LEGISLATIVE COUNCIL

Tuesday 12 November 2013

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

The PRESIDENT: We acknowledge that this land that we meet on today is the traditional land of the Kaurna people, and that we respect their spiritual relationship with their country. We also acknowledge the Kaurna people as the custodians of the Adelaide region, and that their cultural and heritage beliefs are still as important to the living Kaurna people today.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

CRIMINAL LAW (SENTENCING) (SUSPENDED SENTENCES) AMENDMENT BILL

His Excellency the Governor assented to the bill.

NATIONAL GAS (SOUTH AUSTRALIA) (GAS TRADING EXCHANGES) AMENDMENT BILL

His Excellency the Governor assented to the bill.

WORKCOVER CORPORATION (GOVERNANCE) AMENDMENT BILL

His Excellency the Governor assented to the bill.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE (PRESIDING MEMBER) AMENDMENT BILL

His Excellency the Governor assented to the bill.

CRIMINAL ASSETS CONFISCATION (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

EVIDENCE (IDENTIFICATION EVIDENCE) AMENDMENT BILL

His Excellency the Governor assented to the bill.

SOUTH AUSTRALIAN CIVIL AND ADMINISTRATIVE TRIBUNAL BILL

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (ARREST PROCEDURES AND BAIL) BILL

His Excellency the Governor assented to the bill.

ANSWERS TO QUESTIONS

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

MINISTERIAL TRAVEL

11 The Hon. R.I. LUCAS (29 November 2012). Can the Minister for Employment, Higher Education and Skills state—

1. What was the total cost of any overseas trips undertaken by the minister and staff since 2 December 2011 up to 30 November 2012?

2. What are the names of the officers who accompanied the minister on each trip?

3. Was any officer given permission to take private leave as part of the overseas trip?

4. Was the cost of each trip met by the minister's office budget, or by the minister's department or agency?

5. (a) What cities and locations were visited on each trip; and

(b) What was the purpose of each visit?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): The Minister for Employment, Higher Education and Skills has received this advice:

No overseas travel was undertaken by the minister or any other staff during the period 2 December 2011 to 30 November 2012.

CONSULTANTS AND CONTRACTORS

71 The Hon. R.I. LUCAS (29 November 2012). Can the Minister for Industrial Relations advise—

For the year 2011-12—

1. Were any persons employed or otherwise engaged as a consultant or contractor, in any department or agency reporting to the Minister for Employment, Higher Education and Skills, who had previously received a separation package from the state government; and

2. If so—

(a) What number of persons were employed;

(b) What number were engaged as a consultant; and

(c) What number engaged as a contractor?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): The Minister for Employment, Higher Education and Skills has received this advice:

No persons employed or otherwise engaged as a consultant or contractor by any department or agency reporting to the Minister for Employment, Higher Education and Skills during the year 2011-12 had previously received a separation package from the state government.

CONSULTANTS AND CONTRACTORS

76 The Hon. R.I. LUCAS (29 November 2012). Can the Minister for Communities and Social Inclusion advise—

For the year 2011-12—

1. Were any persons employed or otherwise engaged as a consultant or contractor, in any department or agency reporting to the Minister for Sustainability, Environment and Conservation, who had previously received a separation package from the state government; and

2. If so—

(a) What number of persons were employed;

(b) What number were engaged as a consultant; and

(c) What number engaged as a contractor?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): I have received this advice:

During the year 2011-12, no persons who had previously received a separation package from the state government were employed or otherwise engaged as a consultant or contractor by the former Department for Water, the former Department of Environment and Natural Resources, SA Water, the Environment Protection Authority or Zero Waste SA.

PUBLIC SERVICE EMPLOYEES

86 The Hon. R.I. LUCAS (29 November 2012). For the period between 1 July 2011 and 30 June 2012, will the Minister for Employment, Higher Education and Skills list—

1. Job title and total employment cost of each position with a total estimated cost of $100,000, or more, which has been abolished; and

2. Each new position with a total cost of $100,000, or more, which has been created?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): The Minister for Employment, Higher Education and Skills has received this advice:

This question was previously asked of the Minister for Employment, Higher Education and Skills on 26 June 2012 and the response can be found on page 28 of the 2012 Hansard Supplement for Estimates Committee A, tabled in Parliament on 30 November 2012.

DEPARTMENTAL EXPENDITURE

101 The Hon. R.I. LUCAS (29 November 2012). Can the Minister for Industrial Relations advise—

What was the actual level for 2011-12 of both capital and recurrent expenditure underspending (or overspending) for all departments and agencies (which were not classified in the general government sector) then reporting to the Minister for Employment, Higher Education and Skills?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): The Minister for Minister for Employment, Higher Education and Skills has received this advice:

There were no non-general government sector entities reporting to the Minister for Employment, Higher Education and Skills in 2011-12.

DEPARTMENTAL EXPENDITURE

106 The Hon. R.I. LUCAS (29 November 2012). Can the Minister for Communities and Social Inclusion advise—

What was the actual level for 2011-12 of both capital and recurrent expenditure underspending (or overspending) for all departments and agencies (which were not classified in the general government sector) then reporting to the Minister for Sustainability, Environment and Conservation?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): As the Minister for Water and the River Murray I have received this advice:

Total capital expenditure for the South Australian Water Corporation for 2011-12 was $600.4 million, which was $75.1 million (11 per cent) less than the revised budget of $675.5 million. The underspend was primarily due to deferred timing on a number of major capital projects. These include:

- North South Interconnection System Project ($16.8 million);
- Paralowie Bolivar Rd Salisbury waste water trunk main rehabilitation ($12.6 million);
- Bolivar Wastewater Treatment Plant Main Pumping Station Mechanical and Electrical upgrade ($6.7 million);
- Adelaide Desalination Plant project ($6.3 million);
- Christies Beach Wastewater Treatment Plant Upgrade ($5.3 million); and
- Deferral of other expenditure on various annual programmes ($15.0 million) and major projects ($12.4 million).

Total operating expenditure for the South Australian Water Corporation for 2011-12 was $953.8 million, which is $19.4 million (2 per cent) less than the revised budget of $973.3 million. The reduction related primarily to variances in the level of works undertaken and paid for by external parties ($19.9 million), most notably works undertaken on behalf of the Murray Darling Basin Authority being delayed due to weather conditions and high river flows. Any underspend in works undertaken for external parties are fully offset by a reduction in revenue and as such there is no impact on SA Water's profit and distributions to the government.

DEPARTMENTAL EXPENDITURE

108 The Hon. R.I. LUCAS (29 November 2012). Can the Minister for Communities and Social Inclusion advise—

What was the actual level for 2011-12 of both capital and recurrent expenditure underspending (or overspending) for all departments and agencies (which were not classified in the general government sector) then reporting to the Minister for Education and Child Development?

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

As reported in the 2013-14 State Budget Agency Statements for Department for Education and Child Development, there were no entities reporting to the minister that were deemed to be classified as non-general government sector for the 2011-12 financial year.

DEPARTMENTAL EXPENDITURE

136 The Hon. R.I. LUCAS (29 November 2012). Can the Minister for Communities and Social Inclusion advise—

What was the actual level for 2011-12 of both capital and recurrent expenditure underspending (or overspending) for all departments and agencies (which are. classified in the general government sector) then reporting to the Minister for Sustainability, Environment and Conservation?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): As the Minister for Sustainability, Environment and Conservation I have received this advice:

For the former Department for Water, the actual level for 2011-2012 of capital underspending was $2.959 million (with a total of $2.127 million being carried over into the 2012-13 period). The actual level for 2011-12 of recurrent (operating) expenditure underspend was $41.695 million, with a total of $16.237 million being carried over into the 2012-13 period and approximately $25.100 million relating to revenue not received.

For the former Department for Environment and Natural Resources, the actual level for 2011-12 of capital underspending was $331,000 (with a $654,000 pull forward from 2012-13 relating to timing of on various major projects in the 2011-12 financial year). The actual level of recurrent (operating) expenditure underspending was $6.761 million (with a total of $3.020 million being carried over into the 2012-13 period).

For the Environment Protection Authority, the actual level for 2011-12 of capital expenditure classified was $939,000 underspending. The actual level for 2011-12 of recurrent expenditure overspending was $4.1 million.

For Zero Waste SA, the actual level for 2011-12 of both capital and recurrent expenditure underspending (or overspending) was $971,000.

GOVERNMENT CAPITAL PAYMENTS

146 The Hon. R.I. LUCAS (29 November 2012). Can the Minister for Industrial Relations advise—

What was the actual level of capital payments made in the month of June 2012 for each department or agency then reporting to the Minister for Employment, Higher Education and Skills—

1. That is within the general government sector; and

2. That is not within the general government sector?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): The Minister for Employment, Higher Education and Skills has received this advice:

The Department of Further Education, Employment, Science and Technology (DFEEST) is the only entity reporting to the Minister for Employment, Higher Education and Skills which reported capital expenditure in the 2011-12 financial year. DFEEST is within the general government sector.

In the month of June 2012, DFEEST made actual capital payments totalling $7.4 million.

GOVERNMENT CAPITAL PAYMENTS

153 The Hon. R.I. LUCAS (29 November 2012). Can the Minister for Communities and Social Inclusion advise—

What was the actual level of capital payments made in the month of June 2012 for each department or agency then reporting to the Minister for Education and Child Development—

1. That is within the general government sector; and

2. That is not within the general government sector?

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

The actual level of capital investing payments made in the month of June 2012 for the Department of Education and Child Development is as follows:

- $33.2 million within the general government sector; and
- $0.6 million not within the general government sector.

SA WATER HOUSE

170 The Hon. S.G. WADE (6 February 2013).

1. Is water supplied to SA Water House from the Glenelg to Adelaide recycled water pipeline?

2. What volume of water is supplied to SA Water House per year from the Glenelg to Adelaide pipeline?

3. When did SA Water House begin receiving water from the Glenelg to Adelaide pipeline?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): As the Minister for Water and the River Murray I have received this advice:

1. Water is supplied to SA Water House from the Glenelg to Adelaide Recycled Water Scheme.

2. 527 kilolitres of recycled water was supplied to SA Water House in 2011-12 and 1,850 kilolitres was supplied in 2012-13.

3. SA Water House began receiving water from the Glenelg to Adelaide Recycled Water Scheme on 26 August 2011.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

The Hon. R.P. WORTLEY (14:21): I bring up the report of the committee, entitled Inquiry into the Stolen Generations Reparations Tribunal Bill 2010.

Report received and ordered to be published.

NATURAL RESOURCES COMMITTEE

The Hon. R.P. WORTLEY (14:21): I bring up the 2012-13 report on the Upper South East Dryland Salinity and Flood Management Act 2002.

Report received.

The Hon. R.P. WORTLEY: I bring up the report on Prescribed Burning—Fire Management in the Mount Lofty Ranges, Fact Finding Visit, 7 June 2013.

Report received.

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:22): I bring up the report of the committee on the issues relating to surveillance devices.

Report received and ordered to be published.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. CARMEL ZOLLO (14:23): I lay upon the table the final report of the committee on urban density.

Report received.

PAPERS

The following papers were laid on the table:

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

Reports, 2012-13—
- Administration of the State Records Act 1997
- Department for Correctional Services
- Department of Treasury and Finance
- Fisheries Council of South Australia
- Operations of the Auditor-General's Department
- Police Superannuation Board
- Small Business Commissioner
- South Australian Parliamentary Superannuation Scheme
- State Procurement Board

State of the Sector Report, 2012-13—Report by the Commissioner for Public Sector Employment

Regulations under the following Acts—
- Liquor Licensing Act 1997—Dry Areas—
  - Adelaide—New Year's Eve 2013
  - Cadell—New Year's Eve 2013
  - Glenelg—Seacliff—New Year's Eve 2013
  - Kimba—New Year's Eve 2013
  - Strathalbyn—2013 Christmas Party
  - Various Councils—New Year's Eve 2013
- Primary Industry Funding Schemes Act 1998—Sheep Industry Fund—Application of Fund

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

Carclew Youth Arts—Report, 2012-13

AUTOMOTIVE 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) (14:25): I table a copy of a ministerial statement relating to the car industry made in another place by the Premier, Jay Weatherill.

ANSWERS TO QUESTIONS

SHACK LEASES

In reply to the **Hon. J.A. DARLEY** (20 September 2012).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): As the Minister for Sustainability, Environment and Conservation I have received this advice:

1. The Department of Environment, Water and Natural Resources has changed its process such that valuation reports are provided to the Valuer-General for review when an objection raised by a lessee includes valuation or real estate evidence. In May 2012, seven valuation reports were referred to the Office of the Valuer-General for review.

2. On 15 May 2012, the following advice was provided during Question Time:

> 1. As indicated to the honourable member during our recent meeting, sections 65 and 66 of the *Crown Land Management Act 2009* do not apply to rents for leases entered into prior to the introduction of the Act.
>
> 2. Furthermore, as I have previously indicated to the honourable member, lessees will continue to be notified of their rights under the terms and conditions of their leases.

3. At the time of the question, 29 objections to rent had been received for crown land leases. These were assessed and all rents were confirmed. There were also 15 objections to rent for leases in national parks. These have been assessed and all rents were confirmed.

4. As advised on 15 May 2012, the ability for a lessee to object is contained in the lease. Leases provide for a lessee to advise the minister, within one month of receiving a rent revaluation, that they wish the rent to be reconsidered. The lease then provides that minister shall reconsider the rent and advise the lessee of the decision. Lessees may provide any information that would support their objection that the rent set may be incorrect.

5. Where the lessee has not provided any supporting evidence for consideration, the review takes into consideration the process undertaken to establish the rent.

HANSON BAY

In reply to the **Hon. J.M.A. LENSINK** (5 February 2013).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): As the Minister for Sustainability, Environment and Conservation I have received this advice:

1. The purchase of land at Hanson Bay, Kangaroo Island, is a significant and strategic addition to the State's reserve system.

This land is an extraordinary piece of land that sits between two major parks—Flinders Chase National Park and Kelly Hill Conservation Park. The land is largely undisturbed and intact mallee and coastal heath vegetation that provides habitat for a range of threatened species. The purchase capitalised on a rare opportunity to create a continuous coastal conservation corridor for the south western end of the island. The property will also provide potential opportunities for recreation and tourism, supporting opportunities for businesses from small operators through to the adjoining Southern Ocean Lodge at Hanson Bay.

2. The Department of Environment, Water and Natural Resources obtained independent professional advice on the market value of the land. This valuation was used as the basis for negotiations between the Department of Environment, Water and Natural Resources and the vendor. Once the terms of a sale had been agreed, the department sought my predecessor's approval to proceed with the purchase.

The government approved the purchase as a strategic investment for conservation on the Island and securing the future potential of this iconic tourism region.

3. The purchase of the land at Hanson Bay was funded through the sale of surplus Crown land parcels. The funding of the purchase has not impacted on any other environmental programmes and is a one-off strategic capital investment.

QUEEN ELIZABETH HOSPITAL

In reply to the **Hon. R.I. LUCAS** (5 March 2013).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): The Minister for Health and Ageing has received this advice:

1. No. The theatre lists are discussed at the Monday Colorectal Meeting and the patient was booked for 4 March 2013, but was postponed owning to an emergency case. The patient was rescheduled to 18 March, 2013. The patient who was delayed has a non life-threatening condition.

2. A patient is phoned or told in person to inform him or her of a theatre date change. The patient had a theatre booking for 18 March 2013, and the communication problem between the colorectal resident and the patient has been discussed within the colorectal team.

3. Yes.

GREAT AUSTRALIAN BIGHT MARINE PARK WHALE SANCTUARY

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (30 April 2013).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): As the Minister for Sustainability, Environment and Conservation I have received this advice:

The Department of Environment, Water and Natural Resources does not impose fees or charges 'to pass through air'.

The South Australian Government is responsible for the protection of whales, which is provided for by the *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2010*.

A scenic flight operator has been granted a permit under these regulations which enables it to undertake aircraft-based whale watching in the Great Australian Bight Marine Park Whale Sanctuary.

The fees for these permits are set out in Schedule 2 of the *National Parks and Wildlife (Protected Animals—Marine Mammals) Regulations 2010*.

BALD HILL BEACH

In reply to the **Hon. J.M.A. LENSINK** (23 July 2013).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): As the Minister for Sustainability, Environment and Conservation I have received this advice:

1. Officers from the Department of Environment, Water and Natural Resources have visited the beach.

2. It is not considered that there is a problem. Seagrass normally shed their leaves in winter and as Bald Hall Beach is surrounded by seagrass meadows it is not surprising that the wrack wash ashore on this beach. The deposit of seagrass wrack on beaches is a natural process. Prevailing wind and water movements will influence where wrack comes ashore.

3. The establishment of 19 marine parks by the state government is one of the most significant and important conservation program ever undertaken in this state. As there is no problem associated with seagrass accumulation on Bald Hill Beach, there is no issue for the marine park management plans to address in this case.

CLIMATE CHANGE AND RENEWABLE ENERGY

In reply to the **Hon. J.M.A. LENSINK** (24 July 2013).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): As the Minister for Sustainability, Environment and Conservation I have received this advice:

Legislated reviews of the *Climate Change and Greenhouse Emissions Reduction Act 2007* are tabled in parliament and then published on the Government of South Australia website. Two separate review processes are required.

Under section 21 of the *Climate Change and Greenhouse Emissions Reduction Act 2007*, a review of its operation, including the extent to which objects of the Act are being achieved, must be undertaken on a four-yearly basis.

The first review occurred in 2009. It found that there was a range of issues that could affect the operation of the Act that were unclear at the time.

The Premier's Climate Change Council therefore advised that the second review should occur after two years. The government agreed to this recommendation and undertook a second review in 2011.

The final report was completed in December 2011. In accordance with the Act, a copy of the report on the review, Premier's Climate Change Council advice and the Ministerial response were laid before both houses of Parliament on 28 February 2012.

In accordance with the requirements of the *Climate Change and Greenhouse Emissions Reduction Act 2007* the next scheduled review under section 21 of the Act will occur in 2015.

Section 7 of the *Climate Change and Greenhouse Emissions Reduction Act 2007* requires a report on the operation of the Act on a two-yearly basis, including an assessment of progress being made towards targets under the Act. The 2009 report, and every alternate subsequent report, must include a report from the CSIRO on targets set under the Act.

The 2009 and 2011 reports have been completed and are available from the Government of South Australia website.

HOUSING SA

In reply to the **Hon. J.A. DARLEY** (11 September 2013).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): The Minister for Social Housing has received this advice:

1. Housing SA does not have a program of retrofitting electrical safety switches, known as residual current devices (RCDs) into existing Housing SA properties.

Housing SA complies with current standards and the regulations as required by the Office of the Technical Regulator. For new construction, RCDs are required to be installed as part of the regulations and Housing SA has been installing them in Housing SA properties for approximately 20 years.

The regulations do not require the retrofitting of RCDs into existing properties that were built prior to the current standards and which complied with the applicable legislation at the time of the initial construction.

However, when Housing SA undertakes electrical upgrades or replaces the electrical switchboards, and for fabric replacement, kitchen, wet area or other similar upgrade works, RCDs are generally installed as part of the overall upgrade in order to comply with the current regulations of the technical regulator.

2. It is estimated there are RCDs installed in approximately 12,000 Housing SA properties, equivalent to approximately 30 per cent of total stock.

QUESTION TIME

NEW HORIZONS INITIATIVE

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

Leave granted.

The Hon. D.W. RIDGWAY: Last week, with great fanfare, the minister and the Premier launched the next phase of Labor's premium food and wine policy. In that document, on page 15, it talks about 'How the New Horizons program will work'. New Horizons—new! The minister compares what she calls traditional tillage with clay mixing or, as it is known, delving, which she says is a possible management option for improving fertility by deep ripping. My questions are:

1. Has the minister ever heard of the Bordertown farmer Mr Roger Groocock, who was among the first group of farmers to get into clay delving 20 years ago?

2. Does the minister know that Mr Groocock went to Europe in 2007, six years ago, on a Churchill Fellowship to further investigate clay delving in South Australia?

3. Is the minister aware that Mr Groocock and his ilk have used clay delving to improve their soil fertility and now have been growing wheat, barley, canola, beans and lupins for years and years on land that was previously not able to do so? In fact, the New Horizon is at Labor's back fence.

4. Has the minister heard of Nebuchadnezzar, the King of Babylon, and the statue with a head of gold, a breast of silver, legs of iron and feet of clay?

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) (14:29): I thank the honourable member for his questions. Indeed, this government is very pleased to be able to announce its New Horizons initiative, which will significantly increase South Australia's agriculture production through the application of new advances in soil science and management. I do absolutely acknowledge work has been commenced on these activities for some time; we are not saying that this is the first of this initiative. We are building on work that has already been done, but this is a significant advancement to ensure that this is rolled out on trial sites and out to farmers generally. Instead of just isolated activity occurring, this is about making sure that we get the best practice, the best technology—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Ridgway might try to listen to the answer. You are out of order!

The Hon. G.E. GAGO: —and the development of new machinery and equipment that is not currently readily available on the market. These are all of the benefits to come from this.

This will be a five-year program and will result, we expect, in potentially an increase in agricultural production of $600 million per annum in South Australia. The program links, obviously, to our premium food and wine from our clean environment priority and could result in another three million tonnes of grain, for instance, produced here in South Australia once it is rolled out.

In addition, the program links to the growing advanced manufacturing priority, as it also creates opportunity to grow the manufacturing industry in areas of agricultural machinery. As I have said, most commercial equipment tills at a depth of around 10 centimetres. This is about adapting equipment to deal with 50 centimetres or so and to make these commercially and readily available rather than their having to be custom built.

The government has announced just under $1 million for this New Horizons program, and this funding will help fast-track the benefits of the program to the South Australian economy and the community through building demonstration sites, accelerating the update of technologies and confirming the information needed to show farmers why they should implement these changes right throughout the state, not just in isolated pockets. It will demonstrate right across the sector the benefits of changing the way we manage our soils.

I accept the congratulations of the opposition for the government having taken this wonderful initiative. About 40 per cent (5.2 million hectares) of area under dryland agriculture in South Australia has soil issues which currently limit production that can be assessed. Through the application of soil science and management in South Australia, soils potentially can be significantly more productive. The New Horizons program will, as I said, significantly bring forward the application of these advances that can help revolutionise our agriculture production.

The program will be delivered in partnership with Primary Producers SA, and they certainly believe it is a good idea. They are embracing this a hundredfold.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: They are, Mr President. They are completely embracing this. They think it is an extremely good idea. Given that Primary Producers SA (the key peak agricultural body representing most primary industry sectors) has embraced this wonderful initiative, I am surprised that the Hon. David Ridgway just does not get it. I am not, in fact, surprised at all that he does not get it because he is completely out of touch with our agricultural sector and regional communities. Since he has moved into Adelaide, he has completely lost contact.

It is a partnership between Primary Producers SA, regional communities, industry groups, manufacturers of agricultural equipment in South Australia, suppliers, etc., and also the universities. In the establishment year of 2013-14, it is proposed to establish three trial sites, one each in the Lower Eyre Peninsula, Mid North and Upper South-East regions. These sites will be chosen to represent soil type in the region and to align with existing industry and community group interest and landholder agreement to establish a large trial site.

This process has commenced, and the general locality identified in terms of the actual sites is still to be established, but it intends to build on the knowledge and understanding that exists in these regions, so we really welcome that work that has already been done. That will help advance and accelerate the further rolling out of these new management techniques.

Funding will be sought from a number of sources. Several industry groups have sought funding to establish a variety of demonstration sites, complementary to this initiative, and it is proposed to seek their agreement to integrate those demonstrations into the broader program. Informal discussions have taken place with commonwealth government officials, representatives of the national R&D corporations, as well as a number of industry groups, and it is proposed that the minister will write to her commonwealth counterpart seeking support for the initiative. So, formal applications—

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: The opposition spokesperson for agriculture clearly has clay between his ears, because I have already said the state government is contributing just under

$1 million—$852,000—and we intend to leverage further aspects of this program with the partners I have outlined.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: We have been very successful in leveraging—extremely successful. It is proposed that the minister will continued those discussions. Discussions have been conducted with the University of Adelaide for them to take leadership of project development and negotiations in collaboration with PIRSA, so we can see that it is a fabulous initiative. Primary industries groups have very much embraced this. I cannot believe that the opposition is not pleased to see initiatives, new money, being advanced to accelerate a program that will improve the productivity of our farmers. I cannot believe the Hon. David Ridgway is so out of touch and so out of date that he fails to see the benefits to improving productivity throughout our state.

NEW HORIZONS INITIATIVE

The Hon. G.A. KANDELAARS (14:37): By way of supplementary question, is the minister aware that the member for Flinders, Mr Peter Treloar, has been involved in PIRSA trials on soil improvements on the West Coast?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:37): I thank the honourable member for his supplementary. Indeed a number of people have been involved. A great deal of work has been done in attempts to improve our soils, and we see the New Horizons initiative as one more initiative for which this government has been able to provide additional money to help improve the productivity of our farmers.

NEW HORIZONS INITIATIVE

The Hon. R.L. BROKENSHIRE (14:38): By way of supplementary question, will the minister confirm whether SARDI is still involved in this research and does SARDI have ongoing funding for this research?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:38): I am not sure of SARDI's direct involvement, but I am happy to take that on notice. The funding of $852,000 has been made available—it is new funds—and that will be made available to roll out the program, as I have outlined.

PORT LINCOLN WASTEWATER TREATMENT PLANT

The Hon. J.M.A. LENSINK (14:38): I seek leave to make a brief explanation before directing a question to the Minister for Water and the River Murray on the Port Lincoln Wastewater Treatment Plant.

Leave granted.

The Hon. J.M.A. LENSINK: Some residents of Port Lincoln are enduring unpleasant odours from the Port Lincoln Wastewater Treatment Plant. The fact sheets on the SA Water website advise that a specialist contractor was to arrive on site around 30 October and was expected to take up to four weeks to complete the work to dewater the biosolids, the sludge, which would assist with the scent. This issue has been going on for some time and my questions are:

1. Can the minister confirm whether the contractor arrived on site on 30 October?
2. Is it still expected to take four weeks?
3. What are SA Water's long-term plans to manage this issue?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:40): I thank the honourable member for her most important questions. Like her, I am aware that complaints have been made about odour emanating from the Port Lincoln Wastewater Treatment Plant. I am advised that the odour has been caused by operational issues associated with the management of the sludge lagoons at the plant. SA Water had previously been attempting to manage these issues on site but has now secured a contractor to remove the sludge in order to resolve the associated odour issue.

SA Water has acknowledged the issue and has sought to keep nearby residents informed through the distribution of flyers to the 200 residences closest to the treatment plant, in addition to placing the flyer on community noticeboards around Port Lincoln. SA Water has engaged a specialist company to dewater and remove the sludge from the lagoons, as the honourable member explained in her explanation. I understand that work will start in the near future with the first load of dewatered sludge and biosolids to be removed from site this month. This work will take several weeks to complete—so I guess the honourable member's 'four weeks' is about right.

SA Water has negotiated to deliver the biosolids to a composting company that can use the biosolids in their compost product. The composting company is licensed by the Environment Protection Authority to take the biosolids, and it is accepted practice for biosolids to be blended with other materials and used in compost. A further flyer with updated biosolids removal information was provided to 400 homes, I am advised, in the marina area, and the community noticeboards were updated.

SA Water will attempt to manage the odour issue while this work is being done by mixing the lagoons, spreading lime and the use of deodorising spray over the lagoons. However, nonetheless, this is obviously work which will necessarily involve some odour. We ask the residents of Port Lincoln to bear with us while we try to resolve the issue in the longer term.

PORT LINCOLN WASTEWATER TREATMENT PLANT

The Hon. J.M.A. LENSINK (14:41): I have a supplementary question. Will the minister give a commitment that SA Water will keep their website up to date so that residents can be kept informed?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:41): Of course, I cannot give that commitment, but what I can do is to instruct SA Water that it is my very great wish that they do so.

COORONG NATIONAL PARK

The Hon. T.J. STEPHENS (14:42): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation questions about the management of the Coorong National Park.

Leave granted.

The Hon. T.J. STEPHENS: During the last sitting week I asked the minister about comanagement of the Coorong National Park with the Ngarrindjeri people. On this issue previously the Hon. Michelle Lensink raised concerns of the community and local businesses which use the Coorong National Park, such as commercial fishers and tourism operators. These commercial fishers and tourism operators have been left out of discussions and are unaware of any impact this decision could have on the future operations of their small businesses. My questions are:

1. Does the minister now know what the outcome of the meeting with the Ngarrindjeri Regional Authority was and, if not, can he take this on notice and bring it back to the council?

2. What impact will these proposed changes have on tourism operators, boat access, the local commercial and recreational fishing sectors, and shack owners?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:43): I thank the honourable member for his most important question. The comanagement model of national parks, conservation parks and other parks in South Australia is a partnership between the state government and Aboriginal groups that is designed to foster a shared desire to manage land in a way that combines traditional knowledge with contemporary park management.

The National Parks and Wildlife Act 1972 and the Wilderness Protection Act 1992 create opportunities for the cooperative management of national parks, conservation parks and wilderness protection areas over both existing Crown-owned parks and Aboriginal freehold land. This partnership was put in place through comanagement agreements. These agreements guide the comanagement of parks and can either provide for the establishment of an advisory committee which provides comment to the director of National Parks and Wildlife on park management or a full comanagement board which, as a body corporate, assumes the control and management responsibilities for the park from me in my capacity as Minister for Sustainability, Environment and Conservation, and also from the director of National Parks and Wildlife.

This government recognises this special connection that many Aboriginal Australians maintain with the land and the primary role of the natural environment and Aboriginal culture and tradition. In accordance with this special relationship, we have committed to the involvement of Aboriginal peoples and the management structures overseeing the maintenance of parks and other public spaces with which local Aboriginal people have affinity.

This government has a policy and legislative framework in place to continue making a real contribution to Aboriginal reconciliation, self-determination and wellbeing, while significantly improving the way parks are managed. Wherever possible, land use and ownership issues will be resolved through negotiations directed towards achieving workable and lasting coexistence. This government recognises that Aboriginal Australians' knowledge and experience of the land is a beneficial asset in the management and use of our environment.

