LEGISLATIVE COUNCIL

Tuesday, 5 August 2014

The PRESIDENT (Hon. R.P. Wortley) took the chair at 14:18 and read prayers.

The PRESIDENT: We acknowledge 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.

Bills

LADY KINTORE COTTAGES (TRUST PROPERTY) AMENDMENT BILL

Assent

His Excellency the Administrator assented to the bill.

Parliamentary Procedure

ANSWERS TABLED

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

Parliamentary Committees

SOCIAL DEVELOPMENT COMMITTEE

The Hon. G.A. KANDELAARS (14:21): I bring up the report of the committee on the inquiry into the sale and consumption of alcohol.

Report received and ordered to be published.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

The Hon. T.J. STEPHENS (14:22): I bring up the report of the committee, being the annual report for 2013-14.

Report received and ordered to be published.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the Minister for Employment, Higher Education and Skills (Hon. G.E. Gago)—

Regulations under the following Act—
- Criminal Investigation (Covert Operations) Act 2009—Declaration of Corresponding Laws

Rules of Court—
- Magistrates Court—Magistrates Court Act 1991—
  - Civil—Amendment No. 6
- Supreme Court—Supreme Court Act 1935—
  - Amendment No. 49
  - Fast Track Rules Adoption Rules
  - Fast Track Supplementary Rules Adoption Rules

District Council By-Laws—
- Grant—
  - No. 1—Permits and Penalties
  - No. 2—Local Government Land
  - No. 3—Roads

No. 4—Moveable Signs
No. 5—Dogs
Renewal SA (Urban Renewal Authority) Charter prepared under the Public Corporations Act 1993
Report and Determination of the Remuneration Tribunal No. 3 of 2013—Travelling and Accommodation Allowances for Ministers of the Crown and Officers and Members of Parliament

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

National Health Practitioner Ombudsman and Privacy Commission—Report, 2012-13
Regulations under the following Acts—
Heavy Vehicle National Law (South Australia) Act 2013—Variation—Fees
Motor Vehicles Act 1959—Variation—Other Prescribed Classes of Vehicles
Passenger Transport Act 1994—Variation—Interpretation
Rail Safety National Law (South Australia) Act 2012—Variation—Drug and Alcohol Testing
Road Traffic Act 1961—
Miscellaneous
Road Rules—Ancillary and Miscellaneous
Variation—Apparatus Approved as Traffic Speed Analysers and Photographic Detection Devices
Rules under Acts—
Road Traffic Act 1961—Australian Road Rules

Ministerial Statement

ROYAL COMMISSION INTO THE SAFETY AND WELFARE OF AT RISK CHILDREN

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:24): I table a copy of a ministerial statement made earlier today in another place by my colleague the Hon. Jay Weatherill.

CHILD PROTECTION

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:24): I table a copy of a ministerial statement made on Thursday 24 July 2014 in another place by the Minister for Education and Child Development.

SITE CONTAMINATION, HENDON AREA

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:24): I seek leave to make a ministerial statement.

Leave granted.

The Hon. I.K. HUNTER: Today the EPA letterbox dropped approximately 3,000 properties in the Hendon Environment Protection Authority—

The Hon. D.W. Ridgway: Did you seek leave?

The Hon. I.K. HUNTER: I did, if you were paying attention. The EPA letterbox dropped approximately 3,000 properties in the Hendon Environment Protection Authority assessment area to update the community in relation to the findings of the latest site contamination assessment works. This is the fifth time that residents have received letters to update them on the investigation of groundwater contamination in Hendon.

Investigations have been carried out by the EPA around the Hendon industrial area since 2012. In this situation, where the polluter has not yet been identified, the EPA undertakes the works. The latest report on testing reaffirms the existence of perchloroethene, trichloroethene and

dichloroethene in groundwater and soil vapour. TCE and PCE are common industrial solvents and were widely used as dry cleaning fluids, degreasers and metal cleaners. DCE is generally present as a result of degradation of TCE and PCE, I am advised.

These chemicals are most likely associated with historical activities in the Hendon industrial area, dating back to when the disposal practices for such chemicals were less regulated than they are today. The latest report indicates the indoor vapour concentration levels are below the US EPA TCE investigation level of two micrograms per cubic metre.

Findings to date indicate the level of contamination does not pose a risk to residents in the area. As seasonal changes can affect the results, the EPA will undertake additional testing in order to provide further assurance for the community. The EPA is engaging with residents, landowners and the general community in the Hendon, Albert Park, Seaton and Royal Park area who would like to know more about the results of the recent investigations. Community information sessions will be held at the Hendon Primary School hall, located at Cedar Avenue, Royal Park, at the following times: Tuesday 12 August, 6 to 8.30pm; Wednesday 13 August, 3.30 to 8.30pm; Saturday 16 August, 9am to 12 noon.

At the information sessions, the community will have the opportunity to undertake one-on-one discussions to learn more about the findings of the assessment works carried out for the EPA. All those living and working in the area are invited to register to speak with staff directly about the assessment and the results at one of those appointment times. The EPA is also operating a hotline for residents who want more information, and they can contact the EPA on 1800 729 175, weekdays between 8am and 8pm.

In the meantime, the EPA reaffirms earlier advice to the local community that groundwater should not be used for any purpose until further notice. Tap water and rainwater tank contents are not affected by the contamination, we are advised. The government will continue to engage with the local community to keep them informed of the latest findings and any subsequent assessment works.

Question Time

SITE CONTAMINATION, HENDON AREA

The Hon. J.M.A. LENSINK (14:31): I seek leave to make a brief explanation before directing a question to the Minister for Sustainability, Environment and Conservation regarding contamination.

Leave granted.

The Hon. J.M.A. LENSINK: As the minister outlined in his statement, the EPA has letterboxed more than 3,000 residents in the suburbs of Hendon, Albert Park, Seaton and Royal Park to alert them that TCE has been found in groundwater and soil vapour, and in particular in a crawl space beneath a childcare centre. My questions to the minister are:

1. When was the minister first informed that there was TCE contamination that may affect a childcare centre?

2. Can the minister guarantee there will be no adverse health consequences of the TCE contamination within the childcare centre?

3. What is the highest reading of TCE found in vapour testing in those four suburbs, and where was that reading located?

4. What is the highest reading of TCE found in groundwater testing in those four suburbs, and where is that reading located?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:32): I thank the honourable member for her most important question. In relation to my ministerial statement of today, as part of ongoing monitoring the EPA has installed five groundwater wells—three in September 2012 and two in May 2013—and one soil vapour well. The results of samples from the soil vapour well, in relation to a site in Hendon, and five groundwater wells on a property, are now available. I can say also that the additional work to confirm soil vapour results is currently being undertaken.

The three assessment reports completed in March 2013, October 2013 and June 2014 are also available on the EPA website for honourable members to look at for themselves. On 16 June 2014 the EPA received a final report from a contamination consultant. I can advise that the EPA liaised with SA Health for comment on proposed communication to the residents. The EPA has kept me apprised of ongoing communication with residents at a number of sites across Adelaide.

In relation to the specific communication, I received a briefing from the EPA on Friday 1 August advising that they would be communicating with residents today. This was following a review of the report received from the site contamination consultant in conjunction with SA Health. Included were the Hendon Environment Protection Authority assessment area, which is a childcare centre, located at corner of West Lakes Boulevard. In March this year the Environment Protection Authority resampled an existing soil vapour well first sampled, I am advised, in June 2013, which was installed in the car park of a childcare centre.

The EPA also undertook sampling of the crawl space and beneath the concrete slab of the childcare centre building. The initial results from March 2014 identified the presence of TCE in the crawl space of the childcare centre at a concentration of 26 micrograms per cubic metre. The March 2014 findings prompted additional assessment works, where multiple samples were taken from the crawl space and indoor air using two different sampling methods. For those interested in sampling methods, it involved canister sampling or a sampling method called Radiello. These additional assessment works were undertaken on 12 August 2014.

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: It was 12 April 2014, sorry. Following these works, TCE was detected in both the crawl space and indoor air at a childcare centre where multiple samples were taken from the crawl space and indoor air, with concentrations ranging between 3½ and 11 micrograms per cubic metre in the crawl space and 0.74 to 1.3 micrograms per cubic metre in indoor air. The National Environment Protection (Assessment of Site Contamination) Measure 1999 provides an indoor air investigator level for TCE of two micrograms per cubic metre for sensitive land uses, and the EPA and Department for Health and Ageing support this investigation level, of course.

Whilst TCE has been detected in the crawl space and indoor air of the childcare centre, it has not been detected at concentrations above two micrograms per cubic metre in the indoor air of the childcare centre. The EPA and Department for Health consider that there is currently no evidence of risk to health for the continued use of the site as a childcare centre. It will be necessary to continue to monitor the concentrations of TCE to ensure that this situation does not change into the future.

I am advised that on 10 July 2014 the EPA met with the owners of the childcare centre and provided an update on assessment works. Further assessment works to determine whether TCE is coming from contaminated groundwater underlying the building, or from another pathway, commenced on 26 July this year. The EPA will inform the owner of the childcare centre and the parents once the results are available.

In the meantime, the EPA will be holding an open house style meeting for parents and caregivers of children who attend the childcare centre on Monday 11 August from 6pm to 8.30pm. This session will give the parents the opportunity to speak directly with the EPA staff about the testing that has been done and testing that will be done into the future and the results to date.

SITE CONTAMINATION, HENDON AREA

The Hon. J.M.A. LENSINK (14:37): Can the minister advise what the highest readings of TCE were in groundwater and at what location? Do I take it from his response that parents have at this stage not been advised?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:37): The levels of the groundwater contamination I don't presently have with me, but they are of course going up on the EPA website and will be publicly available, and I believe that they were probably in the documentation I gave the honourable member in her briefing yesterday.

The Hon. J.M.A. LENSINK: A further supplementary.

The PRESIDENT: The Hon. Ms Lensink.

SITE CONTAMINATION, HENDON AREA

The Hon. J.M.A. LENSINK (14:37): Is the minister saying that the parents have not been advised at this point?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:37): My advice is that the parents have been advised all the way through this process. They will be advised in the normal course of action. As I said, they already have contacted the childcare centre, and parents will be invited to a further information seminar where they can have face-to-face meetings with EPA staff to answer any questions they might have.

SITE CONTAMINATION, HENDON AREA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:38): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question about contamination.

Leave granted.

The Hon. D.W. RIDGWAY: The EPA first advised residents in May 2012 in the Hendon, Albert Park, Seaton and Royal Park area not to use bore water for any purpose. My questions to the minister are:

1. What subsequent warnings have been provided to residents not to use bore water and, in particular, residents who have moved into the area after May 2012?

2. When did the EPA decide to conduct soil vapour testing in the area?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:38): Again, I reiterate that this is the fifth communication, as I understand it, with residents in the area. The information that has gone out to residents about bore water I think was in 2012.

In December 2011, however, the EPA commenced a review of the site. On 27 April 2012, the EPA was informed of a report prepared by Coffey Partners International. On 2 May 2012, the EPA received that report from the current site owner of an industrial property in Hendon. The report provided historical information that identified the presence of those chemicals I outlined earlier. In May 2012, the EPA advised residents within parts of Hendon, Albert Park, Seaton and Royal Park not to use groundwater for any purpose.

The Hon. D.W. Ridgway: That was in May?

The Hon. I.K. HUNTER: In May 2012, is my advice. The EPA also offered to test private and domestic groundwater bores in the assessment area. The advice to registered bore owners, and anybody else the EPA communicates with, is that they should have their bore water tested annually, regardless of where they are in Adelaide, but, in 2012, as I say, we advised residents not to use groundwater for any purpose whatsoever. In August 2012, a site contamination consultant was engaged by the EPA to undertake the environmental assessment works in the area that I referred to earlier.

SITE CONTAMINATION, HENDON AREA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:40): In particular, my question was: what subsequent warnings have been provided since May 2012 for residents not to use bore water and, in particular, residents who might have moved into the area since 2012? How were they notified?

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): My advice is all communications with residents is up on the EPA website. The honourable member can download that for himself.

The Hon. D.W. Ridgway: So, if you are a new resident, you've got to look on the website?

The Hon. I.K. HUNTER: I am advising the honourable member that I don't have before me information about how many times bore water information was put out. All communications to the area are on the EPA website. They are open and transparent. But, for his sake, I will undertake to bring those communications to his attention.

SITE CONTAMINATION, HENDON AREA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:41): Further supplementary arising out of the non answer. When did the EPA decide to conduct soil vapour testing in the area? When was that?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:41): As I said, in August 2012, a site contamination consultant was engaged by the EPA to undertake environmental assessment works in the area. This has involved the drilling and installation of both groundwater monitoring wells and soil vapour wells on council land, road verges and at other locations. The assessments have focused on sensitive land uses which are defined in the National Environment Protection (Assessment of Site Contamination) Measure 1999, as I mentioned earlier. The first report, I am advised, was completed in March 2013.

EMPLOYMENT FIGURES

The Hon. J.S. LEE (14:41): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about employment.

