HOUSE OF ASSEMBLY

Thursday 28 July 2011

The SPEAKER (Hon. L.R. Breuer) took the chair at 10:31 and read prayers.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

The Hon. M.F. O'BRIEN (Napier—Minister for Agriculture and Fisheries, Minister for Forests, Minister for Energy, Minister for the Northern Suburbs) (10:31): I move:

That the sitting of the house be continued during the conference with the Legislative Council on the bill.

Motion carried.

MAGISTRATES COURT (SMALL CLAIMS JURISDICTION) AMENDMENT BILL

Mr MARSHALL (Norwood) (10:31): Obtained leave and introduced a bill for an act to amend the Magistrates Court Act 1991. Read a first time.

Mr MARSHALL (Norwood) (10:31): I move:

That this bill be now read a second time.

If successful this bill will bring much needed amendments to the Magistrates Court Act 1991. These amendments, I believe, are long overdue and they have been designed to bring fast, effective and affordable justice to the small business sector in South Australia and the people of South Australia.

Madam Speaker, as I am sure you are aware, there are two divisions in the current Magistrates Court: the General Division and the Minor Civil Claims Division. Prior to coming into parliament I worked in the family business sector and my experiences in the small to medium enterprise sector informed the bill which I am introducing today.

The current Magistrates Court Act 1991 defines a 'small claim' as a matter which will be held in the Minor Civil Division of the Magistrates Court. The maximum amount that can currently be disputed as a small claim in South Australia is just $6,000. This is a fairly simple bill which is aimed at simply changing the threshold under which disputes can be held in the minor civil jurisdiction of the Magistrates Court, and I am proposing that we change this threshold to $25,000.

I believe that our current low threshold disadvantages businesses in South Australia. We are only one of two states in Australia, along with Tasmania, with a limit below $8,000. In New South Wales, Western Australia, ACT, and Northern Territory, the limit is $10,000 or above; and, in Queensland, the state with the most recent legislation in this area, the threshold is set at $25,000, which is the amount I am proposing in my bill today.

The original legislation and the threshold have not been reassessed since 1991, and I believe it is completely inadequate in this current economic climate. By having the limit set so low, we are forcing businesses and individuals to take disputes over relatively minor claims to the General Division of the Magistrates Court. This is often a significantly more expensive process and a significantly more timely process for our businesses and individuals.

Quite often the costs far outweigh the work of the original dispute, meaning that it is not worth the time, effort and money needed to effect justice for this important sector in South Australia. Moreover, this disadvantages the business community in South Australia and deprives them of cost-effective justice that they would be able to achieve in other jurisdictions around the country. This is particularly a problem for small businesses that do not bother taking disputes to court because it is simply not worth it. By raising the limit from $6,000 to $25,000, we would allow more small businesses, family businesses and individuals to achieve justice and cut down on the backlog in the General Division of the Magistrates Court. By having people represent themselves, instead of lawyers representing them, I believe that this will be more cost-effective, and I believe a fairer way of resolving minor civil claims.

Raising the limit of the Small Claims Court is one of the recommendations made by Judge Peggy Hora, a former thinker in residence in South Australia, brought here by the government. She published her report Smart Justice with a number of excellent recommendations and I would like to read a short quote from the report, where she stated:

...where there is a dispute involving a large sum of money (over $5,000)...only the wealthy or corporate bodies can afford to have it resolved in a court of law.

She is referring to the costs associated with taking a claim through the legal system in South Australia.

When I first introduced this bill, it was reported in the popular press that the Attorney-General had suggested that it was appropriate to look at an increase in the threshold, and I welcome that. I am asking for this government to heed the advice given to it by experts like Judge Peggy Hora and support the Magistrates Court (Small Claims Jurisdiction) Amendment Bill 2011. I believe that South Australians deserve fast, fair and cost-effective justice, just as much as people living in Queensland. As their elected representatives, I believe we have a duty to ensure that our justice system is as streamline, efficient and accessible as possible.

This is a genuine bill that I introduce today. I genuinely think that this simple amendment will address the disadvantage that our business sector and individuals currently suffer in South Australia. It is not something where I have sought to bash the government; it is not something where I have put out press releases talking about government neglect or anything like this. It is something that I genuinely feel would be very well regarded in the business sector and for individuals in South Australia. I ask all members of this place to support this simple amendment and help bring justice to the people of South Australia.

Debate adjourned on motion of Mrs Geraghty.

LIQUOR LICENSING (SUPPLY TO MINORS) AMENDMENT BILL

Mr GARDNER (Morialta) (10:39): Obtained leave and introduced a bill for an act to amend the Liquor Licensing Act 1997. Read a first time.

Mr GARDNER (Morialta) (10:39): I move:

That this bill be now read a second time.

I am introducing this bill because I believe that a child's parents and nobody else should be entitled to decide the circumstances in which a minor is introduced to alcoholic beverages. In South Australia, it is illegal to sell alcohol to a minor and it is illegal to allow a minor to consume alcohol in a public place or a licensed premise. There is, however, no law preventing an adult from lawfully obtaining alcohol and giving it to a minor, whether they are the child's parent or not, so long as they do so in a private residence. I do not believe that this is appropriate.

Simply put, this bill seeks to remedy this, to make it illegal to supply alcohol to a minor unless they are your child, or indeed your spouse, or unless you have explicitly been given permission to do so by a parent. In the precise language of the bill, a person who supplies liquor to a minor is guilty of an offence unless the liquor is supplied to the minor by an adult guardian or spouse of the minor or by an adult who is authorised to do so by an adult guardian or spouse of the minor.

My personal inclination is always against government telling people what to do or how to live their lives. What consenting adults choose to do, to consume or how they do it, will rarely trouble me, so long as they do so in a way that does not impinge on anyone else's freedoms—that is a pretty fundamental tenet of liberalism. But for many good reasons we have different rules for minors.

The family is in a way the first and best tier of government, but families do not always get it right and, until our young people turn 18, we as a society have acknowledged a responsibility to ensure that they are given every chance to succeed when they become an adult. We provide an education system, we impose duties of care upon a child's adult guardians, we provide government benefits and tax relief to families to assist in the nurture and development of young minds. We have all sorts of measures in place to protect their health.

We also prevent children from being able to undertake certain risk-taking behaviours for which their bodies and minds are not ready. They are not allowed to drive, except under certain limited conditions. They are not allowed to smoke or access pornography. In recent weeks, we have moved to prevent children from getting their ears pierced without parental consent, and we understand from the Deputy Premier that they will also be prevented from accessing violent video games. I would argue that this is an equally pressing matter.

While allowing that a parent may be the best placed to teach their child to have a responsible attitude towards alcohol, we have long acknowledged that it is not a great idea for children to drink. It is illegal for minors to be served alcohol in bars and police will send kids home if they are found drinking in a public park. Yet, according to the most recent data in 2008 from the

'Australian secondary school survey into students' use of tobacco, alcohol and over-the-counter and illicit substances'—I dread to think what the acronym is of that—60 per cent of our 12 to 17 year olds have had a drink in the last year. One in nine 13-year-old children and one in five 14-year-old children have had a drink in the last week. That is three children in the average year 7 class and six children in the average year 8 class who were drinking last week and who are going to be drinking again next week.

As children get older, as you might expect, the figures for alcohol consumption increase also. By the time the average Australian teenager turns 15 there is a fifty-fifty chance that, while some of us have been doing Dry July, they have not. This is far too young for children to be consuming alcohol at all, let alone on a regular basis. We have learned a great deal even in the last 10 to 15 years from modern brain mapping technology and have a much better understanding of adolescent brain development and cognitive function than previously. What we now know is that every downside about the effect of alcohol on the human body, and the brain in particular, is multiplied when that alcohol is consumed by teenagers, to the point that any positive social and physiological effects of sensible alcohol consumption that do or may exist for adults are completely overwhelmed.

There are libraries of material about this, but I particularly commend to all members an accessible document—which I can give you a copy if you like—entitled 'Alcohol and the teenage brain' by Professor Ian Hickie of the Brain and Mind Research Institute at the University of Sydney, which provides a useful summary of much of the recent scientific data and information. I think it is important that the parliament have a look at the science and consider it in its deliberations on this matter. So, for the benefit of members, I will briefly quote some of Professor Hickie's conclusions. He writes:

> If one weighs up the available evidence concerning direct risks to brain development, short and long-term effects on cognitive and emotional development and risks of associated injury due to poor judgement and lack of inhibition, on balance, two conclusions now appear to be justified:
>
> 1. Alcohol should not be consumed by teenagers under the age of 18 years; and
> 2. Alcohol use is best postponed for as long as possible in the late teenage and early adult years.
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> The key emerging scientific issues that support this view are:
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> - the frontal lobes of the brain underpin those major adult functions related to complex thought and decision, and inhibition of more child-like or impulsive behaviours. These parts of the brain undergo their final critical phase of development throughout adolescence and the early adult period;
> - Alcohol, even in small doses is associated with a reduction in activity of the normal inhibitory brain processes. Given that such processes are less developed in teenagers and young adults, alcohol use is likely to be associated with greater levels of risk-taking behaviour than that seen in adults;
> - Alcohol normally results in sedative effects as the level of consumption rises. It appears that teenagers and young adults are less sensitive to these sedating effects and are therefore likely to continue with risk-taking behaviours. As they also experience loss of control of fine motor skills, the chances of sustaining serious injuries (including head injuries) are increased;
> - Exposure to significant levels of alcohol during the early and mid-adolescent period appears to be associated with increased rates of alcohol-related problems as an adult, as well as a higher rate of common mental health problems, such as anxiety and depression;
> - Young people with first lifetime episodes of anxiety, depression or psychotic disorders, who also consume significant amounts of alcohol, are at an increased risks of self harm, attempted suicide, accidental injury, as well as persistence or recurrence of their primary mental health problem.

Given the clear evidence that the effects of alcohol on minors is significantly worse than on adults and given the alarming numbers of minors drinking regularly, I cannot fathom why the government is so fixated on telling consenting adults what to do in supervised licensed premises, rather than focusing on our teenage drinking culture.

I have spoken to many parents since my election who feel powerless to stop their school-aged children from drinking. Not only does current legislation permit under-age drinking on private property, the pervasive culture among teens encourages regular drinking and often to excess. Most parents are reluctant to let their children drink alcohol, and certainly not to excess, but they also do not want their children to be ostracised by their peers. They are currently faced with an impossible choice when the invitations to parties come in, just as they are faced with difficult choices when their kids pressure them to host such gatherings because everyone else in their group has had a turn.

How empowering would it be for a parent in this circumstance to be able to say to their child, 'You can have your friends over, but I won't give them alcohol: it's against the law'. Under our present arrangements a parent in this situation who has questions about how to prevent their child's party from becoming a booze-fuelled nightmare, might turn to the government's current publication called *Teenage parties. A parent's guide*. Under 'Party tips and your legal responsibilities outlined' party hosts are encouraged to supply alcohol, rather than letting guests bring their own because 'that way you can control the amount and type available. Your son's friends, who are under 18, may consume alcohol in your home as it is a private premises.'

Poor grammar aside, the many parents whom I have spoken to in recent months as I have been preparing this bill have been overwhelmingly either preferring their child to abstain from drinking or at least be in control themselves of what their child consumes. A common story is that the parent drops off their child at a party, with perhaps two bottles or cans of the drink of their choice so that they can fit in without going overboard, and their child is under instruction not to drink anything supplied by anyone else. The government's party guide seems to disapprove, telling hosts that:

> Allowing teenage guests to bring their own alcohol to your party means that you may have less control over what they do with it.

It goes on to suggest that because it is illegal to charge entry to a teen party where alcohol is provided, or to sell alcohol to teens, a way of getting around this can be through a pooled money arrangement, where all the kids put in the money, which the host can then take to the bottle shop and purchase the alcohol with and then bring it back to the party. That is great advice from the government.

I note that the minister claimed on the radio this morning—and I quote from the ABC's website, 'It's illegal for people to buy alcohol for minors now.' Now either he or the department knows what the law is, but I guess that so long as at least one of them does, that is something. Teen drinking is not an easy culture to change, but that does not mean it is not worth trying. It is just not good enough for us to throw up our hands and add to the problem.

There is a wealth of reasons, short and long term, why we should discourage children from drinking. Some of the obvious harms and dangers that we all know about include drink driving, fighting, unplanned, unsafe and often non-consensual sexual experiences, self-harm, potential overdose and other risky behaviours resulting in accident and injury.

Too often we see the tragic results of serious injuries from drunken fights at school parties ending in hospitalisation, just as we see too many tragic suicides of people whose long-term depressive conditions may be exacerbated by alcohol abuse. And we know that the earlier children are exposed to alcohol and start drinking regularly the more likely they are to be susceptible to alcohol abuse later in life with all of the associated problems that come with that.

We need to increase our efforts in educating parents and teens about the consequences of alcohol use on the growing brain, and there needs to be a serious community debate about the subject. This is very important, and I hope that the introduction of this bill will help to trigger that. In fact, at least four experts I note have been given air time on Adelaide radio just this morning, providing the sort of information that is very useful for parents to know about.

I think that is an excellent outcome before the introduction of this bill had even happened, and I hope that that public discussion will continue. I also note that this morning the Australian Drug Foundation (ADF) declared that this should be 'a no-brainer'. The ADF's Geoff Munro is quoted in *The Advertiser* , saying:

> Without this legislation, any person can give any child any amount of alcohol without that child's parents knowing or approving.

And that is the very concern that was first raised with me by several constituents who were fed up with the easy access to alcohol at parties associated with events at their children's school. In the five months since then I have been investigating and researching this issue, consulting with parents and school groups within my electorate and experts and representative groups more broadly and two particular themes have come through very strongly.

First, the science says that alcohol is a disaster for the teenage brain. Secondly, parents want to be the ones who decide what sort of exposure their children should have to alcohol. I accept and strongly agree with both those principles, and that is what this bill seeks to address. However, I believe in consulting as broadly as possible before making a change such as this, and

that is why today is probably a good day to introduce the bill. The winter break will provide plenty of opportunities for all members to consult within their electorates, and members of the public will have plenty of time to let us know what they think about this sort of measure.

If there are genuine improvements that can be made to the bill then I am very happy to talk about that as well. We know that these sorts of measures can be introduced without causing inconvenience to people who are doing the right thing, as is evidenced by the generally positive response to similar legislation in New South Wales in 2007 and Queensland and Tasmania in 2008. Indeed, the Victorian parliament passed a bill similar to this in May this year.

Colleagues I have spoken to in those states have expressed similar sentiments to the health experts. Nobody is saying that it is a cure-all, but it is certainly a useful law and its impact is positive. I note that in yesterday's Australian Institute of Health and Welfare's national household survey of drug and alcohol there has been a statistically significant drop in the level of teen drinking in the three years since these laws were passed on the east coast.

Many other measures have also been undertaken in that time, and I particularly note those excellent commercials that DrinkWise has produced which demonstrate the father telling his child to go and get him a beer and then the child walking back and the TV changing that child into the father telling his child to get a beer, and that is the way that our culture perpetuates our alcohol-friendly culture.

All those things and other government solutions are helping, but I do not doubt that these laws are part of the overall solution. The Queensland and Tasmanian legislation is stricter than what I am proposing in that it does not allow for parents to provide consent for other adults—even family members—to supply alcohol. In following the New South Wales and Victorian model of allowing consent to be given, I do so on the basis that my first principle is to put control back in the hands of parents.

The bill in front of the house has been informed by the experience of those jurisdictions. In Queensland, for example, where the maximum penalty is theoretically an $8,000 fine, of the 25 charges that have been concluded over three years only one actually resulted in a fine of greater than $1,000, and in that case the offender was also found guilty of supplying dangerous drugs.

By contrast, 13 charges drew fines of less than $500, many with no conviction recorded, along with several good behaviour bonds and community service orders. This bill has a lower maximum penalty than that of $5,000. Its goal is not to be punitive: rather, it gives police an extra tool to break up unruly parties involving under-age drinking without anyone needing to be taken to court at all, and it has sent a message to us all that it is inappropriate to serve alcohol to children and teenagers.

I look forward to hearing many points of view in the months ahead, and I hope that all my colleagues on both sides of the house will consider the matter very seriously.

Debate adjourned on motion of Mrs Geraghty.

CRIMINAL LAW CONSOLIDATION (CHILD PORNOGRAPHY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 March 2011.)

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (10:57): I indicate that there is general support for the proposal being moved by the member for Davenport. We have been in discussion on this matter for some time, and I appreciate his bringing this matter forward.

I think it is important to put on the *Hansard* record, though, that, whilst I do not oppose—obviously: in fact, I am agreeing to—the general thrust of the member for Davenport's proposal, there is no right or wrong answer to this particular question. In fact, each of the Australian jurisdictions has different rules for ages of consent and the particular matter that we are looking at here, and there is no national uniform position. I think that is probably unsatisfactory and it would be better if every state in the commonwealth and the territories had an identical way of dealing with these matters; but, that said, that does not mean that we cannot adjust the arrangements that we have here.

I indicate general support for the bill. I will be moving some minor amendments, which I understand the member for Davenport will be supporting, and it is probably appropriate that we go into committee.

The Hon. I.F. EVANS (Davenport) (10:59): I thank the Attorney for arranging a meeting with me and his officers to discuss this matter and for accepting the principle of the bill. The opposition will be accepting the government's amendments because we accept the premise of them. As we all know, governments quite often do not accept private members' legislation, so I thank the Attorney for his courtesy in this matter and look forward to the committee stage.

Bill read a second time.

In committee.

The Hon. J.R. RAU: I am not sure what you will permit us to do, but I understand from the member for Davenport that he is quite content if I move all the amendments set out in schedule 10(1), which is in my name, as a block and agree to all of them. We did try this the other day, Mr Acting Chairman, and we got ourselves in a bit of bother, but we will see how we go this time.

The ACTING CHAIR (Hon. M.J. Wright): We still need to go through the clauses.

Clauses 1 and 2 passed.

Clause 3.

The Hon. J.R. RAU: I move:

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Line 12 [clause 3(2)]—Delete '18' and substitute '17'

Line 17 [clause 3(3)]—Delete '18' and substitute '17'

The Hon. R.B. SUCH: I believe we are allowed to speak on the clause.

The ACTING CHAIR: Okay, member for Fisher.

The Hon. R.B. SUCH: I will be very brief. First of all, I commend the Attorney and the opposition for approaching this in a bipartisan way. I think it is a good use of parliament and that is what we are here for, to get a better outcome for the community. In relation to the issue of pornography, I have raised this before, and I want to emphasise it again: I am not convinced that we have the definition of pornography right in the way it is used in legislation and in the community, because people have different perspectives on what it actually means.

There was an article in *The Advertiser* on the weekend, in their magazine, over three pages. Overall it was a good article—one of the experts quoted was Professor Dines, who is regarded internationally as a commentator on this issue—except never once was the topic defined; never once was pornography defined. I think that is very much unacceptable, and it leads to a whole lot of problems, because what one person regards as pornography, another person may not.

Some people think children running around naked by definition is pornography. At the same time we have in our law reference to what is, in my view, not pornography, but is often called pornography: the rape and sexual assault of young children. I do not call that pornography. I call that sexual assault or rape, but under the current approach that is labelled as pornography.

When I corresponded recently with the police minister he said the police use the term 'child exploitation'. I do not think that conveys the seriousness of sexual assault; penetration of a child is not pornography in the sense that most people in the community understand it. I have written to the Attorney about this. I think we need to get a better grasp on what we are actually talking about. The related issue is in terms of paedophilia, which ironically has gone from what was a positive term, 'lover of children', to now basically an abuser of children.

An issue has arisen and been highlighted in Victoria recently, where teenagers are being classified and put on the sex offenders register. I will give one case that came to my attention. This is a Victorian case where a young lad received unsolicited photographs from a girlfriend, semi-naked photos of her and her friends, and a separate incident happened, unrelated to sexual activity. This lad, to defend himself, said to the police, 'You can have a look at my computer, you can have a look at my mobile phone. I was not involved in this particular criminal action.' It had nothing to do with sexuality. On trawling through his computer, the police came across these

images sent to this teenager by a teenage girl, unsolicited, and that lad is classified then as a sex offender and he will go on the sex offender register and will be on there for years and, for example, will not be able to train as a teacher. He did not solicit that material; he did not want it. It was discovered by accident by the police looking into something else.

The point I make is that we have to be very careful that we do not have the same situation here where teenagers who do things that we would not do—expose parts of their body as part of the growing up process, of being silly with dares and all that sort of thing. Young lads put their bare backside out of the window and young girls take photographs of themselves.

I think we have to be careful to distinguish between people who abuse children sexually, particularly those who do it in a horrendous way, and teenagers who might be thinking they are just having a bit of harmless sexting, and it probably is relatively harmless. It is not quite playing nurses and doctors but it is the next step up, and I think we have to be very careful that we do not create criminals out of teenagers who, through a momentary act, send a photo they probably should not to their mate and, as a result, their mate ends up on the sex offenders register and damages their career and life.

The Hon. J.R. RAU: I acknowledge and understand the points that the honourable member for Fisher is making, and I would be very happy to sit down and have a chat with him about those matters because they are actually delving into matters that, whilst they are related, do not directly concern the amendments that the member for Davenport has put forward. I do understand the points that are being made and I think I am—

The Hon. R.B. Such: I was just using the opportunity.

The Hon. J.R. RAU: Yes, I know you were and I am delighted to have a chat with you about that in the future but, at this stage, I would like to get back to amendments Nos 1 and 2 to clause 3.

The Hon. I.F. EVANS: I will just explain to the house what the amendments seek to do. In my bill I had changed the age where the child pornography offences commence from the existing provision of under 16 years to under 18 years. The government's amendments essentially amend my proposal to bring it to under 17 years, so it will capture those people between the ages of 16 and 17. The government, as I understand it, is taking that year because 17 is the age of consent, and I accept that amendment.

All through these amendments they are uniforming the age at 17, so it will cover that period from 16 to 17 which currently under the Criminal Law Consolidation Act is not covered for child pornography reasons. For people of authority, the government are making it 18—people of authority being teachers, ministers of religion, etc. So, all of these amendments relate to those principles. We are accepting them, so I do not need to speak on any other amendment.

Amendments carried; clause as amended passed.

Clause 4.

The Hon. J.R. RAU: I move:

Page 2—

Line 21 [clause 4(1)]—Delete 'age of 17 years' and substitute:

prescribed age in relation to that person

Line 23 [clause 4(2)]—Delete 'age of 17 years' and substitute:

prescribed age in relation to that person

Line 25 [clause 4(3)]—Delete '18' and substitute '17'

Page 3—

Line 2 [clause 4(4)]—Delete 'age of 17 years' and substitute:

prescribed age in relation to that person

Line 4 [clause 4(5)]—Delete 'age of 17 years' and substitute:

prescribed age in relation to that person

Line 6 [clause 4(6), inserted subsection (4)]—Delete '(b)(i) or (3)' and substitute:

(1)(b)(i) or (3) (other than where the defendant was in *a position of authority* in relation to the child) if the defendant proves

After line 16 [clause 4(6)]—Insert:

(6) For the purposes of this section, a person is in *a position of authority* in relation to a child if the person is—

(a) a teacher (within the meaning of the *Education Act 1972*) engaged in the education of the child; or

(b) a foster parent, step-parent or guardian of the child; or

(c) a religious official or spiritual leader (however described and including lay members and whether paid or unpaid) providing pastoral care or religious instruction to the child; or

(d) a medical practitioner, psychologist or social worker providing professional services to the child; or

(e) a person employed or providing services in a correctional institution (within the meaning of the *Correctional Services Act 1982*) or a training centre (within the meaning of the *Young Offenders Act 1993*), or any other person engaged in the administration of those Acts, acting in the course of his or her duties in relation to the child; or

(f) an employer of the child or other person who has the authority to determine significant aspects of the child's terms and conditions of employment or to terminate the child's employment (whether the child is being paid in respect of that employment or is working in a voluntary capacity).

(7) For the purposes of this section, the *prescribed age* of a child in relation to a person is—

(a) if the person is in a position of authority in relation to the child—18 years; or

(b) in any other case—17 years.

Amendments carried; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. I.F. EVANS (Davenport) (11:10): I move:

That this bill be now read a third time.

Again, I thank the government for its support.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (MEDICAL DEFENCES—END OF LIFE ARRANGEMENTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 June 2011.)

Mr PICCOLO (Light) (11:10): I would like to make a small contribution to this debate. There are a couple of general comments I would like to make first and then follow up with some specific comments regarding the bill itself. One of the things which has interested me in this debate (not only this issue but other issues) is some discussion about who has the right to actually make a contribution to the debate; who has the right to express an opinion about the matter. There is interesting commentary in the media about the role of churches and other faith groups and whether they have a legitimate right to make a contribution to this debate, and that they should not get involved in politics—that is the allegation.

I have a considerable difficulty in a liberal democracy when we start saying that certain people can make a contribution to a debate but others have to be excluded because the view being expressed may not be the popular view or the common view or a view which is helpful to the debate. This has happened not only with this issue but with other issues. The first thing I would like to say is that my view is that everybody has a right to contribute to the debate. Those people who are saying that churches should keep out of it I think are wrong. I may not agree with all that is

being said by various parties but they certainly have a right to make a contribution to this important discussion, and any other discussion.

Interestingly, though, I find that the people who say that the churches should not have a say are often the people who are the loudest about protecting their right to have a say on other matters; yet they want to prevent other people from making a contribution to the discussion. By 'churches' I mean any churches, whether it is the church I belong to (the Catholic Church) or any other faith group. My view is that if they have a position or a view about a matter they have a right not only to express it but, in fact, I think they have an obligation to express it to provide input into any discussion.

The second issue of a general nature is that there has been some discussion in the public realm as to whether it should be a conscience vote or a party vote. The curious thing I found was that in some things I have read it was said that it should not be a conscience vote because people should just follow public opinion and MPs should be doing what the community tells them to do. It is interesting that, on the one hand, we have a body of people who say, 'Every issue should be a conscience vote and, as a result, we actually get a better democracy.'

The inconsistency here is that when a particular group think a conscience vote will help their particular view they will ask for a conscience vote; when they think a particular group may have a view which does not help, they will not ask for a conscience vote. I must confess, I am not clear which votes should be conscience votes and which should not. I have often debated that within my own party because so often I am not clear as to which issues have a greater element of conscience than others—but that is a discussion for another day.

However, I think it is important that the parties have declared it a conscience vote and we now have an opportunity to express our personal views on this matter. A very strong sentiment in the debate on this bill has been that the overall majority of people have expressed through opinion polls and surveys that we should support voluntary euthanasia. While it is true in a democracy that public opinion should be taken into account, and should have an input into decisions we make, if we were honest with ourselves, if you were to use popular opinion on every issue, there would be a lot of issues we do not agree with, for example, the death penalty.

There is still a lot of public opinion about the death penalty but we do not support that, so I think using popular opinion as the only basis for decision-making is flawed, and we as MPs, or any decision-makers, have an obligation to take into account all factors and make what is right for society as a whole, not only at this point in time but also what is right for society in the longer term. Public or popular opinion in many countries has led to some disastrous decisions where all nations have suffered.

Getting back to this debate itself, there are a couple of things I would like to mention. First of all, to some extent it has been portrayed by those who oppose this proposal, that it is essentially a euthanasia bill or a doctor-assisted suicide bill. As I read and understand it, the bill is not that at all. My understanding of this bill is that it does not in any way expand the overall concept which is put out by the voluntary euthanasia people of the so-called 'right to die' or 'to die with dignity'. This bill does not do that at all.

I have expressed privately, and I am happy to express publicly now, that I would have not supported the alternative bill which was here before, which sought to expand the right to die. I would have had difficulties with the bill for a couple of reasons: firstly, I think that setting up some sort of public mechanism to resolve what is a very private matter would be the wrong way to go. We see this in America where people go to court to prevent those sort of actions, and what is a very private matter between a patient, their families and a doctor should not become a public spectacle.

My concern was that the bills which have come before us—which try for very good reasons, and are well intended—would potentially set up a system which would bring into the public domain people's situations which should be private between themselves, within their family, and also with their doctor. This proposal does not expand in any way the concept of the right to die and does not in any way sanction or give a right for doctor-assisted suicide and certainly not voluntary euthanasia.

I am relying here on some work done by Professor Colleen Cartwright, Professor for Ageing at Southern Cross University, who has spoken very eloquently on this matter of what we do in terms of public policy when people are near to the end of their life, particularly people with

illnesses which are not curable and, secondly, the role of doctors in ensuring that they have a dignified life while they are alive and how we manage the issue around pain.

One of the leading principles that Professor Cartwright talks about is the principle of double effect. The principle of double effect goes back to St Thomas Aquinas, a well-known Catholic and theologian who had to tackle moral decisions or correct decisions at the time. Essentially, the principle states that, if you have a primary purpose for an action but may have a secondary effect not intended as an effect, there may be a moral basis or a strong case for taking that action. For example, if a doctor's primary reason to provide a patient with medication is to alleviate pain, and if an unintended, unplanned effect is that a person may end their life, the principle put by St Thomas Aquinas suggests that that action would still be moral and correct. That is important, because doctors have an obligation to ease the pain of people who are obviously ill and towards the end of their life. In fact, they have a moral obligation to make sure that people do not suffer.

The question arises: how do we on the one hand protect doctors who are acting ethically and morally in their everyday work? Secondly, how do we not extend the principle of the right to die, which I have mentioned I have a problem with. I think this bill as it stands does seek to achieve that balance and, as a result, I am likely to support it. I am not sure what amendments are intended at this point in time, but I would certainly be open to supporting this bill, because I think it does two things: first, it does not expand the concept of right to die; and, secondly, it does provide some framework for those doctors who need to care for patients who are dying.

The Hon. S.W. KEY (Ashford) (11:21): I thank members for their contributions in this house. We have had different and I think important contributions from the members for Morialta, Waite, Newland, West Torrens, Taylor, Reynell, Mawson, Florey, Fisher, Morphett and, most recently, the member for Light. I would like to thank my colleagues for their contributions.

The member for Light mentioned that it is my intention, should this bill get past the second reading, as it did last time, to move some amendments. I need to tell the house that those amendments are based on negotiations and discussions that I have had with the Australian Medical Association. We have not agreed on every single issue, and I am very happy to elaborate on that if we get to the committee stage. However, it is important to say that I have done my best, with the assistance of parliamentary counsel, to reflect most of the amendments that the AMA thought were important, particularly in relation to their members and this very important issue of medical defence.

I will emphasis for the last time in this debate that this bill seeks to provide a medical defence for a medical practitioner should he or she be charged with manslaughter, murder or assisting in suicide after receiving a request from a patient who is at the end of their life. I urge members in this house to support the second reading.

Bill read a second time.

In committee.

Clause 1 passed.

Progress reported; committee to sit again.

LOCAL GOVERNMENT REFORM

The Hon. R.B. SUCH (Fisher) (11:29): I move:

> That this house notes with concern the lack of will by the state government and metropolitan councils to undertake meaningful and cost-effective reform.

Members would be well aware that this is one of my passions, a hobbyhorse. I intend to keep pursuing the possibility of reform at local government level. It is not in any way based on any animosity towards the local government sector. As members know, I used to be in local government quite a while ago and have great respect for the people who are in there as paid staff or as volunteers.

The reality is that we have, in my view, more councils in the metropolitan area than we really need. If you put in Mount Barker, we have 20 councils. I do not know what the precise number should be, that is why I have always argued that it should be looked at by a retired judge, similar to what has happened in New Zealand, and I would urge members who are interested in this subject to have a look at the process in New Zealand where they actually have a royal

commission to look at local government reform. It has been done in Auckland, it has been done in Christchurch and it has been done elsewhere.

I suspect that is probably the only way we will ever get significant reform here, and it will only happen if the major parties agree to support such a process. I have been given some material by the Property Tax Reform Association under the signature of Bruce Pennington who is one of the members. In a recent letter—and I share these views—in relation to council amalgamations (my proposal is reform generally but he highlights council amalgamations) he says:

> We feel that there is a great need for reform in this area, and to that end I have compiled compelling information as to why we need urgent council amalgamations. The information I have provided you shows the following:
>
> - South Australia has the highest number of councillors and local government employees per capita in Australia:
> - many councils have increased rates well above the CPI;
> - PricewaterhouseCoopers reports that 26 councils in South Australia are financially unviable;
> - 63 per cent of metropolitan councils operate in deficit; and
> - there is a major duplication of resources.

