.5 kilometres from the nearest collection site. He takes his garbage back to Adelaide as he is not there enough to use the drop-off collection system—so he is not using that system. He sought exemption from the system and was refused. He did not pay the additional charge and has not paid it to this day, although he has paid the fines and interest imposed by the council since then.

The Ombudsman found, pursuant to the Local Government Act, in favour of the ratepayer on one of his complaints. Reading from paragraph 32 it states:

> ...in all the circumstances of the case I am of the view that the service charge had an unfair or unreasonable impact upon the complainant as a rural resident of the council's area...

The Ombudsman went on to recommend that the council should recalculate the service charge for one period and write off other aspects of the charges. The ratepayer alleges that he has been charged some $500 for a service that he does not receive from the council and that in some cases other ratepayers who have, on principle, refused to pay the charge have incurred interest and fines, taking their total liability now to about $800. I am advised that the Ombudsman has no power to enforce his findings in this matter. My questions are:

1. What action thus far has the minister (or other state/local government relations ministers preceding her) taken in relation to this issue, that she is aware of?

2. What hope can the minister offer this ratepayer (and others in the same situation as him in that locality) that a resolution to this situation can be found?

3. Does the Ombudsman need greater powers in circumstances such as this so that his recommendations can be acted upon?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:57): I thank the honourable member for his most important questions. I am not familiar with this particular Ombudsman's report. I am not too sure when that was handed down, how long ago it was.

The Hon. D.G.E. Hood: It was 2010.

The Hon. G.E. GAGO: Yes, I thought it must have been some time ago. I am not familiar with this particular finding. It obviously occurred some time ago and no doubt the former minister for state/local government relations would have received the report from the Ombudsman and taken appropriate action at the time.

The Hon. D.G.E. Hood: It's in the 2012 report.

The Hon. G.E. GAGO: Right; I am not familiar with it but I am happy to follow it up. There are many reports that the Ombudsman does on a wide range of different matters. I am not familiar with this one but I am happy to look it up to see what action, if any, was taken. I know that the issue of service charges is one that a number of ratepayers feel quite aggrieved by. I know that particularly for the country areas, where amenities around service collection are not as accessible as the city, often ratepayers feel quite resentful about paying these additional charges.

The bottom line is that local government is a democratically elected, independent level of government. It really is responsible for its own actions under the act and accountable to its constituents basically in the same way as we are through reporting mechanisms, through meetings and, ultimately, at their election. If members are not satisfied, I would certainly urge them to take action.

In relation to the Ombudsman, I am not aware of any model where an ombudsman has really substantial powers, other than those to investigate and to make recommendations. I think that the model we have is consistent with that of other jurisdictions. As minister, I have some powers to direct and to enforce, but they are fairly limited powers, depending on what the breach is, of course.

The honourable member would be aware that we are setting up our new ICAC, which will have a number of additional powers. It is the Attorney-General's Department which will have responsibility for developing the code of conduct for both elected council members and also staff council members. Those codes are going to be mandated, and there will be a series of penalties attached to those and enforcement options included.

As I have said, I am happy to follow up this particular case. It is probably more relevant if I liaise with the Hon. Dennis Hood in terms of any follow-up that was taken up in relation to this particular matter, and I am happy to do that.

MURRAY-DARLING BASIN PLAN

The Hon. K.J. MAHER (15:01): My question is to the Minister for Water and the River Murray. Will the minister inform the house of the importance of today? As noted on the front page of today's *Advertiser*, it is the implementation of the Murray-Darling Basin Plan.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:02): I thank the honourable member for his most important question, although I do counsel him not to get ahead of himself because the federal parliament has not got up yet.

Today is a very significant day—a significant milestone in the implementation of the Murray-Darling Basin Plan. At the end of the sitting of the federal parliament today, the plan will no longer be subject to disallowance motions. While the basin plan was adopted on 22 November 2012, the expiry of the disallowance period will lock in this basin-wide approach to reform and to provide certainty about the future management of the Murray-Darling Basin.

During the disallowance period, three motions to disallow the basin plan (two in the house and one in the Senate) were resoundingly defeated. This demonstrates the broad support the basin

plan now enjoys. We now have a plan in place which will restore the rivers of the Murray-Darling Basin to health. This is essential to ensure the continued strength of affected regional communities and our sustainable food production.

The final basin plan reflects the strong and united approach taken by the South Australian community. The campaign, led by Premier Jay Weatherill and the former minister for water and the River Murray, the Hon. Paul Caica from the other place, saw the South Australian government join industry and the community to ensure that many important changes to the basin plan were made. Initially, they made these important changes with the opposition of those opposite us today. Not one voice rose in support of Jay Weatherill and Paul Caica as they went out and about across the state to unite our community to fight for the health of our river, and that is exactly what they did.

As a result, we have a basin plan based on best available science. We have a basin plan that will return more water to the River Murray so that environmental outcomes, consistent with recovering 3,200 gigalitres of water, can be achieved. The plan also includes improved salinity targets and minimum water level objectives to protect the river below Lock 1 in South Australia.

The final plan also requires the Murray-Darling Basin Authority to develop a constraints management strategy for removing low-lying bridges, undersized dam outlets and river operating rules that would otherwise frustrate increased flows. These constraints currently limit both the volume of water which can flow through the system and the environmental uses to which it can be put.

South Australian efforts resulted in an additional $1.77 billion in commonwealth funding to recover the additional 450 gigalitres to achieve 3,200 gigalitres of water recovery and to address constraints in the system. Approximately $200 million of the funding will be spent on addressing those constraints, I am advised. The additional 450 gigalitres will be recovered in ways that are socio and economically neutral or beneficial including on-farm water efficiency measures or alternative arrangements proposed by the states.

The plan also requires the risks from climate change to be assessed and considered in future reviews of the basin plan, along with better information on groundwater and surface water connectivity. The final basin plan also reflects a more precautionary approach to groundwater management, with the level of allowable groundwater extraction reduced from that proposed in earlier versions of the plan. Importantly, the Weatherill government has secured $420 million in funding commitments from the commonwealth government for water recovery, industry regeneration, regional development and environmental works and measures in South Australia. The challenge now lies in the implementation of a plan. This government remains vigilant and is committed to maintaining its strong and united approach with industry and with the community.

Significant effort will be required to work with the Murray-Darling Basin Authority and other basin states to develop new working arrangements for implementation of the basin plan that ensure all basin governments meet their obligations. We will also need to review and adapt our existing South Australian Murray-Darling Basin water management arrangements, including water resource planning and allocation, water quality and salinity management, environmental water management and water trading.

Today marks the next step in the implementation of the basin plan which will transform the way water is managed and will lead to better outcomes for industries, communities, the environment and for the whole river.

MURRAY-DARLING BASIN PLAN

The Hon. J.M.A. LENSINK (15:06): A supplementary question: how does the minister respond to comments also published in the paper today from Craig Knowles which described the decision to cut funding from the MDBA as disappointing, completely baffling and strange, and says that it tells upstream states that South Australia cares less and is 'at odds with its two year long "Save the Murray" campaign'.

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 the supplementary question because it allows me to say a few extra things and put on the record how this government has been leading the charge in the fight to make a healthy River Murray.

Where was the opposition; where was their position on the River Murray? They wanted us to accept 2,200 gigalitres. They wanted us to take what was on offer from New South Wales and

Victoria without going in to fight for our state. That is where the Liberal Party were. They put up the white flag at day one. It was Premier Jay Weatherill who insisted on taking the fight up to the commonwealth and the Eastern States; it was Premier Weatherill who took the fight up and got us 3,200 gigalitres.

I seem to remember that it was also Mr Craig Knowles who did not want to give us the 3,200 gigalitres either. It was that gentleman who was suggesting that we take a lesser amount. It was Premier Jay Weatherill who got this amount for our state; it is Premier Jay Weatherill who will deliver it for our state. Let me say, we in South Australia take 7 per cent of the water out of our river system—7 per cent. This next coming financial year, with our contribution to the Murray-Darling Basin staying exactly at what it is, we will be paying 29 per cent of the authority's money—29 per cent for 7 per cent take. Is that fair? Is that what you want us to say to New South Wales? 'Don't worry guys in New South Wales, we'll oversubsidise you. We in South Australia will subsidise you for the extra money.'

That is the Liberal Party position—we will be subsidising the Eastern States for no return whatsoever. That is not our position. We will fight for our state; we will make sure South Australian irrigators and South Australians enjoy a healthy river.

WIND FARMS

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) (15:09): I table a copy of a ministerial statement relating to wind farms made earlier today in another place by my colleague the Premier, the Hon. J. Weatherill.

ECONOMIC STATEMENT

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) (15:09): I table a copy of a ministerial statement relating to the economic statement made earlier today in another place by my colleague the Premier, the Hon. J. Weatherill.

MOUNT BARKER DEVELOPMENT

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) (15:09): I table a copy of a ministerial statement relating to the Growth Investigations Area (GIA) Study made earlier today in another place by my colleague the Hon. J. Rau.

QUESTION TIME

AIDS COUNCIL OF SOUTH AUSTRALIA

The Hon. R.I. LUCAS (15:09): I seek leave to make an explanation prior to directing a question to the minister representing the Minister for Health on the subject of the AIDS Council.

Leave granted.

The Hon. R.I. LUCAS: Earlier last week, there was a brief press report about a special general meeting held last Tuesday of the AIDS Council of South Australia. It was reported that the entire board had resigned at the meeting on Tuesday night and that a $200,000 deficit in the operations of the council had been reported on a state funding base of $1.2 million per year. SA Health was quoted as saying they were seeking further information.

I have been advised that, as long ago as September of last year, it was clear that the AIDS Council was facing a $90,000 deficit on this year's operations. I am also advised that the AIDS Council had previously set up a commercial enterprise amidst some criticism about the purpose of the enterprise and the viability of the enterprise, and that this commercial enterprise was established to provide a range of services including printing services, research, training and development, and consultancy services.

I am further advised that, at the special general meeting last Tuesday evening, the auditor for the AIDS Council was asked by one of the members present, 'Are you telling us we are insolvent?' and I am advised that the auditor's response to that question was, 'Technically, yes.' I

am not sure what the difference between a technical insolvency and insolvency actually is, but perhaps the AIDS Council, SA Health and the minister can advise this chamber. My questions to the minister are:

1. Did the auditor of the AIDS Council advise SA Health that the AIDS Council was trading insolvent and, if so, when was that advice provided?

