LEGISLATIVE COUNCIL

Thursday 11 April 2013

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

PAPERS

The following paper was laid on the table:

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

South Australian State Emergency Service Volunteer Charter

CHINA DELEGATION

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) (14:17): I table a copy of a ministerial statement relating to the upcoming China delegation made by my colleague the Premier, the Hon. Jay Weatherill.

QUESTION TIME

REGIONAL MENTAL HEALTH SERVICES

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:17): I seek leave to make a brief explanation before asking the minister for primary industries questions about anxiety.

Leave granted.

The Hon. D.W. RIDGWAY: The National Centre for Farmer Health last week released a study of more than 500 participants. It shows that if you are a farmer you are 15 per cent more likely to develop metabolic syndrome, a precursor to heart disease, than someone doing another job. In 21 per cent of cases the syndrome sets in because farmers are depressed or anxious. The study recommends that, as well as health screening for farmers for physical factors like blood pressure, health workers should also screen for depression and anxiety. My questions to the minister are:

1. Why does Labor constantly close and reduce country health services when there is constant evidence that there is no lessening in demand?

2. Has the minister raised the findings of this important study with her colleague the Minister for Health and, if she has not (and I suspect she has not), will she give this house an undertaking that she will do so at her earliest possible convenience?

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 thank the honourable member for his most important question. Indeed, health and mental health issues for South Australians and, in particular, those in country South Australia or rural South Australia, are issues very dear to my heart, not just as minister for primary industries but also previously as a former registered nurse.

This government has a solid track record in relation to its commitment to maintaining and improving the health of country people. We have invested significant funds in country areas to ensure that patients receive care close to their homes and in modern and up-to-date facilities. That is with all the challenges around the tyranny of distance and suchlike.

Compared with the last year of the Liberal government, spending on country public health services has increased by $348.2 million, or an increase of 91.5 per cent. So, this government is spending 91.5 per cent more on country public health services than the former Liberal government. That is our track record: we deliver the goods.

The Hon. D.W. Ridgway: So why are people still sick? It's not working: it's about outcomes not inputs.

The PRESIDENT: The Hon. Mr Ridgway is making me very sick.

The Hon. G.E. GAGO: The 2012-13 state budget committed $728.5 million to public health services in the country, and a range of expenditure was committed: the haemodialysis

activity for rural areas; the number of procedures conducted under elective surgery; a range of minor work upgrades, such as the emergency department at Cummins, Mannum and Victor Harbor; and high voltage switch replacement at Port Pirie—a wide range of projects in addition to $1.735 million, which was spent in 2011-12 to purchase biomedical equipment, including replacement anaesthetic machines at Port Pirie, Gawler and Mount Barker, monitoring systems for Port Pirie and Gawler; and just under $1 million on biomedical equipment.

In terms of mental health, that is also an area that we have again delivered on. This government has also funded a total of 24 dedicated mental health beds in areas of country South Australia. These are new mental health beds; the former Liberal Government never provided those sorts of facilities in country areas. There were no designated mental health beds that the former Liberal government provided for country areas—none, nil.

Just in case people aren't too sure what zero designated mental health beds means by the former Liberal government—none, so that's their track record. Their track record is zero. We have funded a total of 24 new beds, and in country South Australia intermediate care services are also available for the first time ever. The former Liberal government never had that level of support for mental health services in country areas; they didn't have that sort of support there at all.

For the first time, this enables services to be provided obviously closer to where people live. While facility-based services are currently being planned, non-facility places are now available in places like Mount Gambier, Whyalla, Port Augusta, Kangaroo Island, and Port Lincoln. South Australia will obviously also benefit from the commonwealth government's recent announcement of 159 beds in places for our state's mental health system.

So, you can see, Mr President, that we will stack our track record around health and mental health services both for South Australians and, in particular, for country South Australians any day. We have delivered the goods.

REGIONAL MENTAL HEALTH SERVICES

The Hon. J.S.L. DAWKINS (14:24): A supplementary question: will the minister outline the programs and the amount of funding spent by this government on suicide prevention in country areas of South Australia.

The PRESIDENT: Minister, I don't know if you've got enough time.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:24): Thank you, Mr President, it would take considerable time, and it's a level of detail that is obviously outside my portfolio responsibilities and it's a level of detail that the Minister for Mental Health I am sure would be delighted to provide information on. It is things like our support services; we have a telephone counselling line, designated services there. There is a range of those services available—

The Hon. J.S.L. Dawkins: You're the only state government that doesn't fund Lifeline.

The PRESIDENT: The Hon. Mr Dawkins, you asked the question, listen to the answer.

The Hon. G.E. GAGO: As I said, for the level of detail—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Ridgway!

The Hon. G.E. GAGO: —I am happy to refer those questions to the Minister for Mental Health in another place and bring back a response. However, I can absolutely assure members that our commitment and our figures will stack up against the former Liberal Party any day. This government has committed more for health services, including mental health services, than the former Liberal government on any front. This government has delivered the goods.

REGIONAL MENTAL HEALTH SERVICES

The Hon. K.L. VINCENT (14:25): I have a supplementary question. What specialist service, if any, is provided in country areas for people with a specific diagnosis of borderline personality disorder? Also, what specialist face-to-face counselling services are available for men, in particular, in those areas, given the high rate of male suicide?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for

State/Local Government Relations) (14:26): I thank the honourable member for her questions. I will be happy to refer those to the Minister for Mental Health in another place and bring back a response. But, again, we would stack our figures up against those of the former Liberal government any day.

SAVE THE RIVER MURRAY LEVY

The Hon. J.M.A. LENSINK (14:26): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question on the subject of the River Murray levy.

Leave granted.

The Hon. J.M.A. LENSINK: In April last year the Liberal Party successfully moved amendments to the Water Industry Act to abolish the Save the River Murray levy for customers who do not receive Murray water, which was a massive win for South Australia's regional areas. Whilst the act came into effect on 1 July last year, section 93(12), which outlines the amendment, was exempt from commencing on that date in order to allow SA Water time to undertake the necessary administrative processes. Twelve months after the amendment has been passed these customers are still being charged for water they do not use. My questions are:

1. Can the minister explain what is the hold-up and when it will be implemented?

2. Will the minister rule out that the delay is because the government is so short of cash that it needs to implement any measure in order to hang on to money?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:27): I thank the honourable member for her most important question. The Save the River Murray Fund and levy were established in 2003. The levy contributes to the River Murray Improvement Program, a program of works and measures to improve and promote the environmental health of the River Murray in South Australia and to increase the security and quality of the state's water supply. The program is integrated within a larger Murray-Darling Basin program of works and measures, the South Australian River Murray Salinity Strategy, and the South Australian Environmental Flows Strategy for the River Murray.

I was pleased to be advised that a range of programs will be funded in 2012-13, which total $27.02 million. These programs will include:

- a contribution to South Australia's payment to the Murray-Darling Basin Authority;
- the purchase of environmental water;
- upgrade of waste disposal stations;
- hazard management planning; and
- the implementation of SA Murray-Darling Basin water allocation plans.

Honourable members will be aware that South Australia has been successful in getting a basin plan that scientists say will return the River Murray to health. We have also recently won approximately $420 million in commonwealth funding to support our river communities and help the river environment.

The Hon. R.L. Brokenshire: Even Victoria are funding.

The Hon. I.K. HUNTER: The honourable member peddles his mistakes again to the chamber. We are currently funding the Murray-Darling Basin Authority exactly the same way we did last year. The honourable member should learn—

The PRESIDENT: I am sure that the Hon. Mr Brokenshire will attend and make a personal explanation.

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

The Hon. I.K. HUNTER: Exactly right, but the honourable member does not go out and say that; he goes out saying 'We're not paying, we're not paying,' but of course we are.

The Hon. R.L. Brokenshire interjecting:

The Hon. I.K. HUNTER: I wonder who told them the mistaken information; one can only wonder. Truth is a very precious commodity, sometimes, in the media. Members will be aware that South Australia has been successful in getting a basin plan that scientists say will return the river to health. We have also recently won approximately $420 million in commonwealth funding to support our river communities and to help the river environment. While the funding is welcome, we acknowledge that there are likely to be some costs to the state in implementing the basin plan to 2019. That is why, in the 2012 Mid-Year Budget Review, a savings measure was introduced that reduces expenditure to the authority, and we have been through that ad infinitum in this place. The honourable member might do very well to bone up on what I have been saying in this place previously before he trots out his misconceptions in the media once more.

Under the Water Industry Act 2012, the Save the River Murray levy will no longer apply to land if its water supply is not connected in any way to the River Murray. Before the exemption can be applied, I am advised that substantial work has to be done by the Department of Environment, Water and Natural Resources together with SA Water. Exempt customers must be identified, and changes to administrative systems must be made in order to implement the exemption regime. Once administrative arrangements have been put in place, the relevant provision of the act will be proclaimed. SA Water is developing a communication strategy to ensure that relevant customers are advised once the exemption regime is in place.

SAVE THE RIVER MURRAY LEVY

The Hon. J.M.A. LENSINK (14:31): I have a supplementary question. When does the minister think that will be: this year or next year, or 2016?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:31): I thank the honourable member for her most important supplementary. It will be put in place when those administrative changes have been made.

SAVE THE RIVER MURRAY LEVY

The Hon. R.L. BROKENSHIRE (14:31): I have a supplementary arising from the minister's answer. Based on the answer just given by the minister, is the minister saying that Mr Craig Knowles is wrong when he goes out publicly in the media and condemns the state of South Australia's—

The PRESIDENT: Seeking an opinion.

The Hon. R.L. BROKENSHIRE: —Labor government for withdrawing millions of dollars of funding?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:32): I thank the honourable member for his most important question. I have said before that Mr Craig Knowles has been wrong on many occasions, particularly when he wanted us to take less water than we otherwise got after our Premier, Jay Weatherill, went out and campaigned for our state and he got us 32,000 billion litres of water.

Members interjecting:

The Hon. I.K. HUNTER: Remind me: how much was the Liberal Party advocating that we accept? Less than 22—and they said, 'Sign up to what New South Wales and Victoria are offering. It's the best deal you'll ever get.' Well, that is what the Liberal Party stands for in this state. They sell out South Australia to their Eastern States Liberal comrades. That is what they have always done, that is what they always will do. Only the Labor government in this state will deliver for our people and the River Murray communities. We are the only ones with the gumption to stand up to those Eastern States that want to give us nothing. We have to fight for everything we get, and thank goodness we had a Premier who was willing to do that.

SAVE THE RIVER MURRAY LEVY

The Hon. J.M.A. LENSINK (14:33): I have a supplementary question.

Members interjecting:

The Hon. J.M.A. LENSINK: Whatever happened to '4,000 gigalitres, not a drop less'?

The PRESIDENT: The Hon. Ms Lensink, do you have a supplementary question?

The Hon. J.M.A. LENSINK: Yes, I just gave it.

The PRESIDENT: Well, what was it? There were so many interjections, I didn't hear it.

The Hon. J.M.A. LENSINK: Sorry, Mr President. Whatever happened to '4,000 gigalitres and not a drop less'?

The PRESIDENT: Well, the same as your sellout 2,200. The honourable minister.

The Hon. J.M.A. Lensink: Well, there's no answer to that one.

The PRESIDENT: I just gave you one.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:33): This government has always said that we will rely on the best available scientific information, and the best scientific information told us that it was 3,200 gigalitres we needed, and that is exactly what we fought for and what we got in the end.

Where was the Liberal Party? They were so embarrassed that they didn't even go out to the barricades. It took some of their Liberal federal members to jolt them into action because they were getting out into the community the message that the Liberal Party was selling South Australia short—and they always will.

The PRESIDENT: The Hon. Mr Wade, is it a supplementary or a question? Please make it a question.

The Hon. S.G. WADE: It is a question, Mr President.

The PRESIDENT: Thank you. The Hon. Mr Wade.

WATER TRADING

The Hon. S.G. WADE (14:34): Thank you, Mr President. I seek leave to make a brief explanation before asking the Minister for Water and the River Murray questions relating to the suspension of the River Murray water allocation trade.

Leave granted.

The Hon. S.G. WADE: I am advised that River Murray irrigators received a letter dated 28 March 2013 informing them that the government has implemented a policy which would allow the government to halt the interstate water trade prior to 30 June 2013. The letter kindly informs irrigators that the government may suspend or limit the water trade into or out of South Australia, with immediate effect. My questions to the minister are:

1. If licence holders do not use their full water allocation this year, can they access it in future years?

2. When will the government announce carryover guidelines?

3. Why has the government adopted a practice which gives licence holders very little notice of this potential action?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:35): I thank the minister for his most important question relating to cross-border trade and also carryovers. In a very short period of time I will be making a statement to the effect of a policy on those matters. I think I have already made an announcement, at least to interested parties, that there will be no carryover for this year, and that is on the basis of environmental flows coming into this state since last October and all the way through. That policy, of course, is for this current year and, as I understand it, will not be in place for coming years. That will have to be renegotiated with our friends in the other states.