The introduction of innovative new arrangements for comanagement of parks with Aboriginal people in 2004 is a major achievement of this government, which has been nationally and internationally recognised. Native title holders now comanage a wide range of parks and reserves around the state. Over the past 11 years, the government has handed back the Mamungari Conservation Park, with a comanagement agreement established for the Maralinga Tjarutja and Pila Nguru Aboriginal groups. We have also established comanagement boards for a number of other parks in the state, including the Vulkathunha-Gammon Ranges National Park, the Witjira National Park and the Flinders Ranges National Park.

More recently, we have established a comanagement committee for the Lake Eyre National Park, Elliot Price Conservation Park and Wabma Kadarbu Mound Springs Conservation Park. We have established a comanagement board for the Lake Gairdner National Park and a comanagement advisory committee for the Gawler Ranges National Park. We have also proclaimed the Aboriginal-owned Breakaways Conservation Park and established a comanagement board for that park.

Comanagement boards provide a valuable opportunity for developing a shared understanding of aspirations for the management of parks, a shared appreciation of environmental and cultural values and community interests, as well as building a solid foundation for working together through mutual respect, trust and understanding. Developing a draft management plan for the park which can then be released for public consultation is one of the critical functions of the comanagement board over the first few years of its life. Comanagement boards also establish policies that guide activities within parks, as well as issuing approvals for those activities. Such activities include general recreation as well as other more unique uses, such as filmmaking.

I am advised that cooperative management agreements are now in place over 42 per cent of the land area of the protected areas system in South Australia. This is a fantastic result and one that we are committed as a government to build upon. I am advised that comanagement negotiations with the Ngarrindjeri are progressing, with the aim of entering into a comanagement over the Coorong National Park and considering the future constitution of the park as an Aboriginal-owned comanaged park.

Similarly, negotiations are also substantially completed for comanagement of parks within the Far West Coast native title claim as part of our resolution of that claim. I am advised that the Federal Court has set a date of 5 December 2013 for a consent determination in relation to that. It is intended that all parks within the claim area will be comanaged, and I am advised that there will be a Nullarbor parks advisory committee that will have an advisory role over the Nullarbor wilderness protection area, the Nullarbor regional reserve, as well as the Yumbarra Conservation Park management board that will manage Yumbarra Conservation Park. I am told the Yumbarra Conservation Park comanagement board will also have an advisory role in the remaining 11 parks, reserves and wilderness protection areas within the claim area.

I am further advised that it is expected that the Ngarkat Conservation Park advisory committee will soon be replaced by a comanagement board as a stepping stone to hand back of the park, and I am told that a deed of variation to the existing comanagement agreement is being finalised ahead of establishing the comanagement board later this year. The government is very proud of its work with our Aboriginal communities in South Australia and developing these conservation park comanagement boards and plans and will continue to do so involving local communities, Aboriginal and non-Aboriginal, wherever it is appropriate.

WOMEN AND SUPERANNUATION

The Hon. CARMEL ZOLLO (14:49): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question regarding superannuation.

Leave granted.

The Hon. CARMEL ZOLLO: Because of the historical barriers women have faced in accessing equal pay and job opportunities, they face unique challenges when it comes to retirement savings. Lower pay, time out of the workforce to raise children and running a single-parent household are some of the challenges faced when trying to build a reasonable amount of super. Can the minister inform the chamber about how the government is working with South Australian women to help them take charge of their superannuation through the Women and Super Project?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:50): I thank the honourable member for her most important question and for her ongoing interest in these very important policy areas. Indeed, we would be well aware of the adversity women face in reaching equivalent super savings to their male counterparts. Along with the hurdles outlined by my honourable colleague are pay and equity, sole or primary responsibility for child care and other caring responsibilities, household duties, the lack of career advancement opportunities. We also know that women tend to live longer than men, making it even more essential for them to accumulate enough superannuation to last through retirement.

Further, given that more women are found in casual or part-time employment, we know that an understanding of how to consolidate multiple super accounts is vital to creating a healthy financial future. In fact, Australian women generally have significantly less superannuation savings than men, and this gap has led to many women, particularly single women, being forced to rely on the aged pension for their retirement income. The latest figures show that nearly 90 per cent of Australian women do not have enough super for retirement.

The historical repercussions of women's exclusion from equal access to the workforce and primary responsibility for domestic duties have resulted in generations of women who significantly trail their male counterparts in super. Workplace and cultural attitudes are such that women's access to career and financial opportunities is marginalised by those opposite with arguments about merit. It is a core reason why it has been so difficult to create the social change required to address this inequity.

I am advised that a 2008 report released by The Australia Institute highlighted that women more so than men often found super more confusing than men and that, along with young people and people on low incomes, women are less likely to be confident in their financial future. While super is primarily a federal responsibility, the South Australian government understands that information sharing is a crucial component of addressing issues facing women in taking control of and understanding how their super works for them.

I am pleased to announce the launch of the Women and Super Project. The Women and Super Project is a collaboration between the Women's Information Service via the Office for Women and the SafeWork SA Age Matters Project. The Women and Super Project seeks to assist older women by providing a basic understanding of superannuation, as well as offering assistance to find lost super and information required to consolidate super accounts.

The project comprises two separate initiatives. The first part is two free information sessions for older women held by the Women's Information Service. These sessions will include basic information on what super is and the key issues that older women need to consider such as what to do if they change jobs, if they separate from their partner and what to look for in a super provider. Held at the Office for Women on 20 and 27 November, they will be presented by the Chair of Women in Super, Thomay Gatis. Advertisements for these sessions have already begun via print and social media.

Following these sessions, the Women's Information Service will be providing in person or over the phone assistance to clients with information and steps on how to use the Australian Taxation Office SuperSeeker online tool. This resource enables people to source any lost super that they may have, consolidating super or combining small balances from several funds into a

single fund, which can assist to make it easier for women to keep track of and maximise their super.

Staff and volunteers from the Women's Information Service will be trained in the steps to find lost super and what is required to consolidate super using the online tools. Clients can then book a one-on-one super help session at the service from November 2013. If the client requires further assistance, the staff and volunteers will be able to provide the client with contact information of financial advisers.

It is important not only for the equity of women but also to the economic future of a state that faces an increasingly ageing population so that nuances of superannuation are able to be communicated and understood by all of our community. Of course, that is where such a big difference between the Liberal Party and this Labor government occurs. This government has created and generated incredible changes and innovative policies that in the past 10 years or so have transformed this state from a joke punchline about our one-way expressway and suchlike to a top 10 city to visit worldwide—all because of a Labor government. Yet deafening silence is what we hear from Mr Steven Marshall and the Liberal opposition when their federal counterparts make decisions that are going to have a drastic impact, particularly on South Australian women, and a deafening silence also when it comes to their inability to promote gender equity in our community. They are prepared to sit there and accept one woman in the federal cabinet.

The recent announcement of the federal government's decision to scrap the proposed tax on tax earnings, benefiting those on high incomes, but dumping the low-income superannuation contribution will adversely impact on an estimated 3.8 million low-paid workers—basically taking from the poor to give to the rich. It is an absolute disgrace to leave those arrangements in place, an absolute disgrace.

Of those 3.8 million low-paid workers, 2.2 million are women. I am advised that the recent media reports state that approximately 129,000 of those are South Australian women. And what do we hear from Mr Steven Marshall? What do we hear from the Liberal opposition? What do we hear? Nothing. Silence, absolute stone silence. Mr Steven Marshall and the Liberal opposition are not prepared, or are not brave enough, to stand up to their federal counterparts and demand fair treatment for South Australians.

SMALL VENUE LEGISLATION

The Hon. T.A. FRANKS (14:57): I seek leave to make a brief explanation before asking the minister representing the Minister for Business Services and Consumers a question on the topic of the small venues licence and entertainment consent.

Leave granted.

The Hon. T.A. FRANKS: Members would be well aware that we have passed a new small venues licence as an amendment to the overall Liquor Licensing Act and that that has taken effect from earlier this year. Members would also be aware that the difference in the small venues licence goes in some way to provisions around entertainment consent.

Indeed, in the report to the small venues bill, the government noted that it had consulted with small bar owners, live music venue operators and organisations such as Renew Adelaide, the Adelaide West End Association, the Adelaide City Council and the AHA SA and that, as a result of this consultation, the government proposed the creation of this small venue liquor licence, one that would allow a licensee flexibility in terms of the business operated under it to cut red tape and business costs and, indeed, a new streamlined process for small venues under this scheme.

It is noted that although the need to obtain a separate entertainment consent may be appropriate for large venues, or venues that seek to offer entertainment into the early hours of the morning, for small venues that wish to offer entertainment only up to midnight, it is unnecessary and the requirement that multiple approvals be obtained adds to the costs incurred by the small venue owners who wish to offer entertainment. Consultation with small bar owners and live music venue operators indicates that this is a major disincentive to small venues offering live entertainment and has a detrimental impact on the live music scene in Adelaide.

So imagine my surprise when looking at the most recent small venue licence, or perhaps the second most recent small venue licence—licence 51600065 for Babushka on Peel Street, the now iconic home of vibrant Adelaide—that their venue licence, for no more than 70 persons to be on their premises on Peel Street, states:

Other than the playing of background music through an in-house speaker system, there shall be no live entertainment, including a performance, show, band or similar live music.

From conversation with stakeholders, and, indeed, the venue itself, they are not sure why this condition sits in the licence. So I ask the minister representing the Minister for Business Services and Consumers: can the minister provide clarity to this council, to this particular licensee, and to any potential small venue licence holder as to why entertainment consent has been restricted in this small venue?

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) (15:00): I thank the honourable member for her important question. I have been given some information in relation to this particular venue and licence and am advised that the venue in question opened recently under a small venue liquor licence. The small venue licence provides an entertainment consent for venues until midnight; however, I am advised that in this instance the Adelaide City Council has included conditions that prohibit any entertainment, other than background music, as part of its development approval for this particular site.

I am advised that the government will raise this issue with the council. These sorts of restrictions are not part of the government's intent in relation to encouraging small venues or entertainment in the city. Only today the Premier released the Thinker in Residence report by Martin Elbourne, which provides a number of recommendations that seek to encourage the growth of the live music industry in this state. The government is committed to taking the report and developing a whole of government strategy that supports the industry.

SOLARIA

The Hon. K.J. MAHER (15:01): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister update the council on the government's recent actions to implement the ban on solaria in South Australia?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:01): I thank the honourable member for his most surprising question. As honourable members may know, on Monday I was pleased to announce that the state government would be asking the Governor to make the Radiation Protection and Control (Non-ionising Radiation) Regulations 2013 this Thursday in order to ban the commercial use of cosmetic tanning units from 31 December 2014.

These regulations are, of course, in response to significant research into the safety of solaria and, indeed, a decision by the World Health Organisation to classify UV-imaging tanning devices as carcinogenic to humans. There is plentiful research that indicates that the use of solaria increases the risk of health effects on users, including melanoma. It also tells us that using a solarium before the age of 35 increases a person's risk of melanoma by up to 59 per cent.

Sun beds emit both UVA and UVB radiation, and these radiation levels can be up to six times higher than that of the midday summer sun. So overexposure to UV radiation plays a central role not only in the development of skin cancers but also in the development of eye conditions as well as the suppression of the human immune system. Cumulative UV radiation also results in premature skin ageing. The fact of the matter is that no tan is safe, but a tan from a solarium is particularly unsafe, and from 31 December 2014 businesses will no longer be able to offer the use of such devices for fee or reward.

Interestingly, an article in the *Medical Journal of Australia* has estimated that each year in Australia 281 new melanoma cases, 43 melanoma-related deaths, and 2,572 new cases of squamous cell carcinoma are attributable to solaria usage. This has an estimated cost to the health system of many millions of dollars but, of course, an immeasurable cost in lives, to families and communities.

This ban was first foreshadowed on 25 October 2012 by the former minister for sustainability, environment and conservation, the Hon. Paul Caica in the other place, and the then minister for health and ageing, the Hon. John Hill in the other place. This has provided a time frame of just over two years from the original announcement date to give owners and operators sufficient time to make changes to their business to avoid financial loss. Affected businesses have also been

referred to the Small Business Contact Service to provide them with information and assistance in changing their business practice.

Nevertheless, until the ban on solaria takes effect, all licensing and regulatory requirements for solaria under the Radiation Protection and Control Act 1982 will remain in place. This means that individuals will continue to hold a licence to operate cosmetic tanning units. These businesses will still be required to comply with the current regulations, including not allowing persons under 18 or persons with type I skin, such as myself—being fair skin that does not tan—to use solaria. Yet, we know from consumer tests or putting dummy consumers into solarium and tanning operations, that this advice is not given to all customers. We know that some tanning businesses do not advise people with type I skin that they should not be using the units, and hence our concern to get the message out to the public that they should not be using these units at any time.

They also will be required to supply a health warning that solaria can cause skin cancer and we will require them to put that in a prominent place. They also need to provide skin type assessments and conduct them with their clients. They must be supervised by a trained operator and informed consent will still be required from all clients, even though we know it is not sometimes sought.

It is my hope that this announcement will serve as a warning to South Australians that between now and the introduction of the ban at the end of 2014, they will think twice before risking their lives by using solaria. I also hope that all members of this chamber and all members of the other place will communicate this ban and the reasons for it in their constituent newsletters and other communications to their communities.

I would like to thank Cancer Council SA for their assistance in this endeavour. I acknowledge their excellent work in the community as lobbyists and also their support services for people suffering from cancer.

SOLARIA

The Hon. R.I. LUCAS (15:06): Supplementary question: could the minister take on notice and provide references for the research upon which the government based its decision and, in particular, the research that demonstrates the increased incidence of melanomas as a result of using commercial solaria?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:07): That is a very tough question from the Hon. Mr Lucas, but let me give him the answer now. I refer to the following research documents:

- Makin, Dobbinson and Herd's 'The increase in solariums in Australia, 1992-2006' published in the *Australian and New Zealand Journal of Public Health* in 2007.
- Jopson and Reeder's 'An audit of Yellow Pages telephone directory listings of indoor tanning facilities and services in New Zealand, 1992-2006', also in the *Australian and New Zealand Journal of Public Health*.
- Makin and Dobbinson's 'Changes in solarium numbers in Australia following negative media and legislation' in the *Australian and New Zealand Journal of Public Health*.
- Gies, Javorniczky, Henderson, McLennan, Roy and Lock's 'UVR emissions from solaria in Australia and implications for the regulation process' published in the *Journal of Photochemistry and Photobiology*.
- The National Health and Medical Research Council's *Suntanning parlours, solaria, home tanning equipment (position statement-revised)* dated 2002.
- The National Radiological Protection Board's *Health Effects from ultraviolet radiation, report of an advisory group on non-ionising radiation* from 2002.
- International Agency for Research on Cancer's *IARC monographs on the evaluation of carcinogenic risks to humans*, volume 55. *Solar and ultraviolet radiation* from 1992.
- The Scientific Committee on Consumer Products. European Commission, Health and Consumer Protection Directorate-General's *Opinion on biological effects of ultraviolet radiation relevant to health with particular reference to sunbeds for cosmetic purposes* from 2006.

- Cust, Armstrong, Goumas, Jenkins, Schmid and Hopper's 'Sunbed use during adolescence and early adulthood is associated with increased risk of early-onset melanoma' published in the *International Journal of Cancer* in 2011.
- Gordon, Hirst, Gies and Green's 'What impact would effective solarium regulation have in Australia?' in the *Medical Journal of Australia* in 2008.
- Boniol, Autier, Boyle and Gandini's 'Cutaneous melanoma attributable to sunbed use: systematic review and meta-analysis' in the *British Medical Journal*.
- The International Agency for Research on Cancer Working Group on artificial ultraviolet (UV) light and skin cancer's 'The Association of use of sunbeds with cutaneous malignant melanoma and other skin cancers: A systematic review' published in the *International Journal of Cancer* in 2007.
- Speight, Dahl and Farr's 'Actinic keratosis induced by use of sunbed' published in the *British Medical Journal* in 1994.
- Shuttleworth's 'Sunbeds and the pursuit of the year round tan', published in the *British Medical Journal* in 1993.
- Lavker, Gerberick, Veres, Irwin and Kaidbey's 'Cumulative effects from repeated exposures to suberythemal doses of UVB and UVA in human skin', published in the *Journal of the American Academy of Dermatology* in 1995.
- Whiteman, Whiteman and Green's 'Childhood sun exposure as a risk factor for melanoma: a systematic review of epidemiologic studies' in *Cancer Causes Control* in 2001.
- Armstrong and Kricker's 'The epidemiology of UV induced skin cancer' in the *Journal of Photochemistry and Photobiology* in 2001.
- The World Health Organisation's *Artificial tanning sunbeds risks and guidance* from 2003.

SOLARIA

The Hon. R.I. LUCAS (15:10): I have a supplementary question. Is the last reference, the World Health Organisation reference, the one most commonly referred to by the government, SA Health and the Cancer Council?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:10): I cannot answer that question.

SOLARIA

The Hon. R.I. LUCAS (15:10): I have a further supplementary question. Can the minister take on notice whether or not that is the World Health Organisation reference most commonly cited by Department for Health and Cancer Council activists on this particular issue?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:11): I will seek that information for the honourable member, but he may also like to consult the website of the Cancer Council. I understand that they cite their sources very authoritatively.

The PRESIDENT: The Hon. Ms Lee.

FOOD AND WINE INDUSTRY

The Hon. J.S. LEE (15:11): Thank you, Mr President. I seek leave—

Members interjecting:

The PRESIDENT: The Hon. Ms Lee is about to ask a question.

The Hon. J.S. LEE: I seek leave to make a brief explanation before asking the minister—

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Lee, you are about to ask a question or to seek—

The Hon. G.E. Gago interjecting:

The Hon. J.S. LEE: This question is for you, minister.

Members interjecting:

The PRESIDENT: That's alright; I'll just duck out for a cup of coffee. The Hon. Ms Lee.

The Hon. J.S. LEE: Thank you, Mr President. I seek leave to make a brief explanation before asking the Minister for Regional Development a question regarding the premium food and wine innovation clusters.

Leave granted.

The Hon. J.S. LEE: In the 2013-14 state budget, the government announced the establishment of premium food and wine innovation clusters in the Riverland, Murraylands and the Limestone Coast at a cost of $2.7 million over five years. PIRSA was to appoint cluster coordinators to help to develop this initiative and an awareness program was to be put together. Just over $1 million was budgeted to be spent in the 2013-14 financial year; however, a number of industries know few details about the clusters. My questions are:

1. How many local stakeholders have been briefed by PIRSA on their involvement in the food and wine clusters and when will further consultation be undertaken?

2. Can the minister outline the spending priorities for the $1 million budgeted for the 2013-14 financial year?

3. Has the government identified specific sites for these innovation clusters to be based?

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) (15:13): I thank the honourable member for her most important questions. Indeed, this was a very important initiative that we put forward in terms of assisting the development of industry clusters in two particular sites. A great deal of work has already been undertaken. I have had reports in terms of a series of different meetings, forums, negotiations and dialogue with potentially interested partners. The initiative is specifically designed to build on the work that has already commenced. Both of those regions have already done some development of their industry clusters, so—

The Hon. J.S.L. Dawkins: That's a bit different from what you told me a while ago.

The Hon. G.E. GAGO: It's exactly consistent with what I told you a while ago, the Hon. John Dawkins: you never listen. The opposition never listens. I have spoken about this time and time again. We are working with industry. We committed right from the start to work with industry, and that is exactly what we have done, and we will continue to do so. So, a great deal of work has been undertaken.

In terms of what the spend has been to date, I am not sure, but my understanding is that we are well underway. In terms of its being embraced by local industries, they have welcomed this project. They are working in highly collaborative ways with PIRSA officers, and they can see the benefits of working in these collaborative ways. We know that in South Australia our primary industries, in particular, are characterised by small, often family, businesses. They have a great deal of trouble accessing some of the new and complex markets. They are family businesses and they struggle to be able to do that. Through these cluster arrangements we can assist smaller businesses to collectively work with and collaborate with other businesses, to look at whole supply chains and involve partners, or it might be a specific part of a supply chain that a group of stakeholders might be interested in exploring.

It is led by industry and it is to meet industry-identified needs and opportunities. PIRSA is there to assist, and the state government has made this new money available to assist, particularly, Primary Industries to do this. I accept the congratulations of the Hon. Jing Lee for this fabulous initiative of the government.

FOOD AND WINE INDUSTRY

The Hon. J.S. LEE (15:15): I have a supplementary, Mr President. The minister said a great deal of work has been undertaken. When will pilot programs receive their first funding for projects, given that her own press release announced funds would be available from 1 July this year?

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) (15:16): The funds are available for those initiatives that are identified by local stakeholders, as needed. It might be that they need someone on the ground to broker activity and work. It might be to access some of PIRSA's services and facilities. Depending on what the particular initiative is and what the stakeholders identify as their needs, those funds are available. As I said, it is a matter of industry identifying those needs, and those moneys are available to assist.

FRUIT FLY

The Hon. R.P. WORTLEY (15:16): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about fruit fly.

Leave granted.

The Hon. R.P. WORTLEY: The minister has been asked many questions in this place about fruit fly. As South Australians would know, this is a very small insect which can cause damage out of all proportion to its own tiny dimensions. South Australians are schooled to ensure that we take steps to keep our state free of fruit fly. My question to the minister is: can the minister advise of new developments to support this important status?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:17): It is correct that the Weatherill government is very serious about maintaining South Australia's status as the only mainland state that is free from what is recognised as a significant pest for fruit and vegetables worldwide, that is, fruit fly. As the only mainland state that is free of fruit fly, we intend to keep that pest at bay.

Each year, about $5 million is spent on keeping fruit fly out of South Australia through our fruit fly surveillance, border controls monitoring and public education programs. The state government has funded a major campaign to make sure that people coming into South Australia understand the restrictions of entry to protect the state's agricultural sector. The government has increased random roadblocks by 50 per cent, increased the fruit fly community awareness program by 25 per cent, and distributed around 60,000 pamphlets to information and other travel venues outside our state borders.

Investing in biosecurity provides significant benefits to horticultural growers and exporters, saving them many millions of dollars annually to treat fruit fly destined for interstate or overseas. This year's state budget provided an extra $1 million over four years for enhanced fruit fly arrangements, and this new funding will be used along with the co-contributions from industry and other partners for a new state-of-the-art sterile insect technology facility to drive research to combat fruit fly in Australia.

Controlling fruit fly brings significant economic and social benefits for production. In South Australia, the absence of fruit fly protects a $675 million per annum horticulture industry, primarily focused on the Riverland. Members opposite will be aware that the state governments in New South Wales and Victoria have effectively abandoned the control of Queensland fruit fly, apart from the Sunraysia pest-free area. This means that many horticulturalists are facing increasing challenges and additional costs to control the pest and maintain international and some interstate trade.

The established status of this fly interstate is increasing the risk to South Australia and could lead to an outbreak in the Riverland, which has remained free of outbreaks since 1991. The outbreak would have a major impact on export markets, impact the economic returns to growers and could cost the industry up to $50 million. This increased biosecurity risk is one that South Australia cannot afford to take. The main method of controlling these pests has been insecticide application chemicals, applied both pre and post harvest, to support production and maintain market access. To reduce the reliance on chemicals, other technologies have been developed, including sterilising male insects to reduce reproduction and populations. This technology, using sterile male insects, has not been used to combat the Queensland fruit fly before; however, it has been successful in the control of the Mediterranean fruit fly from Western Australia and is increasingly used as a front-line defence for fruit fly around the world.

This is why the state government has secured funds to construct a facility to research sterile insect technology and produce a line of male-only Queensland fruit fly for South Australia and the rest of the country. South Australia has taken the lead and has committed $3 million to build a dedicated sterile insect technology production facility in the Upper Spencer Gulf. This

research and development facility will be a national and international collaboration, bringing together a partnership of Horticulture Australia Limited (HAL), CSIRO Biosecurity Flagship and Plant and Food Research Australia, so that together an investment of approximately $15 million will be made over five years to develop a male-only line of Qfly.

The state government will actively seek other partners interstate to join the collaboration and share its benefits. The exciting thing about this particular technology is that not only will it help prevent outbreaks of this pest but also aid in the eradication of Qfly, so it acts as both a preventative and a method for eradication. The development of a male-only line of Qfly is world leading, and supports South Australia's commitment to premium food and wine from a clean environment, using our position as a scientific and technical leader in agriculture and biosecurity.

Another major benefit of the new facility would be the potential for reducing reliance on agrichemicals. This kind of technology is environmentally friendly and can be used in orchards, urban areas, around farm animals and pets, and in environmentally-sensitive areas where conventional chemical treatment is not possible or is intrusive, and there is obviously no risk of resistance if repeatedly used, and rapid treatment of large areas can be achieved.

Work on the new facility is expected to take two years and will begin later this financial year, continuing into 2014-15. The research team will start work in 2014-15, and I am pleased that the Weatherill government has brought together the Australian and New Zealand interests to develop what I expect will be a significant benefit to our horticulture industry for many, many years to come.

GM HOLDEN

The Hon. D.G.E. HOOD (15:23): I seek leave to make a brief explanation before asking the minister representing the Minister for Manufacturing, Innovation and Trade concerning recent developments regarding Holden's continued production at Elizabeth.

Leave granted.

The Hon. D.G.E. HOOD: I note the Premier's statement today, which I have not yet had a chance to read, so forgive me if my questions overlap. My question concerns Mr Stefan Jacoby, who we understand is the person who ultimately will decide the fate of Holden Australia. He has just visited Melbourne, but he has not come to South Australia where, if he did, he might have met with workers and union representatives, local management, and the like, and all those people involved who make the fine cars produced out at Elizabeth.

Some people have suggested that his visit to Melbourne only should be seen as a cause for some concern. I would like some clarification from the government. My questions to the minister are:

1. Has the government any feedback from Mr Jacoby as to the likelihood of his visiting South Australia in the near future and, if so, when is that likely to be?

2. Has the government had any information from Holden concerning their current production levels—that is, perhaps on a monthly, quarterly or annual basis—if their production is maintaining its level, increasing or, hopefully not, but possibly decreasing?

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) (15:24): I thank the honourable member for his questions and will refer them to the minister for trade in another place and I am happy to bring back a response.

SOLARIA

The Hon. R.I. LUCAS (15:25): I seek leave to make an explanation prior to directing a question to the Minister for Sustainability, Environment and Conservation on the issue of the banning of commercial solaria.

Leave granted.

The Hon. R.I. LUCAS: The minister earlier outlined the government's decision and the reasons for it, and I thank him for the references to the supporting documentation for the decision. My questions are about other related aspects. One was his willingness to consult with small business people about the impact of the government's decision.

In transcripts of television news from last evening, a spokesperson for the industry, Merv Davies, indicated concern in that they had been trying to meet with the minister to at least discuss their particular concerns in relation to the government's policy that was announced in October last year. Minister Hunter, when asked about this last night by Channel 7—as to whether or not he was aware of any industry attempts to lobby him personally or to meet with him—was quoted as saying, 'They've not approached me in recent times.' The industry spokesman went on to say that they had been approaching the minister since May and they claim that two planned meetings with the minister were cancelled subsequent to May. Mr Davies is quoted as saying, 'Basically he's too busy to see us.'

The second issue relates to the similar decisions taken by governments interstate. I refer to the fact that the Queensland government has decided to pay compensation to small business operators whose businesses will be closed as result of the equivalent decision in that state. I think it is the equivalent of $1,000 per bed. The Western Australian health minister publicly indicated that they were looking at a similar policy decision and will consider the Queensland government decision to provide compensation of $1,000 per bed for businesses that close down. My questions are:

1. Did the minister cancel planned meetings since May with the industry over the proposal and, if so, why?

2. Did the government consider the payment of compensation to small business operators impacted by the policy, such as exists in some other jurisdictions, and, if so, what is the government's position on this issue?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:28): I thank the honourable member for his important questions. May I say, and I repeat what I said on the wireless yesterday in terms of consultation—

An honourable member: Call me old-fashioned.

The Hon. J.M.A. Lensink: How old are you?

The Hon. I.K. HUNTER: I'm looking very good for my age, Hon. Michelle Lensink. Thank you very much for that compliment.

The PRESIDENT: Order! I understand what you're saying, minister. I still have a wireless.

The Hon. I.K. HUNTER: I was on the wireless and I said that the government took the position of a long lead-in time for this ban. I think it was announced on 25 October 2012 by the former minister. We took the view that we would prefer that course of action with a long lead time to allow business to adjust itself to the new business environment.

Queensland undertook another plan altogether. They are introducing their ban a year earlier (1 January 2014) and so perhaps that bore on their consideration of paying a small amount of compensation per bed. I cannot speculate on what motivated Queensland but that is probably a sensible decision from its perspective in introducing the legislation much earlier.

In terms of meeting with industry, when they approached my office earlier in the year my understanding is that senior members in my office met with them whilst I was visiting the South-East on other matters. However, the position was that the government was not going to be changing its policy on this matter and they have not contacted me, to the best of my knowledge, since their initial contacts earlier in the year. I stand by my decision, that I mentioned on the wireless, that they have not contacted me for a further meeting in recent times.

AUDITOR-GENERAL'S REPORT

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:30): I move:

That standing orders be so far suspended as to enable the report of the Auditor-General for the year ended 30 June 2013 to be referred to a committee of the whole and for ministers to be examined on matters contained in the report for a period of one hour.

Motion carried.

In committee.

The Hon. D.W. RIDGWAY: I have just three questions I would like to ask the minister in relation to the Auditor-General's Report in relation to the South Australian Forestry Corporation. I thought I would get them out of the way first and then we could ask some questions more generally about PIRSA. I am just waiting while her adviser makes his way to the chair and table, because I am sure she will not know the answer and I will have to repeat it for his benefit.

I refer to page 1525 of Part B, Volume 5, and I note in the commentary it says that while the corporation has not yet submitted its report for the financial year ending 30 June, the Auditor-General refers to the forward sale. He notes that the corporation manages plantations in return for a fee. What is that fee and how is it calculated?

The Hon. G.E. GAGO: I have indicated in this place on a number of occasions that that fee is commercially in confidence, so I am not able to divulge that.

The Hon. D.W. RIDGWAY: I do not accept you cannot divulge it, but how is it calculated? On what basis is the fee arrived at? Is it an annual fee? Is it part of the contractual arrangements of the sale? Is it changed every year? Could you give us some information around the fee even if you are not able to tell us the details?