Leave granted.

The Hon. J.S. LEE: On Monday 4 August 2014, ANZ job ads data revealed that South Australia has recorded the worst performance of all states and territories in Australia. In the month of July, South Australia experienced a drop of 18.4 per cent in the number of weekly newspaper job ads in seasonally adjusted terms. In the last 12 months to July, the number of weekly newspaper job ads fell by a staggering 57.6 per cent. In both trend and seasonally adjusted figures, South Australia recorded the worst performance for the month of July 2014 and the year to July 2014 of all states and territories in the nation.

In June, South Australia's 7.4 per cent unemployment rate was the highest in Australia. Another set of data by the National Centre for Vocational Education Research statistics demonstrated further bad news, as it shows that apprentice and trainee commencements were at their lowest level in 11 years, falling from 25,600 in 2012 to 15,720 in 2013. My questions are:

1. Has the minister reviewed recent job ads data and statistics? If so, what measures will the government put in place to address the job crisis in South Australia?

2. Can the minister demonstrate how many of the people who received funded training positions were successful in finding full-time jobs?

3. Can the minister explain why the government has delivered the worst job opportunities in Australia after 12 years of Labor government?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:43): Indeed, the ANZ job advert series for July 2014 was released on 4 August and, in trend terms, newspaper job adverts in South Australia fell by 11.3 per cent in July, to be 38.3 per cent lower. Western Australia was, in fact, the only state to record a rise in trend job adverts over the month.

With the exception of New South Wales and Western Australia, all states recorded a fall in trend newspaper job adverts over the year. Nationally, trend newspaper job advertisements fell by 1 per cent in July and the trend newspaper and internet job adverts rose by 0.1 per cent in July. As I said, the job adverts data released shows that, with the exception of New South Wales and WA, all states are recording a fall in trend of job adverts. ABS jobs figures have shown consistent jobs growth

in 2014, more than 1,000 more jobs added each month, including 5,600 full-time jobs. So they are the jobs figures.

Although obviously the GFC adversely affected our state, we believe in the resilience of the South Australian economy, and I think we have already seen some improvements on the horizon. Just last week we learned of hundreds of new jobs that will be created by the construction of the Hillside mine, not to mention the service industries that will also grow around the site for workers and families. Tokyo-based Mitsubishi Corporation has also recently announced that it will establish a diesel import terminal at Port Bonython—a $110 million investment in South Australia that will certainly add to our jobs growth.

In 2014-15, the state budget includes more than $177 million worth of investment in skills for training and jobs growth, as well as $10 billion towards productive infrastructure, such as roads and rail, and these will boost our economy as well. It is estimated that they will create up to 4,700 jobs a year.

The budget investment includes $60.1 million over five years for Our Jobs Plan, $63 million over three years for skills training, $44 million of initiatives for the resources and energy sector and $10 million for a regional jobs accelerator fund. We obviously very much support business growth and investment through things like payroll tax exemptions, a review of our WorkCover act, with an estimated $180 million in savings to businesses, and providing more help to businesses to win government work through initiatives such as Tender Ready. But I note that the opposition, as usual, comes into this place grasping at every bit of bad news they possibly can. They wallow in it.

Minister Hamilton-Smith announced today that South Australia's export performance has again topped the nation. South Australia's export performance topped the nation, growing 15 per cent in the 12 months to June, to $12.362 billion. Minister Koutsantonis also announced today that, a decade since its inception, the Plan for Accelerating Exploration (PACE) initiative has become one of the state government's greatest ever returns to government. Indeed, it has yielded an increase to the value of $2.4 billion in South Australia's mineral production for an overall expenditure of less than $50 million—$2.4 billion.

The assessments show that PACE has had a dramatic impact on South Australia's attractiveness as a global resource investment destination, resulting in the state's number one rating in Australia for the international Fraser Institute Policy Potential Index. So, again, you only have to open the papers today to see some record performances in this state, record export—

Members interjecting:

The Hon. G.E. GAGO: —providing real leadership in terms of our exploration. And what does the opposition do, Mr President? They grasp at every bit of bad news they possibly can and enjoy wallowing in it. They enjoy undermining the consumer confidence and business confidence, that's what they enjoy doing. They enjoy putting down this state and bagging this state and, as I said, undermining business and consumer confidence.

I would like to know whether the Hon. Jing Lee has written to her federal Liberal counterpart and requested that the federal Liberal government reverse its decision to rip out $154 million from our VET training system—$154 million they are going to rip out of our vocational education and training system. I would like to see what the state Liberals have done in approaching their federal counterparts, their federal mates, about the slash and burn in relation to the federal budget. It is not just to VET. We have seen a huge impact on our health and other education.

Members interjecting:

The PRESIDENT: The honourable minister, take a seat.

The Hon. T.A. FRANKS: Supplementary.

The PRESIDENT: The honourable minister has not finished. I have asked her to sit down. I am having great difficulty in hearing the minister's answer, so if you could try to keep it down so that the minister can actually finish her answer. The honourable minister.

The Hon. G.E. GAGO: Yes; I will just finish my point by saying that it is not just the VET sector that they have ripped millions and millions of dollars from. They have gutted our health system and our education system, as well as our VET system. So, I would like to see what the state Liberal Party is doing about approaching the federal Liberal government in relation to their appalling cuts.

The PRESIDENT: The Hon. Ms Franks.

EMPLOYMENT FIGURES

The Hon. T.A. FRANKS (14:51): Supplementary. Has the minister similarly written to the federal government in the way that she has advised the Hon. Jing Lee to do and has she received a response?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:51): I have had an exchange. This government has communicated its position—we have done a whole of government response to the federal budget. We have outlined very clearly the impact that the federal budget cuts will have on really important services and amenities here in this state and we have insisted that the federal government reverse the worst of those. I would also ask the same question of the Hon. Tammy Franks, in terms of what dialogue or correspondence the state Greens have entered into in relation to lobbying the federal Liberal government to reverse its draconian federal budget cut decisions.

EMPLOYMENT FIGURES

The Hon. T.A. FRANKS (14:52): Supplementary. Will the minister provide the Greens and, indeed, all members of this council with a copy of that correspondence that she has sent?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:53): I have said it is an across-government response and I am happy to provide what is on the record. I would still challenge the Hon. Ms Franks to provide her correspondence.

The PRESIDENT: The Hon. Mr Kandelaars.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Kandelaars.

Members interjecting:

The PRESIDENT: Would you like to withdraw that comment?

The Hon. D.W. RIDGWAY: I said 'half whip'.

The PRESIDENT: Well, I heard different. I would like you to withdraw that comment. The Hon. Mr Kandelaars.

REGIONAL SOUTH AUSTRALIA

The Hon. G.A. KANDELAARS (14:54): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about her recent trip to regional South Australia.

Leave granted.

The Hon. G.A. KANDELAARS: The minister has often spoken in this chamber about the delightful people and experiences she has when travelling in regional areas. Can the minister please advise the chamber of her most recent regional visit?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:54): I thank the honourable member for his most important question and his interest in regional South Australia. Unlike those opposite, this

government actually cares about our regions. This government is, as I said, strongly committed to regional South Australia. I was very pleased to be able to travel to Port Pirie, Peterborough and Clare.

My first meeting was with the human resource staff at Nyrstar who were working with the workforce as the company transforms their operations away from a primary lead smelter into a highly flexible ply-metallic processing and recovery facility. They have done some tremendous work there. I was very impressed to see their plans. In conjunction with TAFE, they are identifying both current skill sets and future needs required for workers when the new processes commence. This collaborative work means that the future is looking bright, both in terms of jobs growth for local jobseekers and also job security for employees.

I was also pleased to be able to visit BoysTown, recent recipients of the adult community education grant, and met with staff and some of the young people undertaking accredited training with them. I am also quite sure that, if they maintain the level of enthusiasm and attention that they demonstrated on the day we met them, they will indeed be valued employees in coming months. The Yorke and Mid North Domestic Violence Service provides invaluable support to women and children affected by family violence as does UnitingCare Wesley for people experiencing homelessness.

These people, as with all the people I met with on this trip, are the salt of the earth—committed, passionate and hardworking people—and that is why I am just so disappointed that the federal Liberal government is reviewing the homelessness national partnership which could, in this instance, rip out, they estimate, up to 30 per cent of the funding for these extremely invaluable, very highly regarded and much-needed services. It is an appalling thing that the federal Liberal government is doing.

Port Pirie TAFE provided yet again an opportunity for me to meet with committed regional staff and students. This campus has more than 1,500 students enrolled, with a strong contingent of students studying traditional trades in engineering, automotive, construction, nursing and children's and retail services. I was also able to visit the Men's Shed, another fantastic program offered by UnitingCare Wesley Country that hosts programs that mentor young people and adults to interact with each other in the community through teaching woodwork and metalwork and also provides a casual meeting place and offers many opportunities for volunteers as well. One of the wonderful programs overhauls donated computers which are then distributed to families and individuals who may not otherwise be able to afford them. Apparently almost 300 computers were gifted each year.

I visited Peterborough High School and learned again of the very effective collaboration between TAFE, the school, and the Trade Training Centre that they have set up there, and I would like to congratulate the school on their tremendous efforts which increased the number of SACE completions by some 70 per cent over four to five years. I think they said it was from something like 17 or 18 per cent up to 70 per cent—remarkable work over a very short period of time. Well done to the leadership, teachers, students and families for this outstanding achievement.

In Clare, the local Zonta club is contributing much to their local region and also internationally with volunteers providing 600 birthing kits to women in Kabul and Pamper Packs to women who are homeless and a number of other important services. I was also pleased to visit the Clare office of the University of the Third Age and I was pleased to discuss how the funding announced in the budget would assist with the promotion of courses across the state as well as updating equipment used by the U3A alliance members.

It was wonderful to visit these regions and as always I offer my thanks to the non-government and government organisations and community members for their unwavering support to their communities and the work that they do, as well as for their wonderful hospitality.

TAFE SA

The Hon. T.A. FRANKS (15:00): I seek leave to make a brief explanation before asking a question of the Minister for Employment, Higher Education and Skills regarding the issue of TAFE.

Leave granted.

The Hon. T.A. FRANKS: It has been brought to my attention that a number of TAFE teachers are being forced to reduce course delivery time since the Skills for All reforms were implemented. I will read out just one example provided from a teacher:

> We have been requested to compress our content delivery into fewer hours. In 2012 I delivered six units of competencies which total to 270 nominal hours. Our previous manager requested us to reflect 60 per cent of the nominal hours in our timetabled workload, which is 162 hours.

They continue:

> In 2014 the level 7 staff member requested that we reduce our contact hours. The same units of competency on the timetable totals to 99 hours, which is equal to 37 per cent of the nominal hours. My concern is that I am taking on more units of competencies, but my hourly load seems to be diminishing. At this point I would say that I am underloaded.

My question is: is the minister aware that there is pressure being placed on TAFE teachers to reduce the delivery time to well below the nominal hours resulting in a reduction of the quality of the courses and setting up some students, who have paid for their courses, to fail those courses?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:01): I thank the honourable member for her question in relation to TAFE. TAFE is a wonderful training and education facility that provides quality training to South Australians. Since the introduction of Skills for All, TAFE SA's publicly funded course enrolments have, in fact, increased due to students accessing Skills for All subsidies.

The introduction of Skills for All in July 2012 has provided students with a greater choice in training provider as well. There has been an increase in the number of training providers in South Australia. TAFE SA's activity supports skill and productivity increases in South Australia's workforce. TAFE SA is currently South Australia's largest training provider in South Australia and has a history, as I said, of delivering really quality training and providing stability in the training market. It is heavily reliant on funding received from Skills for All and those funds have remained, in fact, fairly steady over the last five years at around about $200 million a year for operational spend and there is significantly more money for infrastructure spend, but the funding has remained fairly consistent.

Since the introduction of Skills for All, enrolments in TAFE SA have increased, while the share of the vocational education and training market in South Australia has declined slightly. In 2013 Skills for All funded course enrolments increased by 60 per cent or, I am advised, 50,600 enrolments to 134,900 course enrolments compared with 84,300 course enrolments in 2012, so you can see a significant improvement there. Over the same period TAFE SA course enrolments increased by 29 per cent or 16,300 enrolments to 71,900.

TAFE's share of the Skills for All market was 53 per cent and I am now advised that there has been a fall in TAFE's share, as I said, due to the increase in the number of other providers in the market, even though, as you have seen, they are still growing, there has been an influx right across the board.

Unlike a number of other state governments, we decided to heavily invest in training through Skills for All. We are serious about growing the economy and supporting new and emerging industries, and we are serious about creating jobs. Since its inception, Skills for All has supported an estimated 139,200 students, who have enrolled in an estimated 183,700 courses in a range of fields.

As I said, they are doing a great job. I have indicated in this place previously that South Australia's VET sector was one of the nation's most cost inefficient, and since the Skills for All and other reforms that were made in our VET sector, South Australia now leads the nation in terms of delivering one of the most cost-efficient VET systems. That is due to a great deal of hard work and partnership between state government agencies, TAFE (being the largest provider) and private providers as well. They are to be congratulated for their efforts.

