HOUSE OF ASSEMBLY

Tuesday 13 September 2011

The SPEAKER (Hon. L.R. Breuer) took the chair at 11:01 and read prayers.

The SPEAKER: Honourable members, I respectfully acknowledge the traditional owners of this land upon which this parliament is assembled and the custodians of the sacred lands of our state.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

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) (11:02): I move:

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

Motion carried.

APPROPRIATION BILL

The Legislative Council agreed to the bill without any amendment.

CRIMINAL LAW (SENTENCING) (SENTENCING CONSIDERATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March 2011.)

Ms CHAPMAN (Bragg) (11:03): It is good to be back. I rise to speak on the Criminal Law (Sentencing) (Sentencing Considerations) Amendment Bill 2011, which was introduced by the Attorney-General on 24 March 2011. This bill was presented late last year for consultation as a draft which culminated in its being introduced for our consideration.

The essence of the bill, the government claims, is to be consistent with the established judicial sentencing practices and to codify current practice, but to limit the freedoms of the court within that practice. The Attorney-General made clear in his contribution the aspirations of the government to try to address a serious problem with the delay in the hearing of criminal cases in our criminal courts and the adverse impact that has on not only the court overload but also victims of crime, inconvenience to witnesses and the like. I will be referring to those shortly.

The government faces quite a serious problem—and I will outline a number of other aspects that I suggest are supported as to how that could be remedied—but I indicate that the opposition takes the view that the government's approach on this has not been as effective, in this bill, as it should be, and that they have chosen aspects of reform which are unlikely to create the benefit which I think everyone in this parliament would aspire to view.

The bill has two primary objectives, and this sets out the government's proposal as to how they deal with the problem. One is to reduce the backlog of criminal cases coming to trial by encouraging offenders who are minded to plead guilty to do so in a timely way. In this regard it offers a series of discounts for pleas of guilty, graduating upon the timing of that guilty plea being entered or offered: the earlier the plea, essentially, the greater the discount.

It is identified by the government that in 2009-10 late guilty pleas were the cause of 35 per cent of fixed higher court trial dates having to be vacated; that is, 308 of the 883 cases. I take a different view as to what that reflects—not that it is a bad thing—but that guilty pleas have been received and that there is substantial benefit in those cases not proceeding, in them being received even though they are described as being in the category of 'late'.

The second aspect is to encourage offenders to assist the authorities in the administration of justice. For example, in the provision of valuable assistance in the context of serious and organised crime—and I will refer to that again during my contribution—here the bill provides for a graduated series of discounts for cooperation with the authorities.

Members will appreciate that there is a view of the public that is not always favourable of plea bargaining or plea negotiation at all. I am sure some members in this house would have had comment made to them from time to time, by members of their own constituencies, as to how outraged they are that someone is reported in the media as having received a lighter sentence

after a plea-bargaining procedure, either for an offence which has a lesser penalty, or receiving a sentence which has been negotiated down—what maximum might be available. That plea-bargaining process is one which they see as the crooks getting a good deal, and that should not occur.

For those who work in the criminal courts—and I am sure the Attorney-General is familiar with this concept—if it were not for plea bargaining and the opportunity for counsel (both representing the prosecution and the defence) to negotiate the terms of settlement in criminal cases (and in that exchange there is an acknowledgement by the prosecution that they will secure a prosecution without having to go to court, without having to expend money on trial: on witnesses, forensic evidence and the like)—there would be a benefit back to the defendant on the basis of there being a reduced sentence or the entering of guilty to an offence that attracts a lower sentence. This is an important instrument in the resolution of cases that is active and necessary to enable our courts to function with any capacity to advance.

There has been some academic reference to this, as well, in that plea bargaining is a rather crude form and is something that has certainly been criticised. One article in 1997, 'Sentence discount for a guilty plea: Time for a new look', published in the *Flinders Journal of Law Reform* (pages 123 to 143) in respect of plea bargaining stated at page 124:

> It puts an inappropriate burden on the accused's choice to plead guilty, undermines proper sentencing principles, risks inducing a guilty plea from the innocent, undermines judicial neutrality and independence, and does not directly address the problems of time and delay which motivated its introduction by the courts.

I do not agree with that; I do not think even the Attorney would agree with that. There is a place, and a necessary place, for plea bargaining to be undertaken. I do not think our criminal justice system would function—it would explode with overwork—if this was not an important instrument in the resolution of cases. It is fair to say that, of course in the civil jurisdiction, the negotiated, mediated and compromised outcomes for compensation claims and the like are equally the beneficiaries of being able to be resolved, sometimes with a compromise, sometimes (as in that jurisdiction) with the applicant and respondent both being disappointed, but, nevertheless, it is an important instrument in the resolution of cases.

I think some would say (and it is fair comment) that a resolved agreement precipitates less opportunity for one party in the end in a court case to be angry or to feel as though the issue has been unresolved or that they have been unfairly treated in some way. I am an advocate for it, for the basis upon which it operates, and from time to time for scrutinising the rules which apply surrounding guilty plea processes, including bargaining and, in this instance, the question of discounting for early offers of guilty pleas to deal (one would hope) with not just reduction of court workload but all the other aspects that have been considered. In fairness, I think the Attorney-General has set out the adverse aspects of proceeding with trials to a number of parties concerned, including the victims and witnesses, not to mention the cost to all parties concerned. He set that out in quite a lot of detail in his contribution.

The government supports discounting for early guilty pleas, and so do we. However, the government claims that the courts are not maintaining a sufficient difference between the reduction of truly early guilty pleas and those closer to trial. It says that reductions of 20 per cent and 25 per cent are not uncommon for pleas entered into within weeks of a trial, and some defendants even receive significant discounts for a guilty plea on the day of trial.

Can I say that, in the course of considering this bill, the Attorney-General offered a briefing shortly after his introduction of the bill, for which I thank him. Mr David Plater, a senior legal officer, attended that briefing. I understand Mr Plater has had some experience in the DPP's office here and, prior to that, as a public prosecutor in England.

That briefing confirmed to us that this bill had not emanated from any election promise, which seems to be the basis of many of the bills which the Attorney-General has introduced, but was something that has been motivated by the fundamental assumption that too many defendants were pleading late in the process. That was a significant factor—not the only one, but a significant factor—in the problem that the Attorney now faces, that is, a clogged-up court system with obvious delays in the proper process, advancement and conclusion of those cases.

I think in his contribution the Attorney-General repeated the oft quoted, 'Justice delayed is justice denied,' and I agree with that; it makes it difficult. Sometimes, witnesses are dead, or not available, or cannot remember. This affects the clarity upon which evidence can be presented and, in turn, relied upon. There is an extra cost to all concerned—not just the courts and the taxpayers

but also, of course, counsel in both the prosecution department within the police or in the DPP's office.

These are expensive processes. It was presented to us that this late plea occurrence was a significant cause of the problem we have. Largely, what was repeated by the Attorney-General in his contribution was confirmed by Mr Plater as the basis upon which this bill was introduced, having been out for consultation.

What was also presented on that occasion was, again, confirmation in the second reading contribution of the Attorney-General that there had essentially been a long gestation period for this concept and that the initial recognition that had been given, according to the Attorney-General and supported by Mr Plater, was that His Honour Judge Rice of the District Court had some years ago—in fact, back in 2006—undertaken an investigation and provided a report, commonly known as the 'Rice report', outlining recommendations that he presented for government's consideration as to how it might address delays in courts. We are grateful that Mr Justice Rice has undertaken this exercise.

Secondly, the Attorney-General, supported by Mr Plater, stated that there had been the Criminal Justice Ministerial Taskforce, which was chaired by the then solicitor-general, now Justice Chris Kourakis QC, and comprised a number of representatives from law enforcement, victims, the legal profession and the like. I think representatives of Courts Administration Authority sat in in an observer capacity, and there was a spectrum of representatives in the legal world who sat on this taskforce to deal with this issue.

Of course, the Attorney-General, in his contribution, claimed that the CJMT's first report highlighted the need to reform and rationalise the recognition to be given to offenders for guilty pleas. It talked about having a graduated series of sentence discounts, again with the direct purpose of inducing, I suppose, or providing incentives for the accused person to plead guilty at an early stage. There was also the review, as I said, on 15 October. The government put out a draft bill. It had a press release that identified that it was putting out for consultation a draft bill on these issues and that it would receive submissions on that.

At that meeting on 30 March, not surprisingly, the opposition said, 'Well, if this is what you are relying on, then surely we can have a look at it. If these high-powered, high-representation parties and well-regarded people had prepared these reports and then, on the review, significant players put in submissions that supported this initiative, then let us have a look at them.' This seemed to be the logical thing to secure the opposition's support for this initiative. It would have given us some confidence in knowing that these people had comprehensively and carefully examined the options that were available, looked at the challenges that were faced and would be providing us with that confidence to come into this chamber and support this initiative.

However, at the end of that briefing, the Hon. Stephen Wade in another place followed this up in writing to confirm the documents that we would like to have a look at. We have the Rice report and related submissions, the CJMT report and related submissions, the submissions received by the Attorney-General relating to the court efficiency reform review which I have referred to, the case law demonstrating the shift away from traditional common law sentencing precedents—and there had been some reference to that in the meeting—statistics demonstrating the effect of the late pleas on court proceedings and the DPP's statistics listing reasons for the late withdrawal of cases.

Now, with the last three, can I say that some of that has been provided. Firstly, the Attorney's office made it clear that the DPP's statistics were already available as late as June 2010. They did not offer anything more recent than that; they may not have had it. We were simply advised that that is available in that report and that the statistics demonstrating the effect of the late pleas had been provided in a schedule more recently by a letter of the Attorney dated 6 June 2011. Again, I do not think it actually supports what he suggests but, nevertheless, those are the statistics he relied on. To some degree, we have looked for the case law ourselves because it was not forthcoming.

The first three—which are the very first three things that the Attorney-General reports to this parliament as being the basis upon which he is taking up this initiative, and that our supporting this will be a demonstrably valuable exercise so that we can progress to the ultimate objective to cut down on the criminal case list—have not been produced at all. One has to ask the question why. The usual answer that used to come from the former attorney-general was, 'You can get your own. You can get your own copies. We do not have to do that work for you; that is up to you. If you

want to progress this thing in a timely way, we have given you plenty of time. You can do your own research and get this information yourself, but we are not going to give it to you.'

Of course, we are left with an opportunity to do that in the time provided. So, the Hon. Stephen Wade, to his credit, to ensure that the opposition did have an opportunity to consider this carefully, did follow up with some other people in the time that we had. One of them was to progress a freedom of information application on the government—that is, on the agency at the Attorney-General's office—to produce a copy of the Rice report. If this is the Bible upon which we are being asked to make a decision—meritorious as it may have been before we had seen it, and we did not know that—we needed to see it. I am here to tell the parliament that we got it, and I am also here to tell the parliament that it says a lot more than the Attorney-General tells us.

I think it is very important that members of this parliament hear what the Rice report recommends and why, because the Attorney-General has missed the mark. Setting out a regime of discounting, with periods of no discounting, is not the answer. That is not, I suggest, consistent with his recommendation, and we need to hear for ourselves what he did recommend. May I say that His Honour Judge Rice is someone who had an extraordinary amount of experience as a barrister before taking his position on the District Court, and is, I suggest, eminently qualified to have undertaken this exercise for the government.

I now refer to the summary that has been put together on the recommendations. I cannot, of course, repeat the whole report and I do not expect members to go and read it from the time that we are expected to debate this matter. He says:

> One of the major delays in the Supreme and District Courts is caused by the Office of the Director of Public Prosecutions using the time from arraignment to commencement of the trial for preparation (often 12 months). This means that a person may not see the case against them (and therefore cannot adequately prepare a defence), making it difficult for defence counsel to advise their client. Magistrates have not been 'rigorous' in enforcing compliance with the Summary Procedure Act.

That is the gist of his recommendation about what the problem is and what needs to be remedied. This bill does not deal with that issue at all. When the DPP presents late evidence, the defence needs to be afforded time to consider it, meaning a further delay of 12 months until the next sitting, unless given priority. All of these factors mean that the trial lengths cannot be accurately estimated. Here is another important observation he makes:

> Changes to legislation, in particular the introduction of aggravated serious criminal trespass and non-aggravated serious criminal trespass (1999, CCLA), the scope of robbery and aggravated robbery (2003), offences against the firearms act (2003), abolition of the time limit for sexual offences (2003), and the increase in length of trials, (5.1 days in 2000 to 6.6 in 2005) all contributes to longer delays.

I am not here to present a case—and I would not anyway—to suggest that some of the reforms in these areas of the law were meritorious; in fact, they were, and they had our support. Sadly, I do not think that they have demonstrated the benefit espoused by then attorney-general Atkinson as to the panacea of good that would come from them. However, we supported the government in initiatives which we felt would actually advance greater protection to the community and which we needed to define as criminal behaviour in an expanded way to protect the community and properly bring those who conducted themselves in that manner to account.

But what I do say is that the government needs to be aware that there are consequences when you expand the law and the definition of what is now criminal. When you expand those who can be caught by criminal conduct, there are direct consequences. What that means is there is every likelihood that more people will be charged and brought through the criminal justice system.

It is supposed to be one of the ways (and I think to some degree, one of the effective ways) of modifying people's behaviour in the community to act in a way respectful of other people in the community, whether it is of their property or their person. It is an important instrument—a tool in the toolbox, or whatever you want to say—in keeping people's behaviour civilised to ensure that we protect the community, particularly those who are vulnerable.

What I do say is that, whilst a number of these amendments are meritorious, they have direct consequences. The consequences are that you probably need to have more law enforcement agencies, you certainly need to have more people in the DPP and you certainly need to have more people in the court system who are expected to try and sentence these people. You probably need to have more people managing the corrections level, not always necessarily in prison but there are parole components, prison accommodation, supervision of community orders, of course, and so on.

Recovery of fines is of course right at the forefront of the Attorney-General's mind at present because he is owed millions and millions. I thought that the last time we discussed this issue it was pretty clear that a lot of these people were never going to pay and they were not being chased, but I did listen with interest to the recent media announcements by the Attorney about all the gung-ho ways he is going to lasso these people in and lash them to something to ensure that they pay, like garnishment of wages. I don't know where he has been, but we have had that for about 175 years, but things like insisting—

The Hon. J.R. Rau: No, not wages.

Ms CHAPMAN: Not wages? Oh, pensions or something perhaps. Of course we have had effective garnishment of pensions in child support cases for a long time: $5 maximum. Anyway, there is a whole list of things that he is going to do to ensure that these people pay their fines. I don't know whether he is going to tip out the women who are currently occupying the old debtors' prison at the back of the women's prison there, the life sentence women who occupy those facilities that used to accommodate the old 10-day orders where you were arrested for not paying fines and given 10 days' imprisonment. You did not actually pay off your fine; you still owed the money.

In any event, it seems as though he is going to have some great enforcement processes that he is going to introduce, and we will look forward with interest to how effective that is going to be, given that we have had previous statements from the Attorney-General's office that clearly a lot of these people are never going to pay and they probably could not even pay the fine when it was first ordered. In any event there are going to be some real questions about whether there is going to be a priority given to these fines over and above their rent to the Housing Trust, food for children, provision of medicines and the like for other members of their family, etc. We will look with interest at what priority is given to these, how this is going to be implemented and how effective it is going to be.

However, I get back to the point that there are a number of other consequences when you expand the criminal law process and they are costly. For the government to, I think, effectively ignore these consequences by not providing the extra resources that need to go to the systems to implement what we process here through the parliament is not only ignorant, it is stupid, because of course we are going to end up with the problem that we have today. These are all factors which Justice Rice clearly identified which have not been addressed by this government. There is a direct cause and effect which the government has had an opportunity to address but which it has not. Nothing is going to resolve until we actually get to some of these core issues.

The other thing that Justice Rice pointed out is that there were a number of other changes at that time that had not actually come into effect which he felt were going to have another ballooning effect on the court system and court delays, which the government also has not addressed. Again, some of these new laws that were introduced came in with the support of the opposition but with a clear understanding—and this was repeatedly said in this chamber by me and others who represented the opposition in these areas, and I remember the Hon. Robert Lawson in another place clearly making this point many times—that none of this is going to be effective unless you put the resources to it to make it happen.

The new areas which Justice Rice identified are the new child pornography offences, which were introduced in 2005; the new offence of criminal neglect (in April 2005); the new offence of dealing in instruments of crime (in February 2006); the increased penalties for causing death and failing to stop and render assistance (in June 2006); the increased penalties for various sexual offences, including life imprisonment (in June 2006); the creation of other aggravated offences bringing matters into the superior courts more often creating a reluctance to plead guilty and therefore creating more trials; the broadening of some offences, such as assault, which now includes physical or mental harm, whether temporary or permanent; and, finally, the increases in general penalties, some of which I have referred to before and which were operating in new areas which were being put in place.

These have direct consequences, and the consequences are very clear: you have to have somebody to enforce these laws when we pass them, and you have to have somebody to investigate, prosecute and undertake the trials and, as I have said, the correctional ends that follow. I can remember the time when the former attorney-general came into this place and said words to the effect, 'I'm going to reopen a court in Sturt Street.' We had some comment to make about how there was going to be some difficulty in getting prisoners from vehicles in which they were being transported from the prisons, etc., and how witnesses might be exposed to this and so on. We did not think that he had thought it through very carefully. But the energy with which he put

this emphatic announcement was really to say, 'We have expanded the opportunity for people to bring up old sexual abuse cases against children, from pre-1981 or 1982—'

An honourable member interjecting:

Ms CHAPMAN: —1983—'and we are going to need some extra court space to do that, so I'm going to reopen the Sturt Street facility for that to happen.'

I cannot think of any time in the former attorney-general's entire period of office when he came into this place and told us how he was going to add to the resources of the court system to deal with all this. Quite properly, Justice Rice, in this report, made it quite clear that it had to be done, that there were direct consequences from this, and that this would cause further delays unless it was addressed.

Now we come to what Justice Rice recommended as short-term measures to address this problem. The first is that the prosecution should provide a brief that is ready for trial at committal, as per the obligations under the Summary Procedure Act; secondly (and this fits in with this requirement), that additional time should be given to magistrates, prosecutors and defence counsel (four weeks was suggested by SAPOL and two weeks by Justice Rice) before the committal to prepare their case, which, as I said, would be necessary to support the first recommendation; and, thirdly, that a document outlining the guilty plea and sentence should be presented to the defendant. To some degree, they are some of the aspects that are being looked at in this bill; I do not think it covers it fully, but there is a little of that in it.

In addition, the Office of the Director of Public Prosecutions should make its best offer for resolution prior to the first directions hearing, which would require all trial information to be already prepared. The importance of this is that, at this stage, only full preparation will be necessary for them to put forward their best offer. Here is where perhaps Justice Rice and I are a little apart in our thinking. I will say that I have never known counsel ever to put forward their best offer at any first meeting. I think that is fantasy land. I will say this: the opportunity for them to put their best offer forward—even if it is not quite the best offer, but a reasonable offer—is frustrated completely unless that information is there; unless that preparatory work has been done and is available for the defence counsel to advise their client as to what would be in their interests to consider or negotiate as far as a plea bargain were to go.

The other aspects that he suggested as solutions were to ensure adequate resourcing of the DNA forensic sciences, so that quicker turnaround times could bring a resolution sooner. We have discussed in this parliament on a number of occasions changes of law to accommodate advances in forensic assessment and investigation. As the opportunity arises to use procedures such as DNA testing in the supporting of forensic evidence that is brought together for the successful prosecution ultimately of offenders, they have been important; and again the opposition has supported when we felt that that could help in the detection of persons who had committed a criminal offence.

We have even gone further than that and supported the government in initiatives at a national level to keep databases and have information available for the cross-referencing of that information. That is important for modern law enforcement agencies to have access to and be able to facilitate. We have been proud to make that contribution, and there are important procedures now that can be undertaken to be able to more quickly identify and hopefully arrest and bring to justice persons who have committed crimes.

I seem to recall—and I say that because I cannot be clear on this—that there was an initiative in one budget (I do not think it was the last one) in which some extra funds were allocated for forensic—

The Hon. J.R. Rau: There was one in the last one.

Ms CHAPMAN: It was the last one. In any event, in recent times the government has put some extra funding towards forensic science resources. It may just have been for DNA, I cannot recall now, but I think there is some acknowledgement that cases were being held up and nobody could negotiate anything. Even prosecutors were hamstrung in being able to proceed to lay charges, because this type of testing was under such pressure, and the delays were so strong.

We have seen already in the testing they do, not for criminal behaviour but for deaths where there is a coronial inquiry, the enormous delay that relatives face—it is the relatives who are facing the distressing delays in coronial inquiries—not just to have what is commonly called the closure of cases but in some instances the opening, so that they can actually progress to get some

justice in other ways, not just criminal; there may be other compensation claims that hang on this evidence. The timely processing of forensic science requests is critical to the progressing of the number of cases through our courts system and also in a number of other fields; so there are lots of pressures on them.

Apart from that, we hear—and I am sure the attorney gets them too—plaintive cries from forensic service people to say, 'Look, we are overloaded; we need more personnel; we need more scientists; we need more funds to actually do these diagnoses and assessments and for the testing and reports to be sent off to the relevant authorities.' Justice Rice made this very clear. This was a key element, short-term, that could be introduced to help deal with the problem. Next was the further training that could be provided to the Office of the Director of Public Prosecutions' prosecutors. He said they should also be briefed earlier to get a greater contact with the defence in relation to evidence of witnesses. That is quite interesting, because I think Her Honour Justice Trish Kelly has some management of this; of course, she was also formerly in the Director of Public Prosecutions' office.

This concept of having management of a case from an early time is something that I think has at least been trialled. I am not sure how far it has been advanced, but surely we should give that some opportunity to see how it is progressing. I am sure the Attorney could get some information about that, about whether that trial needs to be expanded or whether it has already been expanded—it may have been already—and, if so, whether it is working or not and helping to address that aspect. Certainly, there are eminent people now in the courts who have worked in these areas and who can see the benefit of early management and allocation of briefs.

Next is the funding arrangement for the Legal Services Commission.

The Hon. J.R. Rau interjecting:

Ms CHAPMAN: The Attorney interjects—and I thank him—to indicate that he is looking at that. This is important. Offering a payment of $200 to a defence counsel to take instructions, read briefs, try to look at all the evidence, speak to witnesses, negotiate with the relevant parties, appear in court and give a guilty plea is just a nonsense. I think if even a plumber came out to someone's house for one visit these days, to inspect the pipes, you would not get much change from $200, not to mention if he had to deal with a plumbers' association, buy all the product, come back and negotiate, etc., and install the things in the end to actually make it work. So this is just a nonsense; it is no incentive. Judge Rice picked this up, so I am pleased to hear the Attorney say that he is looking into this.

The other thing he suggested was that prosecutors should file and serve the list of witnesses it proposes to call at trial four weeks before the follow-up directions hearing. Again, the prosecutors would be required to submit a certificate of readiness outlining all the evidence the prosecution intends to present, and not be allowed to introduce new evidence unless the court gives leave in exceptional circumstances. We already have a whole lot of laws to cover that latter aspect. The important thing here is that they have ticked off that they are ready and that serious discussions can actually take place.

I hope that legislative change to provide for binding rules in relation to joinder, separate trials, some admissibility questions, subpoenas, etc., to allow those decisions to be made well in advance of the trial is under consideration by the government, because, again I think that is something directly in our court. I would have been very much happier if we had been looking at those aspects today rather than this bill.

In any event, the time for filing rule 8 and rule 9 notices should be amended to require them to be filed within one month after the date on which the matter is ordered to be set for trial, and the culture of defence solicitors and counsel should be changed to ensure that they take the initiative in resolving matters rather than relying on the courts or the DPP. That is fair comment; it is a good idea. I do not suggest, though, that this bill actually does that. That is the problem. There is no connect between the objective and what is likely to happen. Two more courts should be able to use the CCTV and, finally:

> One of the obvious means of reducing the number of outstanding trials and thereby reducing the time between arraignment and trial, is for there to be more courtrooms which cater for juries with proper security.

Following on from that, of course, we had the Chief Justice come in during estimates this year to talk about the shabbiness (and I think that is a kind description) of the Supreme Court in this state; the worst in the nation, I think—not in his words, but in the words of another recently retiring judge.

It is not just a question of the standard of accommodation and whether it fits with occupational health and safety: it is also the amenity providing enough facilities for personnel to be appointed to actually do the job.

I think that is Judge Rice's point here. It is not just a question of whether you have comfy chairs: it is a question of having fit premises. Courtrooms are a bit like hospital beds; you can easily wheel in a hospital bed, but that is not the cost. It might be a couple of thousand dollars for a hospital bed (I don't know how much they are these days) but the cost, of course, is in having the nursing, medical and allied health services that go with the patient in that bed, to support them while they are in it. This is exactly what Justice Rice is saying.

So, it comes as no surprise to the opposition—having received under freedom of information the Rice report and having considered the recommendations and identified the comprehensive failure of the government to act on most of them—that the government did not provide us with this report in the first place. But we have it, and it starts to cast a shadow over what has been presented in other submissions.

