LEGISLATIVE COUNCIL

Thursday 2 May 2013

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

PAPERS

The following papers were laid on the table:

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

Regulations under the following Act—

Primary Industry Funding Schemes Act 1998—Olive Industry Fund—Variation of Contributions to Fund

By the Minister for Agriculture, Food and Fisheries on behalf of the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Reports, 2011-12—

Department of Further Education, Employment, Science and Technology
Office of the Training Advocate
Training and Skills Commission

QUESTION TIME

SOUTH AUSTRALIAN FOREST INDUSTRY ADVISORY BOARD

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:18): My questions are to the Minister for Forests. Is the Trevor Smith appointed by the minister to chair the South Australian Forest Industry Advisory Board the same Trevor Smith who was a former CFMEU trade union secretary, national president and organiser?

To chair the board, is the trade union mate being paid $50,000 a year as a so-called attraction and retention allowance? How many other boards that report to the minister pay their chairs or members an attraction and retention allowance? How much are these allowances individually and how much are they collectively? Are the allowances paid directly to board members or can they be paid to the members' companies, should they happen to own one?

Is the Trevor Smith recently appointed the chair of the South Australian Forest Industry Advisory Board the same Trevor Smith who is currently managing director of a company called Advisory Consulting Employment Services? Does this company operate from 10 Wentworth Place, Brompton? How big a coincidence is it that the federal election analysis commissioned by the Forestry and Furnishing Products Division of the Construction, Forestry, Mining and Energy Union is called the Brompton report, and has the minister read it?

Do Mr Smith's onerous duties on the board occupy his busy mind two working days a week, meaning that he is getting the equivalent of $125,000 a year? Is this not a bad earner for someone whose last job before becoming a trade union organiser was a storeman and tallyman? On top of this, does Mr Smith get paid $258 for a four-hour session, or part thereof, when the board sits—

The PRESIDENT: Mr Ridgway, are you getting towards the end of your question?

The Hon. D.W. RIDGWAY: I have almost finished, Mr President.

The PRESIDENT: There's about 15 questions there.

The Hon. D.W. RIDGWAY: —meaning that, if the board were to sit for four hours and 15 minutes, he would be paid $121 an hour, the equivalent of $4,856 for a 40-hour week? How do these arrangements and inducements compare with Mr Smith's tenure as chair of the forestry industry round table? Almost finally, does a trade union mate also get travel allowances and accommodation paid? Absolutely finally, is the minister ashamed of herself for this appointment?

The PRESIDENT: Minister, before I call on you—the Hon. Mr Ridgway, there was a fair bit of flexibility in there.

The Hon. D.W. RIDGWAY: I thank you for your latitude, sir.

The PRESIDENT: I won't take that as a precedent for other members to start asking 15 questions in one.

The Hon. T.J. Stephens interjecting:

The PRESIDENT: That's all right; I can cut down your questions, the Hon. Mr Stephens. The Hon. Mr Ridgway has asked all the opposition's questions. The Minister for Agriculture, Food and Fisheries.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:20): I thank the honourable member for his questions. Indeed, it should be the Hon. David Ridgway who should be ashamed of himself. It is typical of the opposition who come into this place time and time again with all sorts of snide innuendo and seek to make all sorts of spurious associations.

The basic assertion behind some of these questions is that he does not believe that Mr Trevor Smith is capable of earning income outside of the union movement, that he does not have talents and skills that are worthy of significant remuneration. The underlying assertion that somehow an old union official could not possibly be worthy of any remuneration is just astounding. It is an astounding and obscene assumption to make, that these people do not have highly competitive and marketable skills in the general marketplace that are of high value and that people are prepared to employ them for those skills. Mr Trevor Smith is one of those people. He is a highly credentialled—

Members interjecting:

The PRESIDENT: Minister, they are not interested in hearing the answers.

The Hon. D.W. Ridgway: I can't hear because there's too much noise in the chamber.

The PRESIDENT: That's because you're all talking amongst yourselves. The Hon. Ms Lensink, do you have a question?

The Hon. G.E. GAGO: Thank you, Mr President: I haven't finished my answer.

The PRESIDENT: The honourable minister.

Members interjecting:

The PRESIDENT: I'm quite happy to go home early tonight. I can walk out right now.

The Hon. G.E. GAGO: I need to put on the record—there was a series of quite ugly questions that were asked that I am delighted to provide answers to. Mr Trevor Smith comes highly credentialled for this most important position. He has a longstanding background and experience in the forestry industry and is held in high regard throughout the industry.

The work he did on the round table is highly valued, again, right across the industry. He delivered extremely positive outcomes during a very difficult time and he clearly showed the skill and expertise to be able to work with a wide range of stakeholders and to deliver very specific outcomes that resulted in a significant number of conditions being added to the contract to provide certain protections for the industry. He was very skilled at brokering that and, as I said, he is highly regarded by a wide range of different stakeholders.

As I said, the South Australian Forest Industry Advisory Board will be focusing on improving economic conditions for the forest industry in South Australia and enhancing social aspects for the community as a result. Their primary tool will be to develop a blueprint.

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

The Hon. G.E. GAGO: Obviously the Hon. Michelle Lensink does not care about the forestry industry in the South-East.

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

The Hon. G.E. GAGO: If you stop talking and actually listen; you have not stopped rabbiting. Mr President, the honourable members do not listen; they just rabbit away over there, read their newspapers, doze off and chat amongst themselves. They do not listen to the very important answers to these questions. The future of the forestry industry in the South-East is critical to the future prosperity of this state. It is an incredibly important thing. The industry—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: The industry is facing very significant problems; the forestry industry all around Australia is facing these challenges. The opposition is completely out of touch with what is happening. These are challenges that are occurring right throughout Australia, and are related to the rate of the Australian dollar at the moment as well as cheaper products coming out of other countries and flooding international markets that have, in the past, bought from us. As I said, these issues are affecting the forestry industry right around Australia, including South Australia.

This advisory board has been established to do some very critical work in this space. It will be required to develop a blueprint for the industry's future not just for the South-East but for the whole state, but with a particular focus on the South-East. Obviously, that is where our largest forestry interests are. The board will work with organisations and initiatives that aim to further industry development, including relevant initiatives from the Limestone Coast Economic Diversification Forum, the cellulose fibre value chain study, and also the South East Forestry Partnerships Program. These are all initiatives that have also invested in the future of forestry here in South Australia.

I consider that Mr Trevor Smith's appointment as chair will bring a high level of personal leadership skills and experience that are vital to the success of this board. It is critical that his services be retained, and the proposed attraction and retention allowances are required to do this. Retention allowances have also been applied to other members; the remaining board members will be eligible for retention allowances as well.

Board members' term of office is 12 months. They have a significant job to do in a very short period of time; there is a great deal of work they are required to do. The frequency of meetings has been set, I think (and I am happy to correct the record if this is not right) at quarterly, or no more—

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: He doesn't read. It is $50,000 per annum, Mr President.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: He is not even engaging his brain. They are appointed for one year for $50,000 and the number of sittings has been limited. If they need any further, they are required to speak to me.

In terms of Mr Smith's past associations, he was formerly a union official, something of which he is very proud. I think it is a high credential; working with the union movement is an extremely good general grounding to provide a person with a wide range of skills and competencies. I think that certainly assists him with the knowledge, skill and expertise that he brings to the table. As I said, that is highly regarded and valued.

To the best of my knowledge he is not currently employed with the CFMEU. What other positions he holds is a matter for him. As I said, I am extremely grateful that he was prepared to accept this most important position, as I am very pleased at the breadth and depth of skills that we have right across the board. I was very pleased with the mix and calibre of the membership of the board, and they have a very difficult and challenging job to do, and they will be remunerated accordingly. They have quite a challenge in front of them.

LOCAL GOVERNMENT BOUNDARY ADJUSTMENT FACILITATION PANEL

The Hon. J.M.A. LENSINK (14:30): I seek leave to make an explanation before asking the Minister for State/Local Government Relations a question on the subject of the Boundary Adjustment Facilitation Panel.

Leave granted.

The Hon. J.M.A. LENSINK: On 29 November last year I asked the then minister for state/local government relations, the Hon. Russell Wortley, a question about the local government Boundary Adjustment Facilitation Panel, following a submission by a small number of electors to transfer the hundreds of Mangalo and Heggaton from the District Council of Franklin Harbour to the District Council of Cleve, which was expected to report in early 2013. I said:

The proposal, if successful, will result in all the assets, revenues and grants which relate to that area being transferred to the District Council of Cleve.

The panel's proposal appears to be predicated on only one of the 13 requirements of section 26 of the Local Government Act for boundary change, namely, paragraph (c)(vii)—Communities of Interest, and there has been little, if any, consideration of the impact of the proposal on the sustainability and capacity of the remainder of the District Council of Franklin Harbour and its community.

The panel, on the advice of the Crown Solicitor, has declined to address the financial and community ramifications to the whole community of both councils, including the levels of compensation which might need to be paid between the councils. In fact, the Crown Solicitor has stated there is no capacity under the act to require compensation, other than amounts agreed between the parties, which will be a significant loss of revenues and assets to Franklin Harbour.

I sought an assurance from the minister that all affected parties would be fully consulted, and that there would only be a gazettal following a full and comprehensive study on the impacts, particularly the issue of compensation. My question to the minister is: can she provide any information in relation to this matter?

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) (14:32): I thank the honourable member for her most important question. The basis of her question is really a very good premise on which to base a good argument for the further need for amalgamations of some of our councils here in South Australia. We have 68 councils, with something like 20-odd in the metropolitan area. Eyre Peninsula has—I have forgotten—eight or nine councils in the one area. We have large numbers of very small councils still. Some are so small they are really not financially viable.

We have examples of where groups of ratepayers want to shift their alliance with a particular council because they do not believe they are getting good value from the council with which they are currently associated, but to move would mean even further adverse financial implications for that council. It is outrageous! Some of these councils should take a good hard look at themselves and look to amalgamating and improving efficiencies throughout particularly our regions, but the metropolitan region is just as bad.

Our policy position is one of voluntary amalgamation, so all I can do is encourage councils, whenever I get the opportunity, to rethink and closely look at the opportunity and benefits from amalgamating. In terms of the particular example that the honourable member has raised, as I was just talking in general terms, obviously the Local Government Act has established this independent body, the Boundary Adjustment Facilitation Panel, to investigate and make recommendations on proposals for council boundary changes.

The act sets out the process that the panel has to undertake in the way it receives submissions and suchlike. It gives no power to me as minister to actually influence the operations of the panel during its deliberations about the boundary changes. My involvement under the act requires me, on receipt of the panel's report on a public-initiated submission, to either accept the report or refer the report back to the panel with a request to consider the matters and to take such steps as I might specify.

The panel has issued a set of guidelines to assist both councils and also electors in the development of the preparation of submissions for the review of the panel. The proposals for boundary adjustments may be made by either council electors or jointly by affected councils. A submission to change the boundaries in an area can be made by a group of 20 or more electors. The submissions must first be made to the affected councils.

If supported, the councils then may make a joint proposal to the council. If either of the councils informs the electors that the submission is not supported, then electors may then submit a proposal to the panel directly for consideration. If the panel believes that the proposal has merit, it investigates the matter and consults with affected stakeholders. A report is then prepared for my consideration.

In relation to the Franklin Harbour-Cleve proposal, a group of eligible electors from the District Council of Franklin Harbour made a submission to the panel seeking to have the council boundary adjusted to excise a portion of the District Council of Franklin Harbour and include it in the District Council of Cleve. The proposal for the boundary change was released for public consultation, I am advised, until 24 December 2012. I am advised that the panel met on 21 February 2013 to consider the responses received during the community consultation period, and I understand there are still a number of steps for the panel to go through, including further

consultation with the affected councils, before a report is then prepared for my consideration, and I await the outcome of that report.

While I am on my feet, if I could just clarify for the record in relation to the forestry advisory board that the requirement is for six meetings per year.

FRUIT FLY

The Hon. S.G. WADE (14:37): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding fruit fly roadblocks.

Leave granted.

The Hon. S.G. WADE: In light of the fruit fly outbreaks in Adelaide and increased risks from the pest interstate, the Riverland is under threat of an outbreak through all entrances to the region. Biosecurity SA has indicated in the media that it will increase the number of random roadblocks for vehicles going into the Riverland. My questions are:

1. What is the current number of random roadblocks held annually in South Australia, and what are details of the roadblock increases to the Riverland?

2. Will the minister commit to establishing new random roadblocks in the Riverland as proposed by Biosecurity SA?

3. Were any on-the-spot fines handed out at the Blanchetown random roadblock on ANZAC Day, 25 April 2013?

4. Given the increased threat of fruit fly to South Australia, has the Labor government commissioned any research or surveys to determine the major origin points of travellers coming into our state?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:38): Biosecurity SA does conduct random roadblocks specifically designed for those high traffic times such as holidays, etc., and these are designed, obviously, as one of our means of protecting against fruit fly and remaining a fruit fly-free state. I am advised that the random roadblocks at Blanchetown inspected a large number of vehicles and, as officers do, they tried to use those roadblocks not just as an opportunity to stop breaches but they also used it as an opportunity to educate and inform members of the public about the importance of remaining fruit fly free and the risk of carrying even a single piece of fruit into that zone, what sort of adverse effects that could have.

This is obviously part of our ongoing efforts to ensure that South Australia remains fruit fly free. It is a horticulture pest that could put our $675 million fresh fruit and vegetable growing industry at risk. It is important to educate the public so that they know about the potential dangers. In terms of the actual numbers of roadblocks over the last 12 months, I am happy to take that on notice. I do not have those numbers, but I am happy to take that on notice and bring back a response, but I do have statistics for the last four roadblocks that were conducted since November 2012.

The number of vehicles stopped, I am advised, is 3,184. Verbal cautions issued on site were 629. The report of offence notices issued were 75, with 40 waiting on determination if a caution is issued or an expiation notice is issued. The number of expiation notices issued was 73, plus extra from roadblocks undertaken in December near Bordertown and on Australia Day near Blanchetown. I am advised that another two roadblocks were planned for February and March. The message is quite simple. If you are wanting to visit the region you are more than welcome, but you are not welcome to bring any fruit or vegetables.

In relation to new roadblocks, I have mentioned in this place before that we have a permanent roadblock strategy and other biosecurity measures, including a random roadblock arrangement, to complement that protection. We shift those random roadblocks around in a way so that visitors might not expect that we are there or cannot necessarily anticipate that we are there, so there is a bit of a surprise effect. We shift them in a way that is determined by an assessment made by officers on an as needs basis; so that looks at where public holidays are occurring in which states, which way traffic might be flowing, etc. Those assessments are made by our officers and the random roadblocks are adjusted accordingly. That program is in place and it will continue in place.

I indicated in this place yesterday that if there were to be any new additional strategies or initiatives then the industry would need to consider coinvesting with the government. Our assessment is that we monitor vigilantly right throughout the year on risks associated with fruit fly infestation. That monitoring is highly effective. It is working. Important horticulture areas remain fruit fly free, and I have already outlined in this place on a number of occasions the measures that we have in place to ensure that those protections remain active. The work we are doing at the moment is effective and the strategies are working. New initiatives would require additional funding and, as I said, currently the government funds these fruit fly initiatives 100 per cent. If the industry wants additional initiatives they would need to consider, as I have said previously, coinvesting with the government in any new initiatives.

SOUTHERN BLUEFIN TUNA INDUSTRY

The Hon. K.J. MAHER (14:45): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the South Australian southern bluefin tuna industry.

Leave granted.