Clearly, a number of challenges and pressures are facing all of us in a time requiring tight fiscal constraint. Savings have been required of all government agencies across all departments and so too the VET sector. These have been managed extremely well, trying to eliminate duplication and replication. The reforms made with TAFE, for instance going from the three separate institutes now to one statutory corporation, have yielded many efficiencies and have made it a far more cost-

effective structure. It is more efficient and it is delivering, as I said, really quality outcomes at very cost-efficient rates. Rather than replicating three different administrative bodies, it is now one, and those reforms have created many advantages for us.

As I said, I do not deny that it is a very tight environment that we are working in. Staff at TAFE are working very hard to find efficiencies in an ongoing way and they make decisions about their courses all the time. Nothing stays the same. The climate changes, student demands change, and we have had improvements in technology. More students are accessing training, or components of training, online than ever before, not requiring the same level of face-to-face class time that we have traditionally seen, and so our training providers, including TAFE, keep changing and developing their services to fit industry demand and students' expectations.

TAFE SA

The Hon. T.A. FRANKS (15:08): Did the minister find it efficient not to answer that question or is she simply replicating the previous answer?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:08): I answered the question comprehensively.

SITE CONTAMINATION, HENDON AREA

The Hon. T.J. STEPHENS (15:08): My question is to the Minister for Sustainability, Environment and Conservation. Firstly, when was the minister first informed that there was TCE contamination in a childcare centre in Hendon? Is the childcare centre the only building which has had soil vapour testing?

The Hon. R.L. Brokenshire: You've stumped him with that one; bowled him right out. Back to No. 39.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:09): No; it's No. 35, actually. Exposure—where can I start?

Members interjecting:

The Hon. I.K. HUNTER: I could, but I will need to decide if I can launch straight into the answer for the honourable member.

The Hon. R.I. Lucas: In your own time.

The Hon. I.K. HUNTER: Thank you, the Hon. Mr Lucas, for your patience.

The Hon. T.J. Stephens: Don't thank him, what about thanking me for the question?

The Hon. I.K. HUNTER: I haven't got anything to thank you for yet, Mr Stephens—I may do in a moment. I thank the honourable member for his most important question—he is chuffed now. I will go through the investigation history for the honourable member once more.

In December 2011 the EPA commenced an historic file review for a site at Hendon, which identified on-site groundwater contamination. On 27 April 2012, the EPA was informed of a third report prepared by Coffey Partners International. On 2 May 2012 the EPA received this report. In May 2012 the EPA advised residents in parts of Hendon, Albert Park, Seaton and Royal Park not to use groundwater for any purpose. The EPA also offered to test private domestic groundwater bores in the assessment area. In August 2012 a site contamination consultant was engaged by the EPA to undertake environmental assessment works in the area. This involved the drilling and installation of both groundwater and monitoring wells and soil vapour wells on council land, road verges and other locations.

The first report was completed in March 2013 and indicated that chemical substances, predominately PCE and TCE, were present in both groundwater and soil vapour in the assessment area. These chemicals are most likely associated with historical activities in the Hendon industrial area, dating back to when the disposal practices of such chemicals were less regulated.

The report was reviewed by the EPA and the Department for Health and Ageing, and it was determined that additional assessment works were required to better understand the contamination and any risks that its presence may pose. In June and July 2013 a second stage of groundwater and soil vapour testing was undertaken. The report for the second stage of the assessment works was completed in October 2013 and confirmed the presence of chemical substances in groundwater and soil vapour, predominately being PCE and TCE.

The second stage of assessment works largely determined the extent of the groundwater contamination. In March and April 2014 a third stage of assessment work, which included additional groundwater and soil vapour testing, was carried out. This included site specific assessment at a childcare centre. The report for this third round of testing was completed in June 2014. The report confirms that the chemicals PCE, TCE and DCE are present in groundwater and soil vapour. This report advises that it may, under certain circumstances, be possible for the identified chemicals to rise up from the groundwater as vapour.

The report concludes also, I am advised, that the risks associated with indoor air vapour intrusion are currently considered to be acceptable. Whilst the June 2014 report has concluded that the risks from indoor vapour intrusion are acceptable, the EPA considers it appropriate to undertake some further testing to confirm this conclusion and to provide that further assurance for the community I spoke about earlier.

Additional work to confirm soil vapour results is currently being undertaken, and the three assessment reports completed in March 2013, October 2013 and June 2014 are, I understand, available on the EPA website.

Members interjecting:

The Hon. I.K. HUNTER: The honourable member is very keen to encourage me to continue my answer, so I will.

Members interjecting:

The Hon. I.K. HUNTER: It is a very big answer. The EPA has been keeping me apprised of ongoing communication with residents at sites across the city. In relation to this specific communication, I received a briefing from the EPA on Friday 1 August advising that they will be communicating with residents today. This was following a review of the report received from the site contamination consultant, in conjunction with SA Health.

In relation to the childcare status, in March this year the Environment Protection Authority resampled an existing soil vapour well, the first sample, I am advised, in June 2013, which was installed in the car park of the childcare centre. The EPA also undertook sampling in the crawl space and beneath the concrete slab of the childcare centre building. The initial results from March 2014 identified the presence of TCE in the crawl space of the childcare centre at concentrations of 26 micrograms per cubic metre.

The March 2014 findings prompted additional assessment works, where multiple samples were taken from the crawl space and indoor air using two different sampling methods, which I spoke about earlier. These additional assessment works were undertaken on 12 April 2014. Following these works, TCE was detected in both the crawl space and indoor air at the childcare centre, where multiple samples were taken from the crawl space and the indoor air, with concentrations ranging between 3.5 and 11 micrograms per cubic metre in the crawl space and 0.74 to 1.3 micrograms per cubic metre in indoor air.

Whilst TCE has been detected in a crawl space and indoor air of the childcare centre it has not been detected at concentrations above two micrograms per cubic metre in the indoor air of the childcare centre. The EPA and DHA consider there is currently no evidence of a risk to health for the continued use of the site as a childcare centre. It will be necessary to continue to monitor the concentrations of TCE to ensure that the situation does not change with seasonal changes.

On 10 July 2014 the EPA met with the owners of the childcare centre and provided an update on assessment works. Further assessment works determining whether TCE is coming from contaminated groundwater underlying the building or from another pathway commenced on

26 July 2014, and we will continue to keep the owner of the childcare centre and the parents of the children at the centre advised of the results when they become available.

As I advised earlier, in the meantime, the EPA will be holding open house style meetings for parents and caregivers of the children who attend the childcare centre on Monday 11 August from 6pm to 8.30pm and that is the advice I can give the house.

The PRESIDENT: Supplementary, Hon. Ms Lensink.

SITE CONTAMINATION, HENDON AREA

The Hon. J.M.A. LENSINK (15:15): Arising from the minister's answer, is that 1 August date the first time that the minister was advised about 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) (15:15): I said in my answer the 1 August date was in relation to this specific site communication. In relation to the specific communication to Hendon, I received a briefing from the EPA on Friday 1 August advising they would be communicating with residents today. I also advised the house earlier in a number of my replies that the EPA has been keeping me advised of the processing in this area of Hendon all the way through this process. As I said, this is the fifth communication to the residents of Hendon and it will not be the last.

The PRESIDENT: Supplementary, the Hon. Ms Lensink.

SITE CONTAMINATION, HENDON AREA

The Hon. J.M.A. LENSINK (15:16): Can the minister advise when was the first occasion on which he was advised about this contamination?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:16): As I said, the EPA has been keeping me informed of its activities at Hendon all the way through my ministerial responsibilities, since I accepted responsibility for the EPA. So all the way through, the EPA has been keeping me advised of what they have been doing in the area of Hendon, their communication strategies and the way that they have been planning their communication and testing.

The Hon. D.W. Ridgway: When did it start?

The Hon. I.K. HUNTER: It started when I became minister and all the way through their briefing processes.

The Hon. J.M.A. LENSINK: Further supplementary.

The PRESIDENT: The Hon. Ms Lensink.

SITE CONTAMINATION, HENDON AREA

The Hon. J.M.A. LENSINK (15:17): Will the minister agree to come back to the house and give this place a specific date on when he was first advised?

The Hon. G.E. Gago: He just did.

The Hon. J.M.A. LENSINK: No, he didn't. You're so dumb you don't even know he hasn't answered the question.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:17): I will ask my office to check when formal briefings were given to me but, as I said, the EPA gives me briefings every fortnight, and all of the way through the processes of me being a minister for the EPA, the EPA has kept me apprised of all of their activities across Adelaide, Hendon being a part of that process. So we have formal briefings which come through the department in written form. We also have informal meetings–verbal meetings, I should say, or briefings—which I get every fortnight and the EPA has been keeping me constantly updated.

SITE CONTAMINATION, HENDON AREA

The Hon. J.M.A. LENSINK (15:17): Supplementary: when will the minister provide that information to the house, because we certainly don't get any replies from you guys at the start of question time?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:18): Let me just say that I will ask my office to check on that information and bring it to the Legislative Council as soon as I can.

SITE CONTAMINATION, HENDON AREA

The Hon. J.A. DARLEY (15:18): Supplementary: can the minister advise, is the EPA also providing residents of Hendon advice about possible effects on property values as was the case with Clovelly Park and Mitchell Park and, if so, was the advice provided by the Valuer-General or, if not, by whom and what are their qualifications?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:18): The EPA does not have the qualifications to give that sort of advice; that is not in their area of responsibility. It is certainly not part of their legislation as far as I know.

The PRESIDENT: The Hon. Mr Darley, supplementary.

SITE CONTAMINATION, HENDON AREA

The Hon. J.A. DARLEY (15:19): Does the minister agree that a week ago in a television broadcast, the EPA advised that they were providing valuation advice on the potential falls in property value?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:19): Not to my knowledge, but if the honourable member thinks that that is the case I will ask them and check, but I have no understanding of that.

FOREST WATER LICENSING

The Hon. J.M. GAZZOLA (15:19): My question is to the Minister for Water and the River Murray. Will the minister inform the council about how the government is managing the water resource impacts of commercial forests?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:19): Water usage is a shared responsibility for the whole community. If we want to have thriving and sustainable agricultural and forestry industries into the future in our state, we must involve all sectors that draw upon our water reserves in determining allocations for water. This is why we have introduced significant and world-leading reforms in the area of forest water licensing. South Australia is now considered to be at the forefront of policy and legislative reform in respect of how we manage the impacts of commercial forestry on water resources.

On 1 July 2014, I declared the Lower Limestone Coast Prescribed Wells Area a declared forestry area that will operate under a new forest water licensing system. This system is believed to be a world first, and I am advised that the Victorian government is following South Australia's example and considering a system for identifying and managing long-term risks to water resources from plantation forestry in a new water act.

The forest water licensing system is designed to provide secure water rights for the forestry industry, a very important industry for our state, and also make commercial forest managers accountable for the management and sustainability of groundwater resources by accounting for the impacts of commercial forestry on reduced run-off and recharge to underground water as well as the direct extraction of underground water by tree roots.

Groundwater, we need to remember, is a vital source of water for South Australia, particularly because we have limited surface water resources outside the River Murray and the Mount Lofty

Ranges. It is the key water source for most of regional South Australia, including regional centres such as Mount Gambier and Port Lincoln. It is used across many industries, including agriculture and for things such as irrigation, drinking water for livestock, mining and manufacturing, as well as supplying households with water and input into potable water supply networks.

These reforms will allow us to manage groundwater use more effectively and take into account how it fits with all other water sources available to us. It will also allow us to develop sustainable limits for water extraction while gaining a better understanding of the impact and requirements of dependent ecosystems.

I am committed to the implementation of these reforms. By way of background, in 2009, the South Australian government released a statewide policy framework managing the water resource impacts of plantation forests. This policy framework sets out the principles for managing the hydrological impacts of commercial forests within sustainable limits. As a result of this statewide policy framework, the Natural Resources Management Act 2004 was amended in 2011 to achieve two primary objectives: first, to establish an expanded permit system and, secondly, to establish a forest water licensing system to manage the impacts of commercial forests on prescribed water resources.

Commercial scale forestry plantations account for about one-third of the water allocations in the Lower Limestone Coast Prescribed Wells Area. They are an important asset which in 2011-12 contributed over $3 billion to our state. Thanks to these reforms, commercial forests in the Lower Limestone Coast Prescribed Wells Area can now be managed through the forest water licensing system consistent with the water allocation plan for the Lower Limestone Coast Prescribed Wells Area which was adopted on 26 November 2013.

Prior to the declaration of the Lower Limestone Coast Prescribed Wells area as a declared forestry area, we conducted extensive consultation with stakeholders and the community on the water allocation plan and the forest water licensing system, and it was generally considered that this new licence system would create greater transparency and provide forest managers with a valuable property right.

