LEGISLATIVE COUNCIL

Tuesday, 15 October 2019

The PRESIDENT (Hon. A.L. McLachlan) took the chair at 14:15 and read prayers.

The PRESIDENT: We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of this country throughout Australia, and their connection to the land and community. We pay our respects to them and their cultures, and to the elders both past and present.

Bills

ASSOCIATIONS INCORPORATION (MISCELLANEOUS) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (BUDGET MEASURES) BILL

Assent

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT AND REPEAL (SIMPLIFY) BILL

Assent

His Excellency the Governor assented to the bill.

CRIMINAL LAW CONSOLIDATION (CHILD-LIKE SEX DOLLS PROHIBITION) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

Parliamentary Procedure

ANSWERS TABLED

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

PAPERS

The following papers were laid on the table:

By the President—

Reports 2018-19—
- Auditor General, Parts A, B and C, Report 6 of 2019
- Independent Commissioner Against Corruption and the Office for Public Integrity
- Judicial Conduct Commissioner

Report of the Auditor General, State finances and related matters, Report 8 of 2019

By the Treasurer (Hon. R.I. Lucas)—

Reports, 2018-19—
- Administration of the State Records Act 1997
- Attorney-General's Department
- Commissioner for Victims' Rights
- Construction Industry Long Service Leave Board
- CTP Insurance Regulator
- Department of Treasury and Finance
- Distribution Lessor Corporation

Essential Services Commission of South Australia
Generation Lessor Corporation
Legal Services Commission Act 1977
Local Government Financing Authority of South Australia
Lotteries Commission of South Australia
Motor Accident Commission
Office of the Commissioner for Public Sector Employment
Office of the Industry Advocate
Privacy Committee of South Australia
Retail and Commercial Leases Act 1995
State of the Sector
State Procurement Board
Transmission Lessor Corporation

Regulations under Acts—
Bail Act 1985—Terror Suspects
Criminal Law Consolidation Act 1935—Prescribed Occupations and Employment
Criminal Law (High Risk Offenders) Act 2015—Terror Suspects
Young Offenders Act 1993—Terror Suspects

Rules of Court—
Magistrates Court Act 1991—Civil—Amendment No. 26

By the Minister for Trade, Tourism and Investment (Hon. D.W. Ridgway)—

Reports, 2018-19—
Australian Energy Market Commission.
Leases and Licenses Granted for Properties held by the Commissioner of Highways
Pastoral Board
Stoney Point Environmental Consultative Group

District Council By-laws—
Adelaide Plains Council—
No. 1—Permits and Penalties
No. 2—Local Government Land
No. 3—Roads
No. 4—Dogs
No. 5—Moveable Signs

Regulations under Acts—
Development Act 1993—Public Notice Categories
Electricity Act 1996—General—Early Termination Fees
Gas Act 1997—Early Termination Fees
Genetically Modified Crops Management Act 2004—Designation of Area
Road Traffic Act 1961—Miscellaneous—Budget Measures

By the Minister for Health and Wellbeing (Hon. S.G. Wade)—

Regulations under Acts—
Correctional Services Act 1982—Terror Suspects
Gene Technology Act 2001—Miscellaneous
Police Act 1998—Terror Suspects

Parliamentary Committees

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

The Hon. T.T. NGO (14:19): I bring up the annual report of the committee, 2018-19.

Report received.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. T.T. NGO (14:20): I bring up the report of the committee on the City of Charles Sturt Bowden/Brompton Mixed Use (residential and commercial) Development Plan Amendment, privately funded by the council.

Report received.

SELECT COMMITTEE ON COORONG ENVIRONMENTAL TRUST BILL

The Hon. T.A. FRANKS (14:20): I bring up the report of the committee, together with minutes of proceedings and evidence.

Report received and ordered to be published.

The Hon. T.A. FRANKS: By leave, I move:

That the Coorong Environmental Trust Bill be not reprinted as amended by the select committee and that the bill be recommitted to a committee of the whole council on Wednesday 16 October 2019.

Motion carried.

Question Time

HOSPITAL BEDS

The Hon. K.J. MAHER (Leader of the Opposition) (14:27): I seek leave to make a brief explanation before asking a question of the Minister for Health and Wellbeing regarding hospitals.

Leave granted.

The Hon. K.J. MAHER: Last Friday, the Marshall-Lucas Liberal government announced they would be closing 60 hospital beds, despite dangerous ambulance ramping being at an all-time high. Three years ago, the now health minister issued a media release, dated 7 September 2016, in which he said that the government should put:

…bed closures on hold and provide independently verified, publicly available data that the beds are no longer needed.

My questions to the minister are: does the minister have the independently verified, publicly available data that these beds are no longer needed, as he said in the past was so important; will the minister make that data publicly available, as he thinks it is so important to do so; and did KordaMentha make and implement the recommendations to close these 60 beds?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:29): I thank the honourable member for his question, completely based on a misunderstanding. There are no beds closing: there are 60 beds that will be put on stand-by as surge capacity.

HOSPITAL BEDS

The Hon. K.J. MAHER (Leader of the Opposition) (14:29): Supplementary arising from the answer: can the minister explain in detail the difference, as he has outlined in his answer, between beds closed on stand-by and beds being closed?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:29): My memory is not always best at three years' distance, but I suspect that the quote the honourable member was referring to was a quote in relation to the closure of the Repat. That's a closure. When you have 200 beds—I think there are about 240 beds at the Repat—and when the former government sold it off for apartments, cafes and restaurants, I can assure you they were closed. What this government is doing is putting beds on stand-by, which was standard practice on weekends, standard practice at Christmas and New Year for years past and will be for years into the future, because you cannot run a hospital effectively at 100 per cent capacity. Part of the process of eliminating ramping is making sure that we have beds on stand-by when we need them.

HOSPITAL BEDS

The Hon. K.J. MAHER (Leader of the Opposition) (14:30): Supplementary arising from the original answer about the beds being closed on stand-by: did KordaMentha make and implement the recommendations to close these beds on stand-by?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:30): The Central Adelaide Local Health Network is governed by the board of CALHN and the CEO of CALHN, Lesley Dwyer. My understanding is that it is Lesley Dwyer's initiative. She is managing the hospital and doing a very good job.

HOSPITAL BEDS

The Hon. K.J. MAHER (Leader of the Opposition) (14:30): Further supplementary arising from the answer of closing beds on stand-by: did Mr Sebastian Hams, partner of KordaMentha, call organisations to inform them about the closing of these 60 beds?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:31): I am happy to take the member's question on notice.

HOSPITAL BEDS

The Hon. K.J. MAHER (Leader of the Opposition) (14:31): Final supplementary arising from the original answer about closing beds on stand-by: will the minister guarantee no doctor or nurse will lose their job as a result of the stand-by closure of these beds?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:31): Can I just reiterate, because the member is either deaf or worse: these beds are not closing. They will be on stand-by, as is normal practice in hospitals around the world. The only people who think that hospitals should be running at 100 per cent capacity are the members opposite. These beds are on stand-by. It is not related to jobs.

AMBULANCE RAMPING

The Hon. C.M. SCRIVEN (14:32): My question is to the Minister for Health and Wellbeing. Will the minister confirm that ambulance ramping is now at record levels, and can the minister advise what the level of ramping was when the Marshall Liberal government took office 18 months ago?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:32): I am certainly happy to take on notice the honourable member's request for an update. There is no doubt that ramping is at an unacceptable level. That is why the government has rolled out a whole series of initiatives, whether it is the priority care centres, the reduction of the average lengths of stay, the care coordinators, or home hospitals. A lot of these are having a very positive impact on managing hospital demand. Yes, ambulance ramping is unacceptable. That is why we are driving it down with a whole range of initiatives, and one of the initiatives is making sure that our hospitals have surge capacity.

AMBULANCE RAMPING

The Hon. C.M. SCRIVEN (14:32): A supplementary: is the minister saying that he doesn't know whether we are at record ramping records or not, and that he has to take it on notice?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:33): Sorry, to clarify, I do appreciate that ambulance ramping is at a high level.

The Hon. K.J. Maher: Say it: record level under your watch!

The Hon. S.G. WADE: Record levels, if you like. But the fact of the matter is, I cannot give the honourable member the update as of today, which is what I thought she was asking me for.

AMBULANCE RAMPING

The Hon. C.M. SCRIVEN (14:33): Further supplementary: will the minister confirm that ramping is more than twice as bad as it was when the Marshall Liberal government came to office 18 months ago?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:33): It would be in that order, but let's be clear: ramping significantly increased when the former government—the then Weatherill government—opened the Royal Adelaide Hospital in a completely botched way. This brings me back to the point I was making about bed capacity. The Royal Adelaide Hospital was not designed, built and planned to operate at 100 per cent capacity, yet since the hospital was opened it has been operating at about 98 per cent capacity. It's operated at 100 per cent capacity or more on 257 occasions. This is not a hospital that is working.

This government, under the leadership of the CALHN board and Lesley Dwyer, as the CEO, working in partnership with KordaMentha, has undertaken a whole range of initiatives that are giving us the capacity to restore surge capacity. It was never designed to operate at 100 per cent; no hospital operates effectively when it is packed to the rafters.

A 12 per cent reduction in the average length of stay has effectively provided the equivalent of 45 hospital beds. The work with the integrated care coordinator position has saved more than 1,300 bed days in six months, and EDGE, a specialist geriatric team, has saved 550 beds in six months. It is the hard work of the board, the CEO and their partners in CALHN which is delivering the improvements in operations in the hospital that is giving us the surge capacity, which I believe is vital to eliminating ramping.

HOSPITAL BEDS

The Hon. C.M. SCRIVEN (14:35): A further supplementary question: can the minister explain exactly how his stand-by closure of 60 beds will reduce this record ramping, as well as cutting doctors and nurses? How will that reduce this record ramping under his watch?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:35): Let's give some of your examples. If you were turning up at the hospital on one of the days where the hospital was at 100 per cent capacity or more, and you were in the ambulance in the emergency department, I would suggest to you that you had no chance of getting a bed. If there are no beds before you even arrive at the emergency department, you have absolutely Buckley's chance of getting one. It is beyond belief that the opposition cannot understand that a full hospital does not work.

The PRESIDENT: One last question, the Hon. Ms Scriven.

HOSPITAL BEDS

The Hon. C.M. SCRIVEN (14:36): Further supplementary, thank you, Mr President. Given that yesterday (Monday) morning there were 76 patients stuck in emergency waiting for a bed, with six of them waiting over 24 hours and 25 waiting over 12 hours, will the minister reconsider his plan to stand-by close these 60 beds?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:36): Let's be clear: the reason why this government is backing the board, the CEO and their partners in CALHN is because we want to eliminate ramping. We want to make sure that we provide transfer of care in a timely way. Let me make it clear: I don't need to rely just on the board, just on the CEO and the management team in the Central Adelaide Local Health Network, why don't I offer the chamber the advice of some of our industrial partners?

Phil Palmer, for example, from the Ambulance Employees Association, says that no hospital could operate at 100 per cent and have extra patients coming in and a surge because they have nowhere to go. All the hospitals are running at 100 per cent; we haven't got enough capacity in the system.

Bernadette Mulholland from SASMOA said that the norm is that you want your hospital at about 90 per cent capacity; that is, there is room for emergencies to be able to take up that slack. Let me remind honourable members, the average occupancy rate at the Royal Adelaide Hospital, since the hospital was opened, was 98 per cent. Bernadette Mulholland was suggesting in 2017 that the hospital needs to operate at about 90 per cent capacity.

Lesley Dwyer, the chief executive of the Central Adelaide Local Health Network, in one of her first interviews here in South Australia, suggested that it should operate at about 92 per cent

capacity. Even that is relatively tight. It is fairly normal practice around the world for beds to operate at about 85 per cent capacity.

Professor John Karnon from the School of Public Health at the University of Adelaide said in 2015 that, in planning capacities, hospitals aim to operate at around 90 per cent capacity, such that around 10 per cent of the general beds are available for unexpected spikes in demand. So, surprise, surprise. What are we doing? We are planning for the Royal Adelaide Hospital to operate with about 10 per cent of capacity spare, slightly above it. This is supported by our management team, by industrial leaders and by academic leaders. This makes good sense. The only group in South Australia that believes that hospitals can work at 100 per cent plus capacity is the Labor opposition.

HOSPITAL BEDS

The Hon. E.S. BOURKE (14:39): My question is to the Minister for Health and Wellbeing. Will the minister explain whether doctors will be able to make the decision to send a patient to one of the closed 60 beds at the RAH, The QEH, the Hampstead and St Margaret's if they are needed due to overcrowding in the health system and, if so, what will the approval process be, and on what date will the 60 beds reopen?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:40): No bed is closing. Normal clinical processes apply.

The PRESIDENT: The Hon. Ms Bourke, a supplementary.

HOSPITAL BEDS

The Hon. E.S. BOURKE (14:40): If no beds are closing and the minister would prefer to use the word 'stand-by', can he please confirm to the chamber when the 60 beds will not be on stand-by, and what is the approval process for using the beds on stand-by?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:40): The 60 beds will no longer be on stand-by when they are fully occupied; that is, when they are needed.

HOSPITAL BEDS

The Hon. E.S. BOURKE (14:40): Supplementary: will the minister rule out any further beds going on stand-by in addition to the 60 beds already on stand-by?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:40): The first comment I would make is that the decisions in relation to freeing up spare capacity that were announced on Friday relate to the Central Adelaide Local Health Network. Each health network needs to manage their own bed stock to make sure that they can manage surges in demand. As far as I know, the 60 beds that CALHN is talking about is the extent of what they believe they need.

The PRESIDENT: One more supplementary, the Hon. Ms Bourke.

HOSPITAL BEDS

The Hon. E.S. BOURKE (14:41): Thank you, Mr President. Can the minister please guarantee to the chamber that he will not rule out—that he will rule out—

The Hon. R.I. Lucas: Which one is it?

The Hon. E.S. BOURKE: That he will rule out, rule out, that he will rule it out—

The Hon. T.J. Stephens: When you know what you want, come back to us.

The Hon. E.S. BOURKE: Thank you, honourable member—rule out closing any further or putting any further beds on stand-by?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:41): I'm going to continue to back my board, back my managers, to let them make the right decisions that they need to make to make sure their health facilities operate. I can assure you that I have a lot more confidence in Lesley Dwyer and her team, consistent with the views of academics, industrial leaders and health ministers past and present that our hospitals need surge capacity. They are making a very sensible decision to make sure that the hospitals have that capacity. I'm backing them.

HOSPITAL BEDS

The Hon. K.J. MAHER (Leader of the Opposition) (14:42): One supplementary, Mr President.

The PRESIDENT: I'll allow you a supplementary.

The Hon. K.J. MAHER: Thank you, Mr President. Does the minister have any idea whatsoever about what the procedure is for those closed stand-by beds to be used again?

The PRESIDENT: The minister.

The Hon. K.J. Maher: Any idea? Even a clue? No.

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:42): The honourable member—

The Hon. K.J. Maher: Just take it on notice.

The Hon. S.G. WADE: No, no, I'm not going to take it on notice, because this is so silly; I'd like to have a go. It's so silly, because hospital beds go on stand-by on the weekend. Hospital beds go on stand-by during leave periods. This is standard operational practice. What the Central Adelaide Local Health Network is planning to do is to make that 60 beds surge capacity, to develop that as we lead out of the winter period, as we are expecting activity to decrease in October, November and into the Christmas-New Year period so that as we go into next year the hospital will be much more able to deal with surge in capacity.

REPATRIATION GENERAL HOSPITAL

The Hon. J.S. LEE (14:43): My question is directed to the Minister for Health and Wellbeing regarding the Repat site. Can the minister please update the council about the most recent developments in the Repat site?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:43): I thank the honourable member for her question.

Members interjecting:

The Hon. S.G. WADE: The Marshall Liberal government's reactivation of the Repat site is an important part of our work to rebalance the public health system in South Australia and undo the damage of Labor's disastrous Transforming Health experiment.

Members interjecting:

The Hon. T.A. FRANKS: Point of order, Mr President.

The Hon. S.G. WADE: After the government stopped the sale of the site last year we have been working hard with the community—

Members interjecting:

The Hon. T.A. FRANKS: Point of order, Mr President. You couldn't hear me because I couldn't hear the answer.

The PRESIDENT: Members of the opposition benches, please show some respect to the minister and in particular to members of the crossbench, who are further away from this minister. Go on, minister.

The Hon. S.G. WADE: Thank you, Mr President. As I said, after the government stopped the sale of the site last year we have been working hard with the community to develop a genuine health precinct on the site. First and foremost, we have secured 50 beds on the site, with 10 of those 50 opening in the past two months. These beds will support patients who are transitioning out of acute hospital care to care in the home or community. Every one of those beds means an acute hospital bed is freed up, reducing pressure on our busy emergency departments and ensuring patients receive appropriate care in appropriate settings.

Just this month, I was with the Premier at the Repat as we contributed to the first major demolition on the site to make way for new infrastructure. This work is the first step in delivering a permanent home in the historic C Block building for the southern older persons community mental health team. This will be located beside the dementia facility on the site, as well as the 18-bed neurobehavioral unit, which is an important part of the government's work in delivering on the recommendations of the Oakden report.

The government has made collaboration with clinicians and the community a central plank of its reforms to health service delivery, and this new work on the Repat site is another example of this approach. In designing this facility, the Office for Ageing Well has worked not only with the Office of the Chief Psychiatrist but also with families who have lived experience of a family member in care, including Oakden families, and also with The Australian Centre for Social Innovation.

We believe this means the unit will better respond to the needs of people with some of the most severe forms of dementia, as well as the needs of their families. This is yet another step in the Marshall Liberal government's ongoing work to reactivate the Repat site.

Of course, there is much still to be done, and I look forward to seeing this accomplished in partnership with our clinicians and the community, who will never forget that every bed, every health service on the Repat site, would not have been possible if the members opposite had their way and sold it for apartments, cafes and restaurants.

REPATRIATION GENERAL HOSPITAL

The Hon. K.J. MAHER (Leader of the Opposition) (14:46): Supplementary arising from the answer about the Repat hospital: given that the minister had said, in the lead-up to the election, that surgery would commence swiftly, when will surgery recommence at the Repat exactly?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:46): As I formerly advised the council, the RFI process for the Repat is underway. The tenders have closed, the RFI has closed and the evaluations and negotiations are continuing. As soon as I have advice on the finality of those processes, I will bring them back to the council.

REPATRIATION GENERAL HOSPITAL

The Hon. K.J. MAHER (Leader of the Opposition) (14:47): Further supplementary arising from the answer: what recurrent funding has been budgeted for services at the Repat?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:47): That totally depends on what comes out of the processes I just referred to.

REPATRIATION GENERAL HOSPITAL

The Hon. K.J. MAHER (Leader of the Opposition) (14:47): Further supplementary arising from the original answer: has any member of the minister's executive team informed the minister they may have a conflict with the process of tendering for services at the Repat?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:47): No.

LAND TAX

The Hon. J.A. DARLEY (14:47): My question is to the Treasurer regarding land tax. In *The Advertiser* on 15 October, the Treasurer indicated that the South Australian economy was doing well, reporting that 887 First Home Owner Grants were paid out in the first three months of this financial year.

1. Can the Treasurer advise whether purchase contracts for these properties were signed before or after the state budget, and were they for established homes or new house and land packages? In which case, they could be 15 to 18 months old.

2. Can the Treasurer also offer his opinion regarding the recent ANZ/Property Council survey on the property sector, and whether he expects confidence to fall in light of the government's proposed changes to land tax?

The Hon. R.I. LUCAS (Treasurer) (14:48): I thank the honourable member for the question. Mr President, if I could address the second question first, given I have made a public comment in relation to the Property Council survey. It's hardly surprising that the Property Council asked its own members, having conducted a raving campaign for the last three months against the land tax and indicating the whole world is going to end as we know it today. When they asked their own members whether or not they have any confidence in the state's future, it was hardly surprising, I think, to anybody that a significant number of them said that they didn't.