In terms of interstate trade, we have as a state been disadvantaged when New South Wales, for example, or Victoria, suspends its trade in water, and we have found that through one force or another New South Wales will start buying South Australian water and withholding it from Victoria, or vice versa. I will soon release a policy that helps our irrigators in this state to plan for the future in those unfortunate circumstances.

RURAL WOMEN'S CONFERENCE

The Hon. CARMEL ZOLLO (14:36): I seek leave to make a brief explanation before asking the Minister for the Status of Women and the Minister for Regional Development a question regarding the Bigger, Better, Brighter: Vibrant Rural Women conference.

Leave granted.

The Hon. CARMEL ZOLLO: The Bigger, Better, Brighter: Vibrant Rural Women is a conference held for rural women and their networks. Can the minister tell the chamber about this conference?

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) (14:36): Last night I was very pleased to be able to attend the networking portion of the Bigger, Better, Brighter: Vibrant Rural Women conference and have the opportunity to speak to attendees at that conference. The conference was dedicated to encouraging women living and working in rural and regional South Australia to approach challenges in a big way. It encouraged them to tackle the big issues, think big and imagine a big future, and in doing so it sought to empower tomorrow's industry leaders.

The conference was committed to personal and professional development and the women in attendance enjoyed workshops and speeches on those themes. Topics covered included effective communication, engaging with social media, work-life balance, and making a difference in their communities. The afternoon session looked to the future and the importance of women's grassroots involvement in shaping the future of agriculture, rural communities and policies.

There were a number of talks by quite impressive guest speakers: Roma Britnell, farmer and community and industry advocate; Michelle Prak, social media consultant; Cath Duncan, strategic thinker, executive and business coach of Get Real coaching; Jeannette Long, facilitator, trainer and coach of Ag Consulting Co; and Dawn Sangster from the Alliance Group.

I was very pleased to be able to discuss last night an issue of great importance, that is, women's leadership positions. The challenges to women to achieve senior positions in business are obviously complex and numerous. Despite the social shifts and legislative changes that have occurred to improve to some degree access for women, we know that on the domestic front women are still shouldering the large component of domestic care. The juggling of these responsibilities alongside career aspirations often means that women struggle to achieve their career progression in the same way as males are able to.

Conferences like these are of great importance for rural women to be able to establish a support network to help them overcome these hurdles. When women network and support and celebrate the achievements of other women they can find themselves building a foundation, which for many is very helpful in enabling them to grow success. It is vital that rural women have a voice in shaping the policy responses that affect them. The Jay Weatherill government understands why this is so important and that is why we support rural women's leadership by funding activities that will build leadership and the representative capacity of women and girls living and working in rural, regional and remote communities.

I was pleased last night to open the nominations for the scholarships recently announced by Premier Jay Weatherill and me for women to attend leadership development with the Australian Institute of Company Directors. We have contributed funding for 25 women to be given the opportunity to increase their skills and confidence through participation in the Foundations of Directorship—Governance for New Directors course.

Preference for these scholarships will be given to women from rural areas, Aboriginal women, women from culturally and linguistically diverse backgrounds and women with a disability. This training will enable the scholarship recipients to feel more confident in their knowledge of governance and board operations, and it is my hope that it will help pave the way for greater participation of women.

I was also pleased that PIRSA was able to provide $50,000 to both DairySA and Ag Excellence Alliance to fund projects that support further development of women's leadership capabilities, culminating in that conference. The DairySA grant was provided to run a program under its 2BHerd network, mentoring a core group of 10 women in business leadership skills and networking. That conference was the concluding project of this grant.

Ag Excellence Alliance was formed in 2005 in response to the need to provide support and engender collaboration amongst the established and emerging broadacre farming systems groups across our state. The second grant was provided to Ag Excellence Alliance for funding to provide 15 women access to the Australian Institute of Company Directors' Foundations of Directorship Certificate.

I am sure this chamber will join me in commending these two organisations for their recognition of potential women leaders in rural areas and the support that they give those women to develop themselves.

STATUTES AMENDMENT (APPEALS) BILL

The Hon. A. BRESSINGTON (14:41): My question is to the minister representing the Attorney-General. Some weeks ago in this parliament we passed the rights to appeal bill. In a previous interview with *Today Tonight*, the Attorney-General made the claim that this bill would be in operation probably by February. In a recent interview with the ABC, the Attorney-General has stated that it could be some months before this bill is proclaimed.

The PRESIDENT: You did not seek leave to make a brief explanation. Are you seeking leave to make a brief explanation?

The Hon. A. BRESSINGTON: Yes.

Leave granted.

The Hon. A. BRESSINGTON: So do I have to repeat it all now? I haven't got it written down.

The PRESIDENT: Just pick it up from where you were.

The Hon. A. BRESSINGTON: Can the Attorney-General give an explanation as to what has changed between the time of his interview with *Today Tonight*, when he stated that the bill could be enacted by February, and now, and how long will it be before the rights to appeal bill will be assented 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) (14:43): I thank the honourable member for her question and will refer it to the Attorney-General in another place and bring back a response.

MURRAY-DARLING BASIN NATURAL RESOURCE CENTRE

The Hon. K.J. MAHER (14:43): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister update the chamber on the new Natural Resource Centre opened in Berri?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:43): On Thursday 4 April, I had the very great pleasure of travelling to the Riverland to launch the Natural Resource Centre in Berri. The Murray-Darling Basin region includes some of our most ecologically diverse and agriculturally productive areas of the state and, indeed, the country. Because of this, it is imperative we manage our resources in this area sensitively and sustainably.

History has shown us that the best way to do this is through collaboration, and that means collaboration with the community, collaboration with industry and collaboration with the traditional owners, and collaboration between all levels of government. That is why the South Australian Murray-Darling Basin Natural Resource Centre is so important for that region.

It will be a place where the community, business, traditional owners and government will meet to discuss local regional natural resource management issues. It will be a place where people can access a broad range of services and information about land, water and biodiversity, irrigation improvement programs, national parks visitor information, and wildlife and environmental services and permits. Our intention is to make it even easier for communities to connect with their natural resource management boards and their local natural resource management groups, and to get involved in local issues.

A key example of this collaboration is the work of the Aboriginal Learning on Country program. I had the opportunity to speak with people involved in this program at the Kunggun Centre at Glossop and learn about the 12-month conservation and land management traineeships

for Aboriginal community members with host employers in the region. This program aims to increase the involvement of Aboriginal people in natural resources management, increase their skills and knowledge and give them the experience and qualifications needed to continue working in the field.

Another example of this spirit of collaboration I want to highlight is the on-farm irrigation efficiency program and the private irrigation program, where the South Australian Murray-Darling Basin Natural Resources Management Board has been working with local irrigators to improve irrigation infrastructure and save water. I had the opportunity to meet with Dino and Veronica Sigismondi from Sovereign Vineyards to discuss their firsthand experience in participating in this program. They said their experience was overwhelmingly positive and will have benefits for their business for years to come.

The board, in collaboration with the irrigation industry, has secured $20.9 million from the Australian government's Water for the Future program to fund 144 irrigator projects. The board has also been advised that its latest bid for funding from the Australian government has been successful and will now bring an additional $36.5 million into the region for irrigation upgrades and improvements. Much of this is occurring around Pike's flood plain, and I was fortunate to travel along the Pike River to see firsthand how the community is working together on the Pike River Implementation Program, which aims to restore the ecological values of the Pike flood plain whilst maintaining the economic values of irrigated horticulture.

This program is the result of the community getting together, discussing the issues, forming the Pike River Land Management Group, a non-incorporated community-based committee, and then coming to government to tell us their concerns and what they thought needed to be done. This is an example of what can be achieved with real collaboration and it is my firm belief that we will see much more of this sort of decision-making in the future.

As I said earlier, the key to the success has been collaboration. If that collaboration is maintained then I have no doubt that the future of the region will be very bright indeed. I am looking forward to visiting the region again to talk about this government's collaboration with local communities along the River Murray and with the federal government to improve our lot.

FREE-RANGE EGGS

The Hon. T.A. FRANKS (14:47): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about free range eggs.

Leave granted.

The Hon. T.A. FRANKS: Members would be well aware that last year the ACCC successfully prosecuted a South Australian egg producer who had falsely labelled eggs as free range when they were patently not. However, even that definition of free range is a definition in dispute. The Egg Corporation's contention that stocking densities of up to 20,000 birds per hectare—rather than what true free range producers and organisations such as the Humane Society contend, which is 1,500 birds per hectare—is hotly contested. It is a blatant exploitation of consumer goodwill and it undermines not only the consumer's confidence in genuine free range eggs but also directly economically undermines those genuine free range producers who are doing the right thing and spending the extra money required to provide higher welfare standards for their stock.

It is also undermining South Australia's reputation for a clean and green food product; indeed, one of the strategies of the Weatherill government. The 1,500 birds per hectare figure is, in fact, important. At this level it does not require that the birds' beaks be painfully trimmed to avoid the injuries and deaths that would otherwise occur from the birds attacking each other. I also note that most recently this definition, after extensive consultation, has been endorsed by the ACCC and the Egg Corporation's contention for a definition of 20,000 has been rejected.

Today, the minister would be aware that South Australia's genuine free range egg producers have banded together and the 18 of them have decided to stick their own stickers on their cartons labelling them true free range if they have no more than 1,500 birds per hectare. They have done this because in the absence of government regulations to define and codify free range egg standards they are being forced to take this measure and their only fight back against the misleading labelling is to introduce these stickers. These stickers will also inform customers that those particular cartons are what the Humane Society and certainly the Greens' bill before this place would call true free range. My questions to the minister are:

1. Given that we have now had a ruling from the ACCC refuting the Australian Egg Corporation's attempt to lift the stocking density from 1,500 to 20,000 birds per hectare, will the government finally take action at a legislative level?

2. Will, and if so how, will the Weatherill government support those free range egg producers who have now announced that they are going to put stickers on their egg cartons?

3. Why hasn't this government committed to take action given that other jurisdictions have, notably Queensland, to legislate a genuine free-range stocking standard of 1,500 birds per hectare?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:50): I thank the honourable member for her most important questions. Indeed, the issue of egg labelling produced under free range conditions has been the subject of a great deal of debate and consideration over quite some time, so I think it is quite misleading for the Hon. Ms Franks to say nothing has been done.

This state government has been working very hard with other jurisdictions to try to work towards a national federally consistent approach to egg labelling. We know it is an issue of great concern to consumers. Truth in labelling and clear, consistent labelling is what consumers are calling for, and we know there have been protracted considerations over a considerable period of time on issues around egg labelling.

South Australia's approach has been to attempt to work with other jurisdictions to land on a uniform definition. South Australia has to import more of its eggs from other jurisdictions than what we export. Currently we are not producing enough eggs to meet our own domestic demand, so there is quite a bit of movement of eggs around different states. The preferred position is to have a nationally consistent approach.

A great deal of work has been done on that through our ministerial council forums. I think I have reported on that in this place before, so I do not think I need to go back over the work done there. Regarding the issue about the standard, the 20,000 hens or less, the ACCC has positioned itself on that. So it appears that we really are back to square one, which is most unfortunate. However, I have certainly asked the agency in light of the recent changes to provide me with options in terms of ways to go forward. As I said, the preferred approach is a nationally consistent approach, but if that is not possible then I think it is time we looked at what other options are available to us. My concern is that we may have exhausted some of those—

The Hon. S.G. Wade: Perhaps an act, perhaps legislation.

The Hon. G.E. GAGO: Well, legislation is such a simplistic way of looking at things. As I have said, we currently import more eggs than we produce. We can legislate here but it is not binding on other jurisdictions, so then we just have this mismatch of a whole heap of different labelling systems which is even more confusing for our consumers. As I said, that is the rationale underpinning the reason why South Australia has worked hard with other jurisdictions to try to land on a uniform way of approaching this.

I am very much frustrated by recent events and I have asked my officers to go back, have another look at it and see what options are available to us. That is the state of play at the moment. I certainly share the Hon. Tammy Frank's frustration at the lack of progress towards a consistent, united national approach. You would think labelling a chook egg would be a simple thing, but there are obviously complexities. As I said, I think we have exhausted some avenues and we need to go back and look at what options are available to us.

FREE-RANGE EGGS

The Hon. T.A. FRANKS (14:54): I have a supplementary question. Of those eggs that are imported into our state, how many are true free range?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:55): I don't know what the Hon. Tammy Franks means by 'true free range' because that is not a classification, and I do not have figures with that level of detail. I am not too sure what the relevance of it is. I have certainly given information here about what this government has been doing, why we have been doing it and how we intend to proceed in

the future. As I said, I share her frustration with the slow progress towards a nationally consistent approach that provides consumers clear labelling around the issue of free range.

FREE-RANGE EGGS

The Hon. T.A. FRANKS (14:55): I have a supplementary question. To clarify for the minister, when I asked that question, I would like the number of the eggs imported and exported that are produced at a stocking density of 1,500 birds or less per hectare.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:55): I doubt that that information is available, but if it is I am more than happy to provide it to her.