Accompanying that letter he has provided some statistical material, and I will just highlight some of those. Once again I am not suggesting that we necessarily have one council, but the comparison between Brisbane, which does have one council, and the 20 councils in Adelaide, if you include Mount Barker (19, obviously, if you do not), is quite stark.

Brisbane, one council; Adelaide, 19, plus, if you add, as I say, Mount Barker 20; population Brisbane, 1.07 million; Adelaide 1.2 million (so, fairly similar). The number of chief executive officers: obviously in Brisbane you would have one; here we have 19, or 20 if you include Mount Barker. The cost of the CEO salaries: $410,000 in Brisbane; the cost here is $7 million for the 19 councils, plus Mount Barker.

The number of councillors: in Brisbane they are paid, there are 26; here they get an allowance plus expenses. There are 276 in the 19 councils in Adelaide. The salaries for councillors: in Brisbane totals $4.8 million; here, for the allowances for those volunteer members, $5.26 million. The rate revenue they are dealing with: Brisbane, $1.26 billion; Adelaide metropolitan area, the 19 councils, $800 million.

Just on the basis of one item alone, the salary of the CEO, there would be significant savings—$410,000 as against $7 million plus. That is only one cost factor, obviously, but there are others. I make a prediction that, come the next election, one of the key issues will be cost of living. It will not just be water, electricity and gas prices, it will also be council rates. I have a chart for all the council rates for 2011-12. These council rates are becoming very significant.

The Marion council rate, based on a house with a residential capital value of $700,000 (which, by today's standards, is not an extravagant house), is $2,134. That is a lot of money—basically, $40 a week. If you look at Onkaparinga, which is a council in my electorate, theirs is very similar at $2,145 annual rate for a capital value of $700,000. Some other councils are more and some are less.

The costs being borne by ratepayers are significant and that will be part of the factoring-in that ratepayers and taxpayers (voters) make come the next election. Any member, I believe, who is listening to their community would be told that their constituents are hurting, particularly those on modest incomes. They are being hurt really severely.

The Land Tax Reform Association did an analysis in relation to seven councils and what they could save if they were amalgamated. I am not supporting that number for amalgamation: as I said at the start, I do not know what the desirable number is. They have done an analysis of these councils and the savings if they were one council: Burnside, Campbelltown, Mitcham, Norwood, Prospect, Unley and Walkerville. Obviously, you would have one CEO, as opposed to seven, and the number of councillors would drop from 86 to 22. The savings in rate revenue, based on a reduction in CEO numbers and other senior staff, plus other cost savings, they have estimated at $31 million. I guess we can argue about whether that amount is exactly correct but I believe it is an indication of the sort of savings.

The savings in those seven councils expressed per ratepayer they have calculated at $249 per annum per ratepayer. That is significant. I believe the savings would be even greater than

that because, if you could standardise policies and procedures and share computers instead of, as happens now, each council spending a lot of money doing their payroll and having their own computers and so on, a lot of those things could be simplified and there is potential for a lot of additional savings.

If you look at the statistics for South Australia, as I indicated earlier, we have the highest number of councillors and local government employees per capita. In South Australia we have 68 councils for a population of 1.6 million: Victoria has 79 councils (only 11 more) for 5,567,000 people. You can go through the list to see that South Australia is overdone in terms of the number of councils.

You can look at some of the individual councils. For example, if you look at the City of Adelaide, it has something like 600 staff, which is bigger than many government departments—not all government departments but a lot of them. The City of Onkaparinga, likewise, has about 600 staff. I think Marion council has about 380, close to 400, staff. I am not suggesting those people would immediately lose their jobs because that would be unfair and ridiculous but, over time, obviously, you would not replace people who have retired, and so on.

The issue is how you go about it following a royal commission. The critics of what I am suggesting say, 'You are taking the local out of local government.' I do not believe that is correct. What they have done in New Zealand is create local advisory committees with unpaid people who give advice to their council on issues, and it seems to work very well indeed. In fact, people have more say than they currently do under our system.

Some people in local government say, 'What about reforming state government?' I say, 'Hear, hear!' 'What about reforming federal government?' I say, 'Hear, hear!' I am not against reforming those areas as well. I think there is scope for a lot of reform because, in terms of government, Australia is 'over governed' (the term which is used). I think there is some element of truth in that.

I want to keep this issue bubbling along. It sometimes takes quite a while to get reform and change, but I think inevitably we will get to a point in South Australia where, in the metropolitan area, we need to look at whether we need 19 councils from Gawler to Noarlunga. You can just about throw a stone from one council chamber to the other, from one works depot to the other, and it is hard to justify that when the cost is borne by the ratepayer.

What we need is efficiency and effectiveness. We do not want to curtail people's input or the opportunity to have a say, but you have to ask why we need from Gawler to Noarlunga 19 mayors, 19 personal assistants for mayors, 19 cars for mayors, 19 council chambers, 19 works depots and so it goes on and on.

In terms of businesses operating, they are dealing with 19 entities—and as I say, if we put in Mount Barker it is 20—which means that, whenever someone wants to build a property or do anything like that, government agencies have to relate to those 20 councils just in that small area. That is a very time-consuming and costly operation. I put the motion. I intend to keep pushing this issue and I look forward to the day when the state government, supported by the opposition, really gets serious about meaningful reform of councils in the metropolitan area.

Mr PENGILLY (Finniss) (11:42): I would like to make a couple of comments on this motion. The member for Fisher was a member of cabinet when the Brown government made considerable reform of local government and reduced the number of councils from well over 100 down to the current 68.

The Hon. R.B. Such: Mainly in the country.

Mr PENGILLY: Mainly in the country, that's right. I know the member for Fisher is talking particularly about metropolitan councils. I was a member of the Dudley district council, then I went on to the Kingscote district council, and we amalgamated those two councils to become the Kangaroo Island Council. The point I make is that not one job was saved, no expenditure was saved, and the savings that were supposed to come out of the amalgamation—in my view, and I am sure in other places—achieved absolutely nothing, nothing whatsoever.

Yes, it reduced by one CEO and yes, it reduced a council, but the staff numbers never reduced, and the promise that rates would be effectively held or reduced over the years did not come into place. Now we have 68 councils operating across the state. I have a great interest in local government, but I also have a great deal of concern about local government. I will stand

corrected if necessary, but the Local Government Association has just borrowed $17 million to take over a new building in the city from where it was on Hutt Street.

I seriously question the necessity for that sort of thing when the councils, at the end of the day, across the state and the organisation, bring that into play and have to fund all that through various memberships and whatnot. I think it borrowed a lot of the money from the Local Government Finance Authority, which is an extremely well-run good organisation, put together by local government.

If we are going to reform metropolitan local government we have to have an idea of what we want as an outcome, and it would be good, in my view, to have someone do some work on just how effective the amalgamations in the country ended up being. I know on the Fleurieu Peninsula Yankalilla did not want to amalgamate with anybody, and it did not. Goolwa amalgamated with Strathalbyn in a dreadful hurry because they did not want to amalgamate with Victor Harbor, and so on and so on. A lot of parochial issues happened.

By and large, in my electorate the councils run pretty well, with the odd hiccup, and that probably has more to say about the way councils are formed. People with the best intentions in the world put their hand up to get on council and there is really no training required, unlike this place, unless you happen to fall in as an Independent for some reason or another. If you go through the major party structure, you have an idea of what you are coming into and you have to work pretty hard to get here, so it is quite different. People with the best intentions in the world who get into local government struggle sometimes when they get there. They just do not understand.

Overwhelmingly, the amount of pressure that is thrown on the local government sector from both federal and state by way of legislation, imposts and having to do more with less is a major concern. I do not know where it is going to end because they are restricted by their rates and various levies to the amount of money they can raise, and I will come back to the rates in a minute. However, I do not know where it is going to finish because they have these additional costs that go out and they can raise a waste management levy or whatever to cover them, but they are actually limited in their revenue base. However, they have more that they have to spend money on, much of it coming out of this place, which I do not think is thought through by the people who put the legislation into place for us to debate.

Just on the rate issue, this is a major concern because what we have seen—and I do not have the exact figures—it would appear to me, is that the average rate increase perhaps across the state has been about 6 per cent this year over the vast majority of councils, which is about double inflation. The concern is that the councils are putting up rates—and they have done it in the past—way above inflation and they have absolutely no consideration for people's ability to pay, people who are on fixed incomes—and they are so many people. They may get a wage increase of CPI and then they are expected to pay their council rates at probably double the CPI, so that is a major problem in my mind. It is very difficult for people on fixed incomes to absorb a 6 per cent increase.

I have done council budgets, as have others in this place, and I remember that we had to put it up more to cover our costs, but I really think it is time that we had a look at the structures within councils. It could be a good case study—and the member for Fisher may support it—to have a select committee to inquire into the structures of councils and just how many officers they have.

I know that of two councils in my electorate of similar size with a similar number of ratepayers, one has 20 more employees than the other. They are probably doing what is in their best interests but the concern is that there is nothing to stop them. They are their own entities, operating under the Local Government Act, as indeed they should be, but there is really nothing to oversee them. They run their own business.

There are many in this chamber—former mayors, chairs, councillors and whatever—who have had a lot of experience in this and they probably all know what I am talking about. Long term, if there is to be reform in local government, as suggested—and I know the member for Fisher is talking about metropolitan councils—I do not think you want to have reform just for the sake of having reform. If we are going to reform it, we need to make sure that it is going to be of beneficial outcome to the ratepayers and to the district within those councils.

The Brisbane City Council seems to work exceedingly well. It is almost a large empire, quite frankly, and it seemingly operates quite well. There is a host of 19 councils that the member for Fisher talked about around the city. If you tried to bring them together, you would just about have World War III, so you just about have to go back to the time when the member for Fisher was

in cabinet under the Hon. Dean Brown, a former premier, and they took the decision to reduce the number of councils and then they worked through it in a sensible way. Just to repeat myself, I seriously question whether anybody actually saved anything out of the amalgamation of councils in the 1990s. We had more of them speaking with one voice.

As a matter of interest, yesterday I was at Settlement Day on Kangaroo Island with the Premier and the member for Bragg. I had to say a few words last night at a dinner and I went back to the civic record that was produced in 1986 with all the councils before amalgamation, and I started to go through them. It was with a great deal of interest that I read through and looked at the names. I was quite staggered at the number of people who were councillors in 1986 and who are still there now—it was quite amazing. There are some names that are well known in local government circles floating around these days that were there back in 1986.

The member for Fisher may well have a good idea to have a look at it but I think we really need to review it. The local government sector is a critical part but, along with the state parliament and the federal parliament, they all think that the world revolves around them. We all do that; it is part of the parochial nature of our business. I suspect that if we are going to do something about it that we should be clever about it and that one day, if a government has the courage to take on some of these further reforms to local government, that it does it sensibly and considers the best interests of the ratepayers of those districts where it is making changes.

At the end of the day it is the ratepayers who pay the bills, it is the ratepayers who should be getting the benefits, it is the ratepayers who feel the pain at rates time, and that is not going to change, but I think we need to be very smart about it. My personal thoughts are that the member for Fisher may consider wanting to have a select committee to look into whether there were any tangible benefits out of the amalgamations in the nineties and what came out of that. I will follow this debate with interest.

Mr PEGLER (Mount Gambier) (11:51): As somebody who did fall into this place, I have had a lot of years in local government.

Mr Venning: Fell?

Mr PEGLER: That is what the member for Finniss said. I must say that if we are approaching this as purely amalgamating councils to save money, it will never happen. In every amalgamation that I have seen there have not been great savings in money but there have been some great benefits in services that go out to those communities, provided that where those amalgamations have happened the demographics of the amalgamated councils are very similar and the will of the people within those councils is to have that happen. As far as Adelaide itself goes, there may be chances for some amalgamations but I think that it should be left to local government to make that decision.

If we are looking at trying to help our communities, what we should be encouraging is more cooperation between councils, particularly when it comes to planning regulations and rules so that we do have consistency across regions and across the state. If we really want to make changes to save money, I believe the big issue that we should be looking at is a better, clearer delineation of roles and responsibilities between the three spheres of government in this country. There is up to $20 billion a year to be saved by making sure that each sphere of government in this country is acting within its own realm and with its own responsibilities. Unfortunately, too often we see responsibilities and rules passed from one level of government to the next which ends up costing that next level of government a lot of money for very little gain.

Whilst I support the intention that governments in this country could be a lot better I do not believe that we can achieve that by trying to impose amalgamations on councils.

Mr VENNING (Schubert) (11:55): I was here when we did the council amalgamations with Hon. Bob Such who was in my party room at the time, and we welcome him back before we both leave this place. I think it is an opportunity worth considering.

The Hon. R.B. Such interjecting:

Mr VENNING: He smiles. For the *Hansard*, he smiles. We entered the council amalgamations with a fair bit of enthusiasm, which we pulled off generally with the councils agreeing to amalgamate. The problem was that we did not finish the job because, although we did implement it, we were to go straight back and put in some benchmarking with these councils, but we did not do that because, during the debate itself, particularly in negotiation with the other house, certain things got axed and that was one of them. I was very concerned about that.

We were also to consider reviewing the boundaries themselves because we had moved the councils. Certain boundaries have been in place for many years and are clearly out of date, and they ought to be moved to major corridors or to major geographical modern-day facilities that are there now. For instance, in the Barossa, we have Light council coming into the outskirts of Nuriootpa. These things should be changed because across the road you have a different council within a suburban environment—

Mrs Geraghty: Or on the same property.

Mr VENNING: —or on the same property. These boundaries need to be looked at. They were going to be. It was minister Scott Ashenden at the time who said 'Enough is enough, we have done all of this.' Mayor Eiffe was in charge in those days—it is all coming back to me—and we had special meetings, and they were very successful and we were able to bring about this amalgamation that we currently have. What we achieved in the Barossa was pretty good. I was amazed that we ever got the three councils in the Barossa to sit down around the table but we did. It might have taken a few bottles of red wine but we had success, and what we have there now, one council instead of three, is very good.

The council boundaries were to be reviewed immediately after the state council amalgamations. In the Barossa there is a move afoot to try to amend the boundaries again to include the Marananga area which you see on the all the postcards. You all assume it is in the Barossa—it is in the Barossa GI, that is, the geographical index—but it is in Light council. When you go to Peter Lehmann's winery, you go in the front gate and you are in the Barossa Council, but by the time to get to the cellar door, you are in Light council. That is clearly a nonsense and it is high time we fixed that. I have been in the media saying that I would be happy to help anybody wishing to bring about that change. It is quite ridiculous.

I include in that not only the Marananga area but also the communities of Truro and Keyneton. Some of our best wineries are at Keyneton. They are in the Mid Murray Council on the other side. We need to look at that. I want to commend the Barossa Council which reduced its rates this year.

The Barossa Council reduced its rates for many of the vignerons who had negative incomes this year and last year. I think it is very commendable. The rest of the ratepayers had their rates increased to cover the shortfall; that is, they subsidised those who were less fortunate. I think it is well done and I commend not only the council but also the community and ratepayers of the Barossa because we all know that the vignerons are having an extremely difficult time operating and selling grapes below cost.

I was a bit concerned about the level of rate increases across all the councils, though, because as the member for Finniss said, the increases across the state are about 6 per cent. That is twice the CPI, and I do not think you can justify that, certainly not in the long term.

Councils always have a project and the Barossa Council certainly has, and it always has the excuse that to pay for the project, it will put up the rates. That is okay as long as they do not stay up, but we know that they do. I think the council has to consider generally how much an average family is paying in council rates and what they get for that. I know councils have a lot of costs in relation to libraries and other facilities that they now provide—sometimes they did not do it in the past but they do now.

I think we have to look at the user pays principle, in some areas, so that the range of libraries and things have to be paid for by those that use them. Of course, we know that will put a huge cost then onto the borrowers of the library, where libraries have been free. We have to ask ourselves the question: if it is costing councils thousands of dollars to keep the library open, should the users still be able to have it free? If you take that across all the services that the council delivers, we certainly have to have a very good look at it.

As I said, I did 10 years in council, and I have to say they were some of the best years of my life. That was at the Crystal Brook and Redhill councils, and we amalgamated those councils then. In fact, I have been involved with three amalgamations in my time and I think all of them have been very successful, if you are of a mind to make them work, and in this instance we certainly were.

I think it is time for us to consider a Greater Adelaide council–I know it is often talked about, but never much publicly—with a council four to five times its current size. You have to look at Brisbane. The Greater Brisbane Council works extremely well. I have been up there and had a

good look, and it works extremely well. I want to see a larger and more efficient local government right across South Australia, because I believe this is the government closest to the people and I think, in the years ahead—can I say it? I have never said it here before—I think we are going to see more emphasis on regional government, through local government, and less on state. I do not think I will see it but, in the end, does Australia need to have three tiers of government? If it does not, which one would go? I will leave that for the people to decide. It is obvious to me which one goes. There is a long way to go and, with this thinking around, it will probably take three or four decades, but I think that is what we will be aiming for.

In the meantime, I want the local governments to be larger, more efficient and, most importantly, accountable. We cannot have these issues like Burnside happening. It cannot happen. As the member for Fisher said, some of the levels of salaries being paid in these councils are to the point of being exorbitant. I have some very good friends who are being paid the big bucks—a lot more than me. That does not make me upset.

The DEPUTY SPEAKER: No, because you're not poor.

Mr VENNING: Not at all. I am quite well compensated for what I do here. When you speak to some of these people—and the member for Goyder was one of these. He has come into this house and has sacrificed huge personal income to be here, and people should not ever forget that. A lot of people do come in here and sacrifice personal income to serve their state, and good on them. I will never forget Mr Griffiths and others for coming in here and doing that.

We need to rein it in. I do not mind paying the fellows the big bucks, as long as there is enough work to justify the big bucks. In some areas, these people could be overseeing a population of three or four times the size they currently are. I think this motion is good. I know the member for Fisher has a background in local government, as do I and the member for Finniss. Good on them. I think we should all say that we are not out to attack local government; we are out there to ensure its longevity, its efficiency and that all the powers are at its disposal so we do not have issues like Burnside council. I support the motion and I commend the member for Fisher.

Debate adjourned on motion of Mrs Geraghty.

PRISONER REHABILITATION

The Hon. R.B. SUCH (Fisher) (12:04): I move:

That this house urges the state government to vigorously pursue initiatives which will help reduce the number of people offending and being incarcerated.

The issue of prisons and incarceration often does not feature in any prominent way in the mind of many of the people in the community, yet it is a very important issue. There are obviously several dimensions to this. I am certainly not opposed to locking up bad people who are a threat to the community. To suggest otherwise would be ludicrous. What is happening—and it is not just as a result of the present government—is that the number of people being incarcerated is gradually increasing over time. We need to tackle that issue in several different ways.

In 2005 there were 1,521 prisoners in South Australia (actually in prisons, as opposed to home detention). In 2008 there were 1,882. With changes to sentencing laws that figure has increased again. We do not do things simply because they cost money, but it costs something like close to $200 a day to incarcerate a prisoner in South Australia, so it is a very expensive exercise.

I was in Victoria a week or so ago visiting its parliament, and got information on what they are planning to do there. One of the things they plan to do—and the government has already had the bill drafted—is abolish home detention. When I have raised that issue here, Treasury got very concerned because of those cost factors I just mentioned: it is much cheaper to have someone at home with an electronic bracelet than it is to have someone incarcerated. The Victorian government will abolish home detention because they say gaol should mean gaol. That is a simplistic approach and a matter for further debate down the track.

If we look at the characteristics of our prisoners (and these are obviously generalisations to some extent), 60 to 80 per cent of all prisoners have a literacy problem. It cannot be used as an excuse for getting into prison or being there, but it is obviously a factor. If you cannot read and write, the possibility or chance of getting gainful employment is limited.

In South Australia 56 per cent of male prisoners are aged between 20 and 25, so prisons are places for young people. There is a theory that men mature over a period of time and realise

that doing stupid things—breaking the law and ending up in prison—is not a smart, wise thing to do. I think women realise that much earlier. That is a generalisation, but I think they do.

The characteristics are: social and economic disadvantage, generational unemployment, drug and alcohol addictions, as well as being functionally illiterate. They are some of the pointers as to some of the issues we need to be tackling. I find it amazing that in this day and age we are still—'producing' is probably not the right word—having individuals come through their so-called school years (partly because they are not attending) illiterate and lacking in mathematical skills. That issue needs to be addressed, as does generational unemployment.

All of us here are, by definition, active people who enjoy their work and keep busy. You can imagine that if you are unemployed day after day how soul destroying and mindless that would be. It is not surprising that people who are unemployed may be tempted to do things they would not otherwise do. The argument is often trotted out that, during the Great Depression, apparently—I do not have the figures in front of me—we had less crime than we normally had. I am not sure quite how you explain that.

Also, 6 per cent of Indigenous males are in prison compared to 0.6 per cent of non-Indigenous males. Obviously there is a significant percentage of our prison population that are from the Aboriginal community, and that also should suggest that efforts and program initiatives need to be directed to helping to engage those young Aboriginal people in particular so that they do not end up in the prison.

Many of our prisoners have a psychiatric or psychological issue. Many have personality disorders, which generally cannot be easily treated. Some have an intellectual disability. I am quite surprised that even our court system does not seem to be able to deal always effectively with people who have a psychiatric illness. According to the research—and this was from a paper by Professor Rick Sarre called 'Social Innovation, Law and Justice', presented at the Social Innovation Conference in Adelaide three years ago—what is cited is that almost all male sex offenders were sexually abused as children.

I have always been puzzled as to why, if you were sexually assaulted, you would then want to do it to someone else; or likewise if you were beaten why you would then want to inflict it on your own children or someone else's children. In terms of female prisoners, obviously there are fewer of them. I guess that people could say, 'Well, women are probably a bit more sensible about their behaviour', but, generally speaking, women in our prisons are under the age of 25, so it is a youth-related thing. They, too, are characterised by social and economic disadvantage and drug and alcohol addiction.

Most are mothers of dependent children, many have experienced sexual or physical violence and many have a psychiatric or psychological illness or an intellectual disability. They are some of the indicators we need to focus on. As I say, I am not suggesting that we give everyone who breaks the law in a serious way a carnation and let them go walking around the street with that on their lapel. Some people have to be locked up because what they have done is so horrendous.

In fairness, the South Australian department of corrections has an active literacy and numeracy program, but too often many prisoners opt out or do not avail themselves of those learning opportunities; and I think that, perhaps, in prison there should be more focus on requiring them to do those things. There is some training available within the prison system. There has always been a delicate balance between people learning a trade or a skill in prison and not encroaching on the legitimate work of trade union people.

The unions are very sensitive to the fact that prisons not be used as a cheap labour alternative to what paid workers outside of prison can and should be doing. The department of corrections has programs to deal with victim awareness, anger management, alcohol and other drugs, domestic violence, literacy and numeracy and cognitive skills and prisoners have access to psychological services.

There is a sexual offenders' treatment and assessment program, but, once again, at the end of the day, a lot of it depends on whether the prisoner is willing to participate and commit to some of these programs. We cannot continue to have an increase in prison population, apart from the fact that prisons basically achieve very little other than separating out very dangerous people from the rest of the community.

There is very little evidence that they actually rehabilitate anyone. Police figures that we sourced from OARS (Offenders Aid Rehabilitation Service) were that 40 per cent of criminals

released from prison on parole are committing more crimes, some of which are very serious. I think that he may be the deputy commissioner for crime in SAPOL, but Grant Stevens says that police are frustrated when they encounter the same people and 'when dealing with people who don't respond to the justice system'.

Of the 161 prisoners paroled between 1 January and 31 March 2010, 65 reoffended within 12 months of being released; clearly, prison is not rehabilitating prisoners in the way that we would hope or would want. The deputy commissioner said, 'The community needs to examine what is working and what is not,' and that is exactly the point I am making.

What happens in other countries? As happens here, there are alternatives to prison. We have fines, community-based probationary orders, periodic detention, home detention and diversionary and restorative justice processes. I think we need to look more at some of those alternatives, despite what the Victorian government might be doing. It is not just about saving money: it is about having a system that is effective and actually works.

I am a great supporter of mobile outback work camps. The Port Augusta Prison runs several. I think that is great and there should be more of that. I have seen some of the work done by these mobile outback groups and also some of the work they have done in the metropolitan area.

It is a bit of a paradox that, in order to try to make someone a member of the community, integrated into the community, we put them in a prison and separate them from the community. To me, that is a bit of a paradox, but I acknowledge that with some people you have no choice but to do that. For many of the people in prison, it actually achieves little and it does not integrate them into the community by isolating them from the community.

The increase in prisoner population seems to be happening in particular countries—England, Wales, the United States and so on. If you compare that with some of the Scandinavian countries, they take a very different approach. The statistics in Norway (which had that recent tragedy) indicate that, within two years of their release, 20 per cent of Norway's prisoners end up back in gaol compared to in the UK and US where it is 50 to 60 per cent. Something they are doing seems to be working.

In Norway, the number in prison expressed as part of 100,000, is 69. It has a total prison population of 3,300 in a population of something like five million. Even compared with South Australia, that is a very low incarceration rate. In South Australia at the moment we have close to 2,000 prisoners for a population of 1.6 million and the Norwegians have 3,300 in a population of about 5.6 million.

The guiding principle of Norway's system is that repressive prisons do not work and humane treatment boosts prisoners' chances of reintegrating. Design plays a key role in their rehabilitation efforts, with the prison looking as much like the outside world as possible. To avoid an institutional feel, exteriors are not concrete but made of bricks, galvanised steel and glass. The buildings seem to arise organically from the woodlands. They try to create a link, as it were, with nature. Prison guards do not carry guns because that creates unnecessary intimidation, and they routinely eat meals and play sports with the inmates. I guess you can go down the American repressive, harsh treatment approach but that does not seem to work because they have increasing numbers of prisoners. I think we could learn from the Scandinavians.

To conclude, I have been very impressed when dealing with the Minister for Correctional Services. Any time I have written to him he has always given a very considered response and been prepared to look at issues that I have raised with him. However, I think the community and, in particular, the government, need to look at measures to try to reduce the number of people offending and being incarcerated. I commend the motion to the house.

Debate adjourned on motion of Mrs Geraghty.

SPEED CAMERAS

The Hon. R.B. SUCH (Fisher) (12:19): I move:

That this house calls on the state government to follow Victoria's lead and introduce complete public disclosure of all mobile radar camera sites at the start of each week, create a commissioner to monitor speed cameras and other speed measuring devices, and require the Auditor-General to undertake a review of speed cameras to determine if the cameras are being used efficiently and effectively to reduce road accidents or to raise revenue, or both.

Mr Acting Speaker, you know a lot about this issue, not from the wrong side, but from the good side, shall we say. Members would be interested to see that in New South Wales—and I put a copy in their pigeonholes today—following a review, I think undertaken by the Auditor-General there, a quarter of all their fixed cameras are being decommissioned because the Auditor-General's Report indicated that they were focused more on revenue raising than saving lives.

I am not against speed cameras. I think they are a very useful device, and clearly you have to monitor drivers' behaviour, otherwise you would have Rafferty's rules out there and serious consequences. What this motion highlights is that other states, in this case Victoria, see the need to have a review of the way in which the cameras are being used. I do not believe anyone in this parliament is advocating a cowboy approach. I think it is fair to say the opposition is not anti-camera. What it wants, and I want, is that they be used efficiently and effectively to reduce road accidents, to save lives.

That is what the Victorian government is doing. I would say to the government here, 'You would be very unwise to keep ignoring the call for a review.' No-one is arguing to get rid of the cameras altogether. All we are saying is that they should be used properly, so that you get the best outcome in terms of road safety from them. If you ignore what the public feels is an issue, then it will come back to bite you come election time, because it did help to elect the Baillieu government in Victoria.

In terms of this motion, the police here, SAPOL, does publish on its website the locations of many, if not most, of its mobile radar camera sites. I do not know whether members are aware of that. The problem is that unless you are sitting on your computer first thing in the morning you will probably not be able to determine where those locations are. *The Advertiser* prints some detail; they are called 'selected sites'. That has a double meaning; it is hard to know whether those sites have been specially selected or the publication relating to them has been selected.

What happens in Victoria is that in the *Herald Sun* at the start of each week there is a complete page which is devoted to identifying every single mobile camera location in Victoria during that week. Some people have said, 'Look everyone's got a computer.' Well, not everyone has, and not everyone has access, as I say, first thing in the morning, to go online and look to see where the cameras are going to be that week.

I acknowledge that SAPOL does have a website. It does have selected locations in *The Advertiser* for mobile cameras, and the media, the TV stations and radio stations, do highlight some of those locations, but what Victoria does is publish what is in effect a comprehensive list, which I think is more fair and transparent.

The other thing the Victorians are doing is creating a commissioner to monitor the use of cameras and speed measuring devices. I think that could be a useful role, because there are often complaints about cameras. I had one recently. Someone came to my office and we said, 'Did you ask for the photograph?' This was in relation to a fixed camera. When he got the photograph, it was obvious that it did not apply to his vehicle and then the police did not pursue the matter. So, errors occur, and I think it was information secured by the member for Morphett, from memory, last year, that something like 5,000 clerical errors were identified in relation to issuing expiation notices relating to cameras.

The other thing, which relates to the New South Wales experience as well, is that Victoria is requiring the Auditor-General to undertake a review of cameras. There is no reason why that cannot be done here; it would simply be a request from the government of the Auditor-General to have a look at whether the cameras are being used efficiently and effectively to reduce road accidents or to raise revenue or both. It is not going to cost a lot of money. The Auditor-General would have the people with the expertise to carry that out, and then you would allay all these concerns. If there is no substance to them, then the Auditor-General would obviously be able to show that.

At the moment, there is a suspicion that the government uses these cameras particularly to raise revenue rather than to reduce road accidents. From the recent budget, you see that we have by far the highest fines of any state in Australia for exceeding the speed limit at the lower level. Where someone is speeding at less than 15 km/h, our penalties are a lot higher; likewise for the category 15 to 30 km/h over the limit, where we have the highest fine of any mainland state.

One could argue that if the government was trying to send a message, they could move towards using demerit points more rather than simply taking money off people, many of whom find it a struggle to pay a hefty fine—someone on a pension or a self-funded retiree, in particular. I do

not need to labour the point too much. I think it is quite clear what the motion is saying. As the member for Schubert sought to do, and others have tried, we want an independent assessment of the cameras. Are they being used in the way that is the most effective and efficient? The Auditor-General can draw on expertise from the road research body at Adelaide University.

I may have mentioned this in here on another occasion: within the department for transport, they have told me that some of these cameras are purely to make money, including the one on Henley Beach Road near Bakewell Bridge. They said it has nothing to do with road safety. There is no lengthy list of serious accidents at that spot; likewise, there is not either near the Royal Adelaide Hospital or the St Peter's Cathedral. Those three cameras are the big money makers for the government, yet they are not in areas where you have a serious accident or injury risk. I commend this motion to the house. I believe the government is foolish if it ignores what is a reasonable request to get the Auditor-General to have a look at the way in which the cameras are being used.

Mr VENNING (Schubert) (12:29): Again, I am very pleased to support the member for Fisher. This has been a bit of a long campaign, particularly for him, and not quite so long for me. I do not believe speed cameras reduce the road toll in all cases. I have shown in the previous debate, which was lost in this house, that it is reasonable to say that the government is using speed cameras as revenue raisers. I note an article from New South Wales on *ABC News*, dated 27 July 2011 and headed 'Speed cameras axed after safety audit', as follows:

> More than one in four of the fixed speed cameras across New South Wales will be immediately turned off because they have had no significant effect on road safety. The State Government has ordered the RTA to act after NSW auditor-general Peter Achterstraat this morning released a report into speed cameras. Mr Achterstraat found on the whole that speed cameras do change driver behaviour and make roads safer, but not in all cases.
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> The auditor-general says 38 of the 141 fixed cameras across the state have not produced a discernible road safety benefit. His report suggests the RTA continues with plans to review those cameras. But Roads Minister Duncan Gay has decided no further review is necessary. 'As of this morning I contacted the acting CEO of the RTA and instructed her to turn off those 38 cameras,' Mr Gay said.
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> Mr Gay says the cameras will eventually be removed, costing the Government about $10 million a year in lost revenue. Mr Achterstraat has found no evidence that revenue raising was a factor in choosing camera locations. He says revenue from speed cameras reduces the longer they operate.