I also consulted with the Minister for Forests before making the declaration, and commercial forest managers will now be required to obtain a water licence in the same way as other commercial water users in the region such as irrigators and industry. It is important to note that small-scale farm forestry in the Lower Limestone Coast Prescribed Wells Area will be excluded from the licensing requirements because it is not currently a major land use and therefore does not have a significant impact on the water resources at a local scale.

The declaration of the forestry area was to trigger a six-month application period for existing commercial forests. This means that forest managers of existing commercial forests have until 2 January next year to apply for a forest water licence and, when issued with licences, commercial forest managers will pay a water levy of $2.67 per megalitre. The South East Natural Resources Management Board advises that this is currently the same rate paid by irrigators. We plan to extend the system to include commercial forests in the Kangaroo Island and South-East NRM regions outside the Lower Limestone Coast Prescribed Wells area and into the eastern and western Mount Lofty Ranges. This is a very important reform. I am certain that it will create greater transparency and fairness in respect to water use. It will also, importantly, create a much more sustainable future for commercial forestry that continues, and will continue, to have a very important benefit for our state.

Ministerial Statement

CHILD PROTECTION

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:24): I table a copy of a ministerial statement relating to the appointment of former police commissioner Mal Hyde to review employment records made earlier today in another place by my colleague the Minister for Education and Child Development.

Question Time

FOREST WATER LICENSING

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:25): Can the minister give an indication of how much the $2.67 per megalitre will raise for the South East Natural Resources Management Board?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:25): My advice is that approximately $822,000 of income, it has been estimated, has been generated.

FOREST WATER LICENSING

The Hon. R.L. BROKENSHIRE (15:25): Supplementary: given his answer, can the minister advise the council whether the charges that are going to come in to the Western and Eastern Mount Lofty Ranges, Kangaroo Island and other areas for irrigators will only be charged on the basis of the amount of water they use each year and not their allocation, and what will be the situation with forestry, where they actually do not pump water so the water cannot be metered? Will they be charged a flat rate each year on their allocation?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:26): The very complicated question does not really arise from the answer, but I will attempt to hazard a response for the member. First of all, we need to consult with the communities involved before we make these decisions. That is the primary thing. We had a very long, deep and broad engagement strategy with stakeholders in the South-East. I expect that we will go through the same process in other forestry areas.

In terms of how this was arranged, of course, we cannot meter what forests take out of the groundwater through the roots, but it can be modelled. It can be modelled scientifically, and that is what we did in the South-East. Those scientific results were argued over at great length and compromise positions were reached but, at the end of the day, you have commercial forests that take water out of the system that are not included in the sustainable water-use regime that is applied to other irrigators—in fact, other water users. We must consider the commercial forests if they are significant water users because they have an impact on the water resource that other industries use, such as irrigation that the honourable member mentioned—indeed, even mining or manufacturing in the appropriate area. So, it is not fair to have one industry not part of that sustainable water-use regime whilst all the others are, but we will always have a very thorough consultation process when we embark on this exercise in a new community or a new region.

HOUSING SA

The Hon. J.A. DARLEY (15:27): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation, representing the Minister for Social Housing, questions regarding Housing SA.

Leave granted.

The Hon. J.A. DARLEY: A former ward of the state who was sexually abused and gave evidence to the late Ted Mullighan has recently contacted me regarding Housing SA. This disability pensioner is a Housing SA life tenant and is living in a small block of seven units but has recently been advised that the management and control of their property will be transferred to community housing. My constituent is unequivocally opposed to this move due largely to the fact that most community housing organisations are run by church groups and my constituent was also sexually abused by the church. My constituent does not want to live in housing which is controlled and managed by his abusers. My constituent has raised these objections with Housing SA and has also contacted the minister's office directly; however, he has been advised that he has no choice in the matter.

The general consensus is that, because the community housing organisations are only branches of the church and there will be no direct contact with the church itself, my constituent should

be comfortable with the arrangement. My constituent is not alone in his objections. The other tenants in the small seven-unit complex have signed a petition opposing the move to community housing. They understand that tenants in community housing need to apply for commonwealth rent relief through Centrelink and that there is a requirement to do this biennially, which is an impost they currently are not subjected to. My questions are:

1. Does the minister condone such treatment of an ex ward of the state?

2. Can the minister advise whether any consideration has been given for other Housing SA tenants in similar situations?

3. Will the minister consider allowing certain properties to remain being managed by Housing SA if the tenant can provide a justifiable reason for their objection to a transfer to community housing?

4. Will the minister undertake to consider my constituent's matter personally?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:29): I thank the honourable member for his most important question. It has been a long time since I have been minister for social housing but my understanding is that not all community housing providers are, in fact, affiliated with a religious organisation. It may very well be the case; I do not know the circumstances in this situation. In relation to the honourable member's constituent and their tenancy arrangements with their community housing provider, that may be the case but I don't know. I will undertake to take his questions to the Minister for Social Housing in the other place. I also invite him to provide the details of his constituent's concerns to the minister in the other place so that she might liaise with him directly on this matter.

EMPLOYMENT FIGURES

The Hon. S.G. WADE (15:30): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question relating to unemployment across South Australia.

Leave granted.

The Hon. S.G. WADE: South Australia remains the only state with a Labor government. Unfortunately, while the economic fortunes of other states improve, South Australia continues to diminish, even compared with states such as Tasmania, which had to endure 16 years of a Labor government. My questions to the minister are:

1. Can the minister explain why the ANZ job ad survey reported that there are, on average, only 206 newspaper job advertisements in South Australia each week in July, yet Tasmania, which has less than one-third of South Australia's population, averaged a higher number: 214, newspaper job advertisements during the same period?

2. Why did newspaper job ads fall in South Australia by 18.4 per cent seasonally adjusted in July when in Tasmania newspaper job ads increased by 8.1 per cent seasonally adjusted in the same month?

3. Why is South Australia's unemployment rate of 7.4 per cent the highest in the country?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:31): I thank the honourable member for his most important questions. Obviously, the opposition has run out of questions because they are asking the same question twice. I have already put on the record a considerable answer to the honourable member's question in relation to the ANZ numbers. I have already talked in this place about how the trends were down pretty much right across the nation.

I have already talked in this place about some of the particular challenges that South Australia faced. We have an economy that is particularly heavily reliant on a traditional manufacturing sector that was very adversely impacted by fairly recent national and international economic trends.

The hardening of the dollar has also had a big impact on us. We are also one of the oldest populations in the nation as well, which very much impacts on unemployment rates, job vacancy rates and suchlike.

I have talked about the importance of a number of strong economic indicators that are quite positive for us. I have talked about the strength of our exports, which is very encouraging. I have talked about our nominal trend retail turnover, where there has been very positive growth in the last 12 months to May. I have talked about new dwelling approvals being up over the last 12 months to May. I have talked about the PACE program today that was announced by minister Koutsantonis in relation to mineral exploration opportunities.

We have a job plan and our plan is to stimulate the economy, to encourage investment and growth in business and to build a skilled workforce. I outlined in my response to the question from the Hon. Jing Lee on the same issue a number of funding initiatives that we have put in place to address those things.

Bills

CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 3 July 2014.)

The Hon. J.A. DARLEY (15:34): I rise to speak briefly on the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2014. When this bill was debated last year, I indicated that I thought it would be more suitable to postpone further debate until after the High Court challenge in the Emmerson case. Briefly, by way of background, in 2012 the Northern Territory Supreme Court declared Mr Emmerson a drug trafficker. As a result, all his property, the majority of which had been obtained through legitimate means, was forfeited to the Northern Territory under its criminal assets confiscation scheme.

Mr Emmerson challenged the validity of the legislative scheme in the Northern Territory Supreme Court and then the Court of Appeal. The Court of Appeal declared the scheme invalid and this decision was subsequently appealed by the Northern Territory's Attorney-General. Although this government's bill was not identical to the Northern Territory legislation, the similarities between the two meant that it made sense to get some further clarity in relation to questions surrounding the scheme's constitutional validity.

As members would be aware, the High Court handed down its decision in the Emmerson case in April of this year. In a majority ruling, the validity of the Northern Territory scheme, under which the property of a person declared to be a drug trafficker can be forfeited even if that property is not derived from criminal activity, was upheld. The Emmerson case has certainly removed any doubts over the constitutional validity of the scheme proposed by this government, which leaves the question of whether, in fact, this is good law.

Australia now has the highest proportion of recreational drug users in the world. According to the United Nations 2014 World Drug Report, Australia ranks first in the world in the use of ecstasy, third in methamphetamines, fourth in cocaine and seventh in cannabis. Not only is our drug use on the rise with the number of Australians doing drugs continuing to grow, drug-related deaths are also increasing. In an interview with *The Daily Telegraph*, the President of the Australian Drug Law Reform Foundation, Dr Alex Wodak, stated that the rise in drug use was being matched by an increase in the number of deaths attributed to overdose—more than three each day. These are alarming findings.

The question is: how do we tackle this issue? Do we impose tougher penalties on drug users? Do we focus more on rehabilitation? Do we impose tougher penalties on drug peddlers? Do we just go after the 'Mr Bigs' of the drug world? Do we do all of the above? These are all legitimate questions that we need to ask ourselves. What is clear is that the inglorious title of ranking first amongst the world in terms of our drug usage was not bestowed upon us because we are doing all we can in the war against drugs.

There is absolutely no question that those who wreak havoc on our communities by importing, manufacturing or selling drugs ought to be subjected to harsher penalties. There is absolutely no question that our laws need to be stiffened up so they can deter those at the top of the supply chain. There is absolutely no question that we also need to be looking at more intensive rehabilitation programs for drug addicts to prevent them from developing addictions in the first place and better educating our young people about the associated risks of substance abuse. It is for this reason that I foreshadow that I will be moving amendments to ensure that more funding from the proceeds of confiscated assets is directed towards drug rehabilitation services.

The second point that I wish to talk about focuses on an entirely different aspect altogether, and that is the use of cannabis products for medicinal purposes. The definitions that apply to cannabis products under the Controlled Substances Act are very broad. They cover cannabis, cannabis oil and cannabis resin. The bill in its current form could have hefty ramifications for those using cannabis oil for medicinal purposes which, like it or not, is currently being used right here in Australia to treat sick children and adults alike. It raises the question of whether parents, who as a last resort turn to medical treatment based on medical advice involving cannabis oil in a genuine attempt to help their child, should run the risk of being bankrupted.

On Sunday evening the *60 Minutes* program broadcast a story called 'Green Rush' on this very issue. The story covered the progress of a little girl, Charlotte Figi, who suffers from a rare form of epilepsy known as Dravet syndrome, and who is changing the medical marijuana laws across America.

Charlotte's parents explored every possible medical option available to them before resorting to the use of cannabis extract. The results were a resounding success and since then Charlotte's Web, the name given to the strain of marijuana used in Charlotte's treatment, has become widely sought after across the world, especially by the parents of other children with similar illnesses. Charlotte's Web has very low levels of tetrahydrocannabinols, otherwise known as THC, and high levels of cannabidiol, or CBD.

One of the people interviewed during the story was Sunshine Coast mum, Sally White. Sally is one of 8,000 waiting to access Charlotte's Web for her 16-month-old daughter Zahlia. Zahlia has Aicardi syndrome, an extremely rare genetic disorder that occurs almost exclusively in females resulting in developmental delay. Baby Zahlia suffers from all the markers that characterise Aicardi syndrome: she has an absent corpus callosum, the part of the brain which sits between the right and left sides of the brain and allows the right side to communicate with the left; she suffers as many as 40 seizures a day; she has severe brain damage; and she has lesions on her retinas resulting in vision impairment. Most children with Aicardi syndrome do not walk or talk and they also struggle with the most basic of skills such as supporting their heads, crawling and even smiling. It is an unimaginable reality for any child to have to live with.

Because she is in Australia, Sally and other parents in similar positions cannot access cannabis oil legally. She is not advocating that parents take part in illegal activities to access cannabis oil, nor does she want to place her child's health at further risk by exposing her to unregulated treatment. She is, however, willing to fly halfway across the world to a city where cannabis oil is heavily regulated and ensure her daughter has legal access to a drug that could save her life. Faced with the same dilemma, I am sure many of us would do exactly the same, which raises the question of whether or not at the very least we ought to be debating the merits of medicinal cannabis products.

During her interview on the *60 Minutes* program, Sally had this to say about Australia's position on the use of cannabis oil for medicinal purposes:

> Sometimes I feel like saying to these politicians we'll swap children. You take my baby and watch her seizure all day long and I'll take your healthy kid and run around the park and pretend that life's great and you decide what you're going to do. Are you going to get it illegally or are you going to do everything you can to get it here somehow? Being a politician, they'd do something if it was their kid, but they obviously don't have sick kids because there's no way they'd sit there and not do anything.

As reported by *60 Minutes* presenter Michael Usher, America is in the unusual situation where personal anecdotes, rather than science, are changing laws. This is, of course, concerning, but when you consider the quality of life that children like Charlotte Figi had before undergoing treatment involving the use of cannabis oil and that she suffers some 300 seizures a week, it is little wonder

that here in Australia desperate families are also hoping those anecdotes will be heard by our lawmakers.