FREE-RANGE EGGS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:56): I have a supplementary question. In relation to truth in labelling, is the minister aware that Victorian eggs are currently being sold in the Barossa Valley under the label of Barossa Ridge?

The PRESIDENT: I don't know how that relates to it, but if the honourable minister has—

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) (14:56): Mr President, I'm not too sure whether the honourable member is saying that there has been a breach of labelling legislation. If there is, then I am happy to investigate it; if there is not, and I doubt that there is, then people are entitled to—

The Hon. D.W. Ridgway: Mislead the consumer—okay, fine.

The Hon. G.E. GAGO: Well, there are lots of issues around labelling and a great deal of complexity. There are also issues around the way that people are entitled to promote and advertise their material. There are very contentious points of view around that that we, as legislators, try to balance. As I said, if the honourable member believes that there has been a breach, then I am happy to follow it up.

MURRAY RIVER FERRIES

The Hon. J.S.L. DAWKINS (14:57): My question is directed to the Minister for Local Government. Is the minister aware of suggestions from within her own government that local government bodies along the River Murray could now be asked to take responsibility for a contribution to costs associated with the management and operation of the River Murray ferries?

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 question. No, I am not aware. That's my answer.

CITRUS INDUSTRY

The Hon. R.P. WORTLEY (14:58): I seek leave to ask the Minister for Agriculture, Food and Fisheries a question about biosecurity.

Leave granted.

The Hon. R.P. WORTLEY: The government has set out as one of its priorities premium food from our clean and green environment. Will the minister advise the council of a research project which helps to maintain this environment?

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) (14:58): I thank the honourable member for his most important question. The member is correct in identifying the pride with which South Australia regards its clean and green surrounds and the premium quality food that we produce.

While Biosecurity SA (which is part of PIRSA) works tirelessly to help ensure that we maintain our great reputation as a source of food from our natural environment by keeping bugs and pests out, SARDI also has an important role through the ongoing research about areas where we can improve. I understand that Kelly's citrus thrips are a key pest of navel and valencia oranges, lemons and grapefruits.

Members interjecting:

The Hon. G.E. GAGO: They can laugh, Mr President, but this thrip is a very important little insect. These thrips feed on developing—

Members interjecting:

The Hon. G.E. GAGO: They don't care about our citrus industry. Thrips are very important to our citrus industry and you can see that the opposition don't care; they are laughing about this—they think it's a joke. Shame on them. These thrips feed on developing fruit causing damage to the fruit and reducing the pack-out of export quality fruit and, in fact, making some fruit unsaleable.

Traditional control programs of this pest have, up until now, relied heavily on the application of insecticides and, of course, it is an ongoing interest of producers to find ways to minimise insecticides used in production, not only to reduce costs but also to reduce environmental impact.

SARDI has been undertaking work on a natural and low chemical input solution to the problem posed by this citrus pest. Soil-dwelling predatory mites have been identified as a potential biological control for thrips which pupate in the soil. Previous research findings have shown that, where the populations of these mites are high, the emergence of thrips from the soil is reduced by more than 50 per cent.

Building on data such as this gathered from earlier projects, SARDI has used compost to boost the number of mites which feed on thrips. So using composting as a method commonplace in many household gardens, SARDI worked on how to increase mite densities. Investigations included a range of composting materials, including recycled green waste, grape mark and animal manure.

Composting uses materials, in particular, those which break down and add to the soil. There is a range of beneficial uses including conditioning and fertilising the soil by adding humus, nutrients and beneficial soil bacteria. In domestic settings, it is also used to help retain soil moisture, control temperature and help suppress weed growth and may also help prevent erosion.

The findings were positive, I understand, providing confirmation that compost, as well as providing benefits to crop production, reduced the need for water and building up soil. The application of composting soil amendments provided an effective integrated pest management system for thrip control in Australian citrus and also provides a range of significant crop production, environmental and ecosystem service benefits.

I am advised that the trials showed increases in both yield and size of fruit, which means a more valuable fruit in the market, and composting provides a use for recycled urban green waste which is collected by composting companies, also helping to delay the release of organic carbon into the atmosphere. So there is a knock-on benefit to the ecosystem.

The trial's results will be communicated through industry forums and journals over the coming months. This is very good news for the industry as it has potential for water and nutrient savings and the use of products that are less disruptive to beneficial mites and insects where application of insecticides is necessary.

The improvement in production systems using research such as this helps our primary production sector build on its enviable reputation and is another example why the government wants to direct efforts to premium food and wine from our clean environment because it pays dividends for primary producers in this state. This work has been carried out over six years by SARDI scientists with the support of Horticulture Australia Ltd and compost suppliers such as Jeffries. As I said, this is very good news for our citrus industry.

GRAIN INDUSTRY

The Hon. R.L. BROKENSHIRE (15:03): I seek leave to make a very brief, important explanation before asking the minister for primary industries a very important question on grain and on comments from Mr Brock, the member for Frome.

Leave granted.

The Hon. R.L. BROKENSHIRE: Hot off the press today in the *Stock Journal* the editorial expresses concerns regarding grain handling and infrastructure and, in fact, the select committee that was put up both in our house, the Legislative Council, and in the lower house, the House of Assembly. I quote:

Independent Member for Frome Geoff Brock, who was chairman of the Select Committee on Grain Handling, expressed his disappointment at the meeting—

this was the meeting of the Grain Producers SA annual general meeting—

about the government's lack of action on the committee's recommendations. He said very little had been done to resolve transport issues, competition at ports, establishment of a standing committee on primary industries, research and development liaisons with interstate facilities and the distribution of stocks information.

The editorial then goes on:

As the committee contained Labor, Liberal and crossbench MPs, the lack of progress is embarrassing.

My questions to the minister—and I acknowledge that she is not responsible for all the portfolio areas involved in the recommendations thus far—are:

1. Is the government serious about delivering for the grain industry in South Australia and supporting the resources and efforts of members of parliament in both houses with respect to the select committee?

2. When will the government start to act on some of the recommendations?

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) (15:05): I thank the honourable member for his most important question. Indeed, this government does take seriously the reports that come out of its committees. It is not always able to fulfil all the recommendations that come out of them—sometimes they are very ambitious—but wherever possible we do attempt to progress those issues.

There was a coordinated cross-government response to what was a quite extensive and detailed series of recommendations. I believe in most areas the government has made some positive commitment to progress those recommendations in some capacity or other; in fact, I do not recall exactly, but I do not think there were any recommendations rejected outright. If there were, there certainly were not many; the government indicated willingness, in some capacity, to progress most of them. That report was compiled not all that long ago, although I cannot give an exact date.

I am happy to provide this place with details of the progress on those matters. Most of the actions are the responsibility of other agencies, but I will attempt to collate a progress report from across government and provide that to the member.

GRAIN INDUSTRY

The Hon. J.S.L. DAWKINS (15:07): I have a supplementary question. Why did the government not see fit to send a representative in the minister's place, if she was unavailable, to the Grain Producers SA annual meeting a few weeks ago?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:08): I am not sure that a representative didn't attend; I would have to check—

The Hon. J.S.L. Dawkins: Well, they didn't.

The Hon. G.E. GAGO: I would need to check that. I'm not going to take your word for it; you come in here and make things up all the time. But I absolutely can assure honourable members that I do attend every forum, function, meeting and delegation that I possibly can—every single one that I possibly can and, where I cannot, I do attempt to send a representative.

FOOD AND WINE INDUSTRY

The Hon. J.S. LEE (15:08): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about job losses in the food and wine sector.

Leave granted.

The Hon. J.S. LEE: In recent times, South Australia's agriculture businesses have found it difficult to operate, given today's economic climate. In March 2013, South Australian family-owned potato business in Virginia Mondello Farms announced that it had gone into receivership, citing

industry pressures such as rising costs and the high Australian dollar as major factors. A total of 140 jobs were lost as a result.

The Chief Executive of Potatoes South Australia, Robbie Davis, stated that more must be done to protect the industry from cheap imports. She also said:

> ...we'd like to see the agricultural sector given more respect and certainly given low prices on things like fuel, power and water.

Yesterday, one of Australia's winemakers, Accolade Wines, confirmed that there would be further cuts to the company's 1,700-strong workforce in what was described as a company restructure. Last year, 175 workers were made redundant at the company's bottling plant. My questions are:

1. With numerous agricultural companies in South Australia citing industry pressures and the escalating cost of doing business under the Labor government, what actions will the government undertake to protect South Australian agribusinesses from going into receivership?

2. Does the minister acknowledge that the government has been neglecting the important issues in the food and wine industry and therefore has not allocated sufficient resources to encourage growth and competitiveness of local businesses in the sector?

3. Can the minister outline what strategies the government will put in place to safeguard further job losses for South Australian families in the food and wine sector?

The PRESIDENT: The Minister for Agriculture, Food and Fisheries will ignore the opinion part.

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) (15:11): I thank the honourable member for her most important questions. Indeed, the agribusiness sector and our primary industry sectors generally do face considerable challenges. We are in a very challenging economic climate internationally, and we face many challenges. They are sectors that are very important to the prosperity of this country and to this state, and it is an area of considerable concern and interest to us.

In 2012, an annual environmental scan was done, and that identified four areas of priority action to assist the industries. One was the attraction of new workers, the second was the adoption of high skill levels across the workforce, the third was a diffusion of new research findings, innovative practice and technology, and the fourth was retention of skills utilisation of existing workers. These areas of priority action obviously align very much with PIRSA's priorities and other key stakeholders.

PIRSA is working with relevant industry skills boards and a wide range of sector groups to progress action in each of these areas, and that includes linking with Agrifood Skills Australia and other state and federal government agencies and industry bodies to progress priority actions. You would have seen in the *Stock Journal* the new skills project that has just been rolled out to Eyre Peninsula, which is one such project.

In relation to the attraction of new workers, PIRSA continues to work with the Department for Education and Child Development and with tertiary and vocational education institutions to identify and promote career paths into agriculture and related fields. PIRSA is also working with state and federal migration agencies to support the recruitment of skills in areas where there are significant shortages within the Australian population.

The adoption of higher skills levels across the workforce is a priority focus activity. PIRSA works with a range of groups and associations, such as the Agriculture Excellence Alliance, Food SA and the Australian Meat Industry Council, to raise skill levels and to facilitate access. Skills for All is also an important program.

Retention and skills utilisation of existing workers is a vital component of workforce planning, such as in the agrifood and wine sectors, particularly in the current climate of workforce challenges. We are obviously working with industry to look at retention projects. Also the issue of attracting young people is a big issue for us. Obviously, we need to keep our young people in our regions and to increase their capabilities. That is why we are providing extra funding for training and development and opening up the market to providers through the Skills for All program. This increases competition whilst ensuring positive learning outcomes for participants.

Other important aspects are that South Australia obviously needs to ensure that it does not get caught up in the commodity trap and compete with low-cost emerging competitors. We need to continue to challenge ourselves to find new and higher value markets, and we all know that the demand for food will continue to grow and that South Australia will no doubt benefit from that. That is an area where we target a lot of attention and work with the agribusiness sector to look at opportunities for value-adding enterprises.

Continuing to improve productivity is another fundamental key. We cannot remain competitive if we do not remain productive. That is fundamental to profitability and sustainability. To this end, the SA government continues to support the feasibility of improving the relationship between the University of Adelaide and SARDI. That will help provide improved infrastructure and the people and the focus from this institution to become a world leader in research and development, which will benefit all farmers. That is a very important opportunity for us as well.

Another area that is important is that we need to ensure that our regulatory environment enables businesses to grow whilst ensuring that our natural resources, our water and land, are protected for future generations. We must also ensure that we continue to access our overseas markets by maintaining strong biosecurity protocols. We have certainly worked very hard at that end.

Two international delegations visited Adelaide just recently; one is still here. One was a group of about 20 buyers from Shanghai, and the other group that is here for a week, the Fujian delegation, has committed to purchase at least $1 million worth of our premium food and wine. They are here in Adelaide at the moment, visiting and looking at opportunities.

We have arranged an itinerary to enable these business interests to meet directly with our primary producers and our food processing business interests. As I said, that delegation alone has committed to purchasing a minimum of $1 million. You can see, Mr President, that the challenges are great for the sector at the moment. The climate is very challenging, and the Jay Weatherill government is working very hard to support our agribusiness sector wherever we can to remain prosperous and sustainable into the future.

VISITORS

The PRESIDENT: Before we head into orders of the day, I wish to acknowledge the presence of a former minister and member of parliament, the Hon. Mr Crafter, and his guests. Welcome to the Legislative Council.

The Hon. D.W. Ridgway: He is shaking his head in dismay. Our standards have slipped, he said.

The PRESIDENT: Since you have been here, Mr Ridgway.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) (NO. 2) BILL

Adjourned debate on second reading.

(Continued from 10 April 2013.)

The Hon. S.G. WADE (15:19): The fact that we are debating this bill today is quite extraordinary because, as members will be aware, it was only received by this house yesterday. The opposition is willing to expedite consideration out of respect for the Chief Judge, His Honour Terry Worthington, but I do not think that it would be appropriate to proceed without indicating that the government has not acted fairly in this house.