The Hon. K.J. MAHER: The southern bluefin tuna industry is a significant contributor to this state's economy, with the government working closely with the sector to make business processes easier. Will the minister update the chamber on the work the government and the industry are undertaking to benefit the southern bluefin tuna industry?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:45): I thank the honourable member for his most important question. I am very pleased to advise the South Australian tuna industry that it is set to benefit from a project that will reduce red tape for business and deliver savings to the industry as part of the Premier's public sector reform program.

The legislative processes between PIRSA and the EPA will be streamlined to decrease the time it takes for licences to be assessed between government agencies. I am advised that licensing, monitoring and reporting arrangements for the South Australian tuna industry are currently regulated by a number of pieces of legislation, including the Aquaculture Act 2001, the Fisheries Management Act 2007, the Livestock Act 1997 and the Environment Protection Act, and involve both PIRSA and EPA officers.

By working with industry on this project, both agencies are of the view that they can streamline these administrative arrangements to provide much greater benefits for the industry. The streamlining regulation of South Australia's tuna industry project will include representatives from the Australian Southern Bluefin Tuna Industry Association, PIRSA, the EPA and the public sector reform program. The project aims to develop agreed administrative positions, achieve reduced regulatory red tape, reduce duplication between agencies, develop a more streamlined administrative process, improve sharing between government agencies, and develop an even stronger collaboration between government and industry.

I am advised that the project is due for completion by 30 June 2013, with a short-term view of implementing immediate process changes as well as identifying long-term regulatory reforms for further investigation by both PIRSA and the EPA. I am informed that the new streamlined processes will allow more time for the tuna industry to initiate their annual farming activity, and I understand that in some cases this will mean that licence holders will be able to start their farming up to six weeks earlier as a result of the time saved in referrals between agencies.

Tuna operations follow a very tight stocking and harvest schedule where the tuna are caught wild in the Great Australian Bight and then transported to the long-established Port Lincoln farming aquaculture zone to grow for between six and eight months. South Australia is recognised worldwide for its aquaculture industry, innovation and creativity based on the exchange of skills and cooperation between industry, scientists and government. They have been a hallmark of South Australia's very successful seafood industry. South Australia's southern bluefin tuna industry is obviously no exception, with our southern bluefin tuna one of the most sought after seafoods in the world. Tuna is this state's largest single aquaculture sector. In 2010-11, South Australian fisheries and aquaculture sectors produced more than 63,000 tonnes of seafood with a total value of more than $424 million.

While this red tape reduction project will benefit farming operations, environmental standards obviously will not be compromised. The project aims to provide sustainable environment outcomes, which includes the development of a coordinated environmental audit program with the engagement of KPMG to cover risks assessed by the EPA and PIRSA through the licence assessment process for tuna licences. This is a very good example, I think, of the industry and government working together to reduce red tape for industry and highlights this government's commitment to capitalise on the increasing global demand for our premium food and wine from our clean environment.

SOUTHERN BLUEFIN TUNA INDUSTRY

The Hon. M. PARNELL (14:49): My supplementary question is: does the South Australian government support the World Conservation Union, of which the South Australian department for environment and heritage is a member, in its declaration of southern bluefin tuna as a critically endangered species at imminent risk of extinction in the wild?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:50): As I indicated, our tuna industry is a highly regulated and highly monitored industry. We seek to manage it in a highly sustainable way and they are subject to catch quotas, and suchlike, plus a whole range of other standards and measures as well. So, when stocks are assessed as being low then adjustments and changes are made to the take each year. We abide by those rules and requirements. South Australia prides itself on maintaining sustainable fisheries.

SOUTHERN BLUEFIN TUNA INDUSTRY

The Hon. M. PARNELL (14:51): In light of the minister's answer, will the South Australian government be resigning from the World Conservation Union if it does not accept that body's finding that southern bluefin tuna is a critically endangered species?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:51): I am happy to refer that to the Minister for Environment. It is not a matter for me to determine. I have made it very clear that we value our fisheries industries highly. They are a significant economic stimulus for the state. They contribute significantly to our economic prosperity, to jobs. It is in everyone's interests, both socially and environmentally, that we maintain our commercial fisheries in a sustainable way. We are not just here to make a quick buck today; we are here to make sure we have businesses that are sustainable and are able to endure into the future so that our children and grandchildren can carry on in those businesses and work in those industries. That is why our commitment to sustainable fisheries is such a strong one.

BICYCLE MECHANICS

The Hon. K.L. VINCENT (14:52): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about accredited training for bicycle mechanics in South Australia.

Leave granted.

The Hon. K.L. VINCENT: It might not surprise you to learn that I have not spent much of my life to date riding a bike, except for a brief period in the nineties, which was quite a fun aspect of some post-operative rehabilitation and even then that was technically a tricycle so I don't pretend to be an expert. However, Dignity for Disability strongly believes that bicycle corridors, bike commuter-friendly roads and infrastructure, as well as traffic planning that suits cyclists, are essential aspects of any half decent urban planning strategy. After all, a bike-friendly environment is also bound to be good for pedestrians, wheelchair users, walker users, pram users and so on.

As members are no doubt aware, the sales of new bikes in Australia have outstripped new cars for more than a decade now. While some bikes may sit in garages collecting dust, what we all hope for is an urban environment that allows workers, kids on their way to school, tertiary students and even the community in general to pursue cycling as a healthy, cheap and environmentally friendly mode of transport. However, maybe I digress a little bit.

It has come to my attention that the accredited certificates II and III in bicycle mechanics previously conducted in the Melbourne TAFE system have been defunded by the Victorian

government and so are currently suspended. At the time of the defunding, in justifying their cuts, the Victorian government described the course as 'lifestyle choices', clearly demonstrating limited understanding of the intricacies of the modern bike. I recall the same government also attempting to cut Auslan courses from the TAFE curriculum and I certainly rallied very strongly against that.

Long gone are the days when cyclists took their own broken bike frames into a blacksmithing shop to beat their bike back into shape after an accident on the slopes of the Col du Tourmelat during the Tour de France. Back in the early days, competitors in the Tour de France were allowed no outside help or interference or assistance and did all their own bike and puncture repairs themselves. Accredited bike mechanics are essential if we are to have safe, functioning bikes on our modern roads.

I would also like to note the similarities between some of the technologies and materials involved in bike wheels and wheelchair wheels, for example, and the dearth of available wheelchair mechanics in South Australia. As I understand it, the wheelchair I am currently sitting in once had to be sent to Perth to have footplates fitted to it and adjusted. You would certainly think we would have accredited personnel to do that somewhere in South Australia.

In a state that proudly hosts the Tour Down Under as Australia's only UCI-accredited event every year, one might think that we would be making the most of South Australia's opportunity to steal Victoria 's thunder. My questions are:

1. Is the minister aware that South Australia currently has no formal TAFE courses in bicycle mechanics?

2. Will the minister fund the establishment of a certificate IV course accreditation for at least one metropolitan TAFE campus in South Australia?

3. What formal qualifications are available or necessary for wheelchair mechanics and other mobility aid mechanics in South Australia?

4. Will the minister investigate the establishment of an innovation hub in Adelaide for wheel-based technologies and developments?

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): I thank the honourable member for her most important questions, and will refer them to the relevant ministers in another place and bring back a response.

OLIVE INDUSTRY

The Hon. R.P. WORTLEY (14:56): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about olives.

Leave granted.

The Hon. R.P. WORTLEY: South Australia has a strong olive industry and produces high-quality extra-virgin oil. Since 2009, the government has assisted the olive industry to collect a contribution from olive growers through the Primary Industry Funding Schemes Act 1998. My question is: can the minister advise the chamber of a change affecting olive growers?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:57): I thank the honourable member for his most important question. As a devotee of good food myself, I know good olive oil is often a foundation to great meals. South Australia has a long history of growing olives, going right back to the early years of settlement. The olive industry currently consists of several hundred dedicated olive growers, from those with just a few trees growing olives for their own use right up to quite large growers with thousands of trees supplying export markets.

South Australia produces extra-virgin olive oil, the highest grade of oil from the first pressing of fruit. It is highly valued and used in a wide range of culinary dishes from salads to gourmet foods right throughout cooking in a wide range of different styles. In 2009 the South Australian government responded to a request from the olive industry to establish a voluntary contribution under the Primary Industry Funding Schemes (Olive Industry Fund) Regulations 2009 (the Olive Industry Fund), which is administered by me as Minister for Agriculture, Food and Fisheries. This fund was established to provide a mechanism for the olive

industry to promote itself, undertake research and other development including market development, and to participate in national forums of benefit to the industry.

The commonwealth, under the Primary Industries and Energy Research and Development Act 1989 (the PIERD Act), may collect levies nationally for primary industries research and development and related purposes. The national olive industry has elected to establish a PIERD Act levy scheme, and that commenced on 1 May this year, which was yesterday.

A local olive industry organisation, Olives South Australia, has advised me that the South Australian olive growers supported the national scheme on the basis that it would replace the state schemes, so to ensure that South Australian olive growers are not obliged to contribute to both schemes, from today, the contribution rate to the South Australian olive fund (under the Olive Fund Regulations) will be set at zero.

While no further contribution is required to this fund, the regulations remain in place to enable the fund provisions in the regulations to operate. Many of the contributions paid in 2013 can still be claimed back by contributors if they so desire. My agency has arranged to contact olive processors to advise them of the changed South Australian regulations.

I am advised that the commonwealth scheme and the inception of the national olive levy will allow olive industry research and development priorities to be determined and funded nationally. I congratulate the olive industry on its new national arrangement and look forward to seeing the results of this more collaborative and cohesive approach.

SA WATER

The Hon. J.A. DARLEY (15:00): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray questions regarding SA Water accounts.

Leave granted.

The Hon. J.A. DARLEY: I recently received my SA Water account and noticed that the government has provided a one-off water security rebate to help reduce the cost of living impacts associated with the recent outrageous water price rises. I noted that those with a recorded water use in 2012 of up to 120 kilolitres received a rebate of $45 and those who used over 120 kilolitres received a rebate of $75.

Given the government's initiative in the past few years to educate people about water conservation and to be more water wise, can the minister advise why those who have conserved water are effectively being punished by receiving less of a rebate than high water users? Was consideration given just to provide a set rebate for all water users or at least the highest rebate for those users who used the lower volume of water and, if so, why were these options disregarded?

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) (15:01): I thank the honourable member for his most important questions and will refer them to the Minister for Water and the River Murray and bring back a response.

WUDINNA SKILLS AND WORKFORCE SUMMIT

The Hon. J.S. LEE (15:02): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the Wudinna Skills and Workforce Summit.

Leave granted.

The Hon. J.S. LEE: On 22 April AgriFood Skills Australia in partnership with the state and federal governments hosted a skills and workforce development summit in Wudinna on Eyre Peninsula. This $4 million AgriFood National Regional Initiative is expected to drive AgriSkills development in four regional towns located across Australia with Eyre Peninsula being chosen for South Australia.

The regional development manager for AgriFood Skills Australia, Mr Christian Pyke, stated on ABC rural radio on 23 April that there is about $850,000 that will go into training and he will be working closely with an advisory group where they will gather advice as to how to go about putting in place local solutions. My questions to the minister are:

1. What is the amount of state funding commitment towards AgriFood Skills Australia and over what period of time?

2. Who will be eligible to access the $850,000 in training that has been allocated?

3. Who are the people on the advisory group, how have they been selected, and what reporting responsibility does the advisory group have with the state minister?

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) (15:03): I thank the honourable member for her most important questions. Indeed, an environmental scan recently conducted identified four areas of priority action that needed to be addressed, looking at issues of sustainable growth. It identified things like the attraction of new workers, the adoption of higher skill levels across the workforce, diffusion of new research findings, innovative practice and technology, and the retention and skills utilisation of existing workers. These areas of priority action are obviously significant issues for PIRSA and other stakeholders.

Indeed, quite recently Wudinna hosted a landmark skills and workforce development summit looking at regional workforce initiatives. The state government and the federal government partnered with AgriFood Skills to help boost capabilities in the region, and the ministers for regions and for aquaculture, including federal ministers, are very supportive of this. I think Wudinna was an important place in which to conduct this forum; it contributes about 12 per cent of the state's total aquaculture and fisheries production.

The new initiative is being facilitated by AgriFood Skills Australia with the support of both the federal and state governments, and aims to increase the level of capability as well as workforce participation and attraction and retention of workers and families within the region, and it is obviously a key part of our priority around premium food and wine from a clean environment. The summit enabled industries, enterprises and communities to work together for the purposes of improving skills and retention in the region, and a number of industries from across Eyre Peninsula were involved: AgriFood Skills Australia, the Southern Bluefin Tuna Industry Association, Eyre Peninsula Mining Alliance, the Eyre Peninsula Local Government Association, the Resources and Engineering Skills Alliance, Viterra, and the Abalone Industry Association.

As I said, it was very widely supported and there was a high level of industry engagement. The identification of challenges to the industry was one of the reasons this particular forum was conducted and the commitment given, and the feedback was that it was highly successful and delivered some very important cooperation and collaboration across various industry sectors. In relation to specific funding, I am happy to take that on notice and bring back a response.

ADELAIDE CEMETERIES AUTHORITY

The Hon. CARMEL ZOLLO (15:07): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations and Minister for the Status of Women a question about the Adelaide Cemeteries Authority.

Leave granted.

The Hon. CARMEL ZOLLO: The Adelaide Cemeteries Authority is holding services and events throughout May to celebrate the South Australian History Festival and Mother's Day. Can the minister inform the chamber of the arrangements for Mother's Day remembrance services and History Month activities by the Adelaide Cemeteries Authority?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:08): I thank the honourable member for her most important question. Indeed, Mother's Day falls on the second Sunday of May each year, and is a time for all of us to stop and appreciate and thank the women who have played a significant role in our lives. However, for those who have experienced the loss of a loved one the day can raise feelings of extreme grief and loss.

The Adelaide Cemeteries Authority appreciates that, for some, Mother's Day can be a difficult time, and endeavours to provide a safe and supportive place for those who wish to come together in remembrance. I am advised that each year the Adelaide Cemeteries Authority hosts a service of remembrance at Enfield Memorial Park. This service offers families and individuals a

place to gather and reflect on the important women in their families or personal lives who have passed on. I understand a similar service of remembrance is held on Father's Day each year.

Events like these provide an opportunity for visitors to be guided through a very positive and respectful celebration of mothers. It is also a way in which the authority maintains and nurtures its relationship with families and customers, whose links with the cemetery often extend over several generations. I understand that many people look forward to attending each year, and the service of remembrance is becoming a yearly ritual for many families. I am advised that Mother's Day traditionally is the busiest day of the year for all cemeteries, with very high numbers of visitors in the week leading up to the weekend and obviously on the day itself.

Families and individuals who have experienced the loss of a female family member in the past 18 months are sent an invitation to inform them of the proceedings. However, the service is open to all members of the public, and I am advised that a team of about 20 staff will be on hand to greet people visiting the cemetery, assist visitors to locate graves, handle records search and tenure inquiries and assist with the service of remembrance.

I have been advised that the volume of traffic and visitors on Mother's Day is such that, in the interests of safety, the cemetery gates at Enfield Memorial Park are closed to vehicles until about 2pm on that day, and transport around the cemetery is provided for those with limited mobility. This year the service will be held on Sunday 12 May at 10.30am on the Folland Chapel lawn, which is an area at the Enfield Memorial Park, and a morning tea will be served in the gardens at 11.30, following the service.

The Adelaide Cemeteries Authority is also offering a number of walks in the West Terrace Cemetery to celebrate the SA History Festival being held throughout the month of May. The walks are an opportunity for the South Australian community to learn more about some of the inspiring figures and colourful characters buried in the West Terrace Cemetery, they having shaped our state's history.