2. During the financial years 2011-12 and 2012-13, has SA Health been advised that the AIDS Council was running a deficit and, if so, when was SA Health advised of that and what was the level of the deficit they were advised of?

3. What action, if any, did SA Health take before the special general meeting held last Tuesday evening to ensure that the AIDS Council was operating lawfully?

4. What action is SA Health now taking after the special general meeting to ensure that the AIDS Council resolves its deficit problem, and will there be any impact on the delivery of existing services?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:12): I thank the honourable member for his most important question. I am advised that the AIDS Council of South Australia has been funded by the department and the Southern Adelaide Local Health Network since the emergence of the human immunodeficiency virus in the 1980s.

The council has continued to provide peer support and prevention programs for vulnerable members of the community since then. The provision of clean needle program services reduces the spread of blood-borne viruses amongst injecting drug users which benefits the community as a whole, and that is a service also provided by the council.

The South Australian Voice for IV Education program, also administered by the council, I am advised, provides injecting drug users with referrals to drug treatment and other health and welfare services, information and education on blood-borne virus prevention and a range of support and advocacy services. I understand that the program is a very important point of contact for the highly marginalised population of injecting drug users, many of whom have never been in regular contact with health or social services.

I am further advised that SA Health is undertaking a review of the human immunodeficiency virus and hepatitis C funding and service plan for non-government services which incorporates the South Australian human immunodeficiency virus, AIDS and sexually transmitted infections prevention program awarded to the AIDS Council of South Australia in 2009-10. I am further advised that the review will incorporate current epidemiology research policy to determine priorities and funding allocations for human immunodeficiency virus and hep C prevention programs over the next period, and I am also advised that the review of the HIV and hepatitis C funding and service plan for non-government services will be completed midyear.

I have also received advice that the AIDS Council of South Australia receives $1.227 million in grant funding from the Department for Health and Ageing for the targeted human immunodeficiency virus and sexually transmissible infections prevention program. This includes funding for the Sex Industry Network project and other prevention services I have just outlined. The AIDS Council of South Australia will also receive $554,000 in 2012-13 in grant funding from the Southern Adelaide Local Health Network to provide other programs, which I have also just outlined.

I have been advised that the AIDS Council of South Australia reported a budget deficit to the department in a letter dated 6 March 2013 in response to the department's request to submit an overdue mid-year financial report. The department will seek an audited financial report for this period and an explanation for the reported budget deficit. The department will also seek guarantees from the AIDS Council of South Australia that HIV, sexually transmissible infections and blood-borne virus prevention programs to the South Australian community will not be impacted by the reported deficit.

AIDS COUNCIL OF SOUTH AUSTRALIA

The Hon. R.I. LUCAS (15:15): Supplementary question arising out of the minister's answer. Can the minister indicate:

1. When was the six-month audited report required by and why was action not taken earlier in terms of chasing up that particular delayed audited report?

2. Was the AIDS Council funded for the establishment of a commercial enterprises branch, as I outlined in my question?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:16): I thank the honourable member for his supplementary question. As I outlined in my answer, the overdue report was due midyear, so I imagine that was due mid last year. For the final question that he asked, I will take that on notice and seek a response from the Minister for Health and Ageing in the other place.

RURAL FINANCIAL COUNSELLING SERVICE

The Hon. G.A. KANDELAARS (15:16): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about rural businesses.

Leave granted.

The Hon. G.A. KANDELAARS: Media reports tend to suggest that rural businesses are beset with troubles and difficulties and are alone in a sea of trouble, with few resources to assist them to manage change and adjustment. Can the minister advise the chamber of the work done by the Rural Financial Counselling Service and its associated business, the Rural Business Support Service Incorporated, to help rural businesses and farmers gain skills?

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) (15:17): It is clear that, while agriculture is a mainstay of the South Australian economy, it like any other industry which exports products faces challenges arising in part from the high Australian dollar and also structural changes in some sectors. Traditionally, rural businesses and farming have begun as family businesses and many have provided both a home for a family and an income for members of the family. To succeed in the competitive and increasingly complex world of agriculture, farmers need the right skills.

I am very pleased to be able to inform the chamber that PIRSA, through Rural Business Support Service (RBSS), has tested the market to understand the critical skill needs of the farm sector to manage an increasingly complex and risky environment, not least as the impacts of climate change come to bear. Through a series of workshops with farmers and rural bank leaders conducted in the last quarter of 2012, RBSS has explored the best way to ensure that business and risk management training is made available to this important sector of the South Australian economy. RBSS is the entity established by the board of the Rural Financial Counselling Service SA to expand its scope and provide a footing for sustainable funding into the future.

The Rural Financial Counselling Service was established on 1 September 2006 under a funding agreement between the state and commonwealth. It aims to help primary producers, fishermen and farm-dependent small rural businesses identify ways to become self-reliant and better equipped to manage change and adjustment. Members of the chamber may be aware of its sterling work during the recent severe drought. As part of the national drought reform work undertaken by the Standing Council on Primary Industries (SCoPI), the focus has shifted from providing an ambulance at the bottom of the cliff for farms in trouble to prevention and to helping ensure that the farm sector is better prepared for droughts and other periods of hardship.

The new package proposed by SCoPI to approve and implement from July 2014 include a national farm household support payment available without the need for a drought declaration and aligned with the mainstream social security allowances. Farmers generally cannot access mainstream social security due to their assets, and the scheme is being developed to determine how this will work, encouraging maximum use of the farm management deposit schemes and taxation measures that allow farmers to manage their financial risks, a national approach to farm business training to be delivered in flexible and timely formats aligned to the vocational education and training system, a coordinated and collaborative approach to the provision of social support services, and emphasis on ensuring the farm business has access to science and technology to inform decision-making.

Recognising the pressure that can arise during severe drought, SCoPI also asked officials to develop proposals for further consideration for in-drought support, including businesses, community and/or economic development support. South Australia is playing a key role in the work to deliver a national approach to farming businesses. They found four capabilities that should be the foundation—involving business planning, financial management, workforce and adapting to

change. Financial management initiatives, it found, should be included in budgeting, reporting, annual planning, resource management, etc. These skills, combined with workforce management, were found to help create more resilient farmers and communities and to help generate a positive professional and strategic approach to farming, and these would complement the areas addressed by the RBSS rural solution of farm governance communication, being drought ready and succession.

The Australian government has recognised the importance of skill development, and the skills in the workplace component of Skills for All means that we are well placed to deliver training to the farm sector. My agency, PIRSA, is working with DFEEST to shape the approach, together with AgriFood Skills Australia, and the national body are given the task by SCoPI of developing the skill set to be focused on the state upskilling programs, and I look forward to the further development of the agreed skills program and to watching the partnership between the primary industries and further education portfolios working together with the RBSS and other providers in building the business skills of the farm sector.

EATING DISORDER SERVICES

The Hon. T.A. FRANKS (15:22): I seek leave to make a brief explanation before directing a question to the minister representing the Minister for Health regarding public consultation for the new model of care for eating disorders.

Leave granted.

The Hon. T.A. FRANKS: In 2011 members would be well aware that the proposed closure of ward four 4GP, the Flinders hospital's specialty eating disorder unit, was rightly met with widespread community concern. Following this community backlash, the government acquiesced. It was certainly reported by the then minister representing the minister, the Hon. Gail Gago, to this chamber on Thursday 23 June and recorded in *Hansard* that:

> SA Health commissioned an independent consultant to develop a statewide model of care, working closely with the reference group that included clinicians, non-government and university representatives, consumers and carers.

She went on to say:

> I think there has been extensive consultation right throughout. Over 150 people, I am advised, were consulted as part of a development of the new model.

Upon hearing interjections, I believe from the Hon. Stephen Wade as reflected in *Hansard*, the minister went on to say—and certainly I was pleased to hear this, as she was at the time:

> I was pleased to be informed that the service model is now complete and will be released to stakeholders.

As part of this consultation, as we heard, over 150 people were involved in the consultations. Attendees at the three-day conference were told that they would in fact, as the minister assured us here in this chamber, receive progress and be given the opportunity to provide feedback on the new model of care. However, currently SA Health has on its website a page calling for consumers, carers and anyone with an interest in eating disorders to offer their feedback as part of the department's public consultation by the close of business Wednesday 6 March 2013—obviously last Wednesday.

This week I have heard from people who are rightly distressed that they were not contacted, they having attended the conference, and in fact one received an email from the department which stated:

> Those people involved with the model of care and attending conferences in 2012 were not contacted.

The email goes on to encourage that person to get in touch with others who attended the conference and let them know that their new closing date for feedback was extended, in fact, to today (Tuesday 19 March). I believe now that it has been extended again to Friday 29 March. However, I draw the minister's attention to the fact that the website still states as of 3.15 this afternoon that the deadline is, in fact, 6 March for this public consultation. My questions are:

1. Was this a departmental or governmental stuff-up? Does it make a mockery of the then minister representing the minister's guarantees given to this chamber that there would be adequate consultation?

2. Were those and will those who attended the conference ever be contacted by the department or does the department now expect that this particular consumer will, in fact, try to

remember the names of the people they sat with and get hold of them somehow, or will the government undertake to ensure that everyone who attended those conferences whose details were taken down will be consulted and communicated with in a timely manner to ensure that they can have adequate feedback?

3. When will the minister ensure that the deadline will be updated on the website?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:26): I thank the honourable member for her ongoing interest in these matters and for her very important question to the Minister for Health and Ageing in another place about eating disorders and their service model for eating disorders and public consultation. I note that the honourable member said in her introductory remarks that the department has responded by extending the deadline which is entirely appropriate—twice, I think she said.

The Hon. T.A. Franks: To an individual by an email.

The Hon. I.K. HUNTER: I am not aware of the communication the honourable member asserted she had with this individual or any other individuals and whether any other individuals were involved, but certainly I can take that question to the member in the other place and seek a response about that. But in terms of her colourful remarks about whether this was a departmental or otherwise stuff-up, the obvious answer is neither.