I think a better indication is some of the independent surveys that organisations and groups like the National Australia Bank, in their monthly business survey, when they actually survey, each month, a range of industry sectors and business groups, not just members of the Property Council. They do that on a monthly basis and issue their potential figures on a monthly basis.

Their most recent survey to date, at September, indicated that business confidence in South Australia and New South Wales remains unchanged, whilst confidence in three of the other states—Victoria, Queensland and Tasmania—has actually declined on that particular measure. As I said, that particular survey is a measure of a number of industry sectors and that mirrors some other recent surveys in relation to broader industry assessment of business confidence and business conditions.

In relation to a number of the other reports, as I said, it's hardly surprising that members of the Property Council and their supporters, who are vigorous opponents of the government's land tax reform package, are indicating that the property market is haemorrhaging and suffering significant problems, and no-one is saying they want to invest because everyone is going to flee South Australia and invest elsewhere.

Again, I refer to recent national surveys, both for the residential property market and the commercial property market. I have referred previously to the assessment by Colliers in relation to the commercial property market. I have referred to the public statements of one of the big property investment firms, Quintessential Equity, in terms of their bullishness about the Adelaide property market.

But in more recent times, in the last week for example, the national valuing firm, Herron Todd White, said that Adelaide's residential property market is a rising star and outperforming all other mainland capital cities, including Sydney, Melbourne and Brisbane, in terms of stability. Now, Adelaide will never have the peaks and troughs of Sydney or Melbourne. These are people interstate who are looking with dispassionate eyes at the commercial property market and, in this case, the residential property market, who don't share the views of the Property Council and the other opponents of the government's land tax reform regime.

Particularly those in commercial property are saying that a combination of the significant reduction of the top rate of land tax from 3.7 down to 2.4 also combines with two other factors. One is the removal of stamp duty on commercial property transactions but, thirdly, the optimistic future they see in terms of shipbuilding, defence, the national Space Agency in relation to investments, as painting a very positive prospect of the market for commercial property investment by people from other states in South Australia and in Adelaide, in particular, in relation to commercial property investments.

As I said, this particular assessment by Herron Todd White of the residential property market mirrors other assessments as well in the national media in relation to South Australia. So I acknowledge that the Property Council, and they asked their own members, believes that the world is ending and that everyone is going to flee South Australia and sell up all their property and move interstate, albeit of course interstate where the same rules in relation to aggregation apply and have applied for decades in all of those Eastern States markets. The assessment that these independent groups have made are in stark contrast to the overly alarmist scare campaigns of the Property Council and some of the key others who have supported the Property Council's concerns over the last three months of the campaign.

In relation to the specific questions of the home owners' grants, they are just one of the range of what we believe are optimistic signs in terms of South Australia's future. I can take the detail of that. It is clear that since about 2014, the First Home Owner Grants in South Australia are applied to

new builds as opposed to existing builds, so that's that part of the question. In relation to the timing of contracts, etc., I can take that question on notice and bring back a reply.

The only other point I would make is in relation to the member's original statement in his question, which was the government's view of the state's economy. All I can say is that we accept that our unemployment rate is too high in South Australia and it remains a challenge, but I again cite Monday's report from Deloitte, who summarise as follows: South Australia is 'surfing the strongest lift in the willingness to work that Australia has seen in some years'. The current high unemployment rate is the 'gap between two good news trends'. And:

> Overall job growth remains pretty solid, but it has been overtaken by the increased willingness to remain in work by those aged 55 and over…Although that combination has seen unemployment lift, it's better understood as the fastest increase in the State's workforce since the mid 1980s, and one that has returned the State's participation rate to the best recorded since the global financial crisis (and within a whisker of being the best recorded in many decades).

HEALTH WORKFORCE

The Hon. R.P. WORTLEY (14:55): My question is to the Minister for Health and Wellbeing. Given that the Treasurer has previously advised that voluntary redundancies will only be used in circumstances where someone is surplus to requirements, will the minister outline which doctors and nurses he considers surplus to requirements?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:56): I don't know what the honourable member is referring to. First of all, if the honourable member wants to ask the Treasurer a question in relation to comments he has made in the past then make the question to the Treasurer. In relation to my portfolio, the separation processes that are available at the moment are voluntary.

HEALTH WORKFORCE

The Hon. R.P. WORTLEY (14:56): Supplementary: does the minister still support the Liberal government's commitment that they have no plans whatsoever to cut any doctors and nurses?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:56): The honourable member is misquoting me. What I have said repeatedly is that no doctor or nurse will be sacked as a result of a Liberal budget initiative; that's my commitment.

HEALTH WORKFORCE

The Hon. R.P. WORTLEY (14:56): Final supplementary: with doctor and nurse cuts now extended to the Lyell McEwin Hospital and the Modbury Hospital, will the minister provide one single example of a doctor or a nurse who is currently idle and not needed in our public hospitals?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:57): For the sake of honourable members on the crossbench and on the government benches, let me explain that the process the Hon. Russell Wortley is referring to is a voluntary separation process. This is a voluntary process. Each application will be initiated by the relevant staff member. It's also a non-binding process. In other words, they can lodge an expression of interest and withdraw it at any time.

Certainly, in relation to SA Pathology and in relation to the Central Adelaide Local Health Network, there has been strong interest in lodging an expression of interest and going through the process. But let's be very clear: fundamentally, this process is about the local management team making sure they have the right workforce to deliver the best possible care to South Australians.

HEALTH WORKFORCE

The Hon. R.P. WORTLEY (14:58): Supplementary.

The PRESIDENT: You did promise me it was going to be your last, but I am going to be generous and allow—

The Hon. R.P. WORTLEY: Arising out of the answer; it's very important.

The PRESIDENT: I will allow you a further supplementary, the Hon. Mr Wortley.

The Hon. R.P. WORTLEY: Thank you. Given your answer, will the minister guarantee that through this voluntary redundancy process no doctor or nurse who is required in the hospital system will be made redundant?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:58): The honourable member raises an interesting point. When I said that it was voluntary on the applicant I should have also said it is completely non-binding on management. For example, in the SA Pathology context, my recollection—so it's only broad figures—was that there were about 200 expressions of interest and about 100 of those were put aside while management focused on the ones that made sense to work through in terms of the needs of the organisation.

As I said at the conclusion of the original answer, the overwhelming focus and the paramount consideration in all of this will be delivering the best possible care to South Australians, and management will look at each expression of interest in the context of what makes the best sense for the organisation and the patients they provide services to.

HEALTH WORKFORCE

The Hon. K.J. MAHER (Leader of the Opposition) (14:59): Supplementary: is the minister aware or had any advice from any areas of the health department that every doctor and nurse is required and won't be accepting voluntary redundancies?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (14:59): The tortuous machinations of guarantees, any—

Members interjecting:

The Hon. S.G. WADE: Let me make it clear that the local management is free to make expressions of interest available to any member of their team if they so wish, and those expressions of interest can come from those members of the team who are eligible.

TOURISM VISITOR NUMBERS

The Hon. T.J. STEPHENS (15:00): My question is to the Minister for Trade, Tourism and Investment. Will the minister update the council about the latest release of international and national visitor statistics?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:00): I thank the honourable member for his question. I am pleased to announce that the South Australian tourism sector has again smashed records, with an all-time high of $7.6 billion spent by visitors to our state over the past year—I repeat that: $7.6 billion spent by visitors to our state over the past year. That means that the total growth is up 12 per cent from last year, and I do not know how to tell you how pleased I am about this great news. It is a fantastic result for local businesses, jobs and the economy.

The more tourists we attract to South Australia, the more people we have eating in our restaurants, staying in our hotels and visiting our tourist attractions. It is also great news for our regions, with interstate and overnight visitation to regional South Australia increasing by 10 per cent: 1.1 million people visited our regions and stayed overnight over the past year, and I am extremely pleased that more and more people are getting to experience all that our regions have to offer.

Interstate expenditure overall increased by a massive 21 per cent, coming in at $2.5 billion. Additionally, more South Australians are getting out and about in their own state for a holiday. South Aussies spent $2.3 billion on a record high $3.5 million intrastate overnight visits. It goes to show that you do not need to go to the other side of the world to have a world-class tourism experience.

Looking at our international visitors, once again China has been our biggest source of tourists: we saw a record high of some 66,500, which is up 19 per cent. Additionally, we welcomed a 6 per cent increase in Japanese tourists this year. These visitors spent more and on longer trips with nights up 143 per cent and expenditure up 78 per cent. Of course, none of this would be possible without the hard work of the South Australian regional tourism operators. This fantastic result is validation of all their efforts.

The South Australian visitor economy employs some 38,900 people across 18,000 businesses, including accommodation providers, tourism experiences, tours, food and

beverages and more. Furthermore, the tourism industry benefits local industry too, with cafes, shops and restaurants, just to name a few, experiencing the benefits. Our government works closely with the local tourism operators to constantly explore new ideas and opportunities to ensure that we are at the forefront of the visitor economy.

We want to ensure that South Australia continues to be recognised as a world-class tourism destination, with the kind of locations, events and experiences that put our state on the map. It is an exciting time for all of us, and South Australia is clearly on track to achieve its original goal of an $8 billion visitor economy by the end of 2020, and we are working very hard towards the $12.8 billion visitor economy by 2030. Once again, I thank and congratulate all of those in the tourism sector involved in hitting this record high.

TOURISM VISITOR NUMBERS

The Hon. C.M. SCRIVEN (15:03): Supplementary: can the minister confirm that the overall international spend is down by 5 per cent and, if so, why is he cutting funding for international marketing?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:03): Only members opposite would find some reason to criticise $7.6 billion—a record high, up 12 per cent from last year—only the people opposite, who do not get out and about, who have their head stuck in a bucket most of the time. Regional numbers are up—it is great news. Chinese numbers are up some 19 per cent; Japanese visitors are up 6 per cent. It is great news, and it is just a shame that members opposite are just a whinging, whining opposition that cannot celebrate the wonderful news of a visitor economy of $7.6 billion.

TOURISM VISITOR NUMBERS

The Hon. K.J. MAHER (Leader of the Opposition) (15:04): Supplementary arising from the answer: what acts that the minister has personally undertaken does he consider have most contributed to these figures?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:04): I thank the honourable member for his question. What I do as the minister is provide some good, solid leadership and a strong relationship with the Tourism Commission. I am constantly embarrassed by the number of people who say, 'Thank God we have a great government and a great minister.'

SA HEALTH

The Hon. C. BONAROS (15:04): I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question about data record keeping and reporting by SA Health.

Members interjecting:

The PRESIDENT: The Leader of the Opposition, the Hon. Mr Ridgway, I don't need advice.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Treasurer, please stop. The Hon. Ms Bonaros, can you please do me the courtesy of starting again?

The Hon. C. BONAROS: Thank you, Mr President. I seek leave to make a brief explanation before asking the Minister for Health and Wellbeing a question about data record keeping and reporting by SA Health.

Leave granted.

The Hon. C. BONAROS: *The Advertiser* today reported that CALHN's new data integrity unit had stumbled on $54 million missing from its accounts. The problem was exposed as being in poor coding of services and procedures where hospitals are paid for services they provide by the commonwealth. If the coding describing the service is incorrect, then so is the payment. Fortunately for the taxpayers of South Australia, the cash has been identified and recovered. However, it is believed millions more may have disappeared due to slack data record keeping and reporting that has been going on for years. My questions to the minister are:

1. Are you disappointed with your department, in that this systemic problem, which has the potential to cost taxpayers tens of millions of dollars, has only just been discovered?

2. Have you been advised that further examples of incompetent data record keeping and reporting by SA Health have been discovered, and what are the amounts involved?

3. Do you believe that there are further examples of incompetent data record keeping and reporting by SA Health that are yet to be discovered?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:06): I thank the honourable member for her questions. Fundamentally, I would like to pay tribute to the work of the KordaMentha team, the Central Adelaide Local Health Network board, the Central Adelaide Local Health Network CEO (Lesley Dwyer) and the data integrity unit at CALHN for the work that has been done.

The honourable member highlights the historical detriment. I have no doubt that up until this initiative millions of dollars—tens of millions of dollars—was lost and that if this initiative had not been taken that would have continued for an undefined period. It is completely unacceptable that good data record keeping and reporting was not maintained at CALHN, and I commend what is basically a new team for identifying this issue.

I know that there are some who would like me to focus on, if you like, punitive measures against people who have managed the health system in the past, but to be frank, I hold the former Labor government responsible for 16 years of mismanagement. And to be frank, many of the people who were in leadership roles under that government are no longer in the Public Service.

My focus is on making sure that we manage the system well now. I am very pleased that the data integrity unit has delivered a very sustained effort in terms of recovery. If I could be so—

Members interjecting:

The PRESIDENT: Minister, hold for a moment. Can the opposition benches please show the minister some respect, and also the Hon. Ms Bonaros, who is sitting a long way from the minister and would like to hear the response to her question. Minister.

The Hon. S.G. WADE: Thank you, Mr President. I can certainly sympathise with the Hon. Connie Bonaros. It is difficult to hear the answer as I deliver it, let alone hear the answer as it is being received. My observation is that there seems to be a direct relationship between the loudness of Labor's interjections and the hollowness of their arguments.

The fact of the matter is that under their watch—over 16 years—they failed to put in place good financial management. That's why when they left power there was a $300 million budget overspend in CALHN on an annual basis. If the people of South Australia had not taken the opportunity to put in place a workmanlike government, can you imagine there would have been any prospect of that $300 million haemorrhaging stopping?

As a demonstration of that, what did we have in this morning's media? I hope it is not inappropriate to mention radio stations. We had the shadow minister for health in the other place criticising us for employing coders. I'm sorry; he was criticising us for putting in place the teams that are needed to deal with the backlog because, to be frank, not only did we have around 2,000 records where the coding was not accurate but my understanding is that we had between 9,000 and 14,000 records that just had not been coded.

It was a backlog. It is a bit like a plumber spending all year running around the suburbs fixing people's pipes and then not bothering to send them an invoice. How do you maintain a business like that? To be frank, how do you maintain a government like they did?

SA HEALTH

The Hon. C. BONAROS (15:10): Supplementary: can the minister confirm whether he is also aware that similar coding issues may apply in relation to EPAS or Sunrise and their compliance with the Australian Commission on Safety and Quality in Health Care's mandate that electronic management records (EMRs) should include indication coding and not just diagnosis in medication orders and that this could also lead to significant shortfalls in diagnosis-related group (DRG) commonwealth funding?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:11): I thank the honourable member for her supplementary question. I will certainly refer her question to the health management because I am keen to follow up every opportunity to make sure that we secure the resources we need to deliver health care. In terms of the general point about whether there are problems elsewhere, I have had an opportunity to speak to health executives earlier today, and they confirmed that they believe there may well be lessons to be learned in other local health networks.

We hold all the local boards and management responsible to make sure that they learn from one another. This initiative in CALHN will be closely looked at by other agencies. I should come back to your comments about Sunrise. The reality is that the recovery going forward, to stop the $54 million loss of revenue through incorrect coding, will be substantially assisted by the rollout of Sunrise. The first task of the data integrity unit that was formed in April was focused on working to correct the errors that had been identified. My understanding is that they were very successful in that task.

Their focus going forward will also look at rolling out targeted education through CALHN and trying to use the electronic patient records, particularly Sunrise, to support better coding. If there is indication coding and the like that the honourable member refers to, I will certainly look at the capacity of Sunrise in that regard. Of course, Sunrise is still going through an acceptability test; in other words, the government has accepted the report of an independent review that says to roll it out at two further sites and then assess its acceptability.

I think it is noteworthy that Sunrise was rolled out at the Mount Gambier hospital last week. The fact that it has not been a matter for public comment suggests to me that it has been highly successful, but I look forward to further reports about not only the rollout at that site but also the feedback on the service going forward. The honourable member is quite right to highlight that good patient record systems support good revenue management.

HEALTH WORKFORCE

The Hon. I. PNEVMATIKOS (15:13): My question is to the Minister for Health and Wellbeing. Will the minister explain how many doctors and nurses he believes will be cut from the Lyell McEwin Hospital and Modbury Hospital without impacting on patient care?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:14): I would refer the honourable member to my previous answers. The separation processes in place at both NALHN and CALHN are voluntary.

SPACE SECTOR

The Hon. D.G.E. HOOD (15:14): My question is to the Minister for Trade, Tourism and Investment. Will the minister update the chamber on recent developments in the South Australian space sector?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:14): I thank the honourable member for his question and his ongoing interest in the space sector. South Australia is, without a doubt, the space industry hub of Australia with the Australian Space Agency headquarters, Mission Control, Southern Launch and Fleet Space, etc., all choosing to invest in South Australia and establish a presence here.

The South Australian government, through collaboration with the Department for Trade, Tourism and Investment, has worked closely with the South Australian-owned space start-up Southern Launch, which is developing an orbital rocket launch site at Whaler's Way near Port Lincoln. Southern Launch chief executive, Mr Lloyd Damp, and Perigee chief executive, Mr Yoon Shin, signed a launch facilities agreement on 30 September at Australia's first joint Space Science and Space Industry Conference, incorporating the 8th Space Forum.

Perigee Aerospace is a South Korean orbital launch vehicle manufacturer. The company plans to use the Southern Launch site for its small launch vehicle, Blue Whale, which is designed to lift small satellites into low orbits. These small satellites are useful for satellite imaging, remote sensing, weather forecasting and a range of other activities.

The conference was an ideal platform for networking across the rapidly growing industry and made clear the increasing interest in the space industry from local, interstate and international

players. Another international company that has decided to make Adelaide its headquarters and home is the leading US space company Terran Orbital Corporation and their new subsidiary Tyvak International. The company is establishing a manufacturing facility for the integration and testing of space vehicles.

Tyvak is not only reinforcing South Australia's position as a national hub of the space industry but also plans to grow its workforce to some 30 people over the next two years. There is no denying that South Australia is Australia's home of space and defence. Interstate and international interest in South Australia continues to grow, with both these international companies choosing to invest in South Australia. I look forward to seeing the progression of these companies and how they can contribute to grow the South Australian space sector.

SPACE SECTOR

The Hon. K.J. MAHER (Leader of the Opposition) (15:16): Supplementary arising from the answer: can the minister outline which minister has primary responsibility for the promotion and development of the space industry in South Australia?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:16): I thank the honourable member for his question. It's a whole-of-government approach across our nine sectors. We have the nine priority sectors, as identified by the Joyce review. Often, a minister will make contact, whether it be the Premier or another minister, through their network and their activities, but in the end a lot of the grunt work about getting the investment on the ground is done by the Department for Trade, Tourism and Investment. It's a whole-of-government approach. We are a cabinet government. We share the responsibilities and we share the benefits of this for all South Australians when we get companies such as Tyvak to invest in South Australia.

SPACE SECTOR

The Hon. K.J. MAHER (Leader of the Opposition) (15:17): Supplementary arising from the answer: the minister referred to a conference—I think the Australian Space Forum—held recently. Can the minister outline what benefit the minister received from attending that conference?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:17): I thank the member for his question. On 30 September, at Australia's first joint Space Science and Space Industry Conference, incorporating the 8th Space Forum—I didn't say I was attending: I was actually overseas on a trade mission.

Members interjecting:

The Hon. D.W. RIDGWAY: That's the cabinet government approach. The members opposite don't understand. I am informing the council of a wonderful space industry development and again they have to try to find fault and be negative. It's a great development.

My agency has been working with Tyvak over a long period of time to get the investment here. The fact that the agreement was also signed between Perigee and Southern Launch at that particular conference shows that we are a cabinet government focused on growing the South Australian economy and celebrating the success of having international companies invest in our great state.

SPACE SECTOR

The Hon. K.J. MAHER (Leader of the Opposition) (15:18): Final supplementary: is the fact that the minister was quoting from something that happened at the space conference he didn't go to a result of much of what he said coming from a press release issued on 30 September 2019 at 12.11pm?

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment) (15:18): What I am trying to do is celebrate the great achievement of Tyvak International and also the fact that Perigee was signing a contract with Southern Launch. If the members opposite want to think that that is not good news for the South Australian economy, then they don't deserve ever to be back in government.