That is fair enough. That is exactly what we have been saying in this house. As the member for Fisher said, there will be some political ramifications if this continues because more and more people are being affected. The people who are contacting our offices are not law-breakers, they are not criminals; they are responsible citizens and they are extremely annoyed when they get picked up and have to pay the exorbitant fees that are now in place.

I have no problem, as I said earlier, with the open road being policed. In other words, if you are doing more than 110 on the open road you deserve to get pinged. I do not care where the camera is. I like to see the fixed cameras over the road on long bars where it takes a photograph of you going through and if you get to the next one inside a certain time then you were obviously speeding. I have no problem with those because you know they are there and, if you are going to do that, you deserve to get pinged.

I have no problems with 60 in built-up areas. I have no problem with that, either, but it is the confusion—and that is what it is—between 50 and 60 where a huge amount of people are detected and then fined. As the member for Fisher just said, this is also the area where the biggest increase in the fine has been—in the 50 to 60 area—and it is ridiculous. I think it is irresponsible of government and other people, and even the police commissioner. When we broached this with the Minister for Police he said, 'It's a police matter; you take it up with the commissioner.' When you speak to the commissioner, he does not actually say it this way but it is a directive of government. So who is responsible?

I do not think it is fair at all that people, as they go around the community (particularly in the Barossa where the speed limits are all over the place) do not see a sign and assume the speed limit and get it wrong, then pay a pretty hefty fine and get three points. If you get too many points you lose your licence. If you take a licence away from a country person, it is a lot higher penalty than it is for a metropolitan person.

I am quite happy for this motion to be put forward. There ought to be public disclosure of all mobile radar camera sites at the start of each week and the creation of a commissioner to monitor speed cameras and other speed-measuring devices. I certainly support that because I never get to hear where these cameras are. I think the whole idea of putting them in the paper is really quite ridiculous and also putting it on the radio because at some point it is self-defeating. It just tells you

who is smart enough to read the paper at a certain time and knows where to look and remembers where they are.

Irrespective of that, the laws ought to be decent in the first place. We ought to be getting rid of the 50 km/h signs on all major roads and only have 50 in the suburbs where houses are on both sides of the road and where there are families and perhaps children have a habit of walking on the road. I have no problem with 50 there but 50 should be out on all through roads, particularly the major throughput roads. It is ridiculous. Even in the Parklands here, how ridiculous is it? It is 60 on one and 50 on the next. It is inconsistent.

Why is King William Road 50? It is the major thoroughfare in Adelaide and that is where the biggest revenue-raising camera is, right there on the crossroad. People come down the hill, it is a wide road, they are not quite thinking and bang!—300 bucks thank you very much and three points. I think it is a disgrace. A lot of people being picked up are visitors to South Australia and what sort of message do you think you are sending home? Why is King William Road 50 km/h? Nobody can tell me why. It is like that so that the government can raise money.

I fully support the member for Fisher on this. Again, I commend him on the long case that he has taken on personally with the police and the authorities on this matter. I am sure (and I believe that he is correct) that he feels that he has been vilified, and I hope for the sake of all of us that he is successful.

Mr ODENWALDER (Little Para) (12:35): I rise to oppose this motion. It will be no surprise to the member for Schubert and the member for Fisher, although I appreciate and acknowledge their contributions, and I think the minister will make a contribution later on as well. I also want to acknowledge that I have had many conversations with the member for Fisher about this, and other motions and bills of a similar nature, but I oppose this motion. As the member for Fisher acknowledged, within South Australia the locations of fixed and mobile speed cameras are currently communicated through the media, including television, radio and newspaper—and you do not need to be a genius to listen to the radio, member for Schubert, you just listen to the radio in your car while you are driving, or while you are speeding.

We communicate these locations through massive signs on the side of the road saying that there are speed cameras ahead. In particular, the SAPOL home page publishes mobile speed camera locations up to seven days in advance by street and by suburb. In my discussions with the member for Fisher, I have tried to impart some of my experiences as a police officer. I have seen, and I have been told, about the results of some pretty horrific accidents as a result of speeding. Sometimes it is not as a result of much speed, but if you are speeding a little over the limit in a built-up area it can have some devastating consequences, and if you talk to any police officer they will agree with you. This is not about revenue raising: it is about stopping people speeding.

Research relating to the effectiveness of speed cameras continues to be released regularly throughout Australia and globally. A comprehensive study was recently released by the University of Queensland entitled 'Speed Cameras for the Prevention of Road Traffic Injuries and Deaths Review'. This report concluded that speed cameras are a worthwhile intervention for reducing the number of traffic injuries and deaths. Again, if you ask any police officer they will tell you the same thing.

The relative improvement in crash injury statistics range from an 8 per cent to a 50 per cent improvement where speed cameras are used. DTEI continues to review reports related to speed camera use and their effectiveness as they are released, and this will include any findings released by the Victorian and New South Wales state governments from their reviews. I will leave it there. I think the minister may want to add to the debate, but for these reasons I do not support this motion.

The Hon. T.R. KENYON (Newland—Minister for Recreation, Sport and Racing, Minister for Road Safety, Minister for Veterans' Affairs, Minister Assisting the Premier with South Australia's Strategic Plan, Minister Assisting the Minister for Employment, Training and Further Education) (12:37): I will make a few points on this issue, and it is very topical at the moment as people know. It has been in the paper because of the actions taken in New South Wales. I will say this: when speed cameras catch you speeding, you are breaking the law. To say that someone should not be penalised, apprehended or caught for breaking the law in particular areas is a nonsense.

Mr Venning: The law is wrong. Ask Don Dunstan, that is what he said.

The Hon. T.R. KENYON: So, you should be allowed to speed? It seems that the member for Schubert thinks that speed has no bearing whatsoever on accident rates, contrary to police advice that about one third of all fatal accidents involves speeding.

Mr Venning: I am not saying that at all. You are distorting the facts.

The Hon. T.R. KENYON: You are saying that the law is wrong. The member for Schubert said that the law is wrong, and the law is that you do not exceed the speed limit. The member for Schubert, by saying that the law is wrong, seems to be advocating that people should be allowed to speed.

Mr Venning: I did not say that at all.

The Hon. T.R. KENYON: You said that the law is wrong.

Mr Venning: We make the laws and if they are wrong, you have to change them.

The Hon. T.R. KENYON: You said the law is wrong and the law here that I am talking about is speeding. Do not exceed the speed limit. So, you are saying that people should be able to speed?

Mr Venning: Tell that to 60 per cent of South Australians; tell them that at the next election.

The Hon. T.R. KENYON: Because people think they should be allowed to break the law, we should break the law?

An honourable member: And not pay taxes.

The Hon. T.R. KENYON: No, that is not how it works. That is not how it works and it should not work that way. When people are speeding, they are breaking the law, and if they are breaking the law, they should be caught no matter where it is. There are numerous studies right across this state and right across the world that show that reductions in average speed reduce crash rates.

That was our own experience in the last 10 years when, in 2003—and I think, Mr Acting Speaker, it might have been you who did it, and to your credit—the speed limits were reduced in the city from 60 km/h to 50 km/h and across a large number of streets in our network and the death toll dropped almost immediately from 150 down to 120. One change, and 30 people's lives are saved per year as a result of the actions of the Acting Speaker. If you do not mind me saying so, Mr Acting Speaker, that is a lasting legacy that you will leave on this state well beyond your time on this earth, and that is something I aim to replicate as Minister for Road Safety, that long-lasting impact on this state by saving lives, and reducing the average speed saves lives. Enforcement measures—and in this case it is speed cameras—are part of that.

We have fixed speed cameras with signs right in front of them stating, 'You are entering a speed camera zone', and people still get caught speeding. How does that happen? It is just inattention. Inattention is another one of the killer five, another leading cause of fatalities on our roads.

Mr Venning: Have you ever been pinged for speeding?

The Hon. T.R. KENYON: Of course I have been pinged, and I should have been pinged for speeding, because I was breaking the law. When you break the law, you get caught and you just pay the fine. This is my great quibble with the member for Fisher, because he has run this big long case on speeding and has taken particular issue. I do not know the facts around it. He may or may not have a case, but chances are that was not the only time he has ever exceeded the speed limit driving around this city.

I think most people would just say, 'It's a fair cop. I got caught this time, but there are other times when I haven't been and I will just wear it.' But, no, we get into this righteous indignation about speeding, and somehow speeding has no effect on what goes on. We can speed our way around this city with no effect, but there is an effect from speeding in a third of all fatalities. Approximately 40 people die each year because speed is a factor in their death. Where they are breaking the law by speeding, they should be caught. It does not matter where they are speeding, they are still breaking the law, and speeding and speed have an effect on road safety in this state.

The police, the government and everyone who has been involved in rolling out speed cameras in this state have my full support, because it has been an effective strategy of gradually

reducing the road toll over time. In the 1970s, when our road toll peaked at about 350, there were 400,000 cars on the road. There are now 1.2 million cars on the road and our road toll is about 120. While the number of cars on the road has tripled, the number of deaths has a bit more than halved. It has probably come down by about 60 per cent in that time. It is actually a bigger reduction than it looks.

Over that time, we have seen the compulsory wearing of seatbelts have a massive effect, drink-driving campaigns and the introduction of breath testing, speed cameras, radar guns and reductions in speed limits. All of these enforcement measures have dramatically contributed to the reduction in our road toll, both per 100,000 people on the road and in absolute terms of the number of people killed. This motion by the member for Fisher, ably supported by the member for Schubert, encourages silliness on our roads. They pander to a populist political campaign that somehow speeding is okay and we should not be fined for it and it is all just government revenue raising.

The government would gladly give up the $60 million a year in speeding revenue because we would save more than that in the health budget. What is more, if the residents of this state were to conspire against the government and all conform to the speeding laws and not give that revenue of $60 million a year to the government, we would probably have such a reduction in our crash rates across the state that we would be able to reduce the compulsory third-party insurance premium, because speeding contributes to crashes. When you reduce the number of crashes by reducing speeding, you are going to reduce the premium because you will reduce the number of crashes.

The Hon. R.B. Such: If you are not after money then why not issue demerit points and they lose their licence?

The Hon. T.R. KENYON: People need to pay a penalty. The member for Fisher might know that the fines came about to get people out of the Magistrates Court. It was a process to de-clog the courts and to make people still pay a penalty—an automatic penalty—and we could all get on with life. Defending people who speed is ridiculous because speeding contributes to road deaths. I think the member for Fisher should get over his speeding fine, pay the fine, move on with life and continue to obey the law, as I am sure he does on almost every occasion.

Mr PENGILLY (Finniss) (12:45): Look, let's not beat around the bush on this. No-one in this place wants to see the road toll going the way it is or where it is—nobody. Nobody wants to see the effects on families, the effects on the health system and on lives and everything else that goes with it—nobody. But the simple fact of the matter is that the government is not right on this, it is not correct. There is absolutely no question or doubt in my mind whatsoever that those things are used as revenue raisers. I see it time and again within my own electorate between here and the South Coast—time and again. They are there to revenue raise.

There are fools on the road; you cannot blame the cars, it is the idiot behind the wheel—we all know that. But, by the same token, if the government wants to run around and talk up this business, it ought to get a few of its own things right, which includes such things as removing speed limits and restrictions when roadworks have taken place five and six months ago and the department has not been there to do it. It still has it down to 80 km/h when it is perfectly fine. Do something about the contractors out there who are putting zones down from 100 to 80, or 60 to 50, or to 25, or whatever, miles before you get there and miles after the finish. I have talked about contractors such as tree loppers. It is absolutely ridiculous as they are slowing down cars on country roads. It is all very well if you live in the metropolitan area or in suburbia and you so choose, but some of us who live in the country have to get from A to B.

To give another example, I have one road some 60 kilometres in length in my electorate, and the government has stipulated that the speed limit one way is 100 and you come back the other way and it is 110. How damn foolish is that?

Ms Bedford: It's downhill.

Mr PENGILLY: It is because they have not fixed it up. We actually have to get from A to B. The member for Florey is fired up over there—let her go—but no-one knows better the ramifications, apart from the member for West Torrens, the minister, and the impact of speeding than does the member for Flinders. He knows all about it as he lives in an electorate where he has to go hundreds of kilometres to get from A to B. We have long, straight roads.

The Northern Territory amended their speed limits. The former member for Stuart prevailed long and hard on governments for years to get some sense into speed limits on country roads and

do a decent speed. You can do 130 or 140 quite easily on these outback roads, and you need to do it to get from A to B. To have cameras set up around corners, in places where you do not know where they are, is pure revenue raising: it is nothing about road safety. It is a nonsense to suggest that it is.

We want to get on and get where we are going, from A to B. I support what the member for Fisher is talking about. I think it is total nonsense, and, as he said to me just a few minutes ago, there is an officer in the parliament who turned around a street into another road, a well-known street in Adelaide and it is a workplace—there is no indication it is a workplace—and got stung. It is blatant revenue raising.

If you want to sit over there and preach to us about it, get a few facts and figures right, get your departments right, get your subcontractors right, and fix up a few things out on the roads instead of preaching to us, as the minister did a few minutes ago. I bet there are people on this side of the house whose lives have been dramatically affected by severe road accidents, and no-one here wants that. We do not want that. But you cannot stop people being stupid with alcohol, and you cannot stop people being stupid with drugs.

The minister referred to inattention. Every now and again I become inattentive on the roads—there is probably no-one in here who does not. You get distracted, but you have to concentrate. You have to do it all the time. My father brought me up and taught me that everyone on the road apart from yourself is a idiot and to treat them as such. It was not bad training actually, because that is right. You want to get it right as it is an enormous issue out in the community. The member for Fisher I do not agree with all the time, but I think on this one he is probably halfway right.

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (12:49): I do need to take up just a couple of minutes because of the comments the minister made. He was suggesting that the opposition was saying that the law was wrong. I do not think that the law is wrong but I do think that speed limits in certain places are wrong. That is the issue. We have imposed ridiculous speed limits.

Mr Acting Speaker, you are aware of this because we have had this debate before, and I think you were transport minister at one stage. You can hop in your motor car and drive up to the freeway, and when you get just past the Stirling turn-off the speed limit goes to 110 km/h. You can drive down the South-Eastern Freeway (and slow down through the various towns all the way to Bordertown in the north of my electorate), some hundreds of kilometres on the open road, at 110 km/h.

As you pass Bordertown—I think it is 17 kilometres of road from Bordertown to the Victorian border—you have to reduce your speed to 100 km/h. I cannot for the life of me understand how or why that occurs. The reality is that that piece of road was reconstructed a few years ago. It is probably the best piece of that whole drive from the Victorian border to Stirling, yet on that 17 kilometres you are obliged to travel 100 km/h whereas you can drive on the rest of the road at 110 km/h.

As chance would have it, that piece of road, I am reliably told, is policed more heavily than the rest of the road all the way from Bordertown to Stirling. The exact same thing occurs on the other road that heads to the east of this state—the Princes Highway—going down to Mount Gambier along the coast. You have travelled at 110 km/h along the highway all the way to Meningie, and between Meningie and for the next 60 kilometres to Salt Creek you are obliged to travel at 100 km/h.

I travel that road on a very, very regular basis and, more often than not, I see a police vehicle or a vehicle with a camera in it on that section of road. I am far from convinced by the minister's contribution that this is all about road safety. I am far from convinced, and I think that the member for Finniss put it quite well: people out in the country actually have to get from A to B and they do not need this sort of nonsense where there are changing speed limits confusing them and giving the police some easy targets to pick on.

The same thing happens in the city where we have ridiculous speed zones and no rhyme or reason as to why we have certain speed zones in certain areas. Again, it confuses the motoring public and it is easy pickings to pick up fines on a regular basis, worth, as the minister said, $60 million or $70 million a year. Nobody believes that this is not about revenue raising.

Motion negatived.

ARKAROOLA WILDERNESS SANCTUARY

The Hon. R.B. SUCH (Fisher) (12:53): I move:

That this house opposes further mining exploration and mining in the Arkaroola Wilderness Sanctuary.

Members are well aware that events have moved along, and I am delighted that the government has moved to ban further mining exploration and mining in Arkaroola and to extend the boundary of that sanctuary further as well.

I am more than happy to congratulate the government. I think that this is one of the best decisions that this government has made—probably the other good ones involve improving public transport. Arkaroola, the protection of it and the actual sanctuary itself, will be there long after all of us have disappeared off the face of this earth. It is a wonderful area. I was up there recently. I congratulate the Spriggs on being good custodians of that sanctuary.

In regard to the issue of uranium, I understand that CRA—which, at the time, was led by Mr Ian Gould who, I believe, is now the Chancellor of the University of South Australia—did a detailed analysis in that area and came to the conclusion that it was not viable to mine uranium in the rugged parts of the Arkaroola Wilderness Sanctuary.

The reason is—and I am no geologist but I am told—that the uranium has leached out over time and is now to be found in the adjoining flat country, in the plains, and that is where Beverley uranium mine is successfully extracting uranium ore. I do not believe Marathon Resources has any real claim to compensation because I do not believe that the uranium in the area it wanted to mine is actually economic in terms of producing commercial quantities of uranium ore. I think the Premier has made clear that Marathon was given permission to explore but it was not given permission to mine.

The long and the short of it is: I am delighted that the government has made its decision and, as I say, long after we have all disappeared, Arkaroola will remain in its wonder and beauty; and I think future generations will applaud the decision of this government to ban mining exploration and mining in this beautiful area. If any members here have never been to that area and the Gammons, I urge them to do so because it is a wonderful area and will now be there forever.

The Hon. S.W. KEY (Ashford) (12:56): I move to amend the motion, as follows:

Delete the word 'opposes' and insert 'congratulates the government for opting for action that will provide both immediate and long-term protection of the cultural, biodiversity and geographical values of Arkaroola rather than'

The new motion would thus read:

That this house congratulates the government for opting for action that will provide both immediate and long-term protection of the cultural, biodiversity and geographical values of Arkaroola rather than further mining exploration and mining in the Arkaroola Wilderness Sanctuary.

I must compliment the member for Fisher for his original motion because it is certainly the position that I held, but I think we have got past the debate on that, and I was very impressed to hear of the decision that had been made and announced by the Premier.

I have had the opportunity over the years to visit the Arkaroola and outlying area many times, and I remember my first trip there, which was in the 1970s, when I was operating as a gopher for a number of artists who were painting in that area. It was a fantastic opportunity for me to be—

The Hon. R.B. Such interjecting:

The Hon. S.W. KEY: —no, not Sir Hans Heysen—part of that group and also have an appreciation of the area.

Most recently, the Natural Resources Committee of parliament also had the opportunity to visit Arkaroola. Our intention was to do extensive work with the arid land natural resource management people and staff and, because of bad weather, we ended up at Arkaroola. As a result of that, we had an opportunity to not only fly over the Arkaroola area in a helicopter but also, with the Spriggs, to go on a vehicle ride through that area. We had the opportunity to stay overnight and I even went on a bushwalk with the member for Torrens and the Hon. Russell Wortley through that area. It was a fantastic opportunity for us.

I also had discussions with representatives of the Adnyamathanha people, who explained to various members of the Natural Resources Committee how important this area is to them. As traditional owners, I am sure they will be extremely pleased by the government's decision to provide both immediate and permanent protection for Arkaroola. I wish to commend the government for this action and urge the house to support my amended motion.

Debate adjourned on motion of Mrs Geraghty.

[Sitting suspended from 13:00 to 14:00]

VISITORS

The SPEAKER: I draw the attention of members to the presence in the gallery today of a group of students from St Ignatius College, who are guests of the member for Morialta. Welcome. I hope you enjoy your time here today.

MARINE PARKS

Mr TRELOAR (Flinders): Presented a petition signed by 818 residents of South Australia requesting the house to urge the government to stop the introduction of marine park exclusion zones.

CUNDELL, CAPT. R.G.

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:05): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: On Tuesday of last week we lost a very special, indeed, a unique South Australian, Captain Roger Geoffrey Cundell. Roger Cundell was a World War II veteran—a Rat of Tobruk, no less. He died as he would have wished, with his medals on, with his service mates nearby and in the military heartland of South Australia, the Torrens Parade Ground. As was his wont, he was about to recognise fellow veterans at a memorial service when he suffered an aneurysm.

Roger was born in Hampshire in 1918 and came to Adelaide with his family in 1930. He attended St Peter's College. Roger was actually in uniform when World War II broke out—he was serving in the militia as a private soldier. He could not enlist in the AIF until the completion of his full-time militia commitment, so he was kept busy until his full-time commitment was complete. He certainly felt frustrated when working at Wayville while watching other men without the militia commitment enlisting. He said it rankled.

Roger enlisted in the 2nd/10th Battalion at Woodside in November 1939. From there he went to Ingleburn Camp, New South Wales, where he was commissioned on 1 March 1940. He was a platoon commander in A Company, 2nd/10th Battalion. His battalion embarked for England, and he served there while the Battle of Britain was fought. Based in the south of England around Salisbury, the battalion provided airfield and installation protection. Roger would recall that, during that time, the unit was visited by King George VI.

Later, the unit was deployed to Egypt, after which Roger was deployed to Tobruk as a platoon commander in B Company. It was on 5 April 1941. Australia suffered 3,000 casualties in Tobruk and 941 Australians were taken prisoner. The term 'Rats of Tobruk' was coined to describe the allied garrison besieged by Axis forces from April to November 1941. The phrase, originally intended as an insult, came to mean something else.

The 14,000 Australian soldiers garrisoned at Tobruk, Roger included, regarded it as a compliment, a real badge of courage. Roger's unit served with distinction well out of Tobruk town on the perimeter, the most important part of a defensive position. The Rats of Tobruk suffered immense privation. They were under constant enemy attack from screaming Stuka dive bombers. On the ground, they faced the might of Rommel's armour, artillery and the ground troops of the Africa Corps. The troops suffered from all the lesser-known but just as dangerous impacts of fleas, flies and disease.

The battalion handed over to the Polish Army in August 1941, hence the Polish service medal that Roger wore with pride. After deployment to Palestine and Syria, the battalion was

recalled to Australia when our nation came under threat after Japan joined the war. Roger returned to South Australia in March 1942, and in August of that year he was deployed with his unit to Milne Bay, Papua New Guinea, only weeks before the Japanese landing. Roger served further in the Pacific campaign at higher command level and was discharged in April 1946.

Roger's military service was, like that of many of his compatriots, tough and demanding. But like his mates, he met the challenges full on, never taking a backward step. He was a man of substance and he remained a unique example to all those who followed in uniform from those days in the 1940s right through to the present.

Roger was mentioned in dispatches during his military service. Later he was awarded a Medal of the Order of Australia for service to veterans and their families and to the community through a range of service, nature conservation and heritage organisations. After the war he turned to engineering and, with Brian Magarey, Roger founded a business manufacturing animal handling equipment. He had a strong connection with the land and those who worked with it.

As you might expect, Roger marched in every ANZAC Day march since 1947. In recent years, he swore that every year would be his last. He would finish the march, retire to seating, occasionally have a swig from his hip flask and faithfully tell march organisers, 'That's it, old chap.' But he did not rest: 11 months later Roger would start training. Every Friday he would complete the march route to get himself into condition. Such was his commitment that Roger, at age 90, put himself through a double knee replacement timed precisely to have him right for the next ANZAC Day march. Twelve weeks ago Roger finished his final march to applause from those who finished with him.

During his service, following a sporting injury, Roger met his beloved wife, Peggy. They married and had four children. Roger was also a service member and past president of Adelaide Legacy. He maintained a strong link with the military and his old unit. Roger was a friend to all servicemen who followed and he had a particular soft spot for Vietnam veterans and went out of his way to befriend and assist them. He taught some of them the joys of beekeeping and another joined Roger to help him write his biography. It seems that Roger wanted to show the younger veterans that they were valued and he respected their service just as they did his.

Roger had a special affection for our Aboriginal servicemen and never missed the annual Aboriginal Commemorative Service held at our War Memorial on North Terrace. Only eight weeks ago, Roger was asked to unveil a sign recognising a memorial cairn constructed by a distinguished Aboriginal soldier of World War I, Stanford Wallace 'Tiger' Simpson, in honour of his comrades. Tiger was a member of the 10th Battalion who landed at Gallipoli on 25th April 1915. The memorial is located near American River on Kangaroo Island.

Roger, at age 93, drove to Cape Jervis and boarded the ferry to the island and drove to the memorial site. With notes written on scraps of cardboard, Roger made a splendid speech, and I am told he did not miss a beat. At the conclusion of the function, Roger simply drove home to Heathfield in the Adelaide Hills.

Mr Pengilly: Surprising everybody on the road; I was there!

The Hon. M.D. RANN: Yes. Many generations came to know Roger. Every single one of them was left in no doubt of the love and affection he had for his beloved wife, Peggy. Indeed, while in hospital just before his death, her welfare was his only concern. Many members of this house, including myself, knew Roger for many, many years. He was a person who was both inspiring and a wonderful character. I want to extend the condolences of the house and the people of South Australia to Roger's family. He was a unique and special character and our state and our nation are better places because of him. Lest we forget.

Honourable members: Hear, hear!

PAPERS

The following paper was laid on the table:

By the Attorney-General (Hon. J.R. Rau)—

Electoral Commission of SA—State Election 2010 Report

PUBLISHING COMMITTEE

Mr BIGNELL (Mawson) (14:13): I bring up the Publishing Committee's extensive report.

Report received and adopted.

MCINALLY, MR G.

The SPEAKER (14:14): Before we go to questions without notice can I just bring to the house's attention that we are losing from today parliamentary officer Gerry McInally, who is moving to better pastures in the Senate I am told. He is not in the chamber at the moment, but I am sure you will all be sorry to see him go. I have had many conversations with him, most of which I have not understood a word of because of his broad Scottish accent. We wish him well and we hope that we might see him back here one day.

QUESTION TIME

CARBON TAX

Mrs REDMOND (Heysen—Leader of the Opposition) (14:14): I, too, will be sorry to see Gerry go, but I am glad he has not gone back to Scotland. My question is to the Premier: has he sought compensation from the Prime Minister for the increased state budget costs created by the carbon tax, given that the Victorian Liberal Premier (Ted Baillieu) requested and was granted compensation for the state of Victoria?

Last week I wrote to the Prime Minister requesting financial compensation for South Australia for the additional cost that the state budget will face because of the carbon tax. What have you done, Premier?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:15): It will be interesting to see what the reaction is to the Leader of the Opposition's letter, probably not much I would expect because we remember when her predecessor—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —said that he was going to go interstate and knock the heads together, put his—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —Liberal colleagues in a headlock and get them to agree to something and he came away looking humiliated. What we have been trying to do is to make sure that we get compensation—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —for Adelaide industries that were trade exposed, and I am very pleased to say that we have been successful in doing so.

KANGAROO ISLAND, EUROPEAN SETTLEMENT

Ms FOX (Bright) (15:15): Can the Premier tell the house about the community cabinet and the 175th anniversary of settlement on Kangaroo Island?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:15): I think we need to tell the whole story. I want to thank the honourable member for her question. It would have been nice to have more notice but I will do my best.

Members interjecting:

The SPEAKER: Order, the Premier will be heard in silence!

The Hon. M.D. RANN: It was a great pleasure and honour to visit Kangaroo Island twice during the past week to celebrate the important milestone in our state's comparatively brief but profound European history, the 175th anniversary of settlement on Kangaroo Island.

I want to thank the member for Finniss for his welcome, his attention and his decency during the visit, and also to say that it was terrific to have the company of Ted Chapman's daughter

on the island over the last day or so. Ted was a friend of mine; and it was good that we made a bipartisan pact between the three of us and mayor Jayne Bates that we will return for the 200th anniversary in 25 years from now, and at about that stage I might be looking for a different career. After 150 days at sea, the *Duke of York* dropped anchor in Nepean Bay—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —on 27 July 1836, and its passengers and crew were rowed ashore. It was the moment that the pioneers of Australia's first free settlement set foot in their new world. Earlier, in 1819, Captain George Sutherland, who spent seven months on the island, compiled a glowing report on its features. Captain Sutherland was taken by the beauty and uniqueness of the island and would later write about the crystal water on the island as well as the bountiful snapper and oysters which he said were better than those in England. This was to be the first awareness amongst Europeans of Kangaroo Island's outstanding reputation for its pristine wilderness and food.

The first pioneers of the island, who hewed a viable, sustainable settlement from virgin land in an alien climate, showed immense courage, camaraderie and commitment, and that commitment can still be seen in Kangaroo Island's residents, especially those able to trace their heritage all the way back to those first arrivals.

An honourable member interjecting:

The Hon. M.D. RANN: I will talk about that in a second. Some time later, the islanders would show their individuality through their innovative industries such as eucalyptus oil, yacca gum and Ligurian bees. I was pleased that the decision was made to hold a Labor caucus meeting, as well as a community cabinet, on the island to coincide with the 175th anniversary celebrations. This was the third cabinet meeting but the first Labor caucus meeting in 175 years on the island. As I have mentioned before, the community cabinet was this government's 55th community cabinet and the third held on the island since forming government in 2002.

I was very pleased to host a morning tea for volunteers on Sunday in Parndana to acknowledge the generous and selfless contribution made by local volunteers to their community and to play football with the member for Finniss in a demonstration match that has subsequently achieved some celebrity.

The following volunteers received awards: the young volunteer category was won by Mr Kiri Hamilton for his exceptional contribution as a student representative on the Kangaroo Island Youth Advisory Committee and for the time he gives to Operation Flinders; the female volunteer winner was Kathie Stove for her tremendous contribution as a volunteer, protecting and conserving the unspoilt environment of the island; and the male volunteer category winner was Mr Phil Buck, who has worked tenaciously to establish a formal volunteer marine rescue presence on the island. The community project category winner was Kangaroo Island Dolphin Watch, which is an exceptional community project that sees Kangaroo Island schools and the wider community working together to develop an understanding of the island's dolphins and their habitats.

Later in the day I visited the Solider Settlement Museum, where a historic display tells the stories of the development of the soldier settler scheme in the early 1950s. In an era before 240-volt power, good roads and telephones, the innovation and humour shown by this generation is inspiring. Following that, I met with the Minister for Veterans' Affairs, the RSL and Legacy in Kingscote and was also pleased to hear their stories. The Minister for Veterans' Affairs introduced me to two diggers from World War II. One had served in New Guinea and the other had also served in New Guinea and at Kokoda.

Prior to the cabinet meeting on Monday, I opened the recreation centre at the Penneshaw R-9 campus. I was extremely delighted to hear that this school, first opened in 1869, has a 100 per cent participation rate in both the reading challenge as well as the *be active* challenge. I congratulate all of the teachers, children and their parents on this outstanding effort. Back in Kingscote, cabinet received an inspiring presentation from the Mayor of Kangaroo Island, Jayne Bates, prior to the cabinet meeting.

It gave me great pleasure to return to the island again on Wednesday and spend another day and night there attending the official celebrations of the 175th anniversary of settlement. Last night, on the anniversary, at the Kangaroo Island Pioneers Association dinner at the Ozone Hotel, I delivered a State of the State address, as I would have done at the Proclamation Day celebrations

in Glenelg. I was joined, of course, by the member for Finniss—a relative newcomer to the island, given his forebears arrived in 1837 in South Australia, so not quite local, and in fact arrived on the island in the 1930s—and that well-known islander, whose island heritage dates back seven generations, the member for Bragg. She was actually one of the originals—not one of the originals landing there, but her ancestors did.

An honourable member: She has aged well.

The Hon. M.D. RANN: She has aged very, very well. Last night I also had the pleasure of announcing that I believed that, in addition to Proclamation Day, an annual State of the State address should be delivered on 27 July every year by the premier of the day on Kangaroo Island. This would then recognise what all the islanders will tell you is the true anniversary of European settlement in South Australia, when the *Duke of York* anchored off the coast of Kangaroo Island and the very first citizens arrived on the shore on 27 July, five months before settlers landed at Holdfast Shore.

The Pioneers Association dinner last night was the culmination of a terrific day of celebration. At the flag-raising ceremony on Reeves Point that morning, I had the pleasure of meeting the direct descendant of Captain Robert Clark Morgan, the captain of the *Duke of York*, who was one of the first of six people who went ashore on that historic day. His name, too, was Clark Morgan and he travelled with his wife to the island from Melbourne.