There may be some very good reasons why the website was not updated; there may be some very good reasons why the public consultation over the service model was continuing in another fashion and not put up on the website. That I don't know about and that I will have to seek a response about. Whether people who participated in public consultation in 2012 at the three-day conference, I think the honourable member said, whether that was supposed to be part of the original consultation and whether the website consultation process was something additional, again—

The Hon. T.A. Franks interjecting:

The Hon. I.K. HUNTER: Again, I don't have the details of that but that is something I can also take to the member in the other place, the Minister for Health and Ageing. The consultation process is certainly one that we take very seriously in government and, in fact, we are often criticised (and I have been) in this place for consulting too much and not cracking on with things. I guess when you are being criticised for both levels of inaction and over consultation, you know you have probably got the mix about right. But the honourable member has raised some important questions which I undertake to take to the minister in another place and seek a response on her behalf.

CHAMBER FILMING

The PRESIDENT (15:28): I rise to address comments in *The Advertiser* of last week in relation to filming and photography of proceedings in the council. I was asked by a reporter from *The Advertiser* whether I was considering reviewing conditions for granting the privilege of recording and broadcasting the proceedings and guidelines for press photographers that restrict filming or photographing to only the member who has the call at any particular time during the proceedings of the Legislative Council.

I confirm to the reporter that it is not my intention to alter the current guidelines and practices or to allow the media to have access for filming beyond the public gallery. Apart from anything else I would not do so without canvassing the views of all members of this council. One media organisation has deemed fit to describe the practices of this council as anachronistic. For myself, I disagree. The established practices of the parliament, and this council in particular, have stood the test of time. Those practices exist for a purpose. One purpose is to ensure that the deliberations of this council considered by the people of this state to be important if not critical to the legislative process will be conducted without undue external pressure, particularly from media organisations such as the one to which I have referred.

I consider that the media debate, including editorial comment, adversely reflects on this council and the office of President and has the potential to undermine the workings of this council and public respect for, and confidence in, the council itself as an institution. It is important to acknowledge the independence of the Legislative Council and the inalienable right of each house to be its own master.

I have not been approached personally by any member calling on me to review the established practices and procedures; however, all members should consider whether any alterations would in fact enhance transparency or the democratic process or whether such alteration might not lead instead to circumstances where the predominant focus would be on happenings ancillary to, and not forming part of, the proceedings of the Legislative Council.

More importantly, members could be subject to what may be deemed as being personally humiliated and demeaned. An examination of the practices adopted by other jurisdictions reveals that, in general, comparatively strict guidelines are maintained and in some of these jurisdictions media outlets have less freedom as they are subject to in-house feed under the control of their parliamentary administrations.

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 7 March 2013.)

Schedule.

The Hon. G.E. GAGO: I have some answers to questions that would probably be good to put on the record at this point in time, if I may. In answer to a question from the Hon. Ann Bressington, the honourable member queried whether a landlord's obligation to keep rental premises in a reasonable state of repair pursuant to section 68 of the act applies to the Housing Trust and its tenancy agreements. As I advised the honourable member, the Housing Trust is regulated under separate legislation. Pursuant to section 5(2) of the Residential Tenancies Act, only certain provisions apply to Housing Trust tenancy agreements. Section 68 of the act is not one of them.

Under the South Australian Housing Trust Act 1995, the Housing Trust is required to ensure that properties are well located, of adequate size and condition and meet reasonable standards of health, safety and security. In addition, the Housing Trust's conditions of tenancy require it to provide premises in a reasonable state of cleanliness and comply with all legal requirements in respect to building health and safety in relation to the premises and to keep the premises in suitable repair.

Housing SA administers maintenance accommodation standards on behalf of the Housing Trust which set out acceptable maintenance standards for accommodation under the Department for Communities and Social Inclusion housing group. The accommodation standards are aligned to the minimum housing standards within the Housing Improvement Act 1940, which covers all housing, including social housing.

The Hon. John Darley raised some questions in relation to the Hon. Stephen Wade's amendment to section 80 of the act, which was carried, to enable landlords to obtain compensation for losses flowing from an eviction. The honourable member queried the feedback received on the proposal during consultation, particularly the feedback of the Real Estate Institute of South Australia. I understand that there was a strong response in favour of the proposal during consultation and that the Real Estate Institute was one of the respondents that strongly supported it.

Additionally, the honourable member queried whether, in determining whether or not a landlord is entitled to compensation for any loss caused by the early termination of the tenancy, the tribunal will consider issues of financial hardship. I am advised that the tribunal will not be required to consider issues of financial hardship when determining an application for compensation under the amendment. The amendment moved by the Hon. Stephen Wade and supported by the government is clearly a protection for landlords; however, landlords will be required to take reasonable steps to mitigate any loss and it is important to note that the tribunal determines all applications and tenancy disputes on a case-by-case basis.

Schedule passed.

Title passed.

Bill reported with amendment.

Bill recommitted.

Clause 23.

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

Page 12, lines 24 to 37 and page 13, lines 1 to 9 [inserted section 49]—Delete inserted section 49 and substitute:

49—Residential tenancy agreements

(1) A written residential tenancy agreement entered into after the commencement of this section must—

(a) state clearly in a prominent position at the beginning of the agreement that—

(i) the agreement is a residential tenancy agreement; and

(ii) the parties to the agreement should consider obtaining legal advice about their rights and obligations under the agreement; and

(b) set out—

(i) if an agent is acting for the landlord—the agent's name, address and telephone number, and, if the agent is registered as an agent under the *Land Agents Act 1994*, his or her registration number under that Act; and

(ii) the landlord's full name and address for service of documents (which must not be the agent's address for service); and

(iii) if no agent is acting for the landlord—the landlord's telephone number; and

(iv) the tenant's name; and

(v) the address of the residential premises; and

(vi) the terms of the agreement, including—

(A) the amount of rent payable; and

(B) the interval between rental payment times; and

(C) the method by which rent is to be paid; and

(D) the amount of the bond; and

(E) any agreement reached as to responsibility for rates and charges for water supply; and

(F) responsibility for insurance of the premises and the contents of the premises; and

(G) any other terms of the agreement (including, for example, terms in relation to pets or responsibility for repairs); and

(c) be dated and signed by the parties to the agreement; and

(d) comply with any other requirements prescribed by the regulations.

(2) A provision of a residential tenancy agreement that does not comply with subsection (1) that requires the tenant to pay a bond is unenforceable.

(3) A landlord must not enter into a residential tenancy agreement unless the landlord or an agent acting for the landlord has first given the tenant a written guide that explains the tenant's rights and obligations under such an agreement and is in the form approved by the Commissioner for the purposes of this section.

Maximum penalty: $2,500.

Expiation fee: $210.

(4) The matters specified or agreed in a written residential tenancy agreement entered into after the commencement of this section may not be varied unless the variation is in writing and dated and signed by the landlord and tenant.

(5) A landlord under a written residential tenancy agreement must keep a copy of the agreement, and any variation of the agreement, whether in paper or electronic form, for at least 2 years following termination of the agreement.

Maximum penalty: $2,500.

Expiation fee: $210.

(6) If a landlord (or an agent acting for a landlord) invites or requires a tenant or prospective tenant to sign a written residential tenancy agreement, the landlord must ensure that—

(a) the tenant receives a copy of the residential tenancy agreement when the tenant signs it; and

(b) if the agreement has not then been signed by the landlord, a copy of the agreement, as executed by all parties, is delivered to the tenant within 21 days after the tenant gives the agreement back to the landlord or the landlord's agent to complete its execution.

Maximum penalty: $5,000.

Expiation fee: $315.

(7) Subject to subsection (2), a failure to comply with this section does not make the residential tenancy agreement illegal, invalid or unenforceable.

By way of preface to my remarks, could I thank the council for its consideration in terms of allowing this amendment to be considered so soon after it was filed. As I will explain in my remarks, it was the result of significant consultation between stakeholders, the government and the opposition, and I appreciate the indication of members that they are happy to consider the amendments as tabled.

During the period since the bill was last debated the opposition has appreciated constructive discussions with the government and stakeholders, particularly in relation to this standard agreement. As members will recall, the government proposed that the standard tenancy agreement form be prescribed by the commissioner and the opposition proposed that the form instead be prescribed by regulation. This council supported that approach. I should remind members that the standard forms in question related only to written agreements and such a form did not apply to oral agreements.

It was put to the government and the opposition by the Real Estate Institute of South Australia that perhaps an alternative approach, rather than having a prescribed form—prescribed by either regulation or by the commissioner—was to have guaranteed criteria which an agreement must satisfy and for those criteria to be listed in the act. REISA sees this as a means of providing flexibility whilst guaranteeing protection.

I would like to thank the government and REISA for constructive discussions towards this amendment. To be fair to REISA I understand it has not seen the amendment in its final form but that it has seen iterations, and as I understand it the amendment before you today is supported by both the government and the opposition.

As is often the case in this place, the intent of the changes was not in dispute but the means by which they were to be achieved was subject to discussion. We understand that the amendment would address the mischief where some landlords snare tenants into tenancy agreements where the tenant made an application for a property at an inspection, which is then mischievously used to bind the tenant into a tenancy agreement, rather than another agreement being signed following an offer from the landlord.

The amendment specifies in proposed section 49(1) the criteria that must be met by a written agreement. A tenant is not liable to pay the bond for an agreement that does not meet these criteria. Once an agreement does comply, the tenant is then required to pay the usual amount of bond. Members might ask: why are we using the bond as a lever? It is out of respect for the view of this committee, in a number of its earlier discussions, that it does not want to criminalise the tenant-landlord relationship but lets you use appropriate incentives for both parties to respect each others interests. We believe that this is another way to promote compliance without what might be seen as criminalising behaviour.

The landlord or agent must also provide a written guide that explains tenants' rights and obligations under such an agreement in the form approved by the commissioner. The amendment retains the right proposed in the bill that requires a tenant to be provided with a copy of the agreement within 21 days and would include a requirement for records to be kept for up to two years after the agreement. I commend the amendment to the committee.

The Hon. G.E. GAGO: The government rises to support this amendment. The Hon. Stephen Wade's amendment to prescribe the form was carried by a majority of members during the debate. The government opposed the amendment on the basis that a prescribed form would not enable the flexibility required for such a document. This was a key issue identified by respondents during consultation when the government had originally proposed to prescribe the form. I commend the honourable member for acknowledging the issue.