The Hon. G.E. GAGO: I am advised it is a contractual fee which was devised at the outset of the forward sale. I am advised it is adjusted annually through an agreed arrangement.

The Hon. D.W. RIDGWAY: How long was the arrangement in place for that fee to be charged to OneFortyOne Plantations? How long is ForestrySA going to provide that service?

The Hon. G.E. GAGO: I am advised that the management arrangements are in place for a contracted period of five years and that, in relation to the fee being adjusted annually, it is adjusted annually in accordance with an agreed formula and that formula is an agreement in itself. It cannot be adjusted outside of those agreed parameters.

The Hon. D.W. RIDGWAY: Another question in relation to the fact that ForestrySA is contracted to do work for OneFortyOne Plantations. For the benefit of your officers here, minister, I asked you a question recently about the shortfall between ForestrySA's costs minus the revenue. Of course, you pointed to a budget line but that covers all of ForestrySA's activities. Today I am interested in: what is the difference between the cost of providing the service for OneFortyOne Plantations and the actual revenue you received?

The Hon. G.E. GAGO: These are in the budget documents, these are not matters of the Auditor-General's Report.

The Hon. D.W. Ridgway: No, they are not.

The Hon. G.E. GAGO: Well, refer to the relevant section of the Auditor-General's Report.

The Hon. D.W. RIDGWAY: Volume 5, page 1525: it says the primary focus of the corporation is to manage the plantation forests under the functions of the corporation. My question to the minister is: what is the difference between the fee that is arrived at and the actual cost of providing the service?

The Hon. G.E. GAGO: It is not part of the Auditor-General's Report. These are budgetary questions. The honourable member is able to ask me in question time tomorrow, if he so desires, but these are not matters of the Auditor-General's Report.

The Hon. D.W. RIDGWAY: Is the minister committing to bring an answer back? I will ask that question tomorrow if the minister pledges to give me an answer.

The Hon. G.E. Gago: Ask it tomorrow. I am not going to use up this question time for a question for tomorrow. You ask me tomorrow.

The Hon. D.W. RIDGWAY: One last question on forestry. We have 198 full-time equivalent public sector employees. Why do we still have that number of employees in the forestry corporation now that we have sold off a major part of our assets?

The Hon. G.E. GAGO: I have been advised that the number of employees that we have at the moment are those needed to assist in the management arrangements for OneFortyOne because we are still undertaking those responsibilities, and also obviously managing our Mid North and Mount Lofty forests as well. I have been given some advice that the figures, as of today, would be somewhere in the vicinity of 170 FTEs, so the employment numbers are being revised all the

time. We are always looking at streamlining and improving the efficiencies of our practices and adjusting staffing accordingly.

The Hon. D.W. RIDGWAY: I want to refer back to the question in relation to the fee that is charged, minister, that it is a five-year arrangement. What happens at the end of that five years? Is it a rolling arrangement? Is it for the next government of whatever persuasion to renegotiate it? Is the formula that is used to calculate it up for negotiation as well?

The Hon. G.E. GAGO: I am advised that at the end of five years there will be a contestable process in which ForestrySA has the right to match the best commercial result. So we sort of get first dibs, if you like.

The Hon. D.W. RIDGWAY: So it will be an open process, but ForestrySA will get the right, if you like, to match whatever the best bid is. I do not have any further questions on forestry. My first question in relation to PIRSA, which of course is referred to in the Auditor-General's Report, is in regard to Part B, Volume 4, at the bottom of page 1324. Under the Corporate governance heading, it states:

- no authorised strategic plan was established for 2012-13 and the strategic directions statement, Towards 2017...

My question to the minister is: why was there no authorised strategic plan for 2012-13?

The Hon. G.E. GAGO: I have been advised that the audit findings reflected the influence of machinery-of-government changes and the appointment of a new chief executive during 2012-13. The 2012-13 divisional plans and strategic plan had been prepared and, whilst not formally endorsed, were being used to monitor performance against activities and outcomes. The planning processes and associated documentation for this year (2013-14) have been completed and endorsed and I am advised that the review of various policies and framework is under way, obviously with some completed and others to be finalised in the next few years. So basically it was the machinery-of-government changes.

The Hon. D.W. RIDGWAY: My next question relates to the top of page 1325, which states:

- the fraud and corruption policy and whistleblowers policy and procedure had not been updated since 2009 and the risk management framework and risk management guidelines had not been updated since 2008

Why had there been no update to the fraud and corruption policy and whistleblowers policy and procedure since 2009?

The Hon. G.E. GAGO: I am advised that there was a changeover in our risk manager, and this was one of the policies that work had commenced on. It was available in draft form but had never been formally adopted. As I said, we are reviewing various policies and frameworks that are underway and working through to complete those.

The Hon. D.W. RIDGWAY: The next question I have is more in relation to the next dot point, regarding requirements of the Audit and Risk Management Committee terms of reference. It was approved in December but was not met in terms of number of independent members and meetings held. Why have they not met? In terms of the number of independent members, why was that the case?

The Hon. G.E. GAGO: I am advised that at the time one of our independent members resigned, and that affected the numbers. Since then the terms of reference have been reviewed and the current number of independents now complies with the requirements.

The Hon. D.W. RIDGWAY: Can the minister explain the role of that committee? I know it is a current issue but, as an example (and I am sure there have been other cases in the past), I use the commitment that the government has made to a program in China, a program that was put up by some private people for the government to invest in. Where does the government do its due diligence and probity on, if you like, proposals that are put up by members of the public? Is it through this process or is it through another process?

The Hon. G.E. GAGO: I am advised that this committee is not responsible for the due diligence processes of business and other trade opportunities that government is approached with from time to time. This is a committee that deals with internal processes and risks. In terms of business proposals, it would depend on what the proposal is; it is usually a combination of work done through agencies like DMITRE and some activity from PIRSA as well.

The Hon. D.W. RIDGWAY: So that is actually done by individuals within the agency, rather than by a committee or a group of people, to assess a proposal that is put to government for funding that comes from an external bid?

The Hon. G.E. GAGO: No; it depends on what the proposal is. For instance, I give the example of the Riverland Sustainable Futures Fund. It is public money that is being spent on private business proposals. There is a process within PIRSA that has a panel of people with cross-agency expertise that applies a rigorous process and protocol. A third-party due diligence is also applied as well. I cannot think of the name of the firm now, but an independent third party gives us some accounting advice on the strength of the finances of the organisation.

As I am trying to explain, there are different processes for different proposals, but there are certainly rigorous processes in place. For any spending of public money we make sure that we do the due diligence that is required and that it is an efficient and effective use of public money wherever possible.

The Hon. D.W. RIDGWAY: I accept the minister's explanation using the Riverland Futures Fund, but to go to the example of the Fujian project in China, where would that have been judged, assessed and the due diligence done, because I think the minister will accept that is a different type of project?

The Hon. G.E. GAGO: It is not this committee that it is referred to. It is not the audit committee and we are now wasting the time of this chamber. The role of this hour is to look at the Auditor-General's findings and I am happy to take further questions on those matters.

The Hon. D.W. RIDGWAY: I remind the minister that nor is the Riverland Futures Fund in the Auditor-General's Report.

The Hon. G.E. Gago: I will not try to be helpful next time.

The Hon. D.W. RIDGWAY: You could be helpful and answer the next question. That would be very helpful for all of us.

The ACTING CHAIR (Hon. J.S.L. Dawkins): The honourable member asked some questions. This is not a conversation, so I call the Hon. Mr Ridgway.

The Hon. D.W. RIDGWAY: I apologise, Mr Acting Chairman, and I know I only have a few minutes left, so I need to turn to page 1338. It lists the objectives of PIRSA and among these are the strategic priority of premium food and wine from our clean environment and providing strong research and innovation capabilities. In light of this, can the minister explain why Primary Industries and Regions is one of the only agencies to continue to decrease in operating expenditure from 2011-12 to 2014-15? This follows a total decrease of $63 million from 2011-12 to 2014-15?

The Hon. G.E. GAGO: The changes in operational expenditure largely have been influenced by grant programs that have come to completion, so things like the completion of our drought program, our locust plague program, exceptional circumstances, etc. It is those grant funding arrangements that are no longer needed, that have come to an end, that have been removed from the budget and it is those that are having a significant impact on the bottom operational expenditure figure.

The Hon. D.W. RIDGWAY: I know some functions have been shifted to DMITRE, but how many are just budget savings?

The Hon. G.E. GAGO: Can you repeat the question?

The Hon. D.W. RIDGWAY: It has decreased by $63 million and you have said that some of them are operational matters and some are machinery of government. I noticed earlier in the Auditor-General's Report that some functions have transferred to DMITRE. How much of that $63 million is transfers to DMITRE and how much is actual PIRSA savings measures?

The Hon. G.E. GAGO: Which two years?

The Hon. D.W. RIDGWAY: From 2011-12 to 2014-15, there is a decrease of $63 million.

The Hon. G.E. GAGO: We are outside the Auditor-General's Report, so which figures within this report are you asking about?

The Hon. D.W. RIDGWAY: I will rephrase the question. On page 1326, I note that total expenditure has dropped from $203 million to $172 million. I notice that there is some transfer of staff. In relation to employee benefits, that has dropped from $108 million to $90 million, but I am

interested to know whether that has dropped just because of transfers to DMITRE or are there some PIRSA budget savings as well?

The Hon. G.E. GAGO: I have been advised that revenue from government has gone down by just over $16 million, $6.4 million of which, I am advised, is attributed to savings and around $10.7 million is attributed to machinery-of-government changes, transferred to DMITRE.

The Hon. D.W. RIDGWAY: I will now jump to page 1349. Under the heading of Employee benefit expenses, I particularly refer to targeted voluntary separation packages payments. I am always interested in these payments in that we lose skills that have been built up over many, many years. The minister may not have the details with her, but can she advise how many scientists, agronomists and technical people were part of that reduction?

The Hon. G.E. GAGO: I am advised that approximately 38 staff accepted packages in the 2012-13-year and only a minority of those—perhaps 10 or fewer—would be scientific staff, unlike the huge cuts to scientists by the current federal government to the CSIRO. I think there are about 400 or 500 cuts to scientists.

The Hon. J.M.A. LENSINK: At page 1814, referring to a contract management framework for the renewable energy and operations and management of the desalination plant, the report in one of the dot points says that 'significant changes were required to incorporate the [Adelaide desalination plant] requirements into that framework'. Can the minister outline what sort of changes were required?

The Hon. I.K. HUNTER: Could you repeat the question?

The Hon. J.M.A. LENSINK: I am reading from page 1814, the second to last dot point, that says there were significant changes to the draft contract management framework for the Adelaide desalination plant in relation to operation and management and the renewable energy contract. I was just wondering if the minister could outline what that means and what level of change is needed to be made.

The Hon. I.K. HUNTER: My advice is, and I hope I get this right, that the contract initially was established to manage a privately-owned plant. However, we have a separate energy contract to manage the electricity at the plant and we needed to make changes to the management framework to allow for efficient use of the electricity during the operation of the plant.

The Hon. J.M.A. LENSINK: So, that is efficiency as in cost or efficiency as in consumption?

The Hon. I.K. HUNTER: Both.

The Hon. J.M.A. LENSINK: Is the minister able to provide more detail about the operations and management contract changes that needed to be made?

The Hon. I.K. HUNTER: The honourable member may want more detail: if she wants more she can come back to me. I understand that the changes at the detailed level of the management contract are because, essentially, the desal plant that we have is a peaking plant, whereas the management contract framework was in fact based on the Riverland 10 plants, which are base load plants. We needed to build more flexibility into the system so that it could be used on/off rather than a base load delivery of water.

The Hon. J.M.A. LENSINK: On the next page, 1815, it refers to procurement practices and issues that have been raised. Can the minister outline whether these are small-scale things or whether they are much larger things, such as the construction of water treatment plants and the like, or whether it is throughout the system?

The Hon. I.K. HUNTER: I understand this issue mentioned in the report does not go to the actual contracts, whether they are small or large: it is about the governance of the contracts, how they are managed and the use of probity auditors on all our contracts.

The Hon. J.M.A. LENSINK: Page 1818: so we are onto income now and we have it nicely spelt out how much the income has been increasing, courtesy of water and wastewater charges. The community services obligations, however, have been reducing. Can the minister explain why that is the case?

The Hon. I.K. HUNTER: My advice is that we need to make up the difference between revenue received and the cost of providing services. We are basically talking about the gap between income and cost. As income has gone up the gap has reduced and hence the difference.

The Hon. J.M.A. LENSINK: I know that involves the subsidy for country customers but where in the scheme of things does the CSO part 4 concession fit in? Is that in this bit as well?

The Hon. I.K. HUNTER: I guess the short answer is yes. The CSO payments, of course, match the level of concession. When the government puts up concessions then the CSO also goes up.

The Hon. J.M.A. LENSINK: Water usage: the table on the top of page 1819 shows that—I assume these are done in financial years—water usage is expected to exceed 190 gigalitres. Is that correct?

The Hon. I.K. HUNTER: The amount, I suppose, is the amount that is the agreed basis used by ESCOSA in the pricing order. It is a little bit early to tell how close we will get to that estimate but my advice is that currently we are running just below, a fraction below, and so it seems like it may well be a very good guess.

The Hon. J.M.A. LENSINK: Can you be more specific than just 'a fraction'? Can you give us a percentage?

The Hon. I.K. HUNTER: My maths is not that good but it would be in the order of a couple of gigalitres.

The Hon. J.M.A. LENSINK: So what is likely to happen to water prices in the following financial year if that target is not reached?

The Hon. I.K. HUNTER: I am advised that it should have no impact. The water prices have been set by the agreement with ESCOSA and my understanding is that the agreement stipulates that water prices will go up by around CPI.

The Hon. J.M.A. LENSINK: Still on SA Water, page 1821, we are on to expenses now. The first dot point refers to increased borrowing costs. I assume that is referring to additional interest payments as well. Can the minister advise how much that interest payment would have increased in the current financial year as a result of those increased expenses of some $343 million?

The Hon. I.K. HUNTER: I think, taking advice, that this is probably more of an estimates question than an Auditor-General's question, but essentially our borrowings have gone up due to our capital investment program. There is no surprise there.

The Hon. J.M.A. LENSINK: A different issue but still on expenses: there is a dot point that refers to the increase in employee benefits due to additional staff hired between 2009 and 2012 due to water restrictions, drought initiatives, capital and operational projects. Can the minister explain what sort of tasks those staff would have been doing but that are no longer required, I assume?

The Hon. I.K. HUNTER: My advice is that the additional staff are mainly in the area of capital programs and water conservation programs. For instance, our capital spend went from about $120 million up to $900 million a year at its peak, so I guess those staff are required to work with that increase in capital spending. Also, in addition to our water conservation program, we had additional staff in the water call centre dealing with extra inquiries and permits that were requested for exceptions to restrictions—for instance, watering of newly laid lawns, etc.

The Hon. J.M.A. LENSINK: There is an item which I assume is new, which is $16 million that SA Water pays to, it says, 'the responsible government agency'. Can the minister advise which agency that is, what this particular payment is called and the rationale for it?

The Hon. I.K. HUNTER: My advice is that $16 million payment goes to DEWNR. It is the water planning and management charge that used to go to the department for water. Now it goes to the amalgamated DEWNR. It is for the policy functions that they undertake in terms of water resource planning and water allocation.

The Hon. J.M.A. LENSINK: Does that planning apply across the state, or is it just to the regions that are covered by the SA Water network?

The Hon. I.K. HUNTER: My advice is that it is comprised of the proportion that can be attributed to SA Water activities.

The Hon. J.M.A. LENSINK: Moving on to page 1826 or thereabouts and pricing issues, I understand that ESCOSA is undertaking a review of water and sewerage charges at the moment. I

appreciate that it is probably within the current revenue envelope that the ESCOSA review is taking place, but does the minister have a view as to what structural changes might come out of that review?

The Hon. I.K. HUNTER: The simple answer is we do not know, but we do know that the ESCOSA review will be looking at the fixed element charge in terms of water billing. They will also be looking at the property base charges for wastewater sewerage, but we really have no idea where ESCOSA will take themselves. It is not our responsibility.

The Hon. J.M.A. LENSINK: Renewable energy certificates for the Adelaide desalination plant: how much do they cost us?

The Hon. I.K. HUNTER: My advice is that that figure is commercial in confidence.

The Hon. J.M.A. LENSINK: On page 1828, there is a little table for the current 2013-14 financial year through to 2015-16. The drinking water retail services is $778.7 million for those three financial years. On what basis is that figure static? It is the same number for each financial year.

The Hon. I.K. HUNTER: My advice is that figure is in nominal terms and it has not been inflated year on year by CPI.

The Hon. J.M.A. LENSINK: So what will happen in the forward years if the consumption is less than 190 gigalitres a year?

The Hon. I.K. HUNTER: My advice is that SA Water would bear the costs incurred during the regulatory period but there will be an opportunity in the next pricing regime to reflect that next determination of the costs that were borne.

The Hon. J.M.A. LENSINK: The item that appears once again is the crown land based information. Can the minister explain why this project continues to appear in these papers and what the long-term plan is?

The Hon. I.K. HUNTER: My advice is that the Auditor-General's Report comments that the department has not been able to formulate suitable methodology for determining the value of unalienated crown land. I am advised that a methodology for evaluating unalienated crown land was not progressed substantially during the year 2012-13 due to the process of the restructure being undertaken throughout the year both to merge two former agencies into the current department and integrate NRM boards. We set a different priority, I guess.

It is also important to note that during 2012-13 the Department of Planning, Transport and Infrastructure commenced a two-year project to replace the Land Ownership and Tenure System (LOTS) with the South Australian Land Integrated System (SALIS). This new system will capture more accurate information for all land ownership in South Australia, including crown land. I am advised that this project is currently scheduled to be completed in December 2014. The department is being consulted in finalising the new system.

The Hon. J.M.A. LENSINK: Referring to page 545 in relation to purchase cards, clearly there has been some misuse of those and the Auditor-General's Report advises that purchase cards may be suspended or cancelled. Can the minister advise whether that has taken place under any circumstances, and how many cards have been suspended or cancelled?

The Hon. I.K. HUNTER: My advice is that none have been cancelled or suspended to this point. We are in the process of updating our policies and procedures and undertaking training for staff around these issues.

The Hon. J.M.A. LENSINK: Regarding the Coorong, Lower Lakes and Murray Mouth projects, some $118 million is to be expended to 2015-16.

The Hon. I.K. HUNTER: Sorry, what page?

The Hon. J.M.A. LENSINK: Page 551. Can the minister advise what the status is of that particular project, and are some of these projects depending on the Lake Albert salinity scoping study?

The Hon. I.K. HUNTER: I do not really have sufficient information before me to answer that question, but I will take it on notice, if the honourable member is happy.

The Hon. J.M.A. LENSINK: Chowilla would come under the Murray Futures project, I assume. Similarly, if the minister is able to take on notice as to where the Murray Futures funding is

at and how much has been expended to date, particularly in relation to the water buyback from willing sellers. Does the minister have that information available?

The Hon. I.K. HUNTER: No. My advice is that I will need to come back with further detail on that one.

The Hon. J.M.A. LENSINK: That is all I have on DEWNR.

The Hon. I.K. HUNTER: The EPA is next.

The Hon. J.M.A. LENSINK: I refer to page 511. There was a decrease in tonnages processed during the 2012-13 financial year. Can the minister explain why that took place?

The Hon. I.K. HUNTER: My advice is that this is a trend that we are currently observing. We believe that it probably affects the general economic activity in the state. There is a decrease across the commercial and residential sector, but it has been a recent trend and we are watching it and waiting for it to tick up again.

The Hon. J.M.A. LENSINK: You are optimistic, but you cannot guarantee that it will return to previous levels. So what does that do to—and this may well be a budget question—the anticipated fund amount for the Waste to Resources Fund?

The Hon. I.K. HUNTER: My advice is, in fact, that tonnage going down is a good thing. We actually budget, I am told, for the impact of our regulations to bring down the tonnage. That is the whole point of trying to reduce the amount of waste that goes to landfill. So it is budgeted for, as is generally the case, and at this point in time it will have no real dramatic impact.

The Hon. J.M.A. LENSINK: I was asking you a financial question, not a policy question about whether we think that less landfill is a good thing or not. Under the Waste to Resources Fund, on page 513, it advises that there is $43.7 million in that fund. What does the government anticipate will be in that fund at 30 June 2014? In other words, how much does it expect to expend?

The Hon. I.K. HUNTER: Mr Chairman, try as I might and strain as I can, I cannot see that that is an Auditor-General's question.

The Hon. J.S.L. DAWKINS: Mr Chairman, I spoke to the Leader of the Government earlier about possibly asking a couple of brief questions. I realise she no longer has her officers here, so in the very short period of time remaining I would like to get them on the record.

The CHAIR: You have 35 seconds.

The Hon. J.S.L. DAWKINS: In relation to the Branched Broomrape Eradication Program Ministerial Advisory Committee, I understand that whole scheme is now one of control rather than eradication. I would like to clarify why the members of that committee are all listed as having retired when the actual committee has not been listed as disbanded, as is the case with some other committees or advisory panels.

The Hon. G.E. GAGO: My understanding—as reported and spoken about in this place previously—is that a federal assessment was made that we could no longer feasibly look to eradicate branched broomrape, so we shifted to a management program. Therefore, the committee structure established as part of the eradication program is no longer functional. That is my understanding. It no longer operates.

The Hon. J.S.L. DAWKINS: Will the minister advise whether or not the committee will actually be disbanded, as listed for some other previously disbanded bodies?

The Hon. G.E. GAGO: My understanding is that it will be disbanded; however, I will double-check that. I am happy to take that on notice and bring back a response.

The CHAIR: The examination of the Auditor-General's Report is concluded.

HEALTH PRACTITIONER REGULATION NATIONAL LAW (SOUTH AUSTRALIA) (RESTRICTED BIRTHING PRACTICES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 October 2013.)

The Hon. R.I. LUCAS (16:35): I rise to speak to the second reading of the Health Practitioner Regulation National Law (South Australia) (Restricted Birthing Practices) Amendment Bill, and in doing so indicate Liberal Party support for the second reading of the legislation.

As the government outlined, the bill seeks to increase protection for mothers and babies by restricting the provision of birthing practices to registered midwives and medical practitioners only. The government argued that the bill was drafted in response to recommendations by the Deputy Coroner after the high profile deaths of three babies at separate homebirths between 2007 and 2011. The Deputy Coroner found that all three babies would have survived if they had been born in a hospital by caesarean section.

In our consultation there has been broad acceptance that persons involved in the provision of birthing practices should have appropriate training and qualifications to provide the services. The government advises that a consultation paper on this proposal was sent to peak professional bodies, and of the 32 submissions, 25 were supportive and another three agreed the public should be protected from unregistered practitioners, but suggested alternative measures.

One of the issues that was raised in relation to our consultation was the concern from a number of people as to the conflicting position of the South Australian government in some of these areas; that is, in a number of areas the government argues that we must move consistent with national reform and there needs to be national legislation and national regulation. We have seen so many arguments along those lines.

In this case, the government says that that is still the case, but because there cannot be national agreement at this stage, they have decided to proceed anyway with their own regulation in this particular area. As I said, it is a quixotic position the government has. They seem to pick and choose as to when they decide they want to rely on the argument of national uniformity, and as a matter of convenience they will pick that particular argument when it suits their purpose. Then, on other occasions, when the same argument can be mounted by stakeholders and is, they decide not to proceed with using that particular argument and they say that they need to proceed in South Australia before there has been national agreement.

Under the bill, unregistered midwives and other health practitioners will face fines of up to $30,000 or up to 12 months imprisonment for attending births. There are some exceptions which are outlined in the legislation. Those exceptions seem reasonable to most people that we have consulted with and we accept that those exceptions should be included in the legislation, for example, when assistance is provided in the case of an emergency by someone who is not a registered midwife or a health practitioner. The obvious common examples cited are taxidrivers or partners. Clearly provision needs to be made for those sorts of exceptions in those circumstances.

What I was most intrigued about in terms of our consultation was that one of the key stakeholder groups, the Australian College of Midwives, has expressed considerable concern and reservation about the government's legislation. As I entered the discussion on this, I just assumed that key stakeholder groups, such as the Australian College of Midwives, would be onside, would have been consulted all along the way and would have been supportive of the government's proposal.

I met with the Australian College of Midwives again this morning. They indicated that they have been trying in vain for some time to meet with the Minister for Health. It seems to be, sadly, that when you get to the end of 12 years of government you lose touch with the niceties of life. We saw in question time today the Minister for Sustainability revealed as having refused to meet with key stakeholders in relation to a decision that he took.

According to the Australian College of Midwives, they had been trying for some time to meet with the Minister for Health to discuss the issue, but they continually get fobbed off to a public servant within the SA Department for Health in relation to the issue. I think they indicated their last meeting with the SA Health public servant was five or six months ago and they have another meeting coming up in a couple of weeks.

I said, 'Well, I think it might be a bit late because the government has already jammed the bill through the House of Assembly and it is intending to jam it through the Legislative Council this week.' It has been listed as one of the government's top two or three priorities for today's debate. The representative of the Australian College of Midwives today indicated to me that they would not support the legislation being passed in its current form today.

As I said, I was surprised at the position the minister and the government seem to have adopted in relation to their general unwillingness to consult with key stakeholder groups. I am concerned also that the Minister for Health would refuse, as a minister, to meet with a body such as the Australian College of Midwives on an important issue like this. Mr Acting President, I guess that it is for you and your colleagues to discuss, in your councils and fora that are available to you, the creeping arrogance of ministers in the government in refusing to meet key stakeholders groups to defend their position.

I think, as minister Hunter indicated earlier, 'We have our view and we weren't going to change our view, so I wasn't going to talk to the small business operators who were going to be put out of business by the decision I was taking.' It is very disappointing when ministers such as minister Hunter make those sorts of cracks at small business operators who are struggling, and it is disappointing also to see the same sort of creeping arrogance from minister Snelling in relation to this particular legislation as well. The only message I can give to minister Snelling and minister Hunter is that the people will decide in March next year—

The Hon. I.K. Hunter interjecting:

The Hon. R.I. LUCAS: —on the creeping arrogance of people such as minister Hunter and minister Snelling, and all the squealing like stuck pigs we get from the minister on the front bench here at the moment will count for nothing. The people will decide on these issues, and it does not matter how much the minister squeals on the front bench in relation to the facts being revealed and placed on the record. Let the people decide about these particular issues.

In relation to the Australian College of Midwives, one of its many arguments or concerns about the legislation is that, in its view, the legislation covers only the three stages of labour: the onset of contractions, the birth and the delivery of the placenta. The college agrees, in principle, with the regulation of midwifery practice but believes that the bill should also include pregnancy or antenatal and postnatal care for up to six weeks. The Australian College of Midwives advises that litigation in pregnancy cases often looks at the antenatal treatment aspect of the pregnancy.

The minister in charge of the bill will put the government's response on the basis of the advice he receives but, as I understand it, the government's response to this is that, although antenatal and postnatal care are traditionally part of midwifery practice, the consultation process supposedly informed SA Health that there were a number of health practitioners other than a midwife or medical practitioner who were also involved in the care of women during this time.

The government says that it does not want to restrict access of these antenatal and postnatal services to women, so the decision was made to restrict that area where there was the greatest risk to the public if a person was not clinically trained and operating within acceptable standards, that is, the birthing process itself. My question to the minister is to confirm whether or not that is indeed the government's response to the Australian College of Midwives and its particular concerns.

I note that the Australian Nursing and Midwifery Federation (South Australia Branch) has indicated to my office that it is broadly supportive of the legislation but also believes that it would be improved if the period covered included before and immediately afterwards. They support the position of the Australian College of Midwives. The ANMF and the ACM would also both like to see the international definition of midwifery for the scope of practice used. This is where the government says it is hopeful that this issue can be resolved at the national level. My questions to the minister are: what is the government's response to that particular issue about the international definition of midwifery for the scope of practice being used; and why did the government choose not to proceed with that international definition, given that the College of Midwives and the Australian Nursing and Midwifery Federation have both argued that is what they should do?

On balance, the ACM accepted that the proposed penalties were probably reasonable, and the ANMF also agreed. The ACM believed (and this was their phrase) that the government's bill was a kneejerk reaction to the Deputy Coroner's findings and wanted the scope of the response widened to include issues such as the need for increased midwifery continuity of care services, the need for increased access for eligible midwives to collaborate with healthcare facilities and the need for specific midwifery representation at the departmental level.

With the greatest respect to the ACM, I think the last issue is probably not best covered by legislation. It is ultimately a decision for governments (ministers and departments), I guess, as to whether you have someone responsible for both nursing and midwifery as a senior officer within the department or whether you have two officers with delineated responsibilities, which is the

preferred position of the ACM, as I understand it. Nevertheless, I think that is an issue best resolved by ministers, departments and governments and not by legislation.

With that, I indicate the Liberal Party's preparedness to support the second reading of the bill. We are interested in the minister's response to the specific concerns from the ACM in particular, but also the ANMF, and we look forward to hearing those responses at the conclusion of the second reading or in the committee stage of the debate.

The Hon. J.A. DARLEY (16:47): I rise very briefly to indicate my support for the Health Practitioner Regulation National Law (South Australia) (Restricted Birthing Practices) Amendment Bill. The bill is in response to the Deputy State Coroner's recommendation following his 2012 inquest into the very tragic death of three babies. In short, the Deputy Coroner recommended that the Minister for Health and Ageing introduce legislation that would render it an offence for a person to engage in the practice of midwifery, including its practice in respect of the management of the three stages of labour, without being a midwife or a medical practitioner registered pursuant to the national law.

It is extremely important to put this debate into context. This bill is not about denying mothers their choice: it is about ensuring that their safety and their child's safety are treated as paramount. It is about safeguarding mothers and their babies as far as possible from possible risks and it is about recognising that the practice of midwifery is a specialist field that requires a high degree of ongoing training and expertise. There is absolutely no doubt in my mind that, if it were my daughter or granddaughter having a child, I would want them and their baby to be in the safest hands possible. That is not to say that I would not want a midwife looking after them but, rather, ensuring that the midwife is appropriately qualified and registered.

There is no question, also, that parents place an extraordinary amount of faith in whoever is delivering their child. I am sure there are well-meaning individuals out there who think childbirth is relatively straightforward and, in the majority of cases, it probably is. Those same individuals also need to recognise and appreciate the associated risks that can arise, sometimes unexpectedly, at any stage of labour or following a birth.