Those American states that have legalised cannabis products for medicinal use have put in place extremely sophisticated monitoring systems and regulatory regimes. For instance, in Colorado each plant is said to be subjected to a seed-to-sale tracking system which enables its every move to be monitored by state officials. There is no question in my mind that in the near future this is a debate that we, as a parliament, will be taking part in.

The question of whether the use of cannabis oil for medicinal purposes ought to be legalised will take centre stage in that debate, as will the need for further research. When that time comes, we will need to exercise caution. In the meantime, however, I do not think all the offences regarding cannabis oil will sit well within the context of the current bill. As such, I foreshadow that I will be moving amendments to address genuine cases involving the use of cannabis oil for medical treatment. With that, I support the second reading of the bill and look forward to its debate.

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:45): I understand that there are no second reading contributions at this point, but there may be some comments made at clause 1. A number of questions and issues were raised during second reading contributions, and I would just like to take this opportunity today to put some information on the record.

This government has made no secret of its tough stance against crime and against serious drug offenders. We have a policy underpinning this bill to two elections and, despite the views of those opposite, the Labor government has won two elections with this bill as part of its policy package. I want in particular to address some of the questions and remarks made by some of the honourable members, particularly those of the Hon. Stephen Wade in his quite substantial contribution.

In relation to the 2010 election policy, the Hon. Stephen Wade has stated that the bill both now and then does not match the 2010 election policy because it allows for confiscation following a first offence. This is not true. I am advised that the 2010 election policy was quite detailed, but it said in general that the legislation would:

> …target persistent or high level drug offenders to provide for total confiscation of the property of a 'Declared Drug Trafficker'.

Although there may be a quibble about what 'high level' means, it is clear beyond argument that the policy contemplated confiscation in respect of certain first-time offenders.

In relation to high-level first offenders and Mr Bigs, the Hon. Stephen Wade quoted extensively from a letter from the Bar Association, the general gist of which is that this measure will not catch high-level offenders, but it will catch low-level offenders. First of all, the Bar Association is right about the cannabis plant figures given in the report being wrong. They are wrong. I apologise to the house for this and I take this opportunity to set the record straight. The true amounts are: trafficking amounts, 10 plants; commercial amount, 20 plants; large commercial amount, 100 plants.

What does the Bar Association say? The government has not seen the letter, but here is a quote used by the Hon. Stephen Wade:

> To take cannabis offending as an example, a person convicted of trafficking 1 kg or more of pure cannabis will commit a 'commercial drug offence' and become a 'prescribed drug offender'. Yet 1 kg of dried cannabis can be obtained from harvesting only a few cannabis plants (and since cannabis loses about 75% of its weight after drying, if a grower was caught with cannabis after they had just harvested it they are likely to possess more than 1 kg of cannabis from a single plant).

Let's examine this. The Bar Association is saying that a person trafficking between one and two kilograms of pure cannabis is not a commercial drug trafficker but a minor drug trafficker, a lower level offender. Are they serious? Are they saying that someone cultivating, say, 80 cannabis plants is a low-level offender? We surely cannot accept that statement.

I want at this point to inform the council about how these amounts were set. They were set by resolution of the national Intergovernmental Committee on Drugs, on recommendation of an

expert subcommittee comprised of national representatives of police, customs, the Australian Crime Commission, the attorneys-general departments. Better yet, the expert committee did not set the amounts on the basis of dosage. Rather, on the basis of a report of the Model Criminal Code Officers Committee, the subcommittee examined expert evidence about patterns of trafficking behaviour, based on real evidence about how much of any given drug a commercial level dealer, for example, typically traded at a time.

These are not random numbers—they are based on real evidence garnered by real experts. The Bar Association appears to be fond of quoting figures with respect to cannabis, but can they seriously suggest that a person trafficking in up to a kilo of cannabis is a low-level offender? I suggest that this council cannot seriously agree with such an assertion.

In relation to the 2014 election promise, the Hon. Stephen Wade correctly points out that the 2014 election promise amounted to a reintroduction of this bill and a further law to prevent the offender from owning property for up to five years. The government has not done that this time around. Why? Well, the majority of the council has resolved in the past that going this far is unfair and unjust. In the Hon. Mark Parnell's words, it is bad law. The Bar Association thinks that confiscating the property of serious drug dealers is inimical to a free society, the rule of law—what nonsense—and is draconian. Let us see if the council will pass this bill before we go further.

As to fines, the Hon. Stephen Wade likens this to a fine and asks why, instead, the government does not simply increase the fine applicable. But he answered the question in his next breath by noting that fines of $500,000 are already provided for. In fact, in some cases a $1 million fine is provided for. It is hard to consider raising these. If the honourable member objects that this measure takes money from the victims of crime, he should remember that the proceeds of the fines go into general revenue.

In relation to how many offenders there will be, the Hon. Stephen Wade quite correctly says that the government does not know how many offenders this measure will apply to. The Attorney-General has tabled in another place what figures are available on the commercial and large commercial offenders, but figures are not kept on recidivist offenders who offended in a period of 10 years, not counting periods spent in custody. There is a guesstimate quoted of proceeds between $8 million to $10 million per year. If the government does not know how many, how could it guess at how much? It is inherently impossible to guess with precise accuracy, even if the number of offenders might be known. The WA DPP said in 2012-13:

> There are significant fluctuations in both the number of declarations made and the amounts paid to the account in the given year. This is due to range of factors, including offender arrest rates, the nature and value of property seized and the prevailing economic climate. Given the time lag in selling forfeited property, there will not be a direct link between the number of declarations made in the relevant year and the amount of monies realised.

But that does not mean that one cannot say anything. Other jurisdictions have this law, and it is not as if it is being done for the first time. Western Australia has had it for years. Its DPP publishes figures in his annual report. Their figures between 2009 and 2010 vary between $5.19 million and $10.005 million.

Why pick on drugs? The Bar Association says, 'Why pick on drugs—why not murder, assault and rape?' The answer to that, I would have thought, is blindingly obvious: drug trafficking is a crime committed for profit every time; murder, assault and rape are not. Drug trafficking is about the money, so the government is going to take all the money off them—not just what can be proved from time to time to be profit, but all of the money. The Bar Association says that this is an attack on free enterprise. Well, so it is, but I doubt that this council, even the most strident of free market supporters opposite, will defend drug trafficking as an example of free enterprise.

In relation to issues on victims, the Hon. Stephen Wade spent a considerable part of his contribution on the idea that, and I quote, 'victims will lose'. As the Hon. Attorney-General made clear in another place, victims will not lose from these funds because they never had them. This bill will not, as it was argued, take money from the Victims of Crime Fund. To suggest so is at best misguided and otherwise disingenuous. It will raise new money, which never went into the Victims of Crime Fund, and use it to fund worthwhile ventures in the justice reform area that are in need of funds.

Those funds will go towards a number of worthy initiatives in the justice space. In particular, investment in the justice reform area will mean greater support for victims of crime and greater access to justice. In fact, I note comments made by the shadow attorney-general, the member for Bragg, just last week. On 17 July, the shadow attorney-general was quoted in *The Advertiser* as saying:

> Every day you don't get to court costs people's lives because they are not able to get on with things. It's bad administration of justice because witnesses forget what they saw and victims wait longer to move on while civil matters get pushed further into the background.

Well, I agree. The justice resources fund will go some way to allowing these victims their day in court. If the Hon. Stephen Wade really does want to talk about victims though, what about the victims of the drug trade? In his contribution, the Hon. Gerry Kandelaars made the point that this bill, in essence, seeks to bankrupt those who bankrupt our community. It seeks to bankrupt those who peddle drugs and who, by doing so, destroy the fabric of our society one hit at a time.

Drug addiction pervades every corner of our society, and I doubt that that there any of us in this place who has not been affected either directly or indirectly by members around us, and family and friends. It pervades every corner of our society and the government is seeking to cut it off at the source. We should not as members of this council stand in our ivory towers or hide behind academic arguments. Drug trafficking like drug addiction is real. It can affect any family. Many members in this place have children. I am sure that it might not be what we want to hear and it might cut close to the bone but drug addiction could hurt one of our children and, therefore, one of our family, and you just do not know. We in this place should do everything we can to stop the drug trade. We must leave no stone unturned.

In summary, as honourable members are aware, this measure has been debated thoroughly a number of times in this place now but some things have changed. The first thing that has changed is that another jurisdiction, Queensland, has enacted a version of this measure. It did so in the Criminal Proceeds Confiscation (Unexplained Wealth and Serious Drug Offender Confiscation Order) Amendment Act 2013. Another jurisdiction has done what is asserted to be an appalling and unthinkable thing. The second thing that has changed is that the High Court has upheld the constitutional validity of the measure of Emmerson v DPP (2014) HCA 13 by an overwhelming majority of six to one. The majority said this:

> The statutory scheme in question exemplifies the acceptance by legislatures in Australia and elsewhere of the utility of the restraint and forfeiture of property, not only as a strong and drastic sanction vindicating a law and encouraging its observance, but also as a means of depriving criminals of profits and preventing the accumulation of significant assets by those involved in criminal activity, particularly in relation to drug offences.
>
> Forfeiture or confiscation of property, in connection with the commission of serious crime, has a long history in English law. Until its abolition by statute in 1870, a felon incurred general forfeiture of property, a sanction stretching back to medieval times. Felon forfeiture provided Crown revenue and constituted the subject matter, at certain times, of Crown patronage.
>
> In distinguishing between a felon's forfeiture of land (strictly, escheat of land) a consequence of attainder following a judgment of death or outlawry, and the forfeiture of goods and chattels, a consequence of conviction and sentence, Blackstone noted the severe deterrent effect of forfeiture as a punishment for serious crime because it affected posterity as well as the individual offender.

I continue with the quote:

> Modern civil forfeiture laws for confiscating the proceeds of, or profits from, crime go beyond the condemnation of goods used in, or derived from, crime. Many are designed expressly to render a person's pursuit of certain crimes unprofitable in the economic sense. No single precept drawn from historical examples of forfeiture could be said to inform modern civil forfeiture laws. What the historical examples show, however, is that overlapping rationales underpinning forfeiture as a criminal or civil sanction, which include both strong deterrence and the protection of society, are not especially novel. Protection of the public is a familiar factor in judicial decision-making in sentencing after the determination of criminal guilt. In the context of terrorism, it has been said that the protection of the public is a permissible legislative purpose, not alien to adjudicative processes.

The bill was supported in the other place by the new shadow attorney-general, and the government looks forward to a bipartisan approach in this place as well.

Bill read a second time.

PASTORAL LAND MANAGEMENT AND CONSERVATION (RENEWABLE ENERGY) AMENDMENT BILL

Committee Stage

In committee.

(Continued from 24 July 2014.)

Clause 1.

The Hon. I.K. HUNTER: Very briefly, I have held discussions on this bill with the various parties and I would like to make a few points before we go to the amendments. I would like to reaffirm that a great deal of consultation has occurred on this bill. In the original drafting, the Pastoral Board, the Commissioner for Aboriginal Engagement and South Australian Native Title Services officers were all consulted. A three-month public consultation period occurred where all native title holders, pastoral lessees and key peak bodies in the state were provided with a copy of the proposed changes and given an opportunity to comment on them. I am advised that the majority of lessees were supportive of the bill and saw it as potentially being of commercial benefit. Legal bodies representing native title holders either did not raise any issues or welcomed the proposed changes.

In relation to native title holders and the Indigenous land use agreement that will need to be negotiated with native title holders before a wind farm licence can be issued, I have been asked how 95 per cent of the wind farm payment will be distributed between prescribed interested parties and whether the percentage could be negotiated through an ILUA.

Payments under new section 49K will be made on an equitable basis to prescribed interested parties, and the word 'equitable' is key in this situation. Potentially, a percentage of payment from the 95 per cent could be specified in an ILUA, as long as the responsible minister is satisfied that it is equitable for all prescribed interested parties. In determining whether it is equitable, the minister would need to take into account all relevant interests, including pastoral lessees.

The Hon. J.M.A. LENSINK: I thank the minister for outlining the consultation. I may have missed it in his contribution, but is he saying that the government has consulted on the amendments to the original bill and/or any of the amendments to the bill that has been tabled?

The Hon. I.K. HUNTER: My advice is that, in relation to the amendments, further consultation has occurred with the South Australian Chamber of Mines, DMITRE and the Pastoral Board.

The Hon. J.M.A. LENSINK: What about Indigenous groups? What have they been consulted on at this stage?

The Hon. I.K. HUNTER: My advice is that they were involved in the original drafting process but have not had further consultation required in regard to the amendments.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

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

Page 3, lines 7 to 12 [clause 4(2)]—Delete subclause (2)

This amendment is, if you like, a test clause for all of my amendments which seek to remove the provisions relating to wind farms from the bill. It is very important that we understand that pastoral lessees have 14-year rollover leases which continue for as long as the conditions on the lease are adhered to, which could effectively be in perpetuity.