The issue that is precipitating the urgent consideration is the provision in relation to the acting chief judge clause. That clause was not in the original bill, so let us be clear. The opposition was given the courtesy of being advised that the amendment was coming on Thursday 4 April, we were provided with a copy of the amendments on Monday 8 April, and I understand they were filed on the same day, but there was no mention of the fact that those amendments would mean that the bill itself would need to pass all stages this week.

So, we have a very important clause tabled on Monday, put into the bill on Tuesday, and the whole bill (including that clause) is going through the Legislative Council on Thursday. The bill itself is not, on its face, challenging. I appreciate that, at times, amendments need to come forward at short notice, but it would have been helpful to have been advised at an early stage that not only were the amendments coming forward but that the whole bill would need to be expedited.

I start in that context in my comments in relation to the provision of the acting chief judge. We are advised that the provision in relation to the process for appointing an acting chief judge is to enshrine the current convention around the appointment of an acting chief judge should the Chief Judge step aside or be unavailable. We are advised that the Chief Judge and the Chief Justice have asked for this change to ensure there is no ambiguity in determining who is able to exercise that power and authority. Obviously, ambiguity in positions such as this is to be avoided, and the opposition supports that element.

I turn to other provisions of the act. There is an amendment to the Strata Titles Act 1988 and the Community Titles Act 1996 to provide that the articles of a statutory corporation must not prevent an occupier of a unit who has a disability (as defined in the Equal Opportunity Act) from keeping an assistance animal or from keeping a therapeutic animal (as defined in the Equal Opportunity Act) that has been certified by a person's general practitioner as being required to assist that person as a consequence of their disability.

I must admit that this is one of the clauses that I noticed first because at the time I was considering this bill we were considering the residential tenancies bill, and the Hon. Kelly Vincent (such an assiduous advocate for South Australians with a disability) wanted to make sure that the pet bond would not unfairly impact on South Australians with a disability. I seem to recall that it was all a bit too hard. I was interested to know that the government did not find it too hard in relation to the strata titles and community titles acts but did find it too hard in relation to residential tenancies, but perhaps the wisdom might permeate other parts of government.

In relation to the provision for the District Court Act to accord the Chief Judge the status of a Supreme Court judge, I was interested to see the contribution of the Law Society. On 26 March, the Law Society wrote to the Attorney-General and, in part, the letter reads:

> The effect of this amendment is that one judge may be assigned to perform the role of two Judges. The Society notes the concerns of the Honourable Chief Justice Chris Kourakis who previously warned that such a move could result in a blowout in court backlogs, increased costs and risks to community safety as more defendants await trial free on bail. He said if the cuts were rigidly enforced, it would create a 'critical situation in terms of court functioning'.
>
> The Society does not support a reduction in the number of Judges. Consistent with our previous comments, it is highly likely to result in additional costs and delay in other areas of the judicial system. In particular, the waiting times to go to trial will increase. Victims of crime are likely to wait longer for their matters to resolve. Justice delayed really is justice denied.

I understand the government claims the Law Society has unfounded concerns about the reduction in the number of judges. I would certainly welcome a clear commitment from the government that there will be no reduction in the judges linked to the passage of this bill.

In terms of other elements of the bill, there were two that had, if you like, a quite different application but they had something in common which I wanted to comment on. One was in relation to the Evidence Act 1929 which will allow the maintenance of audiovisual records in electronic files to be dictated by the rules of court, within which it will be clarified that the staff of the Courts Administration Authority can carry out the duties whilst adhering to the rules of the relevant court. Another element was to amend the Police (Complaints and Disciplinary Proceedings) Act 1985 to authorise preliminary investigations and to refuse to investigate a complaint.

My recollection was that the opposition was advised in a briefing that the change to the Evidence Act was to bring practice into line with the law and at the same time to put those laws in the rules of court. The second reading speech is more explicit in relation to the Police (Complaints and Disciplinary Proceedings) Act, it says:

> Both the Police Complaints Authority and SAPOL advise that this has been the established practice.

I interpose to say what is being proposed by this act is already their current practice. Going back to the second reading speech:

> However, the present act does not strictly authorise preliminary investigations. There is a need to clarify this situation.

So, whilst the opposition supports both of those measures and, in fact, welcomes the laws being updated to make sure they represent the best practice of administrative procedures, I just make a footnote that in terms of good practice it is better to change the law before you start changing the practice. South Australians, people beyond government, find it galling when they are expected to abide by the letter of the law but they perceive that government is not. With those remarks I

indicate that the opposition will be supporting the bill but does have some questions for the committee stage.

The Hon. K.L. VINCENT (15:28): I will not take up too much of the council's time as this bill is being passed as a matter of some urgency. This bill is being passed more swiftly than would ordinarily be the case, and certainly more swiftly than would ordinarily be tolerated by most members, contrary to the convention that would ordinarily hold. While I, of course, point out that I understand there are instances where that does need to occur for the safety of the public and so on, or the continuity of service provision, there are many recent cases that I could point to where bills have passed unduly swiftly despite there being no public interest for that to happen, such as the petroleum bill very recently and also increases to MPs superannuation.

The Hon. M. Parnell: Good examples.

The Hon. K.L. VINCENT: Indeed, ones that I do not think anyone in this place or any member of the public will forget too quickly. So, while I understand that there are instances where passing bills very quickly is in the interests of the public, and I certainly believe that this is one of those times, it would be remiss of me not to point out that, unfortunately, we have seen many circumstances where that has not been the case and for that reason I would not want to see this becoming something of a habit for this council.

Nevertheless, I would draw members' attention to those provisions of the bill that relate to therapeutic and assistance animals in community title and strata properties. It is extremely encouraging to see positive change in this area, particularly given the difficulties this council faced only recently when unravelling similar issues in the government's new residential tenancies legislation. Dignity for Disability is certainly very worried about the government's lack of general understanding of the benefits that assistance animals bring to the lives of many people with disabilities.

I had amendments drafted to the aforementioned residential tenancies bill and was prepared to move forward with them to ensure that assistance animals were not excluded from being protected under the legislation. In the event that the pet bond issue arises again, I will certainly proceed with those amendments.

It is great to see these changes happening, not just changes in the definition of assistance animals, to move away from the long out-of-date provisions referring only to dogs assisting with a particular function, but also a shift away from the archaic and patronising (to say the least) language of disability as 'suffering' contained in the legislation. I think many in the disability community would argue that we do not suffer from our conditions: we suffer from society's ignorance. So, it is certainly a positive step forward; however, as I have just mentioned, I think we have a long way to go when it comes to this government's understanding of assistance animals, particularly in this context.

That is work that Dignity for Disability certainly looks forward to doing since the debacle that became the pet bond issue under the Residential Tenancies Act, that would have seen people using assistance animals such as guide dogs potentially charged a bond for that animal despite the fact that it is not a pet. That would certainly indicate that we cannot rely on the government to do that work. So Dignity for Disability certainly looks forward to continuing that work.

All that being said, I commend these measures to the council and a number of other commonsense changes contained in the bill and certainly indicate that Dignity for Disability supports the bill.

The Hon. M. PARNELL (15:31): I rise to support the second reading of this bill, but I want to just put on the record my concern with the way this bill has been handled. The government has made it clear that it intends for the bill to go through all its stages today. I want to put on the record my concern that that approach—whilst we would never rule it out—needs to be reserved for the most serious cases where there is a clear public interest in the Legislative Council abandoning its normal rule, which is that a bill is never taken through all its stages and completed in the same week as it is introduced. This bill was introduced yesterday and today it is going through all its stages, and I appreciate that I did have a phone call from an officer of the Attorney-General's Department and also from minister Gago to inform me that that was the government's intention.

I will also say that my name does not appear on the running sheet for today because, of course, the Greens try to put in our running sheet to identify the matters we are going to speak on as early in the day as possible. We had our running sheet to the whips before 10 o'clock this

morning and it was only after 10 o'clock that I realised that this bill was going to be somewhat of a priority. So we have had to rearrange our consideration of legislation. We would normally have expected to have had the next two weeks to consider our position on this bill, yet we have had to come to grips with it in a more rapid time frame.

The purpose of my second reading contribution is to say that we would normally rail fiercely against having to vote on a bill the day after it is introduced, but we are prepared to listen to reason. I will just say now that when we get to clause 9 of the bill I will as forensically as I can examine whether this alleged uncertainty or lack of clarity in the legislation is really there, and I also have a number of other questions around the circumstances that have led to us debating this bill today. If the answers are unsatisfactory then we will not be inclined to see this bill go through all its stages, but I look forward to the opportunity of asking those questions at clause 9.

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) (15:35): I want to take this opportunity to thank honourable members for their cooperation on this bill. The Chief Judge of the District Court has requested that this bill be passed by parliament and proclaimed as a matter of urgency. The matter of interest to the Chief Judge is clause 9, which will allow for the appointment of an acting chief judge of the District Court when the office of the Chief Judge becomes vacant.

The current Chief Judge, the Hon. Terry Worthington, retires from the bench on Tuesday 23 April and without the amendment proposed by clause 9 there is no provision for the appointment of an acting chief judge when the office becomes vacant. The current drafting of section 11 provides that an acting chief judge may only be appointed when the Chief Judge is absent from duties. This means that an acting chief judge will not be able to be appointed upon the Hon. Terry Worthington's retirement in a fortnight.

The government had intended to rely on the convention that the most senior of the other judges who is available to take on the role of the Chief Judge would take on the role after the Hon. Terry Worthington's retirement. However, the Chief Judge has advised the government and the opposition, through the Hon. Mr Wade and Ms Chapman MP from the other place, that he does not consider such convention is adequate to ensure that the administration of the court can continue after his retirement. Accordingly, the Chief Judge has asked that the government and the opposition secure the passage of this bill for an act to commence before the date.

That is why we have asked for the cooperation of members. We usually do leave notices on the paper for a number of weeks to allow members the time to consider and prepare their contributions in a considered way. However, in light of this, we were not able to offer that convention. Rather, what we have asked is that members put that convention aside and consider this expeditiously.

The only other comment I will make is that Mr Wade has also asked for a repetition of the comments made by the Attorney-General in the other place that clause 10 has nothing whatsoever to do with any alleged cost-cutting measures in the courts. With that, I commend the bill to the council.

Bill read a second time.

In committee.

Clause 1.

The Hon. S.G. WADE: I thank the minister for restating my question in my second reading speech. However, at the risk of being pedantic, could I have a more explicit response to the following question: can the government assure the council that there will be no reduction in the number of Supreme Court judges associated with the implementation of this bill?

The CHAIR: Is this in relation to your clause 10 assurance?

The Hon. S.G. WADE: I think it's new clause 9.

The Hon. G.E. GAGO: It is an outrageous question. This bill will have a life over many years. Is the honourable member really suggesting that there might not be any changes over the next 20-odd years? The government simply cannot predict what might occur. What I can assure the honourable member of is that there are no planned changes to the number of judges but, as I said, this piece of legislation could have a life of 20 or 30 years. It would be completely unreasonable

and unfair to be suggesting that any government could make predictions that far ahead. We do not know what changes might take place.

The Hon. S.G. WADE: My comment in relation to the bill was actually to avoid that sort of open-ended implication. The fact of the matter is, in amongst her spit, the minister did give me the answer I was seeking.

In relation to my next question, I need to be careful here because I gather the bill has been renumbered since it arrived in this house and it only arrived last night, so I hope the minister and the Chair might allow us perhaps to stay on clause 1 so that I do not get pulled up if we are talking about a clause that was relating to the previous reprint of the bill. So, I will persist in that course, and I hope the government will be cooperative.

Let's just talk about proposed clauses. Proposed section 11AA(2)(b) says that if no such appointment is made it devolves on the most senior of the other judges available to undertake those responsibilities. I seek a response to the question asked in the House of Assembly: is the seniority determined by reference to the time served by the judge, the age of the judge, or some other qualification, or some other manner?

The Hon. G.E. GAGO: I am advised it is based on time served.

The Hon. S.G. WADE: It was interesting to see the reference in the bill because the opposition was advised informally in relation to the appeals bill that there was no seniority rule in South Australia. In that context, I ask: is this the only reference to appointment based on seniority in this bill or other bills?

The Hon. G.E. GAGO: I am not really sure what the honourable member is really asking. If he is asking if there is any reference to seniority anywhere else in this bill, I have been advised no.

The Hon. M. PARNELL: I did indicate that I would ask my questions at clause 9, but the Hon. Stephen Wade has launched into it in clause 1 and, if we are going to stick on a roll, I can ask them now rather than wait until we get to clause 9, if that suits the committee?

The CHAIR: You have the call, sir.