AFFORDABLE HOUSING

The Hon. M.C. PARNELL (15:19): I seek leave to make a brief explanation before asking a question of the Minister for Human Services about affordable housing.

Leave granted.

The Hon. M.C. PARNELL: On 4 July, I asked the Treasurer, representing the Minister for Human Services, a question about whether the government was confident that developers were meeting their obligations to provide affordable housing as part of new significant developments. This relates to the requirement for certain multiple dwelling developments to include 15 per cent affordable housing. In a written response received on 10 September the Treasurer provided the minister's response to him, saying:

> The South Australian Housing Authority has advised that developers are meeting their affordable housing obligations under the current planning system.

This answer is contradicted in a recent report to the Adelaide city council entitled Social and Affordable Housing in the City. The report shows that over the last seven years, 25 projects comprising 2,300 apartments were completed or under construction in the City of Adelaide and that only five of those 25 projects committed to providing affordable housing. To make it worse, none of those projects sold any of their homes to eligible buyers; all homes were sold to investors on the open market. According to the Adelaide city council report:

> In theory, some 345 affordable apartments should have been delivered through the inclusionary zoning process and sold to eligible buyers. The existing system is therefore not delivering the desired outcomes.

That is an understatement, describing a program with zero success as not delivering the desired outcomes, but it is even more galling given that developers are often granted extra concessions, such as additional building height, on the promise of affordable housing. If not for the City of Adelaide report the failure of this program would never have come to light because the obligation to provide affordable housing is contained in documents called land management agreements, which the government refuses to make public, citing confidentiality. According to the minister's response to my last question:

> The Minister for Planning holds a register of all land management agreements that have been entered for the purpose of mandating the delivery of affordable housing. The content of these land management agreements is confidential and not available publicly.

My questions to the minister are:

1. How will the minister fix this failed policy to ensure that affordable housing is made available to low-income South Australians when new multidwelling developments are approved?

2. Given the planning minister's refusal to make land management agreements public, is the Minister for Planning in breach of section 57 and section 57A of the Development Act and regulations 99 and 100 of the Development Regulations, which require the Register of Land Management Agreements to be made freely available for public inspection?

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:22): I thank the honourable member for his question. As he has identified, the matters of affordable housing cross several portfolios, including mine where I am responsible for emergency and crisis accommodation, public social housing and some support for people who are seeking assistance through private rental, and also minister Knoll, who has responsibility for planning wherein that particular program sits, and also the Treasurer, who takes a keen interest in all of these issues as well.

Affordable housing is an ongoing issue across Australia and also in South Australia and that is why we have established a housing and homelessness strategic group to guide us in developing a 10-year plan. We are partially doing it because it is a requirement for the housing and homelessness funding with the commonwealth government. We have certainly taken a much more diverse approach to this space in that housing is something that spans not just the areas within my portfolio but also in the private sector.

I think it has been acknowledged in the particular program referred to that some developers have struggled with particular targets. My understanding is that the particular program the member

has referred to at a state level certainly has been complied with. I would have to look at what the Adelaide city council has been referring to but I suspect that it is a different program or some monitoring that they do within their particular zone. However, they are all partners and we have not completed our housing and homelessness strategy at this stage but we certainly are aware that there is a range of matters that are contributing to people having a lack of access to affordable housing, both in the private sector and in the rental space, and that is something that we are very keen to address.

If I haven't answered all of the member's questions, because I think some of them sit within the responsibility of minister Knoll, I will take them on notice and bring back a response.

MENTAL HEALTH PATIENTS

The Hon. T.T. NGO (15:24): My question is to the Minister for Health and Wellbeing. Will the minister explain why the number of mental health clients waiting over 24 hours in emergency departments in the central Adelaide network has gone from 7 per cent in 2017 to 24 per cent in 2019?

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:25): My recollection is that this question is remarkably similar to a question that was asked of me in our most recent sitting, so perhaps I might answer this a different way. Let me give you the figures. The percentage of mental health ED presentations who waited longer than 24 hours, that is the parameter I understand Mr Ngo is referring to. My understanding is he quoted a figure of 7 per cent. The advice I have is that in 2017 the percentage of mental health ED presentations who waited longer than 24 hours was in fact 14 per cent. That compared with 2016 being 25 per cent and 2018 being 26 per cent.

Now, if I'm correct, the honourable member has understated the 2017 figure by half and conveniently ignored the year prior and the year post. In terms of the latest advice I have in relation to 2019, which would be a number of weeks old now, it was at 31 per cent. That is unacceptably high, but it is certainly not dissimilar to the 25 and 26 per cent that have been experienced in recent years.

Let me take the opportunity to remind the house of some of the initiatives that the Marshall Liberal government has taken to deal with unacceptably long waits in emergency departments for people with mental health issues. First and foremost, we opened the Royal Adelaide Hospital psychiatric intensive care unit, which the former Labor government built at the Royal Adelaide Hospital but failed to open before we came to government. One of the other initiatives we took in our first year was that we delivered on a commitment to open a Lyell McEwin short stay unit. The former Labor government shut it abruptly at the end of 2017, if my recollection serves me correctly, and was not intending to open it for some time.

Midyear this year we opened 10 more forensic mental health beds at Glenside, and we have initiated a court diversion program, which fundamentally assists, providing for mental health clients who have contact with the justice system to be diverted from EDs and more restrictive care. It gives them much better care options.

Certainly, the waits in emergency departments are unacceptable for both people with mental health issues and people with other issues, but I believe that this government is giving priority to mental health and will continue to give priority to mental health.

Personal Explanation

SA HEALTH

The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:30): I seek leave to make a personal explanation.

Leave granted.

The Hon. S.G. WADE: Earlier in question time, I said that the rollout of Sunrise at Mount Gambier was last week. To correct the record, the rollout was in two stages, I am advised. The first stage of the activation took place on 17 September, and the second stage took place yesterday (14 October).

Bills

LANDSCAPE SOUTH AUSTRALIA BILL

Final Stages

Consideration in committee of message No. 138 from the House of Assembly.

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

That the council does not insist on its amendments and suggested amendments to which the House of Assembly has disagreed.

The Legislative Council made 50 amendments to the Landscape South Australia Bill, as well as five suggested amendments. The House of Assembly has now agreed to 39 of the amendments and disagreed with 11. Of the 11 amendments disagreed, the majority are amendments made consequential to suggested amendments for an alternative proposal for collection and recovery of land levies in council areas, of which I will speak further.

It can be seen that in the spirit of progressing this important bill the amendments made by this place have by and large been supported in the House of Assembly, apart from two discrete areas. Amendment No. 14, which reinserts from the NRM Act specific reference to water catchment areas such that the minister must give particular attention to them when recommending landscape management regions, was disagreed to.

In recommending regional boundaries to the Governor, the minister will still be required to consider the nature and form of the natural environment, include catchments, alongside other factors. As outlined previously, community feedback during consultation focused on communities of interest at the heart of establishing boundaries.

Secondly, amendments Nos 47 to 50, which concern deferring elections until 2022, were also disagreed to. The government's position remains that these amendments are contrary to the government's election commitment and to broad community expectation that regional representation by community-elected board members will occur as soon as possible.

The remaining amendments and suggested amendments disagreed to relate to the proposal for councils to no longer be responsible for collecting land levies within council areas. Rather, it is suggested this responsibility should rest with regional landscape boards, with the assistance of the Commissioner of State Taxation, to collect and recover these levies. Levy payers would be liable for levy payments to boards rather than councils. The government therefore disagrees to amendments Nos 2 and 40 to 44 inclusive and suggested amendments Nos 1 to 5 inclusive.

The government's position remains that councils should continue to collect land levies in council areas as the most cost-effective way of collecting the levy and maximising the funding available to deliver outcomes on-ground. This government promised households reduced cost-of-living pressures through introducing a cap on land and water levies at CPI and a renewed focus on on-ground delivery of works. It is unacceptable for this additional financial burden to be passed on to households or to reduce ongoing delivery of activities to manage our natural resources with no net or environmental benefit.

On behalf of the Minister for Environment and Water, I ask that members do not insist on any of these amendments or suggested amendments. If the government has to go to a conference of managers, the minister indicates that he and the government will do so in good faith.

The CHAIR: Honourable members are entitled to speak in response to the motion, so I will give the call to those who wish the call.

The Hon. F. PANGALLO: I will be insisting on those amendments.

The Hon. K.J. MAHER: I rise to indicate I will be opposing the motion outlined by the minister and the opposition will be supporting the Legislative Council's amendments. I note that a number of the amendments have been supported by the House of Assembly. However, there are a couple of key issues that the minister outlined that have not been agreed upon. The shadow minister in another place, the member for Port Adelaide, sought detailed information on the concerns with the amendments, particularly in regard to the levy collection.

The opposition remains unconvinced of the merits of the government's claim. For example, the government has been unable to explain why the levy could not be collected using the emergency services levy notification process in the same way as it is currently attached to council rate notices. We take seriously our responsibility to get this legislation right and to ensure we have effective laws in place to manage our natural resources, support communities and landholders, and protect our environment. The minister has indicated that it looks likely, if the position holds as it seems, that this chamber will look forward to a deadlock conference to try to resolve these issues on this very important regime.

The Hon. M.C. PARNELL: As with the previous two speakers, the Greens are not convinced by the minister's arguments. We will be voting to insist on the amendments that we passed and we look forward to seeing whether they can be resolved in a deadlock conference. In particular, I would endorse the comments of the Leader of the Opposition. It is not as if the state government does not have a tax collection capability and a large department devoted to the collection of tax. The local councils, through the LGA, have made it very clear that they do not want to be collecting state government taxes.

Whilst we, in this chamber, might know that they are state taxes, the average person receiving a bill does not know that. They assume it is an impost of local council, and we are not convinced that the cost of the state government collecting its own taxes is as high as the government has suggested it might be. If that were the case, the government would not collect any of its own taxes, but clearly it chooses to in terms of emergency services levy and other taxes. So we look forward to this going to deadlock conference to see if it can be resolved. But if it cannot, the Greens' position is to insist on all of the amendments the Legislative Council passed when it last considered this bill.

The Hon. J.A. DARLEY: I indicate that I will only be insisting on amendment No. 14 and not insisting on the others.

The CHAIR: Because the Hon. Mr Darley has indicated that he will be insisting on only amendment No. 14, out of courtesy to him I am going to put the question in relation to amendments Nos 2 and 14 and then the remainder I will do in the one question, unless any honourable member objects. The question I am putting is different from the motion as expressed by the minister. The question I am putting is that the amendments and suggested amendments be insisted on. This means that if you are with the opposition you vote in the positive, for the ayes, or if you are with the government you vote with the noes.

Amendment No. 2:

The CHAIR: I put the question that amendment No. 2 be insisted on.

Question agreed to.

Amendment No. 14:

The CHAIR: I put the question that amendment No. 14 be insisted on.

Question agreed to.

Amendments Nos 40 to 44:

The CHAIR: I put the question that amendments Nos 40 to 44 be insisted on.

Question agreed to.

Amendments Nos 47 to 50:

The CHAIR: I put the question that amendments Nos 47 to 50 be insisted on.

Question agreed to.

Suggested amendments Nos 1 to 5:

The CHAIR: I put the question that suggested amendments Nos 1 to 5 be insisted on.

Question agreed to.

Conference

The Hon. J.M.A. LENSINK (Minister for Human Services) (15:42): I move:

That a message be sent to the House of Assembly requesting that a conference be granted to this council respecting the suggested amendments in the bill and that the House of Assembly be informed that, in the event of a conference being agreed to, the council will be represented at such conference by five managers and that the Hon. D.G.E. Hood, the Hon. K.J. Maher, the Hon. F. Pangallo, the Hon. M.C. Parnell and the mover be managers of the conference on the part of the Legislative Council.

Motion carried.

STATUTES AMENDMENT (MINERAL RESOURCES) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 1 August 2019.)

The Hon. C.M. SCRIVEN (15:43): I indicate that I will be the lead speaker on behalf of the opposition on this bill. This bill is largely identical to a bill that was passed before the last election in the other place and then lapsed before debate came to this chamber. In that debate, every regional MP voted in favour of the bill. We need a diverse economy in South Australia: agriculture, mineral resources, manufacturing, tourism and more. These all create or maintain many thousands of jobs. We need all these industries. We need to maximise our resources in this state. The challenge is to find a way for all of these to coexist for the good of the state and the good of all South Australians.

We in the Labor Party believe that decisions about mining should be through independent regulations. If a minister does not trust the independent experts, the advice of the agency, the risk assessments that are presented, why do we have these at all? All decisions potentially would rest on political expediency and local pressure, instead of robust evidence, if we throw out each of those things. If this occurred, in effect the rules could change any time for industry. Investment in South Australia would evaporate and it would be a disaster for our state. Industry needs certainty. In the other place the Labor opposition committed to supporting this bill and government amendments only. We will therefore not be supporting any crossbench amendments.

The Hon. M.C. PARNELL (15:45): At 44 years of age, the Mining Act 1975 is of middle age and certainly in need of reform, but a more important question for this chamber is whether this particular bill delivers the reform that South Australia needs. I was a child in secondary school when this act came into operation. There are some members of parliament who were not even born when the Mining Act commenced, including the state's current environment minister. The mining minister certainly was around, but in short pants at kindy or primary school, perhaps.

The 44 years since the Mining Act became law has seen incredible developments in our understanding of the natural environment, our appreciation of the interconnectedness of plants, animals and ecosystems, and the fragility of species. With that increased knowledge came a slow increase in environmental regulation, standards and policies. In relation to mining, improvements were incredibly slow and not at the initiative of mining companies, but it was at the insistence of communities through environmental activism over many years that saw reforms. This included campaigns to stop sand mining on Fraser Island or gold mining in Kakadu National Park.

In South Australia progress has been even slower. Our mining and environmental laws have improved only marginally, whilst human impact on the environment is growing exponentially. Laws covering the exploitation of natural resources have not been enough to address the extinction crisis or the climate emergency. That is not to say that mining is the only impact, but it is a significant one, especially the mining of fossil fuels, which are driving global warming, regardless of whether the fuels are burnt here in South Australia or elsewhere in the world. We are trashing the planet like there is no tomorrow, which is why we see millions of schoolchildren around the world striking for action on climate change, and it is why we see groups such as Extinction Rebellion protesting in the streets, demanding real action to protect the environment.

Although the extinction of species is a natural phenomena, it occurs at a natural background rate of about one to five species per year. Scientists estimate that we are now losing species at up to 1,000 times the background rate, with literally dozens of species going extinct every day. It could

be a scary future indeed, with as many as 30 to 50 per cent of all species possibly heading towards extinction by mid-century.

It is similar with climate change. Yes, measured over thousands of years, the climate has always changed, but nothing like the changes brought about by human activity in recent decades. We are in a climate emergency and nearly at the tipping point, beyond which slowing climate change will be impossible, and that is why citizens are taking to the streets on these issues now.

So it is against this backdrop of a deteriorating environment that we need to assess the new mining bill that is before us. There are many yardsticks against which we could measure this bill, but three of the main ones for the Greens are the following: firstly, is it fit for purpose in an age of climate emergency and accelerating species extinction? Secondly, does the bill include best practice public participation and democratic rights? Thirdly, does the bill fairly balance the competing social and economic priorities of growing food, fibre and materials against mineral exploitation? In short, the bill fails all three tests.

Of course, if you are a mining company, your questions are very different. Your first question is: does the bill ensure that mining can proceed unimpeded with minimal effective regulation through a single, compliant government department? Tick. Secondly, does the bill enable us to mine virtually anywhere we want, including most national parks and other conservation areas? Tick. Thirdly, are our activities protected from pesky third party appeals and civil enforcement? Tick. Through that lens, the bill is a great success, because it perpetuates the regime that has served the mining industry so well for the last half century but has not served the rest of society well and has certainly not served the environment well.

I have tabled a number of amendments to this bill, and my colleague the Hon. Frank Pangallo has tabled a number of amendments as well, which is why it is incredibly disappointing to hear the very brief contribution of the Labor Party, saying that they will not support any amendments. In my discussions with the Labor Party, when I put that to them, that they were not going to support any amendments, they said, 'That's not right. We will look at any sensible amendments carefully and support them.'

The Labor Party is not going to be considering any of the crossbench amendments. I cannot speak for my colleague, but I will certainly be moving mine and I will be dividing on many of them. The farming community in particular can see Liberal and Labor siding together, standing up for mining companies against the interests of those who grow our food. I am sure they are going to delight in that spectacle.

I am not going to go through every amendment now, because the committee stage will take some time.

The Hon. R.I. Lucas: Hear! hear!

The Hon. M.C. PARNELL: I am loath to disappoint the Treasurer. If you would like me to go though all the amendments now, I can. I want to highlight a few points. The first point that I would highlight is one that is very difficult to legislate for but is at the heart of many of the issues we are going to be discussing in this bill, and that is the concept of regulator capture. Regulator capture is the situation you find when a government body—a regulatory body—is so close to the industry that they are supposed to be regulating that they are incapable of critical evaluation and independent regulation.

This has been a theme of mine for the last 30 or so years that I have worked in this space, and over many years in parliament I have told many stories that go to this question of industry or regulator capture. One of my favourite stories was a very early contribution that I made to a government inquiry back in the 1990s, in relation to a mining company that was clearly breaking the law. They were clearly, unambiguously breaking environment laws and when we put that to the inquiry, the response from the department was, 'Clearly the laws are wrong,' and they promptly set about changing them. That was the extent of capture that we had.

Similarly, in court cases that I ran as an environmental lawyer, again mainly in the primary industries area—the aquaculture section—they had the person whose job it was to regulate the industry sitting next to the person whose job it was to give money to the industry. They never really

understood that they were different roles, and so the regulators were incapable of independently regulating that industry.

We have seen with the mining department that that has been the case. There is probably no better example than when it comes to what should be very difficult decisions, such as allowing mining in a national park or a conservation area. You would think that that would challenge regulators and that they would be scratching their heads and thinking of the competing interests at stake, but no.

In fact, I am only aware of two examples where conservation has prevailed over mining in the last 30 years in South Australia. I will go through those two examples later, but I will start with a look at the National Parks and Wildlife Act and its relationship to mining. Of course, when they wrote the National Parks and Wildlife Act, and its predecessors, they did not ever comprehend that these areas being set aside for their natural beauty and their biodiversity would ever be opened up for mining, and so the law was pretty clear: it is a national park or conservation park—no mining; really clear.

But those parks only comprised about 4 per cent of the South Australian land mass, and it got to the point where the government was getting a bit embarrassed because other states were getting more parks and poor old South Australia was languishing on 4 per cent. The story, as told to me by a former director of national parks, is that the minister went to the parks director and said, 'Look, we have to boost these numbers. I want you to acquire a whole lot more of South Australia for the conservation estate.' The director of national parks rubbed his hands together and asked, 'How much money are you giving me for this task?' The response was, 'Oh, nothing. You have to do it for free.'

As a result, the poor old director of parks goes out, mainly to the outback and desert areas, and consults with industry, mainly the pastoral industry and the mining industry, and says, 'Have I got a deal for you! We're going to put this land under the National Parks and Wildlife Act, and we have no compensation for anyone.' As a result, both those sectors, the pastoral industry and the mining industry, negotiated even better terms for themselves for these new National Parks and Wildlife Act reserves than they would have had under regular Crown land or Crown leases.

Those are the origins of the so-called regional reserves. A regional reserve is a Clayton's park: it is the park you have when you are not having a park. It is a park that does not disrupt any commercial activity, especially mining and grazing. We saw it at places like Innamincka. When it became a regional reserve, the pastoralists got even longer leases over this new conservation estate and the mining companies got greater access as well.

That is how South Australia managed to increase the area under so-called conservation. It got up to over 20 per cent of the state, but we still had the situation where most of the protected national parks were that original 4 per cent that go back to the 1970s and beyond, before they had this brilliant idea of allowing multiple use parks with mining. The other trick was that they incorporated into the National Parks and Wildlife Act a provision called joint proclamation. That is a brilliant little provision. It says that the Governor, when proclaiming a national park, can jointly, or simultaneously, proclaim it to be open for mining at the same time.