The bill gives very little regard to the rights of those pastoral lessees. In fact, aside from the requirement that the minister consult with and have regard to the views of pastoral lessees, there is no protection whatsoever afforded to lessees in pastoral areas. The same can also be said for native title holders. That is, in essence, the basis of my concern and, indeed, of those groups that have contacted my office in relation to this bill.

I appreciate that we are talking about crown land, but I do not think that that in and of itself should effectively mean that pastoral lessees have no rights over their land which, as I mentioned before, could effectively be held in perpetuity.

It is clear to me that these amendments will most likely be defeated, but I think it is important to place on the public record my position with respect to this issue. It is about protecting people's rights, due process and ensuring appropriate levels of consultation.

I will at this point also indicate that if my amendments are defeated, I will be supporting the Hon. Michelle Lensink's amendments that go some way towards addressing the concerns that I have, especially in so far as they provide a right of veto for interested parties, a more formal process for the payment of compensation from the fund and, importantly, appeal rights with respect to payment agreements.

I certainly commend the honourable member for her position on this issue and for ensuring a high level of accountability and transparency in the bill. I commend the amendment to all honourable members.

The Hon. I.K. HUNTER: I am a little puzzled by the honourable member's explanation of his amendment. We, of course, oppose the amendment. The amendment proposes to delete any reference to 'wind farm' or 'wind farm licence'. As this bill allows for the coexistence of wind farms with the activity of pastoralism, the definitions of a wind farm licence need to remain. I think the intention of the honourable member in his amendment is to make it impossible for wind farm licences to be issued but to allow solar farm licences to be issued. So, clearly he has support for the bill in relation to the solar aspects but not for wind farm aspects, but now he is speaking to this amendment, talking about issues in terms of rights to lessees or native title holders.

I might remind the honourable member that the amendment set 2 in my name actually provides for some of these issues that he just raised. Land access agreements, of course, will have to be entered into before wind farm licences will be contemplated. People will have to be consulted, and I encourage the honourable member to read those amendment sets a bit more closely. I cannot fathom why, in moving this amendment, he is addressing issues of taking out wind farm licences but leaving in solar farm licences and still not raising the same issues that he has just raised in relation to that.

The Hon. J.M.A. LENSINK: I thank the honourable member for moving his amendment. The Liberal Party will not be supporting the amendment, which effectively removes wind farms from the bill, although we are obviously on the same page as far as providing further rights to pastoralists in this regime and other interested parties, which has been one of our key concerns throughout this process. We will be addressing those issues as we go through the committee stage and I will make further comments at those points.

Amendment negatived; clause passed.

Clause 5 passed.

Clause 6.

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

Amendment No 1 [SusEnvCons-1]—

Page 3, lines 20 and 21 [clause 6(1), inserted paragraph (ab)]—Delete 'any licence fees payable under a wind farm licence granted under Part 6 Division 4; and' and substitute:

—

(i) any fee paid for an approval under Part 6 Division 4 to enter and occupy pastoral land; and

(ii) any licence fees payable under a wind farm licence granted under Part 6 Division 4; and

This amendment is linked to amendments Nos 2 and 3. An issue raised by the opposition in discussing this bill revolved around the giving of more clarity for payments in the investigation phase of a wind farm development. The intent of these three amendments (this one and 2 and 3) is to make clearer the payment by a wind farm developer in the investigation phase of a wind farm. New

section 49K allows for a payment from the fund to go to prescribed interested parties at the investigation stage of a development before a wind farm licence is issued. As the bill stands currently, there is nothing to stop a wind farm developer from paying an amount, upon approval, to access the land prior to the granting of a licence, but this amendment makes it very clear that the wind farm developer will pay an amount.

The Hon. J.M.A. LENSINK: I thank the minister for drafting this set of amendments, which is a technical issue identified by the member for Stuart, who has forensically been through this piece of legislation and raised a number of issues. This, indeed, was in relation to clarifying whether payments could be made prior to the issuing of a licence, so we will clearly be supporting these amendments.

Amendment carried; clause as amended passed.

Clauses 7 to 9 passed.

Clause 10.

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

Amendment No 1 [SusEnvCons-2]—

Page 5, lines 6 to 10 [clause 10, inserted section 49A, definition of *access agreement*]—Delete the definition of *access agreement* and substitute:

access agreement—each of the following are access agreements in relation to pastoral land:

(a) an agreement between an applicant for a wind farm licence in relation to the land and the lessee for access to the land, or infrastructure on the land, by the lessee;

(b) if a resources tenement is held over the land—an agreement between an applicant for a wind farm licence in relation to the land and the holder of the resources tenement for access to the land, or infrastructure on the land, by the resources tenement holder during construction and operation of the wind farm,

but an access agreement may not provide for access by a lessee or resources tenement holder to infrastructure associated with a wind farm if access to the infrastructure is not required for pastoral purposes or activities under the relevant resources tenement;

This amendment is linked to amendment Nos 2 through 6 in this set. I understand the Hon. Michelle Lensink wishes to introduce additional rights for pastoral lessee holders in consideration of a wind farm development. Whilst the government does not agree to her exact amendment, I think this package of amendments will go some way to addressing the concerns she has raised with us. The intent is to parallel the process that occurs for existing mineral, petroleum and geothermal exploration tenement holders.

These amendments introduce a requirement for the negotiation of a land access agreement between the wind farm developer and a pastoral lessee before a wind farm licence can be issued. The negotiation of this agreement will give the pastoral lessee an ability to discuss sensitive areas, such as, for example, water points, and to draw up an agreement which addresses the usage of common infrastructure, such as access roads. The wind farm licence will, for safety reasons, include areas such as electrical substations, control rooms and maintenance sheds that need to be locked and therefore cannot be accessed by prescribed interested parties—that is very important. The land access agreement provides for the ERD Court to intervene if requested by either party, and I hope that this amendment set will go some way to meet the concerns raised by the Hon. Michelle Lensink.

The Hon. J.M.A. LENSINK: This issue addresses the Liberal Party's concern that the original bill leaves too much of the decision to grant a licence to the minister, with interested parties playing a fairly passive role in the information provision and consultation phase or through appealing a decision in the ERD Court. We did have a couple of amendments which would have provided interested parties with a right of veto. We are happy with the government's response, which is to incorporate interested parties into its concept of access agreements which are already provided to mining parties, so we will be supporting the government amendment.

Amendment carried.

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

Amendment No 2 [SusEnvCons 2]—

Page 6, lines 1 to 4 [clause 10, inserted section 49B(4)]—Delete subsection (4) and substitute:

(4) The Minister may not grant a wind farm licence in relation to pastoral land unless the applicant has—

(a) entered into an access agreement with the lessee; and

(b) if a resources tenement is held over the land—entered into an access agreement with the holder of the resources tenement.

This is a consequential amendment, as will be amendments Nos 3, 4, 5 and 6.

Amendment carried.

The Hon. J.M.A. LENSINK: I move:

Amendment No 4 [Lensink 1]—

Page 6, line 6 [clause 10, inserted section 49B(5)]—After 'period' insert:

, not exceeding 12 months,

This is in relation to the application period. The concern that the Liberal Party had was that the application period was potentially open-ended and therefore we have sought to cap the period at 12 months, so as not to indefinitely inconvenience interested parties.

The Hon. I.K. HUNTER: The government supports this sensible amendment, which limits the time to 12 months and is not quite so open-ended.

Amendment carried.

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

Amendment No 3 [SusEnvCons–2]—

Page 6, lines 11 to 14 [clause 10, inserted section 49C(1)]—Delete subsection (1) and substitute:

(1) For the purposes of section 49B(4)(a) and (b), the parties to a proposed access agreement must negotiate in good faith with a view to entering into the access agreement.

Amendment No 4 [SusEnvCons–2]—

Page 6, line 23 [clause 10, inserted section 49C(4)(a)]—Delete 'resources tenement holder' and substitute:

lessee or resources tenement holder (as the case requires)

Amendment No 5 [SusEnvCons–2]—

Page 6, line 31 [clause 10, inserted section 49C(5)]—After 'licence' insert:

, a pastoral lease

Amendment No 6 [SusEnvCons–2]—

Page 7, lines 13 to 16 [clause 10, inserted section 49E(1)]—Delete:

'(provided that the licence cannot prevent the lessee making reasonable use of access roads constructed in accordance with the licence)' and substitute:

(provided that the licence must be consistent with an access agreement entered into in relation to the land)

These amendments are all consequential.

Amendments carried.

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

Amendment No 2 [SusEnvCons 1]—

Page 9, after line 37 [clause 10, inserted section 49J]—After subsection (1) insert:

(1a) The Minister may only grant an approval under subsection (1) if the person who intends to enter and occupy pastoral land has paid the fee fixed by the Minister.

This amendment is linked to amendment No.1, and relates to making clearer the making of a payment by a wind farm developer in the investigation phase of a wind farm.

Amendment carried.

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

Amendment No 1 [SusEnvCons–3]—

Page 10, line 21 [clause 10, inserted section 49K(1)]—Delete 'Subject to subsection (2)' and substitute:

Subject to this section

This amendment is linked to amendment No. 2 [Hunter-3] and is designed to introduce a mechanism for specific consultation on the wind farm payment with a pastoral lessee. The responsible minister will consult with and have regard to the views of the pastoral lessee before authorising the wind farm payment.

The CHAIR: You could move both amendments.

The Hon. I.K. HUNTER: I will do so, sir. I move:

Amendment No 2 [SusEnvCons–3]—

Page 10, after line 29 [clause 10, inserted section 49K]—After subsection (1) insert:

(1a) Before authorising the payment of an amount or amounts to a prescribed interested party under subsection (1), the Minister must consult with, and have regard to the views of, the prescribed party.

The Hon. J.M.A. LENSINK: This relates to appeal rights, another area of concern that the Liberal opposition had, and so in deference to the government's amendments we have not moved our amendments because the government has come up with an alternative which will provide for an additional regime of consultation prior to the minister being able to grant payments.

Amendments carried.

The Hon. J.M.A. LENSINK: I move:

Amendment No 7 [Lensink–1]—

Page 10, line 30 [clause 10, inserted section 49K(2)]—Delete 'Subsection (1) does not apply' and substitute:

A payment may not be made under this section.

In relation to the contribution I just made, this amendment is part of a suite of additional consultation being provided to interested parties.

The Hon. I.K. HUNTER: We are supporting this amendment. It was originally drafted to be part of the opposition's amendments regarding greater consultation on wind farm payments. As the intent of the government's set 3 of amendments is very similar to the opposition's, we will be supporting this amendment.

Amendment carried.

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

Amendment No 3 [SusEnvCons–1]—

Page 10, after line 31 [clause 10, inserted section 49K]—After subsection (2) insert:

(3) Subsection (1)(a) does not apply to a prescribed interested party of a kind referred to in paragraph (d) of the definition of prescribed interested party.

This amendment relates to amendment Nos 1 and 2 from set 1 and is consequential.

Amendment carried.

The Hon. M.C. PARNELL: I move:

Amendment No 1 [Parnell–1]—

Page 10, lines 32 to 37 and page 11, lines 1 to 15 [clause 10, inserted section 49L]—Delete inserted section 49L and substitute:

49L—Appeals to ERD Court

(1) A person who is dissatisfied with a decision made under this Division may appeal against the decision to the ERD Court.

(2) An appeal must be made in a manner and form determined by the ERD Court, setting out the grounds of the appeal.

(3) Subject to this section, an appeal under this section must be instituted within 21 days after notice of the relevant decision is given to the appellant.

(4) If the reasons of the Minister are not given to the appellant in writing at the time of making the decision and the appellant (within the period specified in subsection (3) as the time within which an appeal may be instituted) requires the Minister to state the reasons in writing—

(a) the Minister must state in writing the reasons for the decision; and

(b) the time for instituting an appeal runs from the time at which the appellant receives the written statement of those reasons.

(5) The ERD Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that an appeal be made within the period fixed by this section.

(6) Unless otherwise determined by the ERD Court, an appeal must be referred in the first instance to a conference under section 16 of the *Environment, Resources and Development Court Act 1993* (and the provisions of that Act will then apply in relation to that appeal).

(7) Subject to subsection (8), the institution of an appeal does not affect the operation of the decision to which the appeal relates.

(8) The ERD Court may, on application by a party to an appeal, make an order staying or otherwise affecting the operation or implementation of the whole or a part of a decision if the Court is satisfied that it is appropriate to do so.

(9) An order under subsection (8)—

(a) may be varied or revoked by the ERD Court by further order; and

(b) is subject to such conditions as are specified in the order; and

(c) has effect until—

(i) the end of the period of operation (if any) specified in the order; or

(ii) the decision of the ERD Court on the appeal comes into operation,

whichever is the earlier.

(10) The ERD Court must not make an order under subsection (8) unless each party to the appeal has been given a reasonable opportunity to make submissions in relation to the matter.