I am very pleased, as Minister for State/Local Government Relations and Minister for the Status of Women, that I intend to attend the launch of the trailblazing women's self-guided interpretive trail on 29 May at West Terrace Cemetery. The tour highlights the courage and passion of a number of female artists and leaders, philanthropists and political campaigners who made their mark on South Australian history. It includes many of the admired South Australian women, and obviously many have been an inspiration to us.

I am informed that the West Terrace Cemetery will also offer six guided walks throughout May, with one being a very special after-dark tour, if you like a creepy atmosphere. That will be every Friday evening throughout May, and apparently there are lots of takers for those night tours—apparently it adds lots of atmosphere. The tours require bookings, but at no cost and more information is available on the website.

PESTICIDES

The Hon. M. PARNELL (15:13): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about pesticides and bees.

Leave granted.

The Hon. M. PARNELL: Bees are essential to our food production system, pollinating human crops worth around $4 billion to $6 billion annually in Australia, including crops such as broad beans, canola and sunflowers but also lucerne and pastures, and obviously many of our fruit trees. The European Union has just introduced a two-year ban on three pesticides thought to affect the learning behaviour of bees. This move is in response to a dramatic drop in bee numbers across various parts of the world, including Europe, the Middle East and the US.

These insecticides, known collectively as neonicotinoids, affect the central nervous system of insects. Lab results have shown that bees' ability to learn is reduced by exposure to the pesticides, and that bee colonies suffer as a result. The pesticides to be banned in Europe are still in use in Australia. Writing this week in the online academic journal, *The Conversation*, Associate Professor Nigel Andrew, an entomologist from the University of New England, said:

> Australia should consider banning these pesticides too. We use the same chemicals as the EU and we have the same reliance on bees for pollination. The EU is usually a long way ahead of Australia in terms of pesticide regulation. We don't know what potential these chemicals have to cause major problems. We haven't got the science. But this is a great example of where the precautionary principle should be invoked.

My questions to the minister are:

1. What investigations have been undertaken in South Australia and what, if any, adverse impacts have been identified in relation to the use of neonicotinoids or other pesticides on honey bee numbers and their performance; and have any reports been prepared?

2. Will the minister, either independently or in collaboration with her state and territory colleagues, consider moving towards a similar precautionary ban in South Australia to that introduced in Europe?

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) (15:15): The European Union has announced, as the honourable member has pointed out, a ban on the use of three neonicotinoid insecticides, and that just denotes that the mode of action is like nicotine. The three insecticides include imidacloprid, clothianidin and thiamethoxam, and they are all marketed under various trade names around the world, which I hope are easier to pronounce.

The ban will apply to use on all crops, I have been advised, except winter cereals and plants not attractive to bees, such as sugar beet, and that will occur from 1 December 2013. In Australia, the Australian Pesticides and Veterinary Medicines Authority (the APVMA) is our national body which undertakes the risk assessments of the proposed uses of agriculture and veterinary chemicals under Australian conditions—so, it is a federal responsibility—and this is obviously to ensure that when they are used they are used according to approved instructions. The risks to human health, environment and trade are also appropriately managed.

These insecticides are currently approved by the APVMA for use in a wide range of crops, including stone fruit, grapes, a range of leafy vegetables and other ornamentals. Broadacre crops include cotton, sunflower, lentils, cereals, etc. They are also approved for use to control insects on flowers, trees, fruit trees and vegetables and suchlike in home gardens and, depending on the particular use, they can be applied as foliar sprays, soil drenches or seed treatments. So you can see that they are, indeed, used here.

In August 2012, the APVMA announced a review to see if these neonicotinoid insecticides present a greater risk to bee health than other insecticides and whether current data requirements are adequate to address potential effects on bees. The APVMA is now examining the reports from the European Food Safety Authority which led to the ban along with other evidence from scientific literature, so my understanding is that they are undertaking a fairly intensive examination. The APVMA also intends to consult with a wide range of stakeholders prior to releasing a draft report, I have been advised, so I would imagine they would be possibly open to input from stakeholder responses to that. It is something we are watching very closely and monitoring with a high level of caution.

WHEAT MARKETING (EXPIRY) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:19): Obtained leave and introduced a bill for an act to amend the Wheat Marketing Act 1989. Read a first time.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:20): I move:

That this bill be now read a second time.

The Wheat Marketing Act 1989 was enacted to regulate the marketing of wheat. It complemented the commonwealth Wheat Marketing Act 1989 by conferring on the Australian Wheat Board functions in addition to those conferred on it by the commonwealth act.

The South Australian Grain Industry Trust was established in 1991 to administer a trust fund that comprised the balance of voluntary research levies made redundant following the commencement of the commonwealth Primary Industries Research and Development Act 1989. The WM Act was amended in 1991 to allow the minister to approve the SAGIT trust deed for the purposes of establishing and controlling the application of the SAGIT fund and to provide for the collection of voluntary contributions to the SAGIT fund. The Wheat Marketing Regulations 1998

that promulgate the SAGIT trust deed expired on 1 December 2013 and under the Subordinate Legislation Act 1978 further extension was not possible.

The grains industry landscape has obviously changed dramatically since the WM Act commenced in 1989. Then state-based statutory authorities controlled grain storage and handling. Now the industry's grain storage and handling assets are primarily owned by public companies, with global grain marketing and processing interests. Domestic grain marketing controls were removed during the 1990s and passage of the commonwealth's Wheat Export Marketing Amendment Act 2012 in November 2012 ended government regulation of export grain marketing.

As a result of these changes, there is now no reason to retain an act relating to the marketing of wheat. Repealing the WM Act will not impact on the SAGIT trust deed as it can stand alone. However, repealing the WM Act will impact on the collection of the voluntary contributions for grain research and development. When the WM Act commenced, there was no other state-based statutory mechanism that could have provided for the collection of voluntary contributions to the SAGIT fund.

However, the Primary Industry Funding Schemes Act 1998 (the PIFS Act) provides a superior mechanism for voluntary contributions because of the transparency and accountability obligation it imposes on the administrator of a fund (particularly with regard to the preparation of a management plan for the fund, prudential management of the fund and tabling of an annual report on the administration of the fund in each house of the South Australian parliament), also on collection agents and contributors. There is therefore no reason to retain the WM Act in order to collect contributions to the SAGIT fund.

Grain industry stakeholders have agreed to the collection of contributions moving from the WM Act to the PIFS Act and action to establish the PIFS Act grains research scheme has been initiated. The value of the grains industry's support for state-specific research and development to complement the national industry's investment via the Grains Research and Development Corporation should not be underestimated. Since 1993, SAGIT has invested $17 million in 162 projects. Matching contributions from other funders has doubled that investment, generating significant additional value for South Australian grain growers. Not surprisingly, there is almost unanimous grain grower support for the SAGIT arrangement as evidenced by the fact that the annual request for refunds are sought by a mere 0.001 per cent of contributors, which is quite remarkable given that it is a voluntary fund, so it shows real industry commitment.

To ensure that there is no interruption to the collection of contributions or the operations of SAGIT, the intention is to repeal the WM Act on the day the PIFS Act grains research scheme commences and that both occur prior to the expiration of the WM Regulations. I commend the bill to members and seek leave to have the explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Wheat Marketing Act 1989*

3—Insertion of section 12

This clause inserts a new section. The proposed section provides for the expiry of the Act on a day to be fixed by proclamation.

Debate adjourned on motion of Hon. T.J. Stephens.

PARLIAMENTARY COMMITTEES (FUNCTIONS OF ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:25): Obtained leave and introduced a bill for an act to amend the Parliamentary Committees Act 1991. Read a first time.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:26): I move:

That this bill be now read a second time.

The House of Assembly appointed the Parliamentary Select Committee on the Grain Handling Industry on 9 March 2011 in response to widespread grain grower dissatisfaction with the management of the 2010-11 harvest by the state's main grain storage and handling service provider. The work of the select committee highlighted the importance of primary production in South Australia. Issues raised in evidence received by the select committee were generic to all forms of primary production, not just the grain industry.

The report of the select committee, which was tabled in parliament on 19 September 2012, included a recommendation that parliament appoint a standing committee on primary industries to provide a forum to monitor and to keep the parliament informed on developments and issues impacting primary industries in South Australia.

Parliament has existing standing committees such as the Environment, Public Works Committee, Environment, Resources and Development (ERD) Committee and the Natural Resources Committee and the ability to establish select committees (such as the sustainable farming practices committee) on matters of particular interest to the parliament which together provide mechanisms to examine important topics.

The government's premium food and wine from our clean environment strategic priority has elevated both the profile and the community's expectations of the state's primary industries, and there is merit in specifically empowering the ERD Committee to deal with matters relating to primary production.

While the functions of the ERD Committee are broad enough in scope to embrace primary production, giving the ERD Committee the statutory imprimatur to inquire into, consider and report on any matter concerned with primary production will better recognise that the primary production sector is a significant contributor to the state's economic wellbeing, and that it is a cornerstone of rural and regional communities across South Australia.

According to Primary Industries and Regions South Australia's 2011-12 Scorecard, the state's agriculture sector has a farm-gate value of $5 billion. This includes the production of commodities for food, wine, fibre and other agriculture-based products; and South Australia's food and wine industry generates $16 billion in revenue annually and accounts for around half of SA's total merchandise exports.

Premium food and wine from our clean environment seeks to position South Australia to capitalise on the opportunity provided by increasing global demand and the increasing consumer desire for premium products that are clean, safe and produced in a sustainable and ethical manner.

The concept statement for premium food and wine from our clean environment acknowledges that international competitiveness of our food and wine products are affected by the value of the Australian dollar and competition from low labour cost countries, and that South Australia has a challenge to grow the recognition of our premium food and wine, including the high standards of our producers and the regions in which it is produced.

The ERD Committee is well placed to provide the government, industry and the community with informed and objective advice on how to respond to these challenges and opportunities. I commend the bill to members.

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

WORK HEALTH AND SAFETY (SELF-INCRIMINATION) AMENDMENT BILL

Second reading.

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) (15:31): I move:

That this bill be now read a second time.

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

Leave granted.

The *Work Health and Safety (Self-Incrimination) Amendment Bill 2013* will amend section 172 of the *Work Health and Safety Act 2012*. Operation of the Act commenced on 1 January 2013.

This amendment is a minor technical amendment which provides certainty in relation to a provision that currently is arguably open to an unintended interpretation.

During the debate on the *Work Health and Safety Bill 2012* in the Legislative Council, an amendment to clause 172 was successfully moved by the Honourable Rob Lucas MLC. Clause 172 originally removed an individual's (natural person's) privilege against self-incrimination (the right to silence). The intention of the amendment in the Legislative Council was to reinsert this privilege.

This was made clear in the Parliamentary and other debates surrounding the Bill.

It appears that the amended section 172 could be interpreted as providing a privilege against self-incrimination to corporations as well as individuals (natural persons). Corporations, at common law, do not enjoy the protection against self-incrimination.

If corporations were to be granted the privilege against self-incrimination, it would seriously compromise future investigations into workplace fatalities and serious incidents.

The intention of this amendment is to provide certainty that section 172 provides the privilege against self-incrimination to individuals (natural persons) only. The Bill achieves this objective by replacing the word 'person' where is appears in section 172 with the word 'individual'. The reason for the use of 'individual' rather than 'natural person' is because it is 'individual' that is used throughout the Act to distinguish between a body corporate and a natural person, not the term 'natural person'. The term 'individual' is clearly an d unambiguously used throughout the Act to refer to natural persons, most notably in the various penalty provisions.

I commend the bill to members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Work Health and Safety Act 2012*

3—Amendment of section 172—Protection against self-incrimination

Section 172 of the *Work Health and Safety Act 2012* provides that a person is excused from answering a question or providing information or a document under Part 9 on the ground that the answer to the question, or the information or document, may tend to incriminate the person or expose the person to a penalty. The amendments made by this clause make it clear that the protection against self-incrimination afforded by section 172 applies only to natural persons (referred to in the principal Act as 'individuals').

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

STATUTES AMENDMENT (REAL ESTATE REFORM REVIEW AND OTHER MATTERS) BILL

Adjourned debate on second reading.

(Continued from 30 April 2013.)

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:34): I thank honourable members for their most important contributions. The buying of property is obviously the biggest financial investment most people will ever make. It is important that the legislation supporting the protection of consumers in their dealings with the land agent is robust and effective so that both vendors and purchasers are confident that their transactions are handled professionally and ethically. It is also important that land agents are able to conduct their businesses with as much flexibility and the least amount of red tape as possible without compromising that level of consumer protection. It is that balance that is so important, and the government consulted extensively with industry and members of the public to make sure we get the balance right.

The proposals in this bill will accomplish three principal objectives: strengthen the rights of consumers; increase the level of transparency, particularly in auctions; and reduce the administrative burden on real estate agents, auctioneers and sales representatives. I am disturbed that the opposition seems hell-bent on opposing the government's reforms designed to stamp out underquoting. These are important provisions which will allow a purchaser to go to an auction and have a reasonable expectation of what the vendor is willing to accept.

There will be many fewer instances where a purchaser has outlaid money on, for example, a building inspection report, goes to an auction and then finds that the property is sold or passed in at a price well above what is advertised. These reforms are real protection for the consumer and I am amazed that the opposition would rather kowtow to the couple of rogue elements of the real estate industry than support the government in delivering meaningful reform and protections.

The Hon. Terry Stephens asked me to inform him how many agents have been prosecuted over the last few years. The government has already provided the opposition with detailed information on complaints received and enforcement actions taken, but I will go through that again for the benefit of the honourable member. The answer, as the honourable member knows all too well, is zero and that is exactly why this bill is needed.

Underquoting is not defined in the legislation and technically only occurs when an agent advertises a property at less than the prescribed minimum advertising price. This is a very rare occurrence because it is easily picked up by Consumer and Business Services officers in an audit of sale files, but the legislation makes it difficult for CBS to do anything about other cases of underquoting such as collusion between the agent and a vendor, setting the reserve well in excess of what is in the sales agency agreement and agents engaged in the 'quote low, watch it go' scenario.

This is due to the following factors: the enormous difficulties in proving that an agent's estimate is genuine; the ease with which an agent can cite external factors, such as buoyancy of the market, uniqueness of property, number of bidders, etc.; the ease with which the agent can selectively manipulate the RP data to justify their estimate; the likelihood of collusion between the agent and the vendor; and the vendor's unwillingness to cooperate in an investigation due to their pleasure at the eventual price received; and, of course, the right of the vendor to change their reserve price at any time during the auction process.

This bill will put an end to all of that. If the industry is prepared to accept this bill—and it is—then so should the opposition. It makes no sense for the opposition to offer less protection to consumers than the industry itself is prepared to give, so I commend this bill to the Legislative Council.

Bill read a second time.

In committee.

Clause 1.

The Hon. T.J. STEPHENS: I have a question for the minister but, first, thank you for the information that you gave us about attempted prosecutions. I would like to know how many complaints OCBA has had in the past 12 months? I ask the question because I have been here for 11 years and I interact with a lot of people. I have canvassed my side of the chamber—I am not talking about the Greens—and we have never had a complaint about anything to do with real estate. I am wondering how many other members in the council have had complaints.

The Attorney-General heads off on his little crusades against the real estate industry but I am interested because I have never really had anybody say to me that the system is wrong or the system is bad and is not working. A lot of transactions happen and I am wondering if the minister can tell me how many complaints OCBA have had and have had to follow through.

The Hon. G.E. GAGO: I have been advised that during the last five years CBS has received a total of 572 complaints relating to real estate agents and salespersons.

The Hon. T.J. STEPHENS: How many of those complaints have had anything to do with the changes that you want to make this legislation?

The Hon. G.E. GAGO: I have been advised that there were 43 that pertained to or related to allegations of under quoting.