As a result of those two measures, simultaneous proclamations and regional reserves, we find that, on paper, a map of South Australia has lots of nice colours showing all the conservation estates, with nearly all of them open to mining. There are only two examples I can think of where mining has not prevailed over conservation. One is the Arkaroola Wilderness Sanctuary. Some members here are very familiar with that debate; it went for some years. It was only when the mining company behaved so badly, broke so many laws, that eventually the government showed them the door and said, 'No, we are not going to let you mine in this wilderness area because of your behaviour.'

As it transpired, the mining company then kicked up such a fuss that the state government paid them a $5 million ex gratia payment for kicking them out of a conservation area, even though they had broken the law, illegally dumped waste and behaved appallingly. To rub salt into the wound, the company that was responsible for that appalling behaviour in the Arkaroola Wilderness Sanctuary was none other than Marathon Resources, which languished on the stock exchange doing nothing for a while then, like the undead in a zombie movie, came back to haunt us.

It is now called Leigh Creek Energy, and it is now proposing underground coal gasification at Leigh Creek. It is the same company. It has different owners, sure; it is under different management, but it shows that there is perpetual succession when it comes to environmental vandalism. Leigh Creek Energy, formerly known as Marathon Resources, is one of only two examples I can think of where conservation has prevailed over mining and, even then, they had a golden handshake of $5 million.

The only other case I can think of goes back to the year 2000 or 2001, and that was a company that was proposing to mine the Gammon Ranges national park. It was a proposal for a magnesite mine. In the end, it was defeated, so the official story says, by the presence of a very rare fish, the Flinders Ranges purple-spotted gudgeon. That always creates a lot of mirth: how could a fish stand in the way of a mine?

I can tell you anecdotally that the story, as it was told to me, was that the only reason the Weetootla Gorge in the Gammon Ranges national park was protected from mining was that the officer whose job it was to process these things went on holiday and this person's replacement did not get the memo that mining is always supposed to win. They ended up ultimately protecting the Weetootla Spring in the Weetootla Gorge as a special wildlife zone. They are the only two examples I can think of, and I have been doing this work in South Australia since 1989.

When it comes to mining, it is pretty much open access. For many years, the various minerals lobbies at the state and federal level used to run campaigns bemoaning what they saw was problems with access to land. But from the mining industry's point of view, land is off limits to mining if you have to ask anyone's permission or if you have to pay anyone compensation—that makes it off limits. They are so used to having open slather that even having to deal with stakeholders is regarded as an unreasonable impediment to their unfettered access to South Australia.

To give one quick example of one of the amendments I will be putting forward, there is a provision at present that says that when it comes to mining in national parks the environment minister and the mining minister should sit down and talk about it and if they cannot reach agreement it goes to cabinet. My amendments says, 'No, the environment minister should prevail.' If it is a national park or it is a reserve under the National Parks and Wildlife Act, this should be a matter where conservation has the ability to triumph, and it will best have that chance if the environment minister makes a decision.

Under the present regime, I am not entirely convinced that will be the outcome, but this legislation will transcend the current government and it will be potentially with us for another 44 years, so I want to at least make sure that we level that playing field a little bit so that when it comes to mining companies wanting access to our special protected areas that the environment minister responsible for a piece of environmental legislation will have some chance of prevailing.

The issue that most dominated the debate on this bill in the other place was in relation to the respective rights of mining companies and farmers. That debate saw four members of the government cross the floor and other members in this chamber threaten—I do not know if I can use the word 'promise', but at least threaten—to cross the floor. The issue was that the bill as drafted—and it is also in the act as currently written—does not give landholders any real right to stop a mining company entering the land and undertaking exploration or mining activities.

I need to just very quickly explain the mechanism because when students of topics like this read the legislation they cannot believe that it is not better than it is and that is because, fairly early on in the Mining Act, they get to a section called 'Exempt land', which says that land is exempt from mining, for a number of reasons, including if it is very close to someone's house, or if it is land that is used for cropping, for farming, then that is exempt. So, at face value, the mining company cannot go there: it is exempt land—they are the words that are used.

But when you read a bit further into the act and when you go to the regulations as well, you will find a regime that is in fact very different. The way the regime works is that if a farmer exercises her or his right to say no to a mining company, the mining company can come knocking on the door and say, 'This is exempt land, it's farmland, or it's very close to your house, but we want to mine anyway. Here is a form we want you to sign, it's called a waiver of exemption, and if you don't sign that form we are going to take you to court, we are going to win and we might even get costs awarded

against you. So, if you know what's good for you, you will forget that this is exempt land, you will sign our piece of paper and you will let us access your property,' and that property may have been in the family for generations. That is how the regime works.

I will be honest: I did not quite believe that it was that bad. When I first came across it, I remember a client came to me down in Mount Gambier. There was a quarry that was quite some distance from her house and they wanted to expand it to within about 200 metres of her house—very, very close. So, as a young lawyer, I went through the legislation and said, 'No, this is exempt land. They are too close to your house. They can't mine there unless you agree.' She said, 'Well, I am not signing the form they gave me. I am not going to sign this waiver of exemption.' In the end, the mining company took her to the mining Warden's Court. The mining warden wagged his finger at her and said, 'How dare you stand in the way of mining,' found against her and ordered her to pay the quarry and company's legal costs. What an outrageous outcome when the parliament has said this is exempt land. It is no such thing: it is not exempt land.

The debate in the lower house focused a great deal on whether farmers should be able to have a right of veto. A right of veto is actually a very strong measure but it does have some legal problems associated with it, and one of them is that under our system the minerals under the ground are owned by the community through the Crown and so the theory has always been that the decision about whether they can be extracted and used and sold is a question for the government as custodian, I guess, of the Crown minerals on behalf of the community, and so farmers have never had a right of veto. But I think that even if we do not go to that point of saying that farmers have an absolute right to say no, even if we do not go to quite that point, we can certainly level the playing field a great deal more than is currently the case.

One of the difficulties is that when these cases have wound up before the mining warden—and I have discussed this personally with a number of mining wardens—their attitude has been, 'But it's the Mining Act; it's supposed to be about mining so, of course, we find in favour of mining companies.' I am only aware of one case in the last 30 years where a landholder has succeeded in keeping the mining company off their land, only one case out of all of them. All of the losing cases were as a result of precedent decisions that had been established over many years in the mining Warden's Court, which is why, a number of years ago, I successfully moved for this jurisdiction to be taken away from the mining wardens and given to the Environment, Resources and Development Court.

The idea was that that court was a little bit more impartial, we hoped, than the mining wardens would be; it had a less formal structure. They had roundtable conferences as a prerequisite to any trial so, in other words, people would be forced around the table to work out if they could sort it out without going to a trial. It seemed to me and to a majority of the parliament that that was probably a better way to go, so we had the environment court put in as the dispute resolution mechanism.

There are still some problems with the regime and one of the problems is that the decision-maker, if there is a dispute between a farmer and a mining company about access or anything else, there is no real guidance to the decision-maker as to what they should be taking into account. I have some amendments before us, and we will get to them in detail later, which actually go through a list of some of the things that the environment court should take into account. For example: will the mine be rehabilitated or will it just be a hole in the ground that will never be able to grow crops ever again? Another question would be: what is the life expectancy of the mine? If the life expectancy of the mine is only a few years and if it is not going to be rehabilitated back to a cropping standard then we have to weigh up: how long can we mine for, a few years; how long can we grow food and fibre, maybe 1,000 years, maybe 2,000 years.

The Middle East is on the television every other night where there are paddocks and fields there that have continuously grown food for thousands of years and yet when it comes to a decision to allow a very short-term mine that would take out of production valuable farmland forever, the mine always wins. Probably a good example of that is the Hillside mine on Yorke Peninsula. I am very grateful to the Yorke Peninsula Landowners Group, who have been solid in their opposition to this bill because they realise that it does not provide a level playing field between farmers and miners.

I want to reinstate the environment court. I want to make sure that the court is given some guidance as to factors they have to take into account, which would also include not just physical factors but if the mining company has a track record of appalling behaviour, breaches of environmental standards and leaving a trail of destruction behind them. Why should they not take that into account as well before deciding whether or not to give the mining company access to that private land?

People might say, 'Jeez, you're making it tough, Mark, to allow mining companies onto farmland.' Yes, and the point is that most of the minerals they are looking for are relatively common and are available outside farming land. They are available in areas where there is not that conflict. Of course, they are going to have to deal with Aboriginal traditional owners, as of course they should. If there are environmental issues they are going to have to manage those but you can actually take one level of conflict off the table by keeping these mining companies out of farming land.

Another example that has been in the media the last little while relates—it is very close to where we are here—to the situation in the Adelaide Hills with the Bird in Hand mine. Now, there is a bit of irony here, and I will set it out there in case someone tries to ambush me with it later on. The Bird in Hand Winery is actually named after the Bird in Hand mine. The mine was an historic mine that operated 100 or so years ago and in the end became unviable because of the groundwater which ends up filling the holes, filling the tunnels, and they did not have sufficient capacity to pump it out. It was a fairly short-lived mine which was abandoned as a result of its interaction with the groundwater.

That became an historical location, and so a winery comes along and names themselves—'Oh, we'll call ourselves the Bird in Hand Winery.' It was in fact originally a mine. But the Adelaide Hills have changed a fair bit since then. We now have an extensive horticulture and viticulture industry, employing thousands of people, including hundreds of people employed at cellar doors and in wineries all through the Adelaide Hills, and when a mining company comes back and says, 'Oh, we've got better pumps now, can we go back and reopen the mine?' all of a sudden you are imposing this heavy industrial activity, with its noise, its explosions and its truck movements, in a bucolic landscape where cellar doors predominate and which is full of people on the weekends, enjoying the best of what the Adelaide Hills have to offer.

The reason I am using this example is that people might have seen in the newspaper the other day—in fact, I think it was only on Friday—the winery is proposing to expand their operations. They want a new restaurant, they are going to provide new facilities for visitors and they have lodged their applications. Their applications were supported by the local council, supported by the state government, through the State Planning Commission, and what has happened? Terramin, the company, has gone and lodged an appeal in the environment court to stop the winery expanding their business.

I do not think there is any explanation other than tit for tat, because clearly the winery and fellow wineries in that area have been trying very hard to keep this mine from being reopened, because of the impact they know it will have on the amenity of the area and also on groundwater. The point I am making is that these wine companies have no right under the Mining Act to appeal against anything that Terramin might want to do. There is no right of appeal against mining decisions. There is no ability even to enforce mining laws through civil enforcement. Yet both those rights exist in reverse.

If you want to challenge a decision made under the Development Act, a planning decision, as Terramin is doing, you have that right to do that. If they think the law is not being complied with, they can go to court on a civil enforcement action. This just shows you how skewed the thing is. The winery is not allowed to challenge the mine, but the mine is allowed to challenge the expansion of the winery. That just sums up the complete absence of any real civil or legal rights associated with this industry, and that is the way the industry likes it.

I was going to read out some chunks from the newspaper, but I will not. People can look at it in *The Advertiser* last Friday. But I cannot see that it is anything other than tit for tat. I will read a couple of sentences:

> Terramin refused to comment on its court action.

'Terramin does not wish to comment in detail on a court matter,' chief executive Richard Taylor said.

'Like any council ratepayer we have rights, especially being the winery's nearest neighbour.'

So they are standing up for their rights to go to court and challenge something their neighbour wants to do. Reverse the situation: there are no rights at all for anyone to challenge any decision under the Mining Act. It is just not right.

The Greens have a number of amendments, as I said, that are filed. We are keen to redress the balance in spite of the Labor Party's blanket refusal to even consider the amendments, to even look at them on their merits; they are just saying, 'Well, we're just with the government.' I expect that we will see a number of divisions when we get into the committee stage. I look forward to cosying up to my crossbench colleagues, many of whom I think will support amendments we have, as we will support some of theirs. We will do justice to South Australia's farming community, South Australian conservation groups and others who are demanding that after 44 years we can do better than the bill that is before us.

I would like to put on the record my thanks to the Environment Defenders Office, the Conservation Council SA, the Yorke Peninsula Landowners Group, and also many of the other residents' groups, local farmer groups, conservation groups and the many individuals who have offered advice, feedback and support in relation to trying to make this bill better. With those brief words, I look forward to the committee stage of this debate.

The Hon. J.A. DARLEY (16:15): I rise to contribute to the second reading of this bill. At the outset, I want to convey my disappointment at the government with this bill. In opposition, the Liberal Party were very vocal in criticising the then Labor government for failing to consult properly on the bill and undertook to have better consultation.

However, I have been contacted by constituents and stakeholders who have expressed their frustration at the lack of consultation that this government has undertaken on the bill. Their frustration is exacerbated by the promise from this government that they would do better than their predecessors, only to be let down when it came to the crunch.

As I understand it, both the mining and agricultural industries are calling for an independent review of the act to look at best practice interstate. The government has ruled out this option and I would like the government to put on the record why they do not want to do this. We all understand that there needs to be a balance between mining and agriculture. Both industries are very important to the state and our economy; however, many have long held that there has not been balance, and that the act favours the mining industry.

This bill was meant to restore this balance; however, it fails to do so. Mr Bill Moloney, a farmer from Yorke Peninsula, has spoken publicly about the anger that farmers feel about the lack of consultation and frustration that they have not been heard. He said:

Dan van Holst Pellekaan just hasn't listened and what people are cranky about is that the Liberals promised full consultation and open dialogue, but consultation has been extremely minimal.

I understand a number of amendments have been filed to the bill. They seem like sensible amendments which will try to rebalance the bill, and I have sympathy for many of them. I want to put on the record that I did investigate moving amendments of my own. These would have outlined that if part of a property was taken for mining, or if its viability was affected by mining, then the mining company would have to acquire the entire property, if this is what the owner wanted. However, I was told by parliamentary counsel that this did not quite fit with the bill or the act. I thank parliamentary counsel for their advice.

I am going to reserve my position on this bill, but flag that I have grave concerns about it. There has been widespread criticism of the bill. It is not unusual for there to be criticism of a bill; however, criticism is usually matched with vocal support, and I have not seen this support for this bill.

The Hon. T.J. STEPHENS (16:18): I rise today to note my opposition to the Statutes Amendment (Mineral Resources) Bill. I do not believe that this bill goes far enough to protect our farmers and South Australia's farmland. As stated by a number of my colleagues in the other place,

this bill leaves too many issues unresolved for our state's primary producers. As such, I cannot support it in its current form, and have reserved my right on the legislation.

I have consulted with a number of individuals and groups from the agricultural and mining sectors about the particulars within this bill. This deliberation stems back to 2017 when this legislation was introduced by the previous government. Farming groups understand the importance that mining plays in our state's fortunes; however, they believe mining practices can be done in a way which safeguards the land so vital to their industry.

On the other side of the table, the idea of amending sections of this bill has been further compounded with an independent review of the Mining Act being called for by the South Australian Chamber of Mines and Energy. When both sides see ample space for compromise, I do not see how I can support a bill which ignores it.

Various interstate models have been suggested in order to reach an agreement which gives miners accessibility to land without infringing on the agricultural land rights. These include possibilities such as the Queensland model where their agricultural land is protected through planning laws. Including these provisions would require comprehensive policies in regard to land access, protection of critical farm assets and remediation works for land post-mining. Included in this suite of policies is a land access ombudsman. Their role would be to act as a mediator between landholders and resource companies in order to deliver a balanced outcome for both parties. However, these calls for additions to the bill have once again been ignored.

Our state's farming land is of vital importance to both our economy and our own wellbeing. Whilst I understand the economic importance that mining also contributes to our economic fortunes, it does not have to come at the cost of another industry. There is space for the protections of landholders' rights while simultaneously expanding our state's mining opportunities.

I am proud to be a member of the Liberal Party. It is a party that allows the individual to have a voice, if they feel truly compelled to speak out on a matter. For me, this issue creates such a circumstance. As a member of the Liberal Party, I also recognise the importance of our regions and our farming communities. During the election campaign, I spoke to countless people within regional areas about the issues that impacted them the most. One issue was clear: many did not believe that there had been sufficient consultation for the first incarnation of this bill in regard to striking the right balance between the mining sector and their own livelihoods.

My response to them during the campaign never changed. I told them that a state Liberal government would not bring back this bill until we held meaningful consultations with primary industries. Unfortunately, the bill was reintroduced last year without such consultation. In the time since, nothing has changed for our primary industries. The bill in its current form retains the same lack of provisions for farmers and their ability to protect their own land and, in turn, their livelihood.

South Australia's agricultural industry not only provides food for the state but also aids in feeding the world, making it a vitally important component of our export industry. While being a lucrative and significant contributor to our economy, mining is finite. We cannot allow agriculture to suffer in the long term for short-term gain. In order to safeguard South Australia's farmland, while also exploiting the wealth of resources we have beneath our feet, a balance must be maintained. I do not believe that the correct balance has been struck with the reforms proposed in this legislation.

There have been many amendments filed for which I have much sympathy. I will not be crossing the floor on all those amendments, but it would be fair to say that I am certainly not going to let this issue die during my time in parliament. As such, I am going to reserve my right to oppose the bill at the third reading. Just so members are clear, and for those who have an interest in this debate, I do not support the right of veto for farmers. However, there are many compromises to give farmers rights so that rogue explorers cannot hold them to ransom.

I respect the many fine mining companies that we have in South Australia; they do South Australia proud. I note that they are not the people who are pushing this particular legislation. So it is with a reasonably heavy heart that, after 17½ years, I give my intention to vote against the Liberal Party and the government bill.

The Hon. R.I. LUCAS (Treasurer) (16:23): I thank the honourable members for their contribution to the second reading of the bill. I look forward to the committee stage of the debate.

Bill read a second time.

Referred to Select Committee

The Hon. F. PANGALLO (16:24): I move:

1. That the bill be referred to a select committee of the Legislative Council for inquiry and report;
2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only;
3. That this council permits the select committee to authorise the disclosure or publication as it sees fit of any evidence or documents presented to the committee prior to such evidence being presented to the council; and
4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses, unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

I will keep it short because I have already made a substantive speech on this previously. I must say I am extremely disappointed in the Labor Party's attitude to this bill and also to the amendments that have been proposed. I must also express my disappointment at the Liberal Party, particularly when I was at the Paskeville field days recently. I spoke to a number of farmers who were quite anxious about the progress of this bill and what it is going to do to them and their futures, as well as the fact that it poses a threat to so much valuable arable land.

What really stuck in the craw of many of those farmers was that before the last state election many Liberal candidates and members had actually gone and addressed farmers about this bill, and a couple of them swore that they would oppose it and do whatever they could to stop its progress. We now find that we are in the situation where it looks like they intend to bulldoze the bill through and are showing scant regard for the feelings of a group of people in the regions who have long supported the Liberal Party, and they are now finding that they are being abandoned.

We have heard words from the Hon. Terry Stephens, but I am afraid I see some hollow rhetoric there. While he may show some compassion for them, I would have thought that he would have done like some of his colleagues in the other place and indicated that he would cross the floor.

Members interjecting:

The Hon. F. PANGALLO: That he will cross the floor?

Members interjecting:

The Hon. F. PANGALLO: Okay, well, I will take that back if he does cross the floor. Anyway, regardless of that—

The Hon. T.A. Franks interjecting:

The Hon. F. PANGALLO: I hope he does, and I hope he shows some support for this contingent motion of mine. I think it does need to be referred to a select committee. I think there is more work that needs to be done and we need to hear more submissions and more from the sector that is going to be most impacted, as well as from the mining companies themselves. With that, I ask that the chamber supports my contingent motion.

The Hon. R.I. LUCAS (Treasurer) (16:28): For reasons that have already been well articulated in the public but also in another place, the government will not be supporting this motion. I must say, in defence of my colleague the Hon. Mr Stephens, I am surprised at the attack from the Hon. Mr Pangallo on the Hon. Mr Stephens. In relation to his strongly held views on this issue, which he has expressed privately and now has done so publicly, which he is entitled to do within the structures of the Liberal Party, I am surprised that the Hon. Mr Pangallo would turn such vitriol upon my colleague the Hon. Mr Stephens for his contribution to the second reading. However, that is an issue for the Hon. Mr Pangallo to sort his way through.