I was shocked, given that taxpayers have paid a lot of money to receive it, by the complete omission, or lack of reference, to the Smart Justice report of Judge Peggy Hora in this presentation of the Attorney-General. Members will recall that she is a retired United States judge. She may have sat in some other superior courts but her expertise was particularly in juvenile justice. She came here, like other Thinkers in Residence, courtesy of the taxpayer and she had some great ideas.

I attended a number of her public presentations and read her report. She reported to the government, as is appropriate, for the government to consider what good ideas there might be in that report and then bring it to the parliament if we need legislative reform or introduced programs that are consistent with it. That is the whole idea of bringing in these people.

I know we have an army of people, including ministers, who trot around the world. There has been Monsignor Cappo and people in other departments who have travelled around the world looking into juvenile justice. Judge Hora had given, I think, two reports to the government, but the final report is the one that I am going to refer to. I am disappointed that the Attorney has not at least referred to, or acted upon, some of her recommendations in this area because she also looks at the question—

The Hon. J.R. Rau: This pre-dates her. She is being looked at independently. She is being looked at.

Ms CHAPMAN: The Attorney suggests that her report is being looked at independently. That may be so, but this does not pre-date her being here. She was here two years ago. This is not new—well, her recommendations are—and it seems to me that, along with Justice Rice, if the government was serious about dealing with this issue then it would be looking at the pointy edge of what has to be dealt with. Judge Peggy Hora made a number of recommendations in her Smart Justice report to encourage early guilty pleas, recognising that the sooner you get them out of the court system the less time might be taken up with other processes. We all understand that.

The Hon. J.R. Rau: We agree on that aspect.

Ms CHAPMAN: We agree on that point. We disagree on how you get there. She says that it is important to formalise sentencing discounts. So, she actually supports the concept of doing that. If that were the only aspect, then we would say, like the Law Society, that we could live with that, if it was genuinely a codification of what the current position is. But this is an exclusion, it is alienating from the courts the opportunity to use discounting after a certain date, and that is what we will not accept.

I think that we are on the side of the angels with that, as far as support goes. Of course, if the Attorney had taken the time to consult with members of the profession who deal with these cases on a daily basis, as defence counsel, then he might have got a bit further down the track, he might actually have had a better understanding of it.

The Law Society, the Bar Association, I think, and criminal barristers have looked at aspects of this and they have come to us to indicate what their position would be. Again, supporting meritorious ideas that would help but which have so far been ignored by the government. Let us get back to Judge Hora. She states that, in addition to formalising sentencing discounts for guilty pleas:

Consider legal aid funding of cases which rewards early disposition rather than encourages pleas on the first day of trial.

The Hon. J.R. Rau interjecting:

Ms CHAPMAN: The Attorney says he is going to look at that.

The Hon. J.R. Rau: No—are looking, and have been for about six months.

Ms CHAPMAN: If you have been looking at it for six months, heavens above, why do we not have something before us now? If you have been looking at it for six months, it would have predated the budget. We should have had something in this year's budget, which was disgracefully delayed as it was.

The Hon. J.R. Rau: I can't tell the commission what to do.

Ms CHAPMAN: The Attorney says he cannot tell the commission what to do. The commission is entirely funded by taxpayers—entirely. The commonwealth and state governments allocate taxpayers' money to do good work. I am sure many members here would support what they do. However, a bill was presented to us just recently via the Attorney to remedy some fate they might suffer—which would best comply with their operations—which we have considered. Happy to help. However, the Attorney says he can't tell the commission what to do when it comes to what the allocations will be. If the funding is made available and the direction is made, we can make provision right here and now in the parliament, if the Attorney is serious about introducing that aspect.

The Hon. J.R. Rau: I am.

Ms CHAPMAN: Get the bill in to us and we will certainly look at legal aid funding for cases that have a direct benefit of rewarding early disposition. Judge Hora also recommends a sentence indication scheme:

...where a judicial officer, having received a summary of the facts agreed to by the prosecution and defence, provides information on the sentence likely to be imposed if the defendant enters a guilty plea during the pre-trial process.

I accept that the formalisation of something like that is going to be difficult. At the moment, just in offering discounting, some judicial discretion is left in how these things are managed. I for one, and probably the Attorney, have appeared before courts from time to time, and the judiciary—wise men and women as they are—often have a very clear capacity to make crystal clear what is going to happen if a settlement is not brought before them. They have a way of generating that information, which has precisely the effect of what is there. The formalisation of this may be difficult. We are happy to look at it, but, sadly, we have heard nothing more.

Judge Hora also recommends adopting the rules of reciprocal discovery and disclosure. Some attempt has been made at this over the years, but I think it is still a bit of a dog's breakfast. There are so many other laws and balances of protection that need to be taken into account. There are some difficult aspects of this, but we cannot be asked to make a decision on sentence discounting, and the formalisation of it, without there being rules to ensure that both the prosecution and the defence are in that disclosure position, and that the prosecution presents its material before that happens.

Finally, Judge Hora recommends a review of all cases by a senior prosecutor from the DPP at the Magistrates Court level. This is an interesting component. I am not sure why this has not been followed up. It seems to me that those at the DPP's office are the experts in relation to what evidence is required for a successful prosecution. They are clearly very qualified people. Some of the Magistrates Court prosecutions deal with matters at a summary level. Of course, the prosecutors are good men and women who come forward, and they are supported by police enforcement to prosecute those cases.

But clearly the DPP are experts, and I think Judge Hora has a point here that we need to have somebody senior have a look at these cases and go through them and say, 'Look, this is not going to fly. You are not going to get a prosecution on this. You need more witnesses on this. If you don't get this, it is going to fail,' and deal with this in a professional way to make sure that we do not clog up the cases in courts. This includes those that are being prosecuted that do not have a wing or a prayer of a chance of being successful.

Some would say that they are being persecuted under these processes rather than objectively prosecuted, and there may be some of those cases, but I am sure there is also a

reasonable category of cases in there that are just being progressed because there has not been someone more senior come in and make an assessment about the likely failure of that case being advanced. So, we need to clean out those that are clearly not going to fly as far as successful prosecution goes.

I am disappointed that the Attorney has not brought in initiatives that the experts are telling us actually need to be done to make a scrap of difference and make an effective hole in the problem that we have. So, the opposition's position remains: we do need to have a look at all this material if we are going to have any aspect of support for this bill before we go any further. I remain concerned—especially having read some of the notes and spoken to counsel, who are actually out there working with these cases at the moment and who the Attorney says he has also spoken to (or someone in his office has spoken to)—that these other aspects have not been considered.

One group that has the resource and the expertise and has made a contribution in this debate has been the Law Society of South Australia. Shortly after the introduction of this bill, the Law Society provided a submission to the Attorney identifying some defects in the bill, for which they set out the case for amendment, not all of which we agree with.

The opposition agree that there are some aspects that ought not be followed, but there are other aspects that are very important to be considered. I think there are others in the category that if they are not considered, then this bill should fail in respect of the sentencing discounts and particularly in respect of the publication aspects of the cooperation recommendations. I will quickly summarise here the Law Society's proposals, which are:

1. to provide an opportunity for a discount above the proposed 40 per cent maximum for cases where people confess during an investigation phase, before a charge—that is a pre-charge discount—

2. to change the timeframe for maximum discounts to:

   2.1 for indictable matters—by the answer charges date;

   2.2 for minor indictable matters to be dealt with summarily—eight weeks after the defendant's first court appearance, being the time within which the defendant must elect; and

   2.3 for summary matters—four weeks after full disclosure (as certified by the prosecution) or such other period as the court directs;

3. to make a discount available in the 'no discount' period, at the discretion of the sentencing court, where a guilty plea saves the state time and resources and reduces the burden on those involved in the trial (e.g. victims and witnesses);

4. to make allowance within discounts for:

   4.1 amendment of the substance of charges within the laying of fresh charges;

   4.2 adjournment of a trial that is taken out of the trial list;

   4.3 allowance of adverse ruling in a pre-trial hearing;

   4.4 a sentence discount in a re-trial ordered following an appeal against conviction;

   4.5 to make allowance for a stay application under rule 8;

5. to promote the attractiveness of discounts by setting a range (upper and lower);

6. to allow the 40 per cent maximum to be exceeded where there has been both cooperation and an early guilty plea;

7. clarification of the application of the discount to the application of the non-parole period for life sentences;

8. to clarify the time period within which the DPP can review compliance with an undertaking;

9. to broaden the scope of retribution that can justify a discount for cooperating with the authorities;

10. to remove the reference to the rehabilitation prospects of the offender, given that it is a general sentencing principle;

11. to clarify notification requirements; and

12. to remove the capacity for time frames to be changes by regulation.

I indicate that I have read the letter of the Attorney-General in response to concerns raised by the Law Society by letter of 6 June 2011 in which he sets out the case that the government wishes to maintain. In relation to item 5, which is to promote the attractiveness of discounts by setting a

range (upper and lower), the Attorney indicates that there should not be a lower range, and we agree with him and therefore do not press that from the Law Society's list of recommendations.

In relation to No. 10, to remove the reference to the rehabilitation prospects of the offender, given that it is a general sentencing principle, we agree that that can remain and is not something we would press. I will say that we do look forward to the government reconsidering this matter and, if it is not prepared to introduce amendments, we will, to support recommendations 2, 3, 9, 12, 1, 4, 6, 7, 8 and 11. When the Attorney reads these I am sure he will look at what we are putting. I do not think I need to repeat what they are. I think the Attorney is probably very clear, and I am sure others who are following this debate in detail will know what we are talking about there.

We seem to be fundamentally apart. I think the Attorney's description is that these are matters on which reasonable minds may differ, to quote his reference—which is at least something, I suppose, but, clearly, we are not always going to agree on a number of things. In a nutshell, we are not satisfied that the government has done other things that would, on the expert's recommendation, remedy some of these problems, and they should be remedied.

The information that has been provided on statistics we do not suggest actually supports the argument of there being a problem with guilty pleas. They are guilty pleas. They are described in the data as late guilty pleas but they are guilty pleas, nonetheless, and they do actually have a discounting benefit whenever they are received. I think it is a long bow and one that should not be drawn to suggest that that is the answer. Setting the no discount period is just a complete nonsense, and I think the Law Society certainly supports that. So, we will look at a number of those things.

I will briefly refer to the question of the cooperation with the police and the prosecution. The concept of giving some leniency in sentencing ('discounting', as we refer to it in modern terms) for cooperation is not new to the criminal justice system, and it is an important instrument in the resolution of cases. I was surprised to read in March this year when the government made its announcements about this bill that the headline was 'Shorter sentences for crooks who talk' and 'Shorter sentences for crooks who dob in mates.' Clearly, there was a presentation by the government to the media—in whatever crude fashion it might have described it in headlines—about giving some reduction in sentences to criminals who snitch on their co-conspirators, etc.

The fact is that it has been around for a long time. It is an important matter to be preserved. The Law Society has raised issues that place some of the disclosure of confidential material at risk under these rules. I think that the minister indicated that he would be presenting some amendments to help remedy some of that, and we will have a look at them. Some have already been presented to us. I am not sure that that will actually resolve the whole matter, however we will have a look at them because this question of confidentiality of information, or any interference with it, could completely undermine the whole purpose of why we are here.

Can I say from the opposition that we do not present any argument to say that discounting for those who spill the beans on others is not a useful tool and should be continued, but perhaps I will give the benefit of the doubt to the Attorney to say that we wanted everything to be transparent and open with all this process and it has been mucked up. It needs to be remedied, otherwise it is going to be a serious impediment to having the opposition's support.

We remain keen to see the material which the government has relied on and which has not been made available via FOI. Some of it we have, but that does not fill us with confidence that the government has done other things that ought to be introduced for that purpose. However, at this stage I indicate that the opposition will not be supporting the bill.

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) (12:11): I thank the honourable member for Bragg for her contribution. Can I say that I possibly offered her contributions across the floor that prolonged things a little. I was attempting to shorten them, but I apologise for that. It was very short, anyway, and concise, succinct, clear and many other favourable words.

Can I just start in a general way and then work my way towards the particular in this? First of all, whatever the genesis of this concept might have been (and it was, in effect, Judge Rice's report which now I understand the honourable member has had a look at and has had time to consider), it was then the subject of some consideration in the Attorney-General's department before my time and for which I cannot speak.

However, since my time it has been under very active consideration by me and by those who advise me. That active consideration involved, as is indicated in the report, discussions which involved at various times the Criminal Justice Ministerial Task Force, the former solicitor-general (the Hon. Chris Kourakis, who is obviously a judge of the Supreme Court now), the Commissioner for Victims' Rights, the DPP, SAPOL, the Law Society and the Bar Association. I will not read them all out, but the fact is that all the main players who have a stake in this have been consulted on this bill.

Whatever the genesis of it might have been, the product has been out there, given to people and they have been given an opportunity to comment on it in its own terms. What I would like to say about that is something which, I guess, in particular the member for Bragg would appreciate perhaps more than other members. When we are talking about something like sentencing, and if I can use an analogy (and it is always dangerous and I come up with bad ones quite often and, hopefully, this is not as bad as some), imagine a cheesecake, say, a nice round one, and you cut it into quarters, halves or whatever, that is probably not a bad analogy for looking at the way the legal community approaches this subject.

One of those pieces could have the label 'courts' on it; another piece could have the label 'Law Society' on it; another piece could have the label 'defence bar' on it; another piece might have 'Director of Public Prosecutions' written on it; another piece might have 'SAPOL' written on it, and so on. The point is that each one of those particular pieces brings a different perspective to the issue of what the whole solution is, and none of them sees it from the other one's point of view—they see it from their point of view.

For example, the Law Society has been consulted extensively about this bill, but—and this is no criticism of the Law Society—I make plain here that the Law Society has no idea at all what it takes to be John Doyle, or what it takes to be the Chief Magistrate or the Chief Judge of the District Court, because they do not have to manage court lists; that is not their job. Their job is to turn up in court and say what they want to say on the day they are suppose to be there, and they are good at it.

As far as they are concerned it is a bit like a puppet show where all this magic is happening behind the screen, you walk into court, there is a bloke or a woman sitting there, you chat to them for a while and then you go away; it just happens by magic. Well, it does not happen by magic. The judges of those courts have to list things, and they know what the dynamics of their court are a lot better than does the Law Society, and they were consulted about this and that is why we have the time frames in here that we have in relation to things.

I take the member for Bragg's point (out of order, of course) about all the things the Law Society had to say about changing this from four weeks to two and this from eight to 10, and whatever. With all due respect to the Law Society, on that particular topic it might suit defence counsel, but it completely ignores the impact on the courts. The important point is this: if the courts do not get notice in time enough for them to do something about it, it does not have any effect on the list.

For instance, if the Magistrates Court requires eight weeks notice (and I am making up this number) in order to pull a judge out, put another case in and have everybody ready to go, if we make the law that they only get four weeks, on the basis of what the Law Society says, we have achieved nothing because that four weeks is not enough to be eight weeks. I am giving an example here of where the Law Society, through the best of intentions but through the perspective of the Law Society, thinks it would be more convenient if certain things were different. It might be, but they are not running the court.

The bill, in as much as it has time frames and everything else, was the subject of extensive consultation with all the courts, and they moved around several times. I remember the District Court one started off at something like four weeks before trial, and I had at least three or four meetings with the senior judge because he said, 'Look, that's not going to work because of this.' We went back and had another version, and he came back and said, 'No, that won't work' because of whatever else. Those things are not just thrown up by me on the basis that this looks okay, because they were originally; the judges told me that they were not going to work and that we will get no dividend out of this if we did it that way. That is why we are doing it from that point of view.

That comment or illustration I am trying to give the honourable member about those discrete recommendations from the Law Society play out similarly in other areas. I will come to

them briefly in a moment. Keep that pie analogy in the mind because everybody is okay talking about their bit, but they are not necessarily so okay talking about other people's bits. When we come to some of the recommendations made by Judge Rice, he of course is sitting in the court. He has a very good perspective on what is going on in the court.

In as much as he is talking about what should be happening in the DPP, again, all due respect to Judge Rice, he is not the Director of Public Prosecutions. It might be for purely practical reasons, which are best known to the Director of Public Prosecutions, complying with the proposals put up by Judge Rice, and it may be a lot more difficult and a lot more impractical than one would assume when one stands outside of the Director of Public Prosecutions' office.

If the honourable member wants to know whether I am prepared to take these matters up and whether these have been taken up with the director, the answer is yes. But, the director is an independent statutory officer. The Director of Public Prosecutions, subject to the situation in extremis, is not subject to direction from me. Quite frankly, for me to start directing the Director of Public Prosecutions—I am not even sure if I am lawfully able to in terms of management issue; I do not think I am—but even if I were, the idea that I would be heavy-handed enough to go to the DPP and tell him how to manage his office is just not going to happen.

The position of the DPP periodically comes up, and it may be that one of the matters that might be set as a priority for those who wish to apply for that position is addressing some of—

Ms Chapman interjecting:

The Hon. J.R. RAU: Michael?

Ms Chapman: Atkinson.

The Hon. J.R. RAU: I am not sure he is eligible.

Ms Chapman interjecting:

The Hon. J.R. RAU: I was talking about eligibility. I think it is seven years standing, or something. Anyway, back to the flow of things. I am in favour of the Director of Public Prosecutions trying to accommodate the requests made, or the suggestions made, by Judge Rice. I endorse that, and I agree with that, but I just make the point that I cannot tell him what to do. I am almost positive that I cannot tell him at all what to do in a managerial context. I am able, I believe, to override him in respect of a decision to prosecute or not prosecute, or appeal or not appeal. Again, in my view, that is a power that should be used only in extremis. It is not a day-to-day thing. The idea that I should be going in there and managing the DPP's office is obviously nuts. That is the little DPP bit.

When we come to SAPOL, again, the police minister has some opportunity to give direction in extremis to the commissioner. Again, I am not going to get into these internal workings. But do I endorse, in general terms, what Judge Rice has had to say about better cooperation between agencies and the provision of earlier material? Absolutely I do.

DNA funding? Yes, we put more money into DNA funding, and it is very important, although I draw the distinction between DNA and PM funding, because the whole process is quite different, the requirements are different, and the time lines are different. Yes, I agree with you about DNA funding; it is important, and we are doing something about it. In terms of case management, again, I agree with you. Things are being done about it. They are being done about it now as a trial in the Magistrate's Court, and we are working on some trialling the District Court as well. So, we are on the page about that.

The Legal Services Commission is a very important element in the whole equation. Again, the honourable member for Bragg hit the nail right on the head when she asked why someone should, in effect, be paid less than a plumber coming to fix a tap up, to take instructions, read a brief, work their way through the whole thing, have extensive negotiations possibly with prosecutors, talk to their client, and then give advice to their client, and then turn up on a day, all for $200. You have no argument with me about that—none at all.

The point I wanted to make about that is that during last year the Legal Services Commission was granted additional funds. You might recall that there was an additional amount of money injected into the Legal Services Commission on, I think, a three-year time frame to give them additional funds to get on with what they are doing. That was a conditional payment. The condition was that the Legal Services Commission agreed to have people that we, in the Attorney-General's Department, wished to have go into their computer systems, have a look at what they

are doing, pull out all of the data we can about where the money is going, who is paying what for what, a comparison between private professional suppliers and in-house suppliers, and a consideration of whether there was room for a public defender's office to somehow occupy some of that space and be a benefit to the public.

That is actually underway, and it has been going on for months. One of the reasons for that being underway is to address the front-end loading point that you articulated so well a while ago, because I agree with you. Every bit of common sense that I can muster says front-end loading is a no-brainer. I have said this on a number of occasions to the commission, but the commission wants to see how that is going to work, and we need to get the figures to be able to establish it.

I can tell you something that, incidentally, is coming up because of this debate. We have some figures out of the commission about this—and it has been extremely cooperative, I might add, and all of the people working in that group with the commission have been working very well together and it is a credit to all of them what they have done. As a matter of interest, just to show you how seriously this project is being taken, the commonwealth wants to be involved in this as well, because of course they are spending money through our commission. They are interested in what is happening and they have become participants in the process. So, it is a very serious investigation.

One of the problems we are confronting at the moment is that an enormous amount of data is being held by the commission. However, that data is not necessarily recorded in chunks that correspond with the questions we wish to ask. For instance, a hypothetical question may be, 'How many cases are finalised on the first day of trial by way of a guilty plea as opposed to more than four weeks out?' Again, this is a hypothetical example, but their recording of data may not distinguish between a resolution by way of a judgement and a resolution by way of a plea. The data is helpful in as much as it tells us what it tells us, but it is unhelpful in as much as what it does not tell us.

What we are trying to do now is work our way through that so we get a sharper picture of exactly where the movements are in the commission, where people are pleading guilty, where they are not pleading guilty, at what point, and so on. We are right onto that, and I agree with you entirely. The honourable member made another point about subpoenas and other ancillary matters. That is part of a bill which will be coming here shortly, which we have also been working on for a long time, called—it is a fantastic title; you will love this—the courts reform bill.

Ms Chapman: Oh!

The Hon. J.R. RAU: Yes; isn't that scintillating? There is another one too. There is one called a courts package, which will sit beautifully with the reform bill. At risk of quoting my own report, on page 5 (at least in what I have) I have said this—

Ms Chapman: 'I said myself.'

The Hon. J.R. RAU: 'I myself said.' I say this because the honourable member has said things today that suggest I am not aware of the complexity of the problem, but when this bill was introduced I said:

> The problem of court delays is acute and complex. There is no simple answer. It is clear that additional resources, (even if available), would not, of itself, solve the problem. The Government has already increased the number of District Court Judges and provided additional courtrooms in an attempt to alleviate the problems. It is timely and appropriate to consider other avenues such as—

not exclusively—

> encouraging early guilty pleas through this Bill and other linked measures to improve court effectiveness.

Now, hold the pie in your head; we are now getting a Rubik's cube. We are moving the Rubik's cube around and there are about eight or 10 articulating bits. I do not know how many squares there are in a Rubik's cube, but there are about eight or 10 articulating bits. The honourable member is saying to me, quite fairly, 'You have moved one articulating bit and you haven't solved the problem.' Correct. Absolutely correct. However, if we are going to solve the problem, does this piece have to be moved? Yes, it does.

The other pieces include things like the DPP looking at the way they organise themselves and the courts having appropriate case management in place. Again, can I say the courts are not subject to my direction. I meet with them and talk with them, but I do not have a managerial prerogative to tell them what to do. I can encourage them. We could, it is quite true, legislate here

to say courts will have case management, but then who is going to put the flesh and detail on that? Not me; probably not even the member for Bragg. So, some of this has to be done by cooperation and ongoing things.

Again, DNA: we are putting more money into that. Legal Services Commission: we are doing the most thorough review of the Legal Services Commission that has ever occurred, with the commonwealth, with a view to being able to say at the end of that process, 'Guess what, Legal Services Commission? We, now, using your data, are able to demonstrate for you that you would actually get more bang for your buck and at the same time de-clutter the courts of unnecessary people who are going to plead guilty if you front-end-loaded your payment structure.' We are working on that: the subpoenas and the other things, they are coming.'

The member for Bragg's criticism of the government bill—that this does not solve the whole problem—is completely fair. But, equally, the problem will not be solved if we do not do this in addition to other things. So it is one bit of a whole. If you don't like Rubik's cubes, maybe a jigsaw puzzle is better.

Members interjecting:

The Hon. J.R. RAU: Thank you; I am corrected. There are nine articulating pieces, so it is very complicated.

That really leaves one point of difference between the government and the opposition—and the Law Society—a fundamental point of difference, which is a matter of principle. The principle is: if you are really late with your guilty plea, like on the day of trial, or, to put it another way, so late that the courts cannot backfill your spot in the court and therefore you might as well have left it to the last day—if you do that you do not get any discount on account of the plea only. You may get a discount for your personal circumstances, you may get a discount because of cooperation with the prosecuting authorities or any number of other things, but the element of your discount that might be attributable to a plea is zero.

I know there are some people who do not like that, and it is evident from the comments made by the honourable member for Bragg, and Mr Wade in another place, that they are amongst them. Well, we have a difference of opinion. If you are going to actually put a disincentive in the system, it is no good it being a Clayton's disincentive: it is either a disincentive or it is not. So, what we have put up is a genuine disincentive.

There are members of the legal profession who do not like that; there are some members of the judiciary who do not like that. Ultimately, it is not their call: it is the parliament's call. If we want to send a clear message to people who are going to clutter up the courts and plead guilty belatedly, how do we do it? The answer is we do not have a Clayton's penalty for sitting on your hands, waiting for the last minute, hoping that all the witnesses die so you get off. So, that is why we are doing what we are doing.

I am more than happy to have a conversation with the opposition about some of the particular matters that have been drawn to our attention, although, for the reasons I have already explained, I think many of the Law Society's comments, though well-intended and probably well-researched from their perspective, do not take into account the practical managerial requirements of the courts system. Therefore, their contributions, to that extent, are unhelpful.