There will inevitably always be some parents who choose to proceed with homebirths, even after being informed of the risks. At the very least this bill should act as a warning to those individuals who choose to ignore the legislation and pass themselves off as midwives, despite not having the appropriate qualifications.

To reiterate, this legislation is based on the recommendations of the coronial inquest into the deaths of three babies. We often criticise the government for its lack of action in response to such recommendations, but in this instance it has listened and responded accordingly. We should be doing the same to avoid, as far as possible, a similar situation arising again. With that, I support the second reading of the bill.

The Hon. K.L. VINCENT (16:50): On behalf of Dignity for Disability I will speak very briefly in opposition to the second reading of this bill. I have met and consulted with the South Australian Chapter of the Australian College of Midwives, who expressed grave concern about this bill on several fronts. As it currently stands, it is my understanding from that consultation that this bill is not comprehensive, is robust and is dangerous.

As this bill effectively is responding to one particular midwife and the resulting Coroner's recommendation, I have real fear about what this bill could do for other women and other midwives. I fear it could drive homebirthing further underground, and could result in free birthing—a practice that must be monitored very carefully. This bill could have been a great opportunity to recognise and define the role of midwives better, and give them the respect that their profession deserves. However, this bill does not do that. For those reasons, I oppose this bill in its current form, but I look forward to continuing my association with the College of Midwives and working towards legislation that does properly protect, recognise and respect their role.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:52): I thank honourable members for their contributions on this bill, even though one of them, the one from the Hon. Mr Lucas, showed an express fondness for lamentable terminological inexactitude, but verballing people is his form—we know that. It is a contribution that is on par with his past contributions, and we will discount it in the way it should be discounted.

I should just say that I do not intend to revisit the tragic circumstances that led to the introduction of this bill—that should be unnecessary. I am pleased that the parliament now has the opportunity to protect the public of South Australia by closing the loophole in the Health Practitioner Regulation National Law that allows any person to perform the clinical duties of a midwife under a different job title. I understand that some industry groups have indicated that this legislation is too limited or too localised, and the minister in the other place has responded to those concerns in detail.

Indeed, there has been a detailed consultation process and feedback: 32 submissions were received in relation to a consultation—25 submissions supported the proposal and four submissions did not. Three submissions agreed that the public should be protected from unregistered practitioners and, while the majority or submissions supported practice protection, a number of issues needed to be considered. Those issues were taken into consideration, I am advised.

The midwifery groups that have been mentioned have expressed some opposition to references in the bill to the nursing and midwifery profession. This objection is based on two issues, I am advised: first, the contemporary practice is now for midwifery to be regulated as a separate profession; and, secondly, that midwifery practice is outside of the scope of practice of a nurse. I do not disagree, but the reference to nursing and midwifery profession reflects the name of the 14 health professions defined under the Health Practitioner Regulation National Law.

The Nursing and Midwifery Board of Australia has been established to regulate the nursing and midwifery health profession. The board does this by maintaining a register that includes two separate divisions—one for nurses and one for midwives—and issuing a series of registration standards, codes and guidelines that nurses and midwives must follow. I understand the arguments put forward by the midwifery groups as to why the midwifery profession should be recognised separately to the nursing profession. However, the reference in the bill to the nursing and midwifery profession reflects the terminology of the national law.

For this bill to recognise midwifery as a separate profession to nursing would require significant change to the governance arrangements established at the national level, and this would require unanimous agreement by the Standing Council on Health. The intergovernmental agreement that established the national registration and accreditation scheme requires a review of the operation of the scheme after three years, and this review will commence in the first quarter of 2014, I am advised. I do not think I need to say any more about that.

In terms of seeking national agreement—and the Hon. Mr Lucas, in his usual sleazy way tries to drive a wedge into this debate about uniformity and national uniformity and the government picking and choosing—I put to the chamber that we really have a choice. We have a choice to wait for national agreement—and national agreement has been delayed for some very clear reasons that have been explained elsewhere—or, if there is a danger to public health and public safety, we can act. This government has chosen to act and we are acting for the very best reason, and that is that it is in the public interest for us to act in this state right now, and that is an intention that I hope this chamber will support. I commend the bill to the house.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: I put some questions to the minister in the second reading but now that he has his advisers next to him I will repeat them. The Australian College of Midwives put the position to the Liberal Party, and I guess to other members as well, that whilst they agree in principle with the regulation of midwifery practice, they believe the bill should also include the antenatal and postnatal care periods for up to six weeks. They indicate that litigation in pregnancy cases often looks at the antenatal period of the process as well. Can the minister indicate, based on his advice, the reason the government has rejected that particular position from the Australian College of Midwives? Can I add that the Australian Nursing and Midwifery Federation also supported that position.

The Hon. I.K. HUNTER: I have a long answer but I might go for the short answer and see whether that satisfies people. Essentially it is this: when you protect a practice you reduce the number of people who can access those people to provide a service. I am told that in postnatal and antenatal care—in that period—there are a number of other providers who provide services to

women. If we were to restrict the practice in the way that has been suggested, we would have to be very careful about how we were to do that without reducing further access to services for pregnant women and postpartum. Essentially that is the answer but I can give a much longer answer if it is required.

The Hon. R.I. LUCAS: On behalf of the Australian College of Midwives and the Australian Nursing and Midwifery Federation, whose views I present to this chamber this afternoon, I do seek more detail from the minister and his advisers in relation to the government's reasons. Can the minister indicate the types of other service providers he is referring to and who the government's advisers believe would be caught up in the legislation, and perhaps give an example or two in relation to some specifics of the concerns the government has?

The Hon. I.K. HUNTER: I am happy to give more detail. I am aware that the Australian College of Midwives has written to members stating that the bill before the house does not fulfil the Deputy State Coroner's recommendation to protect the practice of midwifery. As part of his recommendations, the Deputy State Coroner called for legislation that would render it an offence for a person to engage in the practice of midwifery, including its practice in respect of the management of the three stages of labour, without being a midwife or medical practitioner registered pursuant to national law.

While SA Health supported this recommendation in principle, in the following consultation process it was highlighted that to restrict midwifery, commonly defined as the continuum of care across antenatal, intrapartum and postnatal periods, could have implications for other service providers in the antenatal and postnatal periods. One of the consequences of practice protection is to restrict services to a defined group of health practitioners. While this protects the public from the risk of harm that may arise if these services were performed by unqualified or an unregistered practitioner, it does cause a reduction in the number of providers that the public may access.

There are other health practitioners, some registered and some not, who may provide services to women during the antenatal and postnatal period. Some of these services may be directly related to the pregnancy and some may not. I have been told that some women seek services such as physiotherapists and chiropractors for back pain and psychologists for their emotional wellbeing during their pregnancy. There is also a range of other health providers that may provide emotional and social support to women throughout their pregnancy, such as doulas or culturally appropriate care such as Aboriginal maternal and infant care workers. To exclude these providers from the antenatal and postnatal periods could potentially restrict the range of services available to women, particularly those in rural areas.

This does not detract from the importance of antenatal and postnatal care as part of the woman's pregnancy. The decision to exclude reference to the antenatal and postnatal period of a woman's pregnancy has not been taken lightly. It is important that women receive information during the antenatal period that is based on well-founded evidence and practice to enable her to make an informed choice about her impending birth. In conjunction with this legislation, SA Health will also be providing information to the public on safe birthing choices and will encourage women to also access registered health practitioners for their antenatal and postnatal care.

The Deputy State Coroner made reference in his recommendations to the management of these three stages of labour, and it is this that the legislation before the house addresses. It is perceived that it is in this part of a woman's pregnancy where the greatest risk to the mother and baby could occur for a person that did not hold the appropriate clinical training. The Chief Executive of SA Health wrote to the Deputy State Coroner in July 2012, advising that the legislation to be introduced will focus only on the three stages of labour. To date, no response has been received from the Deputy State Coroner, I am advised.

The decision of the South Australian government to restrict birthing practice in this legislation recognises the commencement of work at the national level for the regulation of midwifery and maternity services. The passage of this legislation will not introduce a regulatory process that will be inconsistent with the call for greater regulation of midwifery and maternity services at the national level. It will address the immediate risk to public safety of unregistered health practitioners providing birthing services in South Australia while work at the national level considers options for the regulation of midwifery and maternity services.

The Hon. R.I. LUCAS: On behalf of the Australian College of Midwives and the Australian Nursing and Midwifery Federation, I thank the minister for the fuller explanation he has now put on the record. The other key issue that was raised by both of those organisations with me relate to

their concerns that the government decided not to use, as they would argue, the international definition of midwifery for the scope of practice in the legislation. Can the minister indicate on the basis of the advice provided to him why the government believed that they could not agree with the Australian College of Midwives and the Australian Nursing and Midwifery Federation on this issue?

The Hon. I.K. HUNTER: My advice is that the international definition is a circular argument and that the definition basically says a midwife is a person or someone who undertakes midwifery services without defining what those services are. Midwifery is generally seen as covering those three stages, as I mentioned in my previous explanation, and for the reasons that I outlined, we did not want to cover antenatal and postpartum services, as well.

The Hon. T.A. FRANKS: Could the minister address some concerns that were raised with regard to what impact this legislation might have on doulas specifically?

The Hon. I.K. HUNTER: My advice is this legislation will not have any impact on doulas who currently carry out their activities. Midwives will be able to delegate to doulas as they do currently. The legislation will only impact such people were they to be designated as a primary birth carer which this legislation clearly will not allow.

The Hon. T.A. FRANKS: Also, in the government response to questions that I raised with them in the briefing on this bill I note that it was indicated that work was being commenced by SA Health for the credentialling of nurses and midwives that will allow privately practising midwives better access to public hospitals. Is there any update on that work?

The Hon. I.K. HUNTER: My advice is that change is imminent. It is currently sitting with the Crown Solicitor for advice.

The Hon. T.A. FRANKS: Finally, I know that professional indemnity insurance has been a longstanding issue with regard to midwifery. Are there any developments there? Does this bill have any impact on those particular issues?

The Hon. I.K. HUNTER: My advice is this bill will have no impact on the situation. Professionals would have to have indemnity if they practise under registered health practitioners licensing. Further to that, I am advised that work is happening at a national level and there is some determination to have a response by 2015.

Clause passed.

Remaining clauses (2 to 4), schedule and title passed.

Bill reported without amendment.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (17:08): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO) BILL

Adjourned debate on second reading.

(Continued from 29 October 2013.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:09): I rise on behalf of the opposition to make a relatively small contribution on the Statutes Amendment (Transport Portfolio) Bill 2013. The opposition supports the bill, which is a collection of simple miscellaneous amendments, all of which are practical and sensible. It primarily affects pedelec users, those who use pedal electric cycles. As summarised by the shadow minister in the other place, on one of these bikes the rider's pedalling is assisted by a small electric motor. Apparently, other jurisdictions are considering similar legislation.

This bill, as it affects pedelecs, contains a set of amendments to the Road Traffic Act. Currently in South Australia, bikes with a power output of 200 watts and under are treated as bicycles; therefore, riders do not need to be licensed, insured or registered (as motorists would). These pedelecs, though, have a greater power output of some 250 watts. Therefore, under the current legislation, they would be treated as motor vehicles. However, they do not comply with Australian design rules so they cannot be registered or ultimately used at all. These amendments

redefine the pedelec as a bicycle. Essentially, they do not need to be registered or licensed under the legislation. It is a common sense move which we support.

The rest of the bill fixes up anomalies in the Motor Vehicles Act. It perhaps would have been sensible to include these amendments in the recent graduated licensing scheme changes. As my colleague in the other place said, they are perhaps changes that have been saved up over a period of time waiting for a miscellaneous bill to wander past to rectify them.

The provisions double the time on a probationary licence when the licensee has been disqualified for a serious drinking offence but regained their licence (on medical grounds) through the mandatory alcohol interlock system. My colleague used the example of an asthma sufferer who is unable to participate in the system. The registrar is empowered to disqualify a probationary licence holder when they accrue two or more demerit points. At present, for a P-plater to be disqualified for a breach of licence, they must commit two subsequent offences. Therefore, sometimes a probationary licensee is not disqualified even though they have accrued demerit points.

The registrar will also be empowered to conduct investigations and refuse registration of a vehicle where the registrar believes part of the vehicle may be stolen. Currently, they must believe that the entire vehicle is stolen.

Another sensible change is that the ability is removed for a probationary licence holder to enter an SDA (which is a safer driver agreement) instead of a disqualification if they committed an offence while on their L-plates but were only notified of the offence once moving to their P-plates. Furthermore, people on probationary licences, whose application time for a safer driver agreement has lapsed, will not be able to appeal a disqualification anymore. Lastly, an explicit approval mechanism for photographic detection devices is introduced. This brings them into line with traffic control devices, which must be approved by the minister.

As you can see, Mr President, it is initially to licence the pedelecs and make them compliant so that people are not committing an offence when they are riding on more than 250 watts. As I have outlined, there is a range of smaller amendments to a range of acts that appear to have been scooped up, I guess, as we approach the end of the sitting year as a way to get them through and get them into the statute book. With those words, I indicate that the opposition will be supporting the bill.

The Hon. M. PARNELL (17:13): I rise to support the second reading of this bill. I want to comment particularly on that aspect of the bill that relates to electric bicycles. I will declare an interest. I am often declaring an interest here—not a conflict of interest. My wife owns an electric bicycle of 200 watts capacity, so it is a fully compliant electric bicycle in relation to the current rules. I note that the bill will in fact enable electric-assisted bicycles of up to 250 watts to be used on South Australian roads without the requirement for a licence, registration or insurance.

I also note that these 250-watt bicycles have been used on the streets of Adelaide for at least the last year or so that I have been paying attention. Not only did the federal government in I think the first half of 2012 regularise these bicycles, at least in relation to import, but certainly I know they are being sold in South Australia. I have seen them out there and they are being used.

I will just flag a couple of questions now and when we get into committee and there are some advisers present, we might get some answers. One question I would ask is: have there been any prosecutions or expiations issued to people riding 250-watt electric bicycles in South Australia? I just note, for the record, that one very popular brand is the Aseako, and all their bicycles are 250-watt bicycles. I have certainly seen them on the streets of Adelaide.

Why I think this is an important bill—and the Greens are happy to support it—is because these electric bicycles are a real boon to people who might have reached a stage in life where riding on a regular bicycle is a bit hard, but they still want to get some exercise. It is not like a motorbike, where the engine does all the work; you still have to pedal, but you can get up hills much more easily on an electric-assisted bike. For the record, the reason my wife uses one is because she was hit by a four-wheel drive while she was riding a regular bicycle, and the resulting damage to her knee means that the electric-assisted bike is a great help. We can still ride together.

The other issue I have in relation to this bill is that the regulations will provide certain limitations that need to be built into an electric bicycle before it can be lawfully ridden on South Australian roads. One is the question of the throttle. Anyone who has ridden a motorcycle will

understand that, usually on the right-hand side, you have a twisting throttle which basically makes a motorcycle go. It is a throttle.

They have throttles on electric bicycles as well, but my understanding is that if there is to be a throttle on an electric bike that will be legal under this regime it must be speed limited to six km/h. Now, I do not think there is any electric bike with a throttle that is limited to six km/h. So my question would be: is there anything in this new regime that would make currently lawful bicycles unlawful by virtue of the fact that the throttle, when you put it on, would probably get you to perhaps 12 km/h?

Just so that people understand, normally it is a pedal-assist bicycle; when you pedal the motor kicks in and helps you along. However, if you are at a standing start—and especially if you are on a hill—giving the throttle a bit of a tweak actually gets you going; it helps you start riding again, especially if you are on a slope. The throttle is a really useful part, but my understanding is that most of the throttles currently on these bicycles would be unlawful under this regime.

The second aspect is the speed limiter. From memory, I am pretty sure that the electric bicycle we have is speed limited to 25 km/h, and I understand that is proposed to be the standard. It does not mean that you cannot go faster than that; it means that if you are going faster than 25 km/h the motor does not kick in, you do not get any assistance from the motor. The motor is designed to help you only when you are travelling more slowly than that. If you are rolling down a hill at 30 or 40 km/h, then that is fine.

These two things together—the throttle restriction and the speed limiting restriction—obviously only apply when a vehicle is being driven on a public road. What you find is that most of the importers of these pedelecs (as they have been called), these electric bicycles, will offer the advice to people that if they intend to use the bicycle off-road there are some simple adjustments that can be made: first, to insert a throttle where there was not one before; and, secondly, to disable the speed limiter.

My question to the minister, when we get to that point, would be: what effect does that have on the legality of a bicycle that might be used on the road? For example, if it has a throttle that is capable of speeding the bicycle to more than six km/h, would a police officer have to prove that the throttle was in use, or is the fact of the throttle being on the bicycle enough to make it noncompliant? Similarly with the speed limiter: if the speed limiter was disconnected so that you could get the power of the engine applying to your journey above the speed of 25 km/h, do you have to have been booked at travelling above that speed or is the fact that you have disabled the speed limiter enough to make the bicycle noncompliant?

I am sure there are simple answers to these questions. The issue has been around for some time. I am putting them on the record now to give the minister's advisers a chance to look up the answers. The next thing I wanted to say is that I did get an email from a colleague completely out of the blue who was unaware that this bill was before the parliament. The email commenced:

> Hi Mark. As of tonight I have been stopped twice in two weeks by police who are apparently targeting electric bikes. I feel targeted for being green.

Now, I will accept no interjection on that point because that is exactly how I feel a lot of the time. It continues:

> Targeting electric bikes seems counterproductive to encouraging new forms of transport. Can you ask the police minister why this is suddenly so important? After three years riding a compliant and environmentally friendly transport, I do not want to feel harassed and targeted.

'Surely they have better things to do' is summarising the rest of the email. A question I would ask is not just whether the police have been looking at bicycles that are currently noncompliant, specifically those that are 250 watts or more, but is there any other campaign looking at electric bicycles? I should say that I did receive a follow-up email from this constituent and, to balance the record, he said he was riding on Sydenham Road in Norwood:

> Early Sunday morning I was riding to church and a guy was using a blower vac. The policeman apologised to me after he had pulled me over because he said he mistook the blower vac for my bike.

I make the point that this legislation does not legalise those shocking noisy mini petrol-powered bicycles that you hear before you see. I think they are not the way of a transport future. They are not very green at all. I think they are probably a 50 cc motor, but they make an absolute racket and this bill does not legalise those. I put on the record that the electric bicycles we are talking about

are effectively silent. The puffing of the rider and the noise of the tyres on the road are about all you hear.

The final thing that I will say is to commend the government for their website. There is a section on the SA government website titled Riding a Power Assisted Bicycle. It is a useful website. It points out the current rules, including the 200-watt limit, but it also usefully points out that while petrol-powered bicycles are not covered, neither too are electric scooters. I do not know whether people have seen them. They look pretty much like a Vespa or a little step-through scooter, but they have got an electric motor and, in a vain attempt to be compliant, they have pedals. The pedals are spaced so far apart that, unless you have training as a clown in a circus, you could not possibly reach them given the height of the seat and the width of the pedals. They are put there to effectively pretend that it is an electric bicycle when, in fact, it is better classified as a motorcycle.

I think from a consumer point of view the government has done well to point out that those types of vehicles are not compliant. With those comments, the Greens will be supporting this legislation, and I look forward to the answers to those questions when we get into the committee stage.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (17:23): I do not believe that there are any further second reading contributions to this bill. I want to thank honourable members for their contributions and their indication of support and look forward to dealing with this expeditiously through the committee stage. I know there are questions that have been posed which we will answer during the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. G.E. GAGO: I do have answers to some of the questions. In relation to the question about expiations, we have no statistics with us at the moment on that, so I will have to take that on notice. In relation to the issue about imports, it is legal to import these bikes into Australia, but in South Australia it is illegal to use them on roadways; this bill obviously seeks to address that. In relation to speed limiters and throttles, this bill does not change any existing arrangements or definitions; it just introduces pedelecs. So, whatever existing arrangements relate to the use of speed limiters and throttles will remain the same.

The Hon. M. PARNELL: I thank the minister for those answers. I should also say that I did take the opportunity to ring the distributors of one of these 250-watt bicycles, and their advice was that they had not been getting complaints about being pulled over by police and challenged about the capacity of their bicycle. I do not necessarily know all of the owners of these bicycles, so maybe those electric bicycle riding readers of *Hansard* will get back in touch, but I am hoping that is right. I look forward to the minister's answer about whether people have been prosecuted, which I am happy to receive after we have concluded the debate on this bill.

The minister's answer in relation to the throttle and the speed limiter, again, if the minister is able to get additional information, I would appreciate seeing it. It strikes me that a police officer would have to be able to inspect the electrics and determine that the speed limiter had been disabled. It would be much the same as someone who has illegally modified a motor car or a motorcycle, I imagine, because people can easily get the instructions for disabling the speed limiter for off-road use, which is entirely legal.

Presumably, unless they reactivate the speed limiter, they are not supposed to ride it on the road again. I do not imagine that anyone who has gone to the trouble of deactivating the speed limiter is going to reactivate it because all of a sudden they are on a public road. The throttle is a little bit different. Presumably the test is quite simple. A police officer would test the throttle and, if it takes you faster than 6 km/h, which is brisk walking pace, presumably you are in breach of the law. If the minister does have any additional information, I am happy to accept that after the conclusion of the debate.

Clause passed.

Remaining clauses (2 to 16) and title passed.

Bill reported without amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (17:30): I move:

That this bill be now read a third time.

Bill read a third time and passed.

DISABILITY SERVICES (RIGHTS, PROTECTION AND INCLUSION) AMENDMENT BILL

In committee.

Clause 1.

The Hon. K.L. VINCENT: I would like to begin by saying that Dignity for Disability was very pleased to see the reference to the United Nations Convention on the Rights of Persons with Disabilities included in clause 12 of this bill. Members may recall that the inclusion of the convention was something that I hoped to do in my own disability services amendment bill when it was first drafted. However, I was at that time dissuaded from doing so on advice from parliamentary counsel. Suffice to say I am glad to see that we now have a federal precedent for including the convention in legislation, namely, in the National Disability Insurance Scheme Act, and it now seems possible to reference the convention in state legislation also. This is a pleasing move forward.

I have lost count of the number of times that I have referenced the UNCRPD on behalf of Dignity for Disability in this very parliament, and I do that referencing for good reason. I believe that any legislation not centred on the rights, needs and abilities of the people it is written for is essentially poor legislation and so it is important to include these reminders of those people in any legislation that we pass. For this reason, I am hopeful that this inclusion of a UN convention in a bill may be the first of many in this state.

This is one of only a few respects and intent in which this piece of legislation reaches further than Dignity for Disability's bill introduced to this place some time ago. Many of the ideas contained in this bill and the government's other policy announcements in this area of disability of late are ideas that were contained in my private member's bill. Expanding the community visitors scheme to include the disability sector at large is one such initiative, as is the introduction of a senior practitioner to oversee the use of restrictive practices—a matter I will return to later.

The rights of people with disabilities is an area in which I have obvious and significant interest. It is the area of public policy that in many respects propelled me to my role in this very place and an area that consumes the vast bulk of my officers' time and resources, to say the least. Members will recall that the main reason for my moving the bill at the time I did was to put forward a proposal to break the government's long silence on the issue of that time.

Members are also probably aware that a renewal of the state's Disability Services Act 1993 was most recently recommended in the Strong Voices report of 2011. I am pleased that this proposal has sparked passionate debate and honest discussion—although the discussion has taken a little too long at times—about how we as a parliament move legislation concerning the rights of people with disabilities to a place where it will not only provide better supports to these people now but also be easily adaptable and applicable to the foreseeable future.

The measures in this bill, as well as the other recent changes that I have mentioned, such as the expansion of the Community Visitors Scheme, are steps towards this and are measures for which Dignity for Disability has long been advocating, as our record in this parliament and in the public arena will demonstrate. Frankly, it would be very easy for me to embark on a rambling journey down the winding path of negative politics, arguing about whose bill is better, who got there first or whose name should go where. What is harder sometimes, and what is right, is to hold my head up high, knowing that Dignity for Disability's tireless and ongoing advocacy and willingness to put working effectively ahead of inflating egos has helped lead the bill before us, and the important move toward change that it represents.

Members are aware that I will be moving amendments to this bill to insert into it a clearly defined role and powers of the senior practitioner. These amendments are very similar to the description of the senior practitioner in my own bill. The intent is to define the role and the things to be considered 'restrictive practice', including physical and chemical restraint, such as forced overdosing of medication to control what may be deemed challenging behaviours, as well as restraint and seclusion of people with disability.

The reason for wanting to define this role in legislation I suppose is twofold, the first being the concern Dignity for Disability holds that, without having the role protected in legislation, it could be all too easily altered at the whim of government or lost to the different priorities of a new government. The second is our concern that a lack of definition of the role essentially at once gives the practitioner limitless powers and none. We think it is vital that the practitioner is viewed as a statutory role and not as a single person. While I in no way wish to insinuate that I believe there is any evil intent in this role—and it is widely known that I have great respect for the person who currently holds that role (Professor Bruggeman)—I do think it is important that each person who may come into that role over time have a clearly defined standard by which to work so that we do not encourage overzealousness or excuse inaction.

The government has insisted, when I have raised this issue previously, that the role could be governed by regulation, emphasising the importance of flexibility. To my mind the very important thing about rights is that they are, at least to some extent, inflexible. Rights have a tendency to be cut in absolute terms, and I am reluctant to accept that my rights as a person with disability, or anyone else's, should be regarded as more flexible than the rights of women, or as a citizen of this country or in fact a human being.

If, after a time, the legislation governing the role of the senior practitioner needs to be changed for any legitimate reason, then the parliament of the day has a duty to change it but I do not think that we should simply 'suck it and see' in this instance. I would certainly encourage all members to support the amendments that I believe they have before them in that regard.

It is also important to point out that this is, in many respects, a very good piece of legislation that is long overdue and has what some may call very noble aims. It is not, however, perfect and, even if it were, it would not serve as a panacea for all the social and systematic ills that affect people with disabilities in our community presently.

People with disabilities still face enormous difficulties, to say the least, in accessing housing, support services, equipment, public transport and a vast range of other areas. This bill, for example, will not make our buses more accessible or the workplace more ready to accept people with disabilities. People with disability are still subject to abuse and are victims of violence and sexual offending at a far higher rate than the general population. If they report those offences they still face significant barriers accessing the justice system. People with disabilities face similar barriers and experience similar exclusion when attempting to access employment, as I just said.

This bill is a start; it addresses the need to protect some of the most basic rights in some context. It is a good start but there is much work that still needs to be done. We, as a parliament, have a duty not to rest on our laurels even if we do pass what is essentially a good bill with this piece of legislation before us.

As the Aboriginal Rights Movement did not end, thankfully, with the now famous apology, our movement and our work as a parliament on these issues does not end here. I hope that this bill might serve to spur on what will lead to further gains and I look forward to working towards those with or against—whatever is necessary—the government of the day. I commend the bill to the council.

The Hon. T.A. FRANKS: I rise to state the Greens' position on the Disability Services (Rights, Protection and Inclusion) Amendment Bill 2013 at clause 1, and I thank the minister for providing me with that indulgence. The Greens support the bill before us. I would particularly note that we are very pleased that it references the United Nations Convention on the Rights of Persons with Disabilities and, indeed, enshrines the right of people with disability to exercise choice and control in relation to their decision-making, and reflects other national and state discrimination legislation and progress, and mandates a requirement for disability service providers to have accessible and well-publicised complaints and grievance procedures. It also provides protections for those who complain or report bad treatment from victimisation and mandates a requirement for disability service providers to have in place safeguarding policies and procedures.

It further provides a power to enable the Minister for Disabilities or the relevant minister to make regulations covering the issue of reporting on outcomes with a view to monitoring and acting and certainly addressing the need where it is identified. I want to particularly thank minister Piccolo for the extensive consultation process that was undertaken by him and his office. The minister has worked long and hard to get this bill here. I acknowledge that he was not the first minister to be working in this area. I acknowledge minister Hunter, who is currently in a different portfolio area, and thank him for his contributions in previous incarnations in this role and, indeed, minister

Rankine. It has been a long time coming. I know the Greens share the frustrations of those who would have liked to have seen this legislation well before now.

I also thank David Caudrey, the Executive Director of Disability SA, and Barbara Weis, Director of Policy and Planning for providing my staff with a briefing on this particular bill. I thank the various stakeholder groups who provided their comments to my office, in particular Phil Farrow, Executive Manager at Bedford Group, Dr Greg Ogle, Senior Policy Officer at SACOSS and Andrew Daly, the Executive Director of the Royal Society for the Blind, among many others.

We are very pleased, as I said, to see the references in this bill to the United Nations Convention on the Rights of Persons with Disabilities. In July 2008, Australia ratified that convention and I am very pleased that this is the first time we have seen it in our legislation here in South Australia. There are principles there of inherent dignity; individual autonomy, including the freedom to make one's own choices and independence of persons; nondiscrimination; full and effective participation and inclusion in society; respect for difference and acceptance of persons with disabilities as part of the human diversity in humanity; equality of opportunity; accessibility; equality between men and women; and respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

I do acknowledge the tireless efforts of the Hon. Kelly Vincent in this area. Her private member's bill, I believe, played no small part in the legislation that we have before us, and her role in this chamber has been something that I think as a state we should be very proud of in terms of the voice of people with disabilities in our legislature. I understand that, along the way, there had also been quite a few concerns raised by the sector with the current minister Piccolo, particularly with regard to choice and control and decision-making, and that they have been addressed in the legislation that we have before us from earlier drafts. It is a far-advanced bill on previous government drafts. As I say, the human rights framework that it has embraced is a very welcome move forward.

As the member for Morialta did in the other place, I also acknowledge the work of not just advocates in the disability sector but also the political parties who have not only contested elections, as Dignity for Disabled did, and who have indeed won elections, as Dignity for Disability has done, into this parliament. I pay particular tribute to Dr Paul Collier, who may well have been on these benches, and certainly I think that the efforts of Kelly Vincent have done the vision of both that political party and I am sure Dr Paul Collier proud in this place.

I will not take up too much of the council's time, as I know that we would in fact like to see this bill passed. With that, I reiterate the Greens' support for this legislation. I do, again, express a concern that it has taken a very long time to get here, but now that it is here, let's get on with it and let's see it appropriately implemented, enforced and improved as we go.