In relation this particular motion, as I said, I am not going to prolong the debate. The government has articulated its position publicly and in another place, and for those reasons we will not be supporting this motion.

The Hon. M.C. PARNELL (16:29): The Greens will be supporting the motion, and I congratulate the honourable member for moving it and I express my willingness to serve on such a committee if it was to be established. One thing I am looking forward to next week is that some members of this chamber will be having a discussion with the Clerk and with others about how we do committees in this chamber, and something I have said to anyone who will listen over many, many years is that we do need more scrutiny of bills committees. Where you have complex pieces of legislation and a lot of stakeholder interest, then a committee of inquiry is the obvious and the logical mechanism for exploring all those issues.

This committee would be an opportunity to get in representatives of the farming community, and they will talk to us about the uncertainty in which they are placed when, for example, a mining company has rights, whether to explore or to mine their land, yet they have no expressed plan for when they might ever get around to it. In other words, the farmer is in limbo, the mining company may get around to digging some holes in a few years' time, but in the meantime the farmer has absolutely no certainty as to whether it is worth repairing the fence, building the shed, improving their property and improving their productivity.

So it is stories like that that I think have motivated the Hon. Frank Pangallo, as they have me. A lot of collateral damage will be caused to the South Australian farming community by simply replicating the existing flawed Mining Act in this new bill. Change is desperately needed, but this is not the change, it does not go anywhere near far enough, so the Greens will be pleased to support the creation of this committee of inquiry.

The Hon. J.A. DARLEY (16:31): I indicate that I will be supporting the Hon. Frank Pangallo's motion.

The council divided on the motion:

Ayes.....5
Noes 14
Majority 9

AYES

Bonaros, C.	Darley, J.A.	Franks, T.A.
Pangallo, F. (teller)	Parnell, M.C.	

NOES

Bourke, E.S.	Hanson, J.E.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Maher, K.J.	Ngo, T.T.	Pnevmatikos, I.
Ridgway, D.W.	Scriven, C.M.	Stephens, T.J.
Wade, S.G.	Wortley, R.P.	

Motion thus negatived.

The PRESIDENT: Honourable members are reminded that divisions are important and certain behaviours are expected by your President.

Committee Stage

In committee.

Clause 1.

The Hon. M.C. PARNELL: I have a question of the minister. What submissions were received from farmers, farming organisations and farming groups? Did any of those submissions

result in any changes to the legislation and, if so, what of those many submissions fell on fertile ground? What changes have been made to this bill as a result of representations from the farming community?

The Hon. R.I. LUCAS: I might take those sequentially. The government received submissions from a range of organised groups—the ones you would expect: Primary Producers, Grain Producers, the livestock association, etc.—and from individual farmers and groups of farmers that did not necessarily represent a particular organisation, group or regional community.

In relation to consultation, prior to the introduction of the bill there was considerable consultation with all stakeholders, both those representing farming communities and those representing mining interests, therefore some of the issues raised by farming communities were raised on the original bill. Subsequently, the government, through the minister, moved some amendments in the House of Assembly, principally as a result of consultation and further submissions from farming communities.

One in particular was a matter raised by the industry group that prohibition on entry or undertaking activities on land was not long enough, i.e., the amended bill proposed 28 days for landholders to consider and seek advice. The amendment to the bill increased prohibition on entry or commencing exploration from four to six weeks. A number of amendments were moved in the House of Assembly debate by the government, having listened to further submissions from representatives of farming interests.

The Hon. M.C. PARNELL: I thank the minister for his answer. I have the schedule of five amendments moved by the minister in the other place, and that accounts for two of them. Rather than go through all of those—this is a bill of some 190 clauses—would it be fair to say that the government has received no endorsement of this bill from any farming group?

The Hon. R.I. LUCAS: My advice is that there has been no explicit endorsement of the amended mining bill from any of the major representative organisations, which I presume the member is talking about. I think the member knew the answer to the question before he asked it, anyway, or he would not have asked the question. We can play this game if we wish. I am happy to play along with him.

We are not aware of any others. There are clearly strong concerns from individual farmers about aspects of the bill, as has been made apparent to the honourable member and to others, but I am sure that, as with all issues of controversy, there are probably some individuals who are more amenable to the government's position than others. In response to the honourable member's question, I think he knows the answer, and I can confirm it for him.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

The Hon. M.C. PARNELL: Could the minister explain the practical impact of subclause (3)? It is the insertion of a new subsection (7), which relates to proclamations. Could the minister explain exactly what that additional subsection is designed to achieve and, in particular, whether it opens up more land or restricts more land from being subject to mining?

The Hon. R.I. LUCAS: I am advised this amendment will ensure the proclamations made before 29 June 1972 under the predecessors to the Mining Act 1971 no longer apply to the extent that they are inconsistent with any proclamation made after that date. This provision will not affect processes under other acts.

The Hon. M.C. PARNELL: I thank the minister for his answer, which I do not understand. What does it mean on the ground? Does it mean that more or fewer areas are subject to mining?

The Hon. R.I. LUCAS: I would have thought it was quite obvious what the answer meant. It was clear to me, but if the member wants to dumb it down even further, my advice is it is neither more nor fewer: nothing changes.

Clause passed.

Clause 7 passed.

Clause 8.

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

Amendment No 1 [Parnell–1]—

Page 14, line 9 [clause 8(2)]—Delete 'the prescribed distance' and substitute '600 metres'

There is a range of changes to the exempt land provisions in section 9 of the act. Probably one of the main changes is to both reduce and extend the prescribed distance from proposed mining operations of certain sensitive uses before land is regarded as exempt land. At present, it is a 400 metre flat rate, if you like. Under the government's bill, they are proposing it to be 200 metres for what they perceive as low impact operations, and increased to 600 metres for higher impact operations.

The intent of this amendment is to basically extend across the board this distance from 400 metres to 600 metres, regardless of the perceived impact of the mining operation. I made the point before that it does not necessarily mean that a person who is within the prescribed distance, whose home, for example, is very close to a proposed mining operation, will not still go down in a screaming heap, but it would seem to me that the larger we make the distance the more egregious would be the forced waiver of exemption if someone was very, very close. In other words, if someone's home was 250 metres from a proposed mining operation and the prescribed distance was 600 metres, then they have more chance of being successful in their opposition to that activity than if their house was a similar distance; in fact, they would not even qualify if it was regarded as low impact.

I think the 400 metres is too small and so my amendment No. 1 proposes to extend that to 600 metres. I note the Hon. Frank Pangallo has amendments in a similar vein—slightly different numbers, but the object being the same. He will explain his own amendments, but as I understand it he is proposing to increase the government's lower distance of 200 metres up to 400 metres and increase the 400 metres to 600 metres. They are both very close. I will get him to explain his own amendment No. 3, which increases the 600 metres and substitutes 1,500 metres.

At the end of the day, the object of the Greens' amendments is to include more sensitive land uses within the definition of exempt land so that the owners of that land—the farmers, in most cases—at least have a chance to be able to convince a decision-maker that mining is inappropriate so close to their sensitive use, such as their home.

The Hon. F. PANGALLO: I rise to say that I will be supporting this amendment even though there is one I have where I would like it extended to 1,500 metres, which I think provides greater reassurance for farmers on their property with this land. I will be supporting this amendment.

The Hon. J.A. DARLEY: I will be supporting the Hon. Mark Parnell's amendment.

The Hon. R.I. LUCAS: The government will not be supporting any of the amendments in relation to this particular clause. The amendments as put forward by both the honourable members increase the existing buffer around a residence from which exploration or mining operations cannot occur unless a waiver of exemption is obtained. The Hon. Mr Parnell proposes to increase this distance to 600 metres for all operations irrespective of the impact; the Hon. Mr Pangallo proposes to increase the distance from a residence to be 400 metres for low-impact exploration operations, 600 metres for advanced exploration and extractive mining operations, and 1.5 kilometres for metallic mining operations.

This bill seeks to improve exempt land provisions through evidence-based reforms, unlike the amendments put forward by the honourable members that are arbitrary and would be unnecessarily detrimental to exploration and mining operations that are not only important to our state's economy but to our overall standard of living. They would clearly create an unnecessary barrier to investigatory activities that are low-impact operations. They would impede exploration expenditure and have the potential to materially restrict access to the strategic construction resources that deliver the low-cost materials that support our communities.

In response to feedback from landowners, this government proposes to set out in the bill to determine the buffer distance from a residence based on the practical impacts that can arise from different types of operations: 200 metres applies to low-impact exploration operations that do not involve any motorised equipment and include minimal ground disturbance and minimal nuisance; 400 metres is determined appropriate for all other exploration operations and quarrying operations.

Quarries are geographically located close to townships and therefore residences, to minimise the cost of transportation and meet the local demand for construction materials at affordable prices. To illustrate, Boral submitted an application this year to expand the strategic Linwood Quarry that has been in operation since 1882. An increase of 200 metres would increase the number of waivers needed by Boral from more than 140 individual property owners, resulting in time and cost impacts that go directly to the cost of critical construction products.

Six hundred metres is determined appropriate for mining operations. Careful consideration of dust and blast monitoring demonstrated that the majority of complaints in the past decade occurred at operations that are located within 600 metres of the nearest receptor, not 400 metres. The amendments put forward by the honourable members do not seek to improve the definition of exempt land or provide greater protection for landowners; rather, they will have the effect of preventing exploration operations from determining where our resources are long before a resource is discovered, before there is any consideration of whether or not the public should realise the value of anything that is discovered and well before there is even any consideration of whether mining might ever occur.

The proposed amendment is not evidence based, in the government's view. It is an attempt to constrain reasonable and sustainable access to the state's resources and will simply increase the cost of quarrying those materials which support the development of our communities. The proposed amendment will increase investor uncertainty and actively discourage investment in exploration in the state at a time when South Australia is ranked sixth of the seven Australian jurisdictions for exploration expenditure.

The Hon. M.C. PARNELL: I will just make a quick observation in response to the minister, that the future of the South Australian economy does not depend on digging holes and blasting in close proximity to people's homes. Certainly, when it comes to extractive industries, transport is a big cost. We are talking here about a few hundred metres' difference, but the impact can be significant on the occupiers.

The other point—and it is one that was going to crop up eventually, but we will raise it now—is that the minister draws the distinction between exploration and mining. The argument goes like this: 'We're only looking. That doesn't really affect anyone.' Of course, if they find something and they start mining, well, that will affect people, and it rather begs the question: if you have an area that for whatever reason is so sensitive that it should not be mined, then why are you allowing exploration there?

The industry will always say, 'Well, that's because we need a complete picture, and we need to know the whole of the lay of the underground landscape, not just the places,' but it strikes me that when it comes to exploration in national parks, for example, if your threshold point is, 'Well, we're not going to let you mine here,' why on earth do you let people explore there? So I would just make that point.

It is complicated a little bit by aeroplane-based surveys that do not impact on the surface of the land. Certainly, there has been a lot of taxpayers' money sunk into flying aeroplanes around over South Australia, pinging signals down to the surface and beneath to see what mineral resources might be there, but I just make the point that if your starting position is that an area is too sensitive to mine, then it makes logical sense to keep explorers out of that same area.

Personally, I will treat this amendment as a bit of a test for the whole range of amendments that go to changing the distances in relation to exempt land. The minister made the point that we have not sought to alter the definition of exempt land. The reason for that is that it would not matter how many other sensitive uses we slotted into the definition of exempt land; under the current regime they are all overridden anyway. It would not matter what else you put in there.

History tells us that in places like Ballarat, in Victoria—and I think the history might have been similar here—the definition of exempt land has things like 'cultivated orchards' in it, and apparently in Ballarat in order to keep mining companies out of urban areas and out of people's yards people would plant fruit trees. I have heard that the abundance of fruit trees in the Ballarat neighbourhood is a direct consequence of their version of exempt land laws. Maybe the laws are more effective in Victoria than they are here.

No, we have not sought to change the definition. It does cover most of the sensitive uses. My main objection is that it means virtually nothing because it is routinely overridden by mining companies, and the decision-making tribunal, when it was the mining Warden's Court, routinely overrode exempt land. So it did not really matter what the definition was; it did not really stand up. I am going to treat this particular amendment as a test for all of those that relate to the prescribed distances under the exempt land provisions.

The committee divided on the amendment:

Ayes.....5
Noes 14
Majority 9

AYES

Bonaros, C.	Darley, J.A.	Franks, T.A.
Pangallo, F.	Parnell, M.C. (teller)	

NOES

Bourke, E.S.	Hanson, J.E.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Maher, K.J.	Ngo, T.T.	Pnevmatikos, I.
Ridgway, D.W.	Scriven, C.M.	Stephens, T.J.
Wade, S.G.	Wortley, R.P.	

Amendment thus negatived.

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

Amendment No 2 [Parnell–1]—

Page 15, lines 14 to 23 [clause 8(12), inserted definition of *prescribed distance*]—Delete the definition

As I have said, from my perspective, I will just treat that as a test for my second amendment, which is the same issue. In terms of the Hon. Frank Pangallo's amendments, I will be supporting all of those. It is his call if he chooses to divide. I will not be dividing on my second amendment, but this issue was put to me by a number of farming groups. They were very keen to see these distances changed, so I am going to move them, but I will not be dividing.

The Hon. F. PANGALLO: I will not be moving amendments Nos 1 and 2 as I support the Hon. Mark Parnell's amendment. His distances are greater, but as there is a lot of similarity, I will not be moving my amendments Nos 1 and 2. As such, I move:

Amendment No 3 [Pangallo–1]—

Page 15, line 23 [clause 8(12), inserted definition of *prescribed distance*, (c)(ii)]—Delete '600 metres' and substitute '1,500 metres'

The Hon. J.A. DARLEY: I indicate I will be supporting the Hon. Mark Parnell's amendment.

The CHAIR: I am not putting the questions, I am just indicating the questions I am putting. The first question I am putting is that all words down to but excluding '600 metres' on page 15 stand as printed. If you support the Hon. Mr Pangallo or no change, you vote yes in the affirmative. If you support the Hon. Mr Parnell, you vote no.

The Hon. R.I. Lucas: What happens if you are opposing both?

The CHAIR: You are voting for no change to the bill, so you vote in the affirmative yes, if I understand the government's and the opposition's positions correctly.

The Hon. M.C. Parnell's amendment negatived; the Hon. F. Pangallo's amendment negatived; clause passed.

Clause 9.

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

Amendment No 3 [Parnell–1]—

Page 16, line 16 [clause 9(7), inserted subsection (7)]—Delete 'appropriate court' and substitute 'ERD Court'

Amendment No 4 [Parnell–1]—

Page 16, line 20 [clause 9(8), inserted text]—Delete 'court' and substitute 'ERD Court'

Amendment No 5 [Parnell–1]—

Page 16, line 21 [clause 9(8), inserted text]—Delete 'court' and substitute 'Court'

Amendment No 6 [Parnell–1]—

Page 17, line 9 [clause 9(12), inserted subsection (8a)]—Delete 'appropriate court' and substitute 'ERD Court'

Amendment No 7 [Parnell–1]—

Page 17, line 11 [clause 9(13), inserted subsection (9)]—Delete 'court' and substitute 'ERD Court'

Amendment No 8 [Parnell–1]—

Page 17, line 15 [clause 9(13), inserted subsection (9)(b)]—Delete 'court' and substitute 'Court'

Amendment No 9 [Parnell–1]—

Page 17, line 22 [clause 9(13), inserted subsection (9)(b)]—Delete 'court' and substitute 'Court'

I indicate that on this topic there are two other consequential amendments in [Parnell-1], being amendments Nos 12 and 13. I also discovered a few other consequential amendments later in the piece, which I filed as [Parnell-2], so there are three amendments there. All those amendments relate to this single simple issue, and that is: who is the arbiter of disputes between mining companies and farmers when the farmer exercises her or his right to refuse to sign a waiver of exempt land agreement?

As I said before, for many years the mining Warden's Court handled these cases and they always found in favour, except for one time, of the mining company. For reasons I mentioned before, I think that a fairer tribunal with better processes is the Environment, Resources and Development Court. What I am effectively doing through these amendments is to reinstate what this parliament has previously decided, and that is that the ERD Court is the appropriate forum rather than the mining Warden's Court. The bill seeks to give it back to the mining warden; I want to give it back to the ERD Court. It really is that simple.

This was a request of a number of conservation groups and farming groups. It is an important issue because there was, over a long period of time, very little confidence that the mining warden would take into account seriously the concerns of farmers. I will flag now, but I will not speak to it just yet, that I have further amendments to clause 9 which go to the criteria or the set of factors that the court should take into account when deciding a dispute between farmers and miners. I will move that amendment separately and talk to it separately, but for now these amendments Nos 3 to 9 basically reinstate the ERD Court as the tribunal with jurisdiction in these matters.

The Hon. F. PANGALLO: I will not be moving the amendments in my name because I will be supporting the Hon. Mark Parnell's amendments. I concur wholeheartedly with his views on the matters being heard by the ERD Court, and the same views have been expressed to me by farmers and others who have had dealings with the Warden's Court. It almost becomes a lay down misère that the miners tend to win out there. With that, I will not be moving my amendments but am supporting the Hon. Mark Parnell's amendments.

The Hon. J.A. DARLEY: I am supporting the Hon. Mark Parnell's amendments.

The Hon. R.I. LUCAS: The government will not be supporting the amendments. The amendments put forward by the honourable members are identical and propose to retain the Environment, Resources and Development Court as the only court with the jurisdiction to hear exempt land matters.

In 2011, the Hon. Mr Parnell successfully proposed amendments to the Mining Act that limited the jurisdiction for hearing exempt land matters to the ERD Court. Before 2011, the Warden's Court, the ERD Court or the Supreme Court could hear exempt land matters. This government, as set out in the bill, proposes to reinstate access to justice by restoring the choice of courts that was restricted by the honourable member's 2011 amendments.

The bill's intention in this regard is informed by evidence and experience. Since the 2011 amendments to limit jurisdiction to the ERD Court, only two matters have been heard: Marmota Energy Ltd v N.G. and J.K. Harrop, Marmota Energy Ltd v Clinpara Pty Ltd (2016) and Dean Terrence Siviour v Ausmin Development Pty Ltd and Renascor Resources, which was ultimately withdrawn.

Before 2011, there were, on average, five exempt land matters heard per year. The government's bill gives flexibility for landholders and provides more choice and cheaper, faster and less formal processes. I point out that it does not derogate from the opportunity for landholders to have their matters heard in higher courts, including the court of preference for the honourable members.

I note, too, that in addition to good faith agreement making and the opportunity for resolution in the courts, this government has delivered on its election commitment to support the Small Business Commissioner to provide advice on alternative dispute resolution services between farmers and resource companies, and is introducing early stage industry-funded legal advisory assistance. This government is committed to supporting responsible and productive ways for mining and farming to coexist, for the benefit of every South Australian, beyond the words of this bill. Having a choice is an important measure in support of all landowners in the state.

In opposing those, I note, as the honourable member has, that there are a considerable number of other amendments. It is entirely his prerogative but it might assist the process of this committee if, as he has indicated, this is treated as a test case and, rather than formally moving every other amendment, I think the record will show that it has been treated as a test case. It might expedite the proceedings of the committee. It is entirely a matter for the honourable member, but it is certainly the way we have handled complex bills in the past, treating it as a test case whilst indicating that the other amendments are of a similar nature, but I leave that to the honourable member's discretion.

The Hon. M.C. PARNELL: I accept what the minister is saying: where there has been maybe one amendment and one consequential, then we do not trouble the scorers too much moving it separately, but I appreciate that in this case there are a number of consequential amendments that effectively all relate to the same issue.

The record will show that I sought, both where it first appears and at every subsequent iteration, to replace the word 'court' with 'ERD Court', to make sure that that is the court that will manage these things. I will also acknowledge—the minister just referred to it briefly—that one of my amendments from 2011 that has survived and been improved slightly is the payment to farmers so that they can get legal advice when the mining company knocks on their door with a form and says, 'You'd better sign this or you're in big trouble.' At least they then get a chance to go and see a lawyer, and it will not necessarily cost them too much if they go to a reasonably priced lawyer.