The Hon. M. PARNELL: Thank you. What I want to do is just test the concern that has resulted in this bill being urgently dealt with today. My understanding of what the minister said is that there was a certain ambiguity in the current legislation and that the ambiguity meant that the existing provision was not adequate to deal with the situation where a chief judge resigns or retires and that there may be some difficulty replacing that person. The second reading speech contains the following sentence:

> Currently, both Acts—

meaning Supreme and District Court acts—

> make provision for an acting Chief Judge/Chief Justice only if the Chief Judge or Chief Justice are absent. The amendments moved extend this to circumstances where the offices of the Chief Judge and Chief Justice become vacant.

I want to test whether that is really the case. When you look at the existing provision for the composition of the court, in part 3 of the District Court Act you find that section 10 basically provides that the court's judiciary consists of:

> (a) the Chief Judge; and
>
> (b) the other Judges; and
>
> (c) the Masters.

Of course, there is nothing in there that says how many of each of these you need to have. I guess there is also possibly an argument that we do not even need to have a Chief Judge.

People might think, 'Well, of course you have to have a Chief Judge,' because when you go to section 11 it provides that the Chief Judge is the principal judicial officer of the court and that the Chief Judge is responsible for the administration of the court. So there would be an argument that, by implication, you have to have a Chief Judge. However, the question arises: does a person have to be appointed in that role for the functions to be fulfilled? Section 11(3) provides:

> In the absence of the Chief Judge from official duties, responsibility for administration of the Court devolves on a Judge appointed by the Governor to act in the Chief Judge's absence—

and this is the important bit—

or, if no such appointment has been made, on the most senior of the other Judges who is available to undertake that responsibility.

That answers the Hon. Stephen Wade's question about whether the concept of seniority of judges is in other legislation; yes, it is already in the District Court Act. However, it seems to me that when you read that as a whole, for whatever circumstance—either absence, non-appointment or resignation of a Chief Judge—the legislation makes it clear that there is not to be a vacuum. You cannot have a situation where no-one is responsible for the administration. There is a default, and the default is the most senior of the other judges who is available to undertake that responsibility.

My question is: if that is the case, if there is a mechanism for providing for the administration of the court, why do we need to pass this amendment as a matter of urgency? Surely if Chief Judge Worthington retires on 23 April, then automatically the next most senior person would take responsibility for administration.

The Hon. G.E. GAGO: I have been advised that the lack of clarity is around the word 'absence'. I have been advised that it is arguable that the word 'absence' applies only when the Chief Judge is on leave or ill. It is arguable, also, that the word 'absence' does not include a vacancy of the office from retirement or death. That is the issue that the Chief Judge has raised, and he has asked that it be clarified before it becomes vacant. The view is that it is arguable, and therefore we are attempting to address that in an expeditious way. That is the nub of it.

The Hon. S.G. WADE: The opposition would just reiterate the point that we are expediting this bill because of a direct request from the Chief Judge. We would be happy to look at the real need for expedition if it was a government initiative, but we respect that the Chief Judge and, as I understand it, the Chief Justice, are also of the view that the clarification this bill provides would be useful, so we are happy to defer and expedite the bill.

The Hon. M. PARNELL: I thank the minister for her answer, and I accept what she says in that it is arguable. I am just making the point that I think it is equally arguable that the statute never intended a vacancy to be entrenched. I think that mechanism is sufficient. I will not pursue that particular point any longer.

In terms of Chief Judge Worthington, the minister said that he is retiring on 23 April. My question is: is he retiring because he has reached the statutory retirement age of 70 and, if he has not reached the statutory age, could not he have been prevailed on to remain in office for a short period longer as an alternative to the Legislative Council having to put this bill through in the same week it was introduced?

The Hon. G.E. GAGO: I have been advised that officers here with me today do not know the reason for his retirement and that the government has never prevailed on any Chief Judge requesting retirement to postpone that, nor do we ever intend to.

The Hon. M. PARNELL: I thank the minister for her answer. Another question on the same topic: how long has the government known that the Chief Judge was to retire on 23 April?

The Hon. G.E. GAGO: Again, officers with me today are not sure of the exact time the Chief Judge indicated that he wished to retire, but it has been some time. However, it is only today that the Chief Judge raised the issue of the lack of clarity he perceived and his sense of urgency to clarify it and also to have this bill through today to address that lack of clarity.

The Hon. M. PARNELL: I am not going to pursue this line of questioning any further, but I will say that, whilst not being terribly forensic and just asking a few simple questions, it seems to me that the case is hardly made for this to be urgent to dispense with the Legislative Council's normal requirements. The stakes are not particularly high; it could be regarded as a fairly minor administrative bill. Mind you, we have only really investigated this. The Hon. Kelly Vincent raised the important issue of helper animals for people who are blind or deaf or who have other needs for such animals, and there is a range of other issues in this bill that we have not considered at all.

I am not proposing to take the matter further by blocking the legislation. Clearly the government has the numbers anyway; the opposition has agreed it can go through. The point that I am making is that this is pretty poor. It is pretty poor that, as I understand it, letters went out months ago inviting people to the special sitting of the District Court to mark the Chief Judge's retirement and, whilst the government might only have been aware of an ambiguity today or in the last little while, I have also put the case that it is not so ambiguous that the sky would have fallen in.

I think it would have been pretty straightforward. The most senior judge would have filled the spot for a while until a new appointment was made.

Really, in terms of the hierarchy of evils to be overcome, wrongs to be addressed, in terms of giving legislation like this priority, this bill does not cut it. This is not good process and it is not the best use of the Legislative Council's time to make us prioritise something that did not need it. Having said that, I do take this opportunity to wish the Chief Judge all the very best in his retirement. I hope he has a happy and fulfilling time off the bench.

The Hon. S.G. Wade: As soon as possible.

The Hon. M. PARNELL: I appreciate that this bill will probably now pass through its remaining stages fairly quickly.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

The Hon. R.I. LUCAS: My question to the minister relates to clause 5—Pornographic nature of material. It indicates:

> No offence is committed against this Division by reason of the production, dissemination or possession of material in good faith by—
>
> (a) a police officer or other law enforcement officer acting in the course of his or her duties

That is entirely clear. Paragraph (b) states:

> any other person acting in the course of his or her duties in the administration of the criminal justice system.

Can I ask the minister whether the government has drafted this provision specifically to cover, amongst others, ministers of the Crown who might come within this definition of persons involved in the administration of the criminal justice system?

The Hon. G.E. GAGO: I am advised the answer is no.

The Hon. R.I. LUCAS: Whilst I accept that in the minister's second reading explanation she, or the government, refers to other officers, such as teachers and child protection officers, can the minister indicate to the committee whether she is indicating that a minister of the Crown who was involved in administration of the criminal justice system would not be covered by this particular provision?

The Hon. G.E. GAGO: I have been advised that the clarification of what the member is asking is in (2a)(b) where that person must be acting in the course of his or her duties in the administration of the criminal justice system. It is any officer who is acting in the course of his or her duties, and that could be a minister of the Crown.

The Hon. R.I. LUCAS: I thank the minister for that clarification because, certainly upon my reading, (2a)(b) does make it clear that if a minister of the Crown, an attorney-general, a minister for police, an acting attorney-general or, indeed, an acting minister for police could argue that in the course of his or her duties in the administration of the criminal justice system they were in possession of pornographic material in good faith, this particular provision has been drafted to cover those sorts of circumstances. I thank the minister for now clarifying that was the government's intention.

Clause passed.

Remaining clauses (6 to 29) and title passed.

Bill reported without amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:01): I move:

> That this bill be now read a third time.

Bill read a third time and passed.

BURIAL AND CREMATION BILL

In committee.

Clause 1.

The Hon. G.E. GAGO: Members raised a number of questions during the second reading stage of this legislation, and I would like to address the issues that I am able to before we move on to debating individual clauses. This bill has been subjected to considerable public consultation, firstly, by two select committees into the burial and cremation industry and, secondly, by the government.

A draft bill was released for a two-month consultation in May-June last year, and a copy of the bill and explanatory notes were sent to major industry bodies, government departments and other interested parties. These documents were also placed on the Attorney-General's Department website so that any other interested party could make a submission. Further consultation also occurred during the drafting process and on the introduced bill. I also note that in the other place the industry has been very supportive of this bill and has welcomed the government's commitment to engage with them on this important piece of legislation.

The Hon. Mr Wade asked the government to comment on some particular aspects of the bill. His concerns related to the surrender provision and the retrospectivity of that provision, the penalties for medical practitioners in relation to certificates of death, and the self-incrimination provision. I note that the Hon. Mr Brokenshire has also raised similar concerns about self-incrimination.

In the other place an amendment was made to the bill which allows refund amounts to be determined in accordance with the regulations. This amendment was in response to further concerns from the industry about the introduced bill, that the ongoing viability and future development of cemeteries would be at risk if a portion of the establishment costs, which are part of the original costs of the site, could not be recouped upon the surrender of an interment right.

The government's concern with simply amending the clause to allow for a further reduction for establishment costs, is that the term 'establishment costs' could be interpreted very broadly. This could potentially defeat the intention behind the section, which is aimed at striking a balance between protecting the interests of consumers and protecting the interests of cemeteries to ensure that they do not become insolvent.

The government is considering options on how best to achieve this, including whether it might be possible to structure the refund so that a percentage is returned to the former holder after the interment right has been re-sold. As noted in the other place, it is a potentially complicated issue but one that the government believes can be resolved in the regulations after further consultation with the industry so that the passage of the bill is not delayed any further, an approach, I might add, that the industry is very happy with.

As the existence of grave sites and the purchase of interment rights is not a new phenomenon, some of the provisions in this bill will apply to current interment right holders who purchased an interment right prior to the legislation coming into force. Otherwise, if it were only to apply to future interment right holders issued after the commencement of the legislation much of the bill, including provisions relating to the re-use of grave sites and consultation requirements upon expiry of interment rights, would have no practical implication for years to come.

The self-incrimination provision was inserted into the bill because the government recognises the importance of the need to obtain information in relation to serious issues, such as the unauthorised destruction of human remains and the mishandling of human remains. However, in fairness to the person providing the information, clause 63 restricts the use to which the information could be put. Consequently, clause 63 provides that where a person is required to answer a question or provide a copy of a document or information under the act, that the answer document or information is not admissible in evidence in proceedings against the person for an offence, other than proceedings in relation to the making of a false or misleading statement of declaration. Therefore, clause 63 aims to strike a balance between the common law privilege against self-incrimination and the fact that there is a public interest in investigations being able to obtain sufficient information to investigate breaches of the act.

The Hon. Mr Wade also raises the concerns of the South Australian branch of the Australian Medical Association in relation to the penalties in clause 14 of the bill. Clause 14 reflects current provisions in the Cremation Act 2000, so they are not obligations for medical practitioners.

Section 6(4) of that act prohibits a doctor from certifying that a deceased died from natural causes if the state Coroner or police are required to be notified of the death under the Coroners Act; that is, if it is a reportable death. Section 6(5) of the act prohibits a doctor from issuing a certificate of cause of death if the doctor stands to benefit financially from the death.

A medical practitioner who issues a certificate of death holds great responsibility and great power in their hands. If a death certificate is issued stating that the deceased died of natural causes, when suspicious circumstances are present, it allows for a cremation permit to be obtained to destroy the body, which would put the body beyond the reach of a police investigation and the associated evidence.

Therefore, the government considers that there is a strong public interest in creating this strong deterrent to prevent medical practitioners from misusing that power and aiding in the cover-up of crime, for instance. The increase in the maximum penalty for the offence in clause 14(1) is consistent with the penalty for the offence in clause 14(2). If a medical practitioner's breach of clause 14 is the result of an administrative oversight or there are other mitigating factors present then the court will take that into account in determining an appropriate penalty. Further, it is important to note that four years imprisonment is the maximum penalty and is reserved for the most serious breaches of the act.

The Hon. John Darley also sought clarification on matters relating to the closure of cemeteries and their conversion to public parks or gardens. Provisions regulating the closure of a council cemetery are currently set out in section 587 of the Local Government Act 1934, which provides that a cemetery or part of a cemetery may be closed if it is considered no longer suitable for burial purposes. Section 588 further provides that a closed cemetery may be dedicated as parklands. In respect of private cemeteries, such as those operated by religious groups, how the cemetery can be closed and the procedures that must be followed is not regulated.

Clauses 24 and 25 of the bill expand on the current requirements, setting out the steps that must be followed before any cemetery or natural burial ground can be closed and converted into parklands. These provisions ensure that if a cemetery does have to close for whatever reason, all parties know what their rights and obligations are.

A cemetery or natural burial ground may be closed if it becomes unsuitable for burial or if 25 or more years have elapsed since human remains were last interred. However, before the cemetery or natural burial ground can be closed, notice of the proposed closure must be given on two separate occasions, the first being at least 18 months before the proposed closure, and the closure of the council cemetery must be approved by the minister.

Clause 24 also sets out the procedures for dealing with unexercised and exercised interment rights within the closed cemetery. The honourable member has queried whether this could mean that a family member could no longer be buried with another family member. It is possible that any existing cemetery may be closed, thereby preventing a person from being buried with their spouse or child or some other family member. That occurs currently. However, there are steps that must be taken before a cemetery can be closed and converted into parklands, which would allow such considerations to be taken into account.