The honourable member's amendment does not provide for a standard form agreement; rather, it prescribes standard terms that must be included in a written residential tenancy agreement. The purpose of the introduction of a standard form agreement was to create a protection for tenants who unwittingly locked themselves into a tenancy agreement through Application to Rent forms. Many of these Application to Rent forms, which are generally required to be filled out by a prospective tenant to be considered for a property, contain fine print clauses that are designed to create a binding agreement in times of low vacancy. People may sign a few of these forms in one weekend and find themselves locked into multiple tenancies and therefore potentially subject to break-lease costs. This is why the government proposed the introduction of a standard form agreement, pursuant to section 23 of the bill.

The honourable member's amendment will protect prospective tenants by requiring a written residential tenancy agreement to state clearly, in a prominent position, that it is an agreement and that parties should consider obtaining advice about their rights and obligations under the agreement. It appears that the amendment will also provide the flexibility required for written agreements. It is noted that the Real Estate Institute of South Australia supports the proposal to prescribed terms rather than a form. For these reasons, the government is happy to support this amendment.

The Hon. D.G.E. HOOD: Briefly, I would like to put on the record that Family First also supports the amendment. We met with Greg Troughton from the Real Estate Institute of South Australia last week and he expressed that this would be the position should an amendment come forth. We support the Hon. Mr Wade's amendment.

The Hon. M. PARNELL: The Greens are supporting this amendment. We think that it is very unfair for tenants to be locked into a binding agreement on the basis of what is effectively an application; this amendment, I think, clarifies that. We are pleased that the Legislative Council has again shown that, when given time to have a good look at provisions that have gone through the lower house, we can usually make them better.

Amendment carried; clause as further amended passed.

Clause 35.

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

Page 16, lines 31 to 39 and page 17, lines 1 to 10 [clause 35(9)]—Delete subclause (9) and substitute:

(9) Section 61(3)(a)—delete '$150' and substitute '$250'

It was proposed to enable a landlord to be able to request an additional week's rent in bond if an animal is permitted at the request of the tenant to be kept on the premises. The amendment seeks to remove the subclause from the bill. The government had proposed to introduce a pet bond for the benefit of tenants who may now be prevented from keeping a beloved pet with them on their rented property, as previously advised.

Feedback during consultation highlighted the fact that landlords and agents would be more willing to allow a tenant to keep a pet if they were able to take an additional bond to alleviate their concerns about potential damage to the property that might be caused by the pet. While the concept of the pet bond had generally been well received, the application causes a number of unintended negative consequences. Notably, it raises genuine issues of hardship for people who may have been renting with a pet for some time, the requirement to find the additional week's rent up-front would be difficult for many leading to hardship or the possibility that animals may need to be abandoned. Therefore, I move that amendment.

The CHAIR: The Hon. Ms Vincent, you have a number of amendments standing in your name.

The Hon. K.L. VINCENT: Given that the pet bond clause will now be removed, they will not be necessary, but I would like to say that I think this is a very good compromise. Dignity for Disability, of course, had some very serious concerns around the fact that the pet bond could possibly have been charged to people with disabilities who required assistance animals. I was, in fact, quite surprised that the government seemed perfectly unaware that that could have been in contrast to the Disability Discrimination Act so I was prepared to move an amendment to exempt people with assistance animals from paying that bond and rightly so, I believe.

It is no secret that people with disabilities are more likely to be on fixed and low incomes making it difficult enough for them to find private rental properties and increasing their dependence

on government-funded housing. Anything that can make it more possible for people with disabilities to get out of that cycle is a welcome change, and to that end, whilst I was prepared to move my amendment, I think this is a worthy compromise and I will support the amendment.

The Hon. M. PARNELL: I too had a number of amendments to clause 35 and I have to say I have mixed feelings about abandoning the pet bond. I think it generally received support but I think that possibly the lesson to have been learnt from this exercise is that the evidence base on which decisions were being made was perhaps not ideal. We have certainly had anecdotal evidence from animal welfare groups who felt that a pet bond may have been the deal clincher, if you like, that enabled people to keep pets, and we know that pets have a very positive impact on people's mental health. We also had other submissions from groups like Shelter who were concerned at the considerable extra impost that would have fallen on largely low income people.

The other bit of information I think is that I certainly base some of my analysis on the Western Australian experience and I understand that they are now revisiting their pet bonds and how they are configured. I would like to see us revisit this at some stage; it would be good for there to be a deal more evidence and I would urge the government to talk to groups like the RSPCA and to find out to what extent we do have a problem with animal dumping when people have to leave or change residential premises. If we could come back and revisit this some time in the future then I think that would be a worthwhile exercise.

Given for now that the government's amendment is that pet bonds are off the table for the time being, then those amendments that I had which were to limit the operation of the bond to cats and dogs and also to limit how the bond could be used are now effectively redundant if the will of the council is to dispense with pet bonds altogether.

The Hon. D.G.E. HOOD: I rise to indicate that Family First is also somewhat disappointed that we have decided to walk away from the concept of a pet bond, but it seems that the practicalities were too difficult for a number of the issues we debated last sitting week, so we will support the amendment.

Amendment carried; clause as further amended passed.

Clause 42.

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

Page 20, after line 39—Before subclause (2) insert:

(1) Section 70—after subsection (1) insert:

(1a) It is a term of a residential tenancy agreement that a landlord will not unreasonably withhold his or her consent to an alteration or addition to the premises that is necessary to ensure the provision of infrastructure or a service of a prescribed kind.

This relates to clause 42(1) of the bill which proposed to amend this provision to require that a landlord may not unreasonably withhold their consent.

The amendment of the Hon. Stephen Wade, which was carried, deleted subclause (1) so that landlords may continue to withhold their consent for an alteration or addition to the premises no matter how unreasonable it may be. One of the key matters proposed to be addressed by clause 42 of the bill was to prevent landlords from unreasonably withholding their consent to connect the premises to the National Broadband Network. Following debate on this issue, members agreed to recommit clause 42 of the bill.

This amendment attempts to resolve the issue by providing that a landlord must not unreasonably withhold their consent to an alteration or addition to a premises that is necessary to ensure the provision of infrastructure or a service of the prescribed kind. It is considered more appropriate to prescribe these matters in the regulations rather than set them out within the act. It is envisaged that the kinds of things that may be prescribed would be access to digital television and the National Broadband Network.

The Hon. S.G. WADE: In the original debate, the Hon. Mark Parnell raised the prospect that some tenants may miss out on the NBN connections due to landlords not seeking to have their property connected. The opposition did not support the broadbrush approach of the government in terms of removing landlords' rights over their own property and so we did move to oppose their original amendment to section 70(1). In the debate, though, I did indicate that the opposition does

appreciate the need for tenants to have access to infrastructure such as the NBN, so in that sense we are very attracted to the amendment.

The amendment puts a reasonableness test for infrastructure and prescribed services such as the NBN. It seems to be a workable way forward to address the concerns about tenants' access to infrastructure while maintaining the status quo for other non-infrastructure alterations. Normal alterations would not be subject to a reasonableness test as the council determined at its last sitting. Again, I thank the government for its constructive approach during the development of this amendment. I think the amendment goes a significant way to continuing what this bill seeks to achieve, which is a balance between the interests of landlords and those of tenants.

The Hon. M. PARNELL: It is a matter of record that the Greens were happy to support the government's broadbrush approach which provided that the consent of a landlord to a reasonable request for alterations to the premises should not be unreasonably withheld, but that was unsuccessful. We are now at this stage, and I think this is a good compromise. The advantage of this clause now is that the government intends to give itself the power through regulation to decide what forms of alterations to premises fall within the ambit of the subclause, that being, the provision of infrastructure or a service of a prescribed kind.

What this exercise has us reflecting is that, when it comes to modern living, the necessary components of a modern home have gone beyond a cooker, electricity, lights, running water and an operating toilet, and they have now extended to communications. I understand that the government's intention at this stage is to only prescribe the connection to the National Broadband Network which, as we said in debate previously, is also a de facto fixed telephone line, given that the copper is to be withdrawn once the NBN has rolled out, and the government also intends to prescribe some of the television services.

I think this certainly will achieve the objective of the Greens' amendment, which was to put pressure on landlords not to be unreasonable when it comes to the connection of the National Broadband Network to their homes, and the Greens are happy that our amendment has effectively found its way into this legislation, so we will be supporting this amendment.

Amendment carried; clause as further amended passed.

Clause 46.

The Hon. D.G.E. HOOD: I move:

Page 24, line 18 [clause 46(2), inserted subsection (3)(b)]—Delete '14' and substitute '30'

This is a very simple amendment, as members can no doubt see. I will briefly explain it to refresh their memories. I moved an amendment to this clause last sitting week, which was unsuccessful. This is perhaps a more middle ground approach. This section says that a tenant is not required to pay rates and charges for water supply if—and this is the relevant part—'the tenant has requested from the landlord a copy of the account for the rates and charges and the landlord has failed to provide a copy to the tenant within 14 days of the request at no cost.' This amendment simply changes that 14 days to 30 days.

Some people might say that 14 days is enough and I think in most cases it will be, but I think the council should note here that the penalty is a very severe one, that is that the landlord loses the ability absolutely to recover those costs at all. I think this amendment provides a more reasonable time if the person happens to be overseas or ill, for example.

The Hon. G.E. GAGO: The government rises to support this amendment. This amendment seeks to increase the time limit within which the landlord is required to provide a copy of the original bill to the tenant. We think this is a fair and reasonable compromise and a balance between the two sets of interests.

The Hon. S.G. WADE: The opposition will also be supporting this amendment as we consider it provides a little more flexibility for landlords without detracting from the fundamental protections for tenants that the measure provides for.

The Hon. M. PARNELL: The Greens will also be supporting this amendment. We believe that it is very unfair for a tenant to have hanging over their head the potential of being hit with old bills. Certainly the government's amendment dealt with that problem. Whether 14 days was sufficient time—perhaps not, but at the end of the day tenants still now have the comfort that they cannot be taken by surprise with very old bills and being asked to reimburse them. I think this amendment does certainly improve on the status quo, so we will be supporting it.

Amendment carried; clause as further amended passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:59): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (APPEALS) BILL

Adjourned debate on second reading.

(Continued from 7 March 2013.)