The Hon. S.G. WADE: Thank you, Mr Chair. I might seek your guidance, too. I understand that the council might be inclined to report progress later in the bill. I have an issue relating to clause 12. I just thought it might assist the minister if I foreshadowed it now and then he might be able to consider it.

The Hon. Kelly Vincent and the Hon. Tammy Franks have both highlighted the fact that this bill references the United Nations Convention on the Rights of Persons with Disabilities. I, too, welcome that, because it reflects an increasing rights focus in our approach to disability services. I, too, welcome the legislation but I think it is important that we understand what real entitlements are being given to people with disabilities.

By way of background to my question, my understanding is the relevant piece of legislation at the state level in relation to the application of international law is the Administrative Decisions (Effect of International Instruments) Act 1995 which says in section 3(1):

> An international instrument (even though binding in international law on Australia) affects administrative decisions and procedures under the law of the State only to the extent the instrument has the force of domestic law under an Act of the Parliament of the Commonwealth or the State.

My reading of this bill, and for that matter the second reading of the minister, is that:

> *The United Nations Convention on the Rights of Persons with Disabilities* adopted at New York, United States of America, on 13 December 2006, is recognised as a set of best practice principles that should guide policy development, funding decisions and the administration and provision of disability services.

My understanding is that that is an aspirational statement in terms of how the government and the parliament aspires that we would engage with both legislation and services for people with

disabilities. I ask the minister: is it the government's view that the reference in clause 12 (which will relate to schedule 1) will have any effect under the Administrative Decisions (Effect of International Instruments) Act 1995? In particular, I ask whether there will be any right for people with disabilities to challenge decisions under administrative law on the basis of the legislative revision that is before us.

The Hon. I.K. HUNTER: In response to the honourable member's question, my advice is—and I think he said quite correctly—that section 12 is written in aspirational terminology. It is there in a sense to guide the way we do our business as a government, the way we write our policies. My advice is that there is no sense in which this act will bind any particular person to the United Nations statement. That is a matter for the commonwealth government, but it is a guiding principle for how the government would see the whole disability services industry (government run and NGO run) abiding by, but they are the core principles that we would expect our new processes to enact.

The Hon. S.G. WADE: I thank the minister for the response. I mildly challenge the minister's response to the extent where he talks about international instruments being a responsibility of the federal parliament. When it comes to the social elements of international law, considering that this parliament and this level of government is so rich in human services, one would expect that a lot of the human rights legislation would be relevant to our local laws and services. I reflect in that sense on the number of pieces of legislation that the library has been able to identify for me in South Australian law that already recognise international law. What I found interesting about the list is that they are overwhelmingly economic; in fact, I can only see one that is social legislation.

For example, the following South Australian acts refer to international instruments: the Fair Work Act; the Sale of Goods (Vienna Convention) Act; the Protection of Marine Waters (Prevention of Pollution from Ships) Act; the Petroleum (Submerged Lands) Act; the National Environment Protection Council (South Australia) Act; the Motor Vehicles Act; the Marine Safety (Domestic Commercial Vessel) National Law (Application) Act; the International Transfer of Prisoners (South Australia) Act; the Heavy Vehicle National Law (South Australia) Act; the Environment Protection (Sea Dumping) Act; the Electronic Transactions Act; the Constitutional Powers (Coastal Waters) Act; and the Civil Aviation (Carriers' Liability) Act.

The only one that I could see in the social domain was the Adoption Act. All of those pieces of legislation reference international instruments, and I welcome and expect that because we are a state parliament which has, shall we say, an awesome responsibility, an onerous responsibility, if you like, to provide legislation and services that impact on the social dimensions of people's lives.

It may well be that in years ahead our parliament will be attracted to, shall we say, more explicit references to international instruments in disability legislation and other pieces of legislation. I certainly welcome the addition of this particular clause because I think it does remind us of our responsibilities. As the act itself says, this is best practice, and I commend the government for including that clause.

It will be interesting to see how it actually works out in practice. I am sure that the Hon. Kelly Vincent and other members of this place will not hesitate to remind whichever party forms government that we have put this down in the legislation and we have indicated that that convention is relevant to, if nothing more, our self-assessment of our performance in providing support for people with disability.

The Hon. I.K. HUNTER: I largely concur. I do not even feel mildly challenged by the Hon. Mr Wade's statements. I think we agree. Just for clarification, the international agreements are the responsibility of federal parliament to enter into. That was the intent of my previous explanation. Certainly human rights legislation is relevant to our local laws and our service provision. We indicate how we intend to deliver state government provided services by reference to this international instrument, but section 12 certainly is not creating a legislative head of power that would have any other work to do at all.

Clause passed.

Clauses 2 and 3 passed.

The ACTING CHAIR (Hon. G.A. Kandelaars): We have an amendment in the name of the Hon. Kelly Vincent to insert a new clause 3A.

The Hon. I.K. HUNTER: Mr Acting Chairman, my understanding is that the Liberal opposition have indicated that they are not at this stage prepared to proceed after the amendment stage, so I am relatively relaxed as to whether we ask Ms Vincent to move her amendment and then report progress or report progress now.

The Hon. K.L. VINCENT: That being the case, in my mind it would be better to move my amendment at a time when we have the full attention of the committee and everyone is prepared to proceed.

Progress reported; committee to sit again.

ELECTORAL (LEGISLATIVE COUNCIL VOTING REFORM) 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) (17:59): I table a copy of a ministerial statement relating to the Electoral Act made earlier today in another place by my colleague the Deputy Premier.

[Sitting suspended from 17:59 to 19:47]

YOUNG OFFENDERS (RELEASE ON LICENCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 October 2013.)

The Hon. S.G. WADE (19:48): I rise on behalf of the Liberal opposition to indicate our support for the passage of the Young Offenders (Release on Licence) Amendment Bill 2013. As the Hon. Mark Parnell reminded me, this has nothing to do with the Hon. Kelly Vincent.

This bill was introduced by Attorney-General John Rau on 17 October 2013 in response to a court action by the convicted killers of a young Sudanese person, Akol Akok, who was killed in 2009. The offenders are attempting to use a provision of the Young Offenders Act to apply for release on licence, despite receiving life sentences and not yet having served their nonparole period. These licence provisions only apply to young people serving their sentence in juvenile detention, and this is the first time that an application has been lodged under the provisions in the act.

Although the laws were introduced in response to a particular matter, the legislation would apply generally to all offenders in that situation. As such, it should not offend the principle against legislating for specific persons.

In 1998, South Australian courts determined that youths convicted of murder should be sentenced as adults, which includes having a minimum nonparole period of 20 years. Murder is, of course, one of the most serious crimes that can be committed. It is appropriate that those who commit murder are treated as adults. The bill seeks to make this practice of the courts explicit in legislation. The bill will ensure that youths convicted of murder are sentenced as adults and it will remove the possibility of young people convicted of murder being released on licence.

The bill has retrospective effect to allow the new legislation to operate on the offenders who have already applied for release on licence under the current act. It goes without saying that the Liberal Party is cautious in supporting any retrospective provisions; however, in our view, it is acceptable in this case as parliament is fundamentally reaffirming what was generally considered to be the law.

Just yesterday I was advised that the government intends to move amendments to the bill. The first is to replace the phrase 'taken to be sentenced as an adult' with 'dealt with as an adult' to ensure the consistency of language throughout the legislation. I understand that the suggestion was made by the Chief Justice. The second is to ensure that the mandatory nonparole period in section 32 of the sentencing act 1988 does not apply to youth even when they are being dealt with as an adult. The opposition supports these amendments but I should indicate the opposition's concern about the lack of prior notice.

The Attorney-General had sought written confirmation of the opposition's support of the bill and we gave it, but then further amendments arrived without warning. In the past, the government has provided us with prior notice of amendments even when they are still being considered by the

government, and that has facilitated the Liberal Party party room consideration of amendments in an orderly fashion, but that course of action was not taken in this case.

The opposition accepts the urgent need to pass this bill before a court hearing on 25 November. The opposition acknowledges that the bill has not received universal support. The Aboriginal Legal Rights Movement considers that it is inappropriate to introduce retrospective and reactive legislation in a particular case, to use their words. The ALRM also does not see this bill as providing adequate opportunities for rehabilitation and, thereby, in their view, it is contrary to Article 40 of the Convention on the Rights of the Child. Nonetheless, the opposition supports this bill and the amendments to it.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (19:52): I believe there are no further second reading contributions to this bill and I would like to thank the opposition for contributing to the debate. I do not know whether there were any other contributions. If there were, I thank those members as well. This bill is designed to address an issue with the Young Offenders Act that the government has only recently been alerted to. The bill has been drafted not because of one or two cases but because the issue identified raises a point of general principle. The point is that a youth convicted of murder should not be entitled to be released from detention before the expiration of his or her nonparole period.

In the other place, the opposition sought information concerning just how many young offenders are detained in juvenile facilities for murder, and details of their sentences. I can inform the council that there are currently a total of seven youths in the Adelaide Youth Training Centre serving life imprisonment for murder with nonparole periods as follows: 15 years; two at 20 years; one at six years, two months; five years, two months; eight years, two months; and six years. Of these seven, two have filed applications under section 37. This bill fixes a drafting oversight when the policy changed concerning young offenders and nonparole periods. It was never intended that a young offender convicted of murder and sentenced to life should have the benefit of both a nonparole period and a potential release on licence, so I commend the bill to members.

Bill read a second time.

In committee.

Clause 1.

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

Amendment No 2 [AgriFoodFish–1]—

Page 2, lines 3 and 4—Delete '*Young Offenders (Release on Licence) Amendment*' and substitute:

Statutes Amendment (Young Offenders)'

This amendment changes the name of bill. I test the will of the chamber. This amendment is due to the fourth amendment, which amends the Criminal Law (Sentencing) Act. Would the committee like me to talk to the fourth amendment so people understand the context of why we need this amendment?

The CHAIR: Is everyone happy with that? Thank you, minister.

The Hon. G.E. GAGO: It is a substantive issue. The fourth amendment, which is the reason we need to move amendment No. 2, addresses the application to youths of section 32 of the sentencing act. It is the government's intention to leave undisturbed the court's current practice on how section 32 of the sentencing act is applied to a youth sentenced in accordance with section 29 of the Young Offenders Act. Section 32 of the sentencing act is triggered when a youth is dealt with as an adult under section 29.

The Full Court of the Supreme Court has determined that the mandatory minimum nonparole period provisions in section 32 do not apply when sentencing a youth. Therefore, out of an abundance of caution, to ensure that the current court practice is not disturbed, a decision has been made also to amend section 31A of the sentencing act to state that those provisions in section 32 that deal with mandatory minimum nonparole periods do not apply in relation to youth. I understand that it was the Chief Justice who raised this issue and drew this to our attention, and we have responded accordingly. Therefore, we need to amend the Criminal Law (Sentencing) Act and as a result the name of the bill has to be changed.

The Hon. S.G. WADE: Could I clarify? I thought the Chief Justice was concerned about amendment No. 3, the consistency of phrases. I thought this was the internal debate within the department.

The Hon. G.E. GAGO: I am advised the Chief Justice did indeed raise the issues in relation to amendment No. 3, but he also asked the question as to whether the government's intention was to disturb the practices of the court, and the answer is no, so therefore amendment No. 4.

The Hon. S.G. WADE: As I have indicated in the second reading stage, the opposition does support this, but considering that this is a court-initiated practice (I understand it was 1998) and the goal of government is to actually not disturb the practice of the court, I would have assumed that the safest course of action was to let the courts continue in their practice and not to attempt to codify. Could the government explain why it thinks that the best way to continue the practice of the court is for the parliament to meddle?

The Hon. G.E. GAGO: I have been advised that the reason we have taken this approach is that concerns were raised that by amending section 29 we might somehow change the approach of the court, so therefore amendment No. 4, through an abundance of caution, makes that very clear.

Amendment carried; clause as amended passed.

Clause 2 passed.

Clause 3.

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

Amendment No 3 [AgriFoodFish–1]—

Page 2, line 14 [clause 3, inserted paragraph (b)]—

Delete 'will, for the purposes of this or any other Act, be taken to be sentenced as an adult' and substitute:

must be dealt with as an adult

Under the bill, section 29(4) was being amended to refer to a youth as 'be taken to be sentenced as an adult'. In consultation with the Chief Justice, he expressed a preference that section 29(4)(b) be consistent with the remainder of section 29, as well as consistent with sections 36 and 41 of the Young Offenders Act. As such, the government amended changes so that section 29(4) refers to a youth 'be dealt with as an adult'. In addition, the Chief Justice was concerned about the insertion of the phrase 'for the purposes of this or any other Act'. The government agrees that this phrase was unnecessary and this amendment removes that.

The Hon. S.G. WADE: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Clauses 4 and 5 passed.

New clause 6.

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

Amendment No 4 [AgriFoodFish–1]—

Page 3, after line 3—Insert

Part 3—Amendment of *Criminal Law (Sentencing) Act 1988*

6—Amendment of section 31A—Application of Division to youths

(1) Section 31A—before subsection (1) insert:

(a1) The following provisions of this Division do not apply in relation to a youth (whether or not the youth is sentenced as an adult or is sentenced to detention to be served in a prison or is otherwise transferred to or ordered to serve a period of detention in a prison):

(a) section 32(5)(ab);

(b) section 32(5)(ba);

(c) section 32(5a);

(d) section 32A.

(2) Section 31A(1)—delete 'This Division does' and substitute:

The remaining provisions of this Division do

I have already explained what this amendment is about to the chamber.

The Hon. S.G. WADE: The opposition supports the amendment.

New clause inserted.

Schedule passed.

Long title.

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

Amendment No 1 [AgriFoodFish–1]—

Long title—After '1993' insert 'and the *Criminal Law (Sentencing) Act 1988*'

This amends the long title of the bill to insert reference to the Criminal Law (Sentencing) Act. This change is needed because of amendment No. 4.

The Hon. S.G. WADE: The opposition supports the amendment.

Amendment carried; long title as amended passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (20:06): I move:

That this bill be now read a third time.

Bill read a third time and passed.

MINING (ROYALTIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 October 2013.)

The Hon. R.I. LUCAS (20:07): The Liberal Party supports the second reading of the Mining (Royalties) Amendment Bill. The member for Waite has adequately outlined our position on the bill during the debate in another place. It is a relatively simple bill. The bill seeks to change the timing of mineral royalty collections from producers with an expected royalty obligation of greater than $100,000. The measure was first announced at the Mid-Year Budget Review in December of last year. The legislation was not introduced until seven months later in July of this year and, of course, we are now debating it in the Legislative Council in November. So, it is almost a full 12 months since it was first announced as a budget measure in the Mid-Year Budget Review last year.

The government's intention, as it outlines in the second reading explanation, is that the bill is seeking to align large mineral producers' royalty payment arrangements with those of petroleum and geothermal producers who already pay their royalties monthly. The big miners or mineral producers currently pay royalties biannually. At present, they pay their royalty on 31 January and 31 July in biannual bulk payments. Transitioning to this new payment schedule will require monthly payments to government.

The original explanation says that, while the 31 July 2013 payment will proceed as required for the retrospective six-month period from 31 January 2013, the bill will bring forward the obligation to pay throughout this financial year to a monthly basis after the proclamation. The minister told the house that 30 mine operators would be affected but later on, I understand, according to the member for Waite, that advice was subsequently changed to 21 operators being captured by the measure.

It is essentially a timing issue. There are, or will be, significant cash flow problems, of course, for some miners, because they would be expecting to pay, as has been outlined, six months, in essence retrospectively, and now they will be paying on a monthly basis, which therefore, in terms of cash flow, brings forward six months' worth of payments on a phased basis, forward in terms of their royalty payment obligations.

The original explanation was that the normal payment would be paid in July of this year and then on proclamation of the bill, instead of the January 2013 payment there would be monthly payments. The question that needs to be put to the government, given the late passage of this bill and its proclamation, is what the government's intentions are. Is it going to retrospectively seek four or five months of payment, or is it going to leave the current arrangements until January 2014 and then commence monthly payments after that? It is an obvious question, which I am sure the minister and the minister's advisers will be in a position to outline to the committee.

It does come at a difficult time for the mining industry. I do not propose to spend an inordinate amount of time. The member for Waite highlighted, when he debated the bill, some of the recent announcements: Terramin announced their Angas zinc mine would go into abeyance, the mineral explorer UXA Resources ceased trading, and OZ Minerals announced 61 jobs being cut from their Prominent Hill operation. He mentioned those. Of course, today we have seen the announcement in relation to Honeymoon and the potential loss of 70 jobs from the Honeymoon mine site as well. It does come at a difficult period. It will involve some cash flow issues for some companies, but the Liberal Party, as the member for Waite has outlined, has indicated that we will not be opposing the legislation.

The PRESIDENT: The very casual, but still honourable, Mr Brokenshire.

The Hon. R.L. BROKENSHIRE (20:13): Mr President, you are very kind and very good at your job. I do not apologise for not wearing a tie at this time of the night. I will be speaking to the union if they force us to wear ties in this chamber at this time of the night. This bill, in effect, is purely about bringing forward mining royalty revenue to assist the state budget position—$31.6 million this financial year. The royalties are to be taken from the bigger miners and given the lack of protest heard from the South Australian Chamber of Mines and Energy about this bill, presumably this is something it is willing to accept.

However, the question is: should this parliament accept when looking at the question of royalties that a bonus payment of royalties to this government for its general budget is the only question that exists on mining royalties? Family First believes, and I suspect many colleagues on all sides of the house believe, that royalties for regions is something that we have to discuss. The proposal that we have put up, with some amendments, is for 25 per cent of mining royalties to be dedicated for expenditure in regional South Australia.

Royalties for Regions has yielded billions per annum in Western Australia; I acknowledge that it would not do that here yet, and I hear what the Hon. Rob Lucas has said about the situation with mining right at the moment. Notwithstanding that, it could in the future, and hopefully, provided it can integrate properly with agriculture, agriculture and mining will be two very important aspects of South Australia's future economy.

Speaking of the future, the Premier's version of royalties for regions is a future fund. He said we would have legislation for that, and so far we have not, with 1½ weeks to go before we rise for the ultimate 15 March 2014 election. With respect to the future fund, I think it is a bit of a magic pudding for all sorts of things. Some people in my area would describe it as a crock and I would have to agree with that, and I will explain why.

This future fund will include projects for the city, not just for the country, unlike royalties for regions, and only with the caveat that this government or future governments—but particularly given that this has been announced by this government—returns to surplus, which I understand it has failed to do in meeting its forward projections for some eight years.

Royalties for regions is a future fund for all South Australians. It improves the infrastructure in regional South Australia to bring even more primary production wealth through the ports and for the benefit of all South Australians. On top of that, it also leaves 75 per cent of all mining royalties for, in effect, metropolitan Adelaide. The proposal that Family First is putting up does not deny the city and metropolitan area of 75 per cent of all royalties, but it does enshrine in legislation 25 per cent of the royalties from mining going back into the regions.

The royalties for regions proposition does not make a significant hit on the present state budget: it is for the future, and will by 2016-17 projected be between $40 million and $70 million per annum into the fund. That figure will vary widely as we do not know what projects will come onstream by then. One project that is attracting considerable attention is the Hillside mine by Rex Minerals on Yorke Peninsula, south of Ardrossan. I am on record about my position on that mine.

The government has said that it will deliver $600 million in royalties over its 15-year lifetime, and we do know that it has been estimated that the Olympic Dam expansion will deliver $190 million per annum in extra royalties. My critical point, as a way of foreshadowing a second amendment to come on this bill, is that Family First believes that a farmer who can prove they are adversely affected—prove loss—by mining operations in the form of mineral extraction—not exploration, but actual extraction, because we know the numbers are not there on this front—they ought to have a statutory right no different to a farmer who is on the land where the operations are occurring.

A farmer, for instance, might be on the downwind side of a mine where the dust is ruining his or her crops, but the farmer on the property is not affected at all as they are upwind. It is a crude example, but it demonstrates the injustice of how the compensation provisions of the act operate at present. I will speak further to that amendment at committee stage, but I do foreshadow that amendment by informing the council that I will potentially need leave to the council to move that amendment, and I ask colleagues to begin to consider that when they receive that second amendment.

Mining revenue and royalties have of course been the subject of significant federal debate, with the former Labor government's mineral resources tax (later the resources super profits tax), an adjustment to the Henry review recommendations on mining taxation. The new federal government, which is sitting for the first time today, says it will repeal the tax. No doubt the new Queensland member for Fairfax, Mr Clive Palmer MP, as he takes his seat in Canberra this week, will be keen to see that happen.

The live debate in this nation is about the revenue that is returned to taxpayers from mineral extraction. I have seen from the Australia Institute's suggestions that the profit margins for miners are far, far greater than farmers, retail businesses and any other sector of the economy. Perhaps state and national governments allow that because of the risk in capital-raising and investment needed to get a mine started. Notwithstanding that, Family First believes we should see more of our mineral wealth being returned to our taxpayers but emphasise that, with our amendments to this bill, the amount taken is not increased. We simply want to better allocate it to where it comes from—namely, the state's regions.

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) (20:20): I thank honourable members for their second reading contributions and their indication of support for this bill and notice of amendments. I look forward to this being dealt with expeditiously through the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: I asked some questions in the second reading debate. I am just wondering whether the minister and her adviser are in a position to answer those.

The Hon. G.E. GAGO: I think the Hon. Rob Lucas asked when monthly payments were going to start to be made. I have been advised that monthly payments will only start once the legislation has passed, and there is no retrospective adjustment. If the amendment is passed in November, then in December—by 31 December—the first monthly payment will be made in accordance with the schedule that will be forwarded.

The royalty payment for the period July to November will be made as per normal as part of the six-monthly mining return process currently in place. Likewise, if we amend the legislation to say that it comes into play on 1 January, then at the end of January we will receive the mining return and royalty payment as per usual—the royalty being for the period July to December—and the first monthly payment will be made at the end of February.

The Hon. R.I. LUCAS: Can I just clarify that, because the second option seemed to be the simplest option. In essence, the old system operates where you have a six-monthly payment under the old system paid in January and then the monthly payments would start in February, but can I just clarify what the first alternative was? The minister was, in essence, saying that there would be a monthly payment in December and then the four payments—July through to November—would be paid in a block in January.

The Hon. G.E. GAGO: Obviously our preference and intention is to have this bill passed this week which means that if the amendment is passed in November, then in December (by 31 December) the first monthly payment will be made in accordance to the schedule that will be forwarded and the royalty payment for the period of July to November will be made as per normal as part of the six-monthly mining return process currently in place. So the second option was only if the thing is delayed, so we will be optimistic.

The Hon. R.I. LUCAS: I understand what the minister's adviser is saying there but, in essence, is the government's position that—and assuming this bill is going to pass this week, which clearly it is—the current arrangements in relation to the biannual payments remain possible? That is, once this bill passes I thought we would move to monthly payments and the biannual payment authorisation would disappear. What the minister seems to be saying is, 'This bill will pass, we will start the monthly payments for a month, and then somehow we will revert to the old legislation,' which I thought we were getting rid of, 'for biannual payments in retrospect.' That is, we will have a monthly payment under the new system and then we will have a four or five-monthly payment in retrospect in January and then we will start the monthly payments again in February. Maybe the minister's advice is that both systems remain possible under the legislation that we have; that would appear to be the only logical explanation to what the minister says is now possible.

The Hon. G.E. GAGO: It is really quite straightforward. If this bill were not taking place, normally what would happen is these miners would pay their royalties for the period of July through to December and they would pay that in January. If we pass this bill, the miners will still need to pay their royalties for the period of July through to November as part of their normal payment process in January, so they will still need to do that.

The Hon. R.I. LUCAS: Mr Chairman, I do not want to belabour this. I understand the minister's advice but it would appear that the minister's advice is that in essence, whilst removing the monthly payments, there is still the authority somehow in the legislation to collect the five-monthly requirement from July through to November in the lump sum in January. Clearly, that is the minister's advice and, if that is correct, I understand that and accept it.

The Hon. G.E. GAGO: The honourable member's understanding is correct. It does this because the bill allows for a true-up or a settlement for each half yearly period. Just to remind the chamber, this is only affecting 21 of the 300-odd miners. The rest of the 200-odd will be paying as per usual.

Clause passed.

Clauses 2 to 3 passed.

New clause 3A.

The Hon. M. PARNELL: I move:

Amendment No 1 [Parnell–1]—

Page 2, after line 9—Insert:

3A—Amendment of section 9AA—Waiver of exemption (including cooling-off)

(1) Section 9AA(9)—delete subsection (9) and substitute:

(9) On an application, the ERD Court may—

(a) if the mining operator satisfies the Court that—

(i) exceptional circumstances exist justifying the carrying on of mining operations on the exempt land; and

(ii) the adverse effects of the proposed mining operations can be appropriately addressed by the imposition of conditions on the mining operator (including the payment of compensation to the respondent),

make an order waiving the benefit of the exemption for the respondent and imposing conditions on the mining operator; or

(b) if the Court is not so satisfied—refuse the application.

In moving this clause I remind members that the words in this amendment are the same as those in an amendment I moved back in 2010 when this legislation was last reviewed. As members would recall, back in 2010 this amendment passed the Legislative Council. It had the support of the

crossbench and it had the support of the opposition. In between the houses the opposition had a change of heart and they decided to not support this clause when it came back.

The reason that I have introduced the clause again now is twofold. Firstly, it has always been the right thing to do and so I am taking the opportunity now that the Mining Act is again up for review to move it again, but the second reason is that, as another member has already mentioned, the Hillside mine on Yorke Peninsula near the town of Ardrossan is a project that has brought to a head the conflict between farmers and mining companies.

Just to remind members, the Hillside mine is an enormous enterprise, but with a relatively short life. This mine is going to be some 3,000 hectares in size. It covers some prime South Australian cropping land. If we just look at two components of the proposed Hillside mine, the pit itself will be 2.4 kilometres long, 1.2 kilometres wide and up to 450 metres deep. It is a massive hole in our farming land. There will be three waste rock piles generated from this mine; the tallest of them will be up to 115 metres high. To put that into context, the tallest building in Adelaide is 130 metres high, so that gives you some idea of the size of this project. The main issue is that it is over prime agricultural land that is cropping land. Crops are grown on this land.

As members know, under the Mining Act cropping land—land that is used for growing crops—is exempt from mining. Under the Mining Act you should not be mining cropping land, yet under the act, as we know, there is a major loophole in the form of the waiver of exemption provisions. As those provisions work, if a farmer refuses to sign a waiver to allow the mining company onto his or her land, if the farmer does not believe that the compensation offered or the conditions attached are suitable, or if they want to make sure that that land is preserved for farming in perpetuity, they have the ability to say no, but they will be dragged before the Environment, Resources and Development Court.

That court, under the current provisions of the Mining Act, will only consider two things. They will only consider compensation and conditions. They will not consider the threshold question about whether prime farming land should be taken out of production in perpetuity for potentially very short-term profit, and that is the threshold question that I believe the Environment, Resources and Development Court should consider when it deals with these disputes between farmers and mining companies.

This amendment says that, when such a dispute arrives at the environment court, the court has to be satisfied not only that conditions and compensation can be addressed but also that there needs to be exceptional circumstances that justify the carrying on of the mining operation on the exempt land. The phrase 'exceptional circumstances' is deliberately not defined in my amendment to this bill because it will be a matter for the court to decide in each case.

It seems to me that if you have—as we have in the case of the hillside mine—3,000 hectares of prime cropping land taken out of production forever for potentially 15 years supply of two of the most abundant minerals on the planet, namely copper and iron ore, then why on earth are we sacrificing the next generation's ability to grow food there, and the one after and the one after?

Governments say that they have rehabilitation plans for mines, that somehow after rehabilitating this 450-metre hole in the ground cropping might be able to take place again. I do not think so. I am not aware of any major open-cut mine of this nature that has ever been rehabilitated back to its former condition so that it can be used for growing crops.

In relation to this amendment, I also draw members' attention to the comments made last Thursday on ABC 639 radio, on the Annette Marner program, by mining minister Tom Koutsantonis. What the interviewer did in that interview was ask the honourable minister about the rally that was held last Thursday on the steps of parliament house. As some members would know, because they were there—certainly the Hon. Rob Brokenshire, the Hon. John Dawkins and the Hon. Tammy Franks were there—it was a big rally. About 150 people were there, according to the ABC news report, and they made their views very clear: they wanted to be able to preserve exempt farming land for farming and that if they chose not to sign an agreement with the mining company, that should be their right.

I agree with that, but it is not an absolute provision. There may be some circumstances where mining is appropriate to go ahead. If it is lower value farming land, if the value of the minerals is absolutely extraordinary and if the minerals sought are not able to be obtained anywhere else, they may be exceptional circumstances. Anyway, back to the interview. The Hon. Tom Koutsantonis acknowledged that he had spoken to the protesters. He said, 'I wanted to

hear their views and concerns and I assured them that I would be making my decision based on science and on a very firm principle that mining should do no harm. So, if they have concerns about dust and they have concerns about pollution, if they have concerns about the economic impact, my first principle is that you should do no harm.'

I accept and understand the minister's position, but he is taking a very narrow interpretation of doing no harm. He is talking about the present impacts of that mine on neighbouring landholders. He is not talking about the fact that land would be taken out of production in perpetuity. You do not need to be a student of history to know that we have farming land on this planet that has been productive for thousands of years—in the Middle East, in parts of Europe—yet here we have a short-term mining project, perhaps 15 years of mineral wealth, and these 3,000 hectares of prime cropping land are written off effectively forever.

In conclusion in relation to moving this amendment, I acknowledge the contribution of the Yorke Peninsula Landowners Group. They have organised themselves very well and they have clearly expressed to the government what their desires are in relation to the interaction between mining and farming. I urge all members to look at what that group is saying on its website, at yplandowners.com.au. With those words, I urge all honourable members to support the amendment.

The Hon. G.E. GAGO: The government rises to oppose this amendment. This amendment would modify the waiver of exemption provisions regarding exempt land under the Mining Act. It is not related at all to the Mining (Royalties) Amendment Bill currently before the parliament. The amendment proposed by the Hon. Mark Parnell is identical to the one that was proposed by him, amongst other amendments, in 2010, at the time the Mining (Miscellaneous) Amendment Bill 2010 was before the parliament.