So that amendment has remained, and I appreciate that—I have not sought to upset that. Certainly, this is a key request of environment and farming groups, so from my perspective there will be one vote and one division only and I will not move the remainder of these consequential provisions.

The committee divided on the amendments:

Ayes.....5

Noes..... 14
Majority..... 9

AYES

Bonaros, C.	Darley, J.A.	Franks, T.A.
Pangallo, F.	Parnell, M.C. (teller)	

NOES

Bourke, E.S.	Hanson, J.E.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Maher, K.J.	Ngo, T.T.	Pnevmatikos, I.
Ridgway, D.W.	Scriven, C.M.	Stephens, T.J.
Wade, S.G.	Wortley, R.P.	

Amendments thus negatived.

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

Amendment No 10 [Parnell–1]—

Page 17, after line 23 [clause 9(13)]—After inserted subsection (9) insert:

(9a) Before making an order under subsection (9), the ERD Court must have regard to the following:

(a) the expected duration of the proposed authorised operations;

(b) the likely effect of the proposed authorised operations on uses of land (including future uses) adjacent to, and in the vicinity of, the land on which the authorised operations are to occur;

(c) the possible social, environmental and economic impact of the proposed authorised operations;

(d) the extent to which rehabilitation of the land is likely to be required on account of the impact of the proposed authorised operations;

(e) the type of minerals sought to be recovered and the relative abundance or rarity of those minerals in other parts of the State;

(f) the following matters in relation to the previous actions of the tenement holder:

(i) whether the tenement holder has contravened or failed to comply with a provision of this Act or a term or condition of a tenement held under this Act;

(ii) the corporate structure of the tenement holder;

(iii) the financial background and resources of the tenement holder;

(iv) the tenement holder's reputation;

(v) any other matter the Court considers relevant.

If this amendment were to find favour with the committee, then it would be administratively amended to remove the reference to the ERD Court, because we have just resolved that reference, but I will leave that to the drafters afterwards.

This is an important amendment, because one of the things that we do when we are considering the tiers of government and the responsibility that we each have is that it will be up to a court to determine a dispute between a farmer and a miner in relation to exempt land, but what we have not done as a parliament—I think we have neglected it—is to actually give the court guidance as to the sorts of things that they should take into account.

This parliament is very good at giving guidance to courts, especially in the criminal jurisdiction, forever telling them to impose minimum mandatory sentences, telling them exactly what they have to do. Every so often, a bikie might get it knocked over in the High Court, but the principle

is still solid, that it is the role of parliament to give advice to the judiciary as to factors to take into account.

Historically, the only two things that have really been taken into account by the mining Warden's Court, and I think possibly also by the environment court, have been compo and conditions—the two c's. In other words, when a landholder says, 'I don't want mining activity on my land. I am not going to sign the waiver of exemption,' the court has only considered two things: how much compo should we pay the farmer and are there any conditions that we should attach to make their life less miserable as a consequence of having mining close to their home, for example?

They are the only two things, but clearly, if we as a parliament take our role seriously—and we are talking about long-term decisions over the use of land, some of which are irreversible and permanent, such as the digging of big holes that are not rehabilitated and can never be farmed again—then surely we owe it to the community to provide some guidance as to what the relevant factors should be.

This amendment sets out a list of things that the court should take into account. I will go through them briefly. The first is the expected duration of the operations. In other words, if a mining operation only has a short life of, say, five years, why should that automatically trump another use of that land that might carry on in perpetuity? It is a factor. It is not determinative, but it is a factor that the court should take into account.

The second is the likely effect of proposed operations on uses, including future uses, of either the land itself or the land around it. It goes to a similar question. If mining operations are going to rule out future farming activities or adversely impact them, that should be taken into account. The third is that possible social, environmental and economic impacts should be taken into account. That goes without saying. That is why we do environmental impact statements (EISs) in other areas. It is to assess the social, environmental and economic impacts.

Paragraph (d) is about the extent to which rehabilitation is likely to be required. If it is not going to be required, that effectively can rule out other uses, though not all other uses. There are some very useful holes in the ground. Up in Queensland, they are using a mine with a hole at the top of a hill and a hole at the bottom, filling them with water and using it for pumped hydro. There are some possible uses of holes in the ground but, when it comes to disputes that tend to be about valuable farming and agricultural land, growing crops is probably more valuable than leaving a hole.

Paragraph (e) is about the type of minerals sought to be recovered. This is an issue I raised back in 2011, and I am raising it again now. If the sorts of minerals they are looking for are relatively abundant and common in other areas, why would we sacrifice valuable farming land? For example, on Yorke Peninsula, why would we sacrifice a few thousand hectares of some of the best barley-growing land in South Australia for a short-term mine looking for a fairly common mineral that is abundantly available in the outback and other areas that do not involve farming land?

On the other hand, if there is some very rare mineral and the only location where it is found happens to be in valuable farming land—if that is the only place you can get this mineral anywhere in South Australia—maybe, in those circumstances, mining might trump farming. It would be the exception rather than the rule, which is that it is mostly common minerals being looked for.

In paragraph (f) I have added a number of criteria that I think are very similar to the ones the Hon. Frank Pangallo has moved in his amendments because they go to matters personal to the applicant; in other words, the mining company. They look at whether the mining company is financially viable. Does it have the resources that it might need for rehabilitation? The government will say, 'We deal with rehabilitation through other ways.' We know from experience, here and interstate, that companies have a shocking habit of going broke, going elsewhere, transferring their liability and not paying the full cost of rehabilitation.

I do not trust the government. In Queensland, they are looking at the taxpayers footing the bill for the failed underground coal gasification experiment. The taxpayers will pay millions of dollars to clean up the mess that a mining company left behind. The textbook case from South Australia, which I have talked about before, is the Brukunga Mine, a mine that has cost the taxpayers 10 times

as much to rehabilitate as was ever extracted from that mine in minerals—10 times as much. It is an absolutely appalling situation.

People say, 'Oh, well. That was in the olden days. We do things much better now.' I do not trust the government to get rehabilitation right. I think that the court, when it is deciding whether or not to allow a mining company onto exempt land, should have a look at the financial background and resources of the tenement holder. I think that they should also take into account rehabilitation bonds or other securities that are offered.

I think that this is a comprehensive set of criteria for a court to take into account, none of which predetermines the outcome. Nothing in this list of things to take into account says that mining or farming will prevail in a dispute or whether the two can coexist, but it at least makes sure that the decision-maker takes into account things that I think society expects them to take into account. It goes to that threshold question of whether mining is in fact the best use of land in that circumstance.

Part of the problem, as I said, with just compo and conditions is that, when they are weighing up the value of the mine, it is a short-term proposition. The way economics is structured values the short term over the long term. If you try to say, 'But we could grow wheat here in 50 years' time,' economists value that at zero; that is not worth anything. But if you went down Rundle Mall and said, 'Do you think it is good for society to be growing wheat in 50 years' time on our farms?' they would say, 'Yes, of course it is. We are going to need wheat in 50 years' time.'

The economic system with discount rates does not value the future, it values the present, and I think that is a skewed way of looking at it. This is an important amendment. Again, it is something that farming groups and others have asked for, that we simply give some guidance to the court as to the questions they should be asking before determining whether mining will trump farming.

The Hon. R.I. LUCAS: The government opposes the amendment. The amendments put forward by the honourable member, whilst different, both include lists of considerations of the court that either undermine the state's regulatory assessment processes and the state's right to develop public resources, or unnecessarily constrain the court's consideration of matters it considers relevant to determining appropriate conditions or compensation.

From as early as 1885, our state's mining acts have established frameworks for negotiating land access and compensation to facilitate successful coexistence between landholders and miners. Rights held by landowners should be respected, just as the rights held by explorers and miners should be respected. Accordingly, the aim of the bill, in significant part, is about recognising and appropriately balancing both sets of property rights. Every dispute over access to land is unique and accordingly every court process must consider a complex mix of interests and values pertinent to that unique circumstance in reconciling competing interests.

It ill serves the landholder and the explorers and miners to constrain matters that the court must consider. In seeking to consider the genuine and simultaneous rights and interests of landowners, explorers and miners, it is important that the court possesses the latitude to consider the unique facts of any particular scenario without restriction from this parliament, and are an important part of that objective. This reflects the fundamental underlying principle that the public owns our mineral assets and the regulatory scheme grants rights to explorers and miners once landowner values and interests are acknowledged.

The potential for adverse environmental impacts are managed and fair compensation is paid. There are aspects of the amendments put forward by the honourable members that seek to empower the court to consider matters that directly challenge this fundamental underlying principle. The state assesses and grants leases and licences using a rigorous and evidence-based assessment process that seeks to unlock the potential of the state's resources in a sustainable and beneficial manner. It is not appropriate that the process resolution of land access draws into question the right of the state to assign rights to its mineral resources for the benefit of our citizens.

In concluding, whilst in this chamber I acknowledge the member's expertise and experience in environmental law—I certainly do not question that—I do question his experience and expertise in relation to economics. His general assertion that economics and economists cannot value the future in any way, in that analogy that he gave, is certainly contrary to, I think, any reasonable understanding of economics. The notions of net present value, valuing future resources and income flows and

assessments are common practice amongst economists for generations. As I said, I dips me lid to the honourable member's capacity in relation to the law, but I think he has a little bit to learn in relation to economics and the capacity of economists to make judgements about the value of current uses and future uses in coming to some sort of assessment in relation to both.

The Hon. J.A. DARLEY: I indicate that I will be supporting this amendment.

The Hon. F. PANGALLO: I will be supporting this amendment, although there are elements in this amendment that are quite similar to mine, which I will explain and perhaps we might have to have a discussion should the amendments get up.

The CHAIR: Both amendments cannot get up, the Hon. Mr Pangallo, so if this one is successful—and, if I am reading the numbers correctly, it is unlikely to be successful—

The Hon. F. PANGALLO: I will speak to mine.

The CHAIR: In theory, let's just say it was successful, then you would not be able to move yours; but if it was unsuccessful, you would still be able to move yours. Before you bind yourself, if I am reading the mood of the committee correctly, the Hon. Mr Parnell's amendment will not be successful. If it is not successful then you will have an opportunity to move yours and try to convince the committee. With an outside chance that the Hon. Mr Parnell's amendment is successful then you might want to speak to yours now. What would you like to do?

The Hon. F. PANGALLO: I will support the Hon. Mark Parnell's amendment.

The committee divided on the amendment:

Ayes.....5
Noes 14
Majority 9

AYES

Bonaros, C.	Darley, J.A.	Franks, T.A.
Pangallo, F.	Parnell, M.C. (teller)	

NOES

Bourke, E.S.	Hanson, J.E.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Maher, K.J.	Ngo, T.T.	Pnevmatikos, I.
Ridgway, D.W.	Scriven, C.M.	Stephens, T.J.
Wade, S.G.	Wortley, R.P.	

Amendment thus negatived.

The CHAIR: The Hon. Mr Parnell has been unsuccessful. The Hon. Mr Pangallo, do you wish to move your amendment?

The Hon. F. PANGALLO: Yes, I do. I move:

Amendment No 11 [Pangallo–1]—

Page 17, after line 23 [clause 9(13)]—After inserted subsection (9) insert:

(9a) The ERD Court must, when considering for the purposes of subsection (9) whether adverse effects of proposed authorised operations on an owner of land can be appropriately addressed by the imposition of conditions, have regard to the following:

(a) any negative impact the proposed authorised operations may have on—

(i) business operations of the owner; or

(ii) the reputation of the owner; or

(iii) the owner's residence or household amenities or a residence or amenities on land adjacent to, or in the vicinity of, the land on which the proposed authorised operations are to occur;

(b) the extent to which the proposed authorised operations may result in a reduction in the value of the owner's land;

(c) the extent to which the proposed authorised operations are likely to cause the owner to suffer distress or anxiety;

(d) the tenement holder's reputation;

(e) the financial background and resources of the tenement holder;

(f) the tenement holder's capacity to—

(i) undertake the proposed authorised operations; and

(ii) ensure that the owner's land is rehabilitated as required under this Act;

(g) whether the tenement holder has contravened or failed to comply with a provision of this Act or an instrument under this Act;

(h) any other matter the Court considers relevant.

There are similarities to the amendment that was just defeated, but I think it is important that I get to speak in relation to what I am trying to do in this amendment, and that is to actually build in some more protections for the farming community, for the farms, for the farmers and for their families.

As the Hon. Mark Parnell has pointed out, there have been instances where mining companies have gone in and destroyed valuable land and have not met their obligations in rectifying it. In fact, I believe there probably is a matter still before the courts in relation to that. I will give you some examples of some that I have seen myself and some examples of where this new act could actually impact on quite a viable, important business.

A few years ago, I happened to make a trip, while working for Channel 7, to the opal fields of Lambina. I do not know if many of you have heard of Lambina, but it is in the far north-west of our state and it is on prime pastoral country. This opal mine is essentially open-cut mining, which means that miners can just go in and bulldoze their way through, try to find the valuable opal and, if they do not, well, they will just move on to the next location. Suddenly, you have these massive excavations on the property. As a consequence, they do not rectify it, and it means that pastoral country is unusable, unless the owner of the property decides to spend a fortune to try to rectify it himself or themselves, whatever the company is.

I refer to another example. It is interesting to note that Yorke Peninsula is probably one of the most valuable tracts of farming that we have in South Australia. We have only 4 per cent of arable land, but Yorke Peninsula is rich in what it has agriculturally. This is why I am quite passionate about these amendments that we are moving. It is easy today for members on the government side and the Labor Party side to think that mining deserves to take precedence over farming communities.

The world's population continues to grow at an enormous rate. In fact, I only heard yesterday that Australia's population reached 25 million 10 or 12 years before it was due to reach that. I think it was due to hit 25 million in 2030, but here we are now, on the verge of 2020—10 years out—and we have already hit 25 million. We are continuing to grow our immigration numbers and the population will increase. The world's population continues to increase.

The two most important things, which are important for life on this planet, if we do not save the planet from climate change, are going to be food and water. I honestly believe that wars are going to be fought over food and water, and here we are wanting to trample all over some of the best farming land that we have in South Australia, just for the sake of fossicking for minerals and without building in protections for some of these farmers.

I will give you another example. A few years ago, I went to a property near Warooka on Yorke Peninsula. This property is unique, in that they no longer use it for grain or harvesting or farming as such. It is actually the home of the mineral water that we sell here in parliament—PH8. I do not know whether you have been fortunate enough to try it, but PH8 means it has an alkaline level of 8-plus.

It is a rare commodity, considering it is a natural product that is taken from the pristine limestone area around Warooka.

The owners of this business were originally farmers, but they were not too successful on the farming side of things. They discovered this water, which became a valuable asset, and they created what has become a valuable company. They sell the water in Australia and export it overseas. For instance, in China a few years ago, it won the award for the world's best tasting water. It came from Warooka on Yorke Peninsula, which is the heart of our farming community.

What I am trying to build into this amendment is some sort of protection for businesses that operate on farmland. Let's face it, a farm is a valuable business. Generations of families have built those businesses to make their living and to support themselves, such as PH8 on Yorke Peninsula.

This business relies on the area and on being able to extract water from deep within those limestone aquifers. Imagine if a mining company suddenly acquires a tenement right and says, 'Oh well, we're coming in to have a look for copper or whatever. Bad luck about your aquifer but we have the rights to come in.' Suddenly, the livelihood of these business owners is threatened. What compensation is there for them? What is built in to protect them and their valuable business?

The amendment goes a long way in trying to do that by protecting the business operations and reputation of the owners. PH8, for instance, has this particular water quality that they market. The branding is important to them. Imagine if that water faces the prospect of being contaminated in some way, or if the company is unable to achieve what they are selling. How do they protect themselves?

It also builds in the owner's residence and the amenities, or the residence on land adjacent to the exploration. Unfortunately, we lost the amendments about the distance from houses on farmland, but take a moment to think about the impact heavy machinery and drilling could have on the people living in a house around 400 metres away. Think of the noise, the impact and the possibility of any contamination could have on them. They would have to put up with that. Imagine you are staring out of your window and see heavy drilling equipment and machinery that are creating all sorts of noise and vibrations.

In fact, I was sitting in one of the rooms in Old Parliament House the other day for a briefing. I thought that Adelaide had been hit by an earthquake, such was the vibration coming from the works next door. That would have been 300 to 400 metres away from us, and it was vibrating right through the foundations of Old Parliament House. This gives you an indication of the impact that mining could have.

The other thing I think is important is that we need to know who these mining companies really are. Who are they? Are they some tinpot company that has been set up for the sake of going out and trying to find something? Are they reputable? Do they have resources behind them to be able to conduct further exploration, or undertake repairs to the land should they decide they have lost interest? It is important that we know what these companies are doing, who they are, who they represent, and what they are going to do once they have finished looking for minerals.

These are things that the ERD Court or some other court would need to take into consideration and consider the impact that it has on all the people who are affected by these operations. I guess you also have to look at the tenement holders' reputation, their financial background, as I said, and whether they have the capacity to undertake the authorised operations and also whether they comply with the acts and whether they will comply once they have finished.

I have already indicated that there is a still a matter before the courts where a company has dragged a family through the courts, and it is still going through the courts. It is appalling what has happened to this family. I will not name them here but I spoke to them when I was on Yorke Peninsula recently. The anxiety and stress it has caused this family, which continues to be caused by this mining company, is appalling, and their nightmare continues to this day. The threats of litigation that hang over them are appalling. They do not have the resources to be able to fight these big mining companies nor do they have the big legal muscle that these mining companies tend to wield.

I think it is important that we try to give protection to the farmers. Both sides of the house are supportive of this bill. I want you to sit back and think, 'What if it was my family's property that had

been in the hands of our family for generations, generations of hardworking South Australian families who have built up a reputation, who have worked hard in their community and suddenly all that faces a gloomy future?' They could lose it all.

Why should we not have protections for them? Why should we not look out for their interests? If you still want mining to take place, let's ensure that they have something to fall back on, not to see their rights and their property trampled over. With that, I firmly believe and I certainly hope that members in this house will look favourably on this amendment.

The Hon. R.I. LUCAS: For the reasons we gave earlier, the government will not be supporting the amendment. I will not repeat those reasons. I am also advised that this does not apply to opal mining. There is a separate act to regulate opal mining and, either way, the opal mine at Lambina was required to rehabilitate and they have successfully completed that rehabilitation. The regulator required financial bonds from the opal miners to guarantee that rehabilitation.

The Hon. M.C. PARNELL: As I said before, it is similar to the amendment that I moved and I will be supporting this amendment. I acknowledge what the minister says: we have three main pieces of legislation dealing with mining. In my view, they all suffer from very much the same defects. For example, the underground coal gasification is being dealt with under the Petroleum and Geothermal Energy Act, whereas if they were physically digging the coal out of the ground, as they used to when they burnt it at the power station at Port Augusta, then that is covered under the Mining Act. It is similar with opal mining.

But I think, despite what the minister says, a casual observation of the landscape around Coober Pedy will tell you that not a whole lot of rehabilitation has been undertaken over the last century or so. I think the Hon. Frank Pangallo makes some excellent points and I will be supporting his amendment.

The Hon. J.A. DARLEY: I will be supporting the Hon. Frank Pangallo's amendment.

The committee divided on the amendment:

Ayes 5
Noes..... 14
Majority..... 9

AYES

Bonaros, C.	Darley, J.A.	Franks, T.A.
Pangallo, F. (teller)	Parnell, M.C.	

NOES

Bourke, E.S.	Hanson, J.E.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Maher, K.J.	Ngo, T.T.	Pnevmatikos, I.
Ridgway, D.W.	Scriven, C.M.	Stephens, T.J.
Wade, S.G.	Wortley, R.P.	

Amendment thus negatived.

The CHAIR: We are still on clause 9 and we come to the Hon. Mr Pangallo's amendment No. 12 [Pangallo-1]. There are also amendments Nos 13 and 14 [Pangallo-1]. These were filed ahead of the Hon. Mr Parnell's amendments, which are identical.