In relation to the questions raised by the Law Society—'What about if someone only gets the evidence late in the piece?' or 'What about if the trial goes off because somebody is not there or whatever?'—we thought of that, and there is a provision in the bill which talks about—and I am paraphrasing this—where a person does not plead guilty early on, for reasons not of their own making, then the clock, in effect, stops at the 30 per cent and starts again once the process moves on.

If the opposition wants to have a discussion with me about whether that provision, which appears in a number of places in the bill, is effective to achieve that, I am up for that conversation, because that is what it was always intended to achieve. If what they are saying is, 'We think that provision could be better,' I am very comfortable having a talk about that because that provision is not meant to be tricky. It is meant to mean that, where an accused person, through no fault of their own, finds themselves running up against the timelines and losing discount possibilities (when it is not their fault) they should not be penalised.

We do not have an argument with the opposition if that is their point—we agree. If the opposition is saying that our wording is not good enough to cover all the possible circumstances

that give rise to that, fine, we are happy to have a talk about it; we are happy to be improved upon by the opposition if that is what they are on about because we have no difference of opinion about that at all. That leaves us really, when you strip away all the icing and get down to the bottom, with one philosophical point of difference.

If a person is going to plead guilty and they leave it to a point where it is so late in the piece that the courts cannot backfill the time they were supposed to be occupying the court and, therefore, the court has down time which is not used but still costs the public tens of thousands of dollars a day to be open with nobody in it—the judge sitting in his or her room probably reading erudite works and writing judgements or whatever but certainly not dispensing justice—and if we are happy to have people who want to run the gauntlet right to the end and then plead on the day of the trial because they are hoping that one of the witnesses will change their mind or their lawyer, for whatever reason, has not had a chance to give them appropriate advice until the very end, or they just want to have a lucky dip sort of experience and decide at the end that they will back out, whatever the reason is (provided they are not caught by surprise about something, which I have already mentioned) the philosophical difference is this: the government says, 'You, defendant, pleading guilty now has meant the state has wasted tens of thousands of dollars and somebody else has not had their case dealt with because you were wasting everyone's time.'

That is what we are saying. We are saying that, if you do that, you get no concession for pleading guilty. Now, the point is to make these people think, 'Hey, if I'm going to plead guilty, it's better for me to do it a little bit earlier,' so the court says, 'Thank you very much, defendant, you have saved everyone a lot of trouble and you have saved the state tens of thousands of dollars in not having an empty courtroom with nobody in it, we will give you 20 per cent or 30 per cent knocked off what you would have got.' That is fine, no problem.

The difference between the opposition and the government on this point is quite simple. You are saying people who drag the chain, not through being caught by surprise at the end or anything else, but people who drag the chain trying to max out the system right to the end, even though that means the courts are going to be empty when there are thousands of people wanting to occupy them, you do not care; you are happy with that. You want the courts to be empty because you think it is more important that that person, who is wasting public time, the court's time, and public money, and aggravating the case list, deserves a 10 per cent knock off because they have belatedly decided that they are going to get with the program. Sorry, we have a different point of view.

These characters are not getting with the program and we want to make it clear to them that if they leave their decision too late then the community might as well have them in there for the money it costs. The only money that gets saved is by not using the recording people—we would probably save a few bob on them. The court is empty, the judge is still there, and everyone is ready to go. Of course, I am only mentioning the courts, but what about all the witnesses who have had to be organised to come to the case? What about all of the police officers who had to proof all of these people and have them ready for court? What about the prosecutors who have spent a long time reading and preparing for the case? What about them and all their wasted time? Completely wasted. Instead, those witnesses need not have been troubled, and those prosecutors need not have been preparing their case. They could have been doing another case which did need to go to court.

What the opposition is saying is, 'Well, we actually don't care about that. We don't mind prosecutors spending a lot of time and effort preparing for cases that are never going to be heard. We do not mind courts being idle, with nobody in them, even though there is a big queue waiting to get in. We don't have a problem with that because it is more important that some fellow who won't get with the program, who is swinging the lead, should be able to get a concession by pleading guilty on the first day of trial because it suits him.'

Hang on—there a difference of opinion. You people go out there and you sell that. You tell the public why it is in the public interest to have prosecutors (who are well-paid people but cannot do 50 things at once) prioritising cases that should never ever be heard. Tell them why courtrooms should be empty and why judges should be sitting up in their rooms perhaps reading the latest law report or something useful—and public benefit on that one in a direct sense is pretty tangential. So, that is the question.

I actually look forward to going out there (if you persist with the way you are going with this) and explaining these points in public. The public needs to know that you can talk as much as you like about saving court time, saving money, tight budgets, efficiency and all of that and that we

make a move which, as I have said, is not the whole solution, but is part of the solution, which is designed to introduce greater efficiencies into the court system to maximise the benefit we get out of our prosecutors, to maximise the benefit we get out of our courts, and to minimise the amount of time people who are swinging the lead on guilty pleas get to wiggle around and frustrate the system, and you folks are opposing it.

I can understand why the Law Society does—because they represent these people. Fair enough, it is their job, and if I were on that Law Society committee I would probably say the same thing, but I am not looking at it from that point of view. I am looking at it from the point of view of how it is going to impact on the whole justice system, not on whether my particular client likes it. The Law Society's contribution is predicated on that perspective they have, which is, 'Look, we are all here as lawyers. We represent people, and we think it is not very nice for some people.'

Okay, fine, I accept that; absolutely true, but it is not their responsibility, as it is the parliament's, to say, 'How can we get the most efficient use out of our courts and our Director of Public Prosecutions—both services which cost this state a great deal of money? Why should we have them do things that are completely useless?' We might as well have the Director of Public Prosecutions sending staff out to dig holes and fill them in again. That is how useful preparing for a trial that is never going to go on is. But, prepare for them they must because they just might go on.

If all we do is put a little bit of lead in the saddlebags of the people who refuse to get with the program, I do not think that is the end of the world as we know it. I would urge the opposition to please give some further thought to this matter. I have acknowledged all the points the member for Bragg made in her contribution, and I have said that most of her points (though not all of them) were quite good points, and we agree with her.

This is not a single piece of the jigsaw puzzle, or one of the nine panels in the Rubik's cube. This is an integrated solution to a very complex problem, but if you take out one of the elements of the integrated solution you do not get a solution. So, I do not know whether the opposition has amendments that they have filed or are intending to move. I think we probably understand each other across the chamber as best we can, and I think I have probably exhausted my well of material.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

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

Page 2, line 17—After 'sentence' insert:

, including (for example) any reason why a sentence that would otherwise have been imposed for the offence or offences has been reduced

Amendment carried.

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

After line 17—Insert:

(1a) Nothing in subsection (1) requires a court to state any information that relates to a person's cooperation, or undertaking to cooperate, with a law enforcement agency.

Amendment carried; as amended passed.

Clause 5.

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

Page 3, lines 1 to 35 [clause 5, inserted section 9AA]—Delete the clause

Amendment carried; clause deleted.

Clause 6.

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

Page 8—After line 6 [clause 6, inserted section 10C(2)]—Insert:

(ba) less than 4 weeks before the day set for trial for the offence or offences, and if the defendant satisfies the sentencing court that he or she could not reasonably have pleaded guilty at an earlier stage in the proceedings because of circumstances outside of his or her control—the sentencing court may reduce the sentence that it would otherwise have imposed by up to 30 per cent;

Amendment carried.

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

Line 28 [clause 6, inserted section 10C(4)]—Delete 'under this section' and substitute:

in respect of a guilty plea made within a particular period

Amendment carried.

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

Page 9, lines 1 to 4 [clause 6, inserted section 10C(4)(e)]—Delete paragraph (e)

Amendment carried.

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

Page 10, line 31 [clause 6, inserted section 10D(4)]—Delete 'under this section' and substitute:

in respect of a guilty plea made within a particular period

Amendment carried; clause as amended passed.

Clause 7, schedule and title passed.

Bill reported with 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) (12:50): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ROAD TRAFFIC (RED LIGHT OFFENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 July 2011.)

Mr GOLDSWORTHY (Kavel) (12:52): I advise the house that I am the lead speaker on behalf of the opposition in relation to this particular piece of legislation, the Road Traffic (Red Light Offences) Amendment Bill 2011. The bill is to amend the Road Traffic Act 1961, and I understand it is to address some technicalities in relation to the installation of red-light speed cameras at six identified metropolitan level crossings: Leader Street, Goodwood; Woodville Road, Woodville; Kilkenny Road, Kilkenny; Cormack Road and Magazine Road, Wingfield; Womma Road, Elizabeth North; and Commercial Road, Salisbury North.

The government previously announced the installation of red-light cameras at these particular level crossings. It seeks to apply the same laws at these level crossings as those in operation at other road traffic intersections where vehicles involved in red-light offences and speeding offences arising out of the same incident will face penalties for both. As I said, this bill looks to address some technicalities in relation to the issue of installation of these cameras at level crossings.

It is proposed that offenders travelling through a level crossing will pay a fine on each offence—speeding and through the red light—and they will have demerit points applied on each offence. Currently, I understand, the act defines traffic arrows and traffic lights but does not define twin red lights. As we all know, twin red lights flash at level crossings. The inclusion of twin red lights in the definition will bring level crossings into line with other intersections. We obviously support the fact that both types of intersections should have the same road rules applied and be put in place. The bill also amends the definition of what constitutes a prescribed offence under both the Road Traffic Act and the Motor Vehicles Act for the purposes of the regulations.

I certainly appreciate the opportunity that the minister's office provided in terms of a briefing from departmental staff. There has never been any issue with receiving a briefing when we have

requested one on any matter or any bill that I have had carriage of in the house on behalf of the opposition concerning the Minister for Road Safety, so we certainly appreciate that. The bill is not tremendously complicated, and hence the briefing that we received only went for about 10 minutes or so. I do appreciate the departmental staff through the minister's office getting back to us in relation to some further information that we did seek at the briefing.

We on this side of the house understand that it is a very serious road safety issue with people speeding across level crossings and looking to run the red lights on level crossings. Arguably, it is even more dangerous to undertake that sort of activity than it would be through, if you like, a red light at a normal vehicular traffic intersection. Obviously, the mass of a train is far greater than any vehicle that would travel on a road so, potentially, the consequences of a crash that occurs at a level crossing would be significantly greater in terms of serious injury and/or fatality than at a normal vehicular traffic intersection.

I think it is important that we do look to bring in these measures. As I said, the potential for very serious injuries and fatalities at level crossings is high, and I understand that there have been 24 fatalities at level crossings in the past 10 years. Another serious concern for train drivers, I understand, is the number of near misses. One example is at Womma Road at Elizabeth North at a level crossing where speeds have reached 160 km/h. In the old measurement, that is 100 miles an hour. That is really an incredibly ridiculous and imbecilic speed to be travelling anywhere on our roads particularly in a 60 km/h zone.

I understand that statistics from the study concluded that, for the period from 7 to 22 November 2009, approximately 21,000 vehicles exceeded the speed limit and over 1,200 vehicles entered the crossing when the lights start to flash. Of those, 237 were speeding. The study also showed 19 cars entered the crossing when the boom gates were lowering. I cannot understand why a motorist would actually do that. I am extremely cautious when I approach any level crossing, obviously stopping when the lights start flashing but, even when I am crossing the level crossing in the normal course of driving, I do look up and down the railway line just in case there is a train coming and there may be a malfunction of the signals.

As I said, 19 cars entered the crossing when the boom gates were lowering, and seven of those were speeding, with a maximum speed of 88.7 km/h recorded. Over 100 vehicles entered the crossing when the boom gates were rising. That is extremely dangerous driving too, because you never know: there may be another train coming on a two line system. One train may pass through and that triggers the boom gates being raised, but you do not know whether, in only a matter of 500 metres or so, another train may be coming from the other direction and activate the lights and lower the boom gate.

I am not looking to make a lengthy speech. I can indicate that the opposition is supporting the legislation without amendment, so it is not my intention to go into committee. The last point I want to make is that we do need to be ever mindful that we need a balance between road safety and revenue raising in relation to speed cameras in particular. I know there has been public debate about this for a long time, but I just raise that point. In closing, we on this side of the house support the legislation.

Debate adjourned on motion of Mr Pederick.

[Sitting suspended from 13:01 to 14:00]

ADELAIDE OVAL REDEVELOPMENT AND MANAGEMENT BILL

His Excellency the Governor assented to the bill.

APPROPRIATION BILL

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (BUDGET 2011) BILL

His Excellency the Governor assented to the bill.

VISITORS

The SPEAKER: I understand that we have a group of students here from Blackfriars school. Welcome, and we hope that you enjoy your time here this afternoon. We may also have

Booleroo Centre District School, but I cannot see another group of young people. Are they here yet?

An honourable member interjecting:

The SPEAKER: I am sorry, I did not see you there. Welcome. It is nice to see some people from the country. We also have a group from Modbury National Seniors sitting up the top there. How do you define a senior?

JOHNSTON, MR E.F.

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) (14:03): I move:

That the House of Assembly expresses its regret at the death of the late Elliott Johnston, the former Supreme Court justice and royal commissioner, and places on record its appreciation of his meritorious service to South Australia's legal profession and justice system and that, as a mark of respect to his memory, the sitting of the house be suspended until the ringing of the bells.

I was saddened to learn, late last month, of the death, at the age of 93, of Elliott Johnston, a man who devoted his life not only to the law but to the belief that everyone, regardless of race and circumstance, was entitled to equal justice.

Despite the resistance of others and the obstacles put in his path because of his public and often outspoken devotion to the philosophies of communism, Elliott Johnston rose to become one of South Australia's most renowned Queen's Counsel and to become the first communist to be appointed to the Supreme Court bench anywhere in Australia.

Elliott also served his country during World War II and spent the final years of the war stationed in New Guinea, where he was promoted to lieutenant. Following his retirement from the bench, he was appointed to the Royal Commission into Aboriginal Deaths in Custody and was appointed lead commissioner after Jim Muirhead stepped down from the role in 1989. It was there that I first had an opportunity to spend time with Elliott Johnston, when I was in my role as minister for Aboriginal Affairs from 1989 through to 1992.

As Mary Gaudron, the first female justice appointed to the High Court of Australia, notes in her introduction to Penelope Debelle's excellent biography of Elliott, *Red Silk*, Elliott Johnston was 'a lifetime Communist, but not an ideologue.' 'Above all, he believed in equal justice.' Mary Gaudron writes. That belief sustained his professional life and perhaps goes some way to explaining his political beliefs.

Elliott Frank Johnston was born on 26 February 1918 at the Gover nursing home in North Adelaide. He attended Highgate and Unley primary schools and was barely 11 years old when the world was plunged into the Great Depression. By 1933 Adelaide's unemployment level was the highest anywhere in the nation, with more than one in three men unable to find work. It was this period of his life that instilled in Elliott Johnston a drive to make the world a better place for working people. That underpinned his entire life.

He began his secondary education at Unley High School and at the completion of the second year he successfully applied for an Elder entrance scholarship to Prince Alfred College. It was around this time that Elliott also forged his lifelong allegiance to the Sturt Football Club. On completing secondary school Elliott won a bursary scholarship to study law at the University of Adelaide. He was a contemporary of some of South Australia's leading literary figures of the time, including Colin Thiele, Max Harris, Mary Martin, and Rex Ingamell, and he soon established a reputation as a student radical.

He played an influential role, along with the future political scientist Finn Crisp, in the establishment of Australia's first student-only representative body, the National Union of Australian University Students. Through his role on the university newspaper *On Dit*, and as an outspoken debater on and outside the campus, Elliott clashed regularly with conservative academics, most notably the then professor of geology and mineralogy, Sir Douglas Mawson. Elliott was also a member of the university's debating team and it was during an inter-varsity debating competition in Brisbane that he met Elizabeth Teesdale Smith, the love of his life, who was to become his wife.

In the late 1930s Elliott's already strong political beliefs were galvanised by the Spanish Civil War. Despite becoming an active campaigner for peace, Elliott enlisted in the Australian Army in 1940 because his opposition to Nazism and fascism outweighed his opposition to war.

In 1941 he joined the Communist Party of Australia and later that year, soon after marrying Elizabeth and just weeks after the Japanese attack on Pearl Harbor, he was called up to active army service. In 1943 he was posted to New Guinea, where amongst his other duties he ran literary classes in a makeshift army tent to help soldiers write letters home. After he was demobbed he established his own legal practice here in Adelaide and quickly earned a reputation for agreeing to represent people who would otherwise not have been able to afford his lawyer's fee.

In 1950 Elliott made his first visit behind the Iron Curtain, when he attended the World Peace Conference in Warsaw in Poland and then went on to visit Moscow. Several years later he stood as a Communist Party candidate in the seat of Stuart, which of course takes in regional centres such as Burra and Port Augusta and he won 20 per cent of the vote.

As former Supreme Court Justice Kevin Duggan recounted at Elliott's memorial service last Friday, that total apparently included 20 or so votes from the Woomera booth—which, of course, was a military base. This in turn, as legend has it, sent security services into a lather as they attempted to track down the apparent communist sympathisers ensconced in this top secret, sensitive military precinct.

Following a visit to China in 1955, part of a six-year odyssey through the communist world while working as a full-time party member, Elliott returned to legal work and again devoted himself to the causes of working people. By the late 1960s he had established a reputation as one of Adelaide's foremost legal practitioners, championing causes such as the rights of Vietnam War protesters, the rights of women, sex discrimination, opposition to apartheid in South Africa, native title, and legal rights for Aboriginal people.

Despite being recommended for elevation to Queen's Counsel by the then Chief Justice John Bray, his appointment was refused by former premier Steele Hall, who famously said that he would rather be voted out of office than change his mind on that issue. Then, two weeks after Don Dunstan was elected premier in 1970, Elliott Johnston was installed as a Queen's Counsel, becoming Australia's first and only known communist QC. He was also installed, in 1971, as the inaugural chair of the Aboriginal Legal Rights Movement.

In 1980, he once again stood for election, this time as the Communist Party's candidate in Mick Young's federal seat of Port Adelaide. In 1983, at the age of 65, he finally won appointment to the bench as a Supreme Court judge.

Following his compulsory retirement from the bench at age 70, Elliott was offered a position with the Aboriginal Deaths in Custody Royal Commission established by the federal government. Two years later, when commissioner Jim Muirhead unexpectedly stepped down from his role, Elliott was appointed as lead commissioner, and handed down the final report in 1991. Of course, that report is regarded as a benchmark nationally in terms of Aboriginal justice and Aboriginal rights.

In 1994 Elliott Johnston's contribution to the law and to social justice, particularly his commitment to the legal rights of Aboriginal people, was recognised when he was made an Officer of the Order of Australia. Several years later Flinders University—where he had worked as an associate professor—also honoured his legacy, when it inaugurated the annual Elliott Johnston Tribute Lecture relating to Indigenous affairs, to be held every year during South Australian Law Week. In 2006 Elliott was awarded an honorary doctorate by his alma mater, the University of Adelaide, following the same honour bestowed on him by Flinders some years earlier, and in 2007 our Adelaide Festival of Ideas was dedicated to him.

As a lawyer, as a judge, as an activist and as a humanitarian, Elliott Johnston deservedly won widespread acclaim and admiration. That was evident from the large number of people who gathered to honour his memory at last Friday's memorial service at Elder Hall, including many members of this parliament. It was during that service that retired Justice Duggan recalled how, as a child, in the company of his father, he had first encountered Elliott Johnston as a passionate and eloquent orator in Botanic Park's Speakers' Corner. Justice Duggan noted that Elliott was not only the most inspiring and the most persuasive of the regular Sunday morning speakers but he was also the most heckled.

Elliott's legacy is also reflected in the diversity of the heartfelt tributes published in the wake of his death, from Johnston Withers, the law firm he founded with his beloved wife Elizabeth, to the Aboriginal Prisoners and Offenders Support Service, to the State Council of the United Firefighters—and it is great to see in this chamber today Mick Doyle, who was for years both the state and federal secretary. He is remembered by all who knew him, personally and

professionally, as a man of deep principle, of enormous intellect, of great compassion, kindness and dignity, and of a tireless commitment to the causes that defined his life.

On behalf of all members on this side of the house, I extend my condolences to Elliott's son, Stuart, to other family members, and to his many friends, colleagues and admirers.

Mrs REDMOND (Heysen—Leader of the Opposition) (14:15): I rise to second the motion. Justice Elliott Johnston QC was a champion of quality for all under the law. He died at age 93 after an illustrious career in the law. A local boy born in 1918, Elliott was first a student at Highgate and Unley Primary schools, and then Unley High School, before winning a scholarship to Prince Alfred College and subsequently studying law at Adelaide University.

As the Premier indicated, he was appointed to the Supreme Court bench in 1983 and retired when he turned 70 in 1988. Justice Elliott Johnston had among his many achievements heading the Royal Commission on Aboriginal Deaths in Custody. He became the lead commissioner after Jim Muirhead resigned. Indeed, it was Elliott Johnston who delivered the inquiry's report in 1991, detailing more than 300 recommendations to improve the lives of Aboriginal Australians. It was an issue dear to his heart, and I am sure he would be appalled and saddened at the crisis currently unfolding on the APY lands.

Justice Johnston was also the founder of a well-known law firm, Johnston Withers, and guided the business from 1946 through to the 1970s. Even today the firm continues to go from strength to strength guided by his legacy, and, as a former practitioner, I know it is a firm that is still held in high regard in this town.

A tribute to Justice Johnston would not be complete without recognising his marriage of more than 60 years to his wife Elizabeth, who died about nine years ago, and his surviving son, Stuart. On behalf of the Liberal opposition, I offer my sincere condolences to Elliott's family and friends and commend the motion to the house.

Honourable members: Hear, hear!

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) (14:16): I also want to add a few words today in relation to the great life of Elliott Johnston who—I am speaking largely from the perspective of the legal profession—was an inspirational person. He was a person who, as we have heard, commenced his practice in the law with his wife, Elizabeth, in a fashion that he intended to continue, and, in fact, he did continue it.

They took up unpopular and difficult clauses. They acted for people who would otherwise probably not have been legally represented. They worked for people with neither the hope nor expectation of payment. They did great work for a great many people, for which they have had the enduring gratitude and support of many people in the community, not least the various ethnic communities which came to this country in the wake of the Second World War.

Many of those people were unable to read or write English, confused by our system, and many times found themselves in difficulty, whether that be a problem with criminal law or a problem with an accident at work. Whatever it might have been, Elliott and Elizabeth Johnston and their firm were one group—and there were a handful of people around Adelaide at that time—to whom these people would routinely turn and never be turned away. In return for that support, that firm (now Johnston Withers) has enjoyed many years of loyal support from that group of people who were looked after in their time of need.

Personally, Elliott was a very quiet person, a person of great calm. A sense of calm was always around when Elliott was there. I do not recall him ever being an angry person in any circumstance in which I observed him. He was always patient and, as has been remarked before, a very kind, gentle person but with a razor-sharp mind and a formidable reputation as a barrister in the courts of South Australia.

Elliott's firm, Johnston and Johnston (later Johnston Withers McCusker, later Johnston Withers), was a firm which attracted (along with Stanley and Partners and Duncan Groom as it was back in those days) a lot of idealistic young people wishing to be involved in the legal profession on the basis that they would be doing something in the line of community service by acting as lawyers.

To give an idea of some of the people who passed through Elliott Johnston's firm who have since gone on to become prominent people in the law, and in no particular order—and I apologise

for any I have left out—they include: Justice Chris Kourakis (who did his articles, I believe, if I recall correctly, with Johnston Withers; Judge Peter McCusker; Paul Heywood-Smith QC; Master Brian Withers of the Supreme Court; Justice Robyn Layton QC; Lindy Powell QC; and I am sure there are a number of others. A fair way down that list, between 1988 and 1997, is me, but I do not fit into the other list.

Can I say that the atmosphere of that firm, which was created largely by Elliott and his philosophy in life, has been maintained and permeates everyone who works there. Elliott was a great and well-respected judge, a person who commanded the respect of his peers and of the bench. He was also, as we have heard, a person who, after his career in the law (which was brought, I think to a premature end by the compulsory retirement age, because I am sure that, had he wished to go on, he would have been able to do so very well for many years) was not a person to be idle. As we have heard, he was involved in relation to the Aboriginal deaths in custody inquiry and countless other good works.

The remarkable thing, I think, is that this man who had such an interesting life continued to be interested until, literally, virtually the day he passed away. In fact, I recall, both since I have occupied the office of Attorney-General and for years before, every time an event turned up—whether it was the swearing in of a judge, some public lecture, or something else—there would be Elliott. I saw him as recently as a couple of weeks ago, which would have been a few days before he passed away. He attended, as he always did, the swearing in of the most recent Supreme Court judge, Justice Stanley, and he was there to observe that, as he had been for the last several I have observed. He was a man of tremendous dedication to the law, enormously respected by the community and actually a very interesting man.

On the last point, many years after he retired he used to come into our offices at Johnston Withers and work on law reports, reading them and doing head notes. He used to sit in a room near to me and when I had a break I would go in and chat to him and we would talk about whatever he wanted to talk about. Some of the stories he told me about his life, particularly his life in politics, if you did not believe him—and I do—and if you were a sceptical person, you would think, 'Somebody is making this up; it cannot possibly be right.'