Every school student on the island also gathered at Reeves Point for the raising of the flag to commemorate the beach landing. It was also well attended by the many proud descendants of the first settlers on the island. At last night's State of the State address, I also talked about how I thought our state would be in 2036. I outlined a future shaped by choice, not by chance, and of a dynamic, confident, outward-looking state, with strong links to the world and an even stronger sense of self.

There is no doubt that, even after 175 years, South Australia has come a long way since nine ships set sail down the Thames on their long voyage to South Australia. Kangaroo Island is South Australia's undisputed jewel. It is Australia's Galapagos. It is a paradise girt by sea. We look forward to working with the Kangaroo Island Council and with the local member to deliver the multimillion dollars worth of projects that we announced on the weekend.

The SPEAKER: I would just remind the media cameramen in the gallery that they are only to film people on their feet. Leader of the Opposition.

CARBON TAX

Mrs REDMOND (Heysen—Leader of the Opposition) (14:24): My question is to the Minister for Health. How much will Labor's carbon tax cost the state's health system each year and how much federal compensation will be given to offset that increased cost?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:25): I thank the member for that question. It is an issue that we have been spending some time contemplating in our portfolio. Of course, the legislation has yet to go through so it is not entirely certain what will be the final elements of it, but can I—

Members interjecting:

The Hon. J.D. HILL: The member is reflecting on your leadership, member for Heysen; I am not sure.

Members interjecting:

The SPEAKER: Order! The member for Hammond is being very vocal today.

The Hon. J.D. HILL: I am happy to provide some information—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: In 2009-10, South Australian Health consumed 52 per cent of South Australian government building energy use. In absolute terms, the portfolio—

The Hon. P.F. Conlon interjecting:

The Hon. J.D. HILL: Thank you, very much. In absolute terms, the portfolio consumed 6 per cent less energy in 2009-10 than it did in 2000-01. So, even though we have got a bigger health service and we are doing more work, we have reduced the amount of energy we have used, which is a reflection on the good work that has been done. Energy use per square metre of occupied healthcare space has decreased, Madam Speaker, you will be pleased to know, by 18 per cent, in fact, since 2000-01.

From 1 July 2014, the South Australian government has committed to increasing its purchase of accredited green power from the current 20 per cent to 50 per cent. Shared Services SA is undertaking modelling work to estimate the likely impact of a proposed carbon tax on that premium. In relation to the new RAH, for example, it is anticipated a projected—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —decrease in carbon emissions at the new RAH compared to the existing RAH, based on 2009-10 emissions, of approximately 18,600 tonnes of carbon dioxide per annum. On the basis of imposing a carbon tax of $23 per tonne, this projected decrease in carbon emissions equates to a cost avoidance of $425,000 per annum when you compare it with the old RAH. If you looked at the new RAH compared to the old RAH, it, in fact, would save money as a result of it. So, that is one of the benefits of it.

In terms of building energy use, assuming a full pass through of the $23 per tonne carbon tax to the end user, SA Health will be subject to an increase in electricity and gas costs in 2012-13 of approximately $4.1 million—a 13.7 per cent increase in real terms. In relation to transport fuel, it is unclear at this stage if SA Health's fleet and ambulance transport fuel will be subject to the proposed carbon tax. I am advised that, should it be so subject, it will result in an increase of approximately $254,000 in 2012-13, which is about a 4.6 per cent increase.

We as a state and SA Health have made a large investment in energy efficiency over the past decade. For example, the 240-panel solar hot water array installed at Flinders Medical Centre 18 months ago is the largest in South Australia and, as a single measure, has reduced FMC's greenhouse emissions by 1,100 tonne per annum. Under a $23 per tonne carbon tax, the cost avoidance due to the installation of the solar panels will be approximately $25,300. So, the point is: we have known for a while that carbon was going to be priced in some way, so we have made investments in our existing infrastructure and in our planning for our new infrastructure to make sure that we are not as exposed as we would be if we kept with what we have.

Mr Williams interjecting:

The Hon. J.D. HILL: Well, they have four more stars than you have, Deputy Leader of the Opposition.

The Hon. P.F. Conlon: One more star than he had votes.

The Hon. J.D. HILL: Yes, that is right.

The Hon. M.D. Rann interjecting:

The Hon. J.D. HILL: That is right—double the number of votes he had. The Green Star healthcare tool is utilised to guide all major SA Health redevelopment projects. As part of the Green Star assessment process, a sophisticated energy modelling technique is employed to determine the theoretical greenhouse emissions of the proposed facility, relative to a like facility, had it been built to the minimum energy efficiency standards established by the Building Code of Australia.

No doubt there will be other costs that will come through. We obviously need to identify those. There is a whole range of issues that have to be worked through. As I say, the commonwealth's legislation has not been finalised yet; so, at the moment, all this is hypothetical, but we have done some work. There are a range of costs that we may be subject to and, of course, we will work through them.

ADULT LITERACY AND NUMERACY

Mr SIBBONS (Mitchell) (14:29): My question is to the Minister Assisting the Minister for Employment, Training and Further Education. Can he advise of any opportunities for South Australians to improve their language literacy and numeracy skills?

The Hon. T.R. KENYON (Newland—Minister for Recreation, Sport and Racing, Minister for Road Safety, Minister for Veterans' Affairs, Minister Assisting the Premier with South Australia's Strategic Plan, Minister Assisting the Minister for Employment, Training and Further Education) (14:30): With your indulgence, ma'am, I would just like to add my welcome to the children from St Ignatius College, my old school. My chaps. I also add my condolences to the family of Roger Cundell today. I attended the funeral, and I was honoured to do so.

I thank the member for Mitchell for his question, and I just want to note his keen interest in adult education. More than 2,000 adult South Australians will have the opportunity to improve their literacy and numeracy skills through the state government's $3.9 million Community Education Training initiative. The Adult Community Education Grants program provides funding to support South Australian adults experiencing low levels of literacy and numeracy to participate in learning, training and jobs.

I am particularly pleased with the applications received from the second grant round of the Adult Community Education's Foundation Skills Grants program. The funding provided under this stream of Adult Community Education funding will see 2,086 training places offered by community-based, not-for-profit training providers at over 50 sites across the state. This funding will provide accredited training in partnership with TAFE SA so that participants can further improve their skills to access high levels of training and gain employment.

An extra $2.175 million for this round of the Adult Community Education's Foundation Skills Grants program is playing an important role in delivering on the state government's job strategy commitment, and brings the total for Foundation Skills Grant funding to more than $3.9 million since the program began last year.

We know that people with limited literacy and numeracy face barriers to gaining jobs and further education opportunities. This additional investment provided by the Rann Labor government to the Foundation Skills Grants program builds on the existing Adult Community Education program.

It offers real opportunities for the disadvantaged in South Australia and helps them secure sustainable employment. The Skills for All reforms announced in February provide additional support to the Adult Community Education sector in delivering Foundation Skills programs to South Australians so that they can access training and find work.

The successful applicants in the latest round include the Tailem Bend Community Centre, Christie Downs Community House, the City of Port Adelaide Enfield and UnitingCare Wesley (Port Augusta), among others. A record 130,000 new jobs have been created in South Australia since the Rann government came into office in 2002. The training provided across the state as part of Adult Community Education will deliver on the state government's Skills for All jobs strategy and helps with creating 100,000 new jobs and 100,000 additional training places over the next six years.

CARBON TAX

Mr PISONI (Unley) (14:32): My question is to the Minister for Education. How much will Labor's carbon tax cost the state's education system each year, and how much federal compensation will be given to offset the increased costs?

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development, Minister for Science and Information Economy) (14:33): I thank the honourable member for his question. Of course, that is yet to be determined; the scheme is yet to be fully finalised. The state government has put in place a range of measures to assist schools with some of the burdens that are associated with rising electricity costs which are likely to occur as a consequence of these arrangements.

A very substantial proportion of school buildings now have solar panels, which have been the subject of capital investment at our schools, and, of course, in the last budget $16.6 million was made available over five years—

Mr Pisoni interjecting:

The SPEAKER: Order, the member for Unley!

The Hon. J.W. WEATHERILL: —to provide additional support to schools to deal with their electricity needs. Of course, it is part of the government's commitment generally to improve the energy efficiency of government buildings by 25 per cent from 2000-01 levels by 2014.

DECS is represented on a whole-of-government energy efficiency group and contributes to interdepartmental information sharing on effective ways of implementing that plan and reviewing the scope and effectiveness of DECS quality management procedures for dealing with energy use, data capture and reporting. So there is a whole-of-government process that DECS is part of, which is about taking steps to ensure that we have energy efficiency. Everybody accepts we are in a carbon-constrained environment. That is going to—

The Hon. A. Koutsantonis: Not everyone.

The Hon. J.W. WEATHERILL: That's true. There are, of course, the sceptics opposite. We are, of course, realising that reality and, whether or not there was a carbon tax on the horizon, it was rational to take these steps to insulate the state public sector, in particular our education department, from the rising costs that were always going to be consequent on putting a price on carbon.

DECS schools, preschools and early years electricity consumption has responded to these measures. Departmental sites have been actively involved in a number of energy reduction strategies, including the National Solar Schools Program, the South Australian Solar Schools Program and the Green School Grants program. The South Australian Solar Schools Program, completed in December 2008, supplied 111 sites with solar panels. In July 2008 the National Solar Schools Program was launched to enable schools to apply for up to $50,000 in funding for solar power systems, as well as electricity efficiency installations, and 127 DECS schools have received funding in that regard. Of course, the Building the Education Revolution is also expected to increase the structural site facilities and have an impact on school energy use.

There are a range of ways in which we are seeking to address the pressures that exist in relation to schools, the most substantial of which was the last budget.

Mr PISONI: I have a point of order, Madam Speaker. The question was about costs and I do not believe—

Members interjecting:

The SPEAKER: Order!

Mr PISONI: I do not believe that the minister even attempted to answer the question about costs.

The SPEAKER: Order! There is no point of order. The minister can answer the question as he chooses. If you listened carefully, there was a substantial amount of information there. Add it all up.

Members interjecting:

The SPEAKER: Order! It is the last day. Let's behave. The member for Frome.

COUNTRY HOSPITALS

Mr BROCK (Frome) (14:37): My question is to the Minister for Health. Can the minister clarify media claims that 17 government hospitals will be closing or are being considered for closure in regional South Australia? In the local media in my region, *The Flinders News*, comments were made by the shadow minister for health on 18 May 2011 at a forum in Clare that the government was looking at closing 17 hospitals in regional South Australia and another 20 hospitals were recommended to be closed or downgraded.

The Hon. A. Koutsantonis interjecting:

The SPEAKER: Order, minister for trade!

Mr BROCK: This has caused, and is still causing, grave concerns to the people who are living in regional South Australia.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:38): I thank the member for Frome for his question. I am glad he has given me an opportunity to respond to these outrageous, irresponsible and scaremongering claims by the very

desperate—increasingly desperate—shadow minister for health, the member for Morphett. I am sorry he is not here today so I could say it straight to his face. He has made these claims on a number of occasions around country South Australia. He goes to a Liberal Party branch meeting, revs up the troops by making these outrageous claims—

An honourable member interjecting:

The Hon. J.D. HILL: Because they are reported in the local media.

Mr Pederick interjecting:

The SPEAKER: Order, the member for Hammond!

An honourable member interjecting:

The Hon. J.D. HILL: I think it was in the Riverland.

Members interjecting:

The SPEAKER: Order! Members on my left and members on my right, behave, and listen to the minister. This is an important issue for me, being a country member.

The Hon. J.D. HILL: Thank you. The reason I know this is because the local newspaper, I think from memory in the Riverland, included photographs of nice Liberal members with the member for Morphett attending a Liberal Party branch dinner, and it was reported in the press. So I know he has been going around the country saying these things. He has repeated them.

I have said categorically this is untrue. The government will not close any Country Health SA hospitals. We will not close any of our hospitals, yet despite these claims he continues to repeat the false claims, because he knows it will upset and scare people. Obviously that is what the member for Frome has been getting. But I give you an absolute guarantee that all Country Health SA hospitals will stay open.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: In fact, the only party that wants to close country hospitals is the Liberal Party.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The member for Schubert wants to close two country hospitals. He wants to close two country hospitals. Admittedly he wants to build a new and better hospital, but still, he wants to close two country hospitals.

Members interjecting:

The SPEAKER: Order!

Mr Venning: That's not fair!

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Oh, I see; the member for Morphett can go round country South Australia and claim we are going to close 17 hospitals. That's fine. I make a true claim that the member for Schubert is going to close two hospitals, which he said he would do, and he wants to build a new one on a third site. I have given all the detail about what he wants to do, but that's not fair! Okay, well I will not quote what the member for Schubert says again. It's obviously not fair.

We know, Madam Speaker, that when they were in office last time the Liberal government closed 466 beds, or about 20 per cent of all beds in country South Australia. That is the equivalent of closing down a hospital as big as the Flinders Medical Centre. So they cannot be trusted. I say to the member for Frome: tell your constituents to look at the track record of the Liberal Party in government before you decide what they would do. Under this government, Madam Speaker, country health spending—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —has increased significantly, as you would know, to $719.8 million for 2011-12, which is $339.5 million, or 89.3 per cent, more than the last year of the former government. We have also doubled the number of country doctors and employed an additional 717 nurses and midwives, or 26 per cent more, across country South Australia since 2002.

More resources, of course, mean more services and that means more elective surgery, more renal dialysis and more chemotherapy coming. More treatment in country hospitals means less travel for people. In this year's state budget we allocated $5.7 million towards the $12.5 million Port Pirie GP Plus Health Care Centre. That will offer integrated healthcare services for the Port Pirie community.

Experience does show that primary health care properly managed will help people with chronic diseases such as diabetes and asthma, and makes it possible for patients to avoid emergency departments.

Members interjecting:

The SPEAKER: Order! Members on my left will be quiet. Sit there and be quiet!

The Hon. J.D. HILL: Importantly, this facility will increase recruitment and retention of skilled staff in Port Pirie. Under initial funding, the adjacent YMCA site has been bought for a purpose-built, 1,600 square metre facility, and, in addition, repairs will be made to the existing community health building, which will be used predominantly as office accommodation.

This new facility is expected to include 22 consultation rooms, therapy zone and group rooms. Through this efficient design we will see, for example, children's services relocated to the same area as women's health, and there will be a youth-specific area as well. There will also be better coordination of general practitioners, private allied health practitioners and agencies such as Child Adolescent Mental Health Service, Child and Youth Health, and Drug and Alcohol Services South Australia. There will be a central health information portal, videoconferencing with specialist clinicians and extended hours provision.

A project brief has been developed by the Department of Health and Country Health SA. Three architectural firms and four cost planners have submitted bids as part of a select tender process, which closed on 1 July. The tenders are being evaluated currently. The major development is just one part of our plans to improve facilities and services in country SA, and we are making a range of advances all over the state, including in your own electorate, Madam Speaker. I am happy to provide more information if required.

Members interjecting:

The SPEAKER: Order! Leader of the Opposition, be quiet. The member for Goyder.

CARBON TAX

Mr GRIFFITHS (Goyder) (14:44): My question is to the Minister for Transport. How much will Labor's carbon tax cost the state's transport budget each year, and how much federal compensation will be given to offset the increased costs?

Members interjecting:

The SPEAKER: Order! Members on my right will be quiet also.

Members interjecting:

The SPEAKER: Order! Minister for minerals, behave. Minister for Transport.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure) (14:45): The cost, of course, of carbon is something that we have looked at in terms of transport. It is undoubted that paying for carbon will cost us more, and so it should.

Members interjecting:

The Hon. P.F. CONLON: Firstly, I just want to make sure that the Liberals stand by their view that the Victorian government is being compensated for its cost of carbon because it would be embarrassing if they did not have that correct, wouldn't it? So, I hope she is prepared to stake her leadership on it. The truth is that, in South Australia, Mike Rann has done an outstanding job

securing compensation for some industries in South Australia which produce a lot of carbon. Can I say—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: Apparently, their internal polling isn't going that well.

An honourable member: We've heard about it.

The Hon. P.F. CONLON: We've heard about it.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: The truth is that as a consequence of the work done by Mike Rann with people like Combet—

Mr VAN HOLST PELLEKAAN: Point of order, Madam Speaker: 123. That is twice the minister has referred to the Premier by his name, rather than by Premier.

The SPEAKER: Thank you, member for Stuart. Yes. I will uphold that point of order. The minister knows that.

The Hon. P.F. CONLON: For the benefit of the Pelican Brief, the Hon. the Premier Mike Rann.

Mr WILLIAMS: Point of order, Madam Speaker. It is unparliamentary for a minister to use that sort of language in reference to a member of the house, and he knows that.

Members interjecting:

The SPEAKER: Order! I am sorry. I did not hear the comment that the minister did make, but I will take your word for it.

The Hon. P.F. CONLON: I apologise because the member for Stuart is a member for whom I have respect, unlike the Deputy Leader of the Opposition.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: You got there with three votes. Why don't you just sit back and say thank you? Just sit back and say thank you.

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: Point of order, Madam Speaker: the matter of relevance. It was a question about the carbon tax on the transport department.

The SPEAKER: Yes, I uphold that point of order. The minister will get back to the substance of the question.

The Hon. P.F. CONLON: Madam Speaker, I apologise for responding to disorderly interjections, because that is all I was doing. I will come back to the substance of the question. The Premier has done an outstanding job for South Australian industry, negotiating with his federal colleagues—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: —for compensation for South Australian industries. As a result, we see people like OneSteel in Whyalla who are very happy with the job that the Premier has done for them. So, if the Premier is accused of helping South Australian industry and South Australian jobs ahead of some carbon cost in the department of transport, we are not going to apologise for it. The important thing is for those dinosaurs on the other side—that is an animal, incidentally, just one that isn't around anymore.

Mrs Redmond: What's it going to cost the state?

The Hon. P.F. CONLON: For those people on the other side, if they have a view that the world can go on without paying for carbon, then we do not agree with them. We do not agree with them. We believe the world should pay for carbon and we believe that South Australia will benefit from a transition to a carbon constrained economy, which is why we have more than half of Australia's wind towers, which is why we have more solar connections—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: —and more grid-connected solar power than anyone else, which is why we are ahead of the game in carbon costs, which is why we are placed for a very bright carbon constrained future. So, while you dinosaurs worry about how much it is going to cost the hospital or a school or something like this, what I would say to you is having a healthy economy—having a good, strong growing economy—is far more important that those marginal costs. So, I say to you, if you want to keep asking this dopey question through all of your shadow ministers—all 30 or 40, or how many of them there are—well, we will keep answering them. But we believe that there are opportunities as well as difficulties in a carbon constrained future, and we believe South Australia has a brighter, cleaner future without you.

Members interjecting:

The SPEAKER: Order! Thank you, minister. I hope we got rid of some excess energy in that one.

LOTTERIES COMMISSION OF SOUTH AUSTRALIA

Mr BROCK (Frome) (14:50): My question this time is to the Treasurer. Can the Treasurer advise the house on the progress of creating a sublicence to operate lotteries in South Australia? Since the announcement in the recent budget regarding the proposed new direction of the South Australian Lotteries Commission's operations, there are grave concerns from newsagencies in my electorate, in particular—I have plenty of them—especially those with a lotteries licence, as to their future and security with this proposed move.

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Employment, Training and Further Education, Minister for Workers Rehabilitation) (14:50): I would like to thank the member for Frome for this question and the passion with which he has sought to defend the interests of his constituents. I am happy to be corrected, but I do not think I have had a single question from the opposition on this issue at all, which just goes to show—

The SPEAKER: Point of order, member for Davenport.

The Hon. I.F. EVANS: Before the Treasurer misleads the house I suggest—

Members interjecting:

The SPEAKER: Order!

The Hon. I.F. EVANS: —he reads the estimate committees process. This question was asked of him there.

The SPEAKER: Thank you. The member for Davenport will sit down.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! Treasurer.

The Hon. J.J. SNELLING: The fact remains that in either—

Members interjecting:

The SPEAKER: Order, the member for MacKillop!

The Hon. J.J. SNELLING: Between six and nine hours of question time there has been since this decision was announced and I have not had a question—and I am happy to be corrected—

Mr PENGILLY: Point of order: 128, relevance. It has nothing to do with what the opposition may or may not have asked. The question was quite direct.

The SPEAKER: Thank you, member for Finniss. I won't uphold that point of order.

The Hon. J.J. SNELLING: The fact remains that in six to nine hours—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: This is estimates. In six to nine hours—it just goes to the heart of the Liberal Party's claims that small business is their natural constituency.

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: It goes to the heart of their real concerns for small business but it's good to see that the member for Frome at least is interested in protecting the interests of small business in his electorate.

As members would be aware, as part of the 2011-12 budget I announced the South Australian government's intention to create a sublicence to operate lotteries in South Australia. The government has identified ever-increasing competition from other gambling sectors such as casinos, corporate bookmakers, pokies and the rise of online gambling as among the reasons for its decision. Also, over recent years, other states like Victoria, Queensland and New South Wales have either licensed or sublicensed their lotteries business to the private sector.

It is intended that the sublicence will be available to a private sector operator, giving it the right to promote and conduct lottery games under SA Lotteries corporate and product branding for a period of time. The state will retain ownership of the lottery licence—

Members interjecting:

The SPEAKER: Order! There is far too much background noise.

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: I know you have been embarrassed that the member for Frome had to ask a question which perhaps you should have asked but, nonetheless—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: How many questions have I had on the state budget? I cannot, in my 14 or 15 years of being here, remember—

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: Madam Speaker, can I seek a point of clarification? Can you remind the house if it is, indeed, out of order to ask the same question twice and, if so, is it out of order for ministers to give questions which they have already been asked by the opposition to other members to ask them as Dorothy Dixers?

The SPEAKER: Order! Thank you. I don't think there was a point of order there. You were asking for an opinion. I understand there were some—

Members interjecting:

The SPEAKER: Order! I think the Treasurer is right. There were perhaps some questions asked in estimates, which is not in this chamber here. Treasurer, can you return—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The Hon. J.J. SNELLING: I find it amazing—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: Point of order, or, as the Deputy Leader of the Opposition would put it, a point of clarification: is it orderly to scream abuse across the chamber?

The SPEAKER: Thank you. I am very happy to call this question time to a close if members continue in this vein and we will get on with the business of the day and finish early. However—

Members interjecting:

The SPEAKER: Order! Can we have a little bit of order in this place? It is the last day before the winter break. We have a group of young people up there watching and wondering what on earth is going on.

Members interjecting:

The SPEAKER: Order! Treasurer, I would ask you to return to the substance of the question.

The Hon. J.J. SNELLING: Of course, ma'am. Groundhog day, the member for Davenport calls out; well, when you get three or four questions all the same, just asked to different ministers, yes it does seem a bit like groundhog day. It is intended that the sublicence will be available to a private sector operator giving it the right to promote and conduct lottery games under SA Lotteries corporate and product branding for a period of time. The state will retain ownership of the lottery licence and intellectual property associated with SA Lotteries brands. Lottery gambling tax (which makes up about three-quarters of what is returned to government from lotteries) will continue to be paid into the hospitals and recreation and sport funds.

The government is committed to maximising the economic benefits to the state and protecting business interests and growth opportunities for lotteries agents. The government has given assurances to protect the business interests of the agents and taken unprecedented steps early to provide business as usual for SA Lotteries agents.

The government has announced that all agents will be protected under this announcement and will have their current agreement with SA Lotteries reset to five years from the date of the transfer of the sublicence to a new operator. Further, an option will exist to further extend agreements for an additional five years if the terms and conditions of that agreement have been met. Thirdly, the commission rates paid currently will be maintained to provide additional protection and security to agents. Fourthly, SA Lotteries corporate branding and product branding will not change. This will help to protect the investment in agency infrastructure.

I am working closely with the presiding member of SA Lotteries, Mr Hans Ohff, and the commission, and Chief Executive of SA Lotteries, Ms June Roache, to seek their advice and to make sure there are few interruptions and the interests of agents are protected. An agent reference group, which has been established since 1996, will continue to meet with SA Lotteries management to maintain this important feedback and consultation mechanism for agents. I have already written to all agents to explain the government's approach to the sublicensing and will continue to keep them informed.

The Australian Newsagents Federation has established a blog to canvass their agents' views and I will be meeting with the federation shortly to hear their concerns. I know lotteries plays a major part in generating income for many agents and small businesses in the state. I can assure the house that a sublicence can only be awarded to a successful operator if, and only if, I am fully satisfied that the interests of agents are protected.

CARBON TAX

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (14:58): My question is for the Minister for Water. How much will Labor's carbon dioxide tax cost SA Water each year, given that SA Water is one of South Australia's largest users of electricity, and how much federal compensation will be given to offset these increased costs?

An honourable member: Didn't see this one coming.

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (14:58): No, it's like—a man walked into the bar, didn't he see it?

Members interjecting:

The SPEAKER: Order!

The Hon. I.F. Evans: Should give him a note that says, 'Don't disclose the answer unless the media shows any interest.'

The SPEAKER: Order! Member for Davenport!

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: I am happy to take questions on that matter again, Madam Speaker, but we know that they have difficulty changing their strategy at any time. We know where they are going today, and you know that. We know they've got their own internal issues, and they'll have to deal with them. It would seem to me that there are a couple of issues that need to be brought to the attention of the house, and one is that I think that the opposition is attending maybe the Tony Abbott school of denial and sceptics about a price on carbon. Quite frankly—

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: Point of order: debate. The minister—

The Hon. P.F. Conlon: Stop interjecting.

The SPEAKER: Thank you. Yes, I refer the minister back to the substance of the question.

The Hon. P. CAICA: Thank you very much, Madam Speaker. I would suggest they probably attend the Malcolm Turnbull school, which is a far better school to attend on this particular matter. We also know that the decision was made by this government to ensure that the desal plant was powered by 100 per cent renewable energy.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: Madam Speaker, whilst it is unruly to respond to interjections, I did hear one of them say, 'What about the pumping station?' I know you know this, Madam Speaker, but it might be, through you, for their benefit. The desal plant can be operated from 100 per cent capacity in 10 per cent increments down to 10 per cent, and then turned off thereafter. So, the arrangement—and a very good arrangement—that we have entered into with AGL is that, when that energy is not being used for the desal plant, it can be used as offset in running the power—

The Hon. P.F. Conlon: So we're ahead of the game again.

The Hon. P. CAICA: We are ahead of the game, as my friend the minister says. In addition to that, the Premier and I and others attended Bolivar recently and had a look at the work and the considerable amount of money that will be spent there to ensure that we utilise the waste products in such a way that that in itself generates power for that plant. Indeed, in days going forward, we would hope that the amount of energy being produced there would be able to be even used off-site.

There is still a little bit of work to do with respect to, as I understand it, the matter of carbon, and the price on carbon still needs to go through a process federally. Whilst we understand what the rules are, we do not know exactly what will occur because it will still be the subject of passage through two houses of parliament. So, it is safe to say that SA Water and my agencies are doing work and preliminary work on what will be the impact of the price on carbon. What I would also say is that this side of the house actually believes—strongly believes—that there needs to be a price on carbon. I would like to know what the position of the opposition is—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —and, quite frankly, that work is still a work in progress.

DESALINATION PLANT

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:02): My question again is to the Minister for Water. Will the desalination plant produce its first water by the end of July, in three days' time, as promised by the government? The government paid $46 million to AdelaideAqua in incentive payments to guarantee first water by December last year. It failed to meet that deadline and we were told that first water would then be achieved in April of this year. The government then announced that it was not going to meet that deadline and that first water would be produced by the end of July this year. When will we get water out of the desal plant?

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (15:03): Again, I will help the—and I won't call him the deputy opposition leader because—

Mr Pisoni interjecting:

The Hon. P. CAICA: You took an interjection on that yesterday, you goose. The way in which the question was posed is when will the first water be produced and then—no, when will we get the first bit of water out of it? My understanding is this: that we are on track for the first drop of water to be produced in the time frames that I have already said would occur. I have no evidence to say that we are off schedule in that regard.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: Madam Speaker, they are being very unruly—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —and that's not a reflection on you, Madam Speaker; it's just that it is very hard not to respond to an unruly rabble that has its own internal difficulties, as we are aware of. Importantly, we are on track and continue to be on track for the completion of the 50—

Mr Pederick: So, Sunday?

The SPEAKER: Order! The member for Hammond, you are warned.

The Hon. P. CAICA: We are on track for the 50-gigalitre completion. We are on track for the completion of the desal plant and we are on track for the production, if you like, of the first drop of water that will come out of the desal plant.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The Leader of the Opposition and the Minister for Water should take this conversation outside and not finish it here.

Members interjecting:

The SPEAKER: Leader of the Opposition, you are also warned.

Members interjecting:

The SPEAKER: Order!

The Hon. P. Caica interjecting:

The SPEAKER: Order, minister! The member for Davenport.

UNITED STATES DEBT CRISIS

The Hon. I.F. EVANS (Davenport) (15:05): My question is to the Treasurer. What is the taxpayers' exposure to financial markets in the United States through the government's investment vehicles such as Funds SA, SAFA, WorkCover and the Motor Accident Commission? What advice has the Treasurer received about the government's exposure in relation to the US debt crisis?

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Employment, Training and Further Education, Minister for Workers Rehabilitation) (15:06): To my recollection, I have not had any specific advice, but the government is very careful. Funds SA, WorkCover—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: —and the other bodies which invest funds on behalf of government, are very careful and take very good advice. I have full confidence in their investments and in making sure that we are as exposed as little as possible. The fact is that, over the last 12 months, all the reports I have had on our returns on investments have all been very good. I have no reason to believe that we have any specific—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: —exposure to what is going on in the US.

Members interjecting:

The SPEAKER: Order! Member for Bragg.

FINANCIAL COUNSELLING SERVICES

Ms CHAPMAN (Bragg) (15:07): My question is to the Minister for Families and Communities. Does the minister agree with her colleague, the member for Croydon, that cuts to financial counselling services are to stop people from double dipping and triple dipping?

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Housing, Minister for Ageing, Minister for Disability) (15:07): We have brought about some reform in our Families SA—

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: Let me get more than three words out, will you? Thank you.

Ms Chapman interjecting:

The SPEAKER: Member for Bragg, behave!

The Hon. J.M. RANKINE: Silence is golden—sometimes. Except when you are silent; we know when you were silent what it did.

Members interjecting:

The SPEAKER: Order! Minister, return to the answer. The member for Finniss will behave also.

The Hon. J.M. RANKINE: We have thought about some reform in the Families SA Anti-Poverty Unit. What we have done is provide the money that has been going to people who are not clients of Families SA but need financial support. We have provided that to non-government organisations to distribute throughout South Australia. There are some places where Families SA will continue to do that but, in the main, that is going to the non-government sector.

In relation to family counselling, we had about 100 people in the department who were, as a small part of their role, doing financial counselling services. That equated, throughout these 100 employees, to about one financial counselling service per week. Many of those, again, were for clients who were not Families SA clients. So, we are in the process of arranging a contract, again, with a non-government organisation to provide those financial counselling services around South Australia.

Ms CHAPMAN: Point of order.

The SPEAKER: Order! Point of order. Member for Bragg.

Ms CHAPMAN: I think that I have listened patiently enough to all the same dribble—

Members interjecting:

The SPEAKER: Order!

Ms CHAPMAN: —that we heard in estimates—all the same absolute dribble that was totally rejected at estimates.

Members interjecting:

The SPEAKER: Order!

Ms CHAPMAN: The very clear question to this minister was: does she agree that this exercise is double dipping or triple dripping?

The SPEAKER: Order! Member for Bragg, thank you for that, but the minister can answer the question as she chooses, and she is, I am sure, going to get to the end of the point soon.

The Hon. J.M. RANKINE: Well, we know where the dribble is. We had a situation when people could go to Families SA offices or a range of non-government organisations to get financial support—circumstances where people could actually double dip, that is—

Ms Chapman interjecting:

The Hon. J.M. RANKINE: People were going to—

Ms Chapman: You agree with this?

The Hon. J.M. RANKINE: Will you shut up and listen? Just listen. You don't listen.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! Members will sit down. The minister will sit down. We will stop shouting at each other across the floor. It is not on. Did you have a point of order, deputy leader, or have I just made that point?

Mr WILLIAMS: Madam Speaker, I am sure that the language used by the minister is unparliamentary.

The SPEAKER: I do not think it is unparliamentary to call to someone to shut up when they are shouting across the floor. If you shout across the floor you will be told. Minister, return back to the substance of the question.