First, closure of a council cemetery must be approved by the minister. I intend to move an amendment to ensure that the responsible minister is made aware of any objections to the proposed closure before any approval can be given. Second, if the cemetery is closed, the cemetery authority may come to an agreement with the holder of the interment right to move any remains interred in the closed cemetery to another cemetery administered by a relevant authority, thereby allowing family members to still be interred together. Third, subclause (11) provides that if a cemetery or natural burial ground has been lawfully consecrated according to the rights or practices of a particular religious or ethnic group, the owners of the land must offer the closed cemetery or natural burial ground as a gift to that group. This allows those groups to take over the custodianship of that part of the cemetery if they wish.

The Hon. Mr Darley also asked for an estimate of the number of unexercised interment rights that could be refused burial on the basis that 25 years have passed since the last interment. The major cemetery operations in Adelaide would be the only ones from which this information would be easily obtained, and they are still conducting interments on a weekly if not daily basis. Those cemeteries that have not had interments for at least 25 years would be small council cemeteries or private cemeteries and the information sought would not, I think, be readily available, particularly where record-keeping has been erratic.

The Hon. Mr Darley also questioned what happens to any memorials that are removed or replaced when a cemetery is closed and converted into parklands and whether GPS tracking technology could be used to map out individual graves so that a plaque or map of some kind could be erected at the park itself in order for people to locate where their loved ones are buried.

Clause 42 of the bill sets out the powers of a relevant authority to dispose of a memorial. For example, if two or more years have elapsed since a cemetery was dedicated as parklands or converted into a public park or garden, the relevant authority may remove the memorial and dispose of it as it thinks fit provided that it has given notice of its intention to remove and dispose of the memorial by public advertisement, written notice affixed to the memorial, written notice to the owner of the memorial, and six months have elapsed since the authority gave such notice.

The question of GPS mapping was raised with industry representatives. It is my understanding that, although advanced GPS tracking can be accurate to within centimetres these days, unless the cemetery has detailed records of grave locations, it would require considerable resources to locate all of the graves in a cemetery and then map them using GPS technology. Even then, if the record-keeping has been erratic, you may only be able to identify that a person is buried at a particular location but not who that person is.

The Hon. T.A. FRANKS: I have a question on clause 1. When the government put forward this definition of 'natural burial', why did it not include a clause to specify a single depth burial?

The Hon. G.E. GAGO: The bill does not regulate whether or not a gravesite should be for a single burial or allow for multiple burials in one gravesite. It is up to the relevant authority of the cemetery or natural burial ground to make that determination, provided they comply with the requirements in the regulations about the depth of those interments in the earth.

For example, under the current cemetery regulations, any remains interred in the cemetery are at a depth of less than one metre from the surface of the ground, unless the remains are interred in a vault. Requiring there to be a minimum level of earth above the last burial—whether it be one burial or three—is a public health and safety issue. At the moment, it is set at one metre; however, the government is happy to consider submissions on whether this requirement should be changed during the drafting of the regulations.

Clause passed.

Clauses 2 to 11 passed.

Clause 12.

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

Page 12, line 12—Delete 'human' and substitute 'bodily'

This is simply a technical amendment to replace the term 'human' with the term 'bodily' in the heading of part 2, division 2 of the bill so that the heading is consistent with the amendments made in the other place to address industry concerns about the definition of the term 'human remains' and its use throughout the bill.

Amendment carried; clause as amended passed.

Clause 13 passed.

Progress reported; committee to sit again.

SECOND-HAND GOODS BILL

Adjourned debate on second reading.

(Continued from 10 April 2013.)

The Hon. S.G. WADE (16:19): In continuation, I would like to say that the government is now making a habit of introducing the second-hand goods bills just before the last sitting year of the term. A cynical view may be that this is an indication of what a low priority it is for this government. Despite its long history, the bill has changed very little, despite vocal and widespread disagreement from the industry groups that it affects. The opposition has been contacted by many small businesses with deep concerns that this impost threatens their viability and may force them to close.

The retail industry has had a tough time between a slow economy, high running costs for utilities, increased taxes, and increased regulation through laws such as these. As if the business community was not suffering enough under the highest state taxes in the nation without being faced by legislation such as this. There is no doubt that this legislation, as drafted, will push businesses closer to closure and therefore cost jobs.

This bill penalises those business that are doing, and will continue to do, the right thing. It shifts the costs and the expectation of policing onto them—this shift in the cost of policing onto retailers—without giving them support to fulfil their proposed new obligations. The bill will save police resources and money and that is welcomed, yet none of that saving is being passed onto retailers.

The government is providing the police with an extra $2.14 million to cover the cost of the transaction management system known as the TMS, but it is not giving retailers anything to help them transition into it. I also understand that the police are not being given any extra resources to use and maintain the TMS. The big businesses like Cash Converters are already using a system like the TMS to report to police, so the burden will impact particularly on small business.

The government is allocating Consumer and Business Services one additional FTE plus $84,000 for a communication strategy and education campaign. Further, the government is funding CBS an additional $8,000 per year to maintain the education material, but there is no extra support for retailers.

Rather than support for small businesses, there are significant imposts. For a body corporate, there is a $495 application fee to become licensed and a $540 annual renewal fee. So before you even get started, there is an up-front cost of $1,035. For a sole trader to become licensed, there is the $310 application fee and a $415 annual licence renewal fee—so a total of $725 up-front cost. For a registrant, for a company to become registered, or a business to become registered, there is a $150 application fee and an annual registration renewal fee of $100—so a $250 up-front cost. For an approved person, there is a $310 application fee, followed by a $150 annual renewal fee. That is a $460 up-front cost.

If you compare these fees, for example, with comparable fees against liquor licensing, for example, the fees are much higher. For a body corporate to get a liquor licence, it is an up-front cost of $558.50, compared to a second-hand goods licence up-front cost of $1,035. Again, for a responsible person to register under the Liquor Licensing Act, it is an up-front fee of $122.90, but for an approved second-hand retailer, it is $460.

As I said before, it is no secret that we are the state with the highest taxes in the nation, and this is another example of the reason why. I suspect even that these sorts of fees do not get added into the state tax burden, but I assure you that they come out of the same profits that small businesses try to eke out to maintain their existence. Whether it is a tax, whether it is a fee, whether it is a levy, it all drags business down.

As I said, in terms of interstate comparisons, the fees themselves for interstate second-hand goods retailers show an unfair burden being placed on South Australian retailers. The $1,035 that I referred to in South Australia compares with $448 in New South Wales and $576.80 in Queensland. So once again, we are leading Australia for all the wrong reasons.

The legislation before us is in response to the problems police have had with utilising the current legislation, but it could be argued that a significant part of those problems lie not so much with the legislation itself, but with the resources police are given to enforce it. The government continues to cut money from the police. It is cutting $150 million over the forward estimates and, in spite of the bleating our part-time Treasurer, Treasurer Weatherill, the government has actually increased that budget ask in recent months. It was $100 million at the time of the last budget; in the Mid-Year Budget Review in December it was increased 50 per cent.

The police commissioner has advised the Budget and Finance Committee that in this financial year we will have 71 fewer FTEs in our police force. The government has given no indication how they intend to fund the extra 300 recruits they have promised; in any case, they have pushed out that promise until 2016 at the earliest. I regard a promise delayed as a promise broken, and I do not believe that the government has honoured its commitment to the South Australian people made at the last election in relation to our police services.

I turn now to the consultation process. Of the 1,572 letters sent to businesses that are expected to be affected by the legislation, almost 20 per cent—that is, 281 letters—were marked

'return to sender'. These were 281 businesses that were meant to be regularly monitored, under the current legislation, by SAPOL, yet limited police resources clearly meant that was not occurring. The police were not aware that the businesses were no longer there.

In total, SAPOL received 17 submissions and 80 questions in response to the consultation. The member for Stuart in the other place, Mr Dan van Holst Pellekaan, proposed that the bill be referred to a select committee to make sure that the sector's views were truly understood. He proposed a select committee that would have had the following terms of reference:

(a) to consider and report on the benefits of the bill to the police in their efforts to reduce burglary, theft and other illegal activities;

(b) to consider and report on the cost to and other impacts upon other existing businesses, such as second-hand dealers and pawnbrokers;

(c) to consider and report on the unintended consequences of the bill;

(d) to consider and recommend possible amendments to the bill; and

(e) any other relevant matters.

The government rejected these calls for a select committee in the House of Assembly.

The Hon. Tammy Franks again, quite rightly, pointed out that the consultation has not gone far enough. She spoke at length about the impact of this legislation on the local music industry. Music stores, just like the rest of the retail sector, have been struggling in recent years, and this was particularly visible last year when Allans Billy Hyde was placed into receivership. Thankfully, the Adelaide store is expected to stay open; however, I understand that other stores are not so fortunate.

I am concerned that the Hon. Tammy Franks seemed to be suggesting that the Greens wanted to expand what businesses the regulation applied to and place even heavier regulation on the music stores that she sought to stand up for. I was even more surprised to hear that, despite their longstanding opposition to criminal intelligence laws, the Greens are now supporting its expansion to cover around 1,500 new businesses and their employees.

It appears that, while the Hon. Tammy Franks was rightly expressing concerns about the impact of liquor licensing fees on small business, and the impact that has on the live music scene, the Greens are less concerned about the cost impact on music stores selling second-hand music goods, which is nearly double that of a liquor licence. Retailers may be forced to (a) close shop due to increased operating costs, or (b) pass the costs on to musicians and customers, making the music trade that much more expensive an industry that does not provide much return for the majority of participants in the first place.

While the concerns have been well heard in relation to the cost on small bars and musicians, the impact on those who supply that industry is yet to be heard. Needless to say, this council will need to think long and hard before it supports legislation that cripples small business and puts yet another layer of regulation on top of an already overburdened and overtaxed small business sector. It is the opposition's view that the government should go back to the drawing board and come up with a workable alternative so that the answer to stopping the sale of second-hand goods is not found, as the government proposes, in giving the big second-hand goods companies a monopoly on the market by driving their small business competitors out of the market.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:29): I rise to make a few comments about the Second-hand Goods Bill. Members will probably recall that when it was last introduced, in 2009, I was the shadow minister for police at the time and had a reasonable amount of involvement and took an interest in it. Now we see this bill back before us again. My colleague the Hon. Stephen Wade did make the comment about the government making a habit of introducing these bills just prior to the end of a parliamentary term, although this can be dealt with before the end of this parliamentary year. I know that the gentlemen sitting in the gallery certainly hope that it will be dealt with before the end of the parliamentary year.

I thought I would recap some of the issues that were current back when it was introduced some four years ago, and I think they are probably still some of the concerns that are held today. One concern which I do not believe will be an issue but certainly was the first time it was introduced was that, from the industry point of view, the first contact, especially with the Motor Trade Association, from SAPOL was on 25 May, yet the bill was introduced on 17 June, about three

weeks later. At that point in time, I think that raised some alarms that this was a bit of legislation that had not necessarily been consulted widely enough.

We are four years on, so I am sure that it has been well consulted on, but at that time, there were some concerns raised. I know from contributions by my colleague the Hon. Stephen Wade and also the shadow minister for police, Dan van Holst Pellekaan in the House of Assembly, that there are still some issues, and they involve what people currently have to pay to be licensed to be a second-hand dealer under the Pawnbrokers Act. I think it is only a matter of about $50 to be licensed for a reasonable length of time.

My colleague the Hon. Stephen Wade spoke about the cost of registration licensing being hundreds of dollars—in fact, I think over $1,000—and he is dead right that there is an increasing burden on small business to make ends meet these days, with the increasing costs of regulation and increasing taxes and charges. I am sure that we are all supportive of the intent of the legislation to be able to track and recover stolen goods, but I do hope that we are not placing an unnecessary financial burden on existing businesses when times are tough.

I also note that there was an estimate in the previous bill, and I have a range of questions I will put on the record shortly so that the minister might be able to bring back an answer. Some four years ago, there was a concern that the average cost to implement the record-keeping mechanism could be as much as $100 a week, and that is $5,000 a year, which is no small amount of money.

There were also some issues four years ago about prescribed goods, and I note that concerns are still being raised by industry representatives about what is going to be in the regulations. Of course, we have seen in the past that the devil is in the detail or in the regulations. I am sure that will be an area of great interest for the parliament when those regulations are gazetted because, if there are some anomalies, I am sure we will be revisiting them in this place through a disallowance motion.

As my colleague the Hon. Stephen Wade mentioned, this government has failed to relieve business of the burden of red tape. I am reminded that when the Hon. Karlene Maywald was the minister for small business—so we are talking about some time ago—she put out a questionnaire to small business; it was 127 multiple choice questions on how to relieve red tape. The easiest thing would have been not to fill in her questionnaire and throw it in the bin. We have seen ever-increasing red tape through often well-intentioned legislation, in this particular case trying to track and recover stolen goods. It is the innocent people, or the people who are not involved in these particular practices, who are the ones who then end up paying the price, with extra compliance and red tape. I am sure that those who want to try to shoot around the system and cheat the system will also try to continue to do that and try to dodge paying any particular fees.