To give an example, as it turned out, he happened to be ill in Moscow at the time Nikita Khrushchev made his famous 13th Party Congress denunciation of the benevolent Georgian. In the course of that, he let out a few home truths, obviously, about what comrade Stalin had been up to. This was reported to Elliott in his hospital bed in Moscow, so he knew it was not something that *The New York Times* had made up.

He subsequently came home to Australia and was at a meeting of the party here in Adelaide where some of the comrades were denouncing *The New York Times* and the capitalist press for telling such terrible lies about comrade Stalin, and comrade Khrushchev for saying such things about comrade Stalin. He said to them, somewhat surprisingly and unwelcome as far as they were concerned, 'Actually, it is all true.' I think there was a disturbance in the force that followed that, I think you could say.

As history will show, that particular organisation became two organisations, or perhaps more, and that might have had something to do with it. In any event, what a place to be and at what a time, particularly with the interests that he had. He was an outstanding South Australian, an outstanding judge and an outstanding human being.

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development, Minister for Science and Information Economy) (14:24): Elliott Frank Johnston led an extraordinary life. He committed himself to humanity, and he made a choice about that. He could have been a very rich and powerful man, but he chose to commit himself to the concerns and interests of ordinary South Australians, of ordinary people, and he did this in a way that inspired generations of Labor lawyers, myself included. I think that Elliott's name and his reputation created a sense of dignity, purpose and worth in that profession, which, I think, attracted many of us to it.

He was an enormously compassionate man, and that much emerged simply by speaking to him. What is perhaps not well known is that he was a Kokoda veteran, because he did not speak often of that horrible conflict. A friend of his and mine tells of a story that Elliott would tell of him fighting in that conflict and of him teaching a young Aboriginal soldier—who was really no more than a child—to read and write. This young man wrote a letter home to his mother, and that was the last letter he wrote because he died in the fighting. Elliott would tell that story with tears in his

eyes. He was an enormously compassionate man, but he rarely shared the depth of his suffering about that awful conflict.

He also, though, was a man of enormous personal charm, and it was celebrated that he was a victim of pretty appalling discrimination. By being a communist he was, despite his prodigious legal talent, excluded for many years, in much the same way as many catholic jurists were excluded over the years from our system from being elevated to the ranks of judges. He had to endure that discrimination, but he saw that rather as a challenge than a burden.

I am told that, when those who came to meet him after he had been elevated to Queen's Counsel, or, indeed, to the bench, and he knew that they were horrified with the notion of him being a communist, it just made him all the more charming, all the more measured, all the more engaging, and people went away bewildered and beguiled by his charms.

Of course, while he was resisted for many years for his elevation (which was his natural right because of his talent), he had many supporters on the other side of the house and even within the cabinet that made that decision to resist his elevation, and he continued to maintain very strong friendships on both sides of the house. He was truly a man who was respected by the whole of the community.

I want to say a word about his prodigious legal intellect and just share with you a few stories that some of his friends have shared with me about his advocacy. It was, of course, thoughtful, measured, incredibly intelligent and incredibly powerful. I am told that Elliott's advocacy was outstanding in a celebrated case which involved a challenge by Richie Gun (a former federal member) which, I think, went all the way to the Court of Disputed Returns.

There was a stellar line-up: New South Wales represented by George Masterson QC; for the Liberal Party, Tom Hughes, Murray Gleeson and Malcolm Turnbull (a young Malcolm Turnbull); and, of course, Elliott for Richie. Richie, of course, lost that case, but at the conclusion George Masterson took the step of writing to Elliott to say that his advocacy on that occasion had bested anyone in the room and he was astounded by its eloquence and its strength.

Another case that needs to be drawn to the attention of the house is the Amadio case that went all the way, I think, to the High Court. The Attorney mentioned the firm's strong commitment to the ethnic community. That case concerned some Italian migrants who were forced to guarantee a debt on behalf of their son. That case overturned the guarantee that was provided. It was a major change in the law in relation to the duty of banks in relation to ordinary citizens. His Honour Murray Gleeson (who became the Chief Justice of the High Court) said that it was one of the great Australian contributions to the common law.

Elliott Johnston was, as I said, a man of enormous personal charm. I can remember on many occasions having discussions with him about particular issues that I will not necessarily go into, but I always left those discussions feeling incredibly inspired, and I had that same feeling again listening to the memorial service. When I was at the memorial service, you could not help going away feeling that you wanted to be a better person.

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (14:30): I rise to pay my respects to Elliott Johnston and offer my condolences to not only Stewart and his family but also to the thousands of others touched by this remarkable man. I first met Elliott through my relationship that led to a friendship with Elliott and Elizabeth's son Stewart. In 1974, I was attending Henley High School and Stewart was a teacher at Henley High School; in fact, one of the number of very progressive teachers at the school at that time. I acknowledge that among the many beneficiaries of those teachers, my colleagues the Attorney-General and Jay Weatherill, were also at school at that time. He was also our cricket coach, and of course I was one of his failures in that regard.

The Hon. K.O. Foley: Failures or favourites?

The Hon. P. CAICA: Failures. In saying that he was a progressive teacher at that school, you would not expect anything less than that from the son of Elliott and Elizabeth Johnston. It was a couple of years later that I first met Elliott. Stewart was going overseas, I think to Massachusetts, if I recall, and he wanted someone to look after his home at Birks Street in Parkside, which was in a state of—some might say disrepair, but it was in a state of renovation with the back half of the house off, so someone had to stay there whilst he was away. I was instructed by Stewart to go around to Elliott's place and pick up the keys.

I was ushered into Elliott's office, where he proceeded to pose many questions to me and ask many questions of me on a variety of topics. What struck me during that first meeting was that I had met not only a very decent man but also a very special man of great intellect. I was not as comfortable as I might have been at that stage to tell him what I thought on one of the subjects that we spoke about, and that of course would have been, 'Sturt, Sturt, rub them in the dirt.' I would have said that to him if I had the courage, and did say that to him some time later, because he was a very passionate Sturt supporter, as was mentioned earlier.

It was not until many years later that I again had the privilege to meet Elliott, and from that time more frequently. Elliott Johnston was a great friend of the firefighters through their union. Indeed, he was a friend of many of the unions and many of the working people in South Australia. During my time as the secretary of the UFU, I recall many occasions—particularly barbecues at Mick Doyle's place, and other more formal functions—when Elliott was the guest of honour at those barbecues and functions.

Elliott played a significant role during a most tumultuous time internally within the union. It was through this role and the contribution made by Elliott that the firefighters union was to become and continues to be the very significant organisation that it is in the trade union movement. In no small part, that is due to the contribution that Elliott made at that time.

Many others have spoken today about Elliott's achievements and the contribution made to our state and nation by Elliott Johnston, and far more eloquently than I am able to. With Elliott, we had a committed communist, a peace activist, a legal mind without peer, a judge of the highest standing, a royal commissioner, a friend of the unions, a friend and advocate for working people and other marginalised people and groups within our community, a friend and advocate of and for Aboriginal people, a teacher and mentor to many, of course a committed husband and father, and a passionate Sturt supporter.

With the passing of Elliott Johnston, we have lost a great South Australian who achieved so much for so many. His legacy will continue to survive in so many ways and through so many people here in South Australia and beyond. To Stewart and his family, my condolences. To Elliott's many, many friends, my condolences. Vale Elliott Johnston.

The Hon. S.W. KEY (Ashford) (14:35): The last time I saw Elliott was at the Art Gallery of South Australia a couple of months ago. It was typical to see him there because he liked to keep up with the different exhibitions that were happening around town, particularly at the Art Gallery. I know that he shared with his late wife, Elizabeth Johnston, a real love of the visual arts. In fact, Elizabeth and I audited a course at Flinders University as adult students, looking at the visual arts area. When Elizabeth passed away, Elliott gave me a number of her books of South Australian artists, and they are very treasured possessions of mine.

Elliott was there in the cafe with people like Don Jarrett, Jack Humphries and a number of others, and I know that when some of his friends from interstate, such as Chris White, Don Sutherland, and Eleanor Ramsay, visited Adelaide they always made sure that they had an opportunity to speak to Elliott Johnston.

Many, many people have connected with Elliott and Elizabeth and, as other speakers have said, the list would go into the thousands because they were very much interconnected people. Some lawyers I can think of include Robyn Layton, Paul Heywood-Smith, Andrew Collett, Ann McClean, Lindy Powell, Peter McCusker, Brian Withers, Tim Woolley, Graham Harbord and Richard Bradshaw, and they are just some of the people, as the Attorney said, who are connected with Johnston and Johnston or Johnston Withers, the law firm that was set up in 1959.

The list would include hundreds of union people, such as Mick Doyle (who spoke at the memorial), the late Harry Kranz, Ralph Clarke, Senator Anne McEwen, John Gazzola, John Lesses, Andy Dennard, Katrine Hildyard, Janet Giles, Darryl Foster, Mick Tumbers, Jimmy Doyle, Clare McCarty, the late Graham Smith, Leonie Ebert, David Tonkin, Bryan Mowbray, and Andy Alcock. Anybody who knows the union movement will know that, while all the people I have named are all progressive—and they are just a few—they did not all have the same left politics, but somehow Elizabeth and Elliott managed to have a very close relationship with all of them.

There have also been community activists, the as varied as people like Ralph Bleechmore, who is also a lawyer; Frances Magill; Tony Elmers; the late David Fisher; Betty Fisher; Kym Davey; Frances Bedford (who is also obviously in the 'members of parliament' category); and Gregg Ryan. Then, of course, there are all the people who are associated with Aboriginal and Torres Strait Islander rights and the Aboriginal Legal Rights Movement. In particular, I mention Lowitja

O'Donoghue, who spoke at the memorial, but there are many other leaders and elders of the Aboriginal and Torres Strait Islander campaigns.

I remember proudly walking across the bridge, albeit a very small bridge, as many in this chamber would have done, across the Torrens to celebrate and show our support for Reconciliation. I remember that day distinctly because there were actually thousands of South Australians who felt that it was important to make that statement. I am very pleased to say that I walked across with Elliott and Elizabeth Johnston and also my husband, Kevin Purse.

When Adelaide City Council started to talk about introducing a dry zone in Victoria Square, Elliott and Elizabeth wanted to meet with many of us, including the late Terry Roberts and I as shadow ministers, and Kym Davey, who was at that time working at ATSIC. They wanted to talk about the tactics they thought we should look at, after they had had many discussions with different Aboriginal leaders, elders and activists about the proposal for a dry zone. Similarly, as Adelaide residents, they had great concern about the future of the Parklands and particularly Pinky Flat in the Torrens area, being a place of significance to Kaurna people.

There have been so many issues that the Johnstons have been involved with, particularly to do with social justice, Indigenous rights, and union and worker rights. Elliott and Elizabeth were always available and eager to discuss these issues and think about not only the legal tactics but how we could have success in campaigning. I am very proud to say, as an Australian Services Union member, that their association with the Federated Clerks Union, now called the Australian Services Union, has spanned many decades. It is reported that Elliott joined the FCU in 1944 when Elizabeth Johnston was the secretary, the first woman secretary, and carried his union card from then on. Many other unions, particularly the firefighters, could rely on legal support from Johnston and Johnston, and then Johnston Withers, and I know there has been a close association with many unions.

A number of my colleagues will not have the opportunity to speak today, but there were a number of people who could get to the memorial service, such as Gay Thomson and Frances Bedford. I noticed that Pat Conlon was there, and some of the speakers from our side whom we have already heard from. But there was also Jane Lomax-Smith, Anne Levy, Carolyn Pickles and Frank Blevins. They were just the ones that I saw, but I know there are probably more. I apologise to anybody that I have left off the list.

The last conversation that I had with Elliott was with regard to the upcoming Edward Said Memorial Lecture that has been sponsored by the local Australian Friends of Palestine Association, to be given by no other than Noam Chomsky. This is coming up shortly so I hope that people will get to that seminar. Elliott was particularly keen to talk about the politics that are very concerning in that area, and also talk about the importance that Edward Said has made to our community and to human rights.

Again, not only did he want to discuss the exhibition that he had just seen at the Art Gallery but also to get straight into political issues and what was happening, particularly for the Friends of Palestine Association. My condolences, along with a number of members on this side, to his son Stewart and family, and Elliott and Elizabeth's many thousands of friends. He will be sadly missed but I believe that he and Elizabeth's influence will also be with the left and progressive people in South Australia and Australia forever.

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (14:42): Thank you, Madam Speaker. I, too, rise to express my sincere condolences for a much celebrated and great South Australian, a man committed to improving the lives of working people, passionate about helping those less fortunate than him, who worked tirelessly to address inequalities in our community.

Amongst his many achievements, Dr Johnston was perhaps best known for his leadership on the Royal Commission into Aboriginal Deaths in Custody as lead commissioner. The commission was comprehensive providing some 339 recommendations. He summarised the commission's approach by saying:

> ...the principal thrust of the recommendations...is directed towards the prime objectives...the elimination of disadvantage and the growth of empowerment and self-determination of Aboriginal Society.

One of the most important impacts of the commission's work was to improve the relationship and re-establish trust between the police, government and Aboriginal people. Since the royal

commission, governments, including this one, have continued to work hard to rectify what Elliott Johnston called the most significant contributing factor, namely:

> ...the disadvantaged and unequal position in which Aboriginal people find themselves in society—socially, economically and culturally.

There are many other aspects to Dr Johnston's colourful and at times controversial life that are worthy of reflection. When the Aboriginal Legal Rights Movement was formed in 1971, Dr Johnston was elected its first chair. With few resources at his disposal, Dr Johnston led this organisation that made a significant impact on, and improved the awareness of, the Aboriginal Legal Rights Movement and helped Aboriginal people begin to reclaim their rights and freedoms.

Elliott Johnston's commitment to the movement is in keeping with his passionate convictions as a defender of social justice and human rights. Alongside his soon-to-be wife Elizabeth, an amazing individual in her own right, Elliott Johnston became a communist in 1941. Upon his appointment to Queen's Counsel by the Dunstan government in 1970, Elliott Johnston had achieved the highest office ever attained by a communist in Australia.

Elliott Johnston was, of course, a member of my union, the Australian Services Union. His contribution to the Federated Clerks Union, as it was then known, is legendary. He was one of the architects of the Clerks Award. This work led to the improvement of wages and working conditions for men and, most importantly, to an increase in the number of women entering the workforce during the Second World War and later.

It was Elliott Johnston's wife, Elizabeth, who, as a 21-year-old third-year law student, deferred her studies to lead the Federated Clerks Union as the first female secretary of a trade union in South Australia, when the FCU secretary, Harry Krantz, and Elliott were called up to fight in the Second World War.

There is no question that Elliott Johnston was a champion for working men and women. As a legal practitioner, he will be remembered for improving the rights of injured workers and for pursuing compensation through the courts. As a unionist, he will be remembered for arguing for equal pay for women and advocating for workers' rights in the workplace. In the area of Aboriginal affairs and reconciliation, he will be remembered for his tireless work in addressing Aboriginal disadvantage.

As the Attorney mentioned, there was a very great affinity with ethnic communities in particular. In fact, I was one of the indirect beneficiaries of his advocacy work. In the 1970s, Elliott Johnston assisted an organisation by the name of the Federation of Italian Workers and Families (FILEF) when it encountered planning problems for the establishment of a multicultural preschool centre in Mile End. I think His Honour Peter McCusker, who he is here with us today, was also involved in that case.

I do not remember it clearly, but I do remember the childcare centre, and I remember speaking to Frank Barbaro, who was then and is still now very heavily involved in establishing FILEF and that centre. I am reminded of Frank's words when he said:

> Elliott Johnston had great respect for ordinary people, for whom he displayed enormous compassion, and he was generous with his time to community, workers and progressive organisations.

I express my most sincere condolences to his family, particularly his son Stewart. I remain inspired by his lifetime's work.

Ms BEDFORD (Florey) (14:47): As a late arrival on the political scene in South Australia, I cannot claim a close personal friendship with Elliott Johnston QC; rather, like so many, I had an awe-inspired acquaintanceship with his deeds in so many spheres, which were legendary. Since my election, over the years my staff and I always held him in high esteem for the good works we knew of and now for the many more we know so much more about. I have actually quoted him in speeches in this place as we, too, at the Florey electorate office are often thought of as a hope of last resort for lost causes, but I fear with fewer successful outcomes.

I have driven Elliott home on many occasions, mostly from events honouring Aboriginal people or from significant events relating to Aboriginal culture. A few weeks ago, it was my privilege to drive Elliott home from a Reconciliation SA meeting, held at the ALRM rooms in King William Street. I wish I had taken up Elliott's offer that night to go in and to spend a little time with him in his home, particularly now that he has gone.

His many friends have spoken about many of the achievements of this great man of substance, true to his beliefs always and always kind and respectful; a shining example to all. If each of us could be a little like him even in a small way, it would be a fitting tribute to this humble man, who touched thousands of people and who lived an extraordinary and very long life. I offer my sincere condolences to his family and many friends, by whom he will be greatly missed and always remembered.

Honourable members: Hear, hear!

The SPEAKER (14:49): Thank you, members. I will pass on to his family your very warm words today. Members, I ask that the motion be carried in silence.

Motion carried by members standing in their places in silence.

[Sitting suspended from 14:50 to 15:00]

JACKSON-NELSON, MRS M.

The SPEAKER (15:00): Honourable members, I note today that the former governor of South Australia, Marjorie Jackson-Nelson, has recently turned 80. I am sure that you will join with me in wishing her a very happy birthday—80 years old. What a wonderful governor she was for South Australia!

HOSPITAL PARKING

Mrs GERAGHTY (Torrens): Presented a petition signed by 28 residents of South Australia requesting the house to urge the government to immediately reverse its decision to impose car parking fees at our hospitals.

HISTORIC NUMBERPLATES

Mr VENNING (Schubert): Presented a petition signed by 1,395 residents of South Australia requesting the house to urge the government to amend the Motor Vehicles Act 1959 to allow historic numberplates that have been with the vehicle since manufacture to remain with the vintage vehicle so owners do not have to go to auction to retain the plates.

DESALINATION PLANT

Mr SIBBONS (Mitchell): Presented a petition signed by 20 residents of Port Lincoln, Whyalla, Port Augusta, Port Pirie and greater South Australia requesting the house to urge the State and Commonwealth governments to place a condition on the approval of BHP's Environment Impact Statement that the desalination plant be relocated to ensure effluent discharge is into an oceanic environment.

ANSWERS TO QUESTIONS

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

REGIONAL ARTS NATIONAL CONFERENCE

265 Mrs REDMOND (Heysen—Leader of the Opposition) (13 July 2011). With respect to 2011-12 Budget Paper 6, p60—

How often does South Australia host the Regional Arts Conference, what does this funding go towards and is there a private or NGO co-contribution and if so, how much?

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): I am advised:

1. The Regional Arts Australia National Conference is a biennial event, which attracts about 1000 participants and is held in a different State or Territory on a rotating basis

South Australia's turn to host this major national event occurs approximately once every 14 years.

2. The State Government's total contribution of $400,000 ($200,000 per annum in both 2011-12 and 2012-13) will go towards the planning and delivery—by Country Arts SA, under a

memorandum of understanding with Regional Arts Australia—of a national conference in 2012 of leading thinkers, practitioners, artists and arts workers. This will be held in Goolwa.

3. Approximately $200,000 will be provided by the Australian Government through Regional Arts Australia and $50,000 by the Alexandrina Council, and approximately $500,000 will be raised from delegate fees and sponsors.

EDUCATION AND CHILDREN'S SERVICES DEPARTMENT

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development): Between 30 June 2009 and 30 June 2010 positions with a total employment cost of $100,000 or more:

(a) Abolished:

Public Sector Act Executive Positions:

Department/Agency	Position Title	TEC Cost
Department of Education and Children's Services	Director, Strategy and Innovation	$127,554

Education Act Positions:

Department/Agency	Position Title	TEC Cost
Department of Education and Children's Services	Assistant Director, ICT Transition	$119,043
	Manager, Technology School of the Future	$112,656
	Senior Project Manager, Education Works	$108,323
	Senior Project Manager, Education Works	$112,656
	Senior Project Officer	$102,964
	Manager, Restructure Coordination	$107,083
	Principal, McDonald Park Junior Primary School*	$101,505*

Note: Education Act positions are salaried and not based on a total employment cost. The salary figure shown does not include superannuation or other on costs.

*McDonald Park Junior Primary School amalgamated with McDonald Park Primary School to form the new McDonald Park Primary School.

(b) Created:

Public Sector Act Executive Positions:

Department/Agency	Position Title	TEC Cost
Department of Education and Children's Services	Director, Capital Programs and Asset Services 2	$175,000[2]
	Director, Finance and Investment 3	$195,000[3]
	Director, Corporate and Business Services 3	$185,000[3]
	Assistant Director, ICT Infrastructure & Support Services	$144,042
	Program Manager, Business Intelligence	$147,753
	Executive Leader, EB Implementation 1	$185,000[1]

[1]Specific purpose role put in place to follow through the implementation of the Teachers Award negotiated through the recently arbitrated decision of the IRCSA.

[2]Creation of this position supported by the abolishment of Senior Project Manager, Education Works roles

[3]These positions result from a restructure of the Resources portfolio.

Education Act Positions:

Department/Agency	Position Title	TEC Cost
Department of Education and Children's Services	Program Manager, Curriculum Renewal	$107,083
	Project Director, ICANS and Mentoring	$119,715
	Leadership Coach—SILA Pilot Project (3.0 FTE)	$112,656
	Manager, Improvement & Accountability: Low SES[3]	$112,656[3]
	Leadership Consultant (2.0 FTE)	$107,083

Department/Agency	Position Title	TEC Cost
	Program Manager, New SACE Implementation (2.0 FTE)	$107,083
	Program Manager, new SACE Stakeholder Relations	$107,083
	Programs and Resources Manager Years 3-12	$107,083
	Director, Literacy and Site Improvement	$128,000
	Consultant	$101,505
	Program Manager, Curriculum Services	$107,083
Department of Education and Children's Services	Program Director, School Improvement Frameworks	$123,805
	Numeracy Coordinating Field Officer[3]	$101,505[3]
	Literacy and Numeracy National Partnership Manager[3]	$107,083[3]
	Literacy Coordinating Field Officer[3]	$101,505[3]
	Program Manager, Student Mentoring & Youth Development[3]	$101,505[3]
	Program Manager, National Partnership[3]	$112,656[3]
	Diagnostic Review Officer (6.0 FTE)[3]	$107,083[3]
	Project Manager, National EC Reform Agenda[3]	$107,083[3]
	Regional Leadership Consultant (10.0 FTE)[3]	$107,083[3]
	Principal, Blair Athol North School B-7[1]	$107,083[1]
	Principal, Glenelg Primary School[2]	$107,083[2]
	Principal, Flagstaff Hill R-7 School[2]	$101,505[2]
	Principal, McDonald Park School[2]	$107,083[2]
	Principal, Melaleuca Park Primary School[2]	$101,505[2]
	Principal, Woodville Gardens School B-7[1]	$112,656[1]

Note: Education Act positions are salaried and not based on a total employment cost. The salary figure shown does not include superannuation or other on costs.

[1]The above schools are Educations Works initiatives where Principals have been appointed.

[2]The above schools are resultant from the Junior Primary School and Primary School forming one R-7 School.

[3]These positions are new positions funded through COAG National Partnership funding for specific projects.

SACE Board of South Australia Positions:

Department/Agency	Position Title	TEC Cost
SACE Board of SA	Manager, Support Materials	$105,449
SACE Board of SA	Manager, SACE Results	$104,491

Note: The above positions were created as short-term positions to assist in the implementation of the new SACE.

KAPUNDA PRIMARY SCHOOL

In reply to **Mr VAN HOLST PELLEKAAN (Stuart)** (7 April 2011).

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development, Minister for Science and Information Economy): The Department of Education and Children's Services (DECS) reviewed Kapunda Primary School's energy resource entitlement in line with the agreed funding methodology.

DECS staff visited the school on 3 May 2011 and toured the school with the Principal, Governing Council Chair and Vice-Chair.

From this visit, a number of energy savings opportunities were identified and a summary report has been developed for the school. DECS will continue to work with the school to assist in implementing energy efficiencies.

However, in addition to this increase, as part of the 2011-12 Budget, the government announced $16.6m over 5 years to help address increasing pressures in meeting electricity costs. Kapunda Primary School will also receive extra funding of this new allocation.

APY LANDS, GOVERNANCE

In reply to **Dr McFETRIDGE (Morphett)** (12 October 2010) (Estimates Committee A).

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion): Dr McFetridge asked for reports that had been provided to the Chief Executives Group on Aboriginal Affairs (CEGAA) following the visit by Senior Management Council (SMC) to the Remote Service Delivery priority communities of Amata and Mimili in the APY Lands on 19 and 20 May 2010.

I can advise that an initial report was tabled at the CEGAA meeting on 16 June 2010 which listed the actions from the SMC trip.

At a subsequent meeting of CEGAA on 14 October 2010, a more comprehensive status report on these actions was tabled.