The Hon. J.M. RANKINE: Thank you, Madam Speaker. The empty can does make the most noise, as my mum used to say.

Members interjecting:

The SPEAKER: Order!

Mr Pengilly: You're worse than Ann Bressington.

The SPEAKER: Order!

The Hon. J.M. RANKINE: There are two issues: there is the financial support; and there are the financial counsellors. There were circumstances in relation to financial support where we believed that people could have been double dipping. According to the quote read out by the member for Bragg, the member for Croydon talked about double dipping of financial counselling services. I think he got mixed up.

Members interjecting:

The SPEAKER: Order! The member for Norwood.

Members interjecting:

The SPEAKER: Order! The member for Norwood.

ABORIGINAL RENAL DIALYSIS SERVICES

Mr MARSHALL (Norwood) (15:11): My question is to the Minister for Health. Will the minister advise whether the government will be providing remote dialysis treatment at the Substance Misuse Centre in Amata as recommended in the federal Senate resolution dated the 7th of this month?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:12): Thank you very much, and I thank the member for his question. It is an important question. We have been working with the Northern Territory and Western Australian governments but in particular have taken advice from Nganampa Health, the Aboriginal health control service which provides primary healthcare services on the lands.

Their advice to me has been consistently that a dialysis service on the lands just would not be sustainable for a whole range of reasons to do with staffing and also to do with the technology requirements of running such a service. Even if we wanted to put dialysis services in one place, it would not actually solve the problems of people who live in other communities on the lands because the distances they would have to travel would be extreme.

What was suggested by the federal government's inquiry (which was done in collaboration with us, Western Australia and the ACT) was something which we think is worth pursuing further, that is, the establishment of a mobile dialysis service which could provide temporary respite services to people who may have left to live in Alice Springs or elsewhere and who want to go back to their home communities for business for a week or two at a time.

You could have a mobile service, properly staffed, that could go to a community where there might be a week of ceremony, or a week of football celebrations, or anything of that like. You could have a van there, provide a few weeks—or even a bit longer—of service to a group of people who were gathered at that place, and then they would have to go back to where they are. It would be terrific to have dialysis available in all those communities.

There has been one Aboriginal community in the Northern Territory which has got a home-based dialysis service, but the standard of excellence that you would have to provide to make sure that worked safely is very high, and Nganampa's advice to me is that it is not really sustainable on the lands.

MINISTERIAL APPOINTMENT

Mr GOLDSWORTHY (Kavel) (15:15): My question is to the Premier. Considering the Premier's abhorrence of mullet-headed lawyers, why did he risk it with a mullet-headed minister?

Members interjecting:

The SPEAKER: Order! I think that was a frivolous question. However, the Premier can answer it.

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (15:15): Can I say that none of us can understand why the member for Kavel is not on the front bench, because those of us who have spoken to him in the corridors and in other places know that he is the only one who makes us nervous—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —that one day he will emerge with a field marshal's baton in his knapsack. I have to say this. Getting advice on hirsute matters from the member, the baron of the Barossa, may not be a good start to his career.

GRIEVANCE DEBATE

KANGAROO ISLAND, EUROPEAN SETTLEMENT

Ms CHAPMAN (Bragg) (15:17): Yesterday I attended, with a number of other South Australians, at Reeves Point on Kangaroo Island to celebrate South Australia's terquasquicentennial, that is, its 175th birthday, Kangaroo Island being the birthplace of South Australia, in recognition of the first settlement of the South Australia Company which had been originally established in England in 1834.

It is interesting, historically, that the program for migration was established in 1826 by Edward Gibbon Wakefield who, when he was sentenced to three years' imprisonment for the abduction of a 15-year-old schoolgirl, in prison, published a paper setting out his ideas on the theories and practice of colonisation. Indeed, ultimately, he proposed a colony based on the sale of wasteland and the application of the proceeds (or a land fund) to finance immigrants from Britain.

The Wakefield Plan would encourage immigration and there would be no convicts. That was the birth of the South Australia Company. If one is to stand at Flagstaff Hill on Kangaroo Island today, a memorial stands there recognising the ships *Duke of York*, *Lady Mary Pelham* and *John Perry*, the first three ships to arrive with those who had invested in the establishment of the South Australian colony. Yesterday, local identity Craig Wickham was the master of ceremonies in receiving the Premier, members of parliament, the mayor, Jayne Bates, and members of council—

The DEPUTY SPEAKER: Order, excuse me, member for Bragg, and I would like to apologise. I cannot hear the member for Bragg very well because of the general chitchat, and I believe she is speaking about the 175th anniversary of our state.

Ms CHAPMAN: —and other leaders in the community who attended, firstly, the flag raising. There was an excellent contribution by the Kangaroo Island schoolchildren in the presentation of the national anthem. The Hon. Mike Rann, as Premier of South Australia, did indeed attend this occasion to present his message on behalf of the state. Young achievers were recognised. The mail run re-enactment by horse riders who had taken six days to traverse Kangaroo Island was met and received by the mayor and Premier, and letters were duly distributed.

That was a fantastic morning, and later that morning two important aspects of the early pioneers were recognised as occurs on these occasions each year. This year, special memorial plaques were unveiled, firstly at the grave of Henry Wallen. Members may know 'Governor', as he was self-proclaimed, has his grave there. He had settled on Kangaroo Island about 1819 and died in 1856. His coming to Kangaroo Island was before the official settlement. The story of Wallen is extremely interesting and worthy of recognition in the 175th anniversary year. It involves courage, hard work, hunting, farming, his Tasmanian Aboriginal wives, the sad demise of his only son in Macquarie Island and Governor Wallen's welcome to the official settlers in 1836.

I think it is fair to say that history records he was unfairly treated by the first settlers, yet respect and admiration for him has been maintained to this day. The plaque in recognition that was unveiled was duly celebrated yesterday. This was followed by the unveiling of a plaque to recognise the Christian family pioneers. This is a family who arrived on the *Africaine* in 1836. Mrs Karoline Christian and infant daughter died from the harsh conditions on Kangaroo Island and were buried in the cemetery. Their plaque tells a fascinating story of bravery, hardship and sadness. The great-grandchildren of Karoline and Gottlieb Christian were there to unveil the plaque, and it was truly a memorable occasion.

It reminded me during the evening to record when I had the honour of providing the toast of the Settlement Day for 2011 in this 175th year and also for the launch of a book by Mr Neville Cordes, the President of the KI Pioneers Association. The committee of that Pioneers Association was responsible for the organisation of the dinner last night for the launch of his book *The mystery and magic of Reeves Point*, part of the history of Kangaroo Island. It was a splendid occasion that was celebrated yesterday for South Australia.

STEPHANIE ALEXANDER KITCHEN GARDEN PROGRAM

Ms THOMPSON (Reynell) (15:22): I want to speak today about the Kitchen Garden Program and in doing so want to pay tribute to Stephanie Alexander, and to Maggie Beer, who has put an amazing amount of energy and enthusiasm, as well as her valuable time, into supporting the Stephanie Alexander Kitchen Garden Program in my electorate.

I am fortunate to have three schools which have received a substantial grant under this program: Pimpala Primary School, O'Sullivan Beach School and the Christie Downs Primary School. I have had some words of great praise from Pimpala which I want to share with the house, and I know that the other two schools have the same approach. Pimpala points out that the aim of the program is to bring good food into the curriculum and culture of the school, to feed the minds, bodies and futures of each and every student:

> We are changing the way children approach and think about food. The children are enthusiastically getting their hands dirty and learning how to grow, harvest, prepare and share fresh, seasonal food.

The fundamental philosophy that underpins the Stephanie Alexander Kitchen Garden Program is that by setting good examples and engaging children's curiosity, as well as their energy and their taste buds, we can provide positive and memorable food experiences that will form the basis of positive lifelong eating habits.

This week in the kitchen the children are making Vietnamese vegetarian rolls, orange marmalade, silverbeet risotto and beetroot jam. Warrigal greens pesto (this is an Indigenous recipe) is also on the menu. The Warrigal green is picked from the school's Indigenous edible garden. The children split into six groups and all do a different recipe each week. The lessons bring the school community together; parent volunteers are needed to run the program and this involves parents and grandparents and sometimes even friends of the family. It is a really enjoyable day for the volunteers. Although hard work at times, it is rewarding for them to spend time with their children.

In September, 15 children will cook at the Royal Show in the DECS learning centre. They will spend a day cooking and demonstrating their well honed skills. Royal Show goers will see the children making pasta and beetroot raita and a beautiful brown rice salad with celery hearts and orange zest, all made with fresh ingredients from the garden.

O'Sullivan Beach School tells me that they are now supplementing their kitchen program with a program called A Feast of Ideas under the Parents Initiatives in Education grants. They are working on bringing parents further information about a range of topics relating to food, including: food labels; allergies and intolerance; food preparation; additives; cooking with others; using ideas, items and recipes; and preparing them and sharing experiences together as a group to enjoy and learn together about food and eating.

On a recent visit to O'Sullivan Beach, I was told that the inclusion of recipes from the kitchen garden program in the school newsletter is having a great impact on children showing the letters to their parents instead of leaving them in the bottom of the bag, and in the home where parents are able to say to the children, 'You cook this at school. Let's cook it for tea together.' This has introduced them to vegetables that parents have previously had great difficulty in getting their children anywhere near.

At Christie Downs, they talk about the importance of their children starting the garden from scratch. They learnt about the preparation, adding compost, putting up trellises, the irrigation system, planting seeds and seedlings, and making cuttings. They emphasise all the time how excited the children are about it and about the school orchard which has citrus fruit, apples, kiwi, peaches, cherries, muntries and wattles, and they use the wattle seeds in damper.

The schools talk about the generosity of local businesses which have supported them with compost, manure and plants. So, the kitchen garden is a means of making a community alive in the school—bringing in parents and volunteers; having students, teachers and parents working together with the same aim; involving children in literacy through work in the garden and a very positive experience.

BAROSSA VALLEY AND MCLAREN VALE

Mr VENNING (Schubert) (15:28): I rise to raise a matter in relation to the government's moving to protect and control development in the Barossa and McLaren Vale, so I make the following contribution. Broadacre farming, horticulture and viticulture pursuits are all important contributors to the economy of South Australia. Where these industries exist side by side and also join new urban developments, at times, there will be conflicting interests, not only in investment but also in the management of them.

One key area is the use of sprays to control weeds, pests and diseases. For example, some herbicides that a broadacre farmer can use will damage vines if allowed to drift, while some of the fungicides and herbicides a grape grower uses would not be welcomed as drift onto neighbouring crops or pastures for residue reasons. It certainly would not be welcome.

The national authority that registers agricultural chemicals, the Australian Pesticides and Veterinary Medicines Authority, is reviewing what spray buffer zones should be required on labels of a large number of crop protection chemicals used by broadacre farmers and viticulturists. Where broadacre, viticulture, horticulture and urban interests intersect, there will be times when producers have severe restrictions on using these common tools of trade.

Agricultural chemical labels are legal documents, therefore the buffer zones that will appear on labels need to be observed. These legal requirements for agricultural chemical usage need to be taken into account in planning at the state level. For example, new vineyard developments or urban expansion in the traditional broadacre farming areas will put restrictions on broadacre enterprises.

Similarly, urban developments in vineyard districts will restrict what vignerons can spray at certain times. Existing enterprises need some certainty, and this can come from two things: a recognition of the right to farm through legislative means and, secondly, through sensible planning decisions at state and local government level.

When new developments are approved there needs to be allowance within these developments for buffers which allow existing land users to continue as before. The farmers who have spoken to me also recognise that they have a responsibility to use their agricultural chemicals with due care to avoid unnecessary spray drift, and temperature inversion (something even trickier) where droplets are held in the air, then move and fall down somewhere else when the temperature changes.

Our broadacre farmers are currently very productive but they cannot afford to see restrictions that reduce their efficiency or increase costs. They should have a right to farm in the way they have in the past as long as they do so responsibly. We can no longer ignore the problems that haphazard development causes and we cannot ignore the right of existing businesses to conduct their enterprises. The state needs to have parallel legislation, regulations and recommendations between state and federal bodies governing chemical application and usage.

PIRSA has developed fixed buffer zones to restrict the use of various farm chemicals for broadacre farmers to protect other industries. At different times of the year they are at 100 metres and one kilometre respectively due mainly to the sensitivity of vines in the proximity. The buffers are fixed and do not allow any variation to the buffer areas even when conditions would allow for their safe use.

The APVMA is currently reviewing the use of many of the old pesticides and developing scientific-based buffer zones which are only downwind buffers. These buffers will allow the safe use of many of our herbicides and reduce some of the imposts that our broadacre farmers are currently subjected to. Even with the current buffer system in place, there are still many problems as fixed buffer zones can and do tend to give a false sense of security.

At present the federal APVMA (Australian Pesticides and Veterinary Medicines Authority) and Biosecurity PIRSA chemical branch do not have similar labels and guidelines for agricultural chemical use. This doubling of complexity only intensifies the buffer problems and no-spray zones and creates a far clearer case for investigating the topic further—demonstrating the urgent need for changes to the planning governance and guidelines in South Australia. This is especially pertinent where these mergers of conflicting land uses exist. There also needs to be greater recognition of recent improvement in technology in spray application and understanding of the climatic conditions.

With all these pressing issues, it is now paramount for action by the parliament to correct these issues so that there is some 'right to farm' restored. This is clearly causing angst and real management problems in the greater Barossa district, as well as other areas of primary industry, particularly McLaren Vale. I ask the house to note these issues, particularly when the minister for planning implements these planning regulations.

YOUNG ACHIEVERS

Mr PICCOLO (Light) (15:32): Today I rise to speak about some impressive young achievers who I have been fortunate enough to meet in recent weeks. First, I would like to bring to the attention of the house 18-year-old Aaron Bain from Gawler who won the 2011 Young Rural Ambassador Award for South Australia on 15 July.

Representing the Gawler Show and the Northern Show Association, Aaron is currently undertaking a graduate program at the Ahrens Group after previously completing a Certificate III in Business. Aaron is heavily involved with harness racing as a driver and is the Harness Racing SA Media Liaison Officer. Within the community he plays football and cricket, he is a member of the Xavier College board, and has exhibited poultry at the Gawler Show. It is great to see that he is heavily involved in his community.

As part of his major prize, Aaron will be a special guest of the Royal Agricultural and Horticultural Society during the 2011 Royal Adelaide Show, when he will spend a weekend with the Rural Ambassador state finalists. I would like to commend the Agricultural Societies Council of South Australia for coordinating this award, which is sponsored by Primary Industries and Resources SA and other corporate partners. Aaron Bain is a remarkable community leader for a person of such young age.

On Tuesday this week (26 July) I also had the pleasure of representing the Premier at the launch of the Royal Society for the Blind Young Business Leaders program, of which the Premier is patron. The program challenges young people to develop both professionally and personally as leaders, and engenders the importance of being socially aware and community minded. Supported by major sponsor *in-business* magazine, all participants who complete the business improvement project and community involvement project and achieve their Diploma of Management earn the title of Young Business Leader finalist.

The diploma is accredited by the Australian Institute of Management, another corporate sponsor of the program. From communications to risk, even management and, importantly, financial management, these young leaders will venture outside their comfort zones and gain an indepth understanding of every facet of running a business. This year there are 18 participants in the program aged between 23 and 35.

As part of the community involvement project the participants must raise a minimum amount of $4,000 for the Royal Society for the Blind. In fact, many raise much more than that. The community involvement project pushes them out of their comfort zone and really stretches them personally. For many it changes their lives forever. They come out different people. Certainly their business skills have improved but they have also become greater community minded people. Participants are exposed to the Royal Society for the Blind through visits to sites, contact with clients and undertaking sighted guide training, where they get a feel and touch of the charity.

Over the next 10 months, participants will be also be exposed to challenging situations and be forced to make tough decisions which is what leadership is most about. I was very impressed with the high calibre of young men and women involved in this program including last year's winner, Tish Naughton, who spoke about her rewarding experience over the past ten months.

All of these young people are tomorrow's leaders. Everyone, especially members of this house, have a role to play when it comes to nurturing leaders, whether it be by mentoring them, supporting them, or simply leading by example.

ARKAROOLA WILDERNESS SANCTUARY

Mr HAMILTON-SMITH (Waite) (15:36): I rise to raise questions about the government's decision on whether Arkaroola should be mined. There is one thing that both the government and the opposition agree on, that is, we must protect Arkaroola. I have serious concerns about the process that the government has used in this instance and the way in which it plans to do it because it is in stark contrast with the way that, for example, we have approached the BHP question at Roxby Downs.

In the case of BHP and its plans to expand Roxby Downs, we have welcomed the mine, we have allowed the process to develop to pre-feasibility, we have welcomed BHP's initiation of an exhaustive environmental impact statement process, we have looked at the science and we have made decisions on what we will and will not allow, based on the science and the facts. For example, BHP plans to build a desalination plant in the Upper Spencer Gulf. The Spencer Gulf would have to be at least as important environmentally as Arkaroola. It is a pristine environment and our aquaculture industry hinges on it. We are going to allow that desalination plant to be built because we have looked at the science and satisfied ourselves that it is not going to destroy the Spencer Gulf Environment.

That process stands in stark contrast to the process that the government has used in Arkaroola. No-one will be a greater champion of protecting Arkaroola than the state Liberals, we have made that clear. We have made it very clear that we do not intend to see the protections at Arkaroola dumbed down at all. Our policy makes it very clear that unless it is a resource of paramount importance, and of the highest national and state interest, we should not be mining there. But because the government has stepped in and nobbled the process before Marathon Resources has even had a chance to do a pre-feasibility study, and to develop an environmental impact statement and give us the facts, I ask, on the basis of what facts has the government made its decision?

I am quite certain that we would have all benefited from seeing the facts and the science on mining at Arkaroola. It may be, and we will never know now, that Marathon might have been able to develop a mining proposition without damaging the environment. I have heard the Premier postulate that they planned an open cut mine. He knows that is not true. That is just spin. He knows that is not true, and I think his statements about that on the radio were deliberately misleading. They plan to mine from underground, as he well knows. Within a few miles of this site,

Heathgate Resources are leaching uranium out of the ground in a very environmentally sustainable way and should leave the site relatively undamaged.

So, on what basis has the government made this decision? We have reports today that it could cost up to $15 million of taxpayers' money in compensation. That is money coming out of health, education and police.

I also have concerns that the boundary line drawn as a reserved area in Arkaroola appears to have been drawn so that Heathcote, another miner, will be allowed to continue to explore at the Four Mile site, but Marathon will be closed out. Is it the intention of the government to protect all of Arkaroola or only that part occupied by Marathon? I also question whether his plans for the government to implement 'strict government guidelines' will have any effect on the activities of the Sprigg family who manage the pastoral lease up there. There are so many unanswered questions about this entire proposal.

I will say this: by not adopting the same process for Marathon as we have with BHP, have we sent a message to the mining industry more broadly—because there are many miners looking to explore the Flinders Ranges and other pristine areas—that, if the purple-spotted gudgeon, the spidery wattle or the yellow-footed rock wallaby are found near your mining exploration site, your investment may be rendered worthless (and we have seen Marathon's share price plummet) before you have even had a chance to further your explorations, develop the science and give the parliament the facts?

This flies in the face of all the rhetoric about mining being important for the future of the state economy. Our economy is in trouble without mining, and what are we doing? Nobbling it by using different processes for one miner (BHP) but another process for a second miner (Marathon). Are we now going to deny access to cherry pick favourite places around the state without giving miners an opportunity to show us that science and their plans before we make a decision? We may well have made the same decision to stop Marathon from mining if we had seen the science, but I have to say I have more of a concern with the process than I do about the decision, and I think the government should reconsider the way it is doing business.

SEX INDUSTRY REFORM

The Hon. S.W. KEY (Ashford) (15:41): As members in this house are aware, it is my intention to introduce a bill to reform the lot of sex workers in South Australia. In researching this area, I was interested to read the report of the Select Committee of Inquiry into Prostitution presented to the South Australian parliament in February 1980—I think it is Parliamentary Paper 152—and to note the researcher being one Mary McLeod, a research officer that the member for Reynell and I knew very well, particularly when she worked for the Premier's Women's Advisory Unit.

Interestingly, in this report there were recommendations that I think are probably very useful for today. It says:

> This committee suggested that decriminalisation means not treating prostitution as a criminal activity. It does not mean legalisation in the sense of regulation by law. It does not indicate approval or disapproval by the state but, rather, the view that private sexual morality is not the concern of the law. Prostitution would be subject only to those controls appropriate to prevent abuses and those normally governing the operation of businesses, such as:
>
> 1. Location—premises used for the purposes of prostitution could be confined to certain designated areas;
>
> 2. Health—they—

I presume they mean workers—

> should be subject to requirements of meeting certain building and health standards, similar to those required for shops, restaurants, etc.;
>
> 3. Other standards, such as parking and access; and
>
> 4. Taxation.

The report also suggested that regulation should be considered to achieve the following:

> 1. Eliminate the present widespread breaking of the law by providing the facility legally;
>
> 2. Limit prostitution to certain areas;
>
> 3. Control the venereal disease rate through health inspection of prostitutes;
>
> 4. Ensure that prostitutes are not exploited or otherwise abused;

5. Control abuses such as coercion, use of minors and association with drugs; and

6. Provide a higher likelihood of earnings from a prostitute being subject to income taxation.

It is interesting all these years later that there is a similar agenda that many of us see as being important if there is going to be any reform. I was also a bit concerned, I suppose, in doing some of this research, in a publication called *So Much Hard Work: Women and Prostitution in Australian History*, to read about the age of consent. This is particularly relevant, considering the legislation that we looked at in private members' time this morning. This publication, edited by Kay Daniels, was published in 1984. It said the age of consent in 1837 was 10 years—this is for girls. The Criminal Law Consolidation Act 1876 actually raised the age of consent to 12 years, again, for girls. Also, in 1885, the South Australian act No. 38 of 1876 raised the age of consent to 16 years.

This publication also discusses the fact that, because prostitution was seen to be an open thing in the colonies, there were some allowances made for child prostitution, as long as the child prostitutes actually lived with their parents. So, there is an interesting history, when we look back on protection of young people in particular, but also looking at prostitution. One of the opening statements of the article on South Australia says:

> In establishing the colony of South Australia the founders expressed the hope that it would become a place of exemplary social and moral respectability. Despite these intentions, it [was] clear that very early in the history of South Australia there developed what was perceived as a prostitution 'problem'.
>
> Many social researchers and commentators of early white settlement here have commented on the openness and prevalence of prostitution in South Australia.

ADELAIDE OVAL REDEVELOPMENT AND MANAGEMENT BILL

The Legislative Council agreed to the bill with the amendments indicated by the following schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No. 1. Amendment No. 1 [Lucas–4]—

Clause 3, page 3, after line 7—Insert:

and

(e) the land referred to in section 11;

No. 2. Amendment No. 2 [Lucas–4]—

Clause 3, page 3, line 10—Delete paragraph (b)

No. 3. Amendment No. 3 [Lucas–4]—

Clause 3, page 3, after line 14—Insert:

(da) land that, immediately before the commencement of this Act, constitutes the Creswell Gardens or the Pennington Gardens West; or

No. 4. Amendment No. 4 [Lucas–4]—incorporating Amendment No. 1 [ConsAff–4] and Amendment No. 1 [Lucas–6]—

Clause 4, page 3, lines 32 and 33—Delete subclause (1) and substitute:

(1) The Council must, at the request of the Minister, grant a lease to the Minister over all of the Adelaide Oval Core Area, or any part of that area specified by the Minister.

(1a) A lease must be granted by the Council under subsection (1) within 30 days after the making of the request by the Minister (or such longer period as the Minister may allow).

(1b) Subject to this section, a lease under subsection (1)—

(a) must be for a term specified by the Minister (being a term of up to 80 years including any right to an extension or renewal); and

(b) will only be subject to such terms and conditions as the Minister may specify after consultation with the Council.

No. 5. Amendment No. 5 [Lucas–4]—

Clause 4, page 4, line 1—Delete 'The' and substitute:

It will be taken to be a term of a lease under subsection (1) that the

No. 6. Amendment No. 6 [Lucas–4]—

Clause 4, page 4, line 2—Delete 'vested in the Minister' and substitute:

constituting the Adelaide Oval Core Area

No. 7. Amendment No. 7 [Lucas–4]—

Clause 4, page 4, line 5—After 'square metres of' insert:

grassed

No. 8. Amendment No. 8 [Lucas–4]—

Clause 4, page 4, after line 11—Insert:

(4a) The Minister (or any other person) must not remove or substantially alter any Moreton Bay fig tree (*ficus macrophylla*) located within the Adelaide Oval Core Area without the approval of the Council (which approval must not be unreasonably withheld).

No. 9. Amendment No. 9 [Lucas–4]—

Clause 4, page 4, lines 12 and 13—Delete subclause (5) and substitute:

(5) A lease under this section (and any use of land under a lease) is not subject to Chapter 11 of the *Local Government Act 1999* or section 21 of the *Adelaide Park Lands Act 2005*.

No. 10. Amendment No. 10 [Lucas–4]—

Clause 4, page 4, line 14—Delete 'On the vesting of the Adelaide Oval Core Area' and substitute:

When a lease is granted

No. 11. Amendment No. 11 [Lucas–4]—

Clause 4, page 4, line 19—After 'Adelaide Oval Core Area' insert:

that is subject to a lease under this section

No. 12. Amendment No. 12 [Lucas–4]—

Clause 5, page 4, lines 22 and 23—Delete subclause (1) and substitute:

(1) The Minister is authorised to grant a sublease to SMA over any part of the Adelaide Oval Core Area that is subject to a lease under section 4.

No. 13. Amendment No. 13 [Lucas–4]—

Clause 5, page 4, line 24—Delete 'lease' and substitute:

sublease

No. 14. Amendment No. 14 [Lucas–4]—

Clause 5, page 4, line 24—Delete 'term up to 80 years' and substitute:

period not exceeding the term of the head lease

No. 15. Amendment No. 15 [Lucas–4]—

Clause 5, page 4, after line 25—Insert:

(2a) The consent of the Council is not required before the Minister grants a sublease under this section.

No. 16. Amendment No. 16 [Lucas–4]—

Clause 5, page 4, line 26—Delete 'lease' and substitute:

sublease

No. 17. Amendment No. 17 [Lucas–4]—

Clause 5, page 4, line 33—Delete 'lease' and substitute:

sublease

No. 18. Amendment No. 18 [Lucas–4]—

Clause 5, page 4, line 35—After 'may allow for any' insert:

further

No. 19. Amendment No. 19 [Lucas–4]—

Clause 5, page 4, line 36—After 'this Act' insert:

and to the provisions of the relevant head lease

No. 20. Amendment No. 20 [Lucas–4]—

Clause 5, page 4, line 37—Delete 'lease' and substitute:

sublease

No. 21. Amendment No. 21 [Lucas–4]—

Clause 5, page 4, line 38—Delete 'lease' and substitute:

sublease

No. 22. Amendment No. 22 [Lucas–4]—incorporating Amendment No. 1 [Lucas–9]—

Clause 5, page 5, after line 6—Insert:

(8) A sublease under this section (and any use of land under a sublease) is not subject to Chapter 11 of the *Local Government Act 1999* or section 21 of the *Adelaide Park Lands Act 2005*.

(9) The Minister must grant a sublease to SMA under this section by 15 March 2012.

No. 23. Amendment No. 23 [Lucas–4]—incorporating Amendments No. 2 and No. 3 [Lucas–6]—

New clause, page 5, after line 6—After clause 5 insert:

5A—Sinking fund

(1) SMA must, as soon as practicable after the grant of a sublease under section 5, establish a sinking fund out of which may be paid non-recurrent expenditures associated with the sublease.

(2) SMA must keep proper accounts of the revenues and expenditures of the sinking fund.

(3) SMA must, before 1 September in each year, report to the Minister—

(a) the amount of money paid into, and out of, the sinking fund during the financial year ending on the preceding 30 June; and

(b) the amount of money proposed to be paid into, and out of, the sinking fund during the current financial year.

(4) As soon as practicable after receipt of the report from SMA, the Treasurer must, after consultation with SMA, approve or determine the amount of money to be paid into the sinking fund during the current financial year (and SMA must comply with any determination of the Treasurer).

(5) The Auditor-General may at any time and must, at least once in every year, (and without further authorisation) audit the accounts of the sinking fund and examine the matters to be dealt with under subsections (3) and (4).

(6) The Auditor-General may, for the purpose of subsection (5), exercise any power that the Auditor-General has in relation to an audit or examination under Part 3 of the *Public Finance and Audit Act 1987* (and that Part will apply in relation to the exercise of any such power under this section as if the power were exercised under that Act and as if any reference to a public authority included a reference to SMA).

(7) If an audit or examination by the Auditor-General under subsection (5) indicates that—

(a) SMA has not complied with a determination of the Treasurer under subsection (4); or

(b) money has been paid out of the sinking fund for a purpose other than non-recurrent expenditure associated with the lease,

the Auditor-General must prepare a report on the matter and deliver copies of the report to the President of the Legislative Council and the Speaker of the House of Assembly.

(8) When the President of the Legislative Council and the Speaker of the House of Assembly receive a report from the Auditor-General under this section, the President and the Speaker must—

(a) immediately cause the report to be published; and

(b) lay the report before their respective Houses at the earliest opportunity.

(9) If the President of the Legislative Council or the Speaker of the House of Assembly is absent at the time the Auditor-General delivers to the Parliament a report under this section, the Clerk of the relevant House will receive the report on behalf of the President or Speaker (as the case may be) (and the report or document will then be taken to have been received by the President or the Speaker).

(10) If a report is received by the President of the Legislative Council or the Speaker of the House of Assembly at a time when Parliament is not sitting, the report will be taken to

have been published under subsection (8)(a) at the expiration of 1 clear day after the day of receipt of the report.

(11) A report or document will, when published under subsection (8)(a), be taken for the purposes of any other Act or law to be a report of the Parliament published under the authority of the Legislative Council and the House of Assembly.

(12) In this section—

non-recurrent, in relation to expenditure, means expenditure for a particular purpose that is normally made less frequently than once a year;

No. 24. Amendment No. 24 [Lucas–4]—

Clause 6, page 5, lines 7-30—Leave out the clause.

No. 25. Amendment No. 3 [ConsAff–4]—

Clause 7, page 5, after line 35—After subclause (1) insert:

(1a) A licence must be granted by the Council under subsection (1) within 30 days after the making of the request by the Minister (or such longer period as the Minister may allow).

No. 26. Amendment No. 25 [Lucas–4]—

Clause 7, page 5, lines 37 and 38—Delete paragraph (a) and substitute:

(a) must be for a term specified by the Minister (being a term of up to 20 years); and

(ab) must, at the request of the Minister, be extended or renewed for 1 or more periods of up to 20 years at a time subject to the qualification that the total term of a licence under this section must not exceed 80 years; and

No. 27. Amendment No. 26 [Lucas–4]—

Clause 7, page 6, line 1—Before 'may be subject' insert:

subject to subsections (2a) and (2b),

No. 28. Amendment No. 4 [Lucas–6]—

Clause 7, page 6, line 1—Delete 'may be' and substitute:

will only be

No. 29. Amendment No. 27 [Lucas–4]—

Clause 7, page 6, after line 2—Insert:

(2a) If the Council considers, at the time that a licence under this section is granted, extended or renewed, that the Minister is acting unreasonably in relation to the terms and conditions to be specified under subsection (2)(b), the Council may apply to the Development Assessment Commission for a review.

(2b) The Development Assessment Commission may, on application under subsection (2a)—

(a) determine whether or not a term or condition, or a proposed term or condition, is reasonable; and

(b) subject to a determination under paragraph (a), direct—

(i) that a term or condition of the licence be varied or revoked; or

(ii) that the licence be subject to a term or condition specified by the Development Assessment Commission; or

(iii) that any related action be taken,

(and a direction under this paragraph will have effect according to its terms).