As honourable members may recall, section 9AA of the Mining Act was an entirely new section accepted by the parliament to introduce a more equitable and transparent scheme to deal with exempt land under the Mining Act. However, parliament, rightly at the time, did not agree with the amendment that the Hon. Mark Parnell is now putting forward.

The proposed amendment seeks to introduce an overly burdensome requirement for mining operators that apply to the ERD Court for a waiver of exemption. As honourable members would recall, section 9AA allows the mining operator to apply to the ERD Court where it is not possible to reach an agreement with the person who has the benefit of an exemption.

The amendment would mean that before the ERD Court could even consider an application to authorise a waiver of exemption, the mining operator must first prove that exceptional circumstances exist to justify the carrying on of mining operations on exempt land. This would be in addition to the existing requirement for them to satisfy the ERD Court that the adverse effects of mining could be appropriately managed by way of conditions. The effect of the proposed amendment is to add an unnecessary and difficult step, which in practice would make applying to the ERD Court for a waiver exemption an almost futile process.

I remind honourable members that the exempt land provisions in the act apply to all mineral land, including pastoral lands, crown lands, as well as freehold. They also apply to all types of mining operations, including prospecting and exploration. Under the act, as it presently stands, the only way that mining activities can be authorised over exempt land is with the agreement of the landowner or person with the benefit of an exemption, or with the authorisation of the ERD Court.

The requirement to prove exceptional circumstances is a significant hurdle to overcome. The word 'exceptional' in its ordinary meaning relates to an unusual or extraordinary instance. It would, in effect, mean that a mining operator would need to be able to refer to an unusual circumstance to justify why a waiver should be granted. There is no easy way to measure what would qualify as an exceptional circumstance. What is exceptional in one case may not be exceptional in another; for example, if a mining operator wants to undertake low impact exploration such as geochemical survey or aerial magnetic survey (that is, flying an aeroplane over the land).

These activities could only be undertaken if the mining operator could prove that there was an extraordinary reason why those activities should be permitted. Under the act, presently, a mining operator can apply to the court for waiver of an exemption in cases where negotiations between parties break down. There could be many reasons why negotiations break down, including that a person entitled to an exemption has unreasonable expectations about compensation.

Currently, the parties can go to the court to resolve these issues appropriately. However, if the Hon. Mr Parnell's amendment were allowed this would mean that even if the landowner was prepared to waive an exemption, in principle, apart from the compensation issue, the mining operator would still need to first demonstrate an exceptional circumstance before the court would consider the application. This is unfair and imposes a requirement that is clearly out of step with section 9AA. The amendment has the potential to set an inequitable precedent.

Most importantly, the ERD Court already has an appropriate level of judicial oversight under 9AA(9) as it currently stands. The court already has the discretionary power to authorise an application for waiver or to refuse the waiver, as each case requires. For these reasons, the amendment should be strongly opposed.

The Hon. M. PARNELL: Just before other members contribute, I have leapt to my feet quickly because there are two grossly incorrect statements that the minister made, on advice I have no doubt. The first one is, she suggested that even if the farmer agreed it would still have to pass the exceptional circumstances test. No; if the farmer agrees, the farmer signs the waiver, it does not get anywhere near court. That is just wrong.

The second thing the minister said that was wrong is that someone might explore—I think her words were 'by flying an aeroplane over the land'. Flying an aeroplane over the land does not require a mineral exploration licence and it is not an intrusive activity for which you need the sort of permit for which a waiver of exempt land even applies. It is ludicrous to suggest that someone flying an aeroplane over a farmer's land needs that farmer's permission to do so. That is just not the case. So, two very inaccurate pieces of information that I thought members should be aware of before they consider their approach to this amendment.

The Hon. G.E. GAGO: I have been advised that if, in relation to this issue of exceptional circumstances of, say, an airborne survey, the landowner signs a waiver then obviously there is no issue because they have obviously come to an agreement. However, if they do not sign a waiver then there is no agreement. Therefore, the miner would have to prove that there was some exceptional circumstance needed for the airborne survey. That is the advice I have received.

The Hon. M. PARNELL: I love where this is going. Is the minister saying—

The CHAIR: The Hon. Mr Parnell, before you continue on, I have to advise that we are sailing very, very close to the breeze about whether this amendment actually becomes part of the bill or is within the purview of the bill.

The Hon. M. PARNELL: I will very quickly address my comment and then sit down before incurring the wrath of the Chair. I appreciate what the minister said, but it just strikes me that we have had over a period of decades aeroplanes flying around South Australia. PACE, I think, was one: the accelerated exploration activity. I am fairly confident that the pilots of those aeroplanes did not obtain the approval of landholders when they flew over farmland. A total of 90 per cent of Yorke Peninsula is covered in mineral exploration licences, and no doubt the whole of Yorke Peninsula has been covered by aeromagnetic surveys, for example.

An honourable member interjecting:

The Hon. M. PARNELL: And Eyre Peninsula as well. I just do not accept that that activity requires the landholders to sign waivers. If the minister does not want to redress it, that is fine, but I would love to see the rural media jumping on to this idea that they have broken the law if they were supposed to get waivers and they did not from every freehold property that they have flown over for the last, say, 20 years. I think the minister is wrong, and that is the point that I want to make.

The Hon. G.E. GAGO: I have been advised that in some circumstances, for example, where there is a very low level flight, such as an altitude below 100 metres, an explorer may need a waiver.

The Hon. R.I. LUCAS: I have been listening riveted to my seat to the debate, because I have been trying to toss up which way we go on this particular issue. Having listened to the debate, I will return to the instructions I have been given by the member for Waite and the Liberal parliamentary party room, and that is that the party room has considered the amendments being moved by the Hon. Mr Parnell and has resolved for the following reasons not to support them. The member for Waite outlines:

This amendment will require mining operators to satisfy the ERD court that exceptional circumstances exist to justify the carrying on of mining operations on the exempt land. The language of 'exceptional circumstances' is

extraordinarily strong and it is unclear how mining operators would be able to prove this before the ERD court. The criteria would be left to judicial discretion. In conversations with opposition members and Primary Producers SA—

I repeat, this is the member for Waite outlining this, so I was not privy to these conversations—

Mr Parnell indicated that exceptional circumstances may only be in cases where the mineral to be developed cannot be obtained elsewhere in the world. Further, exceptional circumstances would need to be proven before, and in addition to, demonstrating that any adverse effects of mining would be addressed by the mining explorer or operator.

This would have the ultimate effect of ceasing the mining exploration and operation on all exempt land. Currently approved mines that would have been stopped by this amendment include Murray Zircon's Mindarie, Hillgrove Resources' Kanmantoo, Terramin's Angas zinc mine (which is in abeyance) and Centrex's Wilgerup, which has been approved for open cut; it is still in the feasibility stage.

Major developing projects, including Iron Road's Central Eyre project, Centrex's Bungalow, Lincoln Minerals' Gum Flat and Maximus Resources' Bird in Hand, amongst others, would all be stopped under the Hon. Mr Parnell's amendment.

He has a self-satisfied look on his face there. He can indicate whether or not he intends to stop all those mining projects and whether or not if his amendment had been in operation it would have stopped all of those other mines, as my colleague the member for Waite has outlined. Just to conclude this quote from my friend and colleague, the member for Waite states:

Although this particular amendment relates to the Mining Act, the principles of access and land use arrangements to farmland are also relevant for energy resource operations.

The member for Waite provided a comprehensive paper to all of us in the joint party room of the Liberal Party, arguing passionately, not to put too fine a point on it, that if the Hon. Mr Parnell had his way, we almost would not have a mining industry in South Australia. Again, that is probably not of any great concern to the Hon. Mr Parnell but it is certainly of great concern to the Liberal Party, which obviously hopes to be, at some stage in the future, in government in South Australia.

The mining industry is an important industry for jobs. It is an important industry for jobs in rural communities. I note the fervour which is being whipped up at the moment in relation to mining operations in regional communities, and I remind some people who are assisting that particular discussion and debate that in many parts of rural South Australia when times have been tough recently we have seen a considerable exodus of young men and women from those farming areas, getting jobs in mining communities. It has been the only way many farming families have been able to survive during some of the tough times.

The Hon. J.S.L. Dawkins: Roxby Downs.

The Hon. R.I. LUCAS: Roxby Downs, as my colleague the Hon. Mr Dawkins says, is a perfect example. A number of farmers from the West Coast of South Australia, and other parts of farming South Australia, have gone to Roxby—and other mines that are much smaller, obviously, than Roxby. Farmers and young farmers have been able to survive through difficult periods, add skills and then, on occasions, go back to farming or, in many cases, they have enjoyed mining so much they have stayed on in the mining industry.

It is easy to paint miners and those who work in the mining industry as some sort of ogres to be opposed on every front. It is easy to try to divide and conquer. It is much harder to try to work together with those in the mining industry and those in the farming communities and say, 'How can we coexist? How can we cooperate? There will need to be give and take.' There will be impact on some farmers and farming communities, if significant mines need to go ahead in the public interest in terms of providing jobs to young South Australians in the future, mineral wealth, export income and economic growth for the state.

At a time when this state is confronting the ongoing and, some would argue, inevitable decline of manufacturing industry generally, as we have seen over the last 30 years in South Australia and we are likely to see over the coming years as well, it is too easy to say, on the one hand, that governments need to do something about jobs and economic growth whilst manufacturing industry goes into decline. There is the capacity, potentially, for jobs and economic growth in the future but, with the sweep of the legislative pen, we can wipe out, in essence, almost all the mining industry in a glib and whimsical fashion and say, 'You go off and argue exceptional circumstances.' The member for Waite stated that the Hon. Mr Parnell indicated in conversation with opposition members and Primary Producers SA (so it was not just with politicians) that exceptional circumstances may only be in cases where the mineral to be developed cannot be obtained elsewhere in the world.

The Hon. M. Parnell: That is not true.

The Hon. R.I. LUCAS: The Hon. Mr Parnell can argue his case and dispute the description of that conversation that has been outlined by the member for Waite and opposition members, and it was a conversation he also had, evidently, with Primary Producers SA. As I indicated at the outset of the quote, I was not privy to the conversation. I can only repeat what my colleague the member for Waite outlined not only to me but to all my colleagues.

Even if the Hon. Mr Parnell argues at some level less than that, as the minister indicated, it is still an extraordinarily high hurdle he knows he is constructing and, in the end, he will concede, I am sure, that it will be up to judicial discretion. At the outset he said, 'Well, I'm not defining exceptional circumstances but I wouldn't like taking a punt on the economic growth and jobs growth of the state's future. I'm leaving it up to a judge' of whatever jurisdiction we are talking about—the ERD Court—to, in essence, make judgements about these issues, establish precedents—

The Hon. M. Parnell: It's what they do already.

The Hon. R.I. LUCAS: But not on this particular hurdle. No, not on the hurdle that the Hon. Mr Parnell is seeking to construct and what has been able to occur so far has been that, clearly, some mining developments have been able to continue.

The Hon. M. Parnell: They always win.

The Hon. R.I. LUCAS: And if they can be done in a way, in cooperation with rural communities, with farming communities, to the state's benefit, to jobs growth benefit and to economic growth for the state, then many of us in this chamber, the Hon. Mr Parnell, will have a different view to you. We would see that as a good thing from the viewpoint of South Australia's future. For those reasons, we in the Liberal Party just cannot and will not support the amendment from the Hon. Mr Parnell.

The Hon. R.L. BROKENSHIRE: I rise to indicate that, partly because of the debate by government and opposition, we will be supporting this amendment. I accept counsel's advice to me that a further amendment to the amendment of the Hon. Mr Parnell that we are now debating regarding third-party compensation is not in order to be tabled by me, and we will have to do that at another time.

I want to place on the public record that Family First is certainly not anti-mining. In fact, we support mining but it is about supporting mining in the right locations and it is about the balance between mining and agriculture and sustainability. It is also about the fact that agriculture has an even brighter future, Family First believes, than mining from the point of view of growth opportunities.

That is already backed up by material that the Premier has put out in recent times. In fact, one piece of material—booklet No.7 that the Premier put out—that I received today in my mail talks about food and wine growth opportunities. We do desperately and urgently need to be able to map out prime food bowl areas and have no-go zones for mining in those areas, certainly at this point in time, and capitalise on the more arid areas for mining that are not going to impinge on very intense and sustainable agricultural returns.

Having said that, Rex Minerals have done everything according to the book when it comes to where they are up to with their application. The Hon. Mr Parnell talked particularly about the Hillside development and notwithstanding that they have done everything according to the book—and my understanding is that if this amendment were to be passed it would not be retrospective and the Rex application would still be considered on current legislation because it is way down the track—the fact is that those landowners will have impacts on their farming and so will all the other farmers, particularly where exploration becomes mining.

Anything that can be done to give farmers a little bit more power in an act that is clearly weighted, in my opinion, far too much to the mining industry—and we tried to get amendments up in 2010 and were not successful with many of them because of the strength of SACOME as an organisation representing the mining industry. I think now we have no choice in raising the voice and giving some opportunity to farmers to support the Hon. Mr Parnell's amendment, and that is why we will be supporting it.

New clause negatived.

Clauses 4 and 5 passed.

New clause 6.

The Hon. R.L. BROKENSHIRE: I move:

Amendment No 1 [Brokenshire–1]—

Page 4, after line 42—Insert:

6—Insertion of section 91B

After section 91A insert:

91B—Regional infrastructure and investment fund

(1) The *Regional Infrastructure and Investment Fund* is established.

(2) The Fund must be kept as directed by the Treasurer.

(3) The Fund consists of—

(a) 25% of all royalties received or recovered by the Minister under Part 3, other than royalty in respect of extractive minerals; and

(b) any money appropriated by Parliament for the purposes of the Fund; and

(c) any income and accretions arising from investment of the Fund under subsection (4); and

(d) any additional money that is to be paid into the Fund under a determination of the Treasurer; and

(e) any money paid into the Fund under any other Act.

(4) The Fund may be invested as approved by the Treasurer.

(5) The Minister for Regional Development may apply the Fund—

(a) for such purposes directly related to regional development or regional investment as may be determined by that Minister (including by payment to any person or organisation (whether or not an agency or instrumentality of the Crown) for those purposes); or

(b) in making any other payment required by another Act to be made from the Fund; or

(c) in payment of the costs of administering the Fund.

(6) The administrative unit of the Public Service that is, under the Minister for Regional Development, responsible for regional development within the State must, on or before 30 September in each year, present a report to that Minister on the operation of the Fund during the previous financial year.

(7) A report under subsection (6) may be incorporated into the annual report of the relevant administrative unit.

(8) The Minister for Regional Development must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after the report is received by that Minister.

(9) The Minister for Regional Development must, in connection with the operation of this section, maintain on a website—

(a) a statement of income and expenditure for the Fund (listing each allocation of money from the Fund separately and in a manner that identifies the purpose or purposes for which each allocation is to be used); and

(b) information about how applications may be made for grants or other payments from the Fund.

(10) For the purposes of this section, regional development or regional investment must relate to development or activities undertaken outside Metropolitan Adelaide.

(11) In this section—

Metropolitan Adelaide means Metropolitan Adelaide as defined in the *Development Act 1993*;

Minister for Regional Development means the Minister who has portfolio responsibility for regional development within the State.

This is regarding regional infrastructure and the investment fund. Given the hour of the night, I will not hold colleagues too long, because I referred to this in my second reading speech.

The Hon. J.S.L. Dawkins interjecting:

The Hon. R.L. BROKENSHIRE: It is a very late night for me, sir. The sun is well and truly down.

The CHAIR: The Hon. Mr Brokenshire, you have the call.

The Hon. R.L. BROKENSHIRE: Thank you, sir. To summarise, a couple of key points with this: we have already heard the government promise that at some time in the future, almost in a crystal ball gazing exercise, there will be a future fund. The reality is that that future fund at this point in time will not be a future fund—it will not happen, it will not occur. But what can occur if the house supports this amendment is that 25 per cent of all the royalties received or recovered by the minister under part 3, other than royalty in respect of extractive minerals (and it goes on from there), will be able to put into a dedicated fund, as of this term of government, to royalties for regions.

We have seen the great opportunities in Western Australia, where royalties for regions is law and is delivering for rural and regional people. We are debating a bill that deals with pulling money forward to assist the government with general revenue and help the Treasury coffers at this point, but this is important because it would be a dedicated fund to rural and regional South Australia. It is fair to say that rural and regional South Australia is screaming out for some money to be spent on infrastructure, growth, job opportunities and social services—you name it, they need it—and 75 per cent of the royalties will still come into the general discretion of this government or a future government to spend where they see fit, but would dedicate 25 per cent to the regions.

The final point is that, notwithstanding all the good things members have talked about tonight when it comes to the positives of mining, where the Hon. Rob Lucas' one example indicated that, when times are tough with a drought, farmers, siblings, their sons and daughters can go to the mining camps, work there and bring money back to the farms—it works both ways. At the end of the day this money is only generated for South Australia for the regions because, at this point in time, unless we see a change where maybe this government might want to set up a heap of exploration in the six or seven most marginal Labor seats in metropolitan Adelaide and do a bit of coal seam gas exploration, and so on, in those seats, the reality is that the mining will come out of country South Australia, and therefore I argue that a certain amount of that should be going back into the region it comes from. I commend the amendment to the house.

The Hon. G.E. GAGO: The government opposes this amendment. The subject matter of the amendment has no real or necessary relationship to the Mining Act and there is no relationship between regional development expenditure needs and 25 per cent mining royalties, a point conceded with the contemplation of other funds being allocated to the proposed regional infrastructure and investment fund.

Regional development needs can be dealt with adequately by access to the whole state budget revenues and borrowings if there is a priority and with the appropriate business case established for particular expenditures. While most mining activities are located in a few regional centres in South Australia, infrastructure, services and a skilled workforce are required in a range of places throughout the state. The future fund will provide the whole of the state, including regional South Australia, the best outcome to share the benefits generated from developing South Australia's finite mineral and energy resources in a financially prudent and responsible way that will harness the benefits to all South Australians for generations to come.

The government will bring a future bill before parliament to provide a rigorous transparent approach to setting aside funds to invest in the state's future. The future fund proposal deals with the situation of potential increases in royalty revenue but appropriately on a whole-of-state basis. The future fund is designed to capture both above trend growth in GST grants and state taxes revenue and state royalty revenue having regard to current horizontal fiscal equalisation treatment as well as the operating position of the budget.

This amendment is based on a fund established in Western Australia. In Western Australia we have seen the current government announce major changes to the Royalties for Regions program in response to rising debt levels and a credit rating downgrade. The proposed amendment increases budget risk for future governments, and royalty revenues would be transferred to the fund regardless of the budget's operating position. This could result in increased debt if future governments are required to spend money from the regional infrastructure and investment fund regardless of the overall budget position. The government considers that the future fund is a much better approach to ensuring that South Australians, including future generations, benefit from the state's finite mining and energy resources.

The Hon. R.I. LUCAS: The Liberal Party for many years now has been a supporter of the Regional Development Infrastructure Fund. It was the former Liberal government in the 1990s, of which the Hon. Mr Brokenshire for a period was a member, which established the first Regional Development Infrastructure Fund, albeit at a modest level of funding.

The Hon. J.S.L. Dawkins: There was a lot more than what's in it now.

The Hon. R.I. LUCAS: It is much more modest now, as my colleague the Hon. Mr Dawkins points out. That was established by the former Liberal government. The Liberal Party remains committed to a regional development infrastructure fund; however, we are not prepared to support this particular amendment, this particular structure at this particular stage. We will commit prior to the March election next year to a policy on a regional development infrastructure fund well in time for the people of South Australia to make a judgement about the worth of that particular policy proposal.

Two further points I will make are that I am advised that on a rough order of magnitude, 25 per cent of royalty payments may well at this stage involve up to $70 million a year being allocated. If the impact of either the Hon. Mr Brokenshire's proposal or indeed some variation of it was to involve new spending of $70 million in regional areas and, if it was that the $70 million is already part of our forward estimates, the reality will be that other areas of government necessarily in the metropolitan area will have to have a $70 million funding reduction.

The Hon. R.L. Brokenshire interjecting:

The Hon. R.I. LUCAS: We can do that but that will not get you to $70 million, Mr Brokenshire—it will leave you a fair way short. A government, if it was to institute this, and that was the actual model, would then have to reduce by $70 million a year existing forward estimate funding to the extent of $70 million a year.

As someone who is involved in the health portfolio, which is about a third of the total government spending, that works out on a pro rata basis at about $23 million a year extra in terms of funding cuts for health in the metropolitan area. I know that hospitals and hospital services, such as the McLaren Vale Hospital, for example—which is near and dear to the Hon. Mr Brokenshire—

The Hon. R.L. Brokenshire: Very dear.

The Hon. R.I. LUCAS: —who is arguing for a relatively modest amount of funding from the government. I know in the Modbury area the government is currently cutting paediatric services from the Modbury Hospital. It is right across the board, whether it be McLaren Vale, whether it be Modbury, right across the board—

The Hon. R.L. Brokenshire: Port Adelaide.

The Hon. R.I. LUCAS: There was an attempt to get rid of the Phillip Kennedy hospice funding for a million dollars.

The Hon. R.L. Brokenshire: And they can still build a stadium.

The CHAIR: Order, the Hon. Mr Brokenshire!

The Hon. R.I. LUCAS: The reality is that if there is to be $70 million of new spending it means somewhere in the metropolitan area $70 million of spending—in a number of places—will have to be cut to provide that additional free ball. We are not talking about new money over what is estimated, we are basically saying, 'What's there at the moment? Take 25 per cent of it which is $70 million under one model and allocate it to completely new projects in the regions.' Under those assumptions then some government is going to have to implement $70 million worth of cuts in the metropolitan area.

With the greatest of respect to the Hon. Mr Brokenshire, representing Family First as he leads into the 2018 election seeking his own re-election, I am sure he will be out there, if that was the circumstance, supporting additional funding in the regional areas and attacking every one of the cuts in the metropolitan area—

The Hon. R.L. Brokenshire: I wouldn't build a footbridge before—

The CHAIR: Order, the Hon. Mr Brokenshire!

The Hon. R.I. LUCAS: Under that particular arrangement. That is this government; we are talking about a future government. We will not be building a footbridge for $40 million, I can assure

you. We will still be trying to pay $400 million a year for the new Royal Adelaide Hospital from 2016.

An honourable member interjecting:

The Hon. R.I. LUCAS: We are talking about the money that is involved in this particular proposal, which is $70 million a year. The alternative model, depending on how you look at the drafting, is not new spending in the regions, it is actually just allocated to spending which might already be in the forward estimates but it gets attributed to this $70 million. It depends on how you look at the Hon. Mr Brokenshire's drafting. If that is the case then nothing new is achieved for the regions anyway because it is already spending for the regions which was going to be spent anyway in the forward estimate period.

There may well be already within Health a proposal to build a Barossa hospital for example or something like that in the forward estimates which has not already been announced. Now, I do not know whether that is the case or not, I am just saying that would be an example. If that is the case then the particular model that has been suggested—if they were the assumptions—would not be offering anything new anyway.

The reason I outline those two particular sets of assumptions is because if one looks at the drafting of this particular amendment it is possible to argue both. That is, I know the intention is that it is to be new spending but if you look at the actual words in the amendment it is entirely possible that that is not what the reality would be. It could be just existing commitments in regional areas, some of which might not have been announced yet but are hidden in the government's forward estimates.

So, for all of those reasons, whilst we in the Liberal Party support a regional development infrastructure fund, and will release a policy on it prior to the election, this particular model, we believe, is not a good model and should not be supported. We cannot support it as an amendment to this particular bill.

New clause negatived.

Schedule and title passed.

Bill reported without amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (21:21): I move:

That this bill be now read a third time.

Bill read a third time and passed.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 June 2012.)

The Hon. J.M.A. LENSINK (21:21): At the outset of making a contribution on this bill, I would like to acknowledge a few people, so I do not forget: minister Hunter's office, particularly his adviser Holly; parliamentary counsel; and Megan Dyson, who has been a member of the Nature Foundation council. I am not sure if she is officially on it, but she certainly provided advice on the third-party offsets scheme.

I think it is fair to say that a number of us have looked at this bill several times and are keen for something to be progressed. To that aim, there have been ongoing negotiations about what the government will and will not accept, what things we can amend and where we might be able to reach a compromise, so I am hopeful that that may well be the case in the remaining sitting days before the end of the year and before the election.

This is actually the third time this bill has been debated in some form. It was first tabled in 2008, and then in 2011. The original bill was a result of a review of the act and contains a number of measures to improve its operations. It was not initially progressed in the Legislative Council because the Victorian bushfires took place and a review of related legislation and policies took priority.

I last spoke to this bill on 15 September 2011 and outlined the Liberal Party's position, which has not changed. I spoke to each of the clauses, and I am not going to repeat those comments, so anybody who wants to know what those views are can look up that speech. We have refiled a number of amendments that have been previously filed, and these are as follows:

- a clarification that, if there is inconsistency between the Native Vegetation Act and the Fire and Emergency Services Act, the latter prevails;
- providing additional exemptions for native vegetation clearance requirements for pastoral lands, in relation to watering points for stock, land that has not been cropped for up to 15 years, and for rural councils to undertake the construction of firebreaks and tracks, conduct whole burns and reduce fuel loads outside of the fire season;
- establishing conditions under which credit for environmental benefits and third-party offsets may be approved, which would facilitate the ability of organisations, such as the Nature Foundation of SA, to obtain funding for conservation works which might, for instance, be funded by a mining company which needs to clear some scrub;
- providing the South Australian Chamber of Mines and Energy (SACOME) with representation on the Native Vegetation Council; and
- we have also opposed the clauses in the bill that would remove the current requirement that authorised officers take certain reasonable steps in informing landowners about actions they will take or have taken on their property.

In addition to those that have been filed, there are two other issues; one relates to clause 6 of the bill which, if it were to take effect, would have prevent the minister from directing the Native Vegetation Council in respect of specific cases before it. In relation to our third-party offset regime, addressing concerns which Nature Foundation raised with us and which, from memory, were to provide prospective assignment of credits, I will deal with those later when we get to the committee stage.

The Native Vegetation Council annual report I think updates some of the things that have taken place since this bill was tabled in 2011, and I would just like to refer to some of those. On page 6 of the report, they state that they have been reviewing the condition of native vegetation across the state by using satellite imagery, which I think is probably the way that vegetation clearances will be monitored in future. On that same page, they also refer to the Native Vegetation Regulations and, indeed, this bill.

One of the things that came through in my briefing with them was that they have a roadside vegetation management plan that they do in conjunction with the Local Government Association. They have developed a fact sheet in relation to that, and I would like to commend them for that work. I would like to point out, however, that native vegetation laws are extremely difficult to follow, and I think that is because some parts of it are contained within the act, some are contained within the regulations, and then some are held within policy documents such as the one I have just referred to in relation to roadside vegetation, which would make it quite difficult for a layperson to understand whether clearances are likely to be approved.

In relation to the regulations, I had occasion to have a look at those fairly recently, just to see what the rules are in relation to pastoral properties, and they go to some 30 pages. I challenge anybody who does not actually have a law degree to try to interpret those; by the time you get to the end of reading them, you cannot remember what they said at the start. For a layperson to have to try to interpret those would be extremely difficult. There is a guide on the website which is supposed to assist people to understand the laws which runs to some 44 pages, so I think that speaks for itself.

Referring again to the annual report, there has also been a review of the significant environmental benefits metrics applied under the Native Vegetation Act, and that is something I would like to talk about because it has caused quite a lot of consternation with local councils, particularly in regional areas, and Primary Producers SA I think have some concerns.

In referring to this particular issue, I understand that there is nothing in this bill before us that actually does set out a formula for determining value of native vegetation, and I would like the minister to clarify that when he does his summing up. It was probably fairly well articulated in *The Transcontinental*, the Port Augusta local paper, of 16 October this year. The headline is, 'Council slams levy increase', with the by-line, 'Native Vegetation Levy proposed to rise by

5,000 per cent'. It is not actually the native vegetation levy, but that is what people may be calling it. The news item states:

> The changes, if they are adopted, will see the cost of clearing a hectare of land with natural vegetation on it rise from $1,000 to $50,000 or about $6,000 per residential allotment. This kind of increase would see any major developments outside of Adelaide that involve the clearance of natural vegetation incur a significant price increase. For example the additional cost for the proposed airport upgrade would be $1.7 million, a cost no metropolitan development would need to pay.

Further, it says:

> DEWNR had advised that it 'had not planned to consult with the individual LGA regions or local councils'.

I think that is quite astounding. On 17 October, Greg Perkin, who is the city manager at Port Augusta council, stated on 639 ABC that the cost of clearance would be $17 million, which is 1.5 times the value of the land. Yesterday, Anita Crisp, the chief executive officer of the Central Local Government Region of Councils, was talking about the same issue, and she was concerned that it is a considerable impost, and particularly problematic when it comes to roadside vegetation, because councils do not have the sort of expertise they used to in order to be able to manage and that it is going to be very expensive for them.

I make those comments because I would like the minister to respond not only to advise the chamber that these increases are not part of the bill but also to give an update to the community, via *Hansard* and via the parliament, about what the Native Vegetation Council is planning on doing with that particular policy.

Since the bill was tabled in 2011, we have had several states—and I referred to these in the speech that I gave previously—with third-party offset schemes. A number of states have been working on those for some time. I proposed a third-party scheme in 2011, and I am pleased that the government has been able to progress one, but I note that its particular amendments prefer to prescribe the details, rather than the proposal which I have filed, which would do so through the regulations.

I will argue for those when we come to the debate, but I do note that Victoria has conducted a review. This document is entitled 'Future directions for native vegetation in Victoria: review of Victoria's native vegetation permitted clearing regulations, consultation paper, September 2012'. They outline a number of areas in which they are clearly looking at potential policy changes, and I think what that highlights is that the offset schemes are probably going to take some adjustment as they are adopted.

South Australia may not have such a large number of transactions once its scheme comes on board, and so I think it probably would be preferable that it is a scheme done by regulation, which would make it easier to make amendments, rather than taking the scheme back through the parliament. Goodness knows, we have had this particular bill on the table for so many years that I think it demonstrates how slowly sometimes these things can take to get through the parliament.