The Hon. T.J. STEPHENS: So you have had 43 complaints but how many of them have been verified as being correct?

The Hon. G.E. GAGO: I have been advised that, as I indicated in the second reading summary speech, CBS was not able to prosecute any of those 43 for the reasons that I have outlined. I am not too sure what question the Hon. Terry Stephens has asked. They were investigated but, as I have indicated in my second reading reply, no prosecutions and final proof was able to be determined because of things like the enormous difficulties in proving that an

agent's estimate was genuine, the ease with which an agent can cite external factors, the ease with which an agent can selectively manipulate data, the likelihood of collusion between the agent and the vendor, and the right of the vendor to change the reserve price at any time. These are impediments, if you like, in the system that currently enable us to prosecute under the current provisions.

The Hon. T.J. STEPHENS: Minister, you are saying there are about eight complaints a year (and you cannot verify whether they are correct or not) and, again, we have a go at the real estate agents and try to make out that they are all crooks and they are doing a terrible job. How many real estate transactions did we have over that particular period? What are we actually trying to fix and why are we heading down this path? There is always a vendor, there is always a buyer who try to meet in the middle somewhere. Why does the government seem to constantly make it more difficult?

You made the point, in your summary, that you could not understand why the Liberal Party was taking this approach because, supposedly, the real estate industry is happy to fall into line. I can tell you that our position was formed in consultation with the real estate industry. They may well feel like they have been bullied into submission, but just at this particular point in time I am not sure that the Liberal Party feels like it should be bullied into submission.

The Hon. G.E. GAGO: I just do not know where the Hon. Terry Stephens has been. I find it incredible; as an ordinary member of the public I know the sorts of challenges that my friends and family express around these sorts of issues when they are out in the real estate marketplace. I do not know which rock the Hon. Terry Stephens lives under.

Members interjecting:

The Hon. G.E. GAGO: I have just outlined the reason. We have 572 complaints, 43 of which relate to underquoting. We know that many members of the public do not bother to make complaints because they know that agents can and do operate in these ways; they do not bother to complain. It is just incredible. The real estate industry itself accepts these changes; it has even indicated general support for these changes. I cannot believe that the opposition is opposed to these really simple, basic protections for consumers.

The Hon. D.G.E. HOOD: I have not made a second reading contribution to this particular bill, and I want to put Family First's position on the record. Family First supports the legislation. We are concerned that the issues raised by the Hon. Mr Stephens are valid, and I think it is probably fair to say that, like every industry, the real estate industry has an overwhelming majority of people who do the right thing and a very small minority of people who do the wrong thing. I think that is true in all professions, perhaps even including politics.

I would like to say that we have had extensive consultations with Greg Troughton, the chief executive officer of the Real Estate Institute, who I find a very friendly and easy to deal with type of person. He has indicated to me, on behalf of REISA, if I can put it that way, that they are supportive of this legislation. In fact, he was quite unequivocal to me in that he said he had been dealing with this for four, nearly five, years and would just like to see it go through.

There are some issues with this bill, there is no doubt about that, and there are amendments to deal with those, so we look forward to those being debated and, ideally, passed. However, I am aware that the single price statement by an agent has caused much consternation in the real estate profession. The concern is that, despite providing comparative sales, the single price, rather than the traditional 10 per cent range previously permitted, may be seen by vendors as a firm valuation of the price a property will fetch. For all those vendors—and perhaps even the courts, should it get that far in a dispute—who may interpret that single price as such, a firm valuation, I will say this to make it clear: it is the marketplace that will determine the price achieved. The agent is providing an appraisal only, and it is not an evaluation in any way, shape or form.

Importantly, and I understand that this issue is unequivocally supported by the Real Estate Institute of South Australia—indeed, they have told me that it is—and the real estate profession at large, the requirement for this single price is included in the bill to assist Consumer and Business Services to regulate the industry; in particular, to prevent the insidious practice of underquoting. We support that position, but I want to re-emphasise that this single figure, which has caused quite a lot of debate between the government, the opposition, Family First and the other minors and Independents, is a contentious issue. I do not think it is reasonable to expect real estate agents to be able to put a single figure on any property; they vary so much, and it depends on the market situation that may prevail at a given time.

I want to state firmly, for the record, that it should not be taken by any later body adjudicating this bill to be deemed as a valuation but rather an estimation. Having said all that, Family First will support this bill. It has the strong support of REISA, as I said, and I look forward to the ensuing debate.

The Hon. J.A. DARLEY: I have a question of the minister: is it true that the information agents use concerning comparable sales originates from RP data, which is not comprehensive—and in some cases quite misleading—and originates from the government itself? Secondly, is it true that CBS officers are not qualified to interpret this data in the first place?

The Hon. G.E. GAGO: I am advised, in relation to the first part of the question, that, yes, agents do use RP data, but all we want is for agents to provide a reasonable guide for how they came to their estimate. In relation to the second question about officers not qualified to interpret data, I am not sure what is the underlying concern for the honourable member because they do not need to be. I am not too sure why he believes that to be an issue.

The Hon. T.J. STEPHENS: With regard to the Hon. Dennis Hood's comments about the real estate industry being supportive of the bill, the real estate industry I understand is very comfortable with a number of aspects of the bill, but a number of real estate agents have enormous concerns about the things we have talked about. For the statement to be made that the Real Estate Institute and industry are quite comfortable with the bill is a long way from the truth.

I thank the number of real estate agents who have spoken to me about this and put their thoughts to me. I read out a letter from Steve von der Borch, a very competent auctioneer, and I know that the Society of Auctioneers is very disappointed with this. I did not think it is a lay down misere that the industry is very comfortable with this at all. We do know that the minister has said that if there are any changes he will pull the bill. There are a number of things in this bill with which the real estate industry are quite comfortable. If the Attorney-General does not get his way, it is the highway. This is why we are being pressured into proceeding.

The Hon. G.E. GAGO: I want to respond very briefly to the Hon. Terry Stephens and the sort of rationale he is trying to give to kowtow to those few in the industry who do the wrong thing. I agree with the Hon. Dennis Hood that it is not the bulk of the industry. The bulk of the industry does the right thing and operates with a great deal of integrity. However, there are those who do not, and this bill is about preventing those rogue operators doing over consumers—doing the wrong thing.

I am surprised at the honourable member's concern about the 43 complaints. Is he not prepared to do something about those 43 complaints? I find it absolutely outrageous that the opposition has taken this position. Not even the real estate industry itself supports the opposition's position. The Real Estate Institute is the peak body that represents the vast majority of the real estate industry—and we accept that these bodies are never able to achieve unanimous decisions. We are not saying it is unanimous because there are always dissidents. Nevertheless, it is the peak body and a high level body. It has a high level of membership, it consults extremely well—so, all its processes internally are at a high level—and it is supporting this bill. It is accepting this bill as it stands.

There are about 20 provisions in the bill, of which the real estate industry supports about 15, so there are five provisions that the real estate industry has indicated some concern with. We have been in intense negotiations with them but, nevertheless, the real estate industry has accepted the overall bill as it stands. The Hon. Terry Stephens can try to twist and distort this in as many ways as he likes but that is how it stands. There are people out there doing the wrong thing and this provides simple protection to consumers.

The Hon. T.A. FRANKS: Similarly to the words of Family First previously and, as the Greens did not give a second reading speech, I want to briefly indicate that we are generally supportive of this bill. We are also cognisant of the words of Greg Troughton, CEO of the Real Estate Institute, on 10 April on talkback radio FIVEaa when he said:

> Look, when it comes to these negotiations we're at a point where we want this legislation to go through. We've negotiated with the Attorney-General for a long period of time and we've obviously been keeping all the parties in the loop on that. We've got what we wanted and that was more money to actually prosecute this very small minority of people who are doing the wrong thing, so we've achieved that. The Attorney has a review as to the pricing mechanisms.

Clearly, it does not explicitly say there what the CEO believes about that particular aspect of the bill, but he continues:

> The bottom line is we can live with it and we all support it. We just want to get on with it now.

The Greens echo those words. We do believe there are many amendments to this bill that we are yet to debate in the committee stage but, in general, we express our support and recognise that, while there has been a lot of consultation and, indeed, a lot of consternation, we are in a position where we can progress this debate.

The Hon. J.A. DARLEY: Mr Chairman, am I able to answer the question the minister asked of me?

The CHAIR: Yes.

The Hon. J.A. DARLEY: The reason I asked that question is I would imagine in the first instance it would be CBS officers who would be looking at these things and reporting to the commissioner. If none of those people has any experience in the real estate industry, how can they possibly come to a conclusion that there is any element of misuse of the information?

The Hon. D.G.E. HOOD: While the minister is considering her response to the Hon. Mr Darley, very quickly I want to put on record quite firmly that I have asked the direct question of the chief executive officer of the Real Estate Institute in South Australia if they support this bill and his response to me was, 'Yes.' I said, 'Are there any of your members who do not support the bill?' He was honest enough to say, 'Yes, there are some.' In his view, it was a small minority. That is why we have taken the position we have.

I have no reason to doubt the word of the Hon. Mr Stephens—I am sure he is putting forward his position in an honest way—but that has not been my experience with the Real Estate Institute. The CEO has certainly made it clear to us that he wants this bill to progress, and that has been our discussion with him.

The Hon. G.E. GAGO: I thank the Hon. John Darley for clarifying his concerns and I hope I can provide assurance. There is no formal qualification for that sort of data interpretation per se. It comes from years of experience and firsthand knowledge and understanding and I can absolutely assure the honourable member that those officers involved in handling this data are highly experienced and generally really highly regarded in the industry. So, if the honourable member was concerned and went out and spoke directly to the industry, he would find that these officers are highly regarded and I doubt that he would find any shadow of doubt about their competence in this area.

The Hon. J.A. DARLEY: If we are talking about RP data, first of all I mention it comes from the government itself. There is a qualifier for the government that the information may not be accurate to start with. Secondly, the data that is provided provides no details of names and addresses of owners or purchasers or vendors and that is significant. It does not provide the details of the contract date. It provides the settlement date which could be months apart and, in addition to that, you can always have the situations we have experienced in the past where the sale price that is quoted is not correct—not often, but it does occur. Unless people are aware of all those situations they are not really in a position to make any comment at all.

The Hon. G.E. GAGO: Real estate is not an exact science. RP data and comparative sales are not exact sciences. All that we are asking is that agents are able to show a reasonable estimate of what a property is worth. It is not the job of CBS to examine RP data, but the job of the CBS is to investigate a complaint and to try to determine if an agent has played by the rules, so I hope that helps.

Clause passed.

Clause 2.

The Hon. T.J. STEPHENS: I move:

Page 3—

Line 2—Delete 'This Act' and substitute: Subject to subsection (2), this Act

After line 2—Insert:

(2) A day fixed by proclamation under subsection (1) must not be earlier than 3 months after the day on which this Act is assented to by the Governor.

I did mention in my second reading contribution that we are concerned that this act is passed. The Attorney has given an indication that he wants these changes implemented on 1 July. We actually think that that is quite reasonable given that we are now in May, and it is fair to agents with regard to training, giving them the opportunity to make the necessary changes. Given that I am sure the

government's intention is not to be punitive with this, these amendments basically indicate that there is a three-month period from the time of assent for people to ensure that they have it exactly right and that there is no chance of prosecution. I do not think that it is an unreasonable request.

The Hon. G.E. GAGO: I rise on behalf of the government to oppose both of these amendments. I actually do not understand why these amendments have been filed given that the Attorney-General has already given his commitment in the other place that the act will not commence during this time frame. It is simply grandstanding on behalf of the opposition, to ostensibly show their support for one of the Real Estate Institute's proposals, but it is misguided and shows a complete lack of understanding of the parliamentary process.

Any novice would know that there is no possibility that the act could commence within three months of assent. Regulations need to be drafted and consulted on and an education campaign needs to be planned and implemented. All this will take well over three months. Instead of amending, I am happy to place on the record confirmation that the start date for the act will definitely not be within three months of assent.

The Hon. T.J. STEPHENS: That means that we have to trust the minister's word. Why not just agree to the amendment? Why does she not, in good faith, agree to the amendments so that there is some surety for real estate agents? Is this an all-out assault on real estate agents or are we actually trying to get something workable for all parties?

The Hon. D.G.E. HOOD: Again, the advice I have from REISA is that it does not support these amendments. I would say that effectively the opposition appears to be achieving the same end and, for that matter, we see no reason to support the amendments.

Amendments negatived; clause passed.

Clauses 3 to 11 passed.

Progress reported; committee to sit again.

BURIAL AND CREMATION BILL

In committee.

(Continued from 11 April 2013.)

Clause 14.

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

Page 14, line 23 [clause 14(1), penalty provision]—Delete 'Imprisonment for 4 years' and substitute:

$10,000 or imprisonment for 2 years

This clause relates to a doctor's requirement to report a death and the consequence of issuing a death certificate in circumstances where the death should have been reported under the Coroners Act 2003. During the opposition's consultation on the bill we received feedback from the Australian Medical Association (South Australia) and the Law Society of South Australia. Both stakeholders made representations to us that the penalties prescribed by clause 14 of the Burial and Cremation Bill 2012 were unduly harsh on medical practitioners. The AMA(SA) considers that:

> ...a maximum penalty of four years is too high in either the circumstances indicated in 14(1) or 14(2), but particularly in the case of 14(1), which relates to a medical practitioner giving a certificate of death if the death is a reportable death under the Coroners Act.

The AMA(SA) notes that the penalties for a doctor who does not comply with the similar requirements under the Births, Deaths and Marriages Registration Act 2002 faces a maximum penalty of a $1,250 fine and noncompliance with the Coroners Act creates liability for either a $10,000 fine or imprisonment for two years maximum. The amendment standing in my name will make the prescribed penalty consistent with that prescribed by the Coroners Act for a similar offence. The AMA(SA) and the Law Society both support the amendment as it ensures that penalties for similar offences remain consistent. I commend this amendment to the council as it ensures that penalties for like offences remain consistent.

The Hon. G.E. GAGO: The government supports the amendment.

Amendment carried.

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

Page 14, line 24 [clause 14(2)]—Delete 'if' and substitute 'knowing that'

This clause relates to where a medical practitioner gives a certificate of cause of death if they have a direct or indirect interest whether proprietary, pecuniary or beneficial. Clause 14(2) is modelled on section 6(5) of the current Cremation Act, which precludes a medical practitioner from issuing a certificate with respect to cremation if the medical practitioner knows that they have a pecuniary interest in relation to the deceased. The provision in section 14(2) expands upon the existing provisions of the Cremation Act, expanding the scope of benefit or interest considered to include a pecuniary or proprietary interest in the hospital, nursing home or aged-care facility where the person died, and also expanding the provisions to include not only the medical practitioner but their spouse or domestic partner.

The issue of knowledge in the context of, shall we say, the institutional relationship is a challenge. The issue of knowledge in relation to, particularly, interests of your spouse or domestic partner is also a significant expansion of the interests that have been covered. In that context the opposition is very concerned that the key difference between the Cremation Act and this clause is that under the Cremation Act to commit an offence you need to know about the interest, you need to be aware of the relevant interest, but under this bill the government says that you can be guilty of an offence if you have the interest—you do not even need to know of the interest.

These are serious penalties. The penalty here is up to four years' imprisonment and yet, for such a serious offence, the bill seeks to shift the onus of proof from the prosecution to the medical practitioner. The government will say that they are proposing a defence later in the clause but I ask the house: why should a medical practitioner acting in good faith have to prove a reasonableness defence? The AMA argues that:

> ...protections for medical practitioners under Section 14 of the Burial and Cremation Bill should err on the side of being stronger rather than weaker, as we are confident that in the overwhelming majority of cases in which a medical practitioner might give a certificate of death in prohibited circumstances, it would be a genuine error, in which the medical practitioner was acting in good faith.