This report provides comprehensive information about the positive progress on a range of immediate and medium-term actions identified by SMC for Amata and Mimili, and several long-term policy interventions that will be implemented to increase employment opportunities in those communities.

I am happy to attach this report as follows.

AGENDA ITEM 6 (14 October 2010)

TOPICS: ACTIONS FROM VISIT BY SMC TO APY LANDS IN MAY 2010 COMMONWEALTH COORDINATOR GENERAL'S REPORT

Purpose

To provide a report on the action items identified during the visit to the APY Lands on 19-20 May 2010, and a briefing on the second six-monthly report by the Coordinator General for Remote Indigenous Services.

Discussion

Report on actions from visit to the APY Lands

The attached report provides the current status on actions identified by Chief Executives during Senior Management Councils' visit to Amata and Mimili in May 2010.

Good progress has been made on the five immediate actions, with two completed and one almost complete. The remaining two, the audit of government housing is expected to be completed in November 2010 and the investigation of high bank charges in December 2010.

Some of the medium term actions have been commenced while others are still in the planning stage. Discussions on the long-term policy interventions have been taking place.

Second six-monthly report by the Coordinator General for Remote Indigenous Services

Brian Gleeson, Coordinator General for Remote Indigenous Services, recently provided his second six-monthly report (December 2009-August 2010) to the Hon. Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs. The report provides independent advice to the Minister on the development and delivery of government services and facilities in the 29 priority communities that are the focus of the Remote Service Delivery National Partnership Agreement.

Minister Macklin released the report on Tuesday 5 October 2010 (the report is available at http://www.cgris.gov.au/site/publications.asp).

The report focuses on the Local Implementation Planning process which took place during the first half of 2010. South Australia's two priority communities of Amata and Mimili were the first of the 29 communities to complete the planning process. This was a result of the excellent cooperation between State Government, Commonwealth Government and the two communities.

The report also focuses on the competence of governments to engage with communities, and the ability of communities to participate with governments in a meaningful way. On the former point, the report notes that only South Australia routinely engaged interpreters during the planning process, '…and applied significant effort to ensuring communications products were accessible to community members in different languages if required.' The Adelaide Regional Operations Centre (a partnership between the two governments) was responsible for this initiative.

Three case studies from South Australia (listed below) provide positive examples of engagement with the communities and cooperation during the planning process:

- developing the capacity of the Amata community to participate in negotiations (pages 28-29)
- gathering information from government agencies in South Australia (page 30)
- incorporating the COAG Building Blocks and targets into Local Implementation Planning (page 42-43).

The first six-monthly report said that governance in the APY Lands must be resolved by political leaders. The second report says: 'I am informed that a functional review of governance in the APY Lands will provide recommendations to the South Australian Minister for Aboriginal Affairs and Reconciliation on the roles and responsibilities, structure and management of the APY Executive Board. However, I remain concerned that despite efforts by government, the issue of poor governance in the APY Lands remains unresolved, and I will continue to work with the South Australian Government on this issue.'

The functional review is assessing the issues surrounding the current and future function, governance and organisational structure of APY, including scoping the potential role of APY as the Regional Authority. The review findings will inform consideration of the functions and structure of APY, and the most effective and feasible potential service delivery options. It will also identify issues around the delivery of these services.

The report makes ten recommendations to Minister Macklin (see attachment). These are being assessed by the Department of the Premier and Cabinet to determine implications for South Australia.

In summary, the report provides a favourable assessment of the Remote Service Delivery partnership in South Australia. The leadership provided by the Chief Executives Group on Aboriginal Affairs has been a significant factor in this success.

Recommendations:

That the CEGAA note:

- the attached status report on the action items identified during the visit to the APY Lands on 19-20 May 2010
- the briefing on the second six-monthly report by the Coordinator General for Remote Indigenous Services.

Approved by: Pauline Peel, Deputy Chief Executive Sustainability, Aboriginal Affairs and Reconciliation, Department of the Premier and Cabinet

Prepared by: Remote Communities Team, Aboriginal Affairs and Reconciliation Division, Department of the Premier and Cabinet

ATTACHMENT

Recommendations from the second six-monthly report by the Coordinator General for Remote Indigenous Services

Recommendation 1—Governance capacity building

1.1 It is recommended that the Department of Families, Housing, Community Services and Indigenous Affairs, in consultation with the States and the Northern Territory, develop a specific governance, leadership and related capacity building framework, which includes the ability to tailor responses for the specific circumstances of communities in developing their governance capacity; and provides for training staff working with priority communities on the drivers and importance of good community governance.

1.2 Measures agreed to should be captured in Local Implementation Plans with agreed outcomes. Existing governance programs and funding should be identified under the framework referred to in 1.1 to allow for integrated support for governance and leadership in the priority communities.

Recommendation 2—Building the capacity of government officers

It is recommended that the Australian, State and Territory governments consider developing targeted education and training programs with national training providers for government officers engaged in the Remote Service Delivery partnership, to ensure officers have the appropriate skills and cultural competency to work in priority communities. The key competencies to be covered by these training programs could be included in the Governance, Leadership and Capacity Building Framework outlined in Recommendation 1.

Recommendation 3—Baseline Mapping

It is recommended that the Department of Families, Housing, Community Services and Indigenous Affairs present summaries of the current baseline mapping reports to Community Reference Groups to directly inform the preparation and future refinement of Local Implementation Plans.

These presentations should be prepared to assist communities to understand the outcomes of the baseline mapping and to raise any concerns with the validity of data collected.

Recommendation 4—Infrastructure

Noting the work underway within the Australian Government to assess infrastructure needs within priority communities, it is recommended that future Local Implementation Plans should identify local infrastructure priorities to inform the development of a cross-government infrastructure investment plan.

Recommendation 5—More effective youth initiatives

It is recommended that the Australian, State and Territory governments identify funding currently committed for youth programs in priority communities and opportunities to improve coordination of these programs.

This work should inform the development of Youth Action Plans to be included in future Local Implementation Plans.

- Response: Support. DPC-AARD will take this recommendation into account during the development of the Amata Youth Action Plan.

Recommendation 6—Early Childhood Services

It is recommended that:

6.1 Regional Operation Centres support the development of Client-Centred Service Provider Charters in each priority community to:

(i) ensure the effective coordination of services for children with a particular focus on consistent and proactive referral pathways for children and families at risk; and

(ii) develop an early childhood workforce development strategy with local service providers.

6.2 All governments ensure the delivery of ongoing and refresher training to all community workers on their legal responsibilities to identify and respond to suspected child abuse and neglect.

Recommendation 7—Education

To ensure the delivery of excellence in facilities, curriculum and teachers in the priority communities it is recommended that:

7.1 Boards of Management establish an education subcommittee comprising representatives of education providers, particularly Indigenous education providers; and Australian and State/Territory Governments to lead policy and program development and implementation across priority communities and to support local initiatives such as school boards; and

7.2 teacher training be provided to local Indigenous assistant teachers to support them to attain teaching qualifications.

Recommendation 8—COAG National Partnership Agreements Review

It is recommended that future planned reviews (including those by the COAG Reform Council) of existing COAG National Partnership Agreements assess how Remote Service Delivery communities have been specifically targeted for investment. Where reward funding is paid under existing National Partnerships which include Indigenous-specific performance measures, consideration should be given to a proportion of future reward payments being paid against attainment of the specified Indigenous outcomes.

Negotiation of reward payments under future National Partnerships should, where relevant, identify that a proportion of those payments would be made against the attainment of specified Indigenous outcomes within the broader agreement.

Recommendation 9—Reducing administrative burden and concentrating investment in communities

It is recommended that Australian, State and Territory agencies minimise the requirement that priority communities must negotiate agreed priorities for inclusion in Local Implementation Plans and then separately pursue funding for these priorities through other processes. This should be enabled through:

(i) Wherever possible, governments should work with communities to understand their priorities and assist them in seeking funding through relevant programs. The inclusion of agreed priority in a Local Implementation Plan should entail confirmation that funding is available; and

(ii) Any review of program or funding guidelines relevant to priority communities should identify how priority communities could be prioritised within the program funding model.

Recommendation 10—Regional Operations Centres

It is recommended that:

- a national Regional Operations Centre leadership and support group be established; and
- agencies commit to assisting Regional Operations Centre efforts to coordinate government activities within communities by providing staff and resources to support the implementation of Local Implementation Plans and ensure that they are notified of any planned visits (including Ministerial visits) to the communities.

ATTACHMENT

VISIT BY SENIOR MANAGEMENT COUNCIL TO THE APY LANDS, 19-20 MAY 2010

SMC ACTIONS AND CORRESPONDING ACTIONS IN LOCAL IMPLEMENTATION PLANS FOR AMATA AND MIMILI

SMC IMMEDIATE ACTION	RELATED ACTION IN LIP	STATUS OF ACTION AT 7 OCTOBER 2010
Repair hot water services in some houses and provide clothes lines *(Clothes lines will not be installed due to safety concerns.)*	HH1.1.1. Amata Community members receive refurbished and new houses to undertake the HomeLiving Skills Program—DFC: Housing SA	Housing SA's Repair and Maintenance Program is available to tenants to fix hot water services. Tenants fax requests for service to Housing SA at Umuwa and the requests are then actioned. Awareness of the program has been improved. (COMPLETED)

SMC IMMEDIATE ACTION	RELATED ACTION IN LIP	STATUS OF ACTION AT 7 OCTOBER 2010
Repair broken street lights *(Communities want white lights, not orange lights.)*	SC2.1.6. Conduct a street light audit and ensure that a regular routine street light maintenance program occurs to increase and maintain a sense of community safety—DPC-AARD and ETSA	The Essential Services Reporting Officers (ESROs) in Amata and Mimili provide weekly reports to DPC-AARD, including advice on broken street lights. This information is provided to ETSA for its regular maintenance program. Awareness of the program has been improved. (COMPLETED)
Investigate high bank charges *(Only Bank of Queensland ATMs are installed in the communities and yet few (if any) residents have accounts with this bank. A fee of about $2.00 is charged to check bank balances and to make withdrawals from other banks.)*	EP2.4. Improve community infrastructure to facilitate improved business practices (i.e. banking and postal services)—PY KU & Services SA	DTF provided advice to DPC on 20 July 2010, indicating there is an existing forum (the Indigenous Financial Services Network, IFSN) that has this issue on their agenda. In particular, IFSN's ATM Reference Group is considering options for low-cost electronic banking in remote communities. The next meeting of IFSN is 20 October 2010. The Adelaide Regional Operations Centre will liaise with FaHCSIA (a member of IFSN) to pursue this issue. (IN PROGRESS)
Erect a security cage and install a new payphone in Amata *($3,000 has been allocated from FaHCSIA's 2009/10 Indigenous Communities Strategic Investment (ICSI) Program to erect a security cage. Telstra will pay for the installation of a payphone.)*	SC2.1.8. Improve telecommunication services, in particular mobile phone coverage and the installation of a public phone in the community to increase opportunities for the community to seek emergency assistance or report crime—Telstra	The security cage and new payphone have been delivered to Amata. Installation by Telstra is imminent. (ALMOST COMPLETED)
Accommodation for staff *(The unavailability of accommodation for government staff and contractors is a significant blockage to service delivery.)*	GL4.4.3. Identification of government and non government service provider housing needs is provided to support services; and incorporated short, medium and long term strategies are developed to ensure sufficient staff housing is provided to support local services—DFC: Housing SA	DPC-AARD is conducting an audit of SA Government housing on the APY Lands. The results of the audit are due in November 2010. (IN PROGRESS)
SMC MEDIUM-TERM ACTION	RELATED ACTION IN LIP	STATUS OF ACTION AT 7 OCTOBER 2010
Life Skills		

SMC IMMEDIATE ACTION	RELATED ACTION IN LIP	STATUS OF ACTION AT 7 OCTOBER 2010
Provide training and education about good parenting and getting children to school	S1.1. Increase attendance rates at school and promote social inclusion S1.1.1. Development of an evidence based attendance strategy—DECS S1.1.2. Amata Community Council and Community Store work together in trialling the Store to open before the start of school in the morning to improve school attendance—Amata Community Council & Community Store S1.1.5. Schools to inform parents/carers of their child's progress and involve them in the development of individual learning plans—DECS S1.1.6. Continued support for the breakfast program at the Amata Community School—DECS	LIP actions under development.
Healthy food including cost and quality	H1.5. Provide and encourage healthy eating alternatives for the community. H1.5.1. Improve access to a healthy food supply and establish and improve standards for the purchase of food in the store as per the Remote Indigenous Stores and Takeaways Project and Mai Wiru Regional Stores Policy—Nganampa Health & Community Store H1.5.2. Amata Community Store to adhere to the Mai Wiru Regional Stores policy, including the promotion of healthy eating and food preparation in the home, grocery management and the adoption of the Food Card—DoHA (Nganampa Health), Amata Community Store, Committee, NPYWC, Outback Stores H1.5.3. Develop and provide adequate coordination of a community bush garden incorporating bush tucker, fruit trees and vegetables—Amata Community Council and Amata School. H1.5.4. Improve refrigeration options in the community (whether that be in homes or the store) to enable a greater range of healthier produce to be	LIP actions under development.

SMC IMMEDIATE ACTION	RELATED ACTION IN LIP	STATUS OF ACTION AT 7 OCTOBER 2010
	stocked in the community—DoHA. Housing SA, FaHCSIA & Health SA	
Consider options for the Drug and Rehabilitation Centre in Amata to be refocused as a Family Wellbeing Centre, including a focus on life skills	H1.4.1. Mullighan Recommendation 17: Alter the protocols of the Amata Substance Misuse Centre to allow children access to the drug and rehabilitation program and that the Centre be adequately funded in the long-term so as to allow appropriate services for children who require rehabilitation—DASSA	The Adelaide Regional Operations Centre commissioned a review of the facility where DASSA's APY Lands Substance Misuse Residential and Mobile Outreach Service is located. The review is exploring options for expanding the use of the facility. It is expected to be completed by 29 October 2010.
Community Safety		
Working with the community to explore effective night patrols and safe places based on community needs	SC2.2.12. Mullighan Recommendation 36—Implement a community assisted and police supported night patrol that will have people with cultural authority, sworn police and community professionals assist in the training of people to participate in the patrols as appropriate—SAPOL and Community SC2.1.3. 3. Police to appoint Community Constables and dedicated Community Liaison Officers to work with the community to address community safety issues deriving from the Community Safety Committee—SAPOL	The Adelaide Regional Operations Centre (ROC) facilitated consultation with both communities on 10 August 2010. The Adelaide ROC is now working with SAPOL to develop a service model for the communities that meets their needs and is sustainable.
Develop fire-fighting capacity in Amata	3. Develop a trained SES and CES emergency Unit in the community—SAFECOM	LIP action under development.
Youth Participation		
Get children to school	See above for 'Provide training and education about good parenting and getting children to school'	LIP actions under development.
Teach good hygiene at school	H3.3.11, Develop and implement preventative health campaigns and education on smoking, diabetes, substance abuse, nutrition and healthy living, healthy lifestyles and maintaining a healthy home—SA Health & Nganampa Health, NPYWC	LIP action under development.

SMC IMMEDIATE ACTION	RELATED ACTION IN LIP	STATUS OF ACTION AT 7 OCTOBER 2010
Provide activities for young men and women	SC2.1.12. Develop a well coordinated after school activities program for young people (especially girls) to enrich their learning experiences. SC2.1.13. Develop and deliver a well coordinated school holiday activities program to keep youth occupied in non-school time. SC2.1.14. Establish a youth park with a skateboard and bike ramp and a young child's playground that is safe from traffic areas. SC2.1.15. Recruit a male and female youth worker to coordinate youth based activities and programs in collaboration with NPYWC's case managers. SC2.1.16. Develop and implement 'Blue Light' programs and activities for youth, especially during weekends and school holiday periods—Blue Light Disco Unit being purchased	LIP action under development. LIP action under development. SC2.1.14: Cwlth funding of $40,000 has been allocated for risk management and planning in consultation with the Amata community for a skateboard ramp and BMX track. LIP action under development. SC2.1.16: Commonwealth funding of $7,400 has been allocated for 2 Blue Light Disco Units.
SMC LONG-TERM POLICY INTERVENTION	RELATED ACTION IN LIP	STATUS OF ACTION AT 7 OCTOBER 2010
Individual Case Management		
Undertake an audit of local employment opportunities and skills	EP1.2.13. Undertake an audit of jobs and skills in the community to help identify where there are gaps in the current employment sector and future employment opportunities—DEEWR & FaHCSIA	LIP action under development.
Employment opportunities		
Utilise the participation clauses in government contracts (including enforcement mechanisms) and build the capability of Anangu to take up these opportunities	EP2.3.7. Government departments to provide new employment opportunities by utilising the participation clauses in Government contracts and building the capability of Anangu to take up these opportunities—all agencies	LIP action under development.
Explore new enterprise opportunities (e.g. tourism)	EP2.1.6. Employ an Indigenous Economic Development Officer to work with the community, business sector, education sphere and employment service agencies to identify new opportunities and support existing initiatives—DEEWR	LIP action under development.

LEGISLATIVE COUNCIL VACANCY

The SPEAKER (15:03): I lay on the table the minutes of the assembly of members of the two houses held today for the election of a member to fill a vacancy in the Legislative Council caused by the resignation of the Hon. Paul Holloway at which Mr Gerard Anthony Kandelaars was elected.

PAPERS

The following papers were laid on the table:

By the Speaker—

Members, House of Assembly—Travel Entitlements Annual Report 2010-11

By the Premier (Hon. M.D. Rann)—

Government Boards and Committees Information—Listing of Boards and Committees by Portfolio Report 2010-11

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

Preventative Detention Orders—Annual Report 2010-11
Summary Offences Act—Road Block Authorisations Report for Period 1 April to 30 June 2011
Regulations made under the following Acts—
- Births, Deaths and Marriages Registration—General
- Community Titles—General
- Criminal Law Consolidation—
  - General—Emergency Workers
  - Medical Termination of Pregnancy
- Expiation of Offences—General
- Recreation Grounds (Joint Schemes)—General 2011
- Security and Investigation Agents—General
- Subordinate Legislation—Postponement of Expiry 2011
- Trustee—General

By the Minister for Urban Development, Planning and the City of Adelaide (Hon. J.R. Rau)—

Development Act 1993—
- Flinders Ranges Council—Heritage Development Plan Amendment for Interim Operation
- Naracoorte Lucindale Council—Heritage Development Plan Amendment for Interim Operation
- Peterborough Council—Heritage Development Plan Amendment for Interim Operation
- Wakefield Regional Council—Heritage Development Plan Amendment for Interim Operation

Regulations made under the following Acts—
- Development—Open Space Contribution Scheme 2011

By the Minister for Transport (Hon. P.F. Conlon)—

Adelaide Metro Bus Service Contacts—Report
Non-Metropolitan Railways Transfer Act 1997—Approval to Remove Track Infrastructure
Regulations made under the following Acts—
- Road Traffic—
  - Miscellaneous—Emergency Workers
  - Miscellaneous—Road Trains—Expiation Fees

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

No. 6—Cats
No. 7—Bird Scarers
City of Mt Gambier—No. 6—Taxi Regulation
District Council of Mallala—
No. 1—Permits and Penalties
No. 3—Roads
No. 5—Moveable Signs
The City of Burnside—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Local Government Land
No. 4—Roads
No. 5—Dogs
No. 6—Waste Management

By the Minister for Health (Hon. J.D. Hill)—

Death of—Watkins, Maureen Report of actions taken following Coronial Inquest
Dental Board of SA—Annual Report 2009-10

By the Minister for Families and Communities (Hon. J.M. Rankine)—

Regulations made under the following Acts—
Building Work Contractors—General
Fair Trading—Pre-paid Funerals Code of Practice
Liquor Licensing—
Dry Areas Long Term—
Aberfoyle Park
Ardrossan
Barmera
Loxton
Port Elliot—Area 1
Travel Agents—General
Codes made under the following Acts—
State Lotteries—
State Lotteries—Advertising
State Lotteries—Responsible Gambling

By the Minister for Environment and Conservation (Hon. P. Caica)—

Regulations made under the following Acts—
National Parks and Wildlife—Hunting—General

By the Minister for the River Murray (Hon. P. Caica)—

Regulations made under the following Acts—
Sewerage—General
Waterworks—General

By the Minister for Mineral Resources Development (Hon. A. Koutsantonis)—

Codes made under the following Acts—
Casino—
Advertising
Responsible Gambling

By the Treasurer (Hon. J.J. Snelling)—

Regulations made under the following Acts—
Explosives—General
Public Corporations—
Education Adelaide
Playford Centre
Succession Duties—General

ELECTIVE SURGERY

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) (15:06): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: I am delighted to reveal, for the first time today, that our hospitals provided 46,433 elective surgery procedures to South Australians at metropolitan hospitals in the year 2010-11. That is 8,286 (or 21.7 per cent) more elective surgical procedures than in the last year of the previous Liberal government. It is also 1,876 more procedures than in the previous year; that is, the 2009-10 year. There were only five overdue patients as at 30 June 2011—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Five overdue patients; 46,433 elective surgical procedures in that year and five overdue at the end of the year. In our country hospitals 16,071—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —elective surgery procedures were performed, 182 more than in the previous year, with only six overdue patients as at 30 June 2011. This is an outstanding result, and I am sure that all members would commend the number of surgical procedures performed, and the efforts of everyone involved in this achievement—surgeons, nurses and the many other people who support them in our theatres in our hospitals. I know that people have worked incredibly hard to achieve these targets, which were set by the state government as part of our push to reduce waiting times for elective surgery.

We have invested $88.6 million over four years from 2010 to 2014 to fund 260,000 elective surgery procedures in metropolitan and country hospitals. This achievement means that more South Australians have been able to receive the surgery they need to improve the quality of their life, whether that be ear, nose and throat surgery, vascular surgery, orthopaedic surgery, general surgery, urology, gynaecology, thoracic surgery, or ophthalmology.

Just last week South Australia's public hospitals were also recognised for exceeding national elective surgery targets. South Australia was the only jurisdiction to achieve all components of COAG's national partnership agreement on elective surgery. In terms of volume, doctors in metropolitan public hospitals performed 22,953 elective surgery procedures in the six months from July to December 2010, 500 more than the target. South Australia was also one of only three jurisdictions to achieve the national target for improved waiting times; 322 patients waited for longer than the clinically recommended time at the end of December 2010, 184 fewer than the target.

In South Australia, 91 per cent of admitted patients were seen on time in the 18 months to December 2010 compared with our target of 83 per cent, an improvement of eight percentage points. Our state also was rated highly in the Australian Institute of Health and Welfare's 2009-10 Australian Hospital Statistics Report. That report showed 90 per cent of all patients in South Australia were admitted for elective surgery within 189 days, the lowest result ever achieved since reporting on this indicator began and 23.5 per cent below the national figure of 247 days.

South Australia also ranked number one nationally with the lowest percentage of patients who waited more than 365 days for elective surgery. This number has halved since 2007-08. In the coming year, additional funding will enable a total of 64,140 elective surgical procedures to be performed in our hospitals in South Australia. This includes 47,378 procedures in metro hospitals and 16,762 in country hospitals, a record that our health system is very proud of. It is attacked by only one group in this state.

COSSEY REVIEW

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Employment, Training and Further Education, Minister for Workers Rehabilitation) (15:13): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.J. SNELLING: In June this year, the then Minister for Industrial Relations tabled the review of the Impact of the Workers Rehabilitation and Compensation (Scheme Review) Amendment Act 2008.

Mr Bill Cossey was assigned the task of reviewing the 2008 amendments to the Workers Rehabilitation and Compensation Scheme as required by statute earlier this year. The review assessed the impact of the 2008 amendments based on all reasonable available information but, in my view, did not find significant improvements in the scheme that should be pursued at this time based on that it was not yet possible to draw firm conclusions about the impact of the 2008 legislative changes.

The review makes it clear that it is too early to measure the impacts of the 2008 changes, let alone base substantial further reform on its early findings. It is for this reason that, in developing the government's response to the Cossey Review, recent judgements, including Campbell and Yaghoubi, Davey and Mericka, as well as other reform proposals, will be taken into consideration.

I continue to work on the appropriate response to the Cossey Review in this context and I will work closely with employee and employer representatives, the WorkCover CEO and board, and other interested parties.

It is my strong belief that the South Australian WorkCover scheme must focus on return to work. There is much work ahead in improving return to work rates. Increasing return to work rates is the key to the best results for injured workers, employers and the financial sustainability of the scheme. Any response to the review and other matters will be contingent on actuarial assessment to uphold the government's commitment to give support for injured workers to work while creating a more affordable and sustainable scheme for employers. This will be balanced against the potential impact of any changes in the average levy rate and the unfunded liability and any consequential impact on the state's financial position.

RIGNEY, MR M.

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (15:15): I seek leave to make a ministerial statement.

Leave granted.

The Hon. G. PORTOLESI: I seek to make a ministerial statement relating to the passing of Mr Matthew George Rigney, an Aboriginal elder of the Ngarrindjeri Lands. He was highly respected by many people throughout South Australia and devoted his life to progressing a greater understanding of culture on behalf of the Ngarrindjeri nation. The government was very saddened to learn of the passing of Mr Rigney, and we extend our sincere condolences to his family, extended family and the Aboriginal people of the Ngarrindjeri nation and surrounding areas of South Australia. I would like to convey the government's profound admiration for the significant contributions he has made to South Australia.