(11) The ERD Court may, on hearing an appeal under this section—

(a) confirm, vary or revoke the decision or order appealed against;

(b) order or direct a person or body to take such action as the Court thinks fit, or to refrain (either temporarily or permanently) from such action or activity as the Court thinks fit;

(c) make any consequential or ancillary order or direction, or impose any condition, that it considers necessary or expedient.

(12) An order for costs cannot be made against an appellant unless the ERD Court is satisfied that the appellant's conduct in relation to the proceedings was frivolous, vexatious or calculated to cause delay.

This is a very straightforward amendment which seeks, in my opinion, to remove an anomaly in the bill, that anomaly is that there are some disputes which are dealt with by the Environment, Resources and Development Court and yet other disputes by the way of appeal are dealt with in the District Court.

My first reaction when I saw this was to refresh my memory about standing order 193 and injurious reflections on courts of law, but my first thought was that the people who put this in the bill have never been to the Administrative and Disciplinary Division of the District Court because it is a very slow process. At my last attendance there, judgement took one year, and I contrast that with the Environment, Resources and Development Court which has much faster turnaround times and which also, as members would appreciate, has the advantage of facilitated roundtable negotiations between the parties to try to settle disputes without them going to trial.

This amendment seeks to have both types of disputes, whether it is a dispute over a land access agreement or an appeal in relation to the terms and conditions of a wind farm licence, dealt with in the same court. It is also a logical amendment if members pay attention to the proposed new section 49E, which reinforces the fact that wind farm licences need to be consistent with the access agreement. It makes no sense to have one forum having helped negotiate an access agreement and then an entirely different forum negotiating the appeal.

The final point that I would make is that, whilst the Environment, Resources and Development Court is often regarded as a specialist court that only concerns itself with the environment, I would just remind members that this court also has jurisdiction over the Natural Resources Management Act, the Irrigation Act, the Native Title Act, the Mining Act, the Opal Mining Act, the Petroleum and Geothermal Energy Act, the Upper South East Dryland Salinity and Flood Management Act—in fact a range of pieces of legislation that deal with agreements and licences in relation to land, which is effectively what this bill before us now does. I think it is a sensible amendment that brings all dispute resolution within the umbrella of the ERD Court.

The Hon. I.K. HUNTER: I think I may have advised the chamber in my second reading contribution or the closing summary contribution that the government was somewhat ambivalent about this amendment from the Hon. Mr Parnell, but I think I indicated that we would be supporting it. I must say that we have been persuaded by the Hon. Mr Parnell's impassioned arguments over jurisdictional challenges, and for that reason we will be supporting his amendment.

The Hon. J.M.A. LENSINK: The Liberal Party has not been persuaded by the Hon. Mr Parnell. We did support a similar move last year in relation to native vegetation—which is one that he did not have on his list—

The Hon. M.C. Parnell: No, it's on my list; I didn't read it out.

The Hon. J.M.A. LENSINK: You didn't read it out—to change the jurisdiction there, but we believe that pastoral lands are not necessarily just an environmental issue, even if they do come under the list of acts that are committed to the minister for the environment. There are a lot of broader issues, and notwithstanding whether it is a speedier jurisdiction than the District Court, we are unpersuaded. We do have an amendment to the honourable member's amendment in case it is successful, and we will be calling for a division on this particular amendment.

The Hon. M.C. PARNELL: Just to assist the chamber, the honourable member's amendment to my amendment is not of any particular consequence. It does tighten it up a little bit, and I am happy to accept her amendment to my amendment. I am disappointed that the Liberal Party is not persuaded that having a single judicial body to administer disputes is the way to go, because I think it is. I just want to put on the record that we are happy with the honourable member's amendment to my amendment and we look forward to hearing the contribution of others.

The Hon. J.M.A. LENSINK: I move:

Amendment No 1 [Lensink–2]—

Amendment to Amendment No 1 [Parnell–1]—

Clause 10, inserted section 49L(4)(a)—After 'must' insert:

, within 30 days after being required to do so by the appellant,

This amendment imposes a limit in terms of the time that the minister has to provide a response to an appellant.

Amendment to amendment carried.

The committee divided on the amendment as amended:

Ayes 9
Noes..... 6
Majority..... 3

AYES

Brokenshire, R.L.	Finnigan, B.V.	Franks, T.A.
Gago, G.E.	Gazzola, J.M.	Hunter, I.K.
Kandelaars, G.A.	Maher, K.J.	Parnell, M.C. (teller)

NOES

Darley, J.A.	Dawkins, J.S.L.	Lee, J.S.
Lensink, J.M.A. (teller)	Lucas, R.I.	Ridgway, D.W.

PAIRS

Hood, D.G.E.	Stephens, T.J.	Ngo, T.T.
McLachlan, A.L.	Vincent, K.L.	Wade, S.G.

Amendment as amended thus carried; clause as amended passed.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (16:35): I move:

That this bill be now read a third time.

In doing so, can I congratulate all members for how we have progressed this matter. I think we can fairly say that every player in the chamber has won a prize today and we have come up with a better bill for the sake of trying, so thank you very much everybody. I look forward to it passing.

Bill read a third time and passed.

SURVEILLANCE DEVICES BILL

Committee Stage

In committee.

(Continued from 3 July 2014.)

Clause 1.

The Hon. T.A. FRANKS: I will start with answers to the questions that I put on record in the second reading speech.

The Hon. S.G. WADE: What the Hon. Tammy Franks is saying is that she is going to put questions but they are the same ones that she put at the second reading.

The Hon. T.A. FRANKS: No, I am not saying they are the same ones. I am saying I will first get answers to the questions that I put on notice in the second reading speech. I asked these questions in my second reading speech as well so the government should be very well prepared for these. My first question was—

The Hon. G.E. GAGO: I do not need you to repeat questions you have already put on the record.

The Hon. T.A. FRANKS: So I am waiting for the answers to the questions that I put on the record in my second reading speech on 1 July.

The Hon. G.E. GAGO: They are coming but my understanding was that there were additional questions to be put on the record today—new questions. I was informed that a member wanted to do that and I have made time available.

The Hon. T.A. FRANKS: My understanding of the process of parliament is that when one puts questions on the record in the second reading speech, indeed, usually they are responded to in the summary that the government gives before we move to the committee stage. I am waiting for the answers to those questions that I put on the record on 1 July in this place before we proceed to the further questions that I have.

The CHAIR: Obviously there is a misunderstanding. The honourable minister.

The Hon. G.E. GAGO: I indicated that the answers to those questions are coming and they will be provided. They are not available for today but I was advised there were additional new questions that were not raised during the second reading that a member wanted an opportunity to put on the record today. I am making that available. There is no point putting the same questions. We already have those questions from the past. Are there any new or additional questions or are we going to pack up and go home?

The CHAIR: The Hon. Mr Wade, do you have questions?

The Hon. T.A. FRANKS: I do actually have further questions; I was just expecting an answer to my previous questions that I first raised with the minister on 1 July in this place.

The CHAIR: If you have questions, Hon. Ms Franks.

The Hon. T.A. FRANKS: I will ask the minister, where in this bill are there provisions that would stymie cyberstalking?

The Hon. G.E. GAGO: We will take it on notice.

The Hon. T.A. FRANKS: Which groups who represent farmers called for the provisions of this bill to be brought before this parliament? Which farming groups communicated with the government prior to this bill being introduced?

The Hon. G.E. GAGO: I am advised that no farming group called for it.

The Hon. T.A. FRANKS: Why, then, did the government indicate in its second reading speech that farming groups have called for some of the provisions in this bill?

The Hon. G.E. GAGO: I am advised that we received correspondence after the introduction of the bill from farmers' groups about concerns with the use of drones.

The Hon. S.G. WADE: In relation to the amendments that I understand have been tabled, who has the government consulted about the proposed amendments?

The Hon. G.E. GAGO: I am advised that we have not.

The Hon. T.A. FRANKS: Did the minister mislead this council when she indicated that farmers' groups had called for this Surveillance Devices Bill to be presented to this parliament in its current form, then, in the second reading speech?

The Hon. G.E. GAGO: I do not believe so, and I have given the information as accurately as I possibly can. I will double-check the record and, if there is anything that is inconsistent, I will make sure that I correct the record. I have given the best advice that I have received.

The Hon. S.G. WADE: At the second reading stage of the bill the minister said:

> Media interests wanted no change to anything. People wanted to be able to secretly record telephone calls with their ex-spouses. Privacy interests wanted to restrict invasions of privacy by covert recording generally.

This is the part of the quote that I particularly want to reference:

> These positions, strongly held, were not and are not reconcilable.

I remind the council that that statement was made in early May. Considering that the minister has now tabled amendments which the government claims will reconcile its position with the media, why did it hold the view at the beginning of May that these positions are irreconcilable and now is trying to reconcile them?

The Hon. G.E. GAGO: I am advised that the quote the member read was not limited to just the media. It was a general position in relation to general interests. For instance, it also included matters relating to private investigators. What we are trying to do with this amendment is address the particular issues of the media versus general interests.

The Hon. S.G. WADE: I accept the minister's point, and that is indeed my understanding too, that I had picked up the quote part way through the paragraph, not to be misleading but to highlight the fact that the media interests were purported to be irreconcilable. Considering that the minister is coming to the chamber with some renewed hope that where reconciliation was not possible, reconciliation is now possible in relation to media interests, has the government changed its view in relation to other sectors: that other sectors may in fact now be reconcilable when they were not a month ago?

The Hon. G.E. GAGO: We are of the view, or we hope, that the reconciliation proposed by the Legislative Review Committee will do the job, and we have put those provisions into the bill.

The Hon. S.G. WADE: I will perhaps explore that more in the committee stage. I just make the point that the second reading explanation at the beginning of May for the new bill, if you like, the bill introduced in the 53rd parliament, included a number of aspects of the Legislative Review Committee report. The minister, in her second reading explanation, explained why some aspects of the Legislative Review Committee report were not picked up. If I remember rightly, the Hon. Gerry Kandelaars heavily referenced in his second reading contribution how the government's bill picked up the Legislative Review Committee report.

So it is my view that the accommodation, if you like, of the Legislative Review Committee report had already been done—the fact that the government is now finding the prospect of reconciliation when it did not see it a month ago. Considering that the minister has had a wave of hope for reconciliation, would it not have made sense to test the prospects of reconciliation by engaging media organisations on the draft amendments?

The Hon. G.E. GAGO: I will have to take that question on notice. The staff from the AG's office made those arrangements. I am not familiar with the details of them, but we can find out and bring that information back.

The Hon. S.G. WADE: I thank the minister for that answer. If I could also ask that when she consults the Attorney-General's office that they might also explain on what basis does the office or the Attorney-General not hold out hope that where reconciliation is now possible with the media, it is not possible with people who are advocating for animal welfare, with people in relation to—

The Hon. T.A. Franks: Workers' rights.

The Hon. S.G. WADE: —workers' rights, etc.

The Hon. G.E. GAGO: There is a difference between hope and expectation but, anyway, we will do our best.

The Hon. S.G. WADE: I accept the minister's comments. I just would have thought that the Labor Party would have actually put more effort into exploring the prospects for protecting workers' rights in the face of a maritime union letter and letters from the Voice of Industrial Death when rather it seems to be more focused on news media outlets.

The Hon. G.E. GAGO: I think that is a comment.

The Hon. S.G. WADE: Yes, take it as a comment.

The CHAIR: The Hon. Ms Franks.

The Hon. T.A. FRANKS: With regard to the amendments that the government has tabled trying to address some of the concerns that have been raised regarding media organisations, would the *Labor Herald* come under the definition of 'media organisation' under this bill if it is amended as you have proposed?

The Hon. G.E. GAGO: We will have to find out. We do not know how it is registered, but we will find out and bring back an answer.

The Hon. S.G. WADE: I would ask the minister how many offenders does the government expect will be caught under these provisions?

The Hon. G.E. GAGO: How many?

The Hon. S.G. WADE: Offenders. How many offences are expected to be committed in relation to these provisions?

The Hon. G.E. GAGO: We do not have the answer for that and we do not believe there is an answer at this point in time.

The Hon. S.G. WADE: I take it, therefore, there is no estimate of the revenue that would be expected to be collected from the penalties and no budget allocation for the enforcement of the laws?

The Hon. G.E. GAGO: Not as far as we know.

The Hon. T.A. FRANKS: What conversations have been undertaken with the police minister and, indeed, SAPOL about enforcement and monitoring of breaches of this act, should it be passed by the parliament?

The Hon. G.E. GAGO: I do not have that detail. Those arrangements would have been done through the AG's office and I am happy to take that on notice and bring back a response.

The Hon. T.A. FRANKS: With regard to the need for this particular piece of legislation, what prosecutions have been undertaken in this area in the past 10 years for violations that the bill before us now seems to seek to redress? Is this a systemic problem, or have there been only one or two examples of violations of people's privacy by media or other organisations?

The Hon. G.E. GAGO: That information is likely to be available through the Office of Crime Statistics and I am happy to attempt to find that information and bring it back.