The amendment standing in my name seeks to achieve that objective by ensuring that the medical practitioner would only fall foul of the provision if they were not acting in good faith. In a letter to me, the AMA states:

- As has been acknowledged, a medical practitioner may not be aware of a possible benefit/interest on the part of themselves or a spouse. For example, provisions in a will may be unknown.
- As initially drafted, the Bill places the burden of proof on the medical practitioner to prove that they did not know or could not reasonably be expected to know of the benefit/ interest.
- We are unsure of what the term 'property' would encompass in this context, noting that it is not defined in the Bill, and an oversight may occur in such a context as, for example, an item of low financial worth, for example, a pot plant or a family pet requiring a home.
- In a small town a medical practitioner based in the town may potentially have business/personal dealings with all patients to a greater or lesser degree eventually.
- Further, medical practitioners may have other links, for example, they may serve on charity boards, and a charity may own an aged care facility.

Similarly, a letter from the Law Society dated 1 May states:

> 4. For the reasons that follow, the Society welcomes the proposed amendments to clause 14 of the Bill.
>
> 5. In our submission of 22 January 2013, the Society noted that medical practitioners are already required to promptly report deaths in accordance with s 28 of the *Coroners Act 2003* and the maximum penalty for not doing so is $10,000 or imprisonment for 2 years. The Society agreed with the AMA's comment that the maximum penalty of four years is too high, particularly when there are existing laws and penalties that regulate this type of conduct.

If I could pause there, that related to the first amendment. The following statements relate to the amendment the council is now considering:

> 6. Deleting the word 'if' and replacing it with 'knowing that' improves the operation of clause 14(2) by providing a defence to a medical practitioner, in particular when a medical practitioner is unable to ascertain if there is a pecuniary interest or interest under a will with respect to themselves, their spouse or domestic partner.
>
> 7. The Society also notes the following points raised for consideration by the AMA:
>
> a. the term 'property' may be unclear in this context, noting that it is not defined in the Bill;

b. in rural areas, a medical practitioner may potentially have business and/or personal dealings with most of their patients to a greater or lesser degree; and

c. a medical practitioner may have other links to a hospital, nursing home or aged care facility, for example they may serve on a charity board, and the charity may own the hospital, nursing home or aged care facility.

So, two of the key stakeholders, both the medical and the legal in relation to this provision believe that the current practice of the legislation—in other words, to only create an offence where a medical practitioner issues a certificate knowing of the existence of an interest—should be maintained and we are supported by the AMA and the Law Society in that view. I commend this amendment to the house.

The Hon. G.E. GAGO: We were of the understanding that you were going to withdraw these two amendments, but that is okay. This amendment is consequential to amendment [Wade-3] 2 and the government is going to oppose that. This amendment also introduces a subjective element into the offence. It would require the prosecution to prove that the doctor had actual knowledge of a pecuniary or property interest rather than it being a defence to the charge. The government opposes amendment [Wade-3] 2.

An honourable member interjecting:

The Hon. G.E. GAGO: I know, but they relate. [Wade-3] 2, we believe, is consequential to [Wade-2] 2 so that is why I am coming in on [Wade-3] 2. The government will be opposing amendment [Wade-3] 2 because it prefers its alternative amendment to clause 14(3). It may be that there is a need to recommit this clause depending on the outcome of the [Wade-3] 2 amendment and the amendment filed in my name as amendment [1] 2.

The Hon. S.G. WADE: If it might assist the council, this amendment was filed on 11 April and the amendment that the minister is referring to—[Wade-3] 2—was tabled yesterday, I think. They are not consequential; they are unrelated. I do not intend to move [Wade-3] 2. I intend to pursue this amendment, as I have since the middle of April.

Again, to assist the council, I do appreciate that obviously in the one clause it does interrelate. They are freestanding issues. Perhaps it might be slightly disorderly but I suppose we are all on the same clause and I can comment on another part of the same clause. Perhaps I might make my comment about why I will not be pursuing [Wade-3] 2 and that might help clarify the situation.

The AMA is concerned that clause 14(2) will create an unnecessary burden for medical practitioners, particularly medical practitioners operating in rural and regional locations with only one single doctor or practice. I raised the opposition's concerns with the government by letter and in my second reading contribution.

As a result of those consultations we worked on both an alternative defence and also a form of authorisation. The two options, as I saw them, were that we could give medical practitioners a greater assurance that they were not breaching the law by allowing them to go to a magistrate and have the magistrate agree that in all the circumstances it was appropriate to issue the certificate. That is what [Wade-3] 2 would have done.

The other option was to persist with the defence. The government has a defence in the bill itself. I filed an alternative defence. The government, the AMA and the opposition had discussions—shall we say multilaterally—which involved both the AMA and the Chief Magistrate. The preference that came out of those discussions was for a defence for non-metropolitan medical practitioners as proposed by the government's proposed 14(3)(a) which is government amendment set [2] 1.

On the basis of that consensus, if you like, the opposition will defer and support that but we believe that this shifting of the onus of proof is a completely separate issue. The cremation bill had a 'knowing that' provision. We believe that the burden of proof should stay where it is and that basically people should not be at risk by, in good faith, issuing a certificate without knowing that they have an offending interest.

The Hon. D.G.E. HOOD: If I can just comment on the amendment that has been moved [Wade-2] 2—as I understand it, Family First supports the amendment.

Amendment carried.

The ACTING CHAIR (Hon. Carmel Zollo): The Hon. Mr Wade will not be moving amendment [Wade-2] 3, because it is consequential, is that correct?

The Hon. S.G. WADE: I will not be moving amendment [Wade-2] 3 but, considering that the committee has felt inclined to support the 'knowing that', it is my view—and I am happy to pause for the minister to consult, as required—that in supporting the government amendment [AgriFoodFish-2] 1, consistent with the decision in relation to subclause (2), it would be appropriate for us to delete 3(b); 'knowing that' has been maintained so there is no need for a reasonableness defence.

The Hon. I.K. HUNTER: I move:

Page 14, lines 33 to 37 [clause 14(3)—Delete subclause (3) and substitute:

(3) It is a defence to a charge of an offence against subsection (2)—

(a) if the defendant proves that—

(i) the death occurred outside Metropolitan Adelaide; and

(ii) no other medical practitioner was reasonably available, within 24 hours after the death, to give the certificate; and

(iii) the defendant complied with any requirements prescribed by the regulations in relation to the certificate; or

I only wish to move amendment No.1 one as far as subclause (3)(a) and not move (3)(b), as I understand it has been made redundant by an amendment that has just been carried. This is the government's alternative amendment to [Wade-3] 2. The government accepts that the current defence at clause 14(3) ought to be broadened to contemplate medical practitioners in rural areas, and accordingly has filed an alternative amendment to this clause to take such circumstances into account.

This amendment was born out of the concerns raised by the AMA that sole practitioners in remote locations may experience difficulty in finding another medical practitioner to give a certificate of cause of death if there are no doctors available in nearby towns. Accordingly, the government's amendment limits the defence for doctors in rural areas. Further, this amendment aims to give the profession certainty by specifying a reasonable time period beyond which the defence applies. It is also envisaged that the regulations require a medical practitioner to declare their pecuniary or property interests if they do issue a certificate of cause of death.

The Hon. S.G. WADE: As I indicated, the opposition will support this. It is the consensus of the consultation, and I thank the government for participating in that dialogue. It will mean that these provisions are more workable for people living beyond metropolitan Adelaide.

Amendment carried; clause as amended passed.

Clauses 15 to 23 passed.

Clause 24.

The Hon. J.A. DARLEY: I move:

Page 16, line 22 [clause 24(1)(b)]—Delete '25' and substitute '50'

This amendment is very straightforward. It replaces the reference in clause 24 from 25 to 50 years. In practical terms, this means that a cemetery may be closed if 50 years or more have elapsed since human remains were last interred. The amendment does not prevent a cemetery from being closed if it has become unsuitable for the disposal of human remains.

As I mentioned in my contribution on the second reading of the bill, the reason for this amendment relates mainly to the fact that cemeteries with unexercised interment rights potentially could be closed and converted to parks under the bill. The only requirement would be to provide the holder of an interment right with either a refund or offer of a new interment right free of charge in another cemetery. There are, as I mentioned previously, many instances where family members or loved ones pass away many years apart. In many, if not most, instances the intention is that those families members will eventually be buried together. The bill has the potential of preventing this practice happening.

I acknowledge that this provision exists under the current legislation and that to date it has never been used. However, that is not to say that it will not be used in the future. Twenty-five years is not a long time. As such, I am suggesting that this be replaced with a 50-year time frame which,

in the circumstances, seems more appropriate. This would provide people with a bit more comfort, especially when dealing with such a sensitive issue.

The minister may recall that during the second reading debate I asked questions relating to the GPS tracking of gravesites in cemeteries that are earmarked for closure. I was subsequently advised by the minister's office that, basically, technology is not sophisticated enough to pinpoint individual gravesites within a metre or so of each other and that this would be too expensive a process.

Since that time, I have had advice from the Surveyor-General, who indicates that it is possible to pinpoint a gravesite using GPS to within less than a centimetre and that a plan could be prepared for a cemetery the size of Cheltenham Cemetery, for example, within approximately one week. Will the minister give a commitment to further seriously consider this issue, given the advice of the Surveyor-General?

The Hon. S.G. WADE: I do remember the honourable member mentioning GPS but what purpose would it serve in the context of this amendment? What would you use the GPS for? Is it to allow you to convert to a park and still know where the grave was?

The Hon. J.A. DARLEY: The amendment is to do with changing the 25 years to 50 years but, in looking at the GPS situation, it seemed appropriate for me to mention it, or get a commitment from the government at this stage.

The Hon. I.K. HUNTER: The government agrees with Mr Darley that 25 years is certainly not a very long time at all, and we will therefore be supporting the honourable member's amendment. In relation to the GPS, it may well be true that you can actually track a location within one centimetre but I suspect the degree of technical expertise, and perhaps the cost associated with that, as compared to a broader tracking situation, may be prohibitively expensive; but we will undertake to have another look at that, given the advice the Hon. Mr Darley mentions.

Amendment carried.

The Hon. I.K. HUNTER: I move:

Page 16, after line 35 [clause 35]—After subclause (4) insert:

(4a) A council that proposes to close a cemetery or natural burial ground for which it is the relevant authority must provide the Minister with details of any representations or submissions made to the council in respect of the proposed closure.

Clause 24 allows for the closure of a cemetery or a natural burial ground by the relevant authority if the land becomes unsuitable for the disposal of human remains after 50 years or more have elapsed—with the amendment Mr Darley has moved being successful, I expect—since human remains were last interred and sets out certain requirements in respect of that proposed closure. For example, a council cemetery cannot be closed unless notice of the proposed closure has been given on two separate occasions in a newspaper circulating throughout the state and in the *Government Gazette* and the minister has approved the closure.

The purpose of this amendment is to address a concern raised in the other place about the operation of clause 24 of the bill. In particular, although the bill requires the minister to approve the closure of a council cemetery after the requisite notice has been given, there is no requirement that the relevant authority, that is, the council, notify the minister of any objections or comments that they received about the proposed closure. The government believes that there is merit in providing a requirement in the legislation that the minister, prior to approving the closure, be made aware of the nature and extent of any representations or submissions that the relevant authority may have received in relation to the proposed closure. This amendment will address that concern.

Amendment carried; clause as amended passed.

Clauses 25 to 33 passed.

Clause 34.

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

Page 23, lines 16 and 17 [clause 34(2)]—Delete 'of an amount determined in accordance with the regulations' and substitute:

equal to the current fee payable for an interment right of the same kind, less a reasonable fee—

(a) for administration and maintenance costs; and

(b) for costs involved in the establishment of the cemetery or natural burial ground

Section 34(2) of the bill requires the relevant cemetery authority to refund to the former rights holders of a surrendered unexercised right of interment the amount which is equal to the current fee payable for that interment right, less a reasonable fee for administration and maintenance costs. The Cemeteries and Crematoria Association of South Australia recognises that the most:

> ...favourable option regarding refunds for unexercised interment rights is that no refunds be made at all. However, following discussions with the government the Cemeteries and Crematoria Association of South Australia recognises that a refund will apply and that the Cemeteries and Crematoria Association of South Australia's position is that any refund should take into account costs involved in the establishment of a cemetery or natural burial ground.

The association is right in the sense that both the government and the opposition are supporting the establishment of a refund right. What we will be considering as we debate this clause is first of all: what are the appropriate allowances to the current fee in terms of setting the value of that refund and should it be retrospective? CCASA has accepted that a refund is coming, but CCASA argues that clause 34(2) should be amended to allow the cemetery authority to deduct a portion of the establishment costs of the cemetery from the refund. That is what the opposition amendment seeks to achieve. CCASA is of the view that the amendment will substantially address their concerns on this aspect of the clause.

It is probably an appropriate time to pause because the government and the industry have been in discussion on a number of issues for some time, and to the government's credit—do not hold me to these numbers—if there were six issues when the bill went into the house, since the bill has made its way to this council, five of the six issues have been resolved, so I commend the government for its positive engagement with the industry, but this one has proved to be a hard nut and so what has the government's response been? The government's response has been to try to put it off to another day.

The bill, as amended by the government in the House of Assembly, provides that the refund amounts will be determined in accordance with the regulations. Now, that is not a statement of principle, that is an IOU for a resolution some day in the future. It is fair to say that the stakeholders are willing to accept that, that they will, if you like, chance their luck with negotiations with the government. But, as I often say in this parliament, we have the responsibility to give the greatest respect to stakeholders, particularly when it comes to legislation, particularly when it comes to the balance between statute and regulations. I believe that we, as legislators, have the responsibility to maintain good practice, so I ask the Legislative Council: are we happy to have such important provisions left in the regulations?

I would like to point out that clearly the government thought the issue was important enough to be in the legislation because that is where they put it. They did not put it there with this bill before the parliament. It was actually there from the earliest draft bill that was put out for consultation. It is my understanding that, due to industry response to the formulation in the draft, the government then proposed the formula which was in clause 34 of the bill when it was tabled in the House of Assembly, and that provided for the allowance for administration and maintenance costs.

The industry says, 'Well, that is a good start, but we also want you to allow for establishment costs,' and that is what is in our amendment. I believe that the fact that the government wants to leave this to the regulations is an attempt to try to bypass the parliament. It does not want the parliament to wrestle with some of these issues. I do not think that is appropriate. I actually think parliament is a good place to resolve these sorts of discussions.

The fact of the matter is that in a regulation-based context, a stakeholder might find themselves with very little room to move and the parliament is left in the invidious situation of disallowing all the regulation or letting the regulation pass.

The amendment standing in my name addresses the concerns of CCASA. It provides that the sum of the refund for the unexercised rights, determined to be the current fee payable for an interment right of the same kind, less the reasonable fee for both the administration of maintenance costs and the costs involved in the establishment of the cemetery or natural burial ground.

The government has argued to me that the phrase 'costs involved in the establishment of a cemetery or burial ground' is ambiguous and too hard to define. My response is that it is no less difficult than defining a reasonable fee for administration and maintenance. Administration of acts

involve complexity, and I certainly believe that that is an appropriate place for regulations. Regulations may well define what sort of processes can be taken to determine those two elements.

However, as the government originally proposed in the consultation bill and as it originally proposed by putting it in the bill that was tabled in the other place, this is a clause that should be in the bill, and I believe that it is our responsibility to strike the right balance. I commend this amendment to the committee because I think it does strike the right balance between enabling adequate cost recovery for the cemetery authorities and giving the consumer an ability to get a fair refund.