The Hon. S.G. WADE (16:02): I rise on behalf of the Liberal opposition to indicate our support for the Statutes Amendment (Appeals) Bill 2012. The bill was introduced by the Attorney-General in the House of Assembly on 28 November last year. It deals with four issues. First, let me address appeals against conviction. The bills allows defence appeals against criminal convictions in the event of fresh and compelling evidence coming to light after other rights of appeal have been exhausted. The bill arises out of recommendation 3 of the Legislative Review Committee report into the Criminal Cases Review Commission Bill. That recommendation reads as follows:

That Part 11 of the Criminal Law Consolidation Act 1935 be amended to provide that a person may be allowed at any time to appeal against a conviction for serious offences if the court is satisfied that:

(1) the conviction is tainted;

(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.

As the report of the committee put it:

Currently under part 11 of the Criminal Law Consolidation Act 1935, a convicted person only has one right of appeal against their conviction, which must be exercised within three weeks of their verdict being handed down. The court has set a very high threshold as to the types of evidence it will admit, and has indicated its reluctance to hear another appeal after a judgment has been finalised. There is currently no forum for a convicted person to raise new evidence which may come to light due to advances in scientific testing, new witnesses, or even where there may have been errors in the original trial.

The only other option available to a convicted person is the prerogative of mercy and the reference of the matter to the Attorney-General for consideration of possible reference back to the Court of Criminal Appeal. The Committee notes that the prerogative of mercy and section 369 is rarely used; further, section 369 does not contain any time frame or structure around the Attorney-General's review process, and lacks transparency.

The principle of finality provides that once a conviction is recorded and the one statutory right of appeal has been exercised, there is no mechanism for a person to have their conviction re-examined on any grounds. The Committee agrees that the principle of finality is needed to maintain the integrity of the justice system, to provide certainty in the community and for victims of crime, and should only be abrogated in exceptional circumstances.

The Committee notes the submission of the Australian Human Rights Commission that South Australia's current appeal mechanism may contravene Article 14 of the International Covenant on Civil and Political Rights. Although the Committee accepts that our current appeals legislation cannot be challenged on this basis, it is keen to ensure that South Australian law complies as far as possible with Australia's international obligations under the ICCPR.

The Committee therefore recommends that the appeal provisions contained in Part 11 of the Criminal Law Consolidation Act 1935 be amended to include a further right of appeal by a convicted person at any time with the leave of the court on the basis of a tainted conviction, or where there is fresh and compelling evidence which may cast reasonable doubt over the guilt of the convicted person. The same definition of 'tainted acquittal' and 'fresh and compelling evidence' contained in sections 333 and 337 (respectively) of the *Criminal Law Consolidation Act 1935* should be applied. The provision should include the ability of the court to order a new trial if it sees fit.

The Committee is of the view that the principle of finality is applied by the court and should only be disturbed by the court in these exceptional and limited circumstances. Any further right of appeal should be at the discretion of the court.

This bill takes up the recommendation and the logic, although there are some differences of detail. I was pleased to be part of the Legislative Review Committee consideration on this matter. I think the Hon. Russell Wortley might have been chair during that period. I commend the Hon. Ann Bressington for bringing the issue of criminal cases review before the parliament, for the Legislative Council for having the wisdom to refer the issue to the committee, to the Legislative Review

Committee for its work under the chairmanship (as I acknowledged) of the Hon. Russell Wortley, and to the government for bringing forward a bill based on that report.

In passing, I note that it is yet another example of good work done by this council and its committees. I should say the committees of this parliament because in this case it is a joint committee. I draw honourable members' attention to an article in today's *InDaily* by Jeremy Roberts where he writes about this bill in what I think you could only describe as glowing terms. I quote in part, and I must admit not in order:

> State Parliament is set to pass Australia's first new statutory right of appeal for prisoners who wish to test their convictions with new and compelling evidence of innocence. The legislation could be passed by the Legislative Council as early as today.
>
> The prospect has led retired High Court judge Michael Kirby to hope that the reform be adopted across Australia so as to avoid miscarriages of justice for people who have already used up their single right to appeal. Justice Kirby is laudatory of South Australia for again finding itself in the forefront of legal innovation and he is hopefully eying other jurisdictions.
>
> 'I congratulate the South Australian Parliament on returning to the tradition of innovation and leadership in legal reform,' he said. 'I hope that the measure to be adopted in South Australia will be quickly considered in other Australian jurisdictions because the risks of miscarriage of justice arise everywhere and they need more effective remedies than the law of Australia presently provides. The Bill is an instance of democracy in action and of principle triumphing over complacency and mere pragmatism.'

Elsewhere in the article, former New South Wales director of public prosecutions Nick Cowdery, who retired in 2010 after 16 years as the state's chief prosecutor, welcomed the reform as an Australian first:

> 'Putting this sort of process into statute is a benefit and would be an Australian first—it clearly states the circumstances and tests that need to be satisfied for an appeal to proceed,' he said. 'Putting this measure on a statutory footing can only be a good thing.'

The impetus for the bill was the Legislative Review Committee's report into the Criminal Cases Review Commission Bill. I note that the Hon. Ann Bressington has campaigned long and hard for South Australia to have such a commission.

The Law Society is supportive of the amendments; however, it argues that the requirement that the defence must establish a 'substantial miscarriage of justice' has occurred rather than just a miscarriage of justice creates unnecessary confusion and ambiguity, given that the phrasing of the bill imposes different criteria with respect to second or subsequent appeals. Whilst the Liberal opposition will not be moving amendments to address that point, we think that the Law Society makes a valid point.

In relation to cross-appeals, the bill will give the prosecution the right to cross-appeal in the context of a defence appeal without the court's permission. The government claims that this will provide greater parity between the parties, discouraging defendants from lodging unmeritorious appeals and that the bill will make South Australia consistent with all other Australian jurisdictions. The Law Society is opposed to giving the prosecution an automatic right to cross-appeal whenever the defendant appeals their sentence.

In the society's view, the proposal is unfair, inappropriately alters the appellate landscape and inappropriately discourages the defendant from exercising their fundamental right of review. The opposition appreciates the society's concerns but considers that, in the context of prosecution policies and practices, it is an appropriate development of appeal processes.

In relation to the changes proposed by the bill in relation to the Full Court, the bill will enable the Chief Justice of the Supreme Court to constitute the Court of Criminal Appeal by a bench of two judges (rather than three) for appeals against sentence and conviction. We expect that this discretion would only be used in matters not expected to be contentious, and we understand that similar models operate in Victoria and New South Wales.

The Law Society of South Australia is critical of the proposed provisions, particularly because it is not limited to sentence appeals (as New South Wales and Victoria are). Further, the provision fails to prescribe what happens when two judges are divided in opinion. The Law Society argues that the provision is in direct conflict with section 349 of the Criminal Law Consolidation Act, which states that any decision of the Full Court is that decided by the majority of judges hearing the case. This cannot occur where the judges are split one-one.

That view stimulated the opposition to file an amendment to deal with the issue of a tied bench in a similar way to the New South Wales provisions. The government prefers a simpler

model and has tabled an alternative amendment. Both have the effect of referring a tied bench matter to a court of three. The opposition is happy to support the government amendment. I will not be moving mine.

The Liberal opposition notes that many of the Law Society's concerns can be ameliorated by the way the Chief Justice manages the court's caseload. In this context, I think it is interesting to note the experience of the New South Wales and Victorian jurisdictions. I note that with respect to the Victorian model, the Victorian Court of Appeal recognised the importance of sentence appeals and concluded that '[i]n the face of a growing backlog...[it is]—precisely because of the importance of sentence appeals—that it was preferable to have the appeal heard earlier by two judges rather than later by three.' As such, the practice of allowing straightforward sentence appeals to be determined by a bench of two judges rather than three or more was introduced.

A Sentencing Advisory Council of Victoria report in March 2012 concluded that the court infrequently utilised the practice initially. Between 2007-08 and 2008-09, only 33 appeals by offenders were heard by two judges of appeal, that is, 11.1 per cent of cases. The overwhelming majority of cases were heard by three judges. It is unlikely that the practice made a significant difference to disposal of sentence appeals for that period. The report noted that the Supreme Court intended to increasingly list sentence appeals before two judges as part of continued action to reduce waiting periods in criminal appeals.

The New South Wales legislation was enacted for similar reasons. It was intended to be used where the prosecution did not cross-appeal. I have been informed that prosecutors in New South Wales are increasingly mounting cross-appeals in defence appeals against sentence, resulting in an increase in complex appeals and, as such, the provisions are not being used as often.

The opposition appreciates the need for the government to take steps to address the woeful backlog in our court system and supports that element of the bill. With those remarks at the second reading stage, I commend the bill to the council.

The Hon. A. BRESSINGTON (16:13): I also rise to speak to the appeals bill. First of all, my interest in wrongful convictions goes back to probably two weeks after I came into this place, when I was made aware of at least four cases where people may have been wrongly convicted. I must say that on reading the books of Dr Bob Moles on a number of cases, my interest grew. However, going over to Western Australia in March last year, to the first International Justice Conference, was probably a defining moment in my time in here.

I met 15 people who had spent anywhere from 18 years to 30 years incarcerated on a wrongful conviction. I met with Lindy Chamberlain and heard of her struggles because of accusations and her imprisonment over the death of her daughter Azaria. I met with Hurricane Carter, a gentleman from the United States, who spent I think 27 years—he and his best friend—in gaol for a crime that they did not commit. I also met a number of others from New Zealand, Western Australia and, indeed, Canada.

What struck me the most was that there was a blueprint as to how people were incarcerated for crimes they did not commit; murders that they did not commit. There was a number of elements: one was the need for a hasty conviction to keep the public happy; another one was trial by media; and the other one was sloppy police work. All three of those combined meant that people and their families lost valuable years and valuable time together.

Last year I decided to work with Dr Bob Moles and Bibi Sangha and, with their help, put together the Criminal Case Review Commission Bill. I thank the Legislative Council and the Legislative Review Committee for putting that piece of legislation under review and for coming up with the recommendations that it did that has produced the bill that is before us today.

I do not think that there is anything worse than being falsely accused of murdering a person or a loved one, a member of your family or someone that you had a relationship with and then spending all of that time in prison knowing that you are innocent and with no way of your evidence being heard if fresh and compelling evidence comes to the fore. Justice Kirby asked me to read out, on his behalf, the following statement:

I welcome the provisions of the Statutes Amendment (Appeals) Bill 2012 (SA) to address cases of possible miscarriage of justice in a more effective way.