No. 30. Amendment No. 5 [Lucas–6]—

Clause 7, page 6, line 6—After 'car parking' insert:

on grassed areas within a park-like setting in association with events at Adelaide Oval or *Adelaide Oval No. 2*, or otherwise in accordance with the regulations

No. 31. Amendment No. 6 [Lucas–6]—

Clause 7, page 6, line 7—After 'providing' insert:

reasonable

No. 32. Amendment No. 7 [Lucas–6]—

Clause 7, page 6, lines 9 and 10—Delete paragraph (c) and substitute:

(c) activities that are ancillary to the redevelopment of Adelaide Oval or *Adelaide Oval No. 2*; or

(ca) activities that are ancillary to the use of Adelaide Oval or *Adelaide Oval No. 2* and take place—

(i) on a temporary basis for a period not exceeding 1 month; or

(ii) on a temporary basis for the purposes of a special event or activity prescribed by the regulations for the purposes of this paragraph; or

No. 33. Amendment No. 8 [Lucas–6]—

Clause 7, page 6, line 11—Delete 'playing' and substitute:

the playing and watching of

No. 34. Amendment No. 28 [Lucas–4]—incorporating Amendment No. 9 [Lucas–6]—

Clause 7, page 6, after line 18—Insert:

(5a) Subsection (3)(d) only applies in relation to Adelaide Oval No. 2.

(5b) Subject to subsections (5c), (5d) and (5e), any use of land under a licence (or sub-licence) under this section, and any associated works on land subject to the licence, will be subject to the provisions of the Council's management plan under Chapter 11 of the *Local Government Act 1999* that relate to the Adelaide Oval Licence Area.

(5c) If, after 1 July 2011, the management plan referred to in subsection (5b) is amended or is revoked and replaced by a new management plan, the amendment or the new plan (as the case may be) will not apply under subsection (5b) unless the Minister agrees (and until the Minister so agrees, the management plan as in force before the amendment or revocation will continue to apply under subsection (5b) as if it had not been so amended or revoked).

(5d) If—

(a) the Minister considers—

(i) that a provision of a management plan that applies under subsection (5b) is unreasonable in connection with the use of any part of the Adelaide Oval Licence Area; or

(ii) that the Council is acting unreasonably in relation to the administration or implementation of the management plan; or

(b) the Council considers that the Minister is acting unreasonably in refusing to agree to an amendment or new management plan under subsection (5c),

the Minister or the Council (as the case may be) may apply to the Development Assessment Commission for a review of the matter.

(5e) The Development Assessment Commission may, on application under subsection (5d)—

(a) determine whether or not a provision of the relevant management plan or an act of the Council or the Minister (as the case may be) is reasonable; and

(b) subject to a determination under paragraph (a)—

(i) direct—

(A) that a provision of the relevant management plan be varied or revoked; or

(B) that a decision of the Council be varied or revoked or that a different decision be made; or

(C) that the Minister agree with an amendment to the relevant management plan or to a new management plan; or

(D) that any related action be taken,

(and a direction under this subparagraph will have effect according to its terms and despite the provisions of Chapter 11 of the *Local Government Act 1999* or the Adelaide Park Lands Management Strategy under the *Adelaide Park Lands Act 2005*); or

(ii) confirm any act or decision of the Council or the Minister to be reasonable in the circumstances.

No. 35. Amendment No. 29 [Lucas–4]—

Clause 7, page 6, line 26—After 'public' insert:

or with the provisions of a management plan that applies under subsection (5b)

No. 36. Amendment No. 30 [Lucas–4]—incorporating Amendment No. 10 [Lucas–6]—

Clause 7, page 6, lines 27 to 29—Delete subclause (8) and substitute:

(8) A licence under this section is not subject to section 202 of the *Local Government Act 1999* or section 21 of the *Adelaide Park Lands Act 2005*.

No. 37. Amendment No. 31 [Lucas–4]—

Clause 7, page 6, after line 32—Insert:

(10) In this section—

Adelaide Oval No. 2 is the area identified as *SA Cricket Association Licenced Area—Park 26* in Schedules 1 and 2 and Annexure A to the *Park Lands Lease Agreement* entered into by the Council and SACA on 4 January 2007 (as that agreement exists immediately before the commencement of this Act).

No. 38. Amendment No. 32 [Lucas–4]—

Clause 8—Leave out the clause.

No. 39. Amendment No. 33 [Lucas–4]—incorporating Amendments No. 1 and No. 2 [ConsAff–6]—

New Parts, page 7, after line 23—Insert:

Part 3A—Financial management

8A—Extent of financial commitment

(1) If an appropriation is made for the purposes of, or in connection with, the redevelopment of Adelaide Oval envisaged by this Act, the total amount that the Minister, or any other entity acting on behalf of the State, is authorised to make available or expend for a designated purpose is $535 million.

(2) Subsection (1) applies in relation to any amount made available or expended during the period commencing on 1 December 2009 and ending on 1 December 2019.

(3) For the purposes of this section, a *designated purpose* means any of the following:

(a) development within the area bounded by King William Road, Pennington Terrace, Montefiore Road and War Memorial Drive, other than land that is subject to a lease or licence to the Memorial Drive Tennis Club Inc., Next Generation Clubs Australia Pty Ltd or the South Australian Tennis Association Inc.;

(b) grants or other forms of financial assistance to or for the benefit of SMA, SACA, the SANFL or any other entity in connection with the development of Adelaide Oval (including to assist with, or to achieve, the reduction or discharge of any loan or other commitment, to pay any interest, to provide or support a guarantee, security or bond, or to provide any other form of financial accommodation but not including amounts that have been agreed to be paid in relation to interest costs incurred by SACA for loans provided for the Western Stand Redevelopment).

(4) However, a designated purpose does not include—

(a) roadworks within the area referred to in subsection (4)(a) from 1 January 2015; or

(b) roadworks relating to King William Road, Pennington Terrace, Montefiore Road or War Memorial Drive.

8B—Financial supervision by the Auditor-General

(1) The Auditor-General must, within 2 months after the end of each designated period, prepare a report on—

(a) the extent to which money has been made available or expended within the $535 million limit specified by this Part during the designated period; and

(b) the state of the public accounts that are relevant to the redevelopment of Adelaide Oval envisaged by this Act; and

(c) the extent to which it appears that public money made available to any entity, including an entity that is not a public authority, for the purposes of, or in connection with, the redevelopment of Adelaide Oval envisaged by this Act has been properly and efficiently managed and used during the designated period.

(2) The Auditor-General may, at any time (without further authorisation), audit or examine the accounts of a public authority or SMA in order to prepare a report under subsection (1).

(3) Furthermore, the Auditor-General must in any event audit the accounts of SMA each year and include a report on that audit in the Auditor-General's annual report.

(4) The Auditor-General may, for the purposes of subsections (1), (2) and (3) exercise any power that the Auditor-General has in relation to an audit or examination under Part 3 of the *Public Finance and Audit Act 1987* (and that Part will apply in relation to the exercise of any such power under this section as if the power were exercised under that Act and as if any reference to a public authority included a reference to an entity that is the subject of an audit or examination under this section).

(5) The Auditor-General must, after completing a report under subsection (1), deliver copies of the report to the President of the Legislative Council and the Speaker of the House of Assembly.

(6) When the President of the Legislative Council and the Speaker of the House of Assembly receive a report from the Auditor-General under this section, the President and the Speaker must—

(a) immediately cause the report to be published; and

(b) lay the report before their respective Houses at the earliest opportunity.

(7) If the President of the Legislative Council or the Speaker of the House of Assembly is absent at the time the Auditor-General delivers to the Parliament a report under this section, the Clerk of the relevant House will receive the report on behalf of the President or Speaker (as the case may be) (and the report or document will then be taken to have been received by the President or the Speaker).

(8) If a report is received by the President of the Legislative Council or the Speaker of the House of Assembly at a time when Parliament is not sitting, the report will be taken to have been published under subsection (6)(a) at the expiration of 1 clear day after the day of receipt of the report.

(9) A report or document will, when published under subsection (6)(a), be taken for the purposes of any other Act or law to be a report of the Parliament published under the authority of the Legislative Council and the House of Assembly.

(10) This section—

(a) is in addition to the provisions of any other Act or law requiring the accounts of a company or other body corporate to be audited; and

(b) is not in derogation of any such provisions.

(11) In this section—

designated period means—

(a) a period commencing on 1 January in each year and expiring on 30 June in the same year (both dates inclusive); and

(b) a period commencing on 1 July in each year and expiring on 31 December in the same year (both dates inclusive);

public accounts has the same meaning as in the *Public Finance and Audit Act 1987*;

public authority has the same meaning as in the *Public Finance and Audit Act 1987*.

Part 3B—Development assessment

8C—Development assessment

(1) The Development Plan that relates to the area of the Council will be taken to provide—

(a) that the Adelaide Oval Core Area is an area or zone that may be used predominantly for the purposes described in section 4(2); and

(b) that the Adelaide Oval Licence Area is an area or zone that may be used for the purposes described in section 7(3).

(2) To the extent of any inconsistency between subsection (1) and the Development Plan referred to in that subsection, subsection (1) will prevail.

(3) Any development—

(a) undertaken within the Adelaide Oval Core Area associated (directly or indirectly) with the redevelopment of Adelaide Oval, its stands or other facilities, or in connection with a lease under section 4 or a sublease under section 5; or

(b) undertaken within the Adelaide Oval Licence Area associated (directly or indirectly) with development within the ambit of paragraph (a), or in connection with a licence or sub-licence under section 7,

will be taken to be *complying* development under section 35 of the *Development Act 1993* and Category 1 development under section 38 of that Act.

(4) The Development Assessment Commission will be taken to be the relevant authority under section 34 of the *Development Act 1993* in relation to any proposed development within the ambit of subsection (3).

No. 40. Amendment No. 8 [Parnell–1]—

Clause 9, page 7, lines 27 and 28—Delete 'or to land within the Adelaide Oval Licence Area that is subject to a licence under this Act'

No. 41. Amendment No. 9 [Parnell–1]—

Clause 9, page 7, lines 33 and 34—Delete 'or within the Adelaide Oval Licence Area'

No. 42. Amendment No. 1 [Lucas–7]—

Clause 9, page 7, after line 34—Insert:

(3a) Despite section 11 of the *Development Act 1993*, the Development Assessment Commission is not, in the exercise and discharge of its powers, functions or duties under this Act, subject to the direction and control of the Minister responsible for the administration of that Act.

No. 43. Amendment No. 2 [Lucas–7]—

New clause, page 8, after line 2—Insert:

9A—Council leases, licences and approvals in adjacent area

(1) The Council must not grant a prescribed lease, licence or approval in relation to any part of the adjacent area without the consent of SMA.

(2) A lease, licence or approval granted in breach of this section is void and of No. effect.

(3) In this section—

adjacent area means the area bounded by King William Road, Pennington Terrace, Montefiore Road and War Memorial Drive (other than land that is subject to a lease or licence to the Memorial Drive Tennis Club Inc., Next Generation Clubs Australia Pty Ltd or the South Australian Tennis Association Inc. and land that constitutes part of the Adelaide Oval Core Area or the Adelaide Oval Licence Area);

prescribed lease, licence or approval means a lease, licence or approval to use land for a business purpose that—

(a) is granted to a person or body other than the Minister or SMA; and

(b) confers rights on the lessee, licensee or holder of the approval (as the case may be) in relation to a day on which an event is to be held at Adelaide Oval or *Adelaide Oval No. 2*.

No. 44. Amendment No. 10 [Parnell–1]—

New clause, page 8, after line 13—Insert:

11A—Public Transport Plan for Adelaide Oval

(1) The Minister must, within 12 months after the commencement of this section, prepare a report on strategies to encourage members of the public to travel to events at Adelaide Oval by public transport.

(2) The report must include a plan to achieve target of at least 70 per cent of members of the public using public transport (wholly or in part) to attend events at Adelaide Oval once the redevelopment envisaged by this Act is completed.

(3) The Minister must, within 6 sitting days after the report is completed, cause copies of the report to be laid before both Houses of Parliament.

No. 45. Amendment No. 1 [Lucas–8]—

New clause, page 8, after line 27—Insert:

13A—Special annual sublease fee

(1) SMA is liable to pay the following amounts to the State on account of a sublease granted to SMA under section 5:

(a) in relation to 2015-16 financial year—$200,000;

(b) in relation to 2016-17 financial year—$400,000;

(c) in relation to 2017-18 financial year—$600,000;

(d) in relation to 2018-19 financial year—$800,000;

(e) in relation to 2019-20 financial year—$1,000,000;

(f) in relation to each succeeding financial year while SMA holds a sublease over any part of the Adelaide Oval Core Area under this Act—$1,000,000 (indexed).

(2) An amount payable under this section in relation to a particular financial year must be paid by SMA to the Treasurer by 31 July immediately following the end of that financial year.

(3) The Treasurer must pay all amounts received from SMA under this section into the Sport and Recreation Fund established under the *Gaming Machines Act 1992* for the purposes of the Active Club Program or, if that program is discontinued, a program that provides financial assistance to South Australian not for profit community-based active recreation and sporting organisations.

(4) In this section, $1,000,000 (indexed) for a particular financial year means an amount obtained by multiplying $1,000,000 by a proportion obtained by dividing the Consumer Price Index for the quarter ending on 31 March in the financial year immediately preceding the relevant financial year by the Consumer Price Index for the quarter ending on 31 March 2019.

(5) In this section—

Consumer Price Index means the Consumer Price Index (All groups index for Adelaide).

No. 46. Amendment No. 37 [Lucas–4]—

Clause 14, page 8, line 29—Delete 'lease' and substitute:

sublease

No. 47. Amendment No. 1 [ConsAff–5]—

New clause, page 8, after line 32—Insert:

14A—Temporary use of adjacent area during construction period

(1) Despite any other Act or law (and without the need for any further consent, approval or authorisation), the Minister may, for the purpose of carrying out works for the redevelopment of Adelaide Oval during the construction period, enter and remain on any land in the adjacent area and do any of the following:

(a) take any vehicles, machinery or equipment on the land;

(b) deposit any material on the land;

(c) undertake works on the land;

(d) erect fences, workshops, sheds and other structures of a temporary character on the land;

(e) divert vehicles and pedestrians through any part of the land;

(f) occupy, and do any other works on, the land necessary for the purpose of carrying out works for the redevelopment of Adelaide Oval.

(2) A management plan under Chapter 11 of the *Local Government Act 1999* that applies to the adjacent area during the construction period is taken to be modified to the extent of any inconsistency with subsection (1).

(3) The Minister may not, however, remove or damage any trees in the adjacent area in the exercise of powers under this section.

(4) If, in the exercise of powers under this section, any damage is caused to land in the adjacent area, the Minister must take reasonable measures to make good the damage at the end of the construction period.

(5) In this section—

adjacent area means the area bounded by King William Road, Pennington Terrace, Montefiore Road and War Memorial Drive (other than land that is subject to a lease or licence to the Memorial Drive Tennis Club Inc., Next Generation Clubs Australia Pty Ltd or the South Australian Tennis Association Inc. and land that constitutes part of the Adelaide Oval Core Area or the Adelaide Oval Licence Area);

construction period means the period ending—

(a) on the day on which the Minister publishes a notice in the Gazette, declaring the end of the construction period for the purposes of this definition; or

(b) 31 December 2014,

whichever occurs first.

Consideration in committee.

The Hon. P.F. CONLON: I move:

That the Legislative Council's amendments be agreed to.

In doing so, I just place a few words on the record. I do not intend to speak for long because a great many words have been used on this already. In fact, I think every single member of the opposition made a speech while I sat here a few weeks ago.

I would like to place on the record my thanks to a number of people. He is not here today, but I would thank Kevin Foley for being the initiator of this proposal some time ago. I would also place on the record my appreciation for the work of the shadow minister, the member for Davenport. I think he said that he would genuinely lay down arms and help the bill proceed. Even though I am not in a position to agree with all of the amendments that were sought, I think he was genuine in that. We have arrived at a workable package and I thank him for it. I would also place on the record my thanks to the member for Waite who has been a supporter of this throughout.

I would like to thank some of my staff and departmental people, in particular, Matt Clemow, chief of staff, who spent an enormous amount of time in the Legislative Council dealing with our friends there to secure this. I thank Rod Hook, the head of the department of transport, and before him while he was away, Manuel Delgado, who both spent an enormous amount of time in the last, something like, I think, 14 months that we have been handling this, getting it to a point where we got through the various hurdles and now on the verge of making it law.

Can I assure everyone in the house that they worked very hard. A great deal of detail has been gone over in this and I thank them for that. I would also thank Mike Rann, the Premier, who has been a strong supporter in this controversial matter throughout, right from day one. Can I say (he is not here, but I hope that this will get back to him), in particular, the house and the Legislative Council owe a debt of gratitude to Richard Dennis, Parliamentary Counsel, because this stuff was done with short notice—writing amendments and making workable desires that were rarely seen in legislation before. He is, I think, as good as it gets around the country in terms of parliamentary counsel, and I was grateful that he was working on something as difficult as this.

Finally, I would just like to thank those crossbenchers in the Legislative Council who did not always vote for us but who did give us a hearing on all occasions. They did show that you should not simply assume that someone is going to vote for you or against you: that you should always go and look someone in the eye and give them an explanation and find out just what they are thinking and tell them what you think. It is a good process and one that has got us to this conclusion today.

I thank all my colleagues on this. I do think that what we are going to pass—and I know we may hear differently from the opposition—and what this bill will achieve will be a great thing for South Australia. Many of us when we are no longer here will be enjoying the outcomes of this, that is, football at Adelaide Oval and, more importantly, the great use for the first time by the people of Adelaide of its riverfront precinct through the developments that returning football to Adelaide will cause.

In that regard I would therefore thank the representatives of football and cricket who have ended a 40-odd year war in order to arrive at this conclusion. In particular, I thank Ian McLachlan and Mr Harnden at cricket and Leigh Whicker, John Olsen (a former premier) and before him Rod Payze at football. The outcome is one that I think will be a tremendous legacy for the individuals involved.

With those few remarks, I pass on and commend the bill as amended to the house. I will point out that we have not agreed in the other place with all the amendments. We believe that, in the spirit of the importance of it and of compromise, we have been prepared to be flexible in our approach, and we believe that we saw some flexibility from others. I should also pass on my thanks to the Mayor of the City of Adelaide and his council for their support in bringing football back to Adelaide Oval. I hope that I missed no-one.

The Hon. I.F. EVANS: The opposition also supports the motion to accept the amendments from the other place. The minister quite rightly points out that not every side won every amendment, and there was some compromises both before the legislation, or the amendments, went into the other place, and then on the floor, as these things happen. Once the Liberal Party agreed to facilitate the Adelaide Oval redevelopment on the basis that we had always committed to bringing football back to Adelaide and we accepted the fact that the government had won the election and it was their model that was going to be delivered, we sought to genuinely undertake amendments that we thought improved the project and processes without necessarily putting roadblocks in that would destroy or stop the project.

Once we took the decision to facilitate the project, it was always a genuine attempt to improve the legislation as far as this side of the house was concerned. I want to thank Matt Clemow from the minister's office and also Rod Hook and Manuel Delgado for their briefings and the quickness of their response. It was good to be able to float things past those particular officers and get a relatively quick response so that we could move on to the next issue or rethink certain issues in what was a pretty complex matter.

I also thank the Adelaide City Council—Peter Smith, the Lord Mayor, the Deputy Lord Mayor and Nicola Hurdle, who briefed us on various matters from council's point of view. I think the council would be relatively happy with the outcome: most of their requests were met in one form or another.

I, too, would like to pay tribute to Richard Dennis and Aimee Travers, who put a lot of the opposition's ideas into words that made sense. I agree whole-heartedly with the words of the minister about the quality of parliamentary counsel. I think this parliament is brilliantly served by our parliamentary counsel officers.

I am not going to go through all the amendments and make any political points about the amendments, other than to say that, if the house reflects on my second reading contribution and the broad principles that we were seeking, it is fair to say that the amendments that were achieved in the upper house essentially go to those principles in large. So, we are comfortable with the legislation and the opposition has facilitated the development of Adelaide Oval. We will still, of course, raise the occasional question and try to keep the government to account about the project, which is our role. But with those few words, we agree with the minister's motion.

Motion carried.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

SMALL BUSINESS COMMISSIONER BILL

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Mineral Resources Development, Minister for Industry and Trade, Minister for Small Business, Minister for Correctional Services) (15:58): Obtained leave and introduced a bill for an act to establish the office of the small business commissioner; to provide for the powers and functions of the

commissioner; to make associated amendments to the Fair Trading Act 1987 and the Retail and Commercial Leases Act 1995; and for other purposes. Read a first time.

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Mineral Resources Development, Minister for Industry and Trade, Minister for Small Business, Minister for Correctional Services) (15:59): I move:

That this bill be now read a second time.

In South Australia, there are over 136,000 small businesses. These range from one-person owner-operators through to medium-size firms. The government recognises the significant contribution that these businesses make to employment in this state and to the continued economic success of the state. The development of a more competitive and fairer environment for small businesses in South Australia is the goal of the government.

It is with great pleasure and pride that I introduce this bill into the house. It establishes a small business commissioner and confers functions on the commissioner that are designed to facilitate the continued viability and expansion of the small business sector. I seek leave to have the remainder of the explanation inserted into *Hansard* without reading it.

Leave granted.

In developing this Bill the Government has taken into account the lessons learned from the successful model provided by the Victorian Small Business Commissioner, which has been noted by the Small Business Ministerial Council as a best practice approach. The Victorian Commissioner has been very successful in resolving disputes through mediation. Some 8,000 matters were handled between 2003 and 2010 with a success rate of 80 per cent or more. This is a substantial alleviation of the burden that may otherwise fall on the Courts and a benefit to businesses that may not otherwise pursue a complaint.

One of the principal roles of the Small Business Commissioner is to provide those business operators who have limited bargaining power, time and resources with the ability to access a timely, low cost dispute resolution service designed to avoid the costly litigation processes that currently exist. It is intended that the Small Business Commissioner will deal with disputes and complaints in a hands-on, proactive and commonsense way using a range of dispute resolution services including:

- initial advice and preliminary assistance;
- referrals to other available dispute resolution options;
- investigation of the circumstances of a dispute in more detail as required;
- arranging and facilitating conciliation, mediation or other alternative dispute resolution mechanisms as appropriate.

These are voluntary mechanisms with parties free to take ordinary legal proceedings at their option.

It is recognised that when there is a breakdown in a business relationship the effects will often go beyond the individual business concerned to the entire network of suppliers, operators, employees and sometimes family members. The services of the Small Business Commissioner will therefore be valuable not just to the businesses concerned but to those involved in the wider network.

Small businesses often feel powerless when dealing with State and local government bodies. To this end, the Small Business Commissioner is given the function of assisting small businesses on request in their dealings with such bodies. It is envisaged that businesses would make use of existing mechanisms but that the Commissioner would become involved in instances where the provision of assistance would be useful and likely to lead to a better outcome.

The Small Business Commissioner is also given a role in disseminating information to small businesses. The information might, for example, be about understanding the pitfalls faced by businesses, and the rights and obligations of businesses, when entering into contracts, leases and the like. The provision of appropriate information could be expected to encourage and support good commercial decision making and the practice of due diligence on the part of small businesses.

This Government understands the frustrations experienced by many people involved in small businesses when they feel powerless to deal with unfair practices of landlords, franchisors or other businesses that resort to unscrupulous practices. The Small Business Commissioner is to have the function of monitoring, investigating and advising the Minister about such practices. In addition, the Minister may request the Commissioner to report on any specified matter affecting small businesses and the Commissioner may, on the Commissioner's own initiative, report to the Minister on any aspect of the Commissioner's functions.

It is contemplated that the Commissioner will build relationships with the various industry sectors and work with key industry associations and key groups in developing strategies to promote fair dealing and proper conduct in particular sectors. It is envisaged that this may include the promulgation of appropriate industry codes and the administration of the codes by the Small Business Commissioner and the Bill amends the *Fair Trading Act 1987* to that end. Consultation with stakeholders on a draft of the Bill disclosed a desire in some sectors for such an

approach. In order to ensure that industry codes can be effectively enforced, the Bill introduces a scheme of civil penalties that may be applied to particular contraventions by the regulations.

Under the Bill, the Small Business Commissioner is also given specific responsibility for the administration of the *Retail and Commercial Leases Act 1985*. The Commissioner will have a role in the resolution of retail tenancy disputes and in promoting fairness between tenants and landlords in the important retail sector.

Enforcement powers and remedies relating to a contravention of a prescribed industry code or the *Retail and Commercial Leases Act 1995* continue to be located in the *Fair Trading Act 1987*. The Commissioner is given a power to require provision of information necessary for the performance of the Commissioner's functions.

The Small Business Commissioner will be expected to provide independent advice and recommendations to Government. The Commissioner will investigate business complaints, review and provide comment on matters affecting small businesses, make submissions to relevant inquiries, and make representations to the Minister for Small Business on a range of matters. Over time it is expected that the Commissioner will be in a position to greatly assist the Minister for Small Business and the Government of the day with an evidence based analysis of key issues affecting small business.

The Bill expressly provides that the overarching objective of the Small Business Commissioner in the performance of the Commissioner's functions is the development and maintenance in South Australia of relationships between small businesses and other businesses, and small businesses and State and local government bodies, that are based on dealings conducted fairly and in good faith.

To ensure the integrity of the position, the Small Business Commissioner will be a statutory officer. The Commissioner will be required under the *Public Sector Act 2009* to produce an annual report which will be tabled in Parliament and is to be taken to be a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

In conclusion, this Bill evidences the Government's commitment to providing a fair and competitive environment for small businesses in this State.

I commend the Bill to the House.

Explanation of Clauses

1—Short title

This clause is formal.

2—Commencement

This clause provides for operation of the measure to commence on a day to be fixed by proclamation.

3—Interpretation

This clause provides definitions of three terms used in the Bill:

- the Commissioner is the person holding or acting in the office of the Small Business Commissioner;
- the Deputy is the Deputy Small Business Commissioner;
- industry code has the same meaning as in Part 3A of the *Fair Trading Act 1987*. That is, an industry code is a code regulating the conduct of participants in an industry towards other participants in the industry or towards consumers in the industry. The term 'industry code' is not limited to codes that have been prescribed for the purposes of the *Fair Trading Act 1987* or another Act.

4—Small Business Commissioner

This clause provides that there will be a Small Business Commissioner who will be appointed by the Governor and is an agency of the Crown.

5—Functions

This clause sets out the Small Business Commissioner's functions as follows:

- to receive and investigate complaints by or on behalf of small businesses regarding their commercial dealings with other businesses and to facilitate resolution of such complaints through measures considered appropriate by the Commissioner such as mediation or making representations on behalf of small businesses;
- to assist small businesses on request in their dealings with State and local government bodies;
- to disseminate information to small businesses to assist them in making decisions relevant to their commercial dealings with other businesses and their dealings with State and local government bodies;
- to administer Part 3A of the *Fair Trading Act 1987* (which relates to industry codes) and the Australian Consumer Law (SA) to the extent that responsibility for that administration is assigned to the Commissioner under the *Fair Trading Act 1987*;
- to monitor, investigate and advise the Minister about—
    - non-compliance with industry codes that may adversely affect small businesses; and

- market practices that may adversely affect small businesses;
- to report to the Minister on matters affecting small businesses at the request of the Minister;
- to report to the Minister on any aspect of the Commissioner's functions at the request of the Minister or on the Commissioner's own initiative;
- to take any other action considered appropriate by the Commissioner for the purpose of facilitating and encouraging the fair treatment of small businesses in their commercial dealings with other businesses or assisting small businesses in their dealings with State or local government bodies;
- any other functions conferred on the Commissioner by or under the *Small Business Commissioner Act 2011* or any other Act.

The clause also provides that the Commissioner is to perform his or her functions with a view to the development and maintenance in South Australia of relationships between small businesses and other businesses, and small businesses and State and local government bodies, that are based on dealings conducted fairly and in good faith.

6—Ministerial direction

Clause 6 provides that the Minister may give directions to the Commissioner. However, a direction may not be given to the Commissioner by the Minister relating to the investigation, mediation or resolution of a particular complaint or dispute. The Minister is to consult with the Commissioner before giving a direction.

A Ministerial direction is to be communicated to the Commissioner in writing. There is also a requirement for a Ministerial direction to be included in the Commissioner's annual report.

7—Terms and conditions of appointment

Although the maximum term of appointment for the Commissioner is five years, a person will be eligible for reappointment at the end of a term. The Commissioner's conditions of appointment are to be determined by the Governor.

Under clause 7(2), the appointment of the Commissioner may be terminated by the Governor on any of the following grounds:

- the Commissioner has been guilty of misconduct;
- the Commissioner has been convicted of an offence punishable by imprisonment;
- the Commissioner has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;
- the Commissioner has been disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth;
- the Commissioner has, because of mental or physical incapacity, failed to carry out duties of the position satisfactorily;
- the Commissioner is incompetent or has neglected the duties of the position.

It is also provided that the appointment of the Commissioner is terminated if he or she becomes a member, or a candidate for election as a member, of an Australian Parliament or Legislative Assembly. The appointment will also be terminated if the Commissioner is sentenced to imprisonment for an offence.

8—Deputy and Acting Commissioner

A person may be appointed by the Minister to be the Deputy Small Business Commissioner. That person may be a public servant. The Deputy may act as the Commissioner if no person is appointed as the Commissioner or when the Commissioner is absent from, or unable to discharge, official duties. When the Deputy is not acting as the Commissioner, he or she may perform functions or exercise powers of the Commissioner by delegation from the Commissioner.

A person may be appointed by the Minister to act as the Commissioner if—

- there is no person appointed as the Commissioner, or the Commissioner is absent from, or unable to discharge, official duties; and
- there is no person appointed as the Deputy, or the Deputy is absent from, or unable to discharge, official duties.

9—Honesty and accountability

This clause applies the provisions of the *Public Sector (Honesty and Accountability) Act 1995* relating to the honesty and accountability of senior officials to the Commissioner, the Deputy and any other person appointed to act as the Commissioner.

10—Staff etc

The Commissioner's staff consists of Public Service employees assigned to assist the Commissioner in addition to persons employed by the Commissioner. Such persons are to be employed with the consent of the Minister to assist the Commissioner.

This clause also provides that the Commissioner may make use of the services or staff of an administrative unit of the Public Service under an arrangement established by the Minister administering the unit.

11—Delegation

This clause authorises the Commissioner to delegate a function or power under the *Small Business Commissioner Act 2011* or any other Act, other than a prescribed function or power. A function or power cannot be delegated to a person who is not a Public Service employee without the consent of the Minister.

A delegation—

- is to be by instrument in writing; and
- may be absolute or conditional; and
- does not derogate from the power of the delegator to act in a matter; and
- is revocable at will.

12—Power to require information

Under this clause, the Commissioner can require a person to give the Commissioner information in the person's possession that the Commissioner requires for the performance of his or her functions. The requirement is to be made by written notice served personally or by post. The notice must specify a reasonable time for compliance with the requirement.

If a person who is required to give information fails to do so within the time stated in the notice, he or she is guilty of an offence. The maximum penalty is a fine of $20,000.

A person cannot be compelled to give information under the clause if the information might tend to incriminate him or her of an offence or if the information is privileged on the ground of legal professional privilege.

13—Confidentiality

This clause prohibits a person from divulging or communicating personal information, information relating to trade secrets or business processes or financial information if the information is acquired by reason of being, or having been, employed or engaged in, or in connection with, the administration of the *Small Business Commissioner Act 2011*. However, such information can be divulged or communicated—

- with the consent of the person to whom it relates; or
- as authorised by the Commissioner or the person's employer; or
- in connection with the administration of the Act; or
- to a police officer or a member of the police force of another State, a Territory or the Commonwealth; or
- to a person concerned in the administration of another law of the State, or a law of another State, a Territory or the Commonwealth relating to trade or commercial practices or the protection of consumers; or
- for the purposes of legal proceedings.

The maximum penalty is a fine of $20,000.

14—Regulations

This clause authorises the making of regulations that are contemplated by, or necessary or expedient for the purposes of, the Act. The regulations may fix fees in respect of measures designed to resolve a complaint taken by the Commissioner. The regulations may also provide for the payment, recovery or waiver of fees.

Schedule 1—Associated amendments and transitional provisions

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *Fair Trading Act 1987*

2—Amendment of long title

This clause substitutes a new long title for the *Fair Trading Act 1987*. The proposed long title states that the Act is to—

- provide for the appointment and functions of the Commissioner for Consumer Affairs;
- provide for the administration of certain aspects of the *Fair Trading Act 1987* by the Small Business Commissioner;
- apply the Australian Consumer Law as a law of South Australia;
- make provision for industry codes;
- otherwise regulate unfair or undesirable practices affecting business and other consumers.