The Hon. I.K. HUNTER: The government of course opposes this amendment and seeks the concurrence of the committee in opposing it. Clause 34 of the bill sets out refund rights when an interment right is surrendered to the relevant authority that issued it. As a result of amendments in the other place, the clause now provides that the relevant authority will be able to reduce any refund by an amount determined in accordance with the regulations.

Previously the provision provided that the amount could be reduced by a reasonable amount to cover administration and maintenance costs. This provision was amended following further discussion with the industry, as the Hon. Mr Wade has outlined. On their remaining concerns, in particular there were some concerns that a greater reduction beyond administration and maintenance costs should be able to be recouped upon the surrender of the interment right. The government is happy to consult further with industry to develop a workable scheme for calculating refunds for the surrender of an interment right, however, it does not believe that it is just a simple matter of amending the provision to allow for the inclusion of establishment costs in the calculation of a refund, as proposed by the Hon. Mr Wade.

The method for calculating establishment costs is unclear, thus it could be interpreted very broadly and applied inconsistently across the industry. This could potentially negate the benefit of a refund. Currently refunds for surrendered interment rights are left to the discretion of the cemetery authority. The government believes that the legislation needs to strike a balance between protecting the interests of consumers and allowing cemeteries to retain a reasonable proportion of any refund in order to cover their costs.

The government believes that the approach taken in the current provision, which was discussed with industry representatives, as accepted by the Hon. Mr Wade, is a sensible approach that allows further consultation to occur on the best method for calculating refunds without holding up the passage of the bill, and that is the important point.

The stakeholders agree with the approach the government is taking. The stakeholders have been happy with our consultation thus far. The Hon. Mr Wade has congratulated the government for resolving five of the six outstanding problems and, of course, we have undertaken to work on the last outstanding issue with industry. They have given their indication that they are happy to accept that proposal.

I am advised that those representatives are pleased with the consultation that has happened and are happy to accept that we will work on this outstanding issue for the solution to be found in the regulation process. So I ask the committee to oppose the amendment.

The Hon. S.G. WADE: To ensure that the minister's words cannot be interpreted to misrepresent the view of the association, I would like to specifically quote from a letter from the Cemeteries and Crematoria Association of South Australia, dated 10 April and signed by Bruce Nankivell on its behalf. It states:

> In discussions we have pointed out that we would prefer the detail on this matter to be within the bill but understand the government is keen to progress the bill without it being held up on this one issue.

I do not dispute that the industry is happy to pursue a regulation approach, because they fear that this arrogant government would disrespect the parliament and not even try to get a resolution within the parliamentary process. I would suggest to this parliament that every time the government has a too-hard issue it wants to stick it in the regulations and take, if you like, post-bill consultation as a surrogate for parliament. We might as well abolish ourselves.

We have seen time and time again that the government has undermined this council. I am reminded of another bill on the *Notice Paper,* which I appreciate would be disorderly of me to refer to in detail; but there is another bill on this *Notice Paper* where basically it is a shell. We have an ISV in draft regulations coming which actually gives content to it.

The Hon. I.K. HUNTER: Point of order, Madam Chair. The honourable member knows that he is out of order. He should come back to the clause that we are debating.

The Hon. S.G. WADE: It is exactly on this clause because the issue is whether or not hard issues should be debated by the parliament or should be left to the bullyboy government which arrogantly says to an industry body—

The ACTING CHAIR (Hon. Carmel Zollo): The honourable member—

The Hon. S.G. WADE: No, excuse me, I am entitled to have my say, and what I am saying is that the government is refusing to debate this issue in the parliament and wants to leave it to regulations. Well, that is not what we do with hard issues. We do not believe that stakeholders should be told: 'Unless you accept the bill as it stands you won't get the bill.' We saw it in real estate; we are seeing it again.

The Hon. I.K. HUNTER: Where do I go with this? The Hon. Mr Wade makes wild accusations that this is an attempt to bypass the parliament. Of course it is not. Regulations will be dealt with by this chamber as they always are. Regulations stand or fall on the support of this council and, indeed, the other place. So, the parliament will come back and have another say on these issues. This is no attempt at all. What we are trying to do is to proceed with this bill, working in good faith with industry, which they have accepted.

The Hon. D.G.E. HOOD: Family First has no reason to doubt that the government is having reasonable negotiations with the body concerned, but we do feel, as I think is evidenced by the letter that the Hon. Mr Wade read to the chamber, and certainly our discussions with the association indicate that they would prefer that this matter be in the bill. I do not have a copy of the letter, but the Hon. Mr Wade has just read out a letter from the body explaining that, and for that reason we are inclined to support the amendment.

The committee divided on the amendment:

AYES (11)

Brokenshire, R.L.	Darley, J.A.	Franks, T.A.
Hood, D.G.E.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I.	Parnell, M.	Ridgway, D.W.
Stephens, T.J.	Wade, S.G. (teller)	

NOES (6)

Finnigan, B.V.	Hunter, I.K. (teller)	Kandelaars, G.A.
Maher, K.J.	Wortley, R.P.	Zollo, C.

PAIRS (2)

Dawkins, J.S.L.	Gago, G.E.

Majority of 5 for the ayes.

Amendment thus carried.

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

Page 23, after line 17—After subclause (2) insert:

(2a) Subsection (2) does not apply in relation to an interment right granted before the commencement of this section.

CCASA—which, as members will remember from the last discussion, is the Cemeteries and Crematoria Association of South Australia—argues that the bill will allow the holders of unexercised interment rights granted before the bill's enactment to take advantage of section 34(2) and this will create a significant financial burden on cemeteries. CCASA submits that section 34(2) allowing for compensation should only apply with respect to unexercised rights purchased after the commencement of the act.

I pause to remind the council that the opposition and the government were together on the basic issue that a refund right is appropriate. CCASA still would prefer not to have a refund right. Where the government and the opposition part company is in relation to retrospectivity. In other words, should a consumer right apply to people who bought their rights some time ago and that was not part of the original deal?

Some of the larger cemeteries have made representations to the opposition that this provision would mean they would need to find up to $19 million to cover the potential liability that these retrospective provisions create. Mr Bryan Elliott, the chief executive officer of the Centennial Park Cemetery Authority contends that clause 34 would:

> ...change the contractual obligations entered into between the cemetery and the interment rights holder...placing an imposition on the Authority that did not previously exist and if actioned by those who have unexercised interment rights at Centennial Park could have significant cash flow implications for Centennial Park.

Of the proposed amendment, he says, 'removing the retrospectivity of this particular clause would alleviate the concerns of Centennial Park'.

The Hon. I.K. Hunter interjecting:

The Hon. S.G. WADE: Sure. The minister invited me to reflect on the historical development of cemeteries in South Australia. As members will recall from my second reading contribution, the first cemetery was on West Terrace and was established merely six weeks after the colony was established.

In relation to this refund right, once they have minimised the impact of other costs, the only way that the cemeteries could cover the potential liability is by increasing fees resulting in current consumers paying more. The government want us to conceive of this refund as a consumer right but what they are proposing to do, by having this element of retrospectivity, means that future consumers will be bearing the cost of an unexpected bonus or refund right to consumers of the past. We do not believe that it is appropriate to have retrospectivity as a matter of principle, but doubly so when you are asking South Australians of the future to pay for additional rights of South Australians of the past.

It is my understanding of how these refunds are dealt with and calculated currently is that it is left to the discretion of each cemetery. The Centennial Park Cemetery Authority, for example, has been reluctant to give refunds to holders of interment rights whether they have been exercised or not but a number of other authorities have quite well-developed refund policies. They will continue to operate and the consumers of the past will continue to have access presumably to the same informal arrangements that they have had in the past.

My amendment will retain the status quo for interment rights issued before the commencement of the act. All my amendment seeks to do is to ensure that the consumer who achieves a refund under clause 34 does so after the commencement of the act; it removes the retrospective element.

Again, Mr Nankivell, on behalf of the Cemeteries and Crematoria Association of South Australia, has endorsed the amendment stating:

> The removal of retrospectivity from this clause gives surety to cemetery operators moving forward. In achieving this it removes the potential for considerably large unfunded liability and the subsequent detrimental consequences to the community.

Mr Nankivell's letter of 10 April 2013 repeats again the association's support for this amendment as it limits 'refunds from applying to interment rights issued after the commencement of this bill'. We recognise the need to be fair and equitable to all concerned and I, as well as industry bodies, contend that the amendment standing in my name strikes the right balance. I commend the amendment to the council.

The Hon. M. PARNELL: I might just take this opportunity to ask the mover of this amendment some questions so that I can be sure I understand how it works. As I understand it, the duration of interment rights under clause 31 is either for a specified period or 'in perpetuity'. The effect of the government's proposed clause 34(2) is that on the surrender of an unexercised interment right the relevant authority must give a refund of an amount determined in accordance with the regulations.

Putting those two things together, if someone, for example, paid a lot of money for an 'in perpetuity' right and then decided—within a couple of months, for example—that they did not want

to get buried there at all and in fact they came up with some different plan, do I understand that the Hon. Stephen Wade's amendment would effectively mean that that person would not be able to get any refund unless the cemetery had a voluntary policy of refunds?

The Hon. S.G. WADE: I thank the honourable member for his question because I did not mean to confuse the issue. All I was trying to say was that for those consumers who bought their rights before the commencement of the act, the status quo will continue and if there is a cemetery policy it would apply. There is not a right for an 'in perpetuity' at the moment anyway. In relation to 'in perpetuity' after the commencement of the act, it would be the current fee for that right at that cemetery, less the administration and establishment costs at the relevant cemetery.

The Hon. M. PARNELL: I might just explore it further. Leaving aside the 'in perpetuity', if someone has bought the right to be buried somewhere for a fixed period (I do not know, say 20 years) and let's say within the first year they decide that they no longer want to exercise that right, then why would it be fair for them not to get a refund if the cemetery could then sell that same bit of dirt to someone else and therefore make a double profit?

The Hon. S.G. WADE: My understanding of my amendment—and if it is delivering something different I am more than happy to seek further advice—is that it returns to the situation that the government started with, which is that there would be a refund right. Where the government and I differ is as to whether the refund right should have one or two deductions. The government wants a deduction merely for administration and maintenance; I want there to be a further deduction for the costs of the establishment of the cemetery or natural burial ground as requested by the industry.

In terms of the 'must', it stays. The 'must' that is in the government bill applies; certainly it is my understanding that my amendment maintains the mandatory nature of the provision of the refund. What I am deleting is the phrase 'of an amount determined in accordance with the regulations' and I am inserting a, shall we say, enhanced version of the government's original statutory formula.

The Hon. I.K. HUNTER: The government opposes the amendment. The effect of this amendment is to provide that the requirement to give a refund will not apply in relation to an interment right that is granted before the commencement of this section. That is my advice; it certainly would after the commencement, but not prior.

As noted during the debate on the honourable member's previous amendment, although refunds for a surrendered interment right are currently left at the discretion of the cemetery authority, the government believes that interment right holders should be entitled to some refund if they wish to surrender their interment right. For example, if a person gets married or divorced or moves interstate, perhaps, they may wish to be buried in a different cemetery. I also note that the industry appears prepared to accept the refund provision provided they can retain a reasonable amount for costs already incurred, as I mentioned in the previous debate.

It would appear unfair to the general public to say that a person who purchased an interment right one day, one month or even many years prior to the legislation commencing should not be able to avail themselves of the same rights to a refund as those who purchased an interment right the day after the new legislation commenced, particularly when the other provisions relating to interment rights would apply to everyone.

For example, under the new provisions a cemetery authority will be required to give notice that an interment right is expiring and to also undertake further consultation with family members prior to the re-use of an interment site. These provisions will apply to interment rights issued prior to the commencement of the legislation, as one of the aims of the bill is to ensure that cemetery practices are consistent across the industry and that family members are aware of their rights and obligations.

Further, having this provision apply to some but not all interment rights places an additional administrative burden on cemeteries, as it requires them to differentiate between interment rights that were granted prior to the commencement of the legislation and rights that were granted post legislation. The government believes that the refund provisions should apply to current as well as future interment rights and for these reasons the amendment is opposed.

The Hon. R.L. BROKENSHIRE: Can I ask the minister to further expand on the comment I thought I heard, where there was some condition that the cemeteries were happy provided they

got some, was it commission or reimbursement? I could not quite understand what the minister was referring to there.

The Hon. I.K. HUNTER: My advice is that this question goes back to our previous debate on the last amendment that was carried by this place. It goes to the question of reasonable costs that have already been incurred by the cemetery around, for example, maintenance issues, administration costs. Their desire is to keep a part of that to reimburse them, if you like, for those costs they have already incurred.

The Hon. R.L. BROKENSHIRE: So what check and balance is there to ensure that a cemetery does not say 'Those costs are 100 per cent'? What check or balance would there be to ensure that that did not occur?

The Hon. I.K. HUNTER: I am not sure that any adjudicating authority, be it a court or whatever, would accept that as being a reasonable amount for costs already incurred.

The Hon. R.L. BROKENSHIRE: My question is to the shadow minister. I understand he mentioned a figure of $19 million that some cemeteries, or maybe even just Centennial Park, was it—

The Hon. S.G. Wade: I didn't name them, but that was the one.

The Hon. R.L. BROKENSHIRE: Right; there was a cost of $19 million. Whilst Family First did quite a lot of homework on this bill, we have had no representation with respect to that, and I wonder if the shadow minister might be able to expand on how they see a significant, massive cost of $19 million.

The Hon. S.G. WADE: I would clarify the claim: Centennial Park was not claiming that the $19 million would be caught up tomorrow if this right was accorded, but my understanding is that it was its calculation that, if everybody with an interment right as at the passage of this bill exercised that right (it is not going to happen), its estimate is that it would be $19 million. Whatever is the figure, we know it is no more than $19 million for Centennial Park, but if this legislation passes as the government wants it, Centennial Park would need at its next board meeting to start making arrangements for allowances for what could be a reasonably foreseeable set of refund rights that people might exercise.

Since Centennial Park has been raised, and since the suggestion has again been made that the industry is happy with retrospectivity, let me quote from a letter from Centennial Park to me dated 18 April 2013. I will read two pithy paragraphs, as follows:

> Your proposed amendment removing the retrospectivity with this clause would alleviate the concerns of Centennial Park.

Later in the letter it goes on to say:

> Retrospectivity of the clause is of concern to Centennial Park and we wish to continue with all parties to minimise the impact on Centennial Park, while recognising the need to be fair and equitable to all concerned.

We believe that it is fair and equitable that this bill, consistent with the practice of this parliament, not have retrospective effect. If people buy a right, under this new legislation, built into the fee they pay will be an allowance for any provision that needs to be made for future refunds. We believe this is a bit like a tax going forward. It is not a tax—I appreciate that—but it means that authorities can make financial arrangements for those going forward, and people who had an interment right before the passage of this legislation are not being disadvantaged: they bought those sites with those rights. They are not being taken away, but why should future consumers pay higher costs so that people with rights that predated this legislation can have rights for which they did not pay?

The CHAIR: The Hon. Mr Brokenshire wanted some clarification: the Hon. Mr Wade, you are saying that $19 million is like an unfunded liability?

The Hon. S.G. Wade: Yes, it is effectively an unfunded liability.

The Hon. R.L. BROKENSHIRE: I ask the minister, based on the shadow minister's answer, whether he could advise the house whether the government received or had any consultation with Centennial Park on the basis of concerns it may have had regarding potentially a $19 million unfunded liability?

The Hon. I.K. HUNTER: My advice is that indeed advice was received by the government from Centennial Park, but it needs to be understood—and I think the Hon. Mr Wade made clear that he did not wish to exaggerate the situation—that $19 million would only apply if every single

person who was eligible exercised their right to surrender their interment rights. That is the only time you would come up with a figure of $19 million.