The Hon. F. PANGALLO: These amendments are consequential, so I will not be moving them.

The CHAIR: I assume, the Hon. Mr Parnell, you are taking the same view.

The Hon. M.C. PARNELL: Yes, there were a number of consequential amendments. We have dealt with the issue, so I will not be moving those. These are the amendments in [Parnell-2] that I will not be moving.

The CHAIR: For the benefit of *Hansard*, I point out that the Hon. Mr Parnell is referring to amendments Nos 1, 2 and 3 [Parnell-2].

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

Amendment No 11 [Parnell–1]—

Page 17, after line 33—After subclause (18) insert:

(18a) Section 9AA—after subsection (10) insert:

(10a) If exempt land the subject of an application under this section is used wholly or mainly for agricultural industry, the ERD Court must, before making an order under subsection (9)(b), cause an assessment of the impact of any order waiving the benefit of an exemption to be undertaken (an *agricultural impact assessment*).

(10b) An agricultural impact assessment must address the following:

(a) the value of agricultural industry and associated businesses that may be impacted if the waiver were granted;

(b) the impact of the proposed authorised operations on agricultural industry and businesses;

(c) any proposal for the avoidance or mitigation of adverse impacts on agricultural industry.

(10c) The Court may make any order for costs against a tenement holder it thinks necessary to meet costs incurred in relation to undertaking an agricultural impact assessment.

I will be very brief with this one. This was an amendment that was specifically requested by the Yorke Peninsula Landowners Group. They, in their thorough investigation of different regimes around Australia, discovered that in New South Wales, under that state's strategic regional land use policy, they have a requirement for agricultural impact assessments to be undertaken. The amendment that I have put forward here basically says that, where there is an exempt land dispute that involves farming land or agricultural land, the court will require that an agricultural impact assessment report is undertaken. That report will be undertaken at the cost of the mining company, and that report must be made available to the court before it makes a decision on whether or not to allow mining to proceed on exempt land.

In other words, it is designed to improve the information base on which the decision-maker makes its decision, and it is consistent with other amendments I have moved to say that the court should be paying more attention to alternative and competing land uses, such as farming, and no better way to make sure all the information is there than if a proper agricultural impact assessment is undertaken. People might say, 'Well, that will add to the cost,' to which my response is, 'Yes, if you really want to mine on farming land, you've got to really want to mine on farming land, and it's going to cost you.'

We are trying to make more accessible land outside of farming areas more attractive by making farming land proportionately less attractive. But, if the company really wants to get stuck into farmland, then part of the cost of their doing business is that they will have to seek one of these agricultural impact assessments and pay for it.

The Hon. F. PANGALLO: I will be supporting the Hon. Mark Parnell's amendment. I will not go into much detail as I have already gone through previously the impacts and importance of our agricultural sector and protecting valuable farmland. I think this amendment goes a long way towards helping do that. Looking at and taking into account its value I think is quite important in determining the future of that valuable tract of land. I will be supporting that, and in doing so I will not be moving my amendment No. 15.

The Hon. J.A. DARLEY: I indicate that I will be supporting the amendment.

The Hon. R.I. LUCAS: The government opposes the amendment. This amendment obliges the court, before making a determination in relation to exempt land, to require an agricultural impact assessment. In practice, this means that explorers and miners will have to fund an agricultural impact assessment, whether or not the court considers it is necessary. Under the current legislative framework and under the bill the court has the latitude to consider relevant matters that impact on agriculture.

This amendment mandates in a particular way for every case what must be considered, whether or not they are relevant to that case. In practice, this will be at the expense of the explorer or miner, both in terms of time and cost, creating red tape and reducing the flexibility of the court to direct its investigations according to the case at hand. Notwithstanding that prioritising one industry over all others is anathema to the concept of multiple land use, this amendment is an unabashed attempt to impose a right of veto through the introduction of unachievable process constraints and unaffordable costs. For those reasons, the government opposes the amendment.

Amendment negatived.

The CHAIR: We now come to amendment No. 16 [Pangallo-1].

The Hon. F. PANGALLO: This amendment essentially means that you cannot waiver exemptions that prevent operations within the prescribed distances, even though we have already decided that that has been defeated. That was the extent of this amendment, and I imagine it will not be getting up.

The CHAIR: The Hon. Mr Pangallo, are you moving it?

The Hon. F. PANGALLO: No.

The CHAIR: We are now up to amendment No. 17 [Pangallo-1], which is identical to amendment No. 12 [Parnell-1]. I just need some guidance from the movers, whether that is consequential in their view.

The Hon. M.C. PARNELL: My amendments Nos 12 and 13 are consequential. They relate to the issue we have already dealt with. I will not be moving them.

The CHAIR: I think that applies to your amendment, the Hon. Mr Pangallo, amendment No. 17?

The Hon. F. PANGALLO: Yes, Chair.

The CHAIR: I just want to make sure we get this for *Hansard*. They are not going to be moved, so now we come to amendment No. 18 [Pangallo-1].

The Hon. F. PANGALLO: It is consequential, I think, Mr Chair.

The CHAIR: Yes, it is, thank you. We have amendment No. 14 [Parnell-1] and amendment No. 19 [Pangallo-1]. The Hon. Mr Parnell has filed his amendments.

The Hon. M.C. PARNELL: Amendment No. 14 is consequential on the vote we have just had. It relates to agricultural impact assessments, so I will not be moving amendment No. 14.

The CHAIR: Thank you. That will also apply, if you agree, the Hon. Mr Pangallo, to your amendment No. 19 [Pangallo-1]?

The Hon. F. PANGALLO: Yes, I will not be moving the amendment.

The CHAIR: The last proposed amendment on clause 9 is amendment No. 20 [Pangallo-1].

The Hon. F. PANGALLO: Again, I think it is consequential, so I will not be moving that.

The CHAIR: Thank you for that. There are no further amendments filed in respect of clause 9.

Clause passed.

Clauses 10 to 21 passed.

Progress reported; committee to sit again.

RETAIL AND COMMERCIAL LEASES (MISCELLANEOUS) AMENDMENT BILL

Second Reading

The Hon. R.I. LUCAS (Treasurer) (18:10): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation and the detailed explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

Mr President, the retail and commercial leasing sector is dominated by small businesses. This sector is of vital importance to South Australia's economy and is a major provider of employment in this State. The property industry is also a major contributor to the State's economy through its provision and development of retail premises.

Underpinning the relationships between property owners and their small business tenants is the *Retail and Commercial Leases Act 1995*. The primary purpose of the Act is to protect the position of lessees of retail shop premises who pay rent below a specified threshold.

The Attorney-General, in her second reading speech, traversed the history of this Act and the Review that led to this Bill in great detail, along with the Government's substantive changes.

For the benefit of the Council, in brief, the recommendations arising out of the Moss Review of the principal Act was the basis of the 2017 Amendment Bill which passed the Assembly but lapsed due to Parliament's prorogation. That Bill is the basis of the one before the Council, with several further amendments included as a result of feedback that has occurred with stakeholders subsequently.

The current Bill intends to make processes under the Act less ambiguous and improve the transparency of the legislation, which is what industry expects.

The amendments aim to build on the existing protective measures for lessees within the legislation by:

- Making it explicit that retail shop leases can 'move into' and 'out of' the jurisdiction of the Act by means of adjusting the 'rent threshold;
- Clarifying arrangements for the provision of information to lessees entering into leases such as draft leases and Disclosure Statements;
- Increasing the various maximum penalties within the Act, which has not been done since 1995;
- Permitting the Government to exclude certain 'classes' of leases and licences from the application of the Act; and
- Permitting the Small Business Commissioner to certify exclusionary clauses, and exempt leases and licences from the Act.

The proposed changes to section 4 of the Act relating to the application of the Act will apply prospectively from the date that the amendments take effect, and clarifies when the Act will apply, following a level uncertainly following the *Diakou* decision.

When the former Bill was debated in September 2017, an amendment was made to make clear that the terms 'public company' and 'subsidiary' have the same meaning as in section 9 of the *Corporations Act 2001* of the Commonwealth. Effectively this means that a public company is a company other than a proprietary company. This amendment, which provides further clarity as to the scope of leases captured by the Act, has been incorporated in the current Bill.

During the debate on the former Bill, the question of whether overseas companies and their subsidiaries should be exempted from the protections of the Act was raised. The current Bill includes a provision excluding bodies corporate whose securities are listed on a stock exchange outside Australia from the application of the Act. This provision is based on the equivalent provisions in Victoria and New South Wales, and applies to leases entered into after the commencement of the provision. It is intended that the Act may or may not apply to a lease depending on whether the lessee, at any given time, is or is not a foreign company within the meaning of the Act. For example, if the lessee is a foreign company at the time the lease is entered into, then the Act not will apply. However, if, at any time during the term of the lease the lessee ceases to be a foreign company, the Act may again apply to the lease.

Mr President, the Government proposes five further amendments in the current Bill that have not been previously considered or debated in the context of the former Bill.

The first is an amendment to address the complex issue arising from an increase to the rental threshold in 2010 made by the regulations. The Government recognises that this change in the threshold has caused great difficulties for some landlords and tenants with long term leases. The Government proposes an amendment to make it express within the Act that a registered lease, which at the time of registration falls outside of the rental threshold,

shall remain outside the Act regardless of any increase to the threshold which would bring the lease within the scope of the Act.

This proposed amendment would cater particularly for long term leases (such as for hotels and motels) where the rent may exceed the current threshold of $400,000 when the lease is entered into, but is subsequently captured by the requirements of the Act when the rental threshold is raised and the rent falls below the raised threshold. This amendment will provide a clear opportunity at the point at which the lease in entered into for parties to protect the value of the lease, and addresses the issues raised by the Deputy Premier and Attorney-General when the former Bill was debated in the lower house.

The second amendment seeks to ensure that public companies limited by guarantee and registered with the Australian Charities and Not for Profit Commission are not excluded from the application of the Act, thereby ensuring that this type of lessee is still afforded the consumer protections provided under the Act. If, after the commencement of this amendment the status of a registered charity changes, the registered charity may subsequently fall within or outside the application of the Act. For example, the Act will apply to a public company that is a registered charity at the time the lease is entered into. However, if that company is later deregistered as a charity but remains a public company, then the Act will no longer apply.

Proposed section 4(6) has been inserted to make clear that the Act may or may not apply to a lease depending on whether a lessor or lessee becomes or ceases to be a lessor or lessee of a kind referred to in proposed section 4(2) of the Act.

The third amendment increases the security from an amount not exceeding four weeks' rent to an amount not exceeding three months' rent, which is based on the recommendation set out in the Moss Review and feedback received from key stakeholders and industry groups. This amendment will provide greater protection to tenants. Stakeholder feedback suggests that one month rental bond results in landlords acting too quickly to terminate the lease of a slow paying tenant.

The fourth amendment changes references to sections 23 and 35 of the Act. Since the Act was last amended, the Australian Institute of Valuers and Land Economists has changed its name to the Australian Property Institute. The organisation has also amended its constitution to replace the reference of 'President' with 'Chair'. These changes are reflected in the amendments to these sections.

The final amendment is a technical amendment to section 32(e) of the Act to include a reference to the Emergency Services Levy in outgoing statements.

Mr President, I commend this Bill to the Council.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Retail and Commercial Leases Act 1995

4—Amendment of section 3—Interpretation

This clause inserts definitions of *GST* and *GST law* which are consequential on the amendments to the Act in relation to rent and rent threshold. Definitions of *public company* and *subsidiary* (terms used in section 4 of the Act) are also added, to have the same meaning as in the *Corporations Act 2001* of the Commonwealth. This clause also inserts a new subsection setting out the meaning of *prescribed threshold* in relation to the rent payable under a retail shop lease. The threshold of rent is defined to mean the amount of $400,000 per annum or such greater amount that may be prescribed by the regulations. The amount of $400,000 is the same amount as is currently prescribed by the regulations for the purposes of section 4. The definition also clarifies that the threshold amount does not include GST.

5—Amendment of section 4—Application of Act

This clause substitutes section 4 as follows:

4—Application of Act

Proposed section 4 sets out the circumstances in which the Act will or will not apply to a retail shop lease. In addition to re-enacting the provisions in the current section, the proposed section re-enacts and amends the provision currently in section 4(2). This is to clarify and provide for additional circumstances in which the rent threshold may be a determinative factor in whether or not the Act applies to a retail shop lease and to include 2 new circumstances in which the Act will or will not apply to a retail shop lease.

Proposed section 4(2)(a) provides that the Act does not apply to a retail shop lease at any time the rent payable under the lease exceeds the prescribed threshold (that is, $400,000 per annum). This provision will

apply to leases entered into before or after the commencement of the provision, and regardless of whether the Act does or does not apply in relation to the lease at the time the lease is entered into. This means that the Act may apply or cease to apply to a particular lease during the term of the lease, either as a result of a change in the amount of rent that may be payable (for example, as a result of a rent review), or as a result of any increase in the amount of the prescribed threshold (by way of a regulation under the Act).

If, at the time a lease is entered into, the rent payable under the lease exceeds the prescribed threshold (and thus the Act does not apply to the lease), proposed subsection (3) provides for a mechanism whereby the parties may prevent the Act ever applying to the lease in circumstances where the Act would otherwise apply because of the provisions in proposed subsection (2)(a). If a retail shop lease is lodged for registration by the lessor within 3 months after the lease is executed, and in relation to which the lessor has provided written notice of lodgement to the lessee within 1 month of lodgement and, at the time of lodgement, the rent payable under the lease exceeds the prescribed threshold, the Act will not apply to the lease and will continue not to apply to the lease despite the fact that the Act would otherwise, or may in the future, otherwise apply to the lease (either as a result of a change in the amount of rent that may be payable or any increase in the amount of the prescribed threshold).

Proposed subsection (4) provides 2 circumstances in which the provisions in proposed subsection (3) do not apply. The first is to or in respect of a lease entered into before the commencement of the proposed provision. The second is to the renewal of a lease on or after the commencement of the proposed provision pursuant to a right or option conferred by a lease entered into before that commencement. The provision clarifies, however, that despite the definition of 'renewal' of a lease in section 3 of the Act, the provisions in subsection (3) may apply to or in respect of a new retail shop lease (whether on the same or different terms) entered into by an existing lessee and lessor after the commencement of the provision.

Section 4(2)(c)(i) of the current Act provides that the Act will not apply to a retail shop lease if the lessee is a public company or a subsidiary of a public company. Proposed subsection (2)(e) re-enacts and amends this provision to allow the Act to still apply if the public company is a public charitable company (or a subsidiary of a public charitable company). *Public charitable company* is defined in proposed subsection (7) as a public company limited by guarantee and registered under the *Australian Charities and Not-for-profits Commission Act 2012* of the Commonwealth.

Proposed subsection (2)(f) provides that the Act does not apply to foreign companies.

Proposed subsection (6) clarifies to avoid doubt, that the circumstances in proposed subsections (2)(d), (e), (f) or (g) may or may not apply to a lease over the term of that lease depending on whether the lessor or lessee becomes or ceases to be a lessor or lessee of a kind referred to in those paragraphs.

6—Insertion of section 6A

This clause inserts a new section:

6A—Valuer-General to review prescribed threshold

The proposed new section provides for the Valuer-General to conduct a review of the amount of the prescribed threshold for the purposes of the Act (being the threshold amount of rent at which the Act will cease to apply to a particular lease). On completing a review, the Valuer-General is to provide a report to the Minister on whether an increase in the prescribed threshold is recommended. The first review is to be conducted within 2 years of the commencement of this provision and every 5 years after that. The regulations may (but need not) specify requirements in relation to the review regarding matters to be considered by the Valuer-General, or consultation to be undertaken.

7—Amendment of section 9—Commissioner's functions

This amendment is consequential on the amendments to sections 20K and 77(2) of the Act by this measure, and reflects the fact that the Act assigns other functions to the Small Business Commissioner in addition to those set out in section 9.

8—Substitution of section 11

This clause substitutes a new section 11:

11—Copy of lease to be provided to prospective lessee

This clause provides that a lessor who offers, or invites an offer, to enter into a retail shop lease, or advertises that a retail shop is for lease, must provide a prospective lessee with a written copy of the proposed lease as soon negotiations are entered into. Under current section 11, a copy of the lease need only be made available to the lessee for inspection. As is the case for the current section 11, the copy of the proposed lease need not include the particulars as to the lessee, rent or term of the lease. In addition, the lessee must provide the lessee with a copy of the information brochure published by the Small Business Commissioner.

9—Amendment of section 12—Lessee to be given disclosure statement

This clause amends section 12 to provide that a lessor must, before entering into a retail shop lease, give the lessee a signed disclosure statement in duplicate. The lessee must then sign both copies of the statement and return 1 copy to the lessor within 14 days.

10—Amendment of section 14—Lease preparation costs

This amendment deletes the reference to stamping and stamp duty in relation to the lease, as this is no longer payable.

11—Amendment of section 15—Premium prohibited

This clause increases the penalty for the offence of seeking or accepting a premium in connection with the granting of a retail shop lease from $10,000 to $15,000.

12—Substitution of section 16

This clause substitutes a new section 16:

16—Lease documentation

Current section 16, which sets out the requirements for the provision of an executed copy of a lease to the lessee, has been rewritten to remove the references to stamp duty, as this is no longer payable on a retail shop lease. If a lease is not to be registered, the lessor is required to provide a copy of the executed lease within 1 month after it has been returned to the lessor following its execution by the lessee. In the case of a lease that is to be registered, the lessor must lodge the lease for registration within 1 month of its execution and return by the lessee, and a copy of the executed, registered lease must be given to the lessee within 1 month of the lease being returned to the lessor following its registration.

13—Amendment of section 19—Security bond

This clause proposes to amend section 19(1) to increase the penalty for requiring more than 1 security bond for the same lease or requiring the payment of security bond that exceeds 3 months rent from $1,000 to $1,500. The section is amended to provide that the amount of security bond and any calculation using the amount of security bond, is to be exclusive of GST. Clarification of the manner in which the maximum amount of security bond is to be calculated is provided for in subsection (1a).

14—Amendment of section 20—Repayment of security

This clause increases the time in which a written notice of dispute as to repayment of a bond must be lodged with the Commissioner under subsection (4) from 7 days to 14 days, and makes a consequential amendment to subsection (5).

15—Insertion of section 20AA

This amendment inserts a new section 20AA:

20AA—Return of bank guarantees

The proposed clause requires a lessor who has received a bank guarantee to return it to the lessee within 2 months of completing the performance of the obligations under the lease for which it was provided as security, unless the guarantee has expired or been cancelled, or for such time as there are court proceedings in relation to the guarantee. A consent or release necessary to have the bank guarantee cancelled may be provided instead if a lessor is unable to return the original guarantee. A lessor may be liable to pay a lessee compensation for any loss or damage suffered as a result of failing to return a bank guarantee, as well as any reasonable costs incurred by the lessee in connection with cancelling the guarantee. This provision will apply to a bank guarantee given in relation to a lease whether entered into before or after the commencement of this provision.

16—Amendment of section 20B—Minimum 5 year term

This clause amends section 20B by removing the reference to a period of holding over exceeding 6 months. This is to make it clear that a period of holding over after the termination of an earlier lease greater than 6 months, does not imply a new 5 year term of the lease.

17—Amendment of section 20K—Certified exclusionary clause

This clause amends section 20K to include the ability for the Commissioner, in addition to an independent lawyer, to sign a certificate in relation to a certified exclusionary clause. The Commissioner may require payment of a prescribed fee for providing such a certificate.

18—Amendment of section 20L—Premium for renewal or extension prohibited

This clause increases the penalty for the offence of seeking or accepting a premium in connection with the renewal or extension of a retail shop lease from $10,000 to $15,000.

19—Amendment of section 20M—Unlawful threats

This clause increases the penalty for the offence of making threats to dissuade a lessee from exercising a right or option to renew or extend a retail shop lease or exercising the lessee's rights under Part 4A of the Act from $10,000 to $15,000.