Matthew Rigney played an enormous role in Aboriginal affairs, locally and nationally, in the areas of Aboriginal community welfare, education, youth affairs, sport, employment and training, natural resource management and community development. Through his work as a cultural and political educator at Camp Coorong, Mr Rigney provided many people with the opportunity to meaningfully engage with Aboriginal culture.

Beyond these roles, Mr Rigney was a leader of the Ngarrindjeri nation, playing a crucial role in building governance structures such as the Ngarrindjeri Regional Authority and, in doing so, establishing partnerships with all levels of government. He was the chair of the Murray Lower Darling Rivers Indigenous Nations, Chair of the Ngarrindjeri Native Title Management Committee, a member of the Tendi-Ngarrindjeri Governing Body and Chair of the Ngarrindjeri Regional Association. He was a very busy man.

Mr Rigney's long political career in Aboriginal affairs included sharing the Patpa Warra Yunti Regional Council of the Aboriginal Torres Strait Islander Commission, and membership on the Ngarrindjeri Nation leadership group. This group meets directly with state and federal ministers to advocate for rights, justice, fairness and equality for Ngarrindjeri and Aboriginal people of other nations.

In recent years he has been a tireless advocate for Aboriginal rights to water and was a member of the Murray-Darling Basin Ministerial Council's Community Advisory Committee. Just recently, I and minister Caica met with Mr Rigney and, as always, was struck by his willingness to engage in meaningful dialogue with government, even on very difficult issues. Mr Rigney designed the now famous Ngarrindjeri flag, which was flown in 1999 on Kumarangk (Hindmarsh Island).

As a strong Ngarrindjeri man, he was interested in the interconnection between how we treat the earth and how we treat each other. I want to acknowledge that his passing is difficult for Ngarrindjeri and other Aboriginal people who looked to him for guidance and support. Mr Rigney has left an enormous legacy for all Australians and will be sadly missed. This was evidenced at his memorial service which was held on 26 August at Centennial Park which I, along with ministers Weatherill and Caica, were very honoured to attend. He will be sadly missed and long remembered and, on behalf of this government, I extend my sincere condolences to his family.

The SPEAKER (15:19): Thank you, minister. I also add my condolences to his family and community.

STANDING ORDERS SUSPENSION

Mrs REDMOND (Heysen—Leader of the Opposition) (15:19): I move:

That standing orders be so far suspended as to allow the house to debate for one hour the question of a lack of confidence in the Premier in lieu of question time.

Members interjecting:

The SPEAKER: Order! I have counted the house and, as there is a majority, I accept the motion.

Motion carried.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure) (15:19): I move:

That the time for the debate be one hour.

Motion carried.

PREMIER

Mrs REDMOND (Heysen—Leader of the Opposition) (15:20): I move:

That this house no longer has confidence in the Premier of this state.

I move this motion with something of a heavy heart, not because of any sympathy—

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: Yes, well may you laugh because I do it not out of any sympathy for the Premier but because he is bringing the office of the Premier and, indeed, this state into disrepute by hanging on until 20 October. I move this motion not because we expect to win it but precisely because we won't, and we won't win it because of the gobsmacking hypocrisy of those who sit opposite us, and it is a hypocrisy that needs to be exposed for everyone to see.

First, the hypocrisy of this Premier, which is evident in so many ways, from some of his earliest efforts, such as writing the pamphlet 'Uranium Play it Safe', or his coining of the phrase 'the mirage in the desert', all in reference, Madam Speaker, to the development of something you would be familiar with, and that is Roxby Downs—Roxby Downs and the whole of uranium mining in this state was something adamantly opposed by this Premier.

He wrote pamphlets, he coined phrases, he fought against it with all his being, and now he sings its praises because he is hoping, and hoping beyond hope, in fact, that Roxby Downs and the future development there will be able to drag this state back out of the abyss of debt into which he has plunged us over the 9½ years of this government.

There is, of course, a litany of aspects of the hypocrisy of this Premier, but the more recent statements, perhaps, are most telling—the statements about the Premier's intention to continue as the Premier of this state. Back on 28 July 2009, Keith Conlon said to the Premier during an interview, 'Sitting a full term is not running for the next one,' to which the Premier replied:

When I said this to *The Australian* they said, 'What about 2014?' I said, 'I'd like to run in 2014.' Then they came back and said, 'So, can you guarantee you'll be running in 2020?' It got silly, so, what I've said is that I will serve a full term. I'm loving the job, I'm still young and I really love what I'm doing.

Members interjecting:

The Hon. P.F. CONLON: Point of order.

The SPEAKER: Order! Point of order, Minister for Transport.

The Hon. P.F. CONLON: Because of the interjections on that side, I cannot hear the speaker.

The SPEAKER: I am having similar problems, and I uphold that point of order. Leader of the Opposition, you will be heard in silence.

Mrs REDMOND: Thank you, Madam Speaker, for your gracious protection.

Members interjecting:

The SPEAKER: Order from my right also!

Mrs REDMOND: The next statement that I have come across is on April Fool's Day last year, and maybe we should have known because it was April Fool's Day. The reporter said:

Premier, speculation doesn't go away about your future. I know you've said this a number of times but in 2014 do you seriously expect to be taking the Labor Party as leader into that election campaign?

To which the Premier responded.

Look, I can keep repeating and repeating and repeating and you can keep asking and asking and asking. I said before the election that I will lead the government into this election and serve a full four-year term, and that's exactly what I intend to do.

That is what he said on 1 April last year. Then, when interviewed at the end of last year, on 10 December, David Bevan said, 'So you're still planning to be the leader at the 2014 election?', to which the Premier replied, 'Exactly what I've said before, so there's no news stories on that one.' Notice that the language is getting a little bit more vague each time we talk about it.

Then we get to the beginning of this year, 7 January. This time it was Mike Smithson who asked the Premier, 'Mike Rann...good morning...now you say in the paper you will be around to 2014 to finish your job,' to which the Premier responded, 'I've said that all along, so there's not really anything new in that one.'

And then finally in June (this is the month before the message was delivered by certain brave souls), the month before the message was delivered, David Bevan, again, said, 'Are you going to be here in 2014?', to which the Premier replied, 'I've already said that and I'm intending to keep doing what I'm doing.' The hypocrisy of this Premier when he is given the message to decide then, well, he's not going after all.

As I said, there is a litany of instances, and all these comments. What do they tell us about this man? There is a consistency there, and the consistency is about deception. It is about the deception of the people of this state. Just as bad as the hypocrisy is this Premier's lame attempt to write his legacy in the last few weeks in the position. The reality is, if you have not done it by now, it is not going to be part of your legacy.

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: You have had 9½ years to write this legacy. By the way, the legacy of politicians is not written by the politicians themselves, it is written well after the event by those who can look at it with the distance and the time to clearly assess it, unemotionally, and make a true assessment of what this government has or has not done.

Members interjecting:

The SPEAKER: The member for Bragg and the member for Norwood, the leader does not need your help.

Mrs REDMOND: I always need the help, and love the help, of my team, Madam Speaker.

The SPEAKER: I would hope you can speak without them.

Mrs REDMOND: Suddenly, at the end of 9½ years, this Premier wants to chalk up announcements in the hope that they are what he will be remembered for. Indeed, the one that he has planned for the very last day may indeed be one that he is well and truly remembered for, because on 20 October the Premier plans to have a great big party—a big farewell party—with none other as the special guest than Cate Blanchett. She is a wonderful actress that I admire—absolutely wonderful—but she is being brought here as the specialist guest to open the Premier's new film hub.

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: What will be memorable about this event is the fact that, in the face of soaring mental health problems in this community, this Premier has chosen to destroy the Glenside mental health facility. Can I remind the Premier that some years ago, after the tragic death of Margaret Tobin, the previous director of mental health, this government chose and appointed one Dr Jonathan Phillips to be their director of mental health.

About the Glenside facility, he said, 'It is the jewel in the crown of mental health in this state and an asset that no other state can boast.' Instead of treasuring that asset—instead of making that precious jewel in the crown something that we had that no-one else could have—this government and this Premier have chosen to destroy it, in order to indulge the Premier's fantasy of a film hub there.

I do not know whether that is why the Premier is going at that particulate date, because of his date with Cate Blanchett, and that is because he wants that opening to be part of his legacy, but if it is it shows a profound lack of insight into what is important for the people of this state and this community. On the other hand, the date may have been chosen because the Premier is not being allowed by his own colleague to take the mantle he most coveted—that of becoming the state's longest-serving Labor premier.

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: Isn't it the case that your colleagues want you gone before you can claim that title? The chosen date allows you to just take second place from Don Dunstan: supposedly someone that this Premier admires, but I am sure someone who would be turning in his grave if he could see what this government has done over its 9½ years in government. That, of course, will leave as the lasting legacy of Labor governments in this state John Bannon as the longest-serving premier, he who took us to the brink of bankruptcy—

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: —with the State Bank disaster. This Premier certainly will not have served as long, but will he have served as badly? At least. Will his legacy be any better? I doubt it. By staying in office, by insisting that he stay, in spite of the shoppies union—and we all know that the shoppies union decide in this country who will be the prime minister and who will be the premier of the state, but in spite of being told by the shoppies union and his colleagues that he should go, this Premier is showing utter disdain for the people of this state, and that is the true hallmark of this government.

Right now, this state is in a dire economic position. Businesses are struggling, leaving the state and closing; we cannot attract them here and we cannot retain them here, because you have gained for us the mantle of being the highest-taxing state in this country. There is a loss of confidence in this state which is palpable. We desperately need to build this state's confidence. Instead, to indulge his own petty, puerile self-interest, this Premier insists on staying in the role until 20 October. No matter that it leaves the rest of the nation bewildered at the insanity of politics in South Australia and makes us a laughing stock nation-wide. As always though self interest, and not the best interest of the state, is where this Premier will land.

This Premier has always treated the people of this state with contempt. They were simply a means for him to achieve his end. I think he was best described by Chris Kenny, who coined the phrase, 'A skeleton clothed in ambition.' To that I would add, as well as a skeleton clothed in ambition, I would coat him in a mirror coat, because he likes to reflect whatever he thinks people want to see. It was always about Mike Rann becoming Premier.

To quote American president Thomas Jefferson, 'Whenever a man has cast a longing eye on offices, a rottenness begins in his conduct.' Another American president, Dwight D. Eisenhower, said, 'The opportunist thinks of me and today. The statesman thinks of us and tomorrow.' This Premier is an opportunist. But let us look at the hypocrisy of the rest of the team. Jack Snelling, the member for Playford—

Members interjecting:

The SPEAKER: Order! Point of order: Minister for Transport.

The Hon. P.F. CONLON: We have listened in silence to the vitriol, but to accuse any member of hypocrisy is against standing orders. She did it with the Premier—

Members interjecting:

The Hon. P.F. CONLON: Madam, I ask you to rule; to accuse any member of hypocrisy—she did it to the Premier, and she has just done it to Jack Snelling—is against standing orders.

The SPEAKER: I will not uphold that point of order, because it was a collective term; however, I will listen very carefully to what she says, and I also remind the member to refer to people by their title and not by their name.

Mrs REDMOND: Thank you, Madam Speaker. The member for Playford, 'Jack Hammer', the so-called pugilist—

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: —at least the member for Playford displayed a degree of courage which everyone else lacked on the night of 29 July, when he went with Peter Malinauskas of the Shoppies' union—

Mr Pederick: Right behind him, he was.

Mrs REDMOND: Right behind him—to tell the Premier his time was up. Now, I do not have any illusions that the member for Playford was acting out of true love for Jay Weatherill (the 'Anointed One'); I think he was simply removing one more person in the path between him and the top job.

Members interjecting:

The SPEAKER: Order!

Mr Pederick interjecting:

The SPEAKER: Order! The member for Hammond, you are very vocal today.

Mrs REDMOND: But, I would be prepared to put money on the member for Playford showing a lack of integrity today. Having told the Premier weeks ago that the party no longer had confidence in him and he had to go, I will bet that today he will vote against this motion, which puts it out there for the public to see, that this house has no confidence in this Premier.

What about the pretender to the throne, the member for Cheltenham? How will he vote on this motion? I bet I know, and it will not be to stand up against the man he clearly despises and seeks to usurp; the man who says he needs mentoring, but excludes him at every opportunity; the man who was the subject of the member for Cheltenham's speech. Remember when the member for Cheltenham gave the speech—I think it was to the wizards and wiccans or someone—when he spoke about the need to move from 'announce and defend' politics to the 'consult and decide' mode?

I never expected the member for Cheltenham to do other than what was expedient for his own political ambition. Why would we expect him to stand up for what he truly believes on this occasion when he never has before? We know, for instance, that the member for Cheltenham was expressing to former colleagues in the legal fraternity his deep concern at the proposed changes to WorkCover legislation from 2008, which have been the subject of the report brought up by the Treasurer this afternoon.

We know that he was concerned about that, but did he do anything about it? Did he speak out about those concerns? Not once. He is nothing if not consistent. He has not spoken out once against any of the decisions of this government, and he has been a minister of the government the

whole time. Of course, some might say, 'Well, you know, cabinet minister, cabinet solidarity; he can't really breach that,' but of course, this government set the precedent for breaching that. They had Jane Lomax-Smith as a minister. Remember that?

Mr Goldsworthy interjecting:

Mrs REDMOND: Yes, and when she did not want to agree this government decided, 'Oh well, cabinet solidarity doesn't matter any more.' So there is precedent among their ranks to actually be able to speak up, but did the member for Cheltenham speak out when he had the opportunity? Not once. Ambition kept him from speaking out then, and it will keep him from voting in favour of this motion today. Can you imagine if we had an honest vote? If all those who actually—

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: Imagine an honest vote of all those who actually wanted the Premier gone and were prepared to vote with us on this motion! Can you really imagine that this Premier would insist on staying until 20 October if all the people who actually wanted him gone voted with us in favour of it, if he were sitting with no-one except perhaps the retiring and former treasurer, Kevin Foley? What about the others over there? What about the others? How about the Deputy Premier—he who has been passed over but who still no doubt harbours ambitions for the top job, the one many think I will actually face as Premier in 2014? He never says much, but it must smart when the right overlooks the Deputy Premier in favour of the golden boy from the left.

How will the member for Enfield vote? Does he have confidence in the Premier? How is the member for Mawson going to vote? He has obviously been doing a lot of heavy lifting and hard yards for this and for the would-be Premier, but of course he has not got a guaranteed spot as yet so he has to just do what is right for him because he does not have the ministerial guernsey to put on yet. The member for Hartley—an acolyte, a devotee of the member for Cheltenham—clearly will vote whichever way the member for Cheltenham votes. After all, the would-be Premier has made it clear that no matter how badly she performs in her current role she will be promoted to a much more senior role by the new premier.

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: What about all those on the backbench who have over the years, outside the chamber, expressed their anger and frustration over the behaviour of this government—be it the government's decisions or the behaviour of the most senior members? Are they going to step up? Are those backbenchers going to step up and say, 'Look, I've got to be honest, I have no confidence in this Premier and I will vote accordingly'? Of course they will not because the hallmark of this government is spin, deception and dishonesty.

This government has been about expediency over effort, about spin over substance, about deception over honesty. I implore those members opposite just this once to vote according to their conscience. They have no confidence in the Premier. They have told him so, and one of them, with his hand held by someone much bigger and much stronger and much more powerful—

Mr Williams: Who was that?

Mrs REDMOND: —that was a union official named Peter Malinauskas—did actually get up the courage to go in and tell the Premier to his face. I implore those members opposite to have the courage of their convictions and actually put paid to this nonsense, vote with us in favour of this motion and have the Premier gone before 20 October.

Members interjecting:

The SPEAKER: Order!

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) (15:38): Was that it? It is interesting—

Mr Marshall interjecting:

The SPEAKER: Order! I warn the member for Norwood. Sorry; I missed that, Minister for Transport.

The Hon. P.F. CONLON: I was merely going to take a point of order. We listened to that vitriol in silence; could we get the same courtesy from that side?

The Hon. M.D. RANN: Can I just say that over the last 26 years that I have been in this parliament I have seen many no-confidence motions. This was the most dismal. Of course, there has been a big build-up. They have been telling the—

Members interjecting:

The SPEAKER: Order! Point of order: Minister for Transport.

The Hon. P.F. CONLON: Again I point out that we had the courtesy to listen to their apparently important motion in silence; they may do the same thing. It would just be courtesy.

The SPEAKER: I uphold that.

The Hon. M.D. RANN: Of course, they have been telling the media they had it. This was going to be the big day, a ferocious attack, and that was it: Isobel in Wonderland. Can I just say this—that for 9½ years—

The SPEAKER: Order! Point of order.

Mr PISONI: Members must be referred to by their constituencies or their titles.

The SPEAKER: Thank you. I have already reminded people of that, and I remind the Premier.

The Hon. M.D. RANN: For 9½ years, I have been waiting. I have been waiting week after week, day after day, month after month, year after year—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —for the Leader of the Opposition to move a no-confidence motion in me—

Ms Chapman interjecting:

The SPEAKER: Order! I warn the member for Bragg.

The Hon. M.D. RANN: —to ask me to resign. Well, she has today—after I have already announced that I am resigning. I am pleased with her obsession with me. It is almost somewhat comforting. In fact, as Don Dunstan once said, 'Your enmity towards me gives me enduring comfort.'

But I know what it is about. It is about a number of dates over the past few years—a date in 1997, a date when we turned you into a minority government, after you had the biggest majority ever of Singapore proportions. It is about a date in 2002, a date in 2006, a date in 2010, when you thought it was in the bag. And, of course, your anger continues. Well, keep being angry because you are going to be angry after the 2014 election as well, when Jay Weatherill, as premier, leads this government to another victory. But I've got some advice—the Leader of the Opposition has given me some advice today; I've got some advice for her.

Mr VAN HOLST PELLEKAAN: A point of order, Madam Speaker.

The SPEAKER: Point of order, member for Stuart.

Mr VAN HOLST PELLEKAAN: Point of order, 104: any member must address you, Madam Speaker, and not play for the cameras.

The SPEAKER: Thank you, member for Stuart, but I do not uphold that point of order.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: It's about the close, the member for Stuart; it was almost like, 'Will the next leader please stand up?'

Members interjecting:

The Hon. M.D. RANN: He has.

Members interjecting:

The SPEAKER: Order! Member for Stuart.

Members interjecting:

The SPEAKER: Order, members on my right!

Mr VAN HOLST PELLEKAAN: Madam Speaker, I did not hear your ruling on that point of order.

The SPEAKER: I said that I will not uphold that; the Premier is aware of it. The Premier.

The Hon. M.D. RANN: I would like to thank future leader Pellekaan for playing my straight man. The other issue, of course, is that my advice for the Leader of the Opposition is this: she and I are the same age—born in 1953. We are the golden oldies of the parliament, along with the member for Schubert. My advice to her is that I am stepping down for a younger successor, and I encourage the Leader of the Opposition to do likewise. Let's do it together on 20 October because—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: There has been a bit of a record in this. Since the time I have been the leader of the Labor Party, we have had as leader of the Liberal Party Dean Brown (1993 to 1996), John Olsen (1996 to 2001), and Rob Kerin followed for about four months. Then we had Iain Evans (2006 to 2007) and then Martin Hamilton-Smith (2007 to 2009), and now the current Leader of the Opposition. And deputy leaders: Stephen Baker (1993 to 1996), Graham Ingerson (1996 to 1998), Rob Kerin as deputy, 1998 to 2001; Dean Brown as deputy, 2002 to 2005; Iain Evans as deputy, 2005 to 2006; Vickie Chapman, 2006 to 2009; Isobel Redmond as deputy leader for five days; Steven Griffiths, 2009 to 2010; Martin Hamilton-Smith as deputy leader, seven days; and Mitch Williams, he is still there but he came in only two votes, other than his own, and there is still doubt about whether he actually voted for himself.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: I guess the message is: 16 leaders and 16 deputy leaders of the Liberal Party since I have been the leader of the Labor Party. What is this really all about? It is all because the leader has been urged to lift her game because, at about the time—

Members interjecting:

The Hon. P.F. CONLON: Point of order.

The SPEAKER: Order! Point of order, Minister for Transport.

The Hon. P.F. CONLON: Again, I stress that we listened in courtesy to the diatribe from that side; we should be listened to.

The SPEAKER: Thank you, Minister for Transport.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Because, at about the time that I announced that I was stepping down, she got onto the plane—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —to the tropics. She went all tropical. She went up to Port Douglas. Of course, people were saying in her own party, 'What the hell are you doing? There's a leadership change going on in the Labor Party. Why aren't you here?' No, no, no; she was going on holiday, and we're told, round the corridors of power—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —that the big man of the Liberal Party, Rob Gerard, asked her, 'Do you really want this job? Do you really want the job as premier?' So, what has happened, six weeks in the making, a bit like Hendrik Gout's speech, stream of consciousness—

Members interjecting:

The SPEAKER: Order! I cannot hear the Premier.

The Hon. M.D. RANN: —stream of bile. It is interesting that she talked about our terrible record. It is up to others to decide what our records are and what our legacies are, but I will tell you one thing: when you and I finish on 20 October, when we both step down for someone younger, I will be very happy to have my record and contribution to this state put up against yours any day of the week. She just said that the economy was in dire straits in South Australia. It was all a disaster.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: What contempt she has for the people of this state!

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

Mr PENGILLY: The Premier just referred to the Leader of the Opposition as 'she'.

Members interjecting:

The SPEAKER: Order! It is not normally acceptable, but I think in the context that that was. It was the way it was phrased. It had to happen. I do not want any frivolous points of order.

The Hon. M.D. RANN: She said that we were in dire straits. Did she see last week's employment and unemployment figures? Did she see last week's employment figures, because South Australia had lower unemployment than the rest of the nation, equal second lowest in the country. There are now 132,000—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —more people in work than there were on the day that we were first sworn in in 2002. I will say this: if you want to compare records, have a look at the full-time jobs growth rate, our time compared to yours. It is about twenty times greater.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Have a look at the infrastructure.

Mr Marshall interjecting:

The SPEAKER: Order! I warn the member for Norwood for the second time.

The Hon. M.D. RANN: Eighty billion dollars worth of projects, and you talk about mirages in the desert! Let me tell you this: I am looking forward to coming in here and introducing the legislation for the world's biggest mine.

Ms Chapman interjecting:

The SPEAKER: Order! I warn the member for Bragg for the second time.

The Hon. M.D. RANN: Then we will compare—because basically you are anti-mining. That's what you are, you are anti-mining. We have gone from four mines—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —to eighteen mines. There are another 30 to 40 still coming. It keeps going on. The defence projects: we saw your attempt to talk them down, your attempt to white-ant us, your attempt to run up the white flag on South Australia's future, but we forced a showdown with Victoria and won the air warfare destroyers contract and we also secured the biggest project in Australian history in terms of any defence contract, with the next generation of submarines.

You say the economy is in dire straits. We entered by winning the biggest defence project in Australian history, and I will step down hopefully introducing into this parliament legislation to secure the biggest mine in world history. I will compare that record against yours any day of the week. So it goes on. In health, we have 1,200 more doctors, 56 per cent more than when we took office. We have more than 4,500 more nurses, 42 per cent more. We are building the nation's largest, most advanced hospital, the 800-bed new Royal Adelaide Hospital.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Every metropolitan hospital is being rebuilt—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —or redeveloped, putting 250 extra beds into the system after you closed them. So it goes on. In law and order: in 2014 we will have 1,000 additional police, after you cut police numbers. We have upgraded and toughened virtually every aspect of the criminal law, and it absolutely irks you that a combination of a stronger economy and being tougher on law and order with more police has seen record drops in crime in this state, whereas under you it went up.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: It goes on and on again. We have mentioned defence and mining. Have a look at water: we have a desal plant 100 per cent powered by renewable energy that will guarantee our water security for the next 100 years. As I said before, we have seen the electrification of the trains begin and the extension of the trams. We have seen record infrastructure growth in this state, and in the environment we easily lead the country in terms of rolling out the strongest renewable energy campaign in the country's history, with 54 per cent of Australia's wind power.

In closing, I say this to the Leader of the Opposition: you have to do better than that. I was leader of the opposition for nearly eight years—you have to perform, you have to come up with one idea, you have got to come up with one policy, you have got to develop a vision for our state's history—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Most of all—and you are the 16th leader or deputy leader I have had to deal with—you have to secure the support of the people behind you. I reckon what you will do is you will ask your deputy—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —to speak next so that it makes you look good, rather than invite one of the young ones from behind.

Members interjecting:

The SPEAKER: Order! Sit down until we get some quiet, deputy leader. Deputy Leader of the Opposition.

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:50): True to form, the Premier never answers the question before him—

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: The question before the house is: does the house have confidence in the Premier? The answer to that questions is, of course, no. The opposition has never had confidence in this Premier, but what is really important today is that the Labor caucus no longer has confidence in this Premier. We know for a fact that the Premier does not have the numbers to continue even

until his preferred departure date, apparently early next year—notwithstanding his continual claim that he would remain until at least 2014. What can you believe when this man opens his mouth?