3—Amendment of section 3—Interpretation

This clause amends the interpretation provision of the *Fair Trading Act 1987* by inserting new definitions of *Commissioner for Consumer Affairs* and *Small Business Commissioner*. A new definition of contravene is also inserted. This definition makes it clear that a contravention includes a failure to comply. Other changes to definitions are consequential.

Subsection (3) currently allows the regulations to exclude a person or class of persons from the ambit of the definition of *consumer* for the purposes of the Act. This clause amends the subsection to make it clear that a person or class can be excluded from specified provisions of the Act rather than the Act as a whole. (An exclusion from the definition does not apply in relation to the Australian Consumer Law (SA).)

4—Insertion of section 4B

This clause inserts a new section.

4B—Administration of Act

Proposed section 4B deals with the administration of the *Fair Trading Act 1987* and provides that the Commissioner for Consumer Affairs is responsible for the administration of the Act. This includes the Australian Consumer Law (SA) (the ACL). However, because aspects of the ACL relate to business consumers, the section also allows for the Small Business Commissioner to administer the ACL to the extent specified by the Minister for Consumer Affairs by notice in the Gazette. A notice is to be made on the recommendation of the Minister responsible for the administration of the *Small Business Commissioner Act 2011*.

The Small Business Commissioner is to be responsible for the administration of Part 3A of the Act in relation to an industry code or provisions of an industry code if the regulations declare that the Commissioner is to have that responsibility. Under Part 3A, an industry code or the provisions of an industry code may be prescribed by regulation for the purposes of the Part. The regulations are also to declare whether the Commissioner for Consumer Affairs or the Small Business Commissioner is to be responsible for the administration of the Part in relation to the code or provisions.

The Small Business Commissioner may only be assigned responsibility for administration of the ACL or an industry code insofar as the ACL or code applies to persons who acquire or propose to acquire goods or services for the purpose of trade or commerce, or insofar as the ACL or code regulates the conduct of traders towards other traders.

Proposed section 4B also makes it clear that, to the extent that the Commissioner for Consumer Affairs is responsible for the administration of the *Fair Trading Act 1987*, he or she is subject to the direction of the Minister to whom responsibility for administration of that Act is committed. To the extent that the Small Business Commissioner is responsible for the administration of the *Fair Trading Act 1987*, he or she is subject to direction by the Minister to whom the administration of the *Small Business Commissioner Act 2011* is committed.

5—Substitution of heading to Part 2

This clause substitutes a new heading for Part 2 to reflect the fact that administration of the Act is to be dealt with in new section 4B while Part 2 is to deal with matters relating exclusively to the Commissioner for Consumer Affairs.

6—Repeal of sections 6 and 7

Section 6, which relates to the administration of the Act, is to be repealed because administration is the subject of proposed section 4B.

Section 7, which relates to the appointment of authorised officers, is to be repealed because the Bill proposes the insertion of a new section relating to authorised officers into Part 7 (Enforcement and remedies)—see clause 24.

7—Amendment of section 8—Functions of Commissioner for Consumer Affairs

8—Amendment of section 8A—Conciliation

9—Amendment of section 9—Co-operation

10—Amendment of section 10—Delegations

The purpose of the consequential amendments made by these clauses is to make it clear that references to the Commissioner in the amended sections are references to the Commissioner for Consumer Affairs.

11—Repeal of section 11

This clause repeals section 11, which relates to confidentiality, because the Bill proposes the insertion of a new confidentiality provision—see clause 32.

12—Amendment of section 12—Annual report

The amendments to section 12 make it clear that the annual reporting requirements under the section apply to the Commissioner for Consumer Affairs.

13—Amendment of section 16—Meaning of generic terms used in Australian Consumer Law

This clause substitutes a new definition of regulator for the purposes of the ACL. Under the new definition, the regulator continues to be the Commissioner for Consumer Affairs. However, if the Small Business Commissioner is responsible for the administration of any aspect of the ACL, the Small Business Commissioner is also the regulator.

14—Insertion of Part 3A

Part 3A, inserted by this clause, relates to the prescription of industry codes by regulation.

Part 3A—Industry codes

28D—Interpretation

An industry code, for the purposes of Part 3A, is a code regulating the conduct of participants in an industry towards other participants in the industry or towards persons to whom goods or services are or may be supplied by participants in the industry.

28E—Contravention of industry codes

Proposed section 28E provides that a person must not, in trade or commerce, contravene a prescribed industry code or a prescribed provision of an industry code.

28F—Regulations relating to industry codes

Under proposed section 28F, an industry code, or provisions of an industry code, may be prescribed by regulation for the purposes of the Part. The regulations may also declare whether the Commissioner for Consumer Affairs or the Small Business Commissioner is to be responsible for the administration of the code or provisions.

The regulations may also—

- declare that a contravention of section 28E of a particular class is to be subject to a civil penalty under Part 7 Division 3A (to be inserted by clause 28); and
- fix expiation fees for alleged civil penalty contraventions within the meaning of Part 7 Division 3A.

The maximum civil expiation fees are $6,000 for a body corporate and $1,200 for a natural person.

A specified activity may be declared by the regulations to be taken to be an industry for the purposes of Part 3A, and persons of a specified class may be declared to be taken to be participants in the industry.

It is made clear in the section that a proposal for regulations under the section may be initiated by either the Minister responsible for the administration of the *Fair Trading Act 1987* or the Minister responsible for the administration of the *Small Business Commissioner Act 2011*. If the Commissioner for Consumer Affairs is to be responsible for the administration of Part 3A in relation to a prescribed code or provisions, the proposal may be initiated by the Minister responsible for the administration of the *Fair Trading Act 1987*. If the Small Business Commissioner is to be responsible for the administration of Part 3A in relation to a prescribed code or provisions, the proposal may be initiated by the Minister responsible for the administration of the *Small Business Commissioner Act 2011*.

15—Amendment of section 36—Offences

This amendment is consequential on the insertion of a definition of *contravene* into section 3.

16—Amendment of section 37—Powers of District Court

17—Amendment of section 41—Advertisements must not state or imply approval of consumer affairs authority

18—Amendment of section 42—Recreational services

19—Amendment of section 45A—Power of Minister to prohibit third-party trading schemes

The amendments made by these clauses are consequential. References to 'the Commissioner' are amended so that the sections as amended refer to the Commissioner for Consumer Affairs.

20—Substitution of heading to Part 7

The heading to Part 7 currently refers only to enforcement. The substituted heading refers also to remedies and therefore better reflects the contents of the Part.

21—Insertion of Part 7 Division A1

This clause inserts a new Division.

Division A1—Interpretation

46—Interpretation

Proposed section 46 provides definitions of the terms Commissioner and Minister that apply for the purposes of Part 7. A reference in the Part to the Commissioner is a reference to the Commissioner for

Consumer Affairs or the Small Business Commissioner. 'Minister' means the Minister responsible for the administration of the *Fair Trading Act 1987* or the Minister responsible for the administration of the *Small Business Commissioner Act 2011*.

22—Substitution of heading to Part 7 Division 1

This clause substitutes a new heading for Division 1 of Part 7. The new heading, which is 'Legal proceedings and warnings', more accurately reflects the contents of the Division.

23—Redesignation of section 76—Conduct of legal proceedings on behalf of consumers

Section 76 of the Act, which authorises the Commissioner to conduct legal proceedings on behalf of a consumer, is redesignated by this clause as section 47.

24—Insertion of Part 7 Division 1A heading and section 76

This clause inserts a new Division heading and a section dealing with the appointment of authorised officers.

Division 1A—Authorised officers

76—Authorised officers

Under proposed section 76, the Commissioner for Consumer Affairs, the Small Business Commissioner, the Deputy Small Business Commissioner and persons appointed under the section are authorised officers for the purposes of the Act.

Public service employees may be appointed to be authorised officers by the Minister responsible for the administration of the *Fair Trading Act 1987* or the Minister responsible for the administration of the *Small Business Commissioner Act 2011*. Other persons employed by the Small Business Commissioner may also be appointed to be authorised officers.

An appointment may be subject to specified conditions and may be revoked at any time by the relevant Minister.

It is a requirement of the section that an authorised officer be issued with an identity card, which must be produced by the officer at the request of a person in relation to whom the officer intends to exercise powers under the Act.

25—Amendment of section 78—Entry and inspection

Section 78(4) is redundant because of new section 76 and is therefore deleted by this clause.

26—Amendment of section 80—Registration of deeds of assurance

Section 80 as amended by this clause will require each Commissioner to maintain a register of assurances accepted by him or her.

27—Amendment of heading to Part 7 Division 3

The heading to Division 3 of Part 7 as amended by this clause will more accurately reflect the contents of the Division. The heading currently refers only to contraventions of the *Fair Trading Act 1987* despite the fact that section 83 (Injunctions) also applies in relation to contraventions of related Acts.

28—Insertion of Part 7 Division 3A

This clause inserts a new Division into Part 7 of the Act. Division 3A deals with civil penalties and civil expiation notices in relation to industry codes.

Division 3A—Civil penalties and civil expiation notices for contravention of industry codes

Subdivision 1—Interpretation

86A—Interpretation

Proposed section 86A provides that a person commits a civil penalty contravention if the person contravenes section 28E and the contravention is of a class declared by regulation to be subject to a civil penalty. A person also commits a civil penalty contravention by attempting or being involved in such a contravention.

Subdivision 2—Civil penalties

86B—Civil penalties

Proposed section 86B provides for the making of civil penalty orders by the Magistrates Court. A civil penalty order may be made by the Court if it is satisfied that a person has committed a civil penalty contravention. The Court may order the person to pay an amount not exceeding $50,000 in the case of a body corporate or $10,000 in the case of a natural person. Currently, the maximum penalty allowed under the Act for contravention of a code of practice is the maximum that can be imposed for contravention of a regulation, that is, $2,500.

Proceedings for a civil penalty order may be commenced by the Commissioner by application to the Court made within three years after the date of the alleged civil penalty contravention.

The proposed section lists matters to which the Court is to have regard in determining the amount to be paid by a person as a civil penalty. Those matters are—

- the nature and extent of the contravention and any loss or damage suffered as a result of the contravention;
- the circumstances in which the contravention was committed;
- any financial saving or other benefit that the person stood to gain by committing the contravention;
- whether the person has previously been found by a court in proceedings under this Act to have committed similar contraventions;
- any other matter the Court considers relevant.

The proposed section also provides that if conduct constitutes two or more civil penalty contraventions, an amount may be recovered from the person in relation to any one or more of the contraventions. However, the person is not liable to pay more than one amount as a civil penalty in respect of the same conduct.

Subsections (5) and (6) provide defences. Under subsection (5), a person will not be liable to a civil penalty if he or she establishes facts and circumstances that would have amounted to a defence under section 88 had the civil penalty contravention constituted an offence against the Act. Section 88 provides a defence where a contravention was due to a reasonable mistake or reasonable reliance on information supplied by another person. A defence is also available under section 88 if a contravention was due to the act or default of another person, to an accident or to some other cause beyond the defendant's control and the defendant took reasonable precautions and exercised due diligence to avoid the contravention. Section 88 contains various other relevant provisions.

Subsection (6) provides that if the Court is satisfied that a natural person acted honestly and reasonably and ought fairly to be excused, the Court may relieve the person either wholly or partly from liability to a civil penalty.

Subdivision 3—Civil expiation notices

86C—Certain civil penalty contraventions may be expiated

Proposed section 86C provides for the giving of civil expiation notices to persons alleged to have committed a civil penalty contravention if the regulations fix an expiation fee for the contravention. If a civil expiation notice is given to a person, the contravention may be expiated in accordance with Subdivision 3.

86D—Civil expiation notices

Proposed section 86D sets out certain rules and requirements relating to civil expiation notices:

- a civil expiation notice may only be given to a person by the Commissioner or by an authorised officer authorised in writing by the Commissioner;
- a civil expiation notice may relate to up to three alleged civil penalty contraventions arising out of the same incident, cannot be given more than 12 months after the date on which the civil penalty contravention or contraventions were alleged to have occurred and cannot be given to a person if proceedings have been commenced against the person for a civil penalty order;
- if a civil expiation notice is given to a person alleged to have committed a civil penalty contravention, no further civil expiation notice can be given to the person in respect of any other alleged civil penalty contravention arising out of the same incident;
- a civil expiation notice is to—
    - be identified by a unique number; and
    - state the date of the notice; and
    - state the name and address of the person to whom it is given; and
    - state that the notice is given on behalf of the Commissioner; and
    - state how the Commissioner may be contacted; and
    - give details of the civil penalty contravention or contraventions allegedly committed by the person, including the date of the alleged contravention or contraventions; and
    - state the maximum civil penalty that the person could be ordered to pay in respect of the alleged civil penalty contravention or contraventions; and
    - specify the expiation fee that is payable in relation to the alleged civil penalty contravention or each alleged contravention; and
    - state that the expiation fee is to be paid within 28 days from (and including) the date of the notice; and
    - state that the expiation fee is payable to the Commissioner; and

- explain how payment of the expiation fee is to be made; and
- include any information prescribed by the regulations.

86E—Late payment

Proposed section 86E authorises the Commissioner to accept late payment of an expiation fee any time before proceedings are commenced for a civil penalty order for the alleged contravention to which the payment relates.

86F—Effect of expiation

Proposed section 86F sets out the effect of expiation. If a civil penalty contravention to which a civil expiation notice relates is expiated, proceedings cannot be commenced against the person to whom the notice was given for the contravention or any other expiable civil penalty contravention arising out of the same incident.

Importantly, the section makes it clear that the expiation of a civil penalty contravention does not constitute an admission of guilt or of any civil liability. Moreover, expiation of a civil penalty contravention will not be regarded as evidence tending to establish guilt or any civil liability. Expiation of a civil penalty contravention cannot be referred to in a report furnished to a court for the purposes of determining sentence for an offence.

86G—Commencement of proceedings if expiation fee not paid

Proposed section 86G provides that proceedings for a civil penalty order may be commenced against a person for a contravention that has not been expiated in accordance with the Subdivision.

86H—Withdrawal of civil expiation notices

This proposed section authorises the Commissioner to withdraw a civil expiation notice with respect to all or any of the alleged civil penalty contraventions to which the notice relates if—

- the Commissioner is of the opinion that the person to whom the notice was given did not commit the contravention or contraventions or that the notice should not have been given for the contravention or contraventions; or
- the notice is defective; or
- the Commissioner decides that proceedings should be commenced for a civil penalty order against the person for the contravention or contraventions.

Subsection (2) provides that a civil expiation notice may be withdrawn despite payment of a civil expiation fee. If this occurs, the amount paid must be refunded. However, if an expiation fee has been paid for a contravention and the period of 60 days from the date of the notice has expired, the notice cannot be withdrawn for the purposes of commencing proceedings for a civil penalty order.

The fact that a person has paid a civil expiation fee in relation to a civil expiation notice that has subsequently been withdrawn is not admissible as evidence against a person in proceedings for a civil penalty order for a civil penalty contravention to which the notice related.

The Commissioner is required under subsection (5) to withdraw a civil expiation notice if it becomes apparent that the person to whom the notice was given did not receive the notice until after the period for payment of the expiation fee, or has never received it, as a result of error on the part of the Commissioner or failure of the postal system. However, a civil expiation notice cannot be withdrawn if the expiation fee has been paid or proceedings have been commenced for a civil penalty order against the person to whom the notice was given.

There is a requirement for a notice of withdrawal to specify the reason for the withdrawal. The notice must also include any information required by the regulations.

If a civil expiation notice has been withdrawn by the Commissioner and the notice of withdrawal does not specify that the notice is withdrawn for the purposes of commencing proceedings for a civil penalty order against the person, proceedings can be commenced for a civil penalty order only if the person has been given a fresh civil expiation notice and allowed the opportunity to expiate the contravention.

86I—Service of civil expiation notice or withdrawal notice

Proposed section 86I sets out the requirements for service of a civil expiation notice or a withdrawal notice.

29—Redesignation of section 86A—Application of Division

This clause redesignates section 86A as section 86J.

30—Redesignation and amendment of sections 91A and 91B

Under section 91A, which is to be redesignated by this clause as section 48, the Minister or the Commissioner may issue public warning statements. This clause amends the section so that a public warning statement can be issued about conduct that the Commissioner has reasonable grounds to suspect may constitute a

civil penalty contravention for the purposes of Division 3A that has resulted in or is likely to result in one or more persons suffering detriment.

A consequential amendment is also made to section 91B, which is to be redesignated as section 49.

31—Redesignation of sections 93, 93A and 94

This clause redesignates sections 93, 93A and 94 as sections 78D, 78E and 78F respectively.

32—Insertion of section 96A

This clause proposes the insertion of two new sections.

96A—Confidentiality

Proposed section 96A prohibits a person from divulging or communicating personal information, information relating to trade secrets or business processes or financial information acquired by reason of being, or having been, employed or engaged in, or in connection with, the administration of the *Fair Trading Act 1987* or a related Act. The section includes exceptions to this prohibition, allowing information to be disclosed—

- with the consent of the person to whom the information relates; or
- as authorised by the Commissioner for Consumer Affairs or the Small Business Commissioner or the person's employer; or
- in connection with the administration of the *Fair Trading Act 1987* or a related Act; or
- to a police officer or a member of the police force of another State, a Territory of the Commonwealth or the Commonwealth; or
- to a person concerned in the administration of another law of the State, or a law of another State, a Territory of the Commonwealth or the Commonwealth, relating to trade or commercial practices or the protection of consumers; or
- for the purposes of legal proceedings.

The maximum penalty is a fine of $20,000.

96B—Delegation by Minister responsible for administration of Small Business Commissioner Act

Proposed section 96B authorises the Minister responsible for the administration of the *Small Business Commissioner Act 2011* to delegate a function or power under the *Fair Trading Act 1987* (except a prescribed function or power).

33—Amendment of section 97—Regulations

This clause amends section 97 to enable regulations to be made fixing fees in respect of any matter under the Act and providing for their payment, recovery or waiver.

A provision of the section that authorises the prescription of codes of practice is to be deleted by this clause because proposed Part 3A will allow for the prescription of industry codes.

Currently, section 97 allows the regulations to fix expiation fees up to a maximum of $1,200 for alleged offences against the Act or the regulations. As amended, the maximum expiation fee for an offence against the Act will continue to be $1,200 but the maximum expiation fee for offences against the regulations will be $210. This does not affect the power under section 28F for the regulations to fix expiation fees.

A new subsection inserted by this clause will provide that if a document formulated or published by any body or authority as in force at a particular time or from time to time is incorporated, adopted, applied or referred to in the regulations—

- a copy of the document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and
- evidence of the contents of the document may be given in any legal proceedings by production of a document apparently certified by the Minister or the Minister responsible for the administration of the *Small Business Commissioner Act 2011* to be a true copy of the document.

Part 3—Amendment of *Retail and Commercial Leases Act 1995*

34—Amendment of section 3—Interpretation

This amendment to the *Retail and Commercial Leases Act 1995* has the effect of making the Small Business Commissioner responsible for the administration of the Act.

35—Repeal of section 8

This clause repeals section 8, which relates to Ministerial control and direction. The section is not required because section 6 of the *Small Business Commissioner Act 2011* deals with direction of the Commissioner by the Minister.

36—Amendment of section 78—Annual reports

This amendment is consequential.

Part 4—Transitional provisions

37—Provisions relating to *Fair Trading Act 1987*

The transitional provisions provide that—

- a person holding office as an authorised officer under section 7 of the *Fair Trading Act 1987* will continue to hold office as an authorised officer as if the person had been appointed by the Minister responsible for the administration of that Act under section 76 of that Act as amended; and
- a code of practice prescribed by the regulations under the *Fair Trading Act 1987* will be taken to have been prescribed as an industry code under Part 3A of that Act as amended by this Act and the Commissioner for Consumer Affairs will be taken to have been declared to be responsible for the administration of the code.

Debate adjourned on motion of Hon. I.F. Evans.

STATUTES AMENDMENT (BUDGET 2011) BILL

Consideration in committee of the Legislative Council's amendments.

(Continued from 26 July 2011.)

The Hon. J.J. SNELLING: With a heavy heart, I move:

That the amendments made in the Legislative Council be agreed to.

It is disappointing to see that the Legislative Council has deleted section 189A of the bill. Section 189A was the provision that would have reduced the court's present discretion to award costs. The government intended the costs should no longer simply follow the event. Instead, costs should only be awarded where the court is satisfied that it is proper to make an order having regard to all relevant circumstances. Further, where proper reasons do exist, costs should normally be limited to the applicable scale of costs only.

This is not an unreasonable proposal, and it is still the government's view and a view supported by South Australia Police. It is consistent with the practice in our high courts, where costs are normally not awarded in criminal cases. It is similar to the law already operating in Queensland. It is also comparable to provisions in New South Wales and Tasmania. Further, the Western Australian Law Reform Commission published a report in which it recommended that Western Australian law should be amended to stop the awarding of costs in summary prosecutions.

The commission noted that, at common law, the state, in criminal matters, neither pays nor receives costs and that this position is altered only by legislation. The commission found that the distinction between costs in summary matters and in the higher courts was artificial and could not be justified. If I might quote the Western Australian Law Reform Commission, it said:

> Our reference in this Report was to make recommendations which would assist in making the justice system comprehensible, certain and reasonably expeditious, while not sacrificing fairness nor justice, nor overlooking the special considerations which need to be brought to bear in criminal matters…we are now of the view that these ends are best achieved by making all criminal jurisdiction 'no cost'.

I do not believe that any law reform commission in Australia would be recommending a change to the law that would, as some members have suggested, put at risk the presumption of innocence or any other fundamental right of an accused person. So while the legal profession in this state raises the alarm, its colleagues in three other states are already working with comparable systems. The proposals are defensible, as the West Australian Law Reform Commission shows.

Nevertheless, in order to enable the smooth passage of the bill, the government will accept this amendment. The government may well, however, come back to the parliament and revisit this issue at a later date. I thank members for their contribution to the debate and look forward to the progression of the bill through the house.

Mrs REDMOND: I am pleased, even if the Treasurer has a heavy heart, to see that the government has acceded to this amendment. Can I say from the outset that this was not done in any way lightly. We clearly had a very big decision to make in deciding that we would actually remove this measure from the budget bill, but we ultimately took the view that it was not appropriately introduced in the budget bill.

Although I anticipate that we will still likely oppose it, I welcome the Treasurer's decision that if he wants to debate it, it should come back through the house as a separate matter, because that, in my respectful submission, is where it always belonged. It should never have been, in my

view, included as part of the budget. It was with a very considered and measured approach that we took the decision that we would actually seek—for the first time ever, I think—to remove a measure from the budget, because we took the view that it was not really a budget measure.

The Treasurer has indicated that there are various other jurisdictions where costs are not paid, but if you were to be charged with a relatively minor offence (even a minor speeding offence) the reality of this decision was going to be as follows. If you wanted to contest it and you knew that you were absolutely not speeding in spite of what the speed camera (or whatever) said—and I think the member for Davenport during a speech on this matter gave the instance of someone who was able to firmly establish with a highway engineer for the court that the time taken between two photographs of the same vehicle crossing the intersection (the distance and the calculation) meant that the car could not possibly have been speeding—the effect of the amendment proposed by the government would have been that someone going to court in those circumstances and contesting the matter successfully would find that they were more out of pocket than if they had just paid up. In other words, you were going to be in a 'heads, I win—tails, you lose' situation. If the Treasurer has been listening to any of the discussion on talkback radio, that was a matter of significant concern to the people of this state, and rightly so.

Can I say further that the former attorney-general used to get very fed up with me talking about the various things that I had done in practice, so I am not going to talk about the things that I have done in practice. I will talk instead about the things my son is now doing in practice because he happens to be working as a criminal lawyer. He came home and said to me, 'The thing is that, by getting these costs, that is what actually enables us to do the pro bono work that we do, because we get a good enough strike rate and that is able to finance the pro bono work that we do as a firm.' The firm that he works in happens to do quite a lot of pro bono work down at the Port Adelaide Magistrates Court and other magistrates courts around the metropolitan area. The lawyers of the Adelaide community were quite rightly concerned about the effect of this.

The other point I wanted to make is simply that the nature of this was also, we believe, going to lower the standards for police prosecution. If they are not going to have to pay out in the event of an unsuccessful prosecution, then there is less likelihood that they are going to give up on an unrealistic case. They will simply pursue the cases on the basis that it does not matter if they lose anyway; they are not going to have to pay the consequences. So, I am really pleased that, in spite of the Treasurer's misgivings, the government has come to its senses about this.

I welcome the fact that the Treasurer has said that he is going to potentially bring it back into the house for a full and proper debate on the issue as a separate bill before the house, but I think there are a number of good and cogent reasons why this was not an appropriate matter to be considered as part of the budget. Even putting that aside, the saving of $1.6 million per annum that the government anticipated making from this was very small compared to the cost of the community in the loss of its rights in pursuing an entitlement to get back their costs if they are successful in the matter of a police prosecution within our magistrates courts. For those reasons, I am really pleased that the government has decided to agree to the amendment that has been successfully moved in the other place.

Motion carried.

Mrs REDMOND: Madam Deputy Speaker, I draw your attention to the state of the house.

A quorum having been formed:

CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 May 2011.)

Ms CHAPMAN (Bragg) (16:11): I rise to speak on the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2011. I indicate that the opposition has considered this bill and that it will be opposing the same, subject, however, to some technical amendments which I will refer to shortly.

In this house the day before yesterday I was debating legislation that had been introduced as a consequence of the Premier's announcement during the 2010 election campaign in respect of prior discreditable conduct. Essentially, this had been incorporated in the serious crime policy for 2010 for the Australian Labor Party at that election. We found, of course, that the extent of the claims, the ambit of the proposed legislation, was not accepted in the legal community—in

particular, for the appropriate balance of protection of parties in criminal cases—and a more reasoned proposal was ultimately presented by the Attorney-General for our consideration and we consented to it.

On this occasion, again, we come before the house to deal with a bill, the gestation of which has come from the ALP serious crime policy at the 2010 election. I do not know whether these sorts of policies help to get people elected during election campaigns but it might be useful for the Electoral Commissioner to consider in future how appropriate it is to present to electors policies of programs that are proposed which are short on detail and, I think, can be interpreted as being designed entirely to attract controversy for the purposes of getting votes and not to actually deal with alleged ills.

In short, this was a policy that was announced, titled 'Taking the Profits from Drug Traffickers' and purporting to have action quoted as 'hitting drug dealers and traffickers where it hurts by targeting their illegal profits'. What we have before us now is legislation in line with this promise, or apparently as a result of this promise, which actually goes even further.

Whilst we have supported the government over a tranche of legislation to assist in the prosecution and confiscation of assets of offenders of serious offences, in this instance we consider this legislation is not acceptable. I would have hoped, on reflection of this promise, that the Attorney would have taken advice, as he had in the previous bill, and either announced that there would be a withdrawal of the perpetuation of this line of legislative reform or, alternatively, simply come back with the technical amendments that were sought on other general matters. However, it seems that he is intending to try and press this as consistent with his Premier's promise, and it is without merit and we consider should be opposed.

The mechanics of this bill essentially involve its introduction in the House of Assembly on 18 May, some 14 months since the election. It purports to introduce provisions to allow the confiscation, to the point of bankruptcy, of repeat drug offender's assets, even those which have been lawfully acquired. If an offender has committed three prescribed offences within 10 years they are eligible to be declared a 'declared drug trafficker'.

If the government felt that the penalties applied for the punishment of repeat serious offenders in this area of the law needed to be increased, or the current penalty regime was inadequate, or that there had been some example of its evasion that we needed to tidy up, then I think that the opposition would have carefully considered that, and, with some demonstrable evidence of the effectiveness of an increase or penalty, would have looked at it in quite a considered way. But to try to bulk up the promise by the Premier, as though he is going to singlehandedly bulldoze or steamroll these dastardly people with this new type of offence, or for the definition to enable them the attraction to confiscate at such an expansive level, is just unacceptable.

The prescribed offences to which this new regime are to apply include trafficking in controlled drugs, manufacture of controlled drugs for sale, sale of controlled precursor for the purpose of manufacture, cultivation of controlled plants for sale, sale of controlled plants, and any offence involving children and school zones. As we understand it, the provisions are similar to those in Western Australia The key difference between the proposed SA and the existing WA model is that all property under the WA system is confiscated, such as washing powder, clothes and personal effects, whereas, to avoid constitutional concerns, the bill only confiscates all property which would usually be taken if a person were declared bankrupt.

Members in this house, I am sure, would be very familiar with it, but for those following this debate with riveted interest, I point out that the government is referring to regulation 6.03 of the commonwealth Bankruptcy Regulations 1996, which take as a broad principle:

> Subsection 116(1) of the Act does not extend to household property (including recreational and sports equipment) that is reasonably necessary for the domestic use of the bankrupt's household, having regard to current social standards.

I am not sure what the position is at present and whether that is the only area of exemption. There used to be provision under bankruptcy laws which meant that it was not just personal property, but there was some exemption, I think, for tools of trade. You could keep your hammer or your plumbing faucets or whatever if you were a tradesperson. I am not sure that meant that you could keep a tyre lever if you were a housebreaker but, in any event, there was some provision for that. I thought, from a very foggy memory, there was something about keeping a motor vehicle. In any

event, they may well have changed and I understand that this follows the commonwealth regulations, which seem to limit it now to the household property necessary, as I have described.

The proceeds from the confiscation are proposed under this bill to be pooled into a new fund, the justice resources fund, rather than the Victims of Crime Fund. I am not entirely sure why it is necessary to have a separate fund. Sometimes this is for identification and auditing purposes. Perhaps it is because the Victims of Crime Fund is so full of money that there is no room for any more. It should be distributed to those in need, as we have called on the government to do before, or, alternatively, to give some consideration to increasing the funds available to applicants, but there seems to be a complete dismissal of that idea. In any event, it is burgeoning with money. If we are going to have a fund, then it ought to be finding its way to provide some recompense to those for whom the fund was established. However, this lot of confiscated funds, unlike other confiscated funds, is going to go into its own justice resources fund for other purposes.

Consultation on this bill has identified very strong opposition from the Law Society of South Australia. It has raised a number of concerns about the bill, and we are not entirely sure how the government proposes to address some of these concerns or whether it is simply going to ignore them. I summarise the concerns as follows. The first is the question of legality, whether the bill infringes the Kable principle by attempting to compel the court to comply with an administrative decision made without court consideration, that exercises powers usually reserved for the court. This is the same principle challenged in the New South Wales Wainohu case, in which the New South Wales anti-bikie laws were declared invalid.

The second is the lack of nexus. This is a fundamental concern to us as well; that is, there is no nexus between the offence and the asset seized. It is fair to say that, even in legislation, when the government here have said, 'We should have the power to confiscate a motor vehicle,' for someone who uses that motor vehicle while they undertake the act of graffiti on a wall, there is at least some nexus. It is actually being used as a vehicle to get there, carry the cans of paint or whatever and get away and so on, but, in this instance, there appears to be no nexus whatsoever required.

Third is the additional punishment; that is, the scheme provided for a punishment over and above that for the actual offending. When this issue was raised, the opposition considered this quite a lot. I recall the juvenile justice reform by this government, which was to give young people who had been repeat offenders a new label. There had been outrage from the human rights community and youth representatives. Even Justice Peggy Hora did not like that approach where the badging on young people would be issued like some kind of tattoo or branding and, having achieved that, or having acquired it, it would then produce these automatic and different penalty regimes.

I would have thought by the very lengthy debates on that matter that there would have been at least some hesitation by the Attorney-General not to rush down this line. Nevertheless, that is also an important matter raised by the Law Society.

Fourth is the aspect of discrimination. The bill effectively discriminates against citizens who are legally industrious and acquire wealth. It is not hard to imagine how someone may have done all of those things, then acted in a manner that is in breach of the law, had their punishment, then even what they have acquired previously is under threat of confiscation. There just does not seem to be any recognition of what is acceptable.

The fifth aspect is the question of innocent parties being caught up in this because this relates to when there is the seizure of assets that may deprive the citizen's family of the assets, regardless of whether they are dependents. We need to be careful about how this going to have some effect in that regard. Bear in mind that, if one uses standards that are applicable in bankruptcy, one needs to also appreciate that the acquisition of one's assets and the capacity to hold onto them may, of course, be significantly jeopardised if, by virtue of someone's action or omission, they find themselves in a situation where they lose their assets.