The Hon. S.G. WADE: In relation to the information the media is going to seek from the Office of Crime Statistics, I appreciate that it is not, shall we say, strictly related to this bill, but as a member of this council I would be interested to know whether, since the parliament passed the legislation in relation to humiliating and degrading images, there had been any charges and/or prosecutions in relation to them and what number of those had been successful. I am pretty sure it is not directly relevant but I think it is indicative of the sorts of matters that would be pursued under this legislation.

The Hon. G.E. GAGO: I note that *The Advertiser* reported from police incident reports on the number of humiliating and degrading images in the paper today, but other than that I am happy to take that on notice and bring back a response.

The Hon. T.A. FRANKS: With regard to the recent royal visit there was footage of, and it was not undertaken in this state but had it been undertaken in this state, I think it is the Duchess of Cornwall—

The Hon. S.G. Wade: Cambridge.

The Hon. T.A. FRANKS: Cambridge, the Duchess of Cambridge—thank you; I knew that I was going to get that bit wrong—playing with her son in what she believed to be a private retreat. Would this legislation cover that particular photojournalist who took that footage and then also the publications that chose to publish it, had those activities been undertaken in South Australia? Indeed, if the footage had been taken elsewhere but then published in this state, what would the situation be in that case?

The Hon. G.E. GAGO: The determination on whether or not an image is captured is dealt with in clause 5, which goes through a list of issues that would need to be considered in determining whether or not it would be captured. They are things like whether it involved entry into a premises or vehicle without express or implied consent, interference with the premises, vehicle or thing without express or implied consent, etc. A number of those issues would need to be considered to determine whether or not that particular image would be captured.

The Hon. T.A. FRANKS: Had that image included one of the members of the royal family sunbaking topless, would it have been covered by this bill or, indeed, another provision under South Australian law?

The Hon. G.E. GAGO: I think I have already answered the question, really. It does not matter whether or not the image is topless. What matters is those criteria that I have alluded to in clause 5, which relate to how a determination is made as to whether or not it is captured. They are outlined in clause 5.

The Hon. T.A. FRANKS: Does the minister accept that this parliament has already passed legislation that deals with humiliating and degrading images? Therefore, in fact, it is quite relevant whether or not this bill covers those areas and is specifically seeking to redress that problem, if you like. Indeed, what does this bill add to the debate on that sort of footage, if we have already covered it with the humiliating and degrading images legislation?

The Hon. G.E. GAGO: The emphasis of this particular bill is quite different to that of the Summary Offences Act, which deals with humiliating and degrading images, as the honourable member refers to. That act goes to issues of decency. This bill goes to issues of surveillance, which captures a different group of potential images. As I said, the criteria for whether an image is captured under this bill are outlined in clause 5.

The Hon. T.A. FRANKS: Can the minister explain, then, why the Attorney-General on radio repeatedly used the example of royal family members sunbaking nude to justify this legislation?

The Hon. G.E. GAGO: That is a matter for the Attorney-General.

The Hon. S.G. WADE: In terms of the penalties, to continue the line of questioning of the Hon. Tammy Franks, I presume that the photographs in the case that the Hon. Tammy Franks is referring to would be in relation to clause 5(1) and the penalties there are, in the case of a body corporate, $75,000, and in the case of a natural person, $15,000 or imprisonment for three years. I accept the minister's answer that the focus here is on the use of a device. Could the minister explain whether the subject of the use would be relevant in determining the penalty that might be imposed?

The Hon. G.E. GAGO: I have been advised that sentencing in relation to penalty deals with considering relevant facts that relate to the objectives of punishment and the objectives of punishment could include, for instance, deterrents. If a court in its deliberations determined that it was necessary, for instance, to deter paparazzi from certain behaviour then it would be relevant, so the case would need to determine the various elements.

The Hon. S.G. WADE: The minister is highlighting there a case where, if you like, the nature of the defendant was relevant to the deterrent relevance of the penalty to be imposed. Would the minister think that the nature of the subject material, e.g. whether or not the Duchess of Cambridge was—

The Hon. T.A. Franks: According to John Rau it is the Duchess of Cornwall, that is what he cited.

The Hon. S.G. WADE: Okay, why don't we say a celebrity—whether a celebrity was dressed or undressed, would be relevant in sentencing?

The Hon. G.E. GAGO: I am advised that it is impossible to give a specific answer, that the court considers the facts of the situation and makes determinations on a case-by-case basis, so there is not a general view, if you like, or position.

The Hon. S.G. WADE: That may be all the answer I need which is that the state of the subject would be relevant to the sentencing under this act. It could be relevant so, in other words, it is not implicitly irrelevant; that is all I am seeking to establish. Could I ask on what basis this penalty

regime was established and what precedent we have used for deciding what is the appropriate level of penalty for this legislation?

The Hon. G.E. GAGO: I am advised that this was determined by carefully looking up what the maximum penalty was for a minor indictable range, so that is above two years and below five years. What we have pitched it at is three, as you can see, and then parliamentary counsel, I am advised, have a type of formula, if you like, where they match the fine to an imprisonment time.

The Hon. S.G. WADE: Considering that, as I understand the Hon. Tammy Franks' questioning, the offence in clause 5(1) is committed whether or not there is any, shall we say, offensive element—it is just a use—and the maximum penalty is imprisonment for three years, yet under the Summary Offences Act, humiliating or degrading filming has to be offensive (it has to involve humiliating or degrading filming) and similarly, indecent filming has to, by its nature, involve not just the use of a device but has to involve an offensive element, how does the government justify the optical and surveillance devices maximum imprisonment penalty being three years for an optical surveillance device, yet for humiliating and degrading filming it can be one year or two years?

It is not until you get to indecent filming, and only then in the case of a minor, that you can exceed this level. It then becomes four years, but indecent filming in relation to a non-minor is two years, less than this. Why is it more offensive to use a device than it is to use a device to produce offensive images?

The Hon. G.E. GAGO: There are two ways of looking at this. Firstly, there is a general proposition that there is in fact no objective way of comparing offences with other offences. There is no established standard to provide clear directional guidelines. It is done via a matter of subjective opinion. The second aspect is that in general terms we are regulating invasions of privacy. Some are minor and some are major. So we are actually looking at, if you like, a double whammy: indecent filming plus invasion of privacy. It is two-pronged approach and therefore considered to be potentially more serious.

The Hon. T.A. FRANKS: Is the minister saying that the current legislation around humiliating and degrading imagery does not cover that situation?

The Hon. G.E. GAGO: No, of course I am not. I have already answered that question as to the difference between the legislation and the different types of things that each captures. I have already answered that.

The Hon. S.G. WADE: When the minister in the conclusion to her answer suggested that we are dealing with cases here that are potentially more serious, was she suggesting that the government intends that the use provisions for optical surveillance devices are more serious than humiliating or degrading images (I presume that is not what she was trying to imply), or is she trying to suggest rather that the Surveillance Devices Bill offences would be pursued at the same time that humiliating or degrading images offences would be being pursued?

The Hon. G.E. GAGO: I am suggesting that there are conceivable circumstances in which these offences are more serious than humiliating and degrading images. The example I have been given is that which underpinned the legislation involving humiliating and degrading images, which in fact did not involve sex but involved the image of a person being king hit. It is incorrect to be considering that it really only just pertains to sexually explicit images.

The Hon. T.A. FRANKS: When we were given briefings in this parliament with regard to that legislation about humiliating and degrading images, we were actually given the examples of people being bullied in schools and being beaten up. It was not necessarily a given that there was a sexual aspect to those offences. So, I do not understand the point the minister is trying to make when she points to an example of somebody being king hit.

The Hon. S.G. WADE: To amplify that comment, in section 26A of the Summary Offences Act, humiliating or degrading acts, includes an assault or other act of violence against a person.

The Hon. G.E. Gago interjecting:

The Hon. T.A. FRANKS: A final question for the moment, because I am eagerly awaiting the answers to the previous questions before we proceed. First, we would like to know when the

questions we have previously asked will have an answer provided to this council. Secondly, with regard to the publication of materials that might fall foul of this bill, if that publication is to be undertaken by a newsagency or an activist agency that is based overseas, what power will this legislation have in those cases? I draw attention to a recent case that involved New South Wales and an abuse of animals there. In fact, they took it to an international agency to publish so that it could be released in Australia through an international website. Will those situations be caught by this legislation?

The Hon. G.E. GAGO: In relation to the question about when you will receive the answers—as soon as possible. In relation to the issue of overseas agencies, I am advised that the provisions to do with jurisdiction over criminal offences, whether they are interstate or overseas, are dealt with in the Criminal Law Consolidation Act and we think it is around section 5.

Progress reported; committee to sit again.

Ministerial Statement

SMALL BUSINESS COMMISSIONER

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (17:16): I table a ministerial statement by the Treasurer, the Hon. Tom Koutsantonis, on the Small Business Commissioner.

Bills

APPROPRIATION BILL 2014

Introduction and First Reading

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

Second Reading

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (17:16): I move:

That this bill be now read a second time.

I would like to take this opportunity to remind members that the Treasurer's budget speech was tabled in this house on budget day and I do not intend to read it out again. I seek leave to have the explanation of clauses inserted into *Hansard* without my reading them.

Leave granted.

Explanation of Clauses

1—Short title

This clause is formal.

2—Commencement

This clause provides for the Bill to operate retrospectively to 1 July 2014. Until the Bill is passed, expenditure is financed from appropriation authority provided by the *Supply Act*.

3—Interpretation

This clause provides relevant definitions.

4—Issue and application of money

This clause provides for the issue and application of the sums shown in Schedule 1 to the Bill. Subsection (2) makes it clear that the appropriation authority provided by the *Supply Act* is superseded by this Bill.

5—Application of money if functions or duties of agency are transferred

This clause is designed to ensure that where Parliament has appropriated funds to an agency to enable it to carry out particular functions or duties and those functions or duties become the responsibility of another agency, the funds may be used by the responsible agency in accordance with Parliament's original intentions without further appropriation.

6—Expenditure from Hospitals Fund

This clause provides authority for the Treasurer to issue and apply money from the Hospitals Fund for the provision of facilities in public hospitals.

7—Additional appropriation under other Acts

This clause makes it clear that appropriation authority provided by this Bill is additional to authority provided in other Acts of Parliament, except, of course, in the *Supply Act*.

8—Overdraft limit

This sets a limit of $50 million on the amount which the Government may borrow by way of overdraft.

Schedule 1—Amounts proposed to be expended from the Consolidated Account during the financial year ending 30 June 2015

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

At 17:17 the council adjourned until Wednesday 6 August 2014 at 11:00.

Answers to Questions

PUBLIC SERVICE EMPLOYEES

80 The Hon. R.I. LUCAS (29 November 2012). (Fifty-Second Parliament, Second Session). For the period between 1 July 2011 and 30 June 2012, will the Premier 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. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers): The Premier has advised:

Between 1 July 2011 and 30 June 2012 positions with a total employment cost of $130,700 or more:

(a) Abolished:

Department/Agency	Position Title	TEC Cost
Department of the Premier and Cabinet	Deputy Chief Executive, Cultural Development	$140,641
Department of the Premier and Cabinet	Executive Director, Economic and International Coordination	$180,505

(b) Created:

Department/Agency	Position Title	TEC Cost
Department of the Premier and Cabinet	Director, Public Sector Management Division	$180,101
Department of the Premier and Cabinet	Director, Greater Europe Research & Development	$183,641
Department of the Premier and Cabinet	Executive Director, State Development	$211,222

The above listed new positions were created from existing funding sources.

DEPARTMENTAL EXPENDITURE

125 The Hon. R.I. LUCAS (29 November 2012). (Fifty-Second parliament, Second Session). Can the Minister for Agriculture, Food and Fisheries 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 Premier?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers): The Premier has advised:

The following levels of capital and recurrent budget expenditure variations for 2011-12 were:

- $3.233 million lower than budgeted recurrent expenditure for the Department of the Premier and Cabinet. This variation primarily reflects lower employee costs due to vacancies and approved carryovers from 2011-12 into future years mainly associated with the Shared Services SA implementation and Carnegie Mellon University.

- $72.776 million higher than budgeted recurrent expenditure for the Department of the Premier and Cabinet Administered Items. This variation mainly reflects collections by Service SA on behalf of other agencies, including SAPOL expiations, Land Services fees and third-party insurance.

- $0.221 million higher than budgeted recurrent expenditure for the State Governor's Establishment. This variation mainly reflects higher than budgeted movements in

employee related provisions and a classification adjustment between operating expenditure and investing consistent with Australian Accounting Standards.

- $0.131 million lower than budgeted capital payments for the Department of the Premier and Cabinet. This variation mainly reflects minor delays.
- $0.947 million lower than budgeted capital expenditure for the Department of the Premier and Cabinet Administered Items. This variation mainly reflects delays associated with the construction of police stations on the APY lands.
- $0.041 million lower than budgeted capital payments for the State Governor's Establishment reflecting a classification adjustment between operating expenditure and investing consistent with Australian Accounting Standards.