This is innovative legislation. I congratulate the South Australian Parliament on returning to this tradition of innovation and leadership in legal reform. I hope that the measure adopted in South Australia will be quickly

considered in other Australian jurisdictions because the risks of miscarriage of justice arise everywhere and they need more effective remedies than the law of Australia presently provides.

The desire of human minds for neatness and finality is only sometimes eclipsed by the desire of human minds for truth and justice. There will always be a disinclination to reopen a conviction, particularly where it has been reached after a lengthy criminal trial and a verdict of guilty from a jury of citizens. Sometimes, however, that disinclination must be confronted and overcome with the help of better institutions and procedures than we have so far developed in Australia.

Fortunately, the Parliament of South Australia is now enacting sensible legislation that responds to the problem of miscarriages of justice. It is the first step for Australia. Judges, lawyers and administrators throughout Australia will be studying the operation of the South Australian law with vigilance. Any law that helps society to avoid serious miscarriages of justice is to be welcomed. The new South Australian law is such a measure. I welcome it and praise the Parliament of South Australia. I also praise Ms Bressington for her initiative and the lawyers and the civil society organisations who have been urging the adoption of such a law for so long. Their success is an instance of democracy in action and of principle triumphing over complacency and mere pragmatism. I hope that other jurisdictions in Australia will take steps to enact legislation for the same purpose.

I agree with Justice Kirby that this is indeed a proud time for the Parliament of South Australia. I truly look forward to people who have been wrongly convicted in this state and who have served many, many years—sometimes decades—in prison for crimes they have not committed to be able to access this process post haste and to get the justice they are entitled to.

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) (16:20): By way of summing up, I thank honourable members for their second reading contribution to this important bill. I particularly take this opportunity to respond to some of the comments raised by the Hon. John Darley during his contribution.

I can advise that the Attorney-General and the government carefully considered their response to the Legislative Review Committee's seven recommendations. The Attorney-General's response to the recommendations was sent to the chair of the committee, the Hon. Gerry Kandelaars, in January 2013. For the sake of clarity, I will summarise the contents of that letter.

The government agreed to recommendations 1 and 2; namely, there is no need to establish a criminal case review commission in South Australia and that such body should not be pursued at a national level. The bill carries out recommendation 3, subject to an extension of the new appeal right to all offences. The bill does not include reference to tainted convictions because such inclusion is superfluous. A genuinely tainted conviction would fall within the scope and definition of 'fresh and compelling evidence'.

The suggestions contained within recommendation 4 are either unnecessary, as juries and judges already have the ability to ask witnesses questions, or better dealt with by encouraging further engagement between the courts and the legal profession on the issue of expert evidence.

In relation to recommendation 5, the government does not intend to establish a forensic science review panel in South Australia. The new appeal right to be established by this bill provides an adequate solution to those who consider their conviction ought to the revisited.

Recommendation 6 includes elements that are already in place within our criminal justice system. The Director of Public Prosecutions has confirmed that it is standard procedure for the director's office to contact victims to notify them of all appeals, whether they be appeals against conviction or sentence. The DPP has noted that this procedure will also apply to the new appeal right to be established under the bill. Victims are already entitled to and provided with information about the progress of appeals, on request. The Attorney-General has also contacted the Crown Solicitor to ensure that these processes are also in place for the appeals involving his office.

With respect to the recommendation that victims be provided the opportunity to make submissions during an appeal against conviction, the government will not progress such a change within this bill. In any event, I am advised that victims are entitled to representation, in certain circumstances, under the common law, and this will continue to be the case after the passage of this bill. Finally, I note that the bill carries out recommendation 7. I therefore commend the bill to the house.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

New clause 3A.

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

Page 2, after line 9—Before clause 4 insert:

3A—Amendment of section 5—Interpretation

Section 5(1), definition of *Full Court*—delete the definition and substitute:

Full Court has the same meaning as in the *Supreme Court Act 1935*;

This is a consequential government amendment to ensure consistency in the operation of the provisions of the bill that provides for the Full Court to be convened by two judges at the discretion of the Chief Justice.

New clause inserted.

Clauses 4 to 6 passed.

Clause 7.

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

Page 4, after line 11—After inserted subsection (3) insert:

(4) The decision of the Full Court when constituted by 2 judges is to be in accordance with the opinion of those judges or, if the judges are divided in opinion, the proceedings are to be reheard and determined by the Full Court constituted by such 3 judges as the Chief Justice directs (including, if practicable, the 2 judges who first heard the proceedings on appeal).

The Hon. Stephen Wade filed amendments to this bill which indicated there may be some confusion about the way a Full Court constituted of two judges might operate. It has always been the government's and the Chief Justice's intention that if a Full Court constituted by two judges is divided in opinion, the appeal is to be referred to a Full Court of three judges. This amendment clarifies that intent.

The Hon. S.G. WADE: I thank the government for moving the amendment. As I said, my earlier amendment followed the precedent in New South Wales and provided for an alternative approach on, if you like, minor matters. I certainly am happy to defer to the government's simpler approach and commend it to the council.

Amendment carried; clause as amended passed.

Clauses 8 and 9 passed.

Clause 10.

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

Page 4, after line 28—After inserted subsection (2a) insert:

(2b) The decision of the Full Court when constituted by 2 judges is to be in accordance with the opinion of those judges or, if the judges are divided in opinion, the proceedings are to be reheard and determined by the Full Court constituted by such 3 judges as the Chief Justice directs (including, if practicable, the 2 judges who first heard the proceedings on appeal).

It is consequential to amendment No. 1.

Amendment carried; clause as amended passed.

Remaining clauses (11 to 13), schedule and title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:30): I move:

That this bill be now read a third time.

Bill read a third time and passed.

WILDERNESS PROTECTION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 February 2013.)

The Hon. J.M.A. LENSINK (16:31): I rise to make some remarks in relation to this bill. At the outset, I would like to thank the minister and his officers for providing a briefing. I would also like to thank his office for providing a written response to questions which were raised during the briefing, which I will put at the end of my speech and request that those be read into the record.

The Wilderness Protection Act of 1992 exists to provide protection for wilderness protection areas and wilderness protection zones, large areas which have been set aside because they have significant intact habitat. The smallest of these is the offshore islands near Elliston, known as the Investigator Group Wilderness Protection Area at 440 hectares, the largest being Yellabinna, north of Ceduna, at over half a million hectares.

According to the annual report, there are 14 wilderness protection areas which together with one awaiting confirmation to be proclaimed—the Nullarbor Wilderness Protection Area—makes 15. They are all in regional areas and many are quite remote including the Riverland, Kangaroo Island, Far North East, Eyre Peninsula, Mallee and Far West. The need to amend the act has arisen because it does not allow for co-management with Indigenous traditional owners.

Co-management is currently a feature of the National Parks and Wildlife Act 1972 and this bill inserts those provisions. I understand from the briefing that the Yellabinna and Nullarbor wilderness protection areas are the only ones which are anticipated to proceed in the short term with co-management. Other issues in the bill are to allow current leases to be recognised and to amend the prohibition section to require licences to be granted prior to undertaking a range of activities. The bill, I understand, has been agreed to by the Wilderness Advisory Committee and is supported by the conservation sector.

Minister Caica indicated in his second reading speech of 31 October in the House of Assembly that a number of conservation parks and national parks are awaiting becoming wilderness protection areas following the passing of this legislation, so my first question to the minister is whether he can advise which of those parks are under consideration as indicated. The two questions which arose in the briefing related to fees and what has been proposed. The final question is: what is the status of the Wildlife Conservation Fund? With those remarks, I will support the bill.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:34): I thank the Hon. Michelle Lensink for her contribution to the debate on this amendment bill. The purpose of the bill is to provide for amendments to the Wilderness Protection Act 1992 to improve the ongoing protection of wilderness in South Australia. Proclamation of the Nullarbor Wilderness Protection Area will be one of the most significant achievements for wilderness protection in this state. Its proclamation will bring the area of land forming wilderness protection areas in South Australia to 1.8 million hectares.

This significant achievement has highlighted some practical matters that are not adequately addressed by the current act. Principal amongst these is the current lack of provision for co-management of wilderness protection areas. An unintended consequence of the recent and proposed conversion of a number of conservation and national parks to wilderness protection areas is that they can no longer be considered for co-management by virtue of the Wilderness Protection Act 1992. This is directly relevant in the case of the Nullarbor and the legitimate co-management aspirations of the Far West Coast native title claimants.

To rectify this issue and facilitate co-management of wilderness protection areas, 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. In doing so, the bill represents a significant contribution to reconciliation and to resolving native title claims in this state. The bill also recognises there may be some circumstances where it is appropriate and necessary to preserve existing leases or licences to occupy land on proclamation of a wilderness protection area.

This is the case for the proposed Nullarbor Wilderness Protection Area, which has some existing telecommunications facilities that need to be preserved on a tiny proportion of the land. Generally speaking, areas that are selected to be protected by the act are free of such issues because they are selected for their intact wilderness values. They are to all intents and purposes already managed for wilderness. However, this leasing amendment is necessary due to the unique circumstances of the Nullarbor. The bill has been carefully drafted to enable infrastructure to

continue to be leased or licensed where appropriate and consistent with the objects of the act, but to ensure future commercial development within wilderness protection areas is avoided.

Another proposed change transfers the requirement to obtain a licence or permit to carry out commercial activities on wilderness protection areas from the regulations into the act itself. It makes clear that all commercial activities are prohibited in wilderness protection areas unless a licence to carry them out is first obtained from the Director of National Parks and Wildlife. This amendment was recommended by parliamentary counsel to clarify the powers and oversight of the Director of National Parks and Wildlife in relation to the grant of licences for commercial activities.

With regard to entry fees, the bill proposes that the administration of entrance, camping and other fees for activities in wilderness protection areas and zones be brought into line with the National Parks and Wildlife Act 1972. At present, the Wilderness Protection Act 1992 only allows these fees to be set by regulation and they must be separately accounted for. Given that fees collected last financial year were in the order of $4,000, the cost of administering that fund separately outweighs usually the amount of fees that are collected quite considerably.