That brings me to the crux of this debate. The only reason we are debating this question today, the only reason this government is in turmoil today, is because of a lack of honesty. As I have already said, everyone here knows that the Premier does not enjoy the confidence of the majority of this house. What we need to ask is: why is this so? Why is it that his own party has turned on him? We know that he is not going of his own volition: he is going because his party has told him to go.

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: The question is: why would they do that? The opposition has argued for the whole term of office of this government that the government, its ministers and the Premier cannot be relied on to deliver what they promise. Indeed, this government's legacy will be its record of overselling and non-delivery. This spin has been so blatant and so obvious that even members of the government have often questioned the sense of it. Unfortunately for the state, the caucus only decided to do something when it directly affected them.

Until the polls showed that the voting public had had enough, the Labor caucus was happy to put up with a poor government run by this master of spin and deception. It was only when it became evident that the public had turned that the caucus roused itself. I will give a few examples of why the public has lost confidence in this Premier, but before I do let me note some observations of others about our profession; it does aid understanding. James Thurber once wrote, 'You can fool too many of the people—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

Mr WILLIAMS: You live by it, Premier. 'You can fool too many of the people too much of the time,' which probably caused Franklin Pierce Adams to write that 'there are too many politicians…with a conviction based on experience, that you can fool all of the people all of the time'—and there are a few of them in front of us.

This exactly describes the malaise that has beset the whole of this government's tenure. The spin has been so thick, so encompassing and so constant that this government believes its own propaganda. As others have said before, it became intoxicated in its own verbosity. It has been the public of South Australia who has said, 'This is all too much.' It has been the public that has lost confidence in this Premier and this government, and that is why now even the Labor caucus, and thus the house, no longer has confidence in this Premier.

Let us explore why the public has come to this conclusion. I recall this Premier promising that there will be no selling off of government assets under his premiership, no privatisations. By any other name, the proposal to forward sell the harvest rights of our forests is a privatisation. One hundred years of forest growth being sold is a direct contradiction of that firm and solemn promise of this Premier. Do I have to mention the Lotteries Commission or the shopfront of Tourism SA or the myriad of public assets sold by this government? When you argue that selling public assets is always wrong and promise not to do it, do not expect public forgiveness when you put the for sale signs out.

I recall this Premier promising that he would govern for all South Australians. The public took that to mean that there would not be first and second class citizens in this state. That is why they will not forgive this Premier or this government for policies attacking country communities, especially those who have the temerity to assist the health system and save the state money by operating community not-for-profit hospitals.

Country South Australia has been gutted by this government. Whether it is via country health, Shared Services, asset sales, school bus contracts, slashing the PIRSA budget or the cutting of regional development funds and crime prevention programs, regional South Australia has been a constant target of this government. To their credit, our city cousins have recognised that this is not only unfair but un-South Australian.

I recall this Premier stating that he wanted to be known and remembered as the education Premier. What we have seen is a cruel hoax played on the youth of South Australia by this government. The latest figures available from the NAPLAN testing proved that this state's education system is failing our youth, yet all we get from this government is platitudes and more spin as education outcomes decline. It is ironic that the Minister for Education, overseeing this failing system, has been picked by his colleagues to become the next premier.

I have listened too many times whilst this Premier has pontificated about our Aboriginal communities, about how as a former Aboriginal affairs minister he had a special understanding and a special bond. The truth behind the rhetoric is that we, in this first world country, have to rely on the Red Cross to deliver food parcels. I heard the minister say, 'Where are the starving children? Show me the starving children.' I could just hear the Premier saying, 'Let them eat cake.'

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: I recall this Premier making law and order an issue on which he wanted to be judged. 'Look at me; I'm so tough on these lawbreakers', he would say. Remember, he was going to bulldoze the bikie fortresses and obliterate them from the landscape. He could not even enact laws that would stand up to the scrutiny of the country's courts, let alone remove one brick from a bikie fortress.

He continually crowed about more police (and he did it again a few minutes ago) but we read daily that our local service areas are so undermanned that we cannot even provide a safe community in which South Australians can go about their daily lives—these and many more broken promises, all whilst turning this state into the highest taxed in the nation.

The spin is now telling us that we have the biggest infrastructure spend in history. What the spin ignores is that, when the commonwealth contributions are deducted, the spend on infrastructure is less than the debt being racked up for future generations of South Australians. Good government is not about using debt to deliver what governments should deliver from within their own means.

These examples are but a few of the litany of broken promises and disastrous decisions that have caused the public of this state to lose confidence in this Premier, and that is why his own caucus has now turned on him. Much has been said and written in this state about this Premier. I believe the most insightful and accurate summation of this man was authored by Tory Shepherd in *The Advertiser* on 24 November 2009. It so encapsulates the reality of this Premier and, as such, explains why he has lost the confidence of the public and his party. I wish to quote from that article. Ms Shepherd wrote:

> Get mad because your government treats you with condescension. Because your Premier has such a profound and obvious aversion to straight talk.

In explaining the incident when he was struck with a magazine and his response when asked if he knew Rick Phillips, I quote:

> 'I've never met him before,' Mr Rann said, then added he did not know why Mr Phillips attacked him.

Ms Shepherd then stated, and I quote again:

> And that one little nugget arguably encapsulates the Rann government's entire approach to the truth. Statements can be literally true and simultaneously deceptive.

She went on to explain, and again I quote:

> The Rann government rarely answers questions properly. In parliament, day after day, ministers adhere to the old adage 'Listen carefully to the question, then answer the one you wish they'd asked.'

Ms Shepherd's article concludes with the following:

> What does affect the State of South Australia is this constant spinning of half truths, the subterfuge and propaganda and, sadly, that culture of secrecy has already spread well beyond the Premier's office.

Madam Speaker, that is why the Premier has lost the confidence of the public, his party and this house. It is the culture of a government that is rotten.

But there is a further irony. The members opposite will not support this motion, despite its reflecting their own convictions. We do know that on 29 July the Premier was visited by his Treasurer and the SDA secretary Peter Malinauskas and informed that he no longer had the

numbers. The Treasurer did not act alone: he was not a sole conspirator. His message was sanctioned by a majority of the Labor caucus. But the Premier outfoxed the boys sent to do a man's job. It was not just driven by burning ambition but by self-preservation of those caucus members.

This first day of the parliament after the winter break is the first opportunity for those who have told the Premier that he no longer has their confidence to do what their convictions tell them; but they will not vote with those convictions. The irony is that the Premier's demise is a result of a lack of honesty, a result of his no longer being believed, yet the first action of those who will replace him is to be one of dishonesty. Those who wish to replace him because he is no longer believed will today demonstrate that they are also imbued with that same culture that Tory Shepherd wrote about—the constant spinning of half truths, the subterfuge and propaganda.

The Liberal opposition in moving this motion is offering those who wish to take over this government an opportunity to take some decisive action. They can support this motion and show that they are capable of acting in accordance with their belief and conscience or they can confirm that the culture is so ingrained that we can expect no changes in the near future. The greatest pity is that this should be about South Australia, not about an endeavour to rewrite a failed premier's legacy. The aphorism attributed to Abraham Lincoln is: you may fool all of the people some of the time, you can even fool some of the people all of the time, but you can't fool all of the people all of the time. South Australians are not fools and this Premier does not deserve any records of longevity. He should be gone.

Members interjecting:

The SPEAKER: Order, members on my left!

Members interjecting:

The SPEAKER: Order! The Minister for Education.

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development, Minister for Science and Information Economy) (16:03): Madam Speaker, I do not know whether it is the six week break or whether it is the condolence motion that we heard earlier, but there was something about the first few words that the Leader of the Opposition spoke and then the contribution she made and, of course, what the Deputy Leader of the Opposition said, which reminded me of just about everything I think people hate about politics. There was no contribution on public policy. There was an opportunity to come up and make a critique or a contribution on public policy, but there were just the most basic political statements. By the looks of the shoulders of those opposite that slumped when they heard the first few words, everybody in this room understood the same thing.

Members interjecting:

The SPEAKER: Order! Members on my left will hear the Minister for Education in silence.

The Hon. J.W. WEATHERILL: The arguments are misconceived, they are disingenuous and, worst of all, they are calculated to bring this house into disrepute and bring all of us down. If anybody thinks at the moment that the state of politics in this nation reflects well on any elected leader, then they need their heads read. We are all regarded in an appalling light, and today was a stunt which was calculated to lower us further in the estimation—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —and in the eyes of the community.

Ms Chapman interjecting:

The SPEAKER: Member for Bragg, you are on your second warning. You are on your third warning now; next time you will be named.

The Hon. J.W. WEATHERILL: I am sure that there are lots of people on both sides of the house who do not want to be regarded in that way. It is an honourable profession. We do this to advance the interests of the people of South Australia, and we are sick and tired of being regarded as little better than—well, I won't name another profession.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: It is misconceived, because they seem to suggest that somehow our decision to engage in an agreed transition somehow—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —reflects a lack of confidence—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —in the Premier of South Australia. Indeed, it does the opposite by setting—

The Hon. P.F. CONLON: Point of order, Madam Speaker.

The SPEAKER: Order! Point of order. The Minister for Transport.

The Hon. P.F. CONLON: I cannot hear what the minister is saying—

Members interjecting:

The SPEAKER: Order, members on my left!

The Hon. P.F. CONLON: —and the reason I can't is because they are a rabble.

The SPEAKER: Thank you, Minister for Transport.

The Hon. J.W. WEATHERILL: Madam Speaker, by fixing a date—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —and having the Premier complete the tasks that he has established to complete, it demonstrates our continuing confidence in the Premier, not a lack of confidence. This idea of an orderly transition—outside of this place and outside of the rest of the political world—is regarded as simply common sense. Just ask an ordinary person in the street about this and they will tell you—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —that it makes sense for there to be an orderly transition so that there can be arrangements made to exchange information so that someone can prepare for—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —what some might suggest is a reasonably important role. Now, these are pretty elementary and—

Mr Goldsworthy interjecting:

The SPEAKER: Order! I warn the member for Kavel.

The Hon. J.W. WEATHERILL: —simple propositions, but lost on those opposite. The reason they cannot comprehend this is because there is nothing in their history, nothing in their make-up, that could conceive of the fact that we could reach this agreement, and that we reach it in an orderly way and that there could be the whole of this caucus behind a new leader. They cannot conceive of that. They cannot conceive of the fact that, in 17 years, there have been only two leaders.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Madam Speaker, I think that the way in which the Premier—obviously by virtue of this debate—was in a sense obliged to talk about his legacy is,

frankly, I think, something that he should not have been subjected to. The truth is that any fair judgement of his legacy will be that he has made an extraordinary contribution to transform the social, environmental and economic future of this state, and—

Mr Pederick interjecting:

The SPEAKER: Order! I warn the member for Hammond.

The Hon. J.W. WEATHERILL: —can I add to that remark by saying that there is a level of disingenuousness in those opposite because, on the last day, on 20 October, many of them will be joining me in saying precisely the same thing, and they know it. If they search their consciences, they know that he has made a massive contribution to this state, and they will acknowledge it, because there are at least some decent people on that side of the chamber. Of course, the contributions that were made to the state are many and myriad. I will not go through all of them. One that I think—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: One that I will select for a special mention is the school retention initiative. When those opposite were last in government 67 per cent of our students at their low point were completing high school. What the Premier chose to do was to establish a Social Inclusion Unit and draw all of the authority of his office—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —and the strength of the bureaucracy to lift the school retention of students into year 12 from 67 per cent to 84 per cent. All of those thousands of students now have a better opportunity to realise their hopes and dreams because they were able to complete high school. That is the public policy legacy he will be remembered for, and there are countless others.

The legacy that I think is most important of all—and it will be the privilege of those of us who remain to build upon—is the change in the mindset of this state. It is shaking off the conservatism that existed in this state, a state which was always finding reasons to say no to things, and permitting us to actually imagine a brighter future for ourselves—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —a future that we have chosen together to create. It is one of his greatest legacies, and it will be my privilege, and those of us who are in leadership roles, to build on that legacy.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Let's be clear about what this is: it is a political stunt. They could have come in here and taken the opportunity to ask some questions about a public policy issue. They could have actually surprised us all and engaged themselves in a recent controversy like the APY lands. I thought that, given the recent controversy, they might have preferred that as a major public policy, but they have returned to type on the APY lands. It was a stunt when it was valuable to be a stunt. When they could come in here and advance some positive ideas for improving the circumstances of people in the APY lands, they simply went missing on that point.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: The great grief of this debate is the way in which it reflects on us, the circus they were seeking to create, which we are not cooperating in. The community expects more of us. They expect better from us: they expect us to concentrate on the positive ideas that are going to make a difference to the lives of everyday South Australians.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: Madam Speaker, we had an undertaking from the opposition not to go beyond 30 minutes. 'Gentleman', you said.

The SPEAKER: The Minister for Health.

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) (16:12): Thank you very much, Madam Speaker. I am absolutely—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —delighted and proud to be able to stand in this place and give my statement of confidence in the leadership and the premiership of Mike Rann. I have known the Premier since 1982. I have probably known him longer than just about anybody in this place. There are probably two or three others around who have known him as long. I got to know him when he was the press secretary for then premier John Bannon, and I was a candidate for the seat of Mitcham, and he helped me in that fantastic election campaign.

The Hon. J.W. Weatherill: You lost.

The Hon. J.D. HILL: That's true, I did lose, but went on to greater glory at a later time. I got to know Mike very well at that stage, and I have known him pretty well for 30 years. Over those 30 years, in a whole range of circumstances, both in government and out of government, as a member of parliament and as a staffer, as a leader and as a friend, I can say that I have come to the conclusion that Mike is a man of very strong qualities. He is an intelligent person, a determined person, a person of great integrity, a person of great creativity, a person of great energy, and he is generous to a fault—generous to a fault.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The great characteristic that I think defines Mike Rann is his enormous strength of character. All those qualities I have just enunciated are why he has been the leader of our party for 17 years. I cannot think of any other leader we have had, perhaps other than Don—

Mr Pisoni: A bit more enthusiasm, John.

The SPEAKER: Order, member for Unley!

Mr Pisoni: We're going to sleep over here.

The SPEAKER: Member for Unley, you are warned.

The Hon. J.D. HILL: He is playing with something below the desk there, Madam Speaker. I hope it's his iPhone. I would say this, Madam Speaker: I have known a number of our premiers over the years, and I do not think any premier has had as much mud thrown at him as has the Premier, Mike Rann, with the possible exception of Don Dunstan—

Members interjecting:

MEMBER FOR BRAGG, NAMING

The SPEAKER (15:15): Order, member for Bragg! I name the member for Bragg. Minister, sit down. I name the member for Bragg. You have had three warnings and constant reminders. You are named. Does the member wish to speak in apology, or—

Ms CHAPMAN (Bragg) (16:15): No, not particularly; I don't want to listen to that drivel any more.

MEMBER FOR BRAGG, SUSPENSION

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure) (16:16): I move:

That the honourable member for Bragg be suspended from the service of the house.

Motion carried.

The member for Bragg having withdrawn from the chamber:

PREMIER

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) (16:17): As I was saying—

Members interjecting:

The SPEAKER: Order! Minister for Defence, I warn you also.

The Hon. J.D. HILL: As I was saying, Madam Speaker, there has been more mud thrown at this leader than any other leader that I can recall, with the possible exception of Don Dunstan. Why have they thrown mud at this man and why did they throw mud at Don Dunstan? For the same reason: because there was no other way of getting at him. You could not get him on the basis of policy, you could not get him on the basis of performance, so you got him on the basis of muck, and that is exactly what the Liberal Party—even today, in the deputy leader's address, he went into the same gutter that they've crawled into many, many times, Madam Speaker—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: But the great thing about Mike Rann—the great thing about this leader—is his strength of character, and he has come back every single time fighting; fighting for this state, fighting for the Labor Party. I think it is outrageous that this motion is being moved by the Liberal Party in here today. It shows a complete lack of initiative and imagination on their part, but what it does give us is an opportunity to speak in celebration of his achievements.

Now Madam Speaker, when I take—

Members interjecting:

The SPEAKER: Order, deputy leader!

The Hon. J.D. HILL: When I take children around the parliament, as I do from time to time—and my former profession of teacher gives me a certain thrill when I get to show children around the place and talk to them about this great institution—I often take them to the corridor at the end and point to the three great premiers of our state: Kingston, who was really the constitutional premier of South Australia, Playford, who was really the industrial and employment premier of South Australia, and Dunstan, of course, who was the great social, consumer affairs, and equal rights premier of South Australia. I say to them, 'There is room for one more premier, and that is the Premier who is currently in the job.' Mike Rann will go down as one of the greatest premiers of our state. His record is unparalleled in the history of this place—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —across a whole range of areas, including and especially in mental health. He is the first Premier of our state to seriously engage in—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: This is not just me saying this. I was very pleased during the week to meet with the Mental Health Coalition of South Australia. These are the advocates for people who have mental illness, and they wanted me to especially note the fact that they were going to write to our Premier to thank him for his commitment to mental health, and for me to pass on to the Premier how grateful they were for the attention that he had given mental health in our state.

Not only did the Coalition say that, but the COAG communiqué, at its recent meeting on 9 August, acknowledged the significant contribution of the Premier in the area of mental health. COAG of course is bipartisan, it is Labor and Liberal premiers. Also, and I quote, '...acknowledge the leadership of Premier Rann in driving improvements to Australia's mental health system'.

All of the spin and all of the nonsense on the other side about Glenside is just arrant nonsense. It is about snobbery and about people from other parts of the world coming to live in their precious little bit of Bragg. What is happening in Glenside is a transformation of that site which

will help patients with mental illness. It will also transform some old buildings which will be able to be used productively again to the benefit of our state, and to the benefit of our film industry.

Members interjecting:

The SPEAKER: Order! The Minister for Transport.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure) (16:18): I have a very short time left to me and I would like to make a couple of brief points. First, can I say I have absolute faith in Mike Rann, and I will—

Mrs Redmond interjecting:

The SPEAKER: Order, Leader of the Opposition!.

The Hon. P.F. CONLON: —miss him terribly, and I can tell you I have absolute confidence in our new leader. The one thing I am absolutely confident about is, having heard you today, that he will lead us to victory in 2014.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: I will though, in a debate where the words 'hypocrisy' and 'dishonesty' were thrown around—how is this for hypocrisy: imagine an honest vote. Marty? Imagine an honest vote. Wouldn't that have been good?

The SPEAKER: Order!

The Hon. P.F. CONLON: Voting according to your conscience does not matter: it does not matter what the votes are; it does not matter how many there are. Imagine an honest vote. And James Thurber—if this man knows anything about James Thurber I will go he for chasey. I have been to the Algonquin Hotel where James Thurber and his set met and wrote. I know a little about him. What is your favourite Thurber's fable? Yes, I did not think so. And the word dishonesty—if you take away the commonwealth contribution there will be less for infrastructure—what a bald-faced lie, and I will debate you in any forum in Australia on it. Do not talk to us about honesty.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. Foley interjecting:

The SPEAKER: Order! We can sit here all afternoon.

The house divided on the motion:

AYES (17)

Evans, I.F.	Gardner, J.A.W.	Goldsworthy, M.R.
Griffiths, S.P.	Hamilton-Smith, M.L.J.	Marshall, S.S.
McFetridge, D.	Pederick, A.S.	Pengilly, M.
Pisoni, D.G.	Redmond, I.M. (teller)	Sanderson, R.
Treloar, P.A.	van Holst Pellekaan, D.C.	Venning, I.H.
Whetstone, T.J.	Williams, M.R.	

NOES (28)

Atkinson, M.J.	Bedford, F.E.	Bignell, L.W.
Brock, G.G.	Caica, P.	Conlon, P.F.
Foley, K.O.	Fox, C.C.	Geraghty, R.K.
Hill, J.D. (teller)	Kenyon, T.R.	Key, S.W.
Koutsantonis, A.	O'Brien, M.F.	Odenwalder, L.K.
Pegler, D.W.	Piccolo, T.	Portolesi, G.
Rankine, J.M.	Rann, M.D.	Rau, J.R.
Sibbons, A.L.	Snelling, J.J.	Such, R.B.
Thompson, M.G.	Vlahos, L.A.	Weatherill, J.W.
Wright, M.J.		

Majority of 11 for the noes.

Motion thus negatived.

GRIEVANCE DEBATE

SCHOOL BUS CONTRACTS

Mr GRIFFITHS (Goyder) (16:25): It is interesting that the member for Cheltenham, in his most recent contribution, referred to the fact that the community expect more of us. They are very wise words; the community does expect more of us. Those of us who had the chance to be on the steps of Parliament House yesterday to witness a rally by concerned small business operators worried about school bus contracts would know that those people expect a lot more of us, too.

I am sure that all members in this chamber would be aware of the worries held by these people. There are about 250 privately-operated school bus contractors out there and every one of those contractors is greatly concerned about what their future will be when their contract comes up for renewal.

That rally yesterday was the second one to be held. Again, it involved approximately 80 buses brought in by people from within a couple of hours drive of Adelaide—people who want to ensure that the people in this great city have the opportunity to be aware of their concerns and what the issues are and what needs to happen to fix the problem. Admittedly, there were not a lot of people on the steps of Parliament House, but all of those people who were there are worried about the relationship they have with a family business that provides a school bus opportunity.

I commend those people greatly, because they were there fighting passionately for things that are important to them and for the services provided to regional communities, and they were there fighting passionately, not for the provision of a corporately-operated school bus contract where people come in and who knows how much they will care about the wider community, but for the continuation of a family business that, in some cases, has been operating for up to decades, with good people associated with it who give a commitment to their community. They are worried that their future will be taken away from them.

I have had many telephone calls from people all around the state who are very concerned about their contracts. In some cases, they have been told either that they have lost them or they are in a state of limbo; they have been asked to extend their contracts for short periods. In that time, though, they are being forced into a situation where they could make decisions that could have terrible results for them and their families.

One operator I spoke to three weeks ago had received the dreaded telephone call advising him that he did not have the contract anymore. This chap operates three buses. He and his business partner had taken some risks, and they would acknowledged this, on the basis that they were hopeful they would win the contract. They thought they had put absolutely every effort into ensuring that the tender price they submitted was the best possible price. They had provided this service for 27 years, and they thought they would have a good chance. They knew that they needed to have good buses to meet the contract provisions, which meant they had to meet some Euro IV standards. They had gone out and spent $600,000 on two new buses then to be told that they did not have the contract.

This chap has been in the industry for 27 years. I have never been so close to having a man on the telephone cry because the news had devastated him—and there are other stories like that, too. All across the Southern Fleurieu Peninsula, the Adelaide Hills, the Mid North, as far as Balaklava as it currently stands, through the Barossa area, there are bus companies that are screaming out for assistance. They want assistance from a minister who understands their issues—and that is where it again comes back to the member for Cheltenham. He is the minister who has responsibility for this. He is the minister who has allowed the procurement of this contract service from within the DECS organisation to be so flawed so as to give very little chance for the current suppliers to get a contract, and these people are now in desperation mode.

I spoke with a lady yesterday who is part of a family business that has been doing the job for some 50 years. She had a serious health condition 12 years ago which caused her to lose her mobility and the ability to speak, although she is now healthy. However, the stress that she is facing as a result of this decision and the potential of the contracts to be taken away from her and her husband and the business they operate has put her in a situation where yesterday was her last

stand—that was the last day she will be involved in this fight because she is fearful that she will have a relapse and be confined to a wheelchair. That is the sort of pressure that people are under.

These are real people who want to ensure that they have a future. They want the member for Cheltenham, as the Minister for Education until 20 October, to listen to their issues. The minister did provide them with a meeting yesterday, but from that they got nothing. The Bus and Coach Association is desperate about this. Its membership is desperate about this. They need minister Weatherill to understand the issue, to use some common sense in this to give some future to small family businesses that operate school bus contracts to regional South Australia and the outer metro areas and to give them a future, because unless he listens very soon these people will be gone; and once they have gone they will not come back.

They will have no capacity to continue their businesses just relying on short-term contract work they might get. They need the surety that the school bus route gives them and the communities need that surety, because if they lose those buses, no other hire option is available and I really fear for that. People living in regional areas know they have to transport themselves and an important aspect of it is school bus contracts.

MALTESE NATIONAL DAY

Mr ODENWALDER (Little Para) (16:30): On Saturday night I had the enormous privilege of representing the Minister for Multicultural Affairs, Grace Portolesi, at the celebration of the Maltese National Day at a dinner dance organised by the Maltese Guild of South Australia. It was a fantastic and, I have to say, pretty rowdy night towards the end in Findon. We were joined by the Mayor of Charles Sturt council, Kirsten Alexander, and her husband Neil, whom I sat with, Charles Sturt councillor Edgar Agius, who is also president of the Maltese Community Council, Joseph Vella and Joseph Briffa, the president and the secretary respectively of the Maltese Guild, and about 400 people from the local Maltese community.