Another issue that has arisen since that bill was tabled is that there have been some changes to development regulations. This was the topic of a disallowance motion that I moved, but I am pleased to say that even if we had lots of weeks before the election I would not be progressing that, because it provides an earlier referral for matters to the Native Vegetation Council. Therefore, any development proposal where the vegetation in question is high-value is less likely to be agreed to, and so it is best that those proponents are advised at the earliest opportunity, so they do not expend large amount of resources on legal advice, planning advice and so forth and then find out that they are unlikely to be approved in any case.

What we did learn through the briefing we had was that the mapping of native vegetation is considerably out of date. My understanding is that the Native Vegetation Council has fallen into the habit of assessing each application on a case-by-case basis, which is resource intensive and not particularly strategic. We were advised that the mapping process was underway but we could not be advised when it was likely take place. I think this is a quite unsatisfactory situation, because it is the sort of data that the state needs to be aware of. It would make the whole process much more transparent if that were done.

I am also not sure whether these proposed increases to the valuation of native vegetation might not be some means of encouraging offsets by discouraging people from paying such large amounts of the Native Vegetation Fund, but that is possibly a discussion for another day. I do understand that revegetation is extremely expensive; in fact, at the Landcare conference last week

a presenter provided information about the sort of work that was undertaken on Kangaroo Island to try to revegetate scrub there.

Revegetated areas do not have the same level of complexity in terms of biodiversity and number of species as remnant virgin scrub, and it is a very involved process to replant. Sometimes the seeds have to be treated with smoke and the land has to be landscaped. It is a very expensive process, and I do understand that, but I think there needs to be some realistic approach to this valuation as well. With those comments I indicate general support of the bill, and look forward to the committee stage.

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

LAKE EYRE BASIN

Adjourned debate on motion of Hon. I.K. Hunter:

That this council—

1. Recognises the significance of Lake Eyre to South Australia's Aboriginal, pastoral and tourism communities and its dependence on water flows from the Cooper Creek, Diamantina and Georgina rivers;

2. Expresses concern that the Queensland government has continued to refuse to consult with South Australia and other affected states regarding their plans to remove the legislative environmental protections of the Lake Eyre Basin rivers;

3. Calls on the Queensland government to maintain the current quantity and quality of water flows from the Lake Eyre Basin rivers into South Australia's rivers flood plains and wetlands in the Lake Eyre Basin; and

4. Calls on the Queensland government to formally consult with South Australia, as a co-signatory to the Lake Eyre Basin Intergovernmental Agreement, regarding any proposal which has the potential to impact flows into our state.

(Continued from 15 October 2013.)

The Hon. M. PARNELL (21:39): I rise on behalf of the Greens to support this motion and thank the minister for bringing it to the council. In my contribution I want to focus on some of the history of the campaign to protect the wetlands of the Lake Eyre Basin because it is a campaign in which I was intimately involved for many years of my life.

In 1990 I was a representative representing the Wilderness Society in South Australia to the World Conservation Union Congress, which was being held in Australia for the first time, in Perth. As a delegate to that conference—as I said, it was called the World Conservation Union; its official title was IUCN, the International Union for Conservation of Nature and Natural Resources—my role was to try to get international support for the world heritage listing of the wetlands in the South Australian component of the Lake Eyre Basin.

That campaign went for a number of years and it ultimately resulted not in world heritage listing but in a less rigorous intergovernmental agreement which, according to the terms of this motion, is now proving to be worth less than it had been hoped. That is why this motion is effectively calling on Queensland to behave better in relation to its management of the Lake Eyre Basin, so that their development and their behaviour does not impact on our state, our farmers and our citizens.

In relation to this campaign, I mentioned my involvement which commenced in 1990, but in fact world heritage listing of the Lake Eyre Basin area was first proposed in 1984 by John Coulter (later Senator John Coulter), who was then the president of the Conservation Council of South Australia, and the then federal minister for the environment, Barry Cohen, was also supportive.

I recall that an ecologist by the name of Julian Reid prepared a report in 1993, entitled World Heritage Potential in the Lake Eyre Basin Region: An Ecological Appraisal of the Bigger Picture, and that ultimately kicked off a more spirited campaign. In fact, during the 1993 federal election campaign, then prime minister Keating announced his intention to proceed with world heritage listing of the Lake Eyre Basin region. This generated some public controversy. The Lake Eyre Basin catchment group was opposed to world heritage listing because local pastoralist landholders and mining industry representatives feared that the plan would threaten the viability of local properties and commercial activities.

I should say, Mr Acting President, that the South Australian pastoralists who were so opposed to the idea back then soon realised that what the campaign was trying to achieve was

exactly what this motion is trying to achieve, and that is to prevent the upstream state—in particular Queensland—from behaving in such a way that affect the clean green image of pastoralists in the South Australian portion of the basin.

The world heritage campaign proceeded slowly. As I said, there was the 1993 interim report, but to investigate whether Lake Eyre should be recommended for world heritage listing, three further studies were undertaken: an assessment of the area's natural values, which was undertaken by the CSIRO; an assessment of non-Indigenous cultural values; and an assessment by the Australian Institute of Aboriginal and Torres Strait Islander Studies of the area's Indigenous cultural values.

The CSIRO concluded that areas of the South Australian section of the Lake Eyre Basin, particularly the Cooper and Warburton Creek drainage systems, the Coongie Lakes, the Goyder Lagoon and Lake Eyre itself, qualified for world heritage listing on account of their natural heritage values. Based on this, the World Heritage Unit of the commonwealth department of environment reportedly took the view that—and I quote:

> the South Australian section of the Lake Eyre Basin contains natural values of international significance, and a nomination to the World Heritage Committee would probably be successful. In 1998, a majority of the Lake Eyre Basin Reference Group (which had been appointed by the previous Labor government to assess the potential for World Heritage nomination) appears to have recommended that the Lake Eyre Basin be nominated for World Heritage listing. The majority report recommended initiating a World Heritage management plan for areas of the Lake Eyre Basin which had been identified by CSIRO as being of World Heritage natural value.
>
> However, the Coalition government decided not to pursue a nomination for World Heritage listing 'due to a lack of community and State government support', and expressed the view that 'increased community efforts will deliver the best protection for the area's conservation values.

I indicate that I have been quoting from a Parliament of Australia briefing note in relation to the Lake Eyre Basin Intergovernmental Agreement Bill 2001.

Given that brief history, it is worth having a look at what the CSIRO said about this part of South Australia. The CSIRO's 1995 report, entitled 'Natural Heritage Values of the Lake Eyre Basin in South Australia: World Heritage Assessment', included the following in its executive summary:

> The surface aquatic systems of the Lake Eyre Basin in South Australia are unique in Australia. These surface aquatic drainage systems occur in the driest environment in Australia, they constitute the largest internally-draining system in Australia (and one of the world's largest), they are entirely fed from an arid and semi-arid catchment, they terminate in the vast saline Lake Eyre, the biggest such lake in Australia and among the largest in the world, they are highly variable in flow pattern and therefore create a wide array of ecological conditions, they support a rich and abundant aquatic fauna, particularly large aggregations of waterbirds, and they remain entirely unregulated.
>
> We conclude [that is, CSIRO] that Lake Eyre's size, its endorheic drainage system, and the variability of its flooding, result in it being highly distinctive on the global scale. As with Lake Eyre, the Coongie Lakes appear highly distinctive, if not unique, at the global level. Global comparisons of the Cooper and Warburton with other large rivers suggest that the former are indeed highly distinctive, if not unique, in their entirely arid catchment, in their endorheism, in their exceptionally variable hydrology, and in their termination in a large saline playa.
>
> Our assessment suggests that the significant natural heritage values of certain surface aquatic systems of the South Australian section of the Lake Eyre Basin are of World Heritage value. These systems are the Cooper and Warburton Creek drainages, Coongie Lakes, Goyder Lagoon, and Lake Eyre North and South.

I have provided a copy of this report to the minister. While it might sound very technical and dry, probably a better description of the variability of flow of these rivers is in the analogy, which I think I may have made in this place before but I will make it again, and that is that the Cooper Creek, when it is flowing strongly in flood conditions, has more water going past the town of Innamincka than the Nile River has flowing past Khartoum. That puts this river on scale: that it is mostly dry, you could walk over it, but when it is flowing, it is absolutely raging—and it is that variability of flow which makes it globally unique and worth World Heritage listing.

The reason I have put all that on the record is that the campaign from conservation groups for World Heritage listing had two components. First of all, it was to have that global recognition that we are the custodians of something that is important on a global scale, but it was also that, as members would know, when you have a catchment that crosses state boundaries, there is no national oversight, there is no commonwealth constitutional head of power which says that the upstream state (in this case, Queensland) has to behave in a certain way to protect the interests of the downstream state, which is South Australia. There is no federal law to do that. The only way back then, and I think still the only way, to make sure that the commonwealth government had a role in managing it was to get it World Heritage listed, that brought it within the purview of what was

then the World Heritage Properties Conservation Act, which, under the constitution, meant that if a state was doing something that was in conflict with World Heritage values, the feds could step in and take action. That was what we had in mind.

When the Queensland government, some 20 years ago, started to talk about damming the rivers before they reached South Australia, growing cotton, growing rice, using chemicals which would then flow downstream into South Australia, the pastoral industry in the north-east of our state finally woke up, the penny dropped and they realised that the move they had been opposing for all those years was, in fact, in their best interests because the beef that is produced in that part of the state, they are keen to market it as rangeland wild beef that is completely uncontaminated with chemicals and comes from a completely unregulated catchment. They sort of got it after a while.

Unfortunately, as I have said, the path that the governments went down was a cooperative arrangement. That cooperative arrangement is now falling apart. I wanted to put that history on the record because I think I am one of very few people in this place who remembers it, who was involved in it and who can put some context to what is now a South Australian battle against Queensland to stop them behaving as ecological vandals in their section of the Lake Eyre Basin.

The final thing I want to do is to put the names of three people on the record. I mentioned the ecologist Julian Reid, who produced the 1993 report. I also want to pay special tribute to the late Jim Puckeridge, who was an aquatic ecologist who was taken from us far too soon. He made it his life's work. His PhD was studying these wetlands, especially the Coongie Lakes in South Australia. He was the one who drove the World Heritage campaign. He will be sorely missed, but his work lives on.

The other person I want to publicly acknowledge, who is still with us, is Marcus Beresford, who people may know as being involved with the National Trust these days, but he was the executive officer of the Conservation Council of South Australia for many years. It was Marcus Beresford, Jim Puckeridge and I who comprised the delegation that in 1990 tried to convince the rest of the world that we really did need to protect this globally significant ecosystem. With those words, the Greens are very happy to support this motion.

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

CRIMINAL LAW CONSOLIDATION (PROTECTION FOR WORKING ANIMALS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 October 2013.)

The Hon. S.G. WADE (21:53): I rise on behalf of the Liberal opposition to indicate our support for the passage of the Criminal Law Consolidation (Protection for Working Animals) Amendment Bill 2013. The bill was introduced in the wake of a tragic attack where police dog Koda was stabbed in the process of detaining an offender. The bill supports offences under the Animal Welfare Act 1985 and the Criminal Law Consolidation Act 1935 that provide severe penalties for anyone who harms animals.

Section 13 of the Animal Welfare Act 1985 provides a maximum penalty of $50,000 or imprisonment for four years if a person ill treats an animal and this causes death or serious harm to an animal. The Criminal Law Consolidation Act 1935 currently has three offences that criminalise the harming of animals. Section 85 defines, inter alia, damage in relation to property to include 'to injure, wound or kill an animal'. Under section 85(3) of the act it is an offence without lawful excuse to damage another person's property, including an animal, intending to damage the property or being recklessly indifferent as to whether the conduct would damage the property.

Section 85(4) provides that it is an offence without lawful excuse to threaten or damage another's property and by section 85A it is an offence to do an act knowing that the act creates a substantial risk of serious damage to another's property. These offences are serious offences, attracting maximum sentences of imprisonment of 10 years, five to seven years and six years respectively. On 11 September 2013, the Attorney-General introduced the bill that is before us. The bill seeks to amend the Criminal Law Consolidation Act, to create a new serious criminal offence of causing death or serious harm to a working animal by an intentional act, punishable by up to five years imprisonment.

In addition to any penalty that may be imposed, the bill proposes to vest the court with extensive powers to order a person found guilty of causing serious harm or death to a working

animal to pay costs and compensation for the treatment, care, rehabilitation and retraining of the animal that has incurred as a result of his or her actions. The cost of training police dogs and guide dogs is unspecified but, nonetheless, we understand it is substantial.

Serious harm in the bill is defined in a similar way to serious grievous bodily harm as it applies to humans in section 23 of the Criminal Law Consolidation Act. However, it is defined to exclude mental or psychic harm. In terms of proportionality, both the human offences and the animal offences (if I can call them that) escalate to 25 per cent between the harm and serious harm levels; four to five years and 20 to 25 years respectively.

The definition of a working animal covers a police dog, a police horse, a guide dog and a correctional services dog. The bill proposes that other working animals could be prescribed by regulation. I understand that there are currently 25 dogs and 36 horses working for the South Australia Police. In correctional services there are usually six working dogs, but I understand there are currently three.

The opposition is aware that a number of local councils operate security canine patrols, those councils particularly being in rural areas. These patrols are authorised officers of the council, supported by canines, with the authority to enforce council by-laws. Their roles include the monitoring of city infrastructure against vandalism to counter antisocial behaviour and assist police where possible.

Given the similarities in roles between the security canine patrols and other law enforcement animals, the opposition considers that these animals should be included, and I have filed an amendment to extend the definition of a working animal to include a dog used by or on behalf of a council for the purposes of enforcing council by-laws, conducting security patrols or patrolling or guarding property in a council area.

Let me stress again, as I have already mentioned, these animals are involved in working with authorised council officers who in turn assist police where possible. These dogs are used for law enforcement purposes, and it is the opposition's view that it is logical that they be included in the definition of 'working animal' to ensure that these dogs receive the same protection as other working law enforcement animals.

While the opposition supports the Criminal Law Consolidation (Protecting Working Animals) Amendment Bill 2013, I will be moving the amendment I have foreshadowed. We appreciate that in defining 'working animals', many working animals will be excluded. To start close to home, the bill will not cover the great moth hunters of Stirling, Lily and Hodge, but we do need to draw the line somewhere.

The opposition supports the focus on law enforcement animals and considers that the exclusion of animals engaged in council by-laws is an oversight that should be corrected. The opposition is concerned that, given that the range of law enforcement animals is relatively stable, we can see no reason that the list of working animals should not be defined in the bill. The Law Society has advised that in their view:

> …any expansion of the class of working animals should be by primary legislation, not regulation.

The opposition supports amending the bill to remove the power to prescribe animals by regulation. To remove this power would maintain parliamentary oversight, which we believe is appropriate in this case. The opposition supports the second reading of the bill and looks forward to consideration of the bill at the committee stage.

The Hon. R.L. BROKENSHIRE (21:59): I rise to advise the house that Family First supports the principles of the bill. Koda is the police dog allegedly stabbed twice in the line of duty at about 7.30am on Sunday 25 August 2013 at Elizabeth Vale. It was an attack that the editor of *The Advertiser* described as a coward's act, and I agree. It made national headlines, including in the *Daily Telegraph*, which ran the headline 'Undies-clad man stabs police dog'. Koda had allegedly tackled the man to the ground after he was seen emerging from what is said to have been a break-in.

Koda reportedly is a legend around the office at SA Police and has been responsible for multiple arrests in the months preceding the stabbing. *The Advertiser* profiled previously the retired police dog Sultan, put down after six years' service, after 637 jobs and tracking 95 suspects over his career.

I also note *The Advertiser* reported in its *World News* on Sunday 10 November that the Nottinghamshire police commissioner wants police dogs to get pensions, as up to $A800 for three years is needed for the retired dogs' former handlers to care for them in retirement. The government is not moving to do that. This bill has far less budget impact than that move could potentially have, but I urge the government to consider that in the police budget into forward estimates.

The day after the attack on Koda the Premier and police commissioner said they would move to increase penalties. Thankfully, Koda has made great progress since the stabbing. Animal Welfare League have now succeeded in putting first aid kits in the hands of handlers, according to *SA Police News* on 6 November 2013.

The government, in consultation, has expanded the scope of the bill to include a police horse and I am very, very pleased to see that. In fact, as soon as I saw that the government was coming out to protect the police dogs I thought to myself, 'You just can't protect the police dogs unless you protect the police horses.'

My mind cast right back to when I was a very young person during the Vietnam moratorium when just out here the horses of the mounted division were treated in the most disrespectful way that I have seen with any animals, where tacks were put on the road so that the tacks could hurt the hooves of the horses. I believe ammonium was also waved around to hurt the breathing passages of those horses. Nothing happened about that and here we are now, finally, all these years after that dreadful example of the treatment of any livestock, where the government has now included the police horses, and I congratulate them for that.

I also congratulate the government for putting in correctional services dogs. When I was fortunate enough to be Minister for Correctional Services there was a beautiful border collie called Duracell, which was bred as a sheep dog and was unsuccessful with sheep, which the department purchased for $50. Duracell became a magnificent deterrent for drug trafficking in the prisons. When the visitors came into the waiting room, often with the drugs on them, Duracell had been trained to detect those drugs. Duracell just sat down next to those particular visitors and then the prison officers would come and say, 'Excuse me, please, we would like to see you.' From there, firstly, they apprehended drug traffickers into the prison and, secondly, those drug traffickers and others soon got the message that that dog was going to be there on a random basis. What a tragic situation it would be if a dog like Duracell was to be severely injured as a result of just going about its work within the department. Of course, accredited guide dogs are also covered.

We accept that it is fair, given the investment, to include guide dogs, but they are somewhat outside of the original intent, and other inclusions being animals involved in law enforcement. For that reason we also move to include customs and rescue dogs. Customs dogs can be subject to risk as well, particularly when it comes to drug trafficking. The SES has rescue dogs. Let's hope and pray that we do not see a tragic situation in our state and nation like the one we are seeing in the Philippines, Vietnam and parts of China at the moment. In that type of situation, those dogs are vital in locating people trapped under wreckage, etc. I think that that sort of protection needs to be made available to those dogs as well, to be comprehensive.

I do have some amendments, which I have circulated to colleagues with the explanation of the clauses, so I will not speak to those until the committee stage. In general, I seek to expand the categories of dogs covered to include rescue dogs and customs dogs and then to close the pathway for other working animals to be included, as this is a question for parliament, not for regulations.

I agree with the Hon. Stephen Wade when he says that we should identify and specify the animals to be protected within legislation. I particularly agree with that because on too many occasions we have heard the government say, 'Trust me, I'm from the government, I'm here to help. You guys pass the legislation, and then we'll put the finishing touches to it in regulation,' and then we discover that that regulation is often bizarre and not the intent of the parliament. I would encourage and ask colleagues to designate the specific dogs and their uses within legislation.

A circus animal, for instance, could be considered a working animal, and we think the inclusion of 'other animals' is one for the parliament and not regulation. With those words, in principle, as I said at the beginning, we commend and support the government for this initiative and look forward to a positive passage of the bill with supported amendments.

The Hon. K.L. VINCENT (22:07): I speak this evening to oppose the second reading of this bill. I know that there are other members around this place who would also like to do the same

and speak out against it, but they feel they cannot as they fear it will be an unpopular stance. So, once again, similar to the motor vehicle accidents scheme this chamber recently discussed, it is up to me to make what is possibly an unpopular but right decision.

No-one wants to see any animal hurt, whether that animal be a working animal assisting someone with some kind of disability or just a companion animal. This chamber is not here to pass well-meaning but totally unnecessary knee-jerk reaction laws, and we are not here to pass laws that amount to gratuitous government media stunts. The only thing that K-O-D-A spells out in Koda's law is a 'key operational destruction approach' by this government.

The Premier made this announcement amid much fanfare on 27 August. It sought to protect 61 police animals, 25 dogs and 36 horses. Immediately after that announcement, strident disability advocate Sam Paior suggested that disability assistance dogs be added. I want to labour the point that this addition was not the government's idea: it was the suggestion of a member of the disability community.

We have been told that this bill is a priority of the Premier to get through the parliament before we complete the sitting session. It is beyond belief that while the state government's education department lurches from one child sex abuse crisis to the next the Premier wastes everyone's time and taxpayers' money making up new laws that are already covered by existing legislation.

The fact is that the Animal Welfare Act of 1985 already provides for up to four years' imprisonment or a $50,000 fine for anyone who harms or seriously harms an animal. Why are we not using those existing laws is the underlying question that I have and a question that needs answering. If there does need to be some tweaking of the Animal Welfare Act, then we should be doing that. Creating completely different laws within a different act is not the way to manage this issue. I note that I believe the Law Society agrees with me on that point.

I was quite interested to read page 3, I think, of today's *Advertiser*—perhaps 'interested' is not the right word; 'filled with rage' would be a more adequate description—where the Attorney-General saw fit to accuse me of politicising the issue of child sex abuse by not supporting this bill. There are a few points I would like to make on that.

For one, I am not sure how I am politicising the issue by simply highlighting the government's already known failures on this issue. For another, if he wants to see people who are politicising this issue, maybe he needs to look a bit closer at the company he is keeping. After all, it was this government that refused to present to a committee on the issues surrounding the Debelle inquiry. Perhaps if he wants an example of politicising the issue, the Attorney-General need only look at his own gang, if you will.

I hope it goes without saying that Dignity for Disability takes seriously the issue of child safety in our schools and wishes that this government, the Premier and the relevant ministers would do the same. We wish they would be urgent on areas of law that are completely broken, or reform policies and procedures that will protect vulnerable adults and children, procedures that are not already covered by existing legislation.

Where are the urgent laws needed to protect vulnerable people with profound and multiple disabilities, for example? Where are the urgent laws to allow intermediaries in our courts? Where are the urgent laws to improve the deficiencies in our Evidence Act? Why does a new horrific story of child abuse or children put at risk emerge from the Department for Education and Child Development every week? Why are 61 police animals now a priority ahead of safeguards for several thousands of South Australian schoolchildren?

I hasten to add, of course, that Dignity for Disability has a strong and, I believe, undeniable record of advocating on animal welfare issues, including supporting the push to ban horse jumps racing, the change in definition of free-range eggs, and the list goes on. I would also hasten to add that it was in fact Dignity for Disability that pushed to stop the pet bond under the Residential Tenancies Act applying to people with disability assistance dogs, which was in fact arguably a breach of the Disability Discrimination Act. I do not think this move can make anyone question our commitment to animals; it is simply that we question whether this bill is the right way to protect them.

Police dogs, customs dogs, the dogs that are tied up without water all day long, the dogs bred for pet shops and puppy farms, and especially any dog or assistance animal that comes under attack are important to us. I would hasten to add, of course, that my personal passion for animal

welfare outside this parliament is, I believe, well known, having attended and spoken at a number of rallies to support the phasing out of live exports. Of course, people are well aware, particularly those who have invited me over for dinner, of my dietary requirements in the area of animal welfare.

Dignity for Disability takes seriously the responsibility of this parliament and urges all others to do likewise. Passing a populist law to protect working dogs will offer no additional protection to those animals than that which is already afforded to them under the current Animal Welfare Act of this state. The government cannot even argue that this will act as a deterrent to people considering harming a working dog, because the law does not require the offender to know that they are committing an offence against a working dog.

Every offence, save a handful of traffic offences, has two elements that must be established to demonstrate the guilt of an accused. To express it quite simply, they are the act and the intent. One would think that if the aim of this bill is to deter those who would assault and seriously harm a working animal the fact that the animal was a working animal would form part of the intent element and it would be necessary for the accused to have known that the animal in question was in fact a working animal.

However, in some cases the bill places the animal's status as a working animal within the act element, stating that the accused's knowledge of this fact is not a relevant consideration. I am uncertain how the government proposes to deter a prospective offender from committing an act that they are unaware they are committing.

While many of these situations are ones where one would more likely than not be aware of the fact that the animal is likely to be a working animal, there is one possible situation that concerns me, to say the least. In new section 83I(4)(b)(i) the bill refers to death or serious harm that occurs related to the commission of an offence by the defendant or a person in the company of the defendant.

In the event that the offending has been carried out by a person in the company of the defendant, there is no reference to the defendant having any knowledge of their companion's offending. We leave the public unable to know whether or not their conduct in dealing with a potentially aggressive animal is lawful.

For example, if I were out in Rundle Mall with a friend and that friend were to commit a shoplifting offence (of course, I am of the understanding that none of my friends would do that but, hypothetically) and was chased down by a working animal pursuing them in order to enable officers to lay charges against that person for that offence, by virtue of the fact that I was in the company of that person, I could myself commit an offence if, for example, the dog or the animal made some move toward me that I was uncomfortable with and I attempted to distance myself from that animal in a way that could be interpreted as aggressive or violent. I potentially could be committing an offence. Where is the logic in that?

Do we expect members of the public to ask their friends if there is anything that they should be aware of before attending to the German shepherd that is gnawing at them? The removal of the defence under such circumstances is deeply concerning. It criminalises an act of what would otherwise be one of entirely reasonable self-defence where the defendant has no knowledge of an animal's status as a working animal or its reasons for attacking them or their companion.

At least under our animal welfare laws you are charged with injuring an animal without having to establish whether it fits the criteria of being a working dog. With this bill, we are adding a level of unnecessary complexity to our laws which is unlikely to see any benefit. I hasten to labour the point once again that, in my opinion, if you stab a police dog you stab a dog, if you stab a working cat you stab a cat, it is all much the same act.

The Hon. J.M.A. Lensink: Cats don't work.

The Hon. K.L. VINCENT: I think the Hon. Ms Lensink is interjecting that, of course, cats should be seen as somewhat more important, but I don't know if I can really—

The Hon. J.M.A. Lensink: No, they don't work.

The Hon. K.L. VINCENT: They don't work? Of course they do. They do all that modelling for artists, lying around in the sun. Anyway, we digress ever so slightly. I promise you I will learn not to respond to interjections, Mr Acting President.

In terms of disability assistance animals, this legislation only currently covers accredited guide dogs so, therefore, it does not include horses for people with disabilities and hearing dogs or dogs trained for people on the autism spectrum or with mental illnesses or intellectual disability. It does not include any other animal trained for special use for people with disabilities. This demonstrates that the government does not actually get the issue of disability assistance dogs, as if the residential tenancies issues had not already painted that very clearly for us. Why are guide dogs for the blind more important than a hearing dog or a dog that assists a person with an intellectual disability or on the autism spectrum?

Additionally, the Law Society submission, which I mentioned earlier, demonstrates what a waste of time this legislative change amounts to, and they stated so in no uncertain terms in their submission to the Attorney-General. It is adding complexity to laws that is simply not needed. I feel at pains to point out that I see no issue with advancing special protection to working animals as such. What I oppose is a deeply flawed bill and the dog and pony show that has surrounded it.

If one wishes to create additional penalties for harming a working animal, we have an animal welfare act that already contains provisions protecting all animals. I cannot fathom why a change of this kind would not be carried out by including an animal's status as a working animal as an additional aggravating factor that attracts an additional penalty. Naturally, we all feel for the suffering of animals—no-one more than me—whether they be companion animals, working dogs, assistance animals and so on.

I do not intend to take more of this parliament's time, apart from stating that Dignity for Disability opposes this bill and the complete diversion from good legislation and good legislative sense that it represents. At the end of the day, what this government is looking for is something that they can turn to at the end of a bad day in their education department and say, 'Well, at least we protected the nice little puppy dogs—brownie points for us.' This is a complete distraction tactic and one that I cannot, in good conscience, support.

The Hon. T.A. FRANKS (22:20): I rise on behalf of the Greens to address the Criminal Law Consolidation (Protection for Working Animals) Amendment Bill 2013. As members have broached, and as many in the South Australian community are aware, on 26 August this year, a German shepherd police dog, Koda, was stabbed whilst apprehending a suspect who was later charged with a series of offences including, I note, attempted aggravated robbery, four counts of theft, aggravated serious criminal trespass, aggravated assault police, property damage and, indeed, injuring an animal.

In the process, Koda suffered a serious and life-threatening injury and had to undergo emergency surgery to save his life. While there are no specific laws in our state that target offenders who intentionally harm animals used in law enforcement or assistance roles, there are of course laws for these situations and indeed, in this case, it appears that that law has been at least in part employed in terms of the 'injuring an animal' component. Indeed, I point to section 13 of the Animal Welfare Act 1985. That provides for a maximum penalty of $50,000 or up to four years' imprisonment.

Following the attack on Koda, however, the Premier and the Commissioner of Police saw fit, with some haste, to announce that the government would propose to parliament the enactment of a serious criminal offence punishable by five years' imprisonment that dealt with harming animals used for law enforcement purposes. This was later extended to include guide dogs and, as the Hon. Kelly Vincent quite rightly noted, that was not done upon reflection and consultation by government. It was done at the behest of disability advocates who pointed out that this particular law was addressing a single issue and was somewhat lacking in that broader scope.

Indeed, with the intention of providing a greater deterrent to criminals who may have been tempted to harm a working animal, and greater penalties for those who did, we did indeed have feedback from the community. I am sure that all members of parliament have had other situations raised with them of other particular types of animals that could indeed be included in this legislation, and we are already seeing those animals and situations both brought to the fore with proposed amendments and proposed possible future regulations under the government. Under this bill before us, it is also proposed that a court would additionally be able to require the perpetrator to pay for the treatment, care, rehabilitation and retraining of the affected animal.

This bill before us creates a new offence of causing death or serious harm to a working animal by an intentional act and is applicable to police dogs, police horses, guide dogs and correctional services dogs. I understand, as I said, that the government also proposes to permit

other working animals to be prescribed by regulation with that maximum penalty being five years' gaol. This law would make it an offence to harass or interfere with the duties of the animal or the handler also.

The Greens note, as did the Hon. Kelly Vincent and I believe the Hon. Stephen Wade, the advice received from the Law Society on this bill before us, and echoed very strongly here today, that the existing Animal Welfare Act 1985 already offers protections for our working animals, such as police dogs and assistance dogs. When this was first announced I did agree with the Hon. Kelly Vincent's tweet, where she directed a particular direct message to the Premier, attaching the Animal Welfare Act, and asking why were not the current laws simply being applied and enforced. Indeed, if there are flaws with the Animal Welfare Act, why are we not opening up that act to both strengthen and ensure that enforcement and prosecution is possible through those particular current laws?