With regard to people being disadvantaged or not, the Hon. Mr Wade did not use the phrase, but it is caveat emptor. There will be a disadvantage: the disadvantage will be for a customer who bought a right prior to the bill being commenced, be it a day, a week or a fortnight prior to the bill's commencement, compared with someone who buys it two days after. There will be two classes of individual set up if you support the Hon. Mr Wade's amendment.

The Hon. R.L. BROKENSHIRE: For the purposes of the public record, with something that could be horrendous on any business—and, let us face it, Centennial Park is still a business—can the minister advise the house whether, based on his answer, the government feels there is no significant risk to Centennial Park because, hypothetically, you could have a situation where, as the shadow minister raised, the $19 million was called on all at once; practically it probably would not happen. Even if it was, say, $4 million, $5 million or $1 million, does the government have any concerns that this could cause a very difficult financial situation for a trust like the Centennial Park Trust?

The Hon. I.K. HUNTER: In response to the honourable member's question, referring to a document that I have before me from Centennial Park itself, they advise that it has been calculated that a full-based refund would be of the order of $19 million but they then go on to say, given that they will be allowed to provide for a refund based on costs per year of a right less standard administration fees and other costs, the total amount would be of the order of $14 million. If they were allowed to keep another portion of that (which I think a previous amendment has now allowed them to), the cost would come down even further.

So, hypothetically, in the worst case scenario, the total cost could be somewhere in the order of slightly less than $14 million but, as the honourable member said, practicably and probably, that is never going to happen. The trust would have to make some business decision about what the regular surrender right is going to be and the rate of that. We would suggest it is not going to be huge, and I am sure they can build that into their business case if they have not already done so, anyway. They will need to provide for that unfunded liability, and that is all it is.

The Hon. S.G. WADE: I am disturbed at the direction the discussion is taking. This parliament, and Westminster parliaments around the world, have been very cautious about retrospective provisions. It is a bit like saying, 'Should we worry if the federal budget next week provides a retrospective tax to try to speed up the funding of NDIS?' and then members in the Senate are having a discussion about whether or not it is sustainable.

That is not what retrospectivity is about. Retrospectivity is about fairness and it is about saying the law today is the law today, live by it and you will be fine. This says that we are actually going to give a retrospective bonus—and I appreciate it is a bonus rather than a detriment—but why should future consumers be asked to fund a bonus to previous purchasers of interment rights? Retrospectivity needs to be a principle to be maintained, not a discussion as to the relative financial strength of two different sets of consumers.

In terms of the government's view of whether or not the financial impact on Centennial Park is a worry, I think that is rather academic. What we do know is that the people who are running Centennial Park think it is a worry. They will set their financial bearings, presumably, with a five and 10-year strategic plan—presumably, not getting ready for the next unfunded liability to be pushed on them by the government and, presumably, running a tight ship. Then the government says, 'It's not 19, thank God, it's only something less than 14.'

I appreciate it is highly unlikely there will be significant drawings, but the fact of the matter is there will be some impact. How do we know that, amongst the collection of crematoria and cemeteries operating in South Australia, the viability of a cemetery or crematorium is not going to be fatally damaged by these sorts of unfunded liabilities being foisted onto them? It is all well and good to talk about Centennial Park being a strong facility, but there are some very small cemeteries, including private sector cemeteries. These are not public authorities; they are not going to fall back on the government like the State Bank. There are private sector people who are running crematoria and cemeteries in South Australia. As a matter of principle, this parliament has been very reluctant to engage in retrospective provisions. I would urge the committee to support what is a simple amendment. It just says today the law changes.

The Hon. I.K. HUNTER: The Hon. Mr Wade talks about the principles of retrospectivity and fairness. Well, goodness gracious, we are not talking about criminal offences here. We are not

talking about taxation provisions, and if we want to talk about fairness, let us talk about what the impact is going to be on an individual customer who buys a plot one day before the commencement of this act compared with someone who buys a plot two days later. They will be treated in a different class for the simple ease of operation of the bill. The cemeteries, I would imagine, much prefer to deal with everybody as being in the same class.

An honourable member: It's not what they tell us; it's not what they tell you.

The Hon. I.K. HUNTER: I am not so sure about that. If they deal with everybody as being in the same class, they do not have to keep two different sets of administrative books for when you bought your plot or when you did not. Really, this is not high rocket science. This is talking about fairness as it applies to individuals and we say that the people who buy their plots now should have the same rights as the people who buy their plots after the commencement of the act. It is that simple.

An honourable member interjecting:

The Hon. I.K. HUNTER: As I understand it—I am being advised, I am not a lawyer—the question is about balance of rights to individuals versus industry. It is standard consumer law practice, I understand, as it would apply to other industries. That might be the point that the Hon. Mr Parnell was about to make.

The Hon. M. PARNELL: I think I have probably heard enough to be able to put the Greens' position on the record with this. Certainly the *Hansard* over the last seven years has shown that the Greens have rarely supported retrospectivity, but we do need to explore this retrospectivity in a little bit of detail because normally retrospectivity is abhorrent because there are winners and losers, and the unfairness of it that the Hon. Stephen Wade talked about is what leads us to not supporting retrospective legislation.

It seems to me that this is a retrospective consumer protection measure as the minister has pointed out, so the question would be: what is the unfairness that would be visited upon the cemetery owners on someone handing back and asking for a partial refund for their right to be buried in a certain spot? The amendment that this council has just supported of the Hon. Stephen Wade says that the cemetery is allowed to deduct from the refund an amount for administration, maintenance and the establishment of the place in the first place. That formula having been applied will be cost neutral to the cemetery. What they will lose is any potential profit that was built into the system.

The other thing to bear in mind, as those of us who have looked at the demography of this state know, is that there is a baby boom and the traditional pyramid of age profile in this country and in this state—*Hansard* can't see my pyramid, sorry—used to be a very big base peaking with a very small number of people over the age of 100. That pyramid profile in this country now looks more coffin shaped as the baby boomers work their way up through the age profile. What that says to me is that if at a place like Centennial Park someone does try to hand back their right to be buried, they will get a partial refund as set out in the legislation and Centennial Park probably has got a great queue of people lining up to then go and buy that spot and they can sell it again because these interment rights do not wear out. That patch of dirt is still going to be a patch of dirt.

It seems to be that, whilst the Hon. Stephen Wade is correct and we would normally be loathe to support retrospectivity, there is no real loser here. The winner is the person who does get a bit of money back because, as the honourable minister said, their personal circumstances might have changed or they might have moved interstate. What value is there in having a plot waiting for you in Victoria if you have already moved to Queensland, and you might have lived in Queensland for 10 years?

I think we do not need to support the Hon. Stephen Wade's amendment, but I certainly congratulate him for putting it forward and for helping us have this debate, but I cannot see that the evil that he seeks to overcome is such that we need to disadvantage some of these people who would benefit from the bill as the government has drafted it. They would get some refund if they decided to hand back their plots.

The Hon. S.G. WADE: I will be brief.

The CHAIR: You are not going to be talking about demographic shapes, are you?

The Hon. S.G. WADE: No, I am actually geometrically challenged, so I will not follow the Hon. Mark Parnell's lead on that. However, just to briefly disagree with the Hon. Mark Parnell, even

if one was to assume that it was cost neutral in terms of the running costs of cemeteries, the fact of the matter is that cemeteries will now need to make provision for refunds that they would not previously have had to make. That will impact on their financial operations and that cost will be passed on to the consumer. It will be passed on to future consumers. So the people who will suffer most clearly here are future consumers who are being asked to fund new rights of people who did not have them when they first entered their contract.

I will also make the side point that I believe legislation such as this—giving refund rights to future consumers—will have, shall we say, a drag effect, a moral effect, a precedent effect. One would expect to see a more generous set of informal arrangements for past consumers. I believe that that will lead to better outcomes for them in any event, but still, they will be benefits that they have not paid for. The rules change when this act passes and I believe it is fair that this clause be passed to ensure that the provisions do not have a retrospective effect.

The Hon. R.L. BROKENSHIRE: I was interested to hear both sides of the debate, which is why I asked a certain amount of questions. To my knowledge we did not receive any representation from Centennial Park, or any other cemetery for that matter, on this particular clause. Having summed it up after listening to the debate, we will not be supporting this amendment.

The Hon. J.A. DARLEY: I would like to thank the Hon. Stephen Wade and the Hon. Mark Parnell for their explanation. I will not be supporting the amendment.

Amendment negatived; clause as amended passed.

Progress reported; committee to sit again.

MOTOR VEHICLE ACCIDENTS (LIFETIME SUPPORT SCHEME) BILL

Adjourned debate on the question:

That this bill be now read a second time.

which the Hon. A.M. Bressington has moved to leave out all words after 'That' and insert 'the bill be withdrawn and referred to the Legislative Review Committee for its report and recommendations.'

(Continued from 1 May 2013.)

The Hon. J.A. DARLEY (17:29): I rise to speak on the Motor Vehicle Accidents (Lifetime Support Scheme) Bill. At the outset I must say that I was rather surprised to hear that it was the government's intention to complete all stages of debate for this bill by today, particularly given that the most recent correspondence from the minister's office was only received by my office—and I assume the same can be said for other offices—on 29 April, some four days ago.

I understand that the Hon. Ann Bressington will be moving a motion to have the bill referred to the Legislative Review Committee for inquiry, a move which I support in principle. In addition, I, like other honourable members, will also be moving amendments regarding some of the concerns that have been raised with me over this bill. To that end, I simply make the point that I struggle to see how this bill could possibly be dealt with by the end of today.

The bill, as we know, represents a major shift in the way we deal with the rights of persons injured in motor vehicle accidents. It establishes a no-fault lifetime support scheme for those people who are catastrophically injured in motor vehicle accidents irrespective of who is at fault. To counter that, the bill also proposes an overhaul of the existing fault based CTP insurance scheme, including significant changes to tort law for awards of damages under that scheme. Whilst the introduction of a no-fault lifetime support scheme is welcomed, it is this second element of the bill, which would result in changes to the rights to compensation for less serious injuries, that has caused the most concern, particularly amongst the legal profession.

In his most recent correspondence, the minister advises that after further consultation with the legal profession many of the concerns they raise have now been addressed through additional changes to the bill. Consequently, he states, the Law Society, the Bar Association and the Australian Lawyers Alliance have publicly stated that they do not seek any further changes to the bill. The changes the government has agreed to include:

- lowering the threshold for claiming in tort, non-economic loss, voluntary services and loss of consortium from above 15 points on the proposed injury severity value scale to above 10 points;

- lowering the threshold for claiming loss of impairment for future earning capacity from above 15 points on the proposed ISV scale to above seven points;
- precluding party-party costs for claims under $25,000 except in circumstances involving a minor or a person under legal disability. For claims of between $25,000 and $100,000 party-party costs will be recoverable in accordance with the Magistrates Court scale; and
- providing an injured person with the right to appeal to the District Court from a decision of an expert panel review that they are ineligible to participate in the scheme. The expert review panel itself will be able to be constituted of persons other than medical practitioners.

In addition, the government has also agreed to giving a statutory right of review and appeal against a decision to suspend a person's participation in the lifetime support scheme, providing that workers compensation, self-insured employers and the WorkCover Corporation are able to contract the lifetime support authority to supply services to people with catastrophic workplace injuries and requiring the insurer, or nominal defendant, to provide to the claimant, or the claimant's lawyers, copies of any material obtained under the authority the claimant gives in the claim form within 21 days.

It is fair to say that the minister has been very selective in the choice of words used in his most recent letter to describe the support of the legal profession. As I understand it, and I am sure many other honourable members who have spoken to the various stakeholder groups would be of the same understanding, there are still a number of concerns regarding the bill and any suggestions that they do not seek any further changes is, I think, somewhat misleading. Like the Hon. Rob Lucas, I understand that some of those concerns are that a number of the provisions in the most recent draft of the regulations appear to be contrary to the terms of the deal struck between the legal profession and the government. As a result, ongoing negotiations are still taking place.

According to Mr Tony Kerin, Managing Director of Johnston Withers—and I understand he is speaking in his private capacity and not as president of the Australian Lawyers Alliance—he has observed amendments to the ISV chart which make it even more difficult for those injured and particularly those suffering soft tissue injuries to the neck in rear end collisions to recover damages. In addition, Mr Kerin advises that the government has also changed the wording in some of the items which make it very difficult for people to recover damages, and even if they do he fears that they will be so minimal it will not be worth the effort. Overall, Mr Kerin says the clear intention of the legislation is to disenfranchise those who suffer those injuries. Mr Kerin also highlights the fact that the Economic and Finance Committee is yet to consider any submissions on the compulsory third-party insurance inquiry let alone be anywhere near reporting on its outcomes.

In light of these concerns, again, I, like the Hon. Rob Lucas and the Hon. Ann Bressington, am somewhat bemused by the fact that we are being asked to process this bill by the end of today. I would ask the minister to confirm the substance of the discussions that have taken place with the legal profession in recent days and whether any of the representatives have backed away or expressed reservations about the initial agreement entered into over a month ago or any other developments that have arisen since then, including changes to the draft schedules and regulations.

I remind honourable members that it is not just the legal profession who has expressed concerns over the bill. All of us would have received a written submission from SACOSS outlining very similar concerns. These include concerns over where threshold lines will be drawn; the fact that the ISV scale will be used to determine an individual's right to compensation and that changes may take away a person's right to sue; the uncertainty around the how the scale value will be calculated in respect of an individual suffering multiple injuries and the injustices that may arise as a result of applying the thresholds for economic and noneconomic loss too rigidly; and the lack of any exceptions to the rules.

I am pleased to see that the Hon. Tammy Franks has filed amendments dealing with these issues, and I foreshadow that I will also be moving an amendment regarding the court's ability to exercise discretion in certain circumstances. As I said at the outset, I am supportive of a no-fault lifetime support scheme for those people who have the terrible misfortune of sustaining catastrophic injuries. The fact that our current laws require a person to prove that somebody else is at fault for their injuries is nonsense. In fact, ideally I think the bill should be broader in terms of its definitions with respect to catastrophic injuries so as to capture more people who are unable to

claim compensation under the at fault scheme. I appreciate that this may not be possible right now, but I certainly hope it will be considered in the future following any review of the legislation.

What I do not support, however, is implementing this scheme at the expense of others, in effect, robbing Peter to pay Paul and the diminution of a person's ability to seek appropriate compensation for at-fault accidents. To that end, I urge the government to give serious consideration to all of the amendments that are being proposed. I would just like to clarify again for the record issues regarding savings in registration fees or premiums. The government is intent on selling this bill on the basis that it will result in a $100 reduction in CTP premiums for South Australian motorists. This saving is a good thing, and I agree wholeheartedly with any reasonable measure aimed at alleviating the cost of living pressures. However, what the government is not so vocal about is the fact that the full benefit of the reduction will apply for only one year.

In the first year, when the new thresholds take effect, claims for compensation under tort law will decrease due to the revised and restrictive nature of the legislation. This will result in a reduction in premiums which has nothing to do with the lifetime support scheme. Like many others, I suspect, though, that it will also result in many people who have sustained injuries, which would have been compensable in the past, finding themselves unable to pursue a claim for compensation in the future.

In the following year, when the lifetime support scheme is up and running, a catastrophic injury levy equivalent to the savings realised in the first year will apply, therefore negating any savings realised in the first year. However, there will be a further saving of $40-odd as the catastrophic component of the CTP premium, which relates to the catastrophic at-fault injuries under tort law, no longer applies, having been replaced by the lifetime support scheme and the associated $105 levy.