I notice that back four years ago that eBay was a concern. I do note some comments that it may still be a concern and I might address them shortly. I am just wondering about eBay, Gumtree and all the internet trading. One of the questions that I pose to the minister shortly will be: how will the electronic transactions be captured if goods are being shipped around?

I think there were also some concerns with the previous bill—and again I hope that the minister does bring back an answer to this—in relation to capturing scrap metal dealers who also deal in semiprecious metals, and auto parts recyclers who also deal with semiprecious metals on a daily basis. About four years ago there was a feeling of general annoyance at the burden on small business. I notice even now with some of the discussions, I think it was from the consultation that my colleague the Hon. Dan van Holst Pellekaan—who is not honourable yet, but I am sure he will be one day. He operates very honourably, but he is not.

The Hon. K.J. Maher interjecting:

The Hon. D.W. RIDGWAY: He is the very hardworking member for Stuart and does a great job. I very much enjoy spending time with him in Stuart. There were some issues raised by some of the consultation, and second-hand dealers especially consistently raised concerns that the widespread use of the internet markets like Gumtree and eBay would provide an easy alternative for people wanting to sell prescribed second-hand goods but avoid the second-hand dealers, if the proposed bill becomes law. The police believe this is not an issue, because most of the information that they seek to obtain under this bill is made available to them and the public via these internet services already. I would certainly like the minister to give some clarification on exactly how the electronic trading systems that eBay and Gumtree use will be captured by the bill.

As I mentioned some four years ago, the devil is in the detail and prescribed goods were a concern and all the regulations would be a concern. I am advised that one of the most concerning aspects of the current bill is the uncertainty created by the fact that so many details, like definitions of prescribed second-hand goods, licensing and registrations, would be included in the regulations rather than the bill itself. We can still see, some four years on, that there are some general concerns.

I have been advised that the MTA has been given a commitment from the government that written confirmation of the fees to be included in the regulations will be given to them. The MTA has also been given a commitment that second-hand auto parts dealers—the wreckers—will only be required to keep their newly acquired stock for three days before being allowed to sell it.

It is interesting that there are still concerns about regulations. Pardon me for being a bit cynical; we have seen this as a hallmark of this government for more than a decade, that the devil is in the regulations and it is just easier to try to not put things in the legislation but put them in the regulations. I do hope that the commitments that have been made to the MTA are honoured, because I think the MTA was one of the big groups that was opposed to the bill last time.

I recall saying to the minister via his adviser that until the MTA was happy with the bill we would not be progressing it any further. We wanted to make sure that group of very important business people in our community was not going to be adversely affected by the legislation. It appears that the MTA is still concerned and is having to get commitments and commitments in writing from the government to allay some of their fears. I do hope that there is some goodwill with the government and that the regulations will not be a problem when they are gazetted.

I note that second-hand dealers generally support the measures that prevent the selling and buying of stolen goods because for them the purchase of stolen goods is a risk, as the police can confiscate them and that can result in direct loss to their business. However, I think it is important to note that second-hand dealers are very concerned about the licence and registration fees and the requirement to have approved persons, extra administrative obligations and the possibility that other less regulated markets will just pick up their business, and in some cases additional stockholding periods included in this bill. I think everybody who comes to the table regarding this particular piece of legislation supports the honourable intent of it, but it may well have some unintended consequences.

I have a range of questions that I will put on the record for the minister. If I ask them one after the other, it will be easier for the minister to pass on the information to the relevant officers to get the answers. There is a range of questions in two or three categories—one from compliance, one from the transaction management system and reporting, regulations, and also some revenue ones. If you will indulge me, Mr President, I will read these into the record. In relation to compliance:

1. How many second-hand dealers are currently being monitored for compliance with the Second-hand Dealers and Pawnbrokers Act 1996?

2. How many charges have been laid under the Second-hand Dealers and Pawnbrokers Act 1996 and how many have there been for each of the last 10 years?

3. How many convictions under the Second-hand Dealers and Pawnbrokers Act 1996 have there been for each of the last 10 years?

4. Does SAPOL monitor markets, such as stallholders?

5. What current processes are in place for tracking the receipt, sale and disposal of second-hand goods:

   (a) In markets?

   (b) For retailers?

6. Is the government aware of there being an issue of compliance with the current act:

   (a) By retailers?

   (b) By others?

7. Are there currently retailers that may be of unsuitable character that police have not been able to prevent trading under existing laws?

(a) Are there specific instances that have led to the need for criminal intelligence provisions to be applied to second-hand goods retailers?

8. In practice, does the government anticipate that the commissioner would delegate their responsibilities under the act to an assistant commissioner or other officer?

9. What changes were made between the 2011 draft bill and the bill that was tabled in 2012?

10. How does the legislation compare with interstate and international provisions?

My further questions in relation to TMS and reporting are:

1. Is the transaction management system (TMS) already established and ready to commence?

(a) Is it already operating on an opt-in volunteer basis?

(b) Has SAPOL already received the $2.14 million committed by the government to establish the transaction management system?

2. What information will be expected to be provided via the TMS system? Will it be written descriptions, serial numbers and photos of the items?

3. What is SAPOL's estimated cost of implementing the new legislative requirements?

4. Has a similar scheme been trialled voluntarily with larger retailers such as Cash Converters?

(a) What current reporting processes are in place?

(b) Under the CLCA it is an offence to receive stolen property. Are retailers encouraged to purchase the property and to obtain details about the seller of the property to assist police identify the offender?

5. Has there been an audit of how many second-hand retailers currently have internet access at their trading premises?

My questions in relation to regulations are:

1. What does the government anticipate will be listed in the categories of class 1 and class 2 items?

2. So much of the legislation depends on what is prescribed in the regulations. Does the government have a draft version of the regulations and will it provide the draft to members so it can inform debate before expecting this place to continue debate?

As I mentioned earlier, a big issue when this bill was before the parliament some four years ago was, in fact, the regulations. My next question is:

3. Items that do not fall within class 1 or class 2 prescribed definitions would no longer be required to be kept for 10 days before sale, as is currently required by section 10 of the act. Does the government intend for these items to be excluded?

The last two questions are in relation to revenue:

1. How much revenue is expected to be received from the licence and application fees from retailers?

2. How much revenue is the government expecting to receive in fines from retailers?

I put those questions on the record. I hope that the minister is able to bring back an answer when she concludes the debate. I would like to have those answers before we progress the debate any further.

The Hon. J.M.A. LENSINK (16:44): I rise to make a few remarks, and they will be brief, particularly given that Liberal members the Hon. Stephen Wade and the Hon. David Ridgway have made very learned contributions on this particular bill. The Hon. David Ridgway outlined some of the concerns that were raised a couple of years ago when the bill first surfaced. It came to my attention as well through my father-in-law, who is an active member of the Gawler swap meet. They were very concerned that they were going to be impacted on and have to go through unnecessary red tape when what they do is, really, a community activity and they should not be

forced to go through all sorts of application processes and fill in ledgers and the like, often when they are raising money for charity and those sorts of things as well.

My questions on this particular bill are, firstly, in relation to volunteer organisations: whether Volunteering SA made any submissions and what the concerns raised were, and what other volunteer organisations may have made submissions and what their concerns were.

In relation to small business, I understand the bill was referred to the Small Business Commissioner, who raised concerns on behalf of small business about the impact of the bill and that these discussions were held in good faith. So, my questions on that point are: can the government advise whether these discussions are still ongoing and, if not, what the outcome was, and does the government think it would be prudent to delay consideration of the bill until any of those discussions have concluded?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:46): In summary, I thank honourable members for their contributions to the debate. I will recapitulate a little on the original intent and purpose of the bill. The purpose of the Second-hand Goods Bill 2012 is the reduction of property-related crime through improved regulation of the second-hand dealer and pawnbroker industry. This will be achieved by the establishment of a new regulatory regime, together with enhanced record keeping requirements and a requirement to electronically transfer transaction information to police. It is as simple as that.

Second-hand dealing and pawnbroking involves acquiring pre-owned goods for re-sale. Research through Australia, New Zealand, the USA and Canada, I am advised, has identified property criminals frequently exchanging stolen property for money using second-hand dealers and pawnbrokers. Anecdotal evidence from police further supports the proposition that the second-hand industry often knowingly, or unknowingly, provides a convenient means for offenders to convert stolen assets into cash thereby facilitating the use of the industry as a conduit for stolen property. Interstate and overseas experience suggests licensing, together with electronic transmission of transaction information, reduces the opportunity and ability of property crime offenders to convert stolen property into cash, thereby reducing the number of theft-associated offences. They are the aims of this bill.

There have been a number of questions put on the record during this debate and I will now turn to answering some of those, if I may. The Hon. Ms Franks has asked why stakeholders representing the South Australian live music industry were not directly consulted during the drafting of the bill. Public consultation notice, I am advised, was published in *The Advertiser* newspaper on Saturday 30 April 2011. The notice called for submissions and directed interested parties to the SAPOL website where further information, including a copy of the draft Second-hand Goods Bill 2011, overview and frequently asked question documents could be read and downloaded. The notice also listed contact details for the police project team via email, surface mail or telephone. The closing date for submissions was listed as being Saturday 28 May 2011.

A letter written under the hand of the Commissioner of Police was also sent out, I am advised, to 1,572 affected companies and businesses currently registered with SAPOL under the existing Second-hand Dealers and Pawnbrokers Act. The same letter was also sent to industry peak bodies, stakeholders and interested parties, including: the Law Society, the Motor Trade Association, the recyclers association of South Australia, offices of fair trading in New South Wales and Queensland, as well as Western Australia, New South Wales and Queensland police services. Recipients were advised of the commencement of the consultation period and directed to the SAPOL website where further information and documents could be accessed and downloaded.

As a result of the consultation process, the project team, I am advised, was not contacted by any peak body or stakeholders representing the music industry or, indeed, individual retail stores or wholesalers. Further, the Hon. Ms Franks asked whether SAPOL contacted any specialist instrument stores during the consultation process and how many of those stores dealt in second-hand instruments. I am advised that during the consultation process specialist musical instrument stores did not self-identify as a result of the public notice or written advice. As a result, these stores were not formally consulted during the consultation process, although members of the SAPOL project team visited at least one musical instrument store, including the Silver Keys and Strings Music Centre.

Informal consultation with this music store revealed that these stores were occasionally offered second-hand musical instruments by former customers who in many instances had

purchased these instruments for their children and were now wishing to sell their goods when their child decided not to continue with the instrument, which is quite a shame. Transactions of this nature where specialist retailers such as musical instrument stores exclusively purchase specific classes of goods, such as musical instruments, were deemed to be low risk. I always kept my musical instrument even though I gave up the practice of it.

The Hon. J.M.A. Lensink: What did you play?

The Hon. I.K. HUNTER: Bagpipes. As a consequence, these goods were considered to be class 2 prescribed goods. Placing musical instruments into class 2 prescribed goods enabled specialist dealers to purchase second-hand musical instruments without being captured by the full licensing regime, including full probity checking of directors and a requirement for an approved person or licensee to conduct or supervise transactions. However, these stores, I am advised, would still be required to obtain 100 points of identification, tag and retain the goods for 14 days and transfer the details of the transaction to police electronically, thereby enabling cross-matching against stolen property data.

I am further advised that, in the event of legislation passing, SAPOL intends to conduct further consultation with affected industries, including the musical instruments industry, regarding the list of prescribed goods and the classification of those goods into class 1 and class 2 goods.

The Hon. Ms Franks asked what rationale was used for including compact discs as class 1 prescribed goods given the minimal and declining value for these items. Although I am advised that DVDs continue to be commonly stolen and traded, SAPOL acknowledges that technological changes, including the introduction of iPods, MP3 players and computer downloading of music files—

The Hon. S.G. Wade: Describe them. You've never seen one in your life.

The Hon. I.K. HUNTER: I have, in fact. The Hon. Mr Wade passes terrible comment on my—

The Hon. S.G. Wade: Tech savviness?

The Hon. I.K. HUNTER: —understanding of technology. I am happy to say that I have never owned an iPod or an MP3 player but I have seen them from time to time.

The Hon. J.S.L. Dawkins: You're a wireless man, aren't you?

The Hon. I.K. HUNTER: I am a wireless man. Indeed, I have a wireless connector thing on my computer—a modem. There you go.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: I will resist advising the council of my technological prowess in these matters; I would not want to put it to shame. Computer downloading of music files has reduced the prevalence of CDs being stolen and traded by second-hand dealers. As a result, SAPOL intends to continue to consult with affected industries regarding the final list of prescribed goods and the classification of class 1 and 2 goods.

The Hon. Ms Franks further requested the number of musical instruments reported stolen in the last reporting period and what have been the most commonly stolen instruments. A response to this request cannot be provided at this stage. A request has been made to SAPOL's Planning and Reporting Section and I hope to have an answer for the Hon. Ms Franks at clause 1 when we come to the committee stage at a later time.