20—Amendment of section 23—Reviews to current market rent

This clause updates the reference in the section from the President of the Australian Institute of Valuers and Land Economists (SA Division) Inc. with the Chair of the South Australian State Committee of the Australian Property Institute Limited. The clause also provides that, for the purposes of the section, the holder of such other office representing property interests in the State may, instead, be prescribed by the regulations.

21—Amendment of section 24—Turnover rent

This amendment increases the penalty from $1,000 to $1,500 for the offence of a lessor requiring a lessee to provide information about the lessee's turnover when the lease does not provide for rent or a component of the rent to be determined by reference to turnover.

22—Amendment of section 32—Lessor to provide auditor's report on outgoings

This amendment adds a reference to the emergency services levy to section 32(e). It also updates an obsolete reference with a reference to the *Corporations Act 2001* of the Commonwealth.

23—Amendment of section 35—Determination of current market rent under options to renew

This clause updates the reference in section 35(1)(c) from the President of the Australian Institute of Valuers and Land Economists (SA Division) Inc. with the Chair of the South Australian State Committee of the Australian Property Institute Limited. The clause also provides that, for the purposes of the section, the holder of such other office representing property interests in the State may, instead, be prescribed by the regulations.

24—Amendment of section 44—Premium on assignment prohibited

This clause increases the penalty for the offence of seeking or accepting a premium in connection with consenting to the assignment of a retail shop lease from $10,000 to $15,000.

25—Amendment of section 51—Confidentiality of turnover information

The amendment to this section increases the penalty for the offence of divulging or communicating confidential information about the turnover of a lessee's business from $10,000 to $15,000.

26—Amendment of section 55—Lessor to provide auditor's report on advertising and promotion expenditure

This clause updates obsolete references with references to the *Corporations Act 2001* of the Commonwealth.

27—Amendment of section 75—Vexatious acts

This clause increases the penalty for the offence of parties to a lease engaging in vexatious conduct in connection with the exercise of a right or power under the Act or a lease from $5,000 to $8,000.

28—Amendment of section 77—Exemptions

This amendment provides that, in addition to the Magistrates Court, the Commissioner may grant an exemption from all or any provisions of this Act, on the application of an interested person, in relation to a particular retail shop lease (or proposed lease) or a particular retail shop (or proposed shop). The clause also increases the penalty for contravening a condition of an exemption granted under section 77 from $500 to $800.

29—Substitution of section 80

This clause substitutes a new provision setting out the regulation making powers under the Act:

80—Regulations

The proposed new section 80 sets out the regulation making powers under the Act to include those provisions now more commonly included. It provides that any regulations made may be of general or limited application and may confer powers or impose duties in connection with the regulations on the Minister or the Commissioner. As is currently the case, it also allows for regulations to prescribe codes of practice to be complied with by lessees and lessors and to impose maximum penalties of $2,000 for contravention of a regulation. The regulations may also make provision of a saving or transitional nature and make different provision according to the classes of persons or matters to which it is expressed to apply, fix fees and make exemptions.

Part 3—Amendment of Landlord and Tenant Act 1936

30—Insertion of section 13A

This clause inserts a new section

13A—Jurisdiction of the Magistrates Court

Proposed new section 13A clarifies that the Magistrates Court has jurisdiction to hear and determine applications and proceedings under Part 2 in relation to distress for rent. If the jurisdictional monetary or property value limits of the Magistrates Court are exceeded, the proceedings are to be referred to the District Court.

31—Amendment of section 24—Adverse claims

This amendment is consequential on the insertion of new section 13A.

Debate adjourned on motion of Hon. C.M. Scriven.

SURROGACY BILL

Introduction and First Reading

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

At 18:12 the council adjourned until Wednesday 16 October 2019 at 14:15.

Answers to Questions

NATIONAL LOCKSMITHS LICENSING SCHEME

147 The Hon. K.J. MAHER (Leader of the Opposition) (11 September 2019). Can the Attorney-General advise, given the Master Locksmiths Association of Australia's call to develop a national licensing scheme for locksmiths to combat the rising number of locksmithing scams:

1. How many instances of locksmithing scams has the government been made aware of in South Australia?

2. How many people have been impacted by these locksmithing scams in South Australia?

3. How is the government monitoring instances of locksmithing scams?

4. What effects have these locksmithing scams had on the legitimate locksmithing industry?

5. How does South Australia compare to other states when it comes to instances of locksmithing scams?

6. Whether the government will commit to protect legitimate locksmithing businesses and consumers from locksmithing scams either via a state based or national based licensing system?

7. Will the Attorney General raise national locksmithing licensing at the next meeting of COAG?

8. Has the government considered introducing the Western Australian model of locksmith licensing and, if so, why hasn't the government introduced that model?

The Hon. R.I. LUCAS (Treasurer): The Attorney-General has provided the following advice:

1. This issue was originally raised in an email to me from a locksmith on 21 March 2019. This alleged that instances of the 'Israeli Locksmith Scam' may be occurring in South Australia, as several businesses were offering to open locks with relatively low callout fees. I asked the Commissioner for Consumer Affairs to look into this for me.

The commissioner advised that the 'Israeli Locksmith Scam' originated overseas. It involves a lead generator business, with numerous different online advertisements, sending out a minimally trained subcontractor who charges several times more than the quoted price to unlock a house or car. Sometimes the subcontractor damages the lock or property trying to unlock it.

The commissioner's agency, Consumer and Business Services (CBS), provides consumer advice and offers a dispute resolution service. A search of CBS records from 1 July 2018 to 13 September 2019 has not identified any consumer inquiries or complaints about locksmith scams. The commissioner noted that complaints of any kind about locksmiths are rare.

2. As none of these scams have been identified in SA, CBS is not aware that anyone has been impacted.

3. CBS monitors for trends primarily through its complaint data. It also monitors media reports and liaises with interstate counterparts and industry associations.

4. As none of these scams have been identified in SA, CBS is not aware that the industry has been impacted.

5. The commissioner is not aware of the prevalence of the issue interstate, as it has not been a topic of active discussion.

6. Before additional regulation is imposed on an industry, the government first looks to identify details of problems that have been occurring in that industry so that it can be determined whether a regulatory response is warranted and, if so, what the appropriate response should be. The government seeks to minimise red tape, and the resulting costs it can impose, while providing genuine protection to the community.

As complaints about locksmiths are rare and there have not been any about this alleged scam, there is insufficient evidence to justify imposing additional regulation on the locksmith industry at present. However, I have asked that the commissioner continue to monitor this issue in case issues become prevalent.

7. I will not be looking to raise this issue at COAG at this stage.

8. The commissioner has confirmed that people who provide a lock opening service do not need any particular licence in South Australia. However, the services they provide are covered by the consumer guarantees under the Australian Consumer Law. This includes a guarantee that the services will be provided with acceptable care and skill or technical knowledge and taking all necessary steps to avoid loss and damage. A consumer can seek compensation where a service provider breaches a consumer guarantee. They are also covered by other protections under the Australian Consumer Law, such as the prohibition on misleading or deceptive statements.

The current government has not looked to introduce the Western Australian licensing model for locksmiths as there has not been sufficient justification to do so.

MARREE, CLEAN WATER

148 The Hon. K.J. MAHER (Leader of the Opposition) (11 September 2019). Can the Minister for Environment and Water advise:

1. Why have residents in the town of Marree been without clean water since March 2019?

2. Why have the people of Marree been denied the delivery of clean water that other South Australians reasonably expect and receive, given that according to an interview with Jan Whyte on Radio Adelaide on 12 August, SA Water advised that they could provide the people of Marree with water, but only if the people of Marree pay for it?

3. Is it the policy of SA Water to allow any towns or communities that rely on local catchments and groundwater to simply go without clean water when these sources cannot provide enough usable water?

4. Will the town of Marree be forced to continue to rely on the kindness of others to continue to survive, given that the people in the town of Marree were helped by a member of the public who sent 'a truck full of boxes of water'?

The Hon. J.M.A. LENSINK (Minister for Human Services): The Minister for Environment and Water has advised:

Marree's drinking water requirements are currently met through private rainwater tanks. SA Water also supplies the township of Marree with a non-drinking water supply, with water drawn from nearby bores.

Marree is one of 19 non-drinking systems operated by SA Water, where the water supplied to the township is deemed unsuitable for drinking as it does not meet the criteria of the Australian Drinking Water Quality Guidelines 2011. Operation of non-drinking systems such as that at Marree are governed by the Water Industry Act 2012.

As a public corporation, SA Water is subject to economic regulation by the Essential Services Commission of South Australia (ESCOSA) and is required to be consistent with National Water Initiative Pricing Principles developed by the Australian government and state and territory governments in 2010. As a result, a general principle is applied to the provision of infrastructure and services whereby the end user, or main beneficiary, pays.

I understand that SA Water is proposing to upgrade a number of non-drinking supplies in regional areas to drinking water standard as part of its 2020-24 regulatory submission to ESCOSA.

PUBLIC TRUSTEE

149 The Hon. K.J. MAHER (Leader of the Opposition) (11 September 2019). Can the Attorney-General advise—

1. How many of the Public Trustee's investment service clients have transitioned out of being beneficiaries of a Public Trustee administered deceased estate, irrespective of whether or not an estate services officer has been assigned?

2. With particular regard to the retrospective nature of the proposed changes to the Public Trustee services covering the making of wills and enduring powers of attorney, does the Attorney-General or the Public Trustee have some sort of special dispensation to disregard contract law?

The Hon. R.I. LUCAS (Treasurer): The Attorney-General has provided the following advice:

1. Assuming that the question relates to section 29 (1)(b) investors, of the 233 that were with the Public Trustee at the time of the announcement in May, a total of 19 investors have transitioned to an alternative financial investment provider.

2. The changes to will and power of attorney making services are not retrospective. All existing wills and power of attorneys remain valid. Any non-concession holder wishing to amend their will or power of attorney from 1 July 2019 will need to use someone other than the Public Trustee to provide that service.

INTERNATIONAL EDUCATION STRATEGY

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (10 September 2019).

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment): I have been advised:

1. In March 2019, a new Memorandum of Administrative Arrangement (MOAA) between the Department for Trade, Tourism and Investment (DTTI) and StudyAdelaide was signed by the former Chief Executive of DTTI and the Chief Executive of StudyAdelaide. The MOAA covers the period 1 July 2018 to 30 June 2022. The MOAA enables StudyAdelaide to continue its remit of attracting international students and includes the implementation of the state government's election commitments with associated key performance indicators and milestones.

2. In the 2018-19 state budget, as per its election commitment, the state government increased StudyAdelaide's core annual funding (previously approximately $1 million) by $1.5 million to $2.5 million per annum ($10 million over four years). StudyAdelaide receives approximately 60 per cent of its funding from DTTI. The remaining funding is made up of membership fees, sponsorship and grant funding, with significant contributions from South Australia's state universities and the Adelaide city council. For a list of programs, I refer the honourable member to StudyAdelaide's annual report.

INTERNATIONAL EDUCATION STRATEGY

In reply to **the Hon. I.K. HUNTER** (10 September 2019).

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment): I have been advised:

1. In March 2019, a new Memorandum of Administrative Arrangement (MOAA) between the Department for Trade, Tourism and Investment (DTTI) and StudyAdelaide was signed by the former Chief Executive of DTTI and the Chief Executive of StudyAdelaide. The MOAA covers the period 1 July 2018 to 30 June 2022. The MOAA enables StudyAdelaide to continue its remit of attracting international students and includes the implementation of the state government's election commitments with associated key performance indicators and milestones.

2. In the 2018-19 state budget, as per its election commitment, the state government increased StudyAdelaide's core annual funding (previously approximately $1 million) by $1.5 million to $2.5 million per annum ($10 million over four years). StudyAdelaide receives approximately 60 per cent of its funding from DTTI. The remaining funding is made up of membership fees, sponsorship and grant funding, with significant contributions from South Australia's state universities and the Adelaide city council. For a list of programs, I refer the honourable member to StudyAdelaide's annual report.

SANITARY PRODUCTS IN SCHOOLS

In reply to **the Hon. C. BONAROS** (11 September 2019).

The Hon. R.I. LUCAS (Treasurer): The Minister for Education has advised the following:

In most schools it is common practice to have sanitary items available for students in emergencies. The Department for Education is not currently considering funding the provision of sanitary items in South Australian government schools.

The department has information available for schools which provides awareness of menstrual management and access to resources and learning tools.

HONEY BEE HIVES

In reply to **the Hon. M.C. PARNELL** (11 September 2019).

The Hon. J.M.A. LENSINK (Minister for Human Services): The Minister for Environment and Water has advised that:

The apiary industry in South Australia provides a critical service to the state's agriculture sector worth some $1.8 billion annually.

Having access to native flora is an important component in the management cycle for honey bees and maintaining bee colony health.

Similarly, our national park estate is critical in providing important protection for our native biodiversity and permitting public access to nature.

The government is committed to working to find an appropriate balance between protection and access to ensure benefits for our native biodiversity and the agricultural industry continue.

SOUTH AUSTRALIAN TRADE AND INVESTMENT OFFICE, UNITED STATES

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (11 September 2019).

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment): I have been advised:

Applications for the role of the Regional Director, Americas (Houston) have now closed and the shortlisting of applications has commenced by the Department for Trade, Tourism and Investment (DTTI). A recruitment panel comprising three senior representatives from the South Australian government and one senior representative of the Australian Trade and Investment Commission (Austrade) based in Houston will determine the preferred candidate and recommend an appointment. The Chief Executive, DTTI, will consider the process and panel's recommendation and endorse the selection.

TOURISM ADVERTISING

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (12 September 2019).

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment): I have been advised:

1. The quoted figure of 123,973 contains no overseas traffic as the success of the campaign is being measured by domestic metrics, however the breakdown is 68,292 visits from South Australia, 21,070 from Victoria, 18,642 from NSW, 9,588 from Queensland, 4,473 from Western Australia and the remaining 1908 from Tasmania, the ACT and the Northern Territory.

2. SATC noted that it was a mistake and has corrected it.

3. The TBWA Adelaide office is located on Level 1, 275 Rundle St, Adelaide. They have been there now since July 2018. They have five permanent Adelaide based staff and are developing their client list, including local companies such as Sweat, Adelaide University and the Jewellery Group.

As with all campaigns produced by the South Australian Tourism Commission (SATC), as many production and talent crew as possible and as much equipment as is available comes from Adelaide. This includes:

- Casting by Heesom Casting, South Australian Casting and Adelaide Actors Agency.
- Music tracks by Ollie English, Kate Fuller, Hartway Duo, Nvsty Militia and more.
- Talent including Duncan Welgemoed, Scott Bray, Susanna Pearce, Chris (Mayfair) and more. All extras were locals.
- Transport—Michael Cook.
- Catering—locals including Simpson's Kiosk Botanic Gardens, Little Sister Normanville and the Moseley
- Sound/audio is performed by the Audio Embassy.
- The voiceover artist is from Adelaide.
- Hair and makeup is conducted by Beverley Freeman.
- The 2nd AC, grip/gaffer, best boy, wardrobe, art department, sound recordist, safety officer, camera gear operator and radios operator were all local.

4. While approval is given to the overall strategy, and scripts for any audiovisual advertisements etc. are provided to the board and government approval committees, the SATC manages the full depth and breadth of a campaign in-house, including supporting online content.

5. The spring summer 'old mate' campaign did not launch in South Australia and is intended only for an interstate audience. It began on TV interstate on Sunday 1 September 2019. At the same time as this campaign went to air, the spring summer 'closer than you think' intrastate campaign also commenced Sunday 1 September 2019 to South Australian audiences and has been driving strong traffic to our sites.

TOURISM ADVERTISING

In reply to **the Hon. E.S. BOURKE** (12 September 2019).

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment): I have been advised:

1. The quoted figure of 123,973 contains no overseas traffic as the success of the campaign is being measured by domestic metrics, however the breakdown is 68,292 visits from South Australia, 21,070 from Victoria, 18,642 from NSW, 9,588 from Queensland, 4,473 from Western Australia and the remaining 1908 from Tasmania, the ACT and the Northern Territory.

2. SATC noted that it was a mistake and has corrected it.

3. The TBWA Adelaide office is located on Level 1, 275 Rundle St, Adelaide. They have been there now since July 2018. They have five permanent Adelaide based staff and are developing their client list, including local companies such as Sweat, Adelaide University and the Jewellery Group.

As with all campaigns produced by the South Australian Tourism Commission (SATC), as many production and talent crew as possible and as much equipment as is available comes from Adelaide. This includes:

- Casting by Heesom Casting, South Australian Casting and Adelaide Actors Agency.
- Music tracks by Ollie English, Kate Fuller, Hartway Duo, Nvsty Militia and more.
- Talent including Duncan Welgemoed, Scott Bray, Susanna Pearce, Chris (Mayfair) and more. All extras were locals.
- Transport—Michael Cook.
- Catering—locals including Simpson's Kiosk Botanic Gardens, Little Sister Normanville and the Moseley
- Sound/audio is performed by the Audio Embassy.
- The voiceover artist is from Adelaide.
- Hair and makeup is conducted by Beverley Freeman.
- The 2nd AC, grip/gaffer, best boy, wardrobe, art department, sound recordist, safety officer, camera gear operator and radios operator were all local.

4. While approval is given to the overall strategy, and scripts for any audiovisual advertisements etc. are provided to the board and government approval committees, the SATC manages the full depth and breadth of a campaign in-house, including supporting online content.

5. The spring summer 'old mate' campaign did not launch in South Australia and is intended only for an interstate audience. It began on TV interstate on Sunday 1 September 2019. At the same time as this campaign went to air, the spring summer 'closer than you think' intrastate campaign also commenced Sunday 1 September 2019 to South Australian audiences and has been driving strong traffic to our sites.

TOURISM ADVERTISING

In reply to **the Hon. T.A. FRANKS** (12 September 2019).

The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment): I have been advised:

1. The quoted figure of 123,973 contains no overseas traffic as the success of the campaign is being measured by domestic metrics, however the breakdown is 68,292 visits from South Australia, 21,070 from Victoria, 18,642 from NSW, 9,588 from Queensland, 4,473 from Western Australia and the remaining 1908 from Tasmania, the ACT and the Northern Territory.

2. SATC noted that it was a mistake and has corrected it.

3. The TBWA Adelaide office is located on Level 1, 275 Rundle St, Adelaide. They have been there now since July 2018. They have five permanent Adelaide based staff and are developing their client list, including local companies such as Sweat, Adelaide University and the Jewellery Group.

As with all campaigns produced by the South Australian Tourism Commission (SATC), as many production and talent crew as possible and as much equipment as is available comes from Adelaide. This includes:

- Casting by Heesom Casting, South Australian Casting and Adelaide Actors Agency.
- Music tracks by Ollie English, Kate Fuller, Hartway Duo, Nvsty Militia and more.
- Talent including Duncan Welgemoed, Scott Bray, Susanna Pearce, Chris (Mayfair) and more. All extras were locals.
- Transport—Michael Cook.
- Catering—locals including Simpson's Kiosk Botanic Gardens, Little Sister Normanville and the Moseley
- Sound/audio is performed by the Audio Embassy.
- The voiceover artist is from Adelaide.
- Hair and makeup is conducted by Beverley Freeman.
- The 2nd AC, grip/gaffer, best boy, wardrobe, art department, sound recordist, safety officer, camera gear operator and radios operator were all local.

4. While approval is given to the overall strategy, and scripts for any audiovisual advertisements etc. are provided to the board and government approval committees, the SATC manages the full depth and breadth of a campaign in-house, including supporting online content.

5. The spring summer 'old mate' campaign did not launch in South Australia and is intended only for an interstate audience. It began on TV interstate on Sunday 1 September 2019. At the same time as this campaign went to air, the spring summer 'closer than you think' intrastate campaign also commenced Sunday 1 September 2019 to South Australian audiences and has been driving strong traffic to our sites.

HOMELESSNESS

In reply to **the Hon. I.K. HUNTER** (24 September 2019).

The Hon. J.M.A. LENSINK (Minister for Human Services): The SA Housing Authority have advised that:

There were eight applications received for the role. One applicant withdrew their application before shortlisting was finalised.

Of the remaining seven applicants, three were interviewed and considered for the role.