The net benefit for motorists after the implementation of the lifetime support scheme will be a conservative $40 saving per annum and not $100. Of course, this is also assuming that there are no cost blowouts and, as other members have alluded to, we know all too well that this is a very real possibility. We need only to look as far as the WorkCover Corporation as a perfect example. The success of the scheme will rely heavily on the quality and expertise of the management implementing it. We can only hope that the government has learnt from its past experience with the WorkCover Corporation.

I would also like to comment very briefly on the lawyer fest or lawyers' picnic upon which the government lays so much of the blame for the increasing legal costs. I remind all honourable members, and the government in particular, that it takes two to tango. MAC is not the innocent victim in all of this, particularly in terms of increasing legal costs. In fact, I think it is now well accepted that it is common practice for Allianz either to pay out small claims so that they can in effect go away or drag matters out for unreasonable lengths of time and offer to settle just before they are listed for trial, thereby increasing legal fees.

It costs money to prepare for trial; everybody knows that. If Allianz is not willing to settle, plaintiff lawyers are left with little other choice. There is no doubt that many of the matters that are being dragged out for lengthy periods or listed for trial ought to be settled well before they reach that stage. This is not the plaintiff lawyers' fault. They are retained to get the best outcome for their client.

I agree entirely with the Hon. Ann Bressington that there seems to be a growing push towards excluding legal practitioners from these matters and blaming them for the scheme's cost blowouts. This is not the answer. People are entitled to be appropriately represented. This decision is not one for the government to make: it is one for the individual who has suffered injury. We should not be legislating for the removal of that entitlement.

In closing, in an ideal world, we would expect the government to implement a no-fault lifetime support scheme without impacting on the entitlements of other persons. I think we all accept that we are not living in an ideal world. At the very least, however, we should be aiming to make the system fair for all those people who have sustained sometimes debilitating and life-changing injuries. Of course, if it is the will of the parliament that the bill proceed in some half-baked manner and without proper scrutiny and thorough debate, then so be it. I simply want to make it clear for the record that this approach is fraught with danger and not one that I am supportive of. With that, I support the second reading of the bill.

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

STATUTES AMENDMENT (DIRECTORS' LIABILITY) BILL

In committee.

(Continued from 30 April 2013.)

Clause 4.

The Hon. S.G. WADE: Clause 4 raises the issue of criminal liability in regulations. I refer honourable members to clause 4 proposed section 34(5), which reads:

> The regulations may make provision in relation to the criminal liability of a member of the governing body, or the manager, of a body corporate that is guilty of an offence against the regulations.

In continuing my remarks on the bill and commenting specifically on clause 4 proposed section 34(5), I would like to restate the concern of the opposition at the imposition of criminal liability by regulation.

Before I do so, I want to clarify remarks that I made in relation to the preparation of amendments. On Tuesday I suggested that reporting progress would be an opportunity to test the council's interest in amendments in relation to criminal liability by regulation and, on the basis of that vote, parliamentary counsel might be spared the need to prepare further amendments. I want to clarify that I was in no way reflecting on parliamentary counsel. Parliamentary counsel has been proactive in ensuring that I have all the amendments I need in a timely fashion. I was merely seeking to ensure that my demands on the office of the parliamentary counsel were frugal and that they were not being put to unnecessary effort.

As we have explored the criminal liability in issues with the government and parliamentary counsel in relation to this bill, a range of issues has arisen that are much broader than this bill itself. If you like, we have encountered something of a Pandora's box and one that requires more thorough consideration than this bill would allow. As I said during the debate in this place on Tuesday, it is the opposition's view that the imposition of criminal liability is a serious matter and can have a serious effect on people's lives. Accordingly, our starting point is that parliament and only parliament should decide when criminal liability should be imposed. A commonly cited legal dictionary describes activities which should be regulated by the criminal law as activities of, and I quote:

> such a heinous character that it should be stigmatised as being a crime, or that the criminalisation of the behaviour is the only practical way of regulating it.

Creating criminal offences does in fact stigmatise people and behaviours. Criminalising should be the only practical way of dealing with such behaviours. As a general principle, our view is that criminal liability should be spelt out in the act, not in the regulations. This bill envisages criminal liability in regulations. The creation of such liability deserves the full consideration of parliament.

As I stated on Tuesday, the Australian Institute of Company Directors, the Joint Legislation Review Committee of the CPA Australia Chartered Accountants and Institute of Public Accountants, and the Law Society of South Australia all share the opposition's concerns in relation to this bill and the imposition of criminal liability by regulations.

A number of examples of criminal liability being imposed by regulation have been brought to my attention. One is a clause of a former version of the Lottery and Gaming Regulations 2008. The effect of the regulation was to pierce the corporate veil. Through regulation, it imposed criminal liability on each person who was a member of the board, the chief executive or an employee who was responsible for the conduct of the lottery association or corporation at the time which the lottery association or corporation committed an offence against the regulations. That person or persons was liable for the same penalty as is prescribed for the principal offence.

I am advised that this regulation 'legislated' in a manner which was not authorised by the parent act and which was not contemplated by parliament when it enacted the regulation-making provisions contained in the Lottery and Gaming Act. The executive was legislating beyond its delegations. Regulations were taking on a life of their own. Thankfully the regulation has since been repealed but if it was still in effect it may be true that the regulation would not have survived a court challenge as it goes beyond the head of power contained in the act, but it is unlikely that anyone would have thought to challenge a regulation in the courts. We should not be putting citizens to the expense of keeping the state accountable to act within its power. Those who make the laws should not break the laws. My concern for the future is that unchallenged regulations such as these create a de facto president—sorry, precedent; we certainly do not have a de facto

president. The executive may continue to include these types of provisions and regulations and they will continue to be in force until they are challenged.

The growth of this sort of regulation is another example of the increasing arrogance of the executive in relation to the parliament. More and more substantive provisions are finding their way into regulations. The government is frustrated with the democratic oversight of the parliament, particularly this council, and this frustration is manifesting itself in a cabinet which takes on a de facto legislative role that leaves this council with a mere veto power, with little ability to make any contribution or refinement at all.

These issues have previously been discussed—in fact, a couple of times earlier today—but also specifically in the consideration of the debate of my bill on subordinate legislation. Again, the contrast between the views of the government and the opposition is clear. The opposition has come to the view that this parliament needs to be vigilant in monitoring the capacity of the executive to establish criminal liability by way of regulation. While changes are necessary, it is our view that they are best addressed through a broader review of criminal liability and regulation rather than in a piecemeal way through this bill.

One option would be to limit the capacity for the executive to establish criminal liability and regulation through the subordinate legislation bill. My attention has been drawn to provisions in other parliaments which put such limits on the executive.

Another issue raised by this bill is the ongoing use of type 3 liability offences which impose a reverse onus of proof. In our view it is another example of the government's disregard for established legal rights and principles. We in the opposition have significant concerns about such type 3 liability and will be keeping a close watch on the operation of these provisions.

In terms of the current wave of reform, I am informed that 25 of the 50 acts amended by this bill retain provisions reversing the onus of proof. This is high compared with other jurisdictions. Recent reform in this area in New South Wales amended 44 acts and there are no type 3 provisions remaining in any of those acts. A bill before the Victorian parliament will only leave type 3 provisions in four of the acts it proposes to amend.

It is the opposition's view that type 3 offences should be revisited in the future. We want South Australia to be a good place to do business and part of those efforts will be to ensure that more onerous obligations in South Australia will not make it harder for South Australian businesses to attract and retain quality board members and officers, nor to infringe their capacity to attract investment.

In the meantime, I indicate to the council that in spite of my earlier interest in moving amendments to this bill, that is not my intention.

Clause passed.

Clause 5 passed.

Clause 6.

The Hon. I.K. HUNTER: I move:

Page 8, lines 7 to 9 (inclusive)—Delete clause 6 and substitute:

6—Substitution of section 23

Section 23—delete the section and substitute:

23—Offence in relation to obtaining permission to carry out mining operations

(1) A person must not, without the consent of the relevant Minister, give, offer or agree to give a payment or other consideration to another person (not being a payment or consideration otherwise permitted or provided for in this Act) in connection with obtaining the permission of Anangu Pitjantjatjara Yankunytjatjara to carry out mining operations on the lands.

Maximum penalty: $50,000 or imprisonment for 10 years.

(2) In this section—

relevant Minister, in relation to a payment or consideration, means—

(a) if the payment or consideration is in connection with mining operations authorised under the *Mining Act 1971*—the Minister responsible for the administration of that Act; or

(b) if the payment or consideration is in connection with mining operations authorised under the *Petroleum and Geothermal Energy Act 2000*—the Minister responsible for the administration of that Act.

With leave I will speak about both this amendment and the other amendment that I will move as they are essentially, I am advised, the same. The bill as passed by the House of Assembly will repeal subsection (2) of section 23 of the APY lands act and subsection (2) of section 25 of the Maralinga Tjarutja act.

These subsections impose vicarious directors' liability on every director if their company gives, offers or agrees to give an authorised payment or other consideration to another person in connection with obtaining the permission of the APY or the Maralinga Tjarutja to carry out mining or petroleum operations upon the land. These are anti-bribery offences. The current maximum penalty is only $2,000. That penalty was set about 30 years ago, I am advised, and at the time the bill was being drafted it had been agreed that the subsections should be repealed to remove vicarious personal criminal liability of directors.

It was also agreed that the penalty should be increased substantially. However, the level to which it should be increased was still subject to consultation and hence the delay until the consideration of the bill here. There has now been further consultation and may I commend the Minister for Agriculture, Food and Fisheries for her excellent consultation with the Minister for Aboriginal Affairs and Reconciliation and my department, with the chair and manager of the APY executive, Maralinga Tjarutja executive and Oak Valley Community Council.

It is considered that there is need for a very strong deterrence of this type of conduct. It has been agreed that the penalty should be increased to the same level as the penalty under these acts for unlawfully supplying regulated substances. The maximum penalties will be $50,000 or imprisonment for 10 years.

The Hon. S.G. WADE: I thank the honourable minister for the explanation. Is he able to tell us how these maximum penalties compare with other bribery offences, such as the CLCA public office type offences?

The Hon. I.K. HUNTER: I would have to look that up. If the member would like to take a moment, I can have my adviser go and try to do that now.

The Hon. S.G. WADE: I am happy to take it on notice.

The Hon. I.K. HUNTER: I will take the question on notice and bring back a response for the honourable member.

The Hon. M. PARNELL: The Greens are happy to support this amendment. It brought to mind the case of John Batman, who apparently bought the land around the city of Melbourne for some beads—I think there were some mirrors thrown in there as well—and 150 years later I think there are mining companies still out there trying the same tricks. I think that an antibribery provision that seeks to entrench the integrity of the official negotiation provisions, rather than having people bribed and bought off, is a good measure. If this is a fix-up that was discovered fairly recently, then I am glad it is being fixed, because it seems to be a very appropriate amendment.

The Hon. I.K. HUNTER: I can advise the chamber in relation to a juror's provision that the case for a body corporate is $25,000, in other cases $10,000 or imprisonment for two years. A more appropriate comparison would be section 249 of division 4—Offences relating to public officers. I thank the Hon. Mr Wade for his support. Maximum penalty imprisonment for 10 years; a similar effect.

The Hon. S.G. WADE: I thank the honourable minister for his answer. Considering that it is comparable with other offences, and I appreciate that a fine might be particularly appropriate in the context, the opposition supports the amendment.

Amendment carried; clause as amended passed.

Clauses 7 to 68 passed.

Clause 69.

The Hon. I.K. HUNTER: I move:

Page 26, lines 6 to 8 (inclusive)—Delete clause 69 and substitute:

69—Substitution of section 25

Section 25—delete the section and substitute:

25—Offence in relation to obtaining permission to carry out mining operations

(1) A person must not, without the consent of the relevant Minister, give, offer or agree to give a payment or other consideration to another person (not being a payment or consideration in discharge or partial discharge of a liability arising under this Act) in connection with obtaining the permission of Maralinga Tjarutja to carry out mining operations on the lands.

Maximum penalty: $50,000 or imprisonment for 10 years.

(2) In this section—

relevant Minister, in relation to a payment or consideration, means—

(a) if the payment or consideration is in connection with mining operations authorised under the *Mining Act 1971*—the Minister responsible for the administration of that Act; or

(b) if the payment or consideration is in connection with mining operations authorised under the *Petroleum and Geothermal Energy Act 2000*—the Minister responsible for the administration of that Act.

As I related earlier, it is essentially the same amendment, and I seek the support of the committee.

The Hon. S.G. WADE: It does seem to be rather broad:

A person must not, without the consent of the…Minister, give, offer or agree to give a payment or other consideration to another person…in connection with…mining operations on the lands.

I do not profess to be as well versed in Aboriginal operations on the lands as my honourable colleague Terry Stephens, but I would have thought that that would have picked up a large range of payments, for example, perhaps a day fee in relation to an inspector under the Aboriginal Heritage Act or the like.

The Hon. I.K. HUNTER: My advice is that there are some permitted fees that the act allows, but this is more directed towards instances such as offering a car or a holiday. However, I point out that this amendment is in the same terms as the amendment we just passed, section 23, which is an amendment to the APY act. Section 25 is an amendment to the Maralinga Tjarutja act, and they are identical as far as I know.

Amendment carried; clause as amended passed.

Remaining clauses (70 to 104) and title passed.

Bill reported with amendment.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (18:02): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SUPPLY BILL 2013

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

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (18:02): I move:

That this bill be now read a second time.

This bill is an act for the appropriation of money from the Consolidated Account for the financial year ending 30 June 2013.

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

NATIONAL TAX REFORM (STATE PROVISIONS) (ADMINISTRATIVE PENALTIES) AMENDMENT BILL

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

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (18:04): I move:

That this bill be now read a second time.

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

Leave granted.

The *National Tax Reform (State Provisions) (Administrative penalties) Bill 2013* amends the *National Tax Reform (State Provisions) Act 2000*. This amendment gives effect to South Australia's commitment under a national agreement to extend the Commonwealth's interest and penalties regime to the notional GST liabilities of government entities.

There has been uncertainty about whether state and local governments were liable to pay penalty and interest charges in relation to their notional GST liabilities where necessary. This amendment makes it clear that interest and penalty charges will apply to state and local government GST obligations where necessary.

While this amendment will allow the Australian Taxation Office to charge South Australian government entities interest and penalties on outstanding notional GST payments, this measure is not expected to have a material impact on the state's finances as South Australian government entities are already compliant with the GST law.

A uniform interest and penalties regime will promote competitive neutrality and provide clarity and certainty to government, taxpayers and the Australian Taxation Office.

These amendments are consistent with those passed by the Parliament of Victoria.

The Bill is intended to take effect from 1 July 2013.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will come into operation on 1 July 2013.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *National Tax Reform (State Provisions) Act 2000*

4—Amendment of section 2—Interpretation

This clause amends the interpretation provision of the Act by inserting two new definitions. An *administrative penalty* is an administrative penalty prescribed under the Commonwealth *Taxation Administration Act 1953*. An *interest charge* is a general interest charge imposed under the Commonwealth *General Interest Charge (Imposition) Act 1999* or a shortfall interest charge imposed under the Commonwealth *Shortfall Interest Charge (Imposition) Act 2005*.

5—Amendment of section 4—Exempt entities to pay GST equivalent, interest and penalties

Section 4 provides that an entity that has an exemption from GST under section 114 of the Commonwealth Constitution must pay to the Commonwealth Commissioner of Taxation amounts that would have been payable for GST if the entity were liable to GST. Under the section as amended by this clause, the entity will also be liable to pay amounts that would have been payable as interest charges or as administrative penalties if the entity were liable to pay GST.

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

At 18:04 the council adjourned until Tuesday 14 May 2013 at 14:15.