The Hon. Mr Darley stated in his second reading contribution, 'We do not know which items will be classed as class 1 or class 2 goods.' I am advised that the list of prescribed goods will be set by regulation to enable the list to be more easily refined over time in the event that goods are no longer at high risk of being stolen or traded. For example, microwave ovens are listed in the current legislation as a prescribed good, however, these are no longer commonly stolen and have been removed from the proposed list.

An indicative list of prescribed goods has been provided during the public consultation, I am advised, in the frequently asked questions document. It is envisaged, if the legislation is passed, that the list will be further refined through public and industry consultation. I am advised that this proposed list of prescribed goods is available to any member upon request.

The Hon. Mr Darley raised a concern that the bill does not apply to those who sell second-hand goods online or via garage sales. My advice is that the intended focus of the bill is on the time a business acquires prescribed second-hand goods for resale or enters into a contract of pawn. It is not proposed to regulate the subsequent resale of the acquired goods other than a period of retention prior to resale. As a consequence, businesses who purchase second-hand goods to sell online or via garage sales are captured. The intention of the bill is not to capture the average family or individual who has a lawful right to dispose of his or her property in this manner; notwithstanding that the bill can be applied to those persons who regularly conduct this type of sale and may be deemed to be carrying on the business of a second-hand dealer.

It is also acknowledged that both individuals and a second-hand business alike are increasingly using online auction sites such as Gumtree and eBay as a legitimate method of selling second-hand goods; notwithstanding, I am advised, research indicates property crime offenders are unlikely to resort to online auction sites to dispose of stolen property due to the high visibility of these sites, together with a significant delay in receipt of moneys due to the auction process.

The Hon. Mr Brokenshire mentioned a series of concerns raised by a second-hand dealer who runs an antique market and represents 12 antique dealers. In response I say that all antique dealers who buy and sell second-hand goods are captured by the current legislation. Under the bill, only those dealers who acquire prescribed goods, such as antique jewellery, precious metals, gemstones and watches, will be captured.

It is not the intention of the legislation to capture antique dealers or vintage shops who may acquire certain class 1 prescribed second-hand goods such as record or cassette players, Polaroid cameras and Atari-type video games which, due to their age, have minimal value to property crime offenders and are not commonly stolen and traded.

Further, the 14-day retention period was mentioned. The current act requires second-hand dealers and pawnbrokers to retain prescribed goods in the form in which they were received for 10 business days. New South Wales and Western Australia have both enacted legislation requiring dealers to retain goods for a minimum of 14 days to enable the police sufficient time to identify and seize stolen goods. The legislation in both those states makes no provision to permit the sale of goods prior to the expiry of the 14-day period, is my advice.

Regarding public consultation, at the conclusion of the consultation period, 281 consultation letters were returned to the project team most commonly marked as 'unknown' or 'not at this address'. This was largely due, I am advised, to many second-hand businesses closing or failing to notify SAPOL of a change of address.

With regard to the 100-point identification, second-hand dealers, including antique dealers, are currently required to obtain seller's proof of identification. The proposed 100-point identity check will include documents which are commonly available and carried by members of the public. With regard to the licence fee, the proposed fees are to be set at a level to obtain partial cost recovery only. They are intended to cover the cost of implementing and administering the licensing scheme and not to generate any additional revenue.

The Hon. Mr Wade stated in his part 1 contribution of his second reading speech that the bill is by design a leviathan that covers everyone from Big Star Records to caravan stores to jewellers to sporting stores. My advice is that all second-hand dealers and pawnbrokers are currently required to be registered with SAPOL. This bill only requires those businesses that are dealing in high risk of theft goods, prescribed goods to be licensed or registered.

An estimated 240 second-hand dealers dealing in non-prescribed goods would not be impacted by the regulatory requirements of this proposal. These businesses instead would experience a net reduction in regulatory costs as they would no longer be required to register as a second-hand dealer under this legislation. The Hon. Mr Wade further stated that the bill would require even more market operators than under current legislation to report details of items that have been sold. I am advised that at present market operators are required to be registered with the Commissioner of Police and record sellers of prescribed goods.

Under the proposed legislation only market operators, where prescribed goods are offered for sale, will be required to be registered and transfer seller details electronically. The only additional requirement for these operators will be the requirement to electronically transfer these details. Under the proposed legislation there will not be a need for more market operators to be registered, is my advice.

A number of questions were posed by the Hon. Mr Ridgway and the Hon. Ms Lensink. It is my intention, should the bill pass the second reading stage, to come back to the chamber with responses at clause 1 to those questions. I commend the bill to the house.

Bill read a second time.

STATUTES AMENDMENT (DIRECTORS' LIABILITY) BILL

Adjourned debate on second reading.

(Continued from 7 March 2013.)

The Hon. S.G. WADE (17:00): I rise on behalf of the Liberal opposition to indicate our support for the Statutes Amendment (Directors' Liability) Bill 2012. The bill is about the risk that our community and business leaders are forced to take on through the performance of their duties. The current laws have left some directors at the mercy of their organisations' actions, actions which they may not have had any control over. It serves as a clear disincentive for leaders to take up positions of responsibility in our community and it is our view that this reform is well overdue.

The bill seeks to implement part of the 2008 Council of Australian Governments agreement to deliver a seamless national economy. The agreement requires all Australian jurisdictions to reform the provisions of their legislation which provides for directors' liability, particularly those imposing vicarious liability on directors for the actions of the corporation.

Two High Court cases, one in the early 1980s and one in the mid-1990s, increased the difficulty of prosecuting directors. In response, governments Australia-wide enacted legislation which went beyond creating the usual accessorial liability, instead imposing personal criminal liability on directors where the company's offending was proved on the basis that they were the company's directors subject to the defence of due diligence. Occasionally, there were no defences, so directors were automatically liable for conviction. These provisions routinely imposed vicarious liability for offences against legislation and regulations.

In about 2009, COAG decided to initiate a reform program for directors' liability. The reform was seeking a more 'consistent and principled approach to personal liability for corporate offences'. It goes on:

> such an approach would reduce complexity, aid understanding, increase certainty and predictability and assist efforts to promote effective corporate compliance and risk management.

COAG subcommittees decided on a set of principles against which Australian governments were to audit their legislation. The South Australian government's audit led to the Statutes Amendment (Directors' Liability) Act 2011. Following a scathing assessment of the process by Corrs Westgarth Chambers, COAG issued more prescriptive guidelines against which jurisdictions would need to audit their legislation.

The COAG guidelines describe three types of vicarious directors' liability. Only two of those types are used in South Australia. The first, type 1, are provisions where the prosecution must prove beyond reasonable doubt each element of the offence, including the director's lack of care. Type 3 are provisions which involve the reverse onus where directors are to be found vicariously guilty for corporate offences unless they prove, on the balance of probabilities, they could not have prevented the company from offending by exercising due diligence.

Where offences are to be type 1 offences, the prosecution must prove the corporation's offending and that the accused was a director at the time the offence was committed and that: (1) the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; (2) that the director was in a position to influence the conduct of the corporation in relation to the commission of such an offence; and (3) the director failed to exercise due diligence to prevent the commission of the offence.

The bill intends to completely remove directors' vicarious liability from 19 acts without replacement. A further 24 acts will have their existing directors' liability provisions repealed and substituted for either a type 1, type 3 or no vicarious liability offence. Concerningly, the bill will allow the regulations to impose vicarious liability for offences against the regulations under the following acts: the Animal Welfare Act, the Authorised Betting Operations Act, the Gaming Machines Act, the Second-hand Vehicle Dealers Act, the Security and Investigation Agents Act, the Taxation Administration Act, and the Travel Agents Act.

COAG decided that laws aimed at preventing very serious harm would be excluded from the review, as it is in the public interest for directors to be held criminally liable for the actions of the company. On that basis the government audit did not consider the following acts: the Occupational Health, Safety and Welfare Act, the Dangerous Substances Act, the Explosives Act, the Adelaide Dolphin Sanctuary Act, the Environment Protection Act, the Marine Parks Act, the Native Vegetation Act, the Nuclear Waste Storage Facility (Prohibition) Act, the Radiation Protection and Control Act, and the River Murray Act.

No South Australian acts or regulations impose personal criminal liability vicariously on the governing body of a statutory corporation. The government has advised the opposition that it believes that the Work Health and Safety Act 2012 is already consistent with the COAG guidelines.

The bill before us today was tabled on 28 November 2012 and, as I said earlier, represents the government's second attempt at reforming the statute book with respect to directors' liability. The bill seeks to further amend legislation that was amended by the 2011 act. Then, on 6 March 2012, the government filed, and had passed, 14 additional amendments to the bill in the House of Assembly; 14 amendments with 40 operative clauses were filed on 6 March and considered by the House of Assembly that day—on the same day, just like that, without industry consultation and without discussion with members of the other place.

The Attorney-General blamed the late tabling of the amendments on the volume of work to be done, and because the bill had to be introduced in November in order to meet a COAG guideline. Had the opposition done such a thing, the Attorney-General would no doubt have gone into one of his usual long-winded rants. The fact is that the bill was introduced on 28 November. I cannot imagine that all the further amendments were identified on 6 March, but that is the day they were tabled and the House of Assembly passed them. For a bill that deals with leadership, the leadership displayed by the government during this process has been lacking.

Despite this, the feedback the Liberal opposition has received from the Law Society of South Australia, the Australian Institute of Company Directors, and the South Australian Joint Legislation Review Committee is generally supportive of the bill. There have been some concerns raised about particular elements. The Australian Institute of Company Directors, while supportive of the changes, does not believe they go far enough to limit the criminal liability of directors. The AICD suggests that 21 acts should be reformed by this bill, seven of which the government has chosen not to address. These include the Aboriginal Heritage Act, the Community Titles Act, the National Electricity (South Australia) Act, the Public and Environmental Health Act, the Second-Hand Dealers and Pawnbrokers Act, the Strata Titles Act, and the Summary Offences Act.

Additionally, the AICD argues that 25 of the 50 acts amended by the bill retain provisions reversing onus of proof. This is high compared with other jurisdictions. New South Wales's recent reform in the area amended 44 acts, and there are no type 3 provisions remaining in any of those acts. The bill before the Victorian parliament will leave type 3 provisions in only four of the acts it proposes to amend.

The Law Society has also suggested that the reverse onus type offences provisions in this bill should be amended so that a director has a defence if they can show that they exercised due diligence. The Law Society is concerned that while the defence of due diligence is available, the bill does not state the standard of proof to which the defence must be proved. The society submits that it is intended to be on the balance of probability, not beyond reasonable doubt.

The JLRC is concerned that concepts such as 'due diligence', 'position to influence' and 'significant risk' are subject to judicial interpretation, which is influenced by the relevant act and organisation, and this may detract from the government's goal of achieving certainty and clarity. The AICD, the JLRC and the Law Society have all reported serious misgivings about the bill's proposal to allow regulations to 'impose such liability that be considered appropriate in particular cases'. This allows the regulations to impose vicarious civil and criminal liability on directors if it were 'considered appropriate'. It is a questionable use of the executive's regulation-making power. The imposition of liability, especially criminal liability, should be subject to parliamentary scrutiny.

The proposed regulation-making powers can be used to determine the reform process by including the liability provisions in the regulations. The Aboriginal Legal Rights Movement notes that the bill proposes to amend the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act and the Maralinga Tjarutja Land Rights Act. ALRM submits that the respective provisions were intended to hold directors of unscrupulous mining companies vicariously liable where the company sought or obtained permission, via bribery and side payments, to carry out mining operations on the lands

without the proper permission of the statutory corporations. ALRM queries whether the government should be amending these provisions, given that they were intended to assist the good government of the Aboriginal statutory corporations. Perhaps the government could give some consideration to these matters over the coming weeks.

I suspect that this will not be the last of the reforms proposed by COAG. This is an important area of reform, and it is important that we get the balance right to ensure that the people truly responsible are held accountable, not just a person who is the most visible and who has put themselves forward to lead. With those remarks, I look forward to the committee stage of the bill.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (17:11): I take this opportunity to thank honourable members for their second reading contribution. The passing of this bill will achieve South Australia's commitment, through the national partnership agreement, to deliver a seamless national economy, to reform provisions that impose vicarious personal criminal liability on directors and members of management committees or bodies corporate by reason of the position they hold rather than by reason of their own acts or omissions. The bill will amend 50 acts. This is in addition to amendments to directors' liability provisions in 25 acts in 2011. The act and this bill represent two audits of all our acts and regulations and a great deal of painstaking work across the South Australian public sector.

Decisions about how particular offence provisions should be treated under the original COAG principles and the subsequent COAG guidelines involved many value judgements. Reasonable and well-informed people might come to different conclusions about some of them, and an elected government's responsibility is to weigh up the competing considerations and to make the best decision it can in the interests of the whole community, and that is what the government has done. I commend this bill to the council.

Bill read a second time.

At 17:14 the council adjourned until Tuesday 30 April 2013 at 14:15.