The amendments will allow fees to be set by the Director of National Parks and Wildlife and payable into the General Reserves Trust Fund. Given the low revenue currently collected in relation to wilderness protection areas, the change in revenue as a result of the bill is expected to be negligible. The changes in the bill are merely intended to introduce cost savings through administrative efficiencies by ensuring consistency in the administration of wilderness protection areas, and parks and reserves under the National Parks and Wildlife Act 1972. The changes to the act will facilitate the improved administration of existing and future wilderness protection areas. The amendments do in many respects bring the Wilderness Protection Act into line with the National Parks and Wildlife Act, leading to administrative efficiencies. However, they still preserve the intent of the Wilderness Protection Act, which requires a special degree of protection for wilderness areas to protect their values in perpetuity.

I extend my appreciation to the Wilderness Advisory Committee, which provided independent advice on the bill to the former minister for sustainability, environment and conservation, the Hon. Paul Caica, and to the Wilderness Society and Environmental Defenders Office for their considered comments and support of the bill. I also extend my appreciation to the Far West Coast native title claimants and their legal representative, South Australian Native Title Services, for supporting the co-management provisions of this bill. I also acknowledge the commitment given by the member for Colton to the Far West Coast native title claimants that he would seek parliament's support for amending the legislation before the government proclaims the Nullarbor Wilderness Protection Area.

Bill read a second time.

In committee.

Clause 1.

The CHAIR: With the indulgence of the committee, the Hon. Ms Vincent wishes to make a contribution to clause 1.

The Hon. K.L. VINCENT: I wish to speak briefly in support of the Wilderness Protection (Miscellaneous) Amendment Bill. I particularly acknowledge the briefing on the bill arranged by Abbie Spencer in the minister's office and the briefing delivered to one of my staff last week by departmental staffer Jason Irving.

I think it is a great thing that areas of wilderness have been proclaimed, including the huge tract of land under the Nullabor Wilderness Protection Act, all adding up to more than 1.8 million hectares of land across the state. It has now been identified that we need to amend parts of the Wilderness Protection Act 1972 to ensure we protect and enable adequate management of these wilderness areas, similar to the protections and administrative rights already in place from 2004 amendments to the National Parks and Wildlife Act 1974.

As I understand it, this bill enables three main amendments: for co-management so Indigenous rights are acknowledged; to ensure that current infrastructure, fire access track and telecommunications arrangements on the Nullarbor, for example, are maintained; and that the use of wilderness areas for camping and other activities also can be maintained. I believe these are very important amendments and I commend the bill to the chamber.

The Hon. I.K. HUNTER: In her second reading speech the Hon. Ms Lensink asked some questions of me, one being whether any other parks are being considered for proclamation. My advice is no. I covered her second question about fees in my closing remarks. Finally she asked a question about the status of the Wildlife Conservation Fund. My advice is that in practice the fund is used for DEWNR's research co-funding and grants scheme, supporting conservation and research projects in South Australia.

The assets, liabilities, revenue and expenses of the Wildlife Conservation Fund are included in DEWNR's audited financial statements. This fund is separate to and applied for different purposes than the general reserves trust, which is applied to the operation of the South Australian parks and reserves system.

Clause passed.

Remaining clauses (2 to 7), schedules and title passed.

Bill reported without amendment.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:44): I move:

That this bill be now read a third time.

Bill read a third time and passed.

BURIAL AND CREMATION BILL

Adjourned debate on second reading.

(Continued from 6 March 2013.)

The Hon. S.G. WADE (16:45): In 1836, whilst South Australia was being founded, the Westminster parliament was grappling with the issue of cemeteries. In the early decades of the 19th century, London was heaving under a population of just over one million people. Inadequate burial space had been put aside, there was a high mortality rate and there was a serious shortage of burial space. Graveyards and burial grounds were crammed in between shops, houses and pubs. There were cases of undertakers dressed as clergy performing unauthorised and illegal burials. Bodies were often wrapped in cheap material and buried amongst other human remains in graves just a few feet deep. Quicklime was often thrown over the body to help speed decomposition so that within a few months the grave could be used again.

The smell from these disease ridden burial places was horrific. They were overcrowded and neglected. Something had to be done, even if only on public health grounds. In 1836 an act of parliament was passed creating the London Cemetery Company and seven new private cemeteries were opened in the countryside around the capital. That same year the South Australian province was established.

In that context it is not surprising that our first cemetery, West Terrace Cemetery, was established a mere six weeks after the proclamation was read at Glenelg in December 1836. Colonel Light allocated this section of the Parklands as cemetery grounds in his original survey. It is estimated that about 500 people were buried here before proper records were even kept. Since then, I understand more than 150,000 people have been buried on the 27.6 hectare site on West Terrace.

Here we are 175 years later, and we have a burial and cremation bill before us. The bill is a significant reform of the regulation of burial and cremation in South Australia. These activities are currently covered by an array of acts and regulations, covering different aspects of the industry. Council operated cemeteries and burial in council areas are regulated by part 30 of the Local Government Act 1934. The Local Government (Cemetery) Regulations 2010 made under the Local Government Act 1934 govern exhumations, reinterments and the powers of cemetery authorities.

Disposal of human remains by cremation is regulated by the Cremation Act 2000 and the Cremation Regulations 2001. Privately owned cemeteries such as church cemeteries are largely unregulated in terms of cemetery management provisions and the length of tenure for interment rights. However, the establishment of new 'private' cemeteries is regulated under the Development Act, general law and public health legislation.

The opposition's view is that the bill is to be welcomed in terms of consolidating the law, making the law more accessible and making the law more comprehensible to South Australians. For a funeral industry that is already operating within national best practice, it provides more consistent coverage and a progressive development of our laws.

The bill repeals the Cremation Act 2000 and part 30 of the Local Government Act 1934 in order to create a single comprehensive and consistent regulatory scheme that will cover all cemeteries and crematoria, whether public or private, and better reflect modern technologies, community expectations and industry practice. While a more integrated regime is to be welcomed, it must be acknowledged that it is not exhaustive. For example, Aboriginal remains are accorded special protection under the Aboriginal Heritage Act, sections 20 and 21.

The review of the legislation governing burial and cremation in South Australia was the subject of two select committee inquiries: the 1986 Legislative Council Select Committee on the Disposal of Human Remains, which tabled its report in parliament; and the 2003 House of Assembly select committee. The main recommendations of the 2003 select committee were the creation of a single act regulating burial and cremation, the removal of the 99-year limitation on interment rights in public cemeteries and the creation of a better system of identification of human remains before disposal.

This bill builds on the work of these committees and the consultation since, including consultation on a draft bill. The government has not accepted the recommendation of the select committee that a statutory authority be established to oversee the application and enforcement of the recommendations. The opposition does not disagree.

I commend the government for the constructive engagement with stakeholders and the community to resolve some significant concerns with both the consultation draft bill and the tabled bill. However, there are some concerns remaining which I will address later.

A key recommendation of the 2003 committee implemented by this bill is that the current 99-year limitation on interment rights in public cemeteries be lifted. Interment rights in perpetuity are offered in New South Wales, Queensland and Victoria. Under this bill, cemetery authorities in South Australia will be able to offer perpetual tenure if they wish. They will not be obligated to do so, and I expect that these rights will not be available to all cemeteries and will be relatively expensive.

There is a shortage of available land in the metropolitan area. To offer perpetual tenure on all gravesites is not likely to be either viable nor, for that matter, demanded by all holders. I expect that placement in a country cemetery will continue to be the most affordable option for South Australians seeking perpetual plots. However, for some people, and in particular for members of the Islamic and Jewish faiths, perpetual burial is an important value. I take this opportunity to acknowledge that other aspects of the legislation allow for greater accommodation of the religious sensitivities of our increasingly diverse South Australian community. I warmly welcome that fact.

For example, under current law, a body transported to a cemetery must be in an enclosed container, such as a coffin. That does not accord with the wishes of people from, say, the Muslim community and other people who want a natural burial, where they want the body in a shroud, not in a coffin. I also note and welcome the provision for the offering of closing of cemeteries to the relevant religious groups.

One area of ongoing concern is in relation to the surrender of interment rights. If an interment right is no longer wanted and the site has not been used, the original section 34(2) of the bill entitled the holder of the interment right to the option of surrendering it to the cemetery authority that issued it and required the relevant cemetery authority to refund to the former rights holder of a surrendered unexercised right of interment the amount which is equal to the current fee payable for that interment right, less a reasonable fee for administration and maintenance costs.

It is noteworthy that, in the event of a cemetery closing, unexercised interment right holders are entitled to 'a refund equal to the current fee payable with the holder of such an interment right'. That is dealt with under section 24(7). The Cemeteries and Crematoria Association of South Australia has argued that section 34(2) should provide to allow for a cemetery authority to deduct a proportion of the establishment costs of the cemetery from the refund on the basis that the original proposal did not allow adequate cost recovery.

The Attorney moved amendments in the House of Assembly which allow refund amounts to be determined in accordance with the regulations. I am informed that stakeholders welcome the

fact that the refund amount will not be specified in the bill, but I would warn them that their joy could be short-lived. If left to regulation, the government could simply impose exactly the same formula by regulation.

While stakeholders would have preferred the refund requirement to have been removed entirely, I do accept that they are happy with the regulations, if you like, as a halfway house. The Attorney asserted in the other place that it is a complex matter that he and his advisers have been unable to resolve. He says that he does not want the passage of the bill to be held up as they try to resolve this. He has given an undertaking on the record that his intention is that the matter will be the subject of thorough consultation before a regulation is made. I make the point that this bill has already been the subject of thorough consultation.

The range of issues resolved thus far show that there is goodwill between the government and the industry, yet, in spite of that goodwill, a resolution on this issue has not been achieved at this point. So I ask the government: on what basis does it consider that a resolution can be achieved by consultation leading to a regulation? Why does the government think that the matter no longer warrants a statutory provision?

The opposition is more inclined to the government's original position, that is, that this is a matter appropriate for statutory provision. Rather than handball a hot potato to the executive to resolve and enact by regulation, the opposition considers that the parliament should consider the issue and try to find a workable way forward.

Similarly, the Cemeteries and Crematoria Association of South Australia argues that the transitional provisions of the bill will allow the holders of unexercised interment rights granted before the bill's enactment to take advantage of section 34(2) and that this will create a huge financial burden on cemeteries. I am advised that one leading cemetery could be liable for up to $19 million in refunds on its 7,000 sites if the refund was at the current rate without deductions. I indicate that the opposition seeks to explore the issue of retrospectivity with a view to considering amendments. We would welcome the government's comments at the second reading stage.