That is a direct consequence to their own conduct or failure to protect themselves against other conduct. In that circumstance, they know they pay the price. They have either mortgaged their property or offered it as security, or it is unable to be protected or alienated from claims, even where there is not a security over it. In that instance, a person is vulnerable to have to pay their debts and lose their assets. Their wife or husband or partner or dependent children in those circumstances—sometimes it is more extensive—are vulnerable to go down with the ship. I think that is something that everyone is subject to. They are the laws out there. They are the rules.

In this instance, though, there will be a presumption that someone who goes out and commits an offence, having had a prior history of accumulation of assets and security for his or her family, is then vulnerable to losing all of that, even when they are doing the right and decent thing, to which there is no possible connection. They have bought a home. We are using one example here of trafficking controlled drugs by a male person. He is married. His spouse is not an accessory or involved in any way in relation to that offence; but, prior to any of this activity, they acquired a home together, they have three dependent children; suddenly, the house is gone. This is just not an acceptable regime in terms of how that would be vulnerable to being swept away.

The Hon. J.R. Rau interjecting:

Ms CHAPMAN: No; I am talking now about this legislation, not bankruptcy.

The sixth matter of concern raised by the Law Society was just the whole question of due process, that is, that the current legislation, entitled Citizens Facing Confiscation to Appeal to a Court, does not provide that right. That is an aspect about which I am quite shocked and that the Attorney would even purport to come into this house with a bill without that remedy. We, I think, as a state pride ourselves on ensuring that we have a fair and just application of the law in full recognition that mistakes and errors can be made. We have an appeal process, it stands us in good stead and it remedies some very bad ills from time to time, but to introduce such a draconian piece of legislation and not even allow for the appeal process, I am quite disturbed by.

It does not surprise me coming from the Premier. He throws around all sorts of promises of doing things which I think do not follow proper process. But we always live in hope in this house of the steady hand of the Attorney-General and sound mind of his assessment of these things, and that he would take the Premier aside and be able to counsel him back into some kind of equilibrium to be on the same planet with ordinary, decent people in the application of a legal system which works and which is equitable.

If he did that and failed, I would commend him for at least trying. Nevertheless, it is a concern that that is prevailing, and even after concerns had been raised by the Law Society. It is not easy, of course, for anyone (especially premiers in election campaigns) to come out afterwards and say, 'Actually, look, in the clear light of day—and I have had the wise counsel of my new Attorney-General—I realise now I have overstepped the mark. I blurted out too much. I raised the threshold, I promised too much and I made a terrible mistake.'

No-one wants to admit those things, but the Premier always has the opportunity to do that, and he could have and he should have in a circumstance where not only, I am sure, some people in his own political party would have raised it with him. When the Law Society itself has raised these issues, you would think that alarm bells would be starting to clang in his head.

The Liberal Party has consistently supported criminal assets confiscation and unexplained wealth legislation, and we have had a raft of it under this government. It existed previously in its narrowest form, and there has been an enhancement of it and we have supported the government in doing it. There are times we have not been certain about whether some aspects would actually be beneficial, but we have supported the government in ensuring that it has an opportunity to give it a go. Where alarming concerns have been raised, that has been a responsible position to take, we think, when there have been no identified ills in the face of progressing down that line.

We have supported therefore depriving citizens of not only the proceeds of crime but also the instruments of crime, even where the instrument of crime is lawfully acquired. Provided that nexus is there, we have said, 'Tick, yes. Maybe it won't help, maybe it will, but it's worth a go and we will support it,' and that legislation has advanced. This is a bill that is fundamentally different. It entitles the state to confiscate assets which the citizen may be able to demonstrate are lawfully acquired. The confiscation is more in the nature of a fine and we say, therefore, can significantly exceed the penalty for the particular offence. If the government was genuinely concerned to say, 'We think that there is an added deterrent by increasing the penalty,' bring on that presentation.

However, there is a fundamental aspect in relation to penalties, and I suppose it makes the presumption that when people commit crimes they actually know exactly what the penalties are going to be. Probably, in my view, they do not. They may know that if they murder someone, rob a bank or commit serious and well-known felonies that they are going to be in big trouble and probably in prison for a long time, particularly if someone gets hurt or dies, but they don't necessarily know exactly what the penalty is at that time. They may go to their lawyer and say, 'I've committed this offence,' and only at that stage be told that the maximum penalty for this offence is

eight years' imprisonment, 15 years' imprisonment, life imprisonment, etc. 'With this aggravated aspect of it, it is in another category and it falls within this regime.'

I am not one who subscribes to the view that everyone who goes out and commits crimes is doing so in the full knowledge that if they are caught they will know exactly what the maximum penalty is. I think the ordinary person does not know that, and it is not necessarily even something that would modify their behaviour so that they do not commit the offence. However, the fundamental tenet of our legal system is that you cannot just make it up as you go. You cannot just throw in an amount. We make the presumption that the law is known to people, we do not accept that you can go into a courtroom and not know what your potential maximum penalty is upon conviction and that every person accused is entitled to be protected against somebody or some entity changing the rules between the time of commission and the time of conviction.

I think the classic example of this, which was upheld under the protection of an Australian-trained judge, was the circumstance that happened in Fiji, probably close on 10 years ago now, when there had been a rebellion in Fiji and there were penalties in relation to treasonable activity—I cannot remember the exact nature of the offence at the time. At the time of the uprising and the offence occurring, the leader of this rebellion, if he had been convicted, was liable to life imprisonment. Between the time of arrest and the trial, the regime in charge changed the law so that the new penalty that was available was the death penalty.

If my memory serves me correctly, there was international outrage—I do remember that—about this fundamental principle of some other party changing the rules in between. You can change the rules but they are to be applied, generally, prospectively rather than retrospectively. In this instance, there was clearly an attempt made by those in power to change the rules so that this person, if found guilty, could be executed.

Justice Wilson, I think—certainly a retired judge from South Australia—was requested to undertake a review of that process in Fiji. Fiji has come to Australia from time to time over the period of its relationship to provide support in areas such as this at times, and Australia has significant investment in infrastructure and industry in Fiji, so we are very cooperative in that regard. It was very clear that this principle was going to be upheld and the determination was that it was unacceptable, and in their view unenforceable, that this new penalty could be used. From memory, I think actually the decision was made at that even after there had been a conviction and some expression of the death penalty to apply. In any event, that is probably academic. The principle there is the same.

The levying of fines and monetary penalties at a fixed rate therefore is a well-established element of the criminal law. Governments of all persuasions have avoided income related fines. The circumstances of the offender can be taken into account in sentencing and the law should not discriminate between people on the basis of their income or assets. Applying the criminal assets confiscation to the seizure of lawfully obtained assets, as proposed in this bill, is just another form of taxation.

We are also concerned, as I say, about the diversion or pooling of this fund into a new fund, this justice resources fund; the diversion of funds away from the victims of crime. Again, I am a bit surprised at this approach. I appreciate that under the regime of the former attorney-general there were many speeches in this house about the importance of changing the law to be more pro victim than offender and to be able to give them some remedy and to be able to have some financial compensation. There were lots of speeches; there was not a lot of delivery.

The saddest failure, I think, by the former attorney was his failure to adequately deal with redress to those who had been victims of child sexual abuse whilst in institutional care. It is disappointing that in the 14 months since the last election the new attorney, in my view, has not adequately addressed that either. Nevertheless, he certainly gave a lot of speeches about it. This piece of legislation is going to harvest these assets and funds and then divert them away from victims of crime or hypothecate the revenue to general government purposes.

I am not sure what ultimately happens with the justices resource fund, but there is a level in the bill which suggests that there is some flexibility in that regard. So the opposition's position is that we need to be satisfied that there is some dedicated purpose which is secure. If it is acceptable to be of superior priority to victims, then we will consider it, but we consider it has not been identified adequately to date.

If the Attorney just gives me a moment, he might be relieved that I am not going to cover some other matters that have already been adequately covered. With those few words, I indicate that the opposition opposes the bill.

Mr GARDNER (Morialta) (16:45): It is not my intention to take up too much of the house's time, but this is an area where I feel fairly strongly and wish to put on the record my views. So, it is with that in mind that I rise to speak on the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill. This bill introduces provisions that will allow the confiscation to the point of bankruptcy of repeat drug offenders' assets, even those which have been lawfully acquired.

I know that if an offender has committed three prescribed offences in 10 years, they are eligible to be declared a declared drug trafficker. Prescribed offences are to include trafficking in controlled drugs, the manufacture of controlled drugs for sale, sale of controlled precursor for the purpose of manufacture, cultivation of controlled plants for sale, sale of controlled plants, and any offence involving children in school zones.

As a general rule, I think that in our approach on drug crime it is better to err on the side of being harsher on criminals who would seek to involve young people in the criminal drug trade. So, as a general rule, I would usually support the government on increasing penalties for these sorts of offenders; however, the legal principles that the member for Bragg talked about before put me perfectly happy in the opposition's position of opposing this bill.

I want to put on the record, particularly this week, why my strong support for ongoing review of the way that we deal with drug dealing criminals is pursued. Yesterday the Australian Institute of Health and Welfare released its triennial survey of Australian households on drug and alcohol issues. This is the most significant survey of drug and alcohol data that is done in Australia. There were two particular statistics I noted in this 250-odd page report that I want to bring to the house's attention which demonstrate why it is important for us to continue to focus on this area of drug crime.

Members would not be surprised to know, given the public statements I have made today, that I have a particular concern about substance abuse when it comes to minors who fall within the responsibility of their parents and about whom the state takes a particular concern, and that is obviously reflected in the principles of this bill which makes a distinction for crimes committed in school zones and involving children.

I regret to inform the house that South Australia is the worst state or territory in Australia in relation to drug use by the age group of 12 to 17 year olds. According to this significant data released yesterday, 14.2 per cent of South Australian young people aged between 12 and 17 have used illicit drugs in the last 12 months. The next highest is Western Australia at 12.6 per cent—higher than the national average of 10.4 per cent—and leaving us a long way behind states like New South Wales and Queensland where drug use by minors is under 10 per cent. We are 50 per cent higher than that. We clearly have a significant problem.

Of course, the most widely used drug is cannabis in South Australia, which also leads the field of dishonour in relation to the use of cannabis by minors. This is 'minors', I should point out; 'miners' is a different set of statistics. Twelve per cent of 12 to 17 year olds in South Australia have used cannabis in the last year, followed by 11.3 per cent in Western Australia. The national average is 8.8 per cent.

So, I support the government looking into the measures that we use to deal with serious drug criminals, dealers and offenders. It is important that when we are talking about these issues we do not confuse the matter by criminalising those who would be best dealt with by seeking treatment and education, and I think there are improvements that can be made to that aspect of the system, but it is a crucial nexus to make. I think we need to be compassionate towards the victims of drug crime, and that includes a number of the people who are addicted to illicit drugs, and set them back on the right track. We need to be strong and firm when it comes to those who would seek to gain personal advantage by making money out of this heinous crime.

There is a series of reasons why this is not the correct approach to be taken, and the member for Bragg has outlined some of them. There is a question as to whether it is legal anyway. There is a lack of nexus between the offence and the assets seized. The scheme provides for punishment over and above that for the actual offending—which is a poor principle. The seizure of assets may deprive a citizen's family who are potentially innocent of the assets, regardless of whether they are dependants. It is fundamentally different from criminal assets confiscation and

unexplained wealth legislation in that it entitles the state to confiscate assets which the citizen may be able to demonstrate were lawfully acquired. For those reasons I do not support this bill but I do think that the Attorney is right in saying that this is an area that needs consideration in terms of the way that we deal with drug criminals.

[Sitting extended beyond 17:00 on motion of Hon. J.R. Rau]

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (16:51): I will start off by thanking the members for Bragg and Morialta for their contributions. As a lawyer I obviously understand the points that both speakers have made and, in general terms, it would be hard to dismiss the remarks made by either of the speakers as being irrelevant, frivolous or foolish. I do not even pretend to do that. However, I do want to say a couple of things.

First of all, at a political level this was, after all, an election promise and it is the duty of the government, having gone before the people at an election and having made a promise, to do its utmost to fulfil that promise, if one subscribes to the Salisbury principle, which is the Westminster principle that an elected government, having gone to the public with a program, should be entitled, by virtue of their election at that point in time, to a mandate from both houses to put into effect the program which they put before the parliament.

So, on the one hand the government is duty-bound to put before the parliament what it promised to do before the election and, on the other hand, the Westminster convention would have it that an opposition operating within that environment would be obliged—not as a matter of law, of course—as a matter of convention to support a measure which fitted within the envelope of a matter that was clearly a campaign pledge.

I am not going to take that any further, but the honourable member for Bragg asked us why we were doing this and I think that probably explains it, and why, to the extent that I can say so, I think it is not an unreasonable proposition for the matter having been put at an election, the government having been returned, for the opposition to say, 'Well, the government has a mandate for this measure by virtue of it having been put to the people.' We could spend hours on that, and I am not going to—I just put that up-front.

The second thing is lawyers. Yes, lawyers do have views about these things, and quite rightly so. I know there are a lot of terrible jokes about lawyers, about sharks refusing to eat them and things like that, but they are completely unfair. Some of my best friends are lawyers and they are, by and large, decent people who are trying to do the right thing and do actually have principles which underpin their approaches to different things. I realise that this legislation, in many respects, is a departure from what one would call the normal or established principles which most lawyers would regard as being appropriate. I am not going to go through them all because the member for Bragg has enumerated those and so has the Law Society.

However, can I make it clear, first of all, the Western Australian government introduced legislation like this some time ago and its legislation is harsher than this because it has a total seizure of all assets. We do not. We have a provision that the bankruptcy rules would apply to the seizure of assets, which would mean that all of the protections that are afforded to families and spouses and so forth under the bankruptcy rules would also apply to offenders under these rules. Attention was given to the question of families and collateral damage to innocent people in the framing of this legislation, which is why the bankruptcy provision is there. For example, I think Mrs Bond was able to continue to live in a reasonably comfortable residence whilst Mr Bond was spending time very unwell in a prison, although he appears to have come good again—

Ms Chapman interjecting:

The Hon. J.R. RAU: Yes. He appears to have improved a lot now and he is doing business again in London. There you are. It is a great testament to the prison system that he was able to be rehabilitated to that extent.

The next point that was raised by both speakers was the question of the nexus. In a direct sense what they say is incontrovertible. However, some of the biggest operators in this area are not people with goatee beards and tattoos all over them. Some of the people who are making the most money out of drugs and out of other very socially destructive activities which are entirely

criminal are accountants, or at least ostensibly accountants, or businessmen, or at least ostensibly businessmen, who have what appear to be legitimate businesses through which they funnel funds which are illegally obtained. They are able to present themselves to the public as being a successful operator of a corner delicatessen or a restaurant or whatever but, in fact, that place is just a sinkhole that is part of their facade. Some of these people are very sophisticated.

The second thing is that the bigger the crook is—in other words, in terms of their asset pool—the harder these sorts of provisions hit them. You might say, 'That's not fair because it is a moving feast.' In terms of the penalty, when you have a wealthy person who has spent a long time accumulating their current funds and somebody says to them, 'How would you like to get into cooking amphetamines?' they might think to themselves, 'Look, do I want to risk everything I have built up over my whole life so I can cook amphetamines, or am I going to say, no thanks; go to somebody else?' In the sense of not knowing what the penalty is, I guess bizarrely perhaps, or counterintuitively, a provision like this makes the penalty really clear: you lose the lot.

Ms Chapman interjecting:

The Hon. J.R. RAU: I am just saying that this is the policy that was put to the public and all I am doing, in conformity with the promise made by the current government in the run-up to the last election, is bringing forward the proposal that was made. Here it is. Bear in mind the bankruptcy thing is a bit of a moderation of things, it is a tweak—I know it is only a little tweak, but it is a tweak—and it offers some security for spouses or children or whatever.

The other thing that I would like to say to honourable members about the fund is that if you look at clause 36 of the legislation, which seeks to insert section 209A, subsection (5) states what this money can be applied towards. I am talking especially here as the member for Morialta raised the issue about training, education and appropriate diversionary programs, etc. If you look at subsection (5)(b) you will see that one of the particular directions to which moneys from this fund can be sent is for the provision of programs and facilities within the justice system for dealing with drug and alcohol related crime. Some of the concerns that the member for Morialta has expressed are specifically the subject of focus in the fund which would be the beneficiary of these orders.

The other thing is provision of courts infrastructure, equipment or services. Again, court services—that is a broad concept—courts infrastructure and so forth. Let us face it, what could be better than criminals supporting the court system by paying for it? That is a marvellous retributive justice thing.

Mr Gardner: The Chief Justice would be thrilled.

The Hon. J.R. RAU: Exactly. The honourable member makes a very good point. The Chief Justice, who made some very important remarks recently about his computers and other matters, might be able to say to the Attorney of the day, 'Well, Attorney, how's our fund going?' and the Attorney will be able to say, 'Well, Chief Justice, we've got enough there for your courts having new computers.' Wouldn't that be a marvellous thing? All paid for by crooks, and everybody would know it was the crooks who paid for it. Everybody would know.

It is not just any crooks: drug dealers, drug traffickers, people with amphetamine kitchens—the absolute rock bottom outfits; absolutely terrible people who cause misery throughout the community, making money illegally, corrupting people as they go about their business and who are an absolute blight on the community. You could almost hear the Handel music—George Frideric Handel I am talking about, not something else—music for the King's fireworks or something like that happening as the first money started to flow out of this fund into the courts. It would be a moment when people could rejoice. So, I am not embarrassed about the fund at all.

Can I say to the honourable members opposite that I do appreciate where you are coming from. I have read the Law Society's letter. I do understand what they are saying. I know you have indicated your wish to oppose the legislation. For that reason, I assume there is not much point going to committee, because we will just be repeating ourselves, and we will just have a vote here. However, can I make an offer to the opposition: if between here and elsewhere you have some thoughts as to how this can be amended so that it is something that we can move forward on, I am open to have a discussion with you about that.

Ms Chapman interjecting:

The Hon. J.R. RAU: As I said, if that is the deal breaker, let us have a talk about it. If I were you, I would not be visiting the Supreme Court too often in the near future if you do that, but that is a matter for you. You will have some very unhappy justices to deal with. Anyway, that is a

matter for you. I am just making the offer. If you do want to talk about it, I am more than happy to talk about it. It appears that everybody understands where we are. We are doing this because we promised to do it.

I understand why the opposition does not like it. I understand why the Law Society does not like it. It is really a policy question and, I guess, to come back to that Salisbury principle, do we have a mandate to do this or do we not? If we do, is it appropriate for the opposition to nevertheless oppose it because of the reasons that they have espoused here today? That is obviously their choice and they have a right to do that. I think that is where we are. I guess where we go from here would be to have a vote on the second reading. I do not think we need to bother going into committee, and we can do the third reading as well, if that is convenient.

Bill read a second time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (17:04): I move:

That this bill be now read a third time.

Bill read a third time and passed.

LEGAL SERVICES COMMISSION (CHARGES ON LAND) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 June 2011.)

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (17:04): Can I say before the honourable member for Bragg starts that I have read her amendment. I understand what it is, I understand why it is there and I understand what her concerns are, if that is of any help.

The SPEAKER: I think that was a bit out of order, Attorney-General—however, we didn't hear it. But I hope the member for Bragg did. The member for Bragg.

Ms CHAPMAN (Bragg) (17:05): I rise to speak on the Legal Services Commission (Charges on Land) Amendment Bill. The question of the retrospectivity of this is one which I will address first, then I will come to the substance of the bill.

There are some general fundamental principles and one of them is that people need to know what they are liable for or vulnerable to in our legal system, as published and applicable, as at the time of the commission or omission of their acts and behaviour. Therefore, there has to be presented to the opposition, to get its support, some significant threshold of evidence to move from that principle and, in particular, to introduce a new regime or a new set of rules that is to act retrospectively and therefore would have effect against people who may have acted or failed to act in the past, who would not fall foul of the previous law but, under the amendments, would.

So, in this instance, I say that the opposition has been provided with a briefing on the general issues but, on the retrospectivity, we have raised questions about whether any examples of injustice have occurred or, where there has been a significant problem identified, an example of how there has been a failure to recover the funds that are the subject of this bill. We still do not have that. Nothing has been identified to us as an event which would persuade us that it is necessary for us to allow this piece of legislation to be retrospective. Hence, I will be moving an amendment.

Let us look at the substance of the bill which came before us in June this year. At present, under the Legal Services Commission Act 1977, there is a capacity for a statutory charge to be placed over land under the Real Property Act 1886 to provide a security for funds that might be advanced to an applicant for their legal fees and services. In that, there is a regime and a process by which any debt to the commission that is created as a result of advance of this support can be recovered. It boils down to the extent, nature, reliability and easy access to the recovery, in the enforcement process for that.

Currently, the Legal Services Commission notifies the Registrar-General of a charge over land so that it is noted on the title who registers that notice by entering a memorandum of charge in the register book or a register of crown leases.

Members may know that we have a system in respect of the title of real property in this state, which is a very good one and in which there is a very clear obligation for rights and entitlements to be in writing; and, secondly, that to be recognised in any secure way has to be identified on a title. So, this is a process where information is recorded that first alerts others to the existence of the charge and therefore that a liability is sitting out there for anyone who wishes to deal with that land in some way.

If there is under the current procedure a default in the payment of the contribution, then the commissioner has the same powers of sale over the charged land as a mortgagee would have under the Real Property Act 1886 (which I referred to) in respect of a mortgage when there has been a default in payment of the principal. Perhaps I should explain to members that what occurs in the advance of financial supporters is that sometimes a very significant amount of money is advanced to pay the legal costs, disbursements and so on of a person. That does not necessarily mean that, at the end of the case and the bill being issued and paid, the Legal Services Commission immediately then under the security of this charge goes and sells someone's property. In fact, that does not actually happen very often.

What frequently occurs is that there is some assessment then as to what the obligation of the recipient of this benefit should be and how they might repay that portion or all of it—if it is assessed to be—to reimburse the Legal Services Commission. I think that members should be assured that this is not a practice at the moment where a charge is put over a property and automatically people's properties are sold at the end of cases and that they lose them. That is the rarity. But it does provide security for the commission if the beneficiary of the legal funds has failed to comply with a regime of repayment or contribution which has been under a prior agreement.

The claim is that we have got this bill to provide a remedy based on the fact that some years ago the status of the charge was uncertain, and that, as a result of this advice received, that may impede the commission's ability to recover the funds that are secured by that charge when the property is sold; and the second reading explanation of the Attorney explains that this exercise is going to remedy it. There are some unusual aspects of this because the doubt arises from the fact, as is claimed, that, despite the purpose of section 18A—that the charge be treated as an interest registered under the Real Property Act 1886—the recording of the memorandum of charge by the Registrar-General does not of itself amount to a registration of the charge under the Real Property Act 1886.

This has resulted on occasion in disputes over the commission's entitlement under the Real Property Act to a share in the proceeds of the sale of the charged land by a prior registered mortgagee or encumbrance. Continuing uncertainty, it is claimed, may diminish the effectiveness of the charge.

I think it is also important to identify here that there are certain ways that you can protect an interest, or moneys that are owed to you or potentially owed to you, or to provide as some incentive for repayment as a security. One of them is to have the person who receives the legal aid funds execute a mortgage, and this is a document which is subject to stamp duty and which, if in registrable form, can be registered with the Lands Title Office, and there is a registration fee. It is, I suppose in the sense of protection, a superior process and form of documentation to a charge. It is more expensive but it is more secure. I make the simplification but with the caveat that I am trying to illustrate the significance of the fact that there is quite a different cost, and there is a different process which someone has to go through to be able to contract under a mortgage as distinct from a charge.

For example, as members might know, when you execute a mortgage, apart from all the other documentation with the bank which essentially means that the bank gets everything if you default, there are a number of steps that you have to go through, including having certain information presented to you so that there is an assurance of understanding about the contents of the documents and that it is signed in the presence of an authorised signatory, etc.

Some real attempt has been made by the law to make sure that the person who signs to provide their home as security for a loan (or a car, or anything else, for that matter), in a mortgage sense as distinct from a shadow mortgage over real estate, has quite a number of hoops that need to be jumped through (thresholds to be achieved) to be able to do that. In the end, you are supposed to have pretty much an ironclad security and priority over that asset to fulfil the repayment of what is owed to you as distinct from others who might be waiting in line. There are a few exceptions to that, but registered mortgagees are in a superior position generally.

The charge system which operates under this current act is the cheap option but it has been developed in a way so as to take into account that there was not a desire, in fact, to create a cumbersome and expensive process. I think that those who were looking for this security were saying, 'We want something that is not going to be expensive for these people.' After all, the people coming to the Legal Services Commission to get support and subsidy for their legal costs do not have anything in the way of income or available or disposable assets. They may only have a home—and that is not insubstantial—but they are simply without the capacity to go and borrow from another financial institution or the like. Whilst I describe this as a cheap option, it is not designed to be critical. I think it is simply to reflect the fact that there was an attempt to get some form of security at a modest price but be able to provide a recovery. I think I have fairly assessed that as being the objective at the time.

When the Law Society had a look at this, it said that it did not have strong objection to the bill but it did raise a couple of issues. First, there was a questioning of the proposed section 18A(6a), which differs from other provisions in relation to the charge, in treating the charge as an encumbrance rather than a mortgage. The Law Society recommended that the bill be amended to consistently treat the charge as if it were a mortgage, and, secondly, objected to the retrospective effect. Obviously, the second aspect we are covering by the amendment.

In the absence of having presented to us, either during the briefing or subsequently, circumstances where the Legal Services Commission has been severely prejudiced financially by any particular cases, we are leaving a risk which was apparently identified a very long time ago. I do not have the notes of my briefing here as to exactly what the time frame was, but my recollection was that this was years and years ago and there has not been any circumstance that has arisen in which there was detriment and, therefore, as I say, we are not mindful to have the retrospectivity.

I note the Law Society's idea of treating it not as an encumbrance but as if it were a mortgage. I suppose it raises the fundamental question that if we were to go down the Law Society's recommendation, how is it that one party can have access to what is effectively a cheap mortgage but with the same protection and others not have that? Are we going to say that all instrumentalities that distribute taxpayers' funds should be able to be accessible to this type of security?

Are we going to say that debts outstanding for child support, for example, should be able to have the sort of cheap option process that is legislatively provided for, as is in this bill? There is a powerful case for that, where someone may be income poor, have failed to make a contribution to child support, which is now under national legislation which prescribes a percentage of income under a fairly complicated formula for a child or children that is identified as legally dependent of someone, and where there is a very significant accumulation of debt and attempts to recover it.

I have always been concerned that the legislation we had close to 40 years ago, where some ministers actually had a caveat power to place over someone's asset to protect against defaulters in these types of situations, has been removed. It used to be very effective, I might say, when ministers had the power to caveat to protect an interest for outstanding child maintenance, as it was in those days. When somebody trotted along to the bank to try to extend a loan or to discharge one and apply for another security, they were met with this obligation that had to be released before the caveat could be removed, before they could then proceed to do their other ordinary course of business.

So, there are other mechanisms to do it and they can have legislative enforcement, but it does beg the question, as I say, that we have cheaper processes for good reason, but are we really moving down the line here where we have a new regime that is specific to this group and of which I think that with a bit of careful thought there are a lot of other worthy organisations which might be responsible for the precious funds of people who can ill afford to have it wasted or should not, on any accountability of taxpayers funds, be able to go down this cheap option? I think we are on a bit of a slippery slope if we go down that line.

With those few words I indicate that I will be seeking to go into committee to move our amendment. I am not certain if there is anyone else to speak on our side. This has been a very—

Mr Pederick: We think you have summed it up very well.

Ms CHAPMAN: —important piece of legislation.

An honourable member: What more could we add?

Ms CHAPMAN: Thank you.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (17:24): I thank the member for Bragg for her contribution. I am going to suggest a course of action which may or may not meet with people's favour. You have really raised two questions, member for Bragg. One is this broader question about how these securities are done and whether there should be a broader range of instrumentalities that are able to take advantage. That is a much bigger debate than this. In one form or another the commission already has that facility, so in a way this is not novel. It is about overcoming a perceived gap in this existing regime rather than creating something completely new. So I think that is probably a debate for another day. I note you have only moved an amendment in relation to the other matter.

As to the question of retrospectivity, again, obviously I understand the point, although my instruction, as I understand it, from the commission is that it is probably not the case that anybody would be grossly disadvantaged by a retrospective application given that they have already been notified of their position and believe that they have a charge anyway. That said—

Ms Chapman interjecting:

The Hon. J.R. RAU: Yes, I take the point. What I was going to propose to the member for Bragg is that I do not mind if we go into committee here but, if we do, I cannot accept your amendment here because I have not had an opportunity to talk to the commission about it and explore the matters you have raised today. If we go into committee, I want the members to know that I will be opposing the amendment.

I can also say this: whether we go into committee or not, I imagine in another place the amendment will be brought up, and between here and there I am happy to talk to the member for Bragg and the commission about the matters that the honourable member raises, and it may be that this can be a matter that is accepted—that is, your proposed amendment.

So, in a sense, I am in the honourable member for Bragg's hands. It is now on the record what I am offering. If we do go into committee, I will oppose the amendment at this point but, if the matter goes through as it is, I will fully expect the amendment to bob up somewhere else and between now and then I am happy to talk to the honourable member and the commission to see whether it is possible for us to accept this proposition.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Schedule 1.

Ms CHAPMAN: I move:

Page 3, lines 3 and 4—

> Delete 'apply, after the commencement of section 4, in relation to charged land whether the charge was created before or after that commencement' and substitute:
>
> > only apply in relation to a charge on land created after the commencement of section 4.

I confirm that this is to remove the proposed effectiveness of retrospectivity of the legislation. I have listened carefully to what the Attorney has had to say about the offer to consider this amendment after consultation with the commission, and I thank him for that indication.

What surprises me, though, is that many times I come into this house and the Attorney tells us how disappointed he is that we do not move amendments here and sort out these matters. If this was an amendment which came like some bolt of lightning that no-one had any notice of, then I would understand this, but this was a piece of legislation that came in in June. I think the very next day we had consultations around it. We raised our concern about retrospectivity.

Since then, a letter has come into us and, as we understand it, to the government raising the concerns about this, and why this matter has not been traversed between the Attorney or his representative and the Legal Services Commission, I do not know. It just seems to me that this is an aspect which is ideally suited to being resolved in this house between two sensible members of parliament, which he frequently suggests is the process which we should follow. I am very

disappointed that this is not an amendment that we can move and deal with quickly and which can be sensibly and responsibly resolved in this house.

However, perhaps there was a lapse of attention in some way by the Attorney or someone in his office to actually follow this up. It is not an issue which requires such urgency that we need to be alarmed by the failure of the Attorney's office to deal with it and do that consultation. However, I note for the record that we have listened to his advice in the past, we have acted on it, we are here to do an amendment—and it is a bit like a little slap in the face. Here we are on the last day; we could have had a chance to fix this up.

The Attorney should be very clear that when we return—after the season of refreshment that we are supposed to be having, going off to investigate ideas and so on for our renewed contribution next session—I will be reminding him of this if he suggests in the future that we leave matters to be dealt with between houses or in another house. With that, I hope that the Attorney has the opportunity to attend to this before he undertakes other important duties during the session break.

The Hon. J.R. RAU: I thank the honourable member for Bragg for that contribution. I think I have already expressed my view about what I would like to see happen with this particular amendment. Can I say that in the interests of consistency I accept the criticism made of me for not having dealt with this. It has been here for a while, it has not snuck up on me and I certainly cannot criticise the member for Bragg for not having put an amendment up, so I take that.

Ms Chapman: Fall on your sword!

The Hon. J.R. RAU: I fall on my sword. I accept that 'it's a fair cop guv'nor'—I think that is probably all I can say on that one. We will try to make sure that, by the time we get back here, we have an answer to it. I have to say that I do agree: it would have been nice if we did have an answer to it right now so that we could just dispense with the matter completely. As I said, I consider myself chastised.

Amendment negatived; schedule passed.

Title passed.

Bill reported without amendment.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (17:33): I move:

That this bill be now read a third time.

Bill read a third time and passed.

At 17:34 the house adjourned until Tuesday 13 September 2011 at 11:00.