The Greens will not go as far as to oppose this bill outright. Certainly the protection of animals is a foundation of a compassionate society, and the welfare of animals that work for us, often putting their own lives in harm's way in the process, should be a priority that I hope all members of government would share.

Certainly I would hope that it would be done not simply for media attention and media grabs and on a single-issue basis, and this is an indication that the government will soon act to enact the 11 recommendations from the Select Committee on Dogs and Cats as Companion Animals, which reported in recent months. Certainly the recommendations of that particular committee's report would have a far greater broader impact and save many more animals' lives than we will do today with this particular bill.

I note that Koda's handler in the media coverage of this event had stated that 'in his seven years with the SA Police Dogs Operation Unit he had never before seen one of the force's 25 dogs get stabbed'. So this is a rare event, but what we do know, and what the Select Committee on Dogs and Cats as Companion Animals did find, is the horrific conditions of puppy factories or puppy mills and certainly very unpalatable treatment of companion animals in this state is a far more common occurrence than one incident in seven years.

Those are the issues that I would hope this government will now turn its mind to. However, with only a few short sitting days left before the end of the year, I am losing hope that we will see any urgent action from this government arising from that Select Committee on Dogs and Cats as Companion Animals.

However, I certainly commend the Hon. Michelle Lensink and Dr Susan Close, the member for Port Adelaide, for not only their stated commitment to me but also their assistance in co-hosting with me a recent companion animal shelter summit that we held in this place in a non-sitting week. I believe that we three at least, and I am sure the Hon. Kelly Vincent, among many others, will look forward to law reform to protect companion animals in the coming years.

Nonetheless, while we are now seeing some congratulating—and certainly it is a very publicly popular move to protect Koda—these major opportunities for improvements in companion animal welfare are going begging, and we must ensure that the welfare standards in the breeding of companion animals and in reducing the numbers of unwanted and stray animals that are being unnecessarily euthanased, is urgently addressed.

Initiatives such as compulsory vaccination, microchipping, early desexing, desexing in general, licensing and enforceable minimum standards for breeders and public awareness programs are all essential. The Greens will continue to work on these goals, and we do not believe that this should be a partisan affair, and we look forward to working with all across this particular parliament and with those in this particular area—the shelters, the rescue groups, the peak bodies, the government agencies and the local government agencies. We share some of those concerns raised by the Law Society and we will get into that during committee stage given the time of the evening, so I will not go too far into some of those specifics. We look forward to debating not only the government bill but the various amendments that have so far been filed.

If the government could respond in their second reading summary or in clause 1, at what point was the RSPCA contacted about this particular bill? What input did they have into it? Were there any identified barriers to the Animal Welfare Act that possibly would have been a different course to take for progressing on this very specific issue of Koda and Koda's law. I also suggest that there is certainly a great discussion to be had about which animals are included in these particular laws and I look forward to exploring that further in the committee stage.

With that, I share some of the cynicism of the Hon. Kelly Vincent that this issue has been used as a sideshow and a distraction; however, I do so supporting this bill in the hope that in the future when we are debating animal welfare issues in this place, as well as companion animals and working animals, that we do so in a bipartisan or cross-party way and with some real law change that will benefit the majority of animals in this 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) (22:32): By way of concluding remarks, I thank honourable members for their contributions on this bill. A question was asked in the other place in relation to the number of offences committed under the provisions of the Animal Welfare Act 1985 that deal with the ill treatment of animals.

I can advise that between 4 October 2008 and 31 December 2012 there were 479 charges finalised under section 13(2) of the Animal Welfare Act 1985. The subsection deals with the ill treatment of animals. There were a further 32 charges finalised under section 13(1) of the Animal Welfare Act which deals with intentionally ill treating animals to cause the death of or serious harm to an animal. Unfortunately there are no specific statistics pertaining to working animals.

I also would like to clarify that we were unable to obtain statistics in relation to offences committed against animals under the property offences provisions of the Criminal Law Consolidation Act as the statistics do not differentiate between animals and other types of property.

In relation to comments made in the media by the Hon. Kelly Vincent, the following comments are made. The Hon. Kelly Vincent's comments that this bill is an attempt to divert attention from the very important issue of child sexual abuse cases which the government takes extremely seriously. They are very offensive and they were echoed by the Hon. Tammy Franks as well in her second reading contribution. This bill is not a 'gratuitous media stunt'. It is an important and worthwhile bill which offers increased protections to working animals.

The honourable member commented that these new provisions were 'already covered by existing legislation'. I am advised that this is incorrect. Whilst the Animal Welfare Act 1985 does have provisions that address the ill treatment of animals, it does not distinguish between pets and animals used in various working roles. This bill creates a new category to cover police dogs, police horses, correctional services dogs and guides dogs, etc. and recognises their important functions and the significant costs associated with their training.

In order for these animals to be protected by the new provisions, they must have completed the relevant training courses. The costs associated with the training of these animals are significant—approximately $25,000 for a police dog, $30,000 for a guide dog and $70,000 for a police horse. These animals are exposed to an increased risk of harm due to their work and deserve the extra protection this bill will provide. Indeed, the member for Stuart in another place commented that it is pretty plain common sense that any animal working on behalf of people probably deserves a bit more protection.

Our bill increases the maximum term of imprisonment for those convicted under the new offence to five years. We have also included new provisions that allow the court to make an order that a person found guilty of an offence is required to pay compensation. The compensation may cover the veterinary costs of treating the animal, the cost of rehabilitating or retraining the animal, the cost of replacing the animal or the cost of retiring the animal, including the costs of rehousing and relocating the animal.

These new provisions will act as a deterrent and will, as a consequence, provide additional protection to working animals. It is a policy which is supported by South Australia Police, Correctional Services and Guide Dogs SA/NT. The government is disappointed that the honourable member has indicated that she will not support the bill.

The compensation provisions are specific to working animals and their functions and recognising the significant cost that is involved in training one of these animals. The Hon. Robert Brokenshire has filed amendments to the bill, and I am advised that the government is still considering its position in relation to those amendments. With those few words I commend the bill to the house.

Bill read a second time.

MAJOR EVENTS BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

SUCCESSION DUTIES REPEAL BILL

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

PUBLIC CORPORATIONS (SUBSIDIARIES) AMENDMENT BILL

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

CRIMINAL LAW (SENTENCING) (SENTENCES OF INDETERMINATE DURATION) 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) (22:38): 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 Bill amends Division 3 of Part 2 of the *Criminal Law (Sentencing) Act 1988*.

The present legislative scheme

Part 2 Division 3 was enacted to deal with offenders of a particular class; namely, sexual offenders. The Government of the day believed that an offender who has been assessed as being incapable of controlling, or unwilling to control, his or her sexual instincts, is a grave enough risk to warrant an overturning of the fundamental principle of proportionality in sentencing in order to protect society from the likely recidivism of the offender.

Section 23 of the Act currently provides that, if a person has been convicted of a relevant sexual offence, the Supreme Court may order that the person be medically assessed as to whether they are incapable of controlling, or unwilling to control, his or her sexual instincts. On receipt of the reports of this assessment, or if the offender refuses to cooperate with an assessment ordered by the Court, the Court may order that the offender be detained in custody until further order (known as an indeterminate sentence).

The purpose of an order under section 23 is principally for the protection of the community and not for the punishment of the offender. It has been held that the power to make an order under section 23 is exceptional and should be exercised with caution and where there is cogent and acceptable evidence justifying the making of the order. A release on licence under section 24 involves the exercise of a discretion on similar criteria to those under section 23(11) but has been granted more readily than a discharge of the order itself. The Supreme Court has held that a determination of an application under section 24 involves balancing the interests of the applicant on the one hand and those of the community on the other.

Community Safety

The Government is of the view that this test, involving a balancing of the interests of the applicant and the community, is not acceptable. The safety of the community must be regarded as the paramount consideration when the Supreme Court considers either an application for discharge of an order under section 23 or an application for release on licence under section 24.

Accordingly, the Bill makes amendments to the current test for the discharge of an indeterminate sentence order and imposes a new test for a release on licence under section 24. When considering such applications, the Court will be required to take into account the safety of the community as the paramount consideration. This test is akin to the test included in section 67 of the *Correctional Services Act 1982*, which provides that the paramount consideration for the Parole Board when determining an application for the release of a prisoner who is not eligible for automatic parole must be the safety of the community.

In addition, the Government is taking the opportunity to make amendments to the test for the making of an indeterminate detention order. Once again, the Bill will require the Court to take into account the safety of the community as the paramount consideration.

Reports

The Bill amends the matters that the Supreme Court must take into account when determining an application for a discharge of an indeterminate sentence order or an application for release on licence under section 24. Previously, the Court was only required to consider the report of at least 2 legally qualified medical practitioners when determining an application for a discharge of an indeterminate sentence order. The Bill imposes the same requirement in relation to an application for release on licence. In addition, the Bill inserts a requirement that the medical practitioners be nominated by a prescribed authority.

The Bill also imposes a requirement for the Court to consider a report furnished by the Training Centre Review Board or Parole Board (as the case may be) when determining an application for a discharge of an indeterminate sentence order or an application for release on licence. This provision will give the relevant Board an opportunity to present its opinion to the Court on the effect that the applicant's release may have on the safety of the community, the probable circumstances of the person if released (either through discharge of the indeterminate sentence order or release on licence), and the recommendation of the relevant Board in relation to the application.

Finally, the Bill reduces the frequency of the relevant Board's requirement to review and report under section 23(9) to annually rather than bi-annually, and provides that the purpose of the review is for the relevant Board to make a recommendation about whether the person the subject of the review is either suitable for release on licence or, if the person has already been authorised to be released or has been released, whether the person is suitable to be so released.

Relevant offence

The Bill amends the definition of *relevant offence* in section 23(1) to include an offence of failing to comply with any reporting obligation relating to contact with a child without a reasonable excuse where the defendant is a registrable offender under the *Child Sex Offenders Registration Act 2006*.

Transitional provisions

The Bill inserts Schedule 2. This Schedule contains a transitional provision to enable the Supreme Court to conduct what is essentially a re-hearing of a prior decision to release on licence a person subject to an indefinite detention order. The Schedule gives the Director of Public Prosecutions a discretion to apply for the cancellation of an existing order for release on licence. When considering such an application, the Court must take into account the same matters that must be taken into account when determining an application for release on licence as provided by the amendments provided for in the Bill.

Ultimately, the purpose of this Bill is to ensure that the safety of the community is the paramount consideration for the Court when determining any applications under this legislative scheme.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Law (Sentencing) Act 1988*

4—Amendment of section 23—Offenders incapable of controlling, or unwilling to control, sexual instincts

This clause amends section 23 to separate the provisions relating to the making of an order to detain a person who is incapable of controlling, or unwilling to control, his or her sexual instincts in custody until further order from the provisions relating to the discharge of such an order.

The amendments clarify that, before determining whether to make an order that a person to whom section 23 applies be detained in custody until further order, the Supreme Court must direct that at least 2 legally qualified medical practitioners (to be nominated by a prescribed authority for the purpose) inquire into the person's mental condition and report to the Court on whether the person is incapable of controlling, or unwilling to control, his or her sexual instincts.

The amendments emphasise that the paramount consideration of the Supreme Court when determining whether to make such an order must be the safety of the community.

The list of other matters to which the Court must take into account when determining whether to make such an order is as follows:

- the reports of the medical practitioners (as directed and nominated under proposed subsection (3)) furnished to the Court;
- any relevant evidence or representations that the person may desire to put to the Court;
- any report required by the Court under section 25;
- any other matter the Court thinks relevant.

Proposed new subsection (5c) is similar to current section 23(5)(b) except that it now includes a reference to the paramount consideration being the safety of the community.

It is proposed to substitute subsection (9) with a new subsection that substantially restates what is in the current subsection and adds that the purpose of the annual review by the Training Centre Review Board or Parole Board (as the case requires) is for the relevant Board to make a recommendation about whether the person the subject of the review is either suitable for release on licence under section 24 or, if the person has already been authorised to be released or has been released, whether the person is suitable to be so released.

The clause also adds to the list of offences that constitute a *relevant offence* (as set out in current section 23(1)) the offence of failing to comply with a reporting obligation relating to reportable contact with a child without a reasonable excuse where the defendant is a registrable offender within the meaning of the *Child Sex Offenders Registration Act 2006*.

Other amendments are of a minor nature.

5—Insertion of section 23A

New section 23A includes the provisions (with additions and amendments) from current section 23 that provide for the discharge of orders for detention under section 23.

23A—Discharge of detention order under section 23

Subsection (1) of this new section is similar to current section 23(11) and provides that, subject to the Act, a person subject to an order for detention under section 23 will not be released from detention under that section until the Supreme Court, on application by the Director of Public Prosecutions or the person, discharges the order for detention.

The Supreme Court must, before determining an application for the discharge of an order for detention under section 23, direct that at least 2 legally qualified medical practitioners (to be nominated by a prescribed authority for the purpose) inquire into the mental condition of the person subject to the order and report to the Court on whether the person is incapable of controlling, or unwilling to control, his or her sexual instincts.

This new section also provides (as in the proposed amendments to section 23) that the paramount consideration of the Supreme Court when determining an application for the discharge of an order for detention under section 23 must be the safety of the community.

Similarly to what is proposed to be inserted in section 23, the Supreme Court must also take into account various other matters when determining an application for the discharge of an order for detention under section 23 as set out below:

- the reports of the medical practitioners (as directed and nominated under proposed subsection (2)) furnished to the Court;
- any relevant evidence or representations that the person may desire to put to the Court;
- a report furnished to the Court by the Training Centre Review Board or Parole Board (as the case may be) in accordance with the direction of the Court for the purposes of assisting the Court to determine the application, including—
  - any opinion that the relevant Board may have about the effect the discharge of the order may have on the safety of the community; and
  - a report as to the probable circumstances of the person if the order is discharged;
  - the recommendation of the relevant Board about whether the order should be discharged;
- the reports resulting from the periodic reviews under section 23(9) by the relevant Board on the progress and circumstances of the person tendered to the Court;
- any other report required by the Court under section 25;
- any other matter that the Court thinks relevant.

A copy of a report furnished to the Supreme Court under this new section must be given to each party to the proceedings or to counsel for those parties.

6—Amendment of section 24—Release on licence

This clause makes amendments to section 24 that are consistent with the amendments to section 23 and new 23A; inserts a requirement that the Court take into consideration evidence tendered to the Court of the estimated costs directly related to the release of the person on licence; and makes a consequential amendment.

7—Amendment of section 25—Court may obtain reports

This proposed amendment is consequential on the proposed insertion of Schedule 2.

8—Insertion of section 25A

It is proposed to insert a new section 25A that is substantially the same as what is currently provided for in current section 23(4).

25A—Inquiries by medical practitioners

New section 25A provides that where, for the purposes of Part 2 Division 3 of the principal Act, the Supreme Court directs that at least 2 legally qualified medical practitioners (to be nominated by a prescribed authority) inquire into the mental condition of a person and report to the Court on whether the person is incapable of controlling, or unwilling to control, his or her sexual instincts, each medical practitioner so nominated—

- must carry out an independent personal examination of the person; and
- may have access to any evidence before the court by which the person was convicted; and
- may obtain the assistance of a psychologist, social worker, community corrections officer or any other person.

9—Insertion of Schedule 2

This clause inserts Schedule 2:

Schedule 2—Reconsideration of authorisations to release on licence under section 24

Schedule 2 provides for a scheme by which the Supreme Court may, on application by the Director of Public Prosecutions, cancel or confirm the release on licence of a person to whom clause 1 of the Schedule applies (being a person subject to an order for detention under section 23 who, before the commencement of the clause, has been authorised by the Supreme Court under section 24 to be released on licence). The scheme is consistent with the proposed amendments to Part 2 Division 3 of the principal Act set out above.

Debate adjourned on motion of Hon. D.W. Ridgway.

STATUTES AMENDMENT (ASSESSMENT OF RELEVANT HISTORY) 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) (22:39): I move:

That this bill be now read a second time.

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

Leave granted.

It is important that government does everything possible to promote the safety and well-being of the most vulnerable in our community. Children, and adults with physical disabilities or mental impairment, are among the most vulnerable. Parents, care-givers and family members should be confident that organisations and businesses providing services to children and vulnerable adults are taking all reasonable steps to ensure the safety and well-being of those children and vulnerable adults. Further, parents, care-givers and family members should be confident that unsuitable people are not providing those services. Screening of people who work or volunteer with children and vulnerable adults is a significant preventative measure.

I am proud to say that it was this Government that first introduced legislative measures in the *Children's Protection Act 1993* for the screening of those who work or volunteer with children in 2005 as part of the Keeping Them Safe reform program. This followed the landmark review initiated by this Government into our child protection system, conducted by former Supreme Court justice Robyn Layton. These provisions were later enhanced in 2009 in response to the recommendations arising from the Mullighan Inquiry. This was another landmark inquiry instigated by this Government to learn from the mistakes of the past, by shining a light on child sex abuse and providing a forum for so many affected people to tell their stories and commence the healing process.

More recently, this Government signed the *Intergovernmental Agreement for A National Exchange of Criminal History Information For People Working With Children* (IGA). It is designed to facilitate the exchange of information with other jurisdictions for the purposes of screening those that work or volunteer with children.

This Government remains committed to ensuring that the legislative framework in South Australia for screening those who work or volunteer with children is an effective preventative measure that contributes to safety and well being, and that similar requirements are in place for those who work or volunteer with vulnerable adults. It is paramount that the legislative arrangements in this State work in tandem with those in other jurisdictions in order to prevent unsuitable people from escaping the screening safety net. We are also concerned to ensure that the arrangements for screening public sector employees in general are adequate for the benefit of the community and to protect the interests of the government as an employer.

It is for these reasons that this Government has launched a wide-ranging review into the screening arrangements in this State. The review is to be undertaken by a cross-government working group led by the Attorney-General's Department. The working group is to make recommendations to Cabinet about the screening of those who work or volunteer with children and vulnerable adults by December 2013. Recommendations about screening of public sector employees in general are to be made by July 2014. It will be necessary as part of the first tranche of the review, for the working group to examine the various legislative schemes in other jurisdictions for screening those who work or volunteer with children or vulnerable adults in order to make recommendations about what best suits South Australia.

The Government is introducing this Bill in tandem with the review because there are certain issues that can be, and should be, dealt with now. This includes giving full effect to the IGA.

Notably, the Bill introduces for the first time in this State a legislative framework to screen people that work or volunteer in the disability sector by amending the *Disability Services Act 1993* and further enhances the existing

arrangements in the *Children's Protection Act 1993* for screening those that work or volunteer with children. It also amends the *Spent Convictions Act 2009* to facilitate more robust screening of those that work or volunteer with children in accordance with our obligations under the IGA.

Amendments to the *Children's Protection Act 1993*

Currently, section 8B(1) of the *Children's Protection Act 1993* makes it an offence for a responsible authority of an organisation to fail to ensure that before a person is appointed to or engaged to act in a prescribed position in the organisation an assessment of the person's 'criminal history' is undertaken. Similarly, section 8B(2) authorises the responsible authority of an organisation to undertake an assessment of a person's 'criminal history' at any time, in specified circumstances.

The Bill introduces an obligation to assess 'relevant history' instead of 'criminal history'. 'Relevant history' is defined broadly in the Act for the purposes of an assessment undertaken by a person or body authorised to do so under the regulations made under the Act. Presently, only the screening unit in the Department for Communities and Social Inclusion is so authorised. This amendment will explicitly permit a broad range of information to be taken into account by this screening unit—including information held by government agencies. Otherwise, 'relevant history' is defined to accord with criminal history information obtained from SAPOL or Crim Trac, as is presently the case for assessments undertaken by others. 'Findings of guilt' fall within the definition of 'relevant history' in any event. 'Findings of guilt' include convictions and other findings of guilt by a court, however described. However, the extent to which findings of guilt can be relied on will be subject to the *Spent Convictions Act 2009* as amended by this Bill.

The Bill supports the use of this broad range of information by introducing provisions in the *Children's Protection Act 1993* that authorise the disclosure of 'relevant history' information and other information to a person or body authorised under the regulations to undertake relevant history assessments, 'despite any other Act or law'. These provisions override any statutory or other prohibitions that may otherwise apply and obviate the need for consent to release of information where it might otherwise be an exception to a prohibition on disclosure. Privacy and confidentiality are addressed by extending the power of the Chief Executive to promulgate standards to be observed in dealing with information 'in connection with an assessment of a person's relevant history' and by extending the power to make regulations about confidentiality of information to information 'relating to, or obtained in the course of, an assessment of a person's relevant history'. This will facilitate corresponding amendments to the Chief Executive's Standards and the offence provisions for breach of confidentiality in the *Children's Protection Regulations 2010*.

The Bill clarifies the range of non-government organisations to which s8B of the *Children's Protection Act 1993* applies by specifying organisations that provide 'cultural, entertainment or party services' and makes provision to include other organisations prescribed by regulation. The range of organisations to which the child safe environment and other obligations in section 8C apply, have similarly been amended. The Bill also makes provision for positions in government organisations that are currently not caught by the screening provisions in section 8B, to be designated as prescribed positions and subject to screening. This provides a legislative framework to ensure that staff developing policies and doing other work behind the scenes to enhance the safety and development of children, meet the same high standards as those in the same organisation on the front line.

The Bill includes a power to make regulations under the *Children's Protection Act 1993* to require organisations to use a specified person or body to undertake assessments for the purposes of section 8B. This provision will be relied on to make regulations to mandate the use of the screening unit in the Department for Communities and Social Inclusion for assessments undertaken on behalf of government organisations and those funded by government. This will ensure consistency in the quality of assessments relied on by government organisations and NGOs and ensure that a broad range of information is relied on for those assessments.

The Bill introduces a new section 8BA in the *Children's Protection Act 1993* in order to facilitate the screening of those that are not otherwise caught by section 8B. Section 8BA makes it an offence for a responsible authority of an organisation to which section 8B applies, to perform prescribed functions unless the person has undergone a national police check or an assessment of relevant history in the preceding three years. Sole traders, those in partnerships and volunteers who perform prescribed functions in circumstances where they have not been appointed to or engaged to act in a prescribed position in an organisation for that purpose, will be similarly caught by section 8BA. Significantly, section 8BA empowers parents, carers and guardians to take steps to protect their children by requesting a person to whom section 8BA applies to produce evidence that they have undergone a national police check or an assessment of relevant history in the preceding three years where they may perform or are performing a prescribed function for their child. Failure to comply will be an offence. This will enable parents, carers and guardians to vet prospective service providers and service providers that have already been engaged.

The Bill also supports any government contractual arrangements concerned with the protection of children that do not otherwise fall within the scope of the *Children's Protection Act 1993*, by enabling a person or body to be authorised to undertake assessments of a person's relevant history for prescribed purposes relating to the care and protection of children. This will permit the screening unit in the Department for Communities and Social Inclusion to be authorised to undertake assessments that arise from government contractual arrangements such as hire of a school hall by a person who is providing services direct to children.

Amendments to the *Disability Services Act 1993*

The screening provisions relating to those that work or volunteer in the disability services sector introduced in the *Disability Services Act 1993* by the Bill, closely mirror the screening provisions in the *Children's Protection Act 1993*, taking into account the enhancements made by the Bill. This includes the introduction of an obligation to assess 'relevant history', which will permit a broad range of information to be taken into account where the assessment is undertaken by a person or body authorised under the regulations. These new provisions fill a

legislative vacuum that currently exists in this sector, although screening has been imposed in the disability services sector for many years through employment conditions and contractual obligations.

Amendments to the *Spent Convictions Act 2009*

The Bill also amends the *Spent Convictions Act 2009* to facilitate the operation of the IGA.

By way of a Memorandum of Understanding (MOU) signed by the States, Territories and the Commonwealth, the Council of Australian Governments (COAG) established an inter-jurisdictional exchange of criminal history information for people working with children, commencing with a 12 month trial. An independent evaluation of the trial, completed in March 2011, recommended the permanent continuation of this arrangement.

The IGA supersedes and replaces the MOU. South Australia is a party to the IGA and the Department of Communities and Social Inclusion screening unit has also been accepted for inclusion as an authorised screening unit under this IGA.

To facilitate South Australia's involvement, amendments are required to the *Spent Convictions Act 2009*.

Under the IGA, the parties agree that the nominated screening units in each state will exchange the following information for the purpose of screening people prior to them undertaking child-related work:

- Convictions, which includes any recorded or un-recorded conviction or finding of guilt, and which also includes a conviction for which a pardon has been granted; and
- Expanded Criminal History Information, which includes spent convictions.

This cannot occur under the *Spent Convictions Act 2009* as currently drafted. The required amendments are as follows.

Schedule 1 provides that the provisions contained in Part 3 Division 1 of the *Spent Convictions Act 2009*, which state that spent convictions do not have to be disclosed and are protected, do not apply in relation to a number of 'excluded purposes'. The Bill therefore creates a new exclusion in Schedule 1 so that any prescribed screening unit for a prescribed purpose can take into account spent convictions. Regulations can then be drafted to prescribe the relevant screening units and purposes.

Presently, section 13 of the *Spent Convictions Act 2009* states that in cases where a court had declined to record a conviction, a conviction has been quashed, or a conviction has been pardoned, those convictions are considered to be immediately spent, and cannot be disclosed even for an excluded purpose.

In addition, the situation is further complicated if an application is successful under section 13A and a qualified Magistrate orders that the spent conviction cannot be disclosed even if the criminal history check in the circumstances spelt out in Part 6 of Schedule 1 of the *Spent Convictions Act 2009*.

Consequently, the Bill makes amendments to the *Spent Convictions Act 2009* so that a prescribed screening unit can be provided with and take into account the following spent convictions for the prescribed purpose;

- a conviction for an offence when the person has been granted a pardon for the offence;
- a conviction that has been quashed;
- a finding of guilt or finding that offence is proven and where no conviction is recorded against the person;
- a conviction for an offence where a Qualified Magistrate has made an order under section 13A.

The Bill makes amendments so that any prescribed screening unit using the information for the prescribed purpose (for example, of screening for working with children) will be required to treat these spent convictions differently than other convictions and spent convictions. It is important that the will of the court (in not recording a conviction or ordering a conviction quashed), the action of the Crown in granting a pardon in the exercise of the Royal Prerogative, or a decision of a Qualified Magistrate is respected.

Under the Bill:

- when a prescribed screening unit is provided the above information, the screening unit is only empowered to use this information for the prescribed purpose; and
- when the prescribed screening unit is using the spent conviction for a prescribed purpose;
    - the screening unit must not take into account this information unless the screening unit is of the opinion that there are 'good reasons' in the circumstances of the particular case for doing so; and
    - if the screening unit finds such 'good reasons', in taking the information into account, the screening unit must give strong weight to the following facts (where applicable):
        - the person has been pardoned and the conviction is considered to be spent for all purposes under the *Spent Convictions Act 2009*;
        - the convictions has been quashed and the conviction is considered to be spent for all purposes under the *Spent Convictions Act 2009*;
        - no conviction was recorded against the person and the conviction is considered to be spent for all purposes under the *Spent Convictions Act 2009*;

- a qualified Magistrate has made an order under section 13A with respect to the conviction; and

- the screening unit must provide written reasons for any decision to use the information adversely to the person the subject of the information, and provide those reasons to that person.

This Government is committed to taking whatever measures are appropriate to ensure that the arrangements in this State for screening those that work or volunteer with children and vulnerable adults remain effective well into the future, as part of a broader protective framework. It is for this reason that we look forward to the outcome of the review. In the meantime, the measures proposed in this Bill significantly improve the protection of our children and vulnerable adults.

I commend this Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Children's Protection Act 1993*

4—Amendment of section 8A—General functions of the Chief Executive

This clause amends section 8A of the principal Act to clarify that the Chief Executive may make standards in respect of information obtained in connection with an assessment of a person's relevant history, including assessments other that those required under section 8B.

5—Amendment of section 8B—Powers and obligations of responsible authority in respect of relevant history

This clause amends section 8B of the principal Act, extending the scope of the section from criminal history to relevant history, which is defined in subsection (8) as amended. The clause makes other amendments consequent upon that extension, as well as changes to the organisations to which the section applies and protects bodies who disclose information to those persons conducting assessments.

6—Insertion of section 8BA—Obligations of certain performers of prescribed functions in respect of relevant history

This clause inserts new section 8BA into the principal Act. The new section requires certain direct providers of services to children to have an assessment of their relevant history undertaken, or to obtain a criminal history report prepared by South Australia Police or CrimTrac, within the 3 years prior to performing a prescribed function. Evidence of that check must be produced on the request of specified people. In both cases, failure to comply with the subsection amounts to an offence, with a maximum penalty of $10,000.

7—Amendment of section 8C—Obligations of certain organisations

This clause makes a consequential amendment to section 8C of the principal Act.

Part 3—Amendment of *Disability Services Act 1993*

8—Insertion of sections 5B and 5C

This clause inserts new sections 5B and 5C into the principal Act.

The new section 5B provides for the undertaking of assessments of relevant history in respect of people working etc with disabled persons in a way that is consistent with the requirements under the *Children's Protection Act 1993* relating to those working etc with children.

New section 5C requires certain prescribed disability service providers to have an assessment of their relevant history undertaken, or to obtain a criminal history report prepared by South Australia Police or CrimTrac, within the 3 years prior to performing a prescribed function. Evidence of that check must be produced on the request of specified people. In both cases, failure to comply with the subsection amounts to an offence, with a maximum penalty of $10,000.

9—Substitution of section 10

This clause substitutes section 10 of the principal Act, inserting a standard provision in respect of the regulation making power.

Part 4—Amendment of *Spent Convictions Act 2009*

10—Amendment of section 13—Exclusions

This clause amends section 13 of the principal Act to provide that subsection (2) does not apply in relation to the operation of clause 9A of Schedule 1.

11—Amendment of section 13A—Exclusions may not apply

This clause inserts new subsection 13A(8) to provide that an order under that section does not limit the operation of clause 9A of Schedule 1 in any respect.

12—Amendment of Schedule 1—Exclusions

This clause inserts new clause 9A into Schedule 1 of the principal Act, setting out exclusions from Part 3 Division 1 of the principal Act, and making related provisions, in respect of prescribed screening units, as defined in the clause.

Debate adjourned on motion of Hon. D.W. Ridgway.

At 22:40 the council adjourned until Wednesday 13 November 2013 at 11:00.