Members will not be surprised that I indicate our concern in relation to section 63, a section which abrogates the privilege against self-incrimination. This clause essentially places an obligation on persons to answer questions or produce documents that would otherwise incriminate them but makes the person liable for a penalty if they fail to do so or, in providing it, give false or misleading information. The opposition is very cautious about moves against this privilege. We have supported such moves in the past but only where there are strong policy grounds to do so.

Following questions from the honourable member for Bragg in another place—in relation to whether anyone in the industry or stakeholders was consulted, whether anyone asked for this provision or whose idea was it—the Attorney-General said:

> I thank the honourable member for the question. It was not asked for by the industry. It is something that was put in as part of the drafting process on the basis that we are talking here about potentially extremely sensitive issues (the unauthorised destruction of human remains), and I think, on balance, it was thought that finding an answer to some of those questions was of sufficient importance to have such a provision.

Later in his remarks the Attorney says:

> No, I did not explicitly ask for it. Parliamentary counsel does fascinating things: 99 per cent of the time, they are fabulous. As far as I know, not every minister asks for every single word that we get, so this is part of the mystery—you have identified part of the mystery. I do not think that it is a bad thing to have in there, but I did not explicitly ask for it. I do not believe anybody explicitly asked for it.

I make no reflection on parliamentary counsel. The point I am trying to highlight by that quote is that where the opposition actually looks for strong policy grounds for abrogating the principle against self-incrimination, apparently in this instance it was not policy grounds, it was a drafting suggestion which was then incorporated. I assure the council that the opposition remains concerned about maintaining the privilege against self-incrimination unless there are good grounds to do so. We would like comments from the government as to whether it is in fact necessary in this case.

I also indicate opposition concerns in relation to the penalty on medical practitioners in relation to certification of death. The Law Society of South Australia and the Australian Medical Association have made submissions in relation to section 14 of the bill which prohibits the issuing of certificates of cause of death in certain circumstances or where the medical practitioner has an interest.

The associations argue that the penalties contained in the proposed section are too high and that at least part of the conduct is already regulated by the Coroners Act and the Births, Deaths and Marriages Registration Act. The AMA argues that the maximum penalty of imprisonment for four years for not complying with the section is too high. Additionally, the AMA argues that doctors should be protected from failing to comply with section 14 if their failure is due to administrative oversight or was done in good faith.

The AMA notes that the penalties for a doctor who does not comply with similar requirements under the Births, Deaths and Marriages Registration Act 2002 faces a maximum penalty of a $1,250 fine and noncompliance with the Coroners Act 2003 creates liability for either a $10,000 fine or imprisonment for two years. I would appreciate the views of the government on this issue at the conclusion of the second reading stage. In conclusion, I look forward to further consideration of the bill and commend the bill to the council.

The Hon. R.P. WORTLEY (16:59): I rise to address the Burial and Cremation Bill. This bill repeals both the Cremation Act 2000 and sections 585 to 596 of the Local Government Act 1934. The bill envisages a single regulatory framework that will cover all public and private cemeteries and crematoria. This is the result of many years of work—the work of two select committees and a number of government agencies, and a range of interested parties, among them representatives of peak bodies related to cemeteries and crematoria, funeral directors, local government, monumental masons and religious organisations, as well as individuals.

While the bill acknowledges the wisdom of previous legislation in that it contemplates disposal of human remains by burial, which encompasses placement of the remains in a vault or mausoleum, or by cremation, it also it looks ahead to the increasing interest in alternatives to burial and cremation. Burial requires land, and land is rare and costly; preservatives and other chemicals and materials used in and/or near the remains can affect the watertable; and grave and cemetery maintenance is expensive. Cremation, meanwhile, uses enormous volumes of non-renewable energy.

According to *The Economist,* published on 16 September 2010, a study conducted in 2007 for Centennial Park found that cremations produced the equivalent of 160 kilograms of carbon dioxide per body. A cemetery burial emits a mere 39 kilograms, but maintenance (for instance, mowing lawns and the like) makes the ultimate carbon footprint of burial bigger than cremation. Both tend to make extravagant use of coffins made from valuable hardwoods, such as oak and mahogany, and also unpleasant chemicals abound.

A paper published in the *Journal of Environmental Health* in 2008 warned about the public health risks of certain chemicals leaking from cemeteries into groundwater. I will not quote further from this article, which goes into considerable and quite fascinating detail about burial and cremation by-products. It does seem likely, though, that, given the community's increasing concern about climate change and the risks of environmental impacts on our air, water and soil, some of these new methods may well be introduced in our lifetime.

Briefly, they include water cremation (also known as alkaline hydrolysis), which uses potassium hydroxide at low temperatures to break down the body; and ecological burial, where the body is frozen, vibrated and reduced to powder, which is buried in mulch-forming layers of soil to become compost within a year.

The beauty of the bill before us is that it allows the introduction of these and other new technologies to be managed by way of regulation, which I consider to be extremely forward thinking. Other measures within the bill include:

- a new discretion for cemeteries to offer perpetual tenure on grave sites, as well as limited tenure rights; currently limited to 99 years;
- new identification requirements prior to the disposal of human remains;
- clarification of the processes for natural burial and for burial other than in a cemetery;
- clarification of guidelines for the closure of cemeteries or natural burial grounds and their conversion to public open space;
- clarification of the processes around renewal, surrender, transfer and enforcement of interment rights, including the exercise or enforcement of an interment right if the rights holder has died;

- clarification of the ownership of any memorial on an interment site and of the maintenance responsibilities of a rights holder; and
- the conferral on a cemetery or natural burial ground of powers of management and maintenance, as well as obligations, among them being to recognise the customs and requirements of ethnic and religious communities in disposing of their dead.

Of course, accurate record keeping is a paramount concern when it comes to the disposal of human remains, whatever the method. Customs, rituals and practices around dying and death are part of our history, just as much as the exploits of the living.

Just last year, in my capacity as minister for local government, I was able to take an extensive tour of the Pere Lachaise Cemetery in Paris. It is estimated that a million people visit the cemetery every year to visit the graves of cultural icons such as Edith Piaf, Oscar Wilde and, of course, Jim Morrison. This influx of visitors, combined with the very limited amount of land remaining for new burials, poses some real challenges for the Paris authorities. This gave rise to some very interesting discussions about the management of such an area but also caused me to reflect on the fact that the graves reflect their era—from the simple resting place of the poor to the gothic graves of the 19th century and the stunning art deco of Oscar Wilde's tomb.

I considered too how much the graves provided a narrative of French history. Just as an example, the decision to bury all people together reflects a longstanding view that citizenship, rather than adherence to a particular religion, is the chief determinant of core French identity. I gather that Napoleon Bonaparte, who ordered the opening of the cemetery in 1804, reputedly said that 'every citizen has a right to be buried regardless of race or religion'.

As the population of Paris becomes more diverse, French authorities are under increasing pressure to introduce separate sections for different religions and faiths, something that we here in South Australia have encompassed since the start of the colony. Our cemeteries have Afghan, Anglican, Buddhist, Catholic, Islamic, Jewish, Lutheran, Orthodox and Quaker sections. They are laid out with what appears to us to be admirable acceptance and liberalism for their times. As I said when I addressed the Australian Cemeteries and Crematoria Association Conference in October last year:

> Along with our use of cemeteries and crematoria to provide a crucial service, we need to accept our responsibility in acting as custodians of these places.

This bill takes up these responsibilities in a careful and forward-thinking fashion and I commend its terms and its intentions to the chamber.

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

SECURITY AND INVESTIGATION AGENTS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 March 2013.)

The Hon. S.G. WADE (17:07): I rise on behalf of the Liberal opposition to indicate our support for the Security and Investigation Agents (Miscellaneous) Amendment Bill 2013. Each state and territory is responsible for the regulation of the private security industry within its jurisdiction. On 3 July 2008, the Council of Australian Governments agreed to adopt a nationally consistent approach to regulating the private security industry. These reforms are intended to improve the probity associated with licensing, competence and skills of security personnel and the mobility of security licences across jurisdictions.

COAG agreed that the following should be activities that are able to be licensed: general guarding, crowd or venue control, guarding with a dog, guarding with a firearm, monitoring centre operations, bodyguarding, and training. COAG also agreed the minimum criminal exclusions in determining a person's suitability to hold a security licence, minimum standards for identification and probity checks, agreed competency and skills requirements, and the introduction of provisional and temporary licences.

Almost three years after COAG had agreed to adopt a nationally consistent approach, on 3 March 2011, the Attorney-General published a version of the proposed legislation—the Security and Investigation Agents (Miscellaneous) Amendment Bill 2011. True to the government's consultative style, the public and industry were given one month to provide comments. At the time the government said that it intended that the legislation to implement the reforms would be

introduced in the first half of 2011, but this bill is being considered by this parliament almost five years after the ink dried on the COAG agreement and two years after the reforms were released and the government promised us a bill.

That it takes five years to implement nationally agreed reforms is indicative of a tired government. The people have given this government 12 years; the slow progress of this bill shows why they should not give it 16. The Liberal opposition supports the reforms contained in this bill, especially those which will require a person who personally provides security training to hold an appropriate security trainer's licence. The bill also expands the concept of whether a person is a fit and proper person to hold a licence or be the director of a body corporate that holds a licence under the bill.

I note that South Australia's existing licensing scheme already provides for six of the eight offences which COAG decided would disqualify somebody from holding a licence under the reforms. I understand the additional offences are dishonesty and terrorism offences. Appropriately, the bill provides that a person will be disqualified from holding a licence where they have been found guilty of the applicable offence and a conviction was not recorded.

In his second reading contribution, the Attorney-General stated that the government intends to undertake further consultation before commencing the provisions relating to provisional licensing and temporary licences. In the briefing provided to me by the government, I was advised that the government is holding off commencing these provisions so that other jurisdictions can implement reforms so that interstate licensees who seek temporary licences are subject to the same probity standards. On behalf of the Liberal opposition, I commend the bill to the council and support its passage.

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

At 17:11 the council adjourned until Wednesday 20 March 2013 at 14:15.