The Maltese ambassador to Australia also sent a congratulatory message that night. There were also three busloads of Maltese community members from Melbourne, who drove over for the occasion and to spend a few days travelling and experiencing the city and the Adelaide Hills. Indeed, some of the guests seemed to be enjoying our South Australian wines before the evening had even begun.

The Maltese national day is formally observed on 8 September each year and originally marked two significant and momentous events in Maltese history. Firstly, the day in 1565 that the Maltese successfully drove the invading Turks from their country. Secondly, it marks the day in 1943 that Malta triumphed over the axis forces after a three-year siege. In fact, Madam Speaker, the contribution that Malta made to victory during both world wars was massively out of proportion to the country's modest size. During the siege in the 1940s Malta was on the receiving end of one of the fiercest and most sustained bombing attacks in military history. In the month of April 1942 alone, the Nazis carried out 9,000 air raids and the citizens of Malta had to contend with an average of nine air raids per day.

During World War I, Malta was known as the 'Nurse of the Mediterranean' because of its care for wounded Anzac soldiers evacuated from Gallipoli, and so the solid relationship that exists today between Malta and Australia was forged in the collective suffering of the First World War. I am really pleased that this fact has been recognised through the construction of an Anzac monument in Floriana.

Recently a huge fundraising drive was undertaken by the Maltese community to construct this monument in the Argotti Botanical Gardens. This monument will memorialise the 270 World War I Australian and New Zealand soldiers buried in Malta. According to Joseph Briffa, the secretary of the Maltese Guild, the South Australian Maltese community raised over $30,000 for this memorial. Mr Briffa travelled to Malta earlier this year in June and July and presented the money to the monument's organisers. It is hoped that the monument will be completed soon, and hopefully in time for Anzac Day in 2012.

Finally, it should be noted that over time the Maltese National Day has also been adopted by Maltese at home and in Australia to commemorate the securing of independence from Great Britain on 21 September 1964. The evening also served as a celebration of the remarkably compassionate, strong and resilient spirit of the Maltese people generally. As most of us here would be aware, generations of Maltese helped to build our state and our nation. A small number of Maltese came to South Australia in the early part of last century, many settling and working in

Port Pirie and the surrounding area. Many Maltese also worked at places such as the Murat Bay gypsum mine and the BHP mining and shipping plants at Iron Knob and Whyalla.

A second wave of immigration followed the Second World War and about 1,500 Maltese settled in our state between 1947 and 1961. By 1966 the number of people of Maltese descent was over 2,200. At the 2006 census, 1,629 South Australians said they had been born in Malta and about 5,000 South Australians claimed Maltese ancestry. Almost 154,000 people in Australia claim Maltese ancestry, making it one of the largest Maltese communities in the world outside Malta.

I want to publicly thank the Maltese Guild and the wider Maltese community for their hospitality on Saturday night and the Minister for Multicultural Affairs for the opportunity to attend. After the speeches the evening got rowdier, and they celebrated their national day in what I was to learn was a very typical Maltese style.

NATIONAL LITERACY AND NUMERACY TESTS

Mr PISONI (Unley) (16:35): This year's NAPLAN results are deeply disturbing and disappointing for South Australia. Under minister Weatherill, South Australia fell below the national average in all 20 categories of NAPLAN testing for years 3, 5, 7 and 9. The reality is that after nearly 10 years of Labor the so-called 'Education Premier' and his successor, the education minister, have taken South Australia's NAPLAN results backwards. If this is the best that minister Weatherill can deliver in education, what disasters are looming for him in becoming the puppet premier of the shoppies' union here in South Australia?

Instead of accepting responsibility and taking appropriate action, the L-plated premier-in-waiting has set out on a campaign of media spin and rhetoric. There is no change in leadership technique here; this is true to the old Labor Hawker Britton style; the style that Premier Mike Rann has mastered beautifully. Minister Weatherill, in common with the teachers' union, gives every appearance of being unsupportive of these important tests, and has appointed a new CE for the department of education who is on the record as being opposed to assessment and reporting programs such as NAPLAN.

In almost every category and year level tested South Australia performed badly. In many areas South Australia is going backwards. In year 3 reading, for example, 3.8 per cent fewer students in South Australia sat the test than in New South Wales, yet New South Wales still had a better score of 3.5 per cent of students sitting above the minimum standard. At the top performance end there were 48.1 per cent of New South Wales students at band 5 and 6 levels compared to just 39 per cent here in South Australia.

In year 3 writing there were only two jurisdictions with a mean score below 400: South Australia and the Northern Territory. These two also had fewer students in the high skills bands, and South Australia and the Northern Territory also had the second lowest percentage of students achieving high skill bands in grammar, punctuation and numeracy. The above patterns were replicated in year 5 grammar, punctuation and numeracy, year 7 numeracy and year 9 reading.

Other states that have been planning, reforming and doing the serious work needed to improve these results have had tremendous gains. For no good reason South Australia lags way behind jurisdictions such as New South Wales, Victoria and the ACT. Parents ought to be alarmed at not just the relative disparity in the performance results but also at the fact that so many South Australian students did not even sit the tests. NAPLAN participation rates in South Australia are a problem that the minister, the L-plated Premier, has simply not addressed.

It is well worth comparing the results of Queensland and South Australia, as they have much in common. Both states have the primary years finishing in year 7, and both have similar profiles, with many small remote schools and significant Indigenous populations. When national testing began and Queensland was shown to be performing badly, as was South Australia, the big difference was that Queensland took the result seriously and began concrete action to support teachers and schools in their attempts to raise outcomes for their students.

In Western Australia the Liberal government has moved to a system of greater self-management of public schools; what they call their independent public schools. These principals and school communities have a greater ability to manage targeted solutions to problems identified in their students' performance, not simply wear the responsibility for underperformance. That was proven with this year's results; when South Australia went backwards in 14 out of 20 categories, Western Australia went forward in 14 out of 20 categories.

South Australian Labor has done nothing of consequence and, alarmingly, there are no plans in place to suggest that the results in 2012 and 2013 will be any better. Mr Weatherill refused to commit to that on radio just the other day. Minister Weatherill has also stood by as a minister in the Rann cabinet when we have seen budgets cut by $8.1 million, with the cutting of the Basic Skills Test. Under the 'Education Premier', and under his reign as education minister, we have seen fewer and fewer students passing maths and science in year 12, despite the comments made by the minister earlier regarding higher retention rates.

It is obvious that we are not achieving the engagement rates; ten years ago 44 per cent of students gained a pass mark in maths and science in year 12 but now—after nearly 10 years of Labor—that figure is down to just 37 per cent. The education share of the state budget has remained stagnant in that same period, yet we are told by this government that there should be more money going to education. This government— the education minister—promised that there would be more money going to education. However, when we look at how the budget has grown, education has received no greater share, despite the fact that things like health have obviously received a lot more.

BRAIN INJURY AWARENESS WEEK

Ms THOMPSON (Reynell) (16:40): I rise today to pay tribute to those involved in Brain Injury Awareness Week which occurred during the winter break, between 15 and 19 August. I want to pay particular tribute to the Brain Injury Network of South Australia (BINSA), the work of its Executive Officer, Mariann McNamara, and its many staff and volunteers.

Brain injury affects many people. It is difficult to get accurate statistical data about it, but it is estimated that 6,000 new cases in Australia annually are admitted to hospital with traumatic brain injury, and this includes stroke. Many require hospitalisation and do not have significant residual impairment. However, the Australian Institute of Health and Welfare data indicates that approximately 15 per cent need rehabilitation and ongoing care. Estimates of incidents range from 100 to 377 per 100,000 population per annum in Australia. In 1993, 110,200 people in Australia reported requiring daily assistance or supervision for their personal care and daily activities as a result of acquired brain injury.

Acquired brain injury is injury to the brain which results in the deterioration of cognitive, physical, emotional or independent functioning. It can occur as a result of trauma, hypoxia, infection, tumour, substance abuse, degenerative neurological diseases or stroke. These impairments to cognitive abilities or physical functioning may be either temporary or permanent and cause partial or total disability or psychosocial adjustment.

Many people find that their lives are quite different after an acquired brain injury. Often it is the emotional and psychological effects that have the most impact after formal rehabilitation is complete. Understanding what has happened and learning new strategies to make the most of living with acquired brain injury may be very important steps for an individual.

The Brain Injury Network's Learning and Lifeskills Program is designed to assist people to do this in a supportive environment. Activities include an Assuming Control Course (an eight-week course held at the University of South Australia), seminars, workshops and forums on life management issues and topics and social and recreational activities.

Many participants of the Springboard program were honoured during Brain Injury Awareness Week, and these people are involved in activities from 10am to 3pm Monday to Friday each week. This program includes many professional therapists who support people to make the most of the abilities that they have, but the contribution of volunteers is central to the philosophy and operation of the Springboard program.

Volunteers from the general community provide crucial services and support to individual therapy and group activities. The program cannot operate without the volunteers. If people were to go to the BINSA website, they would see photos of people playing balloon volleyball, where people line up in chairs with a net over which they pass the volleyball. They have things like visits from the SAPOL Dog Operations Unit, a regular footy tip competition, barbecues and pancake days, where there is much fellowship and people clearly enjoying each other's company.

Some of the services provided by BINSA volunteers include interpreters. When people lose the power of speech, it is very important to have somebody read what they are trying to communicate and convey that to the rest of the community. I particularly noted that a regular figure

in the press gallery here, Michael Jacobs, received an award for his contribution to news coverage and reporting of people with brain injury.

Time expired.

PREMIER'S LEGACY

Mr MARSHALL (Norwood) (16:45): Earlier today, we were invited to the Legislative Council where there was a joint sitting of the two houses to swear in the new legislative councillor, the Hon. Mr Kandelaars. As part of that joint sitting we, of course, made some farewell comments about the retired legislative councillor, the Hon. Paul Holloway. It got me thinking because we have a few approaching farewells in our own house. It made me think: what are we going to say when the Premier leaves office? My thoughts on the topic are as follows.

When Mike Rann retires next month, I believe he will be like a man walking through the desert suddenly coming across his own footprints and realising he has been walking in one big circle the entire time. His premiership is a story of wasted opportunities and treading water. His two great achievements—the ones he is always talking about whenever he can get into the media (which, of course, is his greatest delight)—is the Royal Adelaide Hospital and the redevelopment of the Adelaide Oval.

Madam Deputy Speaker, I put it to you that these are two projects which will not be delivered during his premiership but, like so many of the things that this Premier talks about, they are well into the future. The desperation with which he is seeking to create a legacy is truly pathetic and sad. The highlights he often points to are developments and events which have survived his lack-lustre administration because they had enough perpetual motion from the previous Liberal government, which actually knew how to get things done.

Take, for example, Olympic Dam, which the Premier seems to be anointing as some monumental personal achievement and fiercely guarding from his future successor, Jay Weatherill. It takes a certain audacity to expect any credit for a project when you voted against its establishment at the beginning of your career, but that is how the Mike Rann spin cycle works: he picks things up, wipes off the original label and sells them again as brand Rann products.

How about the Tour Down Under? He has been riding that bike every January for years now; but, of course, we all know in this house that was an initiative of John Olsen when he was premier. In relation to the defence industries, again we heard the Premier today batting on about his legacy in the defence sector. Does he not understand we were manufacturing and producing submarines in South Australia well before he became the Premier? What about giving credit where credit is due? In reality, the ASC, Nick Minchin and successive federal governments of both persuasions had most of the work to do in establishing this important sector here in South Australia.

At every opportunity he comes in and makes ministerial statements about the Clipsal race, the Cabaret Festival or Tasting Australia. He never acknowledges that these are not his legacies. These are just things he likes to rebrand with the brand Rann. Of course, the one festival that he has created is the International Guitar Festival, which has been an absolute, unmitigated disaster.

What about some of his other failures? What are some of the other things he would rather have left off his greatest hits compilation? What about Mitsubishi? What about our manufacturing sector? What about the decline in our gross state product, the measure by which we are held up to other states? He always wants to talk on and on about his government putting in more money than the Liberals did a decade ago, but the real measure is our gross state product, and we are falling further behind other states. We are starting to lose contact with the main states in our country.

What about South Australia's taxation system? We are currently the highest taxing state of business in Australia and our small business sector is struggling to generate jobs in the deplorable conditions that have existed under this government. What about his complete failure on the River Murray—his complete and utter inability to do anything to help our farmers and irrigators? You only have to speak to my friend the member for Chaffey to hear what people up there say about the Premier. He should know—he was elected because of it. We have declining standards in our national literacy, as pointed out by the member for Unley earlier today. And don't get me started on his pet project, international students.

What about this government's record on Indigenous affairs? And there will be more said about that this week. The list of Rann's failures is long. His is a legacy of media releases instead of consultation, of black-listed radio programs instead of engagement and of policy decisions driven

by ego and photo opportunities instead of substance and understanding. So, as Rann saunters off into the twilight (perhaps to join his old mate the member for Port Adelaide on a final jaunt through America), he is leaving behind him a huge mess. It is a mess for his work experience student, Jay Weatherill; it is a mess for the rest of his colleagues; and, most importantly, it is a mess for the people of South Australia.

SECOND-HAND DEALERS AND PAWNBROKERS LEGISLATION

The Hon. S.W. KEY (Ashford) (16:50): First of all I would like to thank minister Foley and his office, particularly his adviser Matthew Walton, for organising a briefing for me with a constituent and with Jeff Hack, Rob Malone and Paul Dickson from SAPOL. The reason for the briefing was to discuss some of the negotiations and discussions that are going on with regard to the new second-hand dealers and pawnbrokers legislation that I understand has been under some discussion for quite some time.

The concern that was raised with me by a constituent—who is a sole second-hand goods dealer—was that he saw some of the proposals under this legislation as being very difficult for him as a sole operator. Overall, I think that some really good changes will take place should this legislation pass through parliament. First of all, there will be two classifications: one will be for traditional second-hand dealers and prawn brokers who trade in the areas of jewellery, electrical goods, electronic games, electoral tools, etc. There will be a class 2 'prescribed goods', which covers goods like those sold by auto dismantlers and marine dealers, as well as caravans, trailers, bicycles and musical instruments.

Then there is a 'non-regulated goods' area, such as furniture, antique furniture, clothing, books and most scrap metal items. In saying all that, it seems like the main aim for updating and modernising this legislation is to try to address the problem that we have in the community of goods, particularly class 1 prescribed goods which are those that may be stolen. They are easily transportable and, quite often, they are stolen and need to be traced, and the legislation is seeking to try to tighten up that area.

It is interesting that what is being proposed is that this responsibility move from the South Australia Police (SAPOL) and become part of the responsibility of Consumer and Business Services. Very briefly, the constituent who has been to see me represents a number of sole operators, not in the prawn-broking area but in the second-hand goods area (and, as I said, buying and selling class 1 prescribed goods), and he is saying that he thinks that some of these provisions may make it very difficult for him to continue in this area.

He has identified that he thinks that there is unfair competition because garage sales, eBay sales, swap meets and fairs will be exempted under this legislation. He sees major problems for sole or small operators because the fees, he believes, are going to be very difficult for operators to pay. I understand that it is being proposed that operators would pay an application fee of $310. They would then go through a fit and proper person test, and, should they be successful and be deemed to be that fit and proper person, they would pay an annual fee of $415. Certainly, the constituents I have spoken to in this area see this as being very high.

They are particularly concerned about the 100 points of identification from the person who is selling the goods to the dealer. They are also really concerned about the paperwork and the new transaction management scheme that has been proposed by consumer and business affairs.

They claim—although I am not sure that this is something that I would argue very strongly—that there needs to be more consultation, particularly for sole operators that are not pawn brokers, because only 1,500 out of the 2,000 operators have been consulted. Some 500 letters, apparently, were returned to the team that are working on this area.

I would particularly like to acknowledge, as I said, Jeff Hack, Rob Malone and Paul Dickson from SAPOL. I apologise to them that I do not have their ranks in my head, but they have done a fantastic job, I believe, in being accessible and certainly answering all the calls that I have had on behalf of constituents. Under that regime, I congratulate minister Foley as the Minister for Police in this area.

PRINTING COMMITTEE

The Legislative Council informed the House of Assembly that it had appointed the Hon. C. Zollo to the committee in place of the Hon. R.P. Wortley (resigned).

ELECTRICAL PRODUCTS (ENERGY PRODUCTS) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

LEGISLATIVE REVIEW COMMITTEE

The Legislative Council informed the House of Assembly that it had appointed the Hon. G.A. Kandelaars to the committee in place of the Hon. P. Holloway (resigned).

NATURAL RESOURCES COMMITTEE

The Legislative Council informed the House of Assembly that it had appointed the Hon. G.A. Kandelaars to the Natural Resources Committee in place of the Hon. P. Holloway (resigned).

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Housing, Minister for Ageing, Minister for Disability) (16:58): I move:

That this bill be now read a second time.

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

Leave granted.

It is Government policy to promote responsible service and consumption of alcohol and to ensure that our entertainment areas are safe and vibrant places. The *Liquor Licensing (Miscellaneous) Amendment Bill 2011* is a reflection of that policy.

Special conditions for late night trading

The Bill provides that premises trading between the hours of 4am and 7am will be required to adhere to a higher standard of operation during those hours. These special conditions will be included in a Code of Practice and will reflect the increased risks associated with trading during this period. The Code may include conditions relating to:

- CCTV and extra security requirements inside and outside of the venue;
- Prohibition of alcohol consumption on footpaths or other outdoor areas;
- A requirement for licensees to employ a 'drink marshal' whose sole responsibility is to monitor the responsible service and consumption of alcohol;
- A requirement for licensees to maintain a register of all incidents that occur on premises; and
- Prohibition of practices that encourage the rapid and excessive consumption of alcohol, for example, shots, laybacks etc.

Further, the Bill provides that if disciplinary action is taken against a licensee for breaching a condition of their licence or a requirement under the Act between the hours of 4am and 7am on a second or subsequent occasion within a two year period, the Court must alter the licence to prohibit the premises from trading between those hours, unless the licensee can show cause why such action should not be taken.

Improve the powers of the Liquor and Gambling Commissioner—public order and safety notices

The Bill affords the Commissioner a new power to provide a rapid response to threats against public order and safety by issuing a short term public order and safety notice in respect of a licence. The Liquor and Gambling Commissioner will be able to issue this type of notice at his or her absolute discretion.

The notice may be issued if the Commissioner considers that the notice is necessary or desirable to address an issue of public order and safety, or to mitigate adverse consequences arising from an issue of public order and safety.

A public order and safety notice may be imposed for a period up to 72 hours and may affect the licence conditions in respect of a licence, for example impose a new condition requiring that only low alcohol beer be served, may vary the trading hours in relation to the licence, or in extreme cases where it is unsafe for members of the public to enter or remain in a licensed premises, may require the licensed premises to be closed and remain closed for a specified period of time or suspend the licence.

Power of the Liquor and Gambling Commissioner to suspend or impose conditions on a person's approval pending disciplinary action

Currently, if a complaint has been lodged with the Court alleging proper grounds for disciplinary action exist against an approved person under the Act, the person may continue their involvement with the premises as normal until such time as the Court makes an order affecting the operation of their approval.

Taking disciplinary action can be a lengthy process and may require one or more hearings before the Licensing Court. There may be situations where, due to the serious nature of the cause for disciplinary action, it is in the public interest for the person to cease their involvement in the business immediately.

The Bill provides the Liquor and Gambling Commissioner with the power to suspend a person's approval, or impose conditions on an approval, pending disciplinary action before the Court. It is intended that this power would be used in the type of situation where the Commissioner becomes aware, for instance, that a person approved in a position of authority has been charged or convicted of serious drug dealing or fraud, which puts into question their integrity and rectitude of character as a person to be entrusted with the sort of work which this approval entails.

The amendment does not afford the Commissioner an absolute discretion to simply suspend a person's approval at any given time, but rather provides the Commissioner with the power to do so only when a complaint alleging grounds for disciplinary action has been lodged with the Court, and the Commissioner is of the opinion that, in the public interest, it is desirable to take action.

The amendment recognises the significant practical impact a suspension could have on the individual person and to a premises, and as such, places a reasonable limitation on its application. The Bill also provides the Court the power to revoke or vary any suspension or condition imposed by the Commissioner.

Increase the powers of the Commissioner of Police

Currently the Commissioner of Police has the power, under section 83BA of the *Summary Offences Act 1953*, to close a licensed premises if it is overcrowded. The powers of the police are therefore clearly limited in responding to an urgent situation at licensed premises, such as where a large brawl or a riot has started.

The Bill extends the powers of Police to ensure that a senior police officer (that is, a police officer of or above the rank of inspector) can issue certain orders if the officer believes on reasonable grounds that it would be unsafe for members of the public to enter or remain in licensed premises because of conditions temporarily prevailing there. A senior police officer may, for example:

- order persons to leave the premises or part of the premises immediately;
- order the licensee to immediately remove persons from the premises or part of the premises;
- order the licensee to take other specified action to rectify the situation immediately or within a specified period; or
- if satisfied that the safety of persons cannot reasonably be ensured by other means, order the licensee to close the premises or part of the premises immediately and for such a period as the officer considers necessary (not exceeding 24 hours) to alleviate the danger.

When a senior police officer is satisfied that the danger has been alleviated, he or she may revoke an order under this section.

Repeat offenders

The Government is introducing a suite of measures for dealing with offenders who repeatedly breach liquor licensing laws and licence conditions.

Increasing maximum penalties for serious breaches or offences

The Act has been reviewed and a range of sections have been identified of which subsequent breaches will be subject to a higher maximum penalty, in many cases the maximum penalty has been doubled. It is intended that these increased penalties will serve as a greater deterrent for licensees to repeatedly offend against liquor licensing laws.

The Bill provides for an increased maximum penalty for subsequent offences where:

- a person is selling liquor without being licensed to do so (section 29);
- a condition of a licence has not been complied with (section 45);
- a licensee sells liquor when they are not authorised to do so (section 46);
- conditions relating to the supply of liquor to a lodger are not observed (section 100);
- a person fails to keep records of lodgers as required under the Act (section 101);
- a person fails to abide by restrictions on consumption of liquor in, and taking from, licensed premises (section 103);
- a licensee uses any part of a licensed premises, or any area adjacent to the premises, for the purpose of providing entertainment when conditions required under the Act have not been met (section 105);
- liquor has been sold or supplied to intoxicated persons (section 108);
- liquor has been sold or supplied to a minor (section 110).

Disciplinary action

The Act currently provides that if a licensee is convicted of an offence involving the unlawful sale or supply of liquor to a minor and a complaint has been lodged with the Court on the ground that conviction was due to a breach of duty, the Court must take disciplinary action against the licensee. If the conviction follows a previous conviction for such an offence, or previous disciplinary action for an incident involving such an offence, then the Court must suspend or revoke the licence unless the licensee can show why that action should not be taken.

The Bill provides for an extension of this provision to also include an offence involving the unlawful sale or supply of liquor to an intoxicated person, an offence involving trafficking drugs on the licensed premises and any offences of a class prescribed by the regulations.

This amendment will provide for tighter regulation and penalties for repeat offenders against these provisions of the Act by reversing the onus of proof in proceedings to require the Court to either suspend or revoke a licence unless the licensee can show why such action should *not* be taken.

Repeat expiation notices

The Act currently allows for expiation notices to be issued for breaches of certain licence conditions as prescribed in the regulations.

To reflect the serious nature of repeat offending against licence conditions, it is intended that the regulations will prescribe certain licence conditions where expiation notices will not be able to be issued for subsequent offences. This will mean that disciplinary action would be taken against a licensee and a broader range of penalties would be available to the Commissioner or the Judge in dealing with the matter, for example, licence suspension, or disqualification from holding a licence under the Act.

Offensive and disorderly conduct

The Bill creates a new expiable offence for offensive or disorderly conduct in, or in the vicinity of, a licensed premises. The maximum penalty for this offence is $1250, with an expiation fee of $160.

Without limiting the conduct that may constitute behaving in an offensive or disorderly manner, the conduct may be constituted of offensive language. This new offence does not, however, apply to any behaviour involving violence.

Code of Practice

A Code of Practice (the Code) is currently in force under section 42 of the Act. The South Australian Government amended the Act in 2009 to broaden the scope of the Code. With those legislative changes, the purpose of the Code was expanded beyond minimising the harmful use of liquor and promoting the responsible sale, supply and consumption of liquor, to be a means to support licensees to comply with their broader obligations under the Act. Effectively, the new Code of Practice will impose mandatory licence conditions.

A draft Code has been drafted in declaratory terms so that the obligations are clear to both licensees and regulators. The draft Code will strengthen mandated practices which licensees must comply with and practices which licensees must not engage in.

Provisions in the Code will encourage licensees to take a more proactive role in managing the behaviour of patrons in and around licensed premises and implement practices to clarify and support these obligations.

The Bill contemplates that the Code may provide the Commissioner with the discretion, upon application of a licensee, to grant exemptions (conditional or unconditional) from specified conditions of the Code.

The Bill also provides for a special circumstances licence and a limited licence to be classified for the purposes of the application of the Code.

Redrafting of certain provisions in the Act

The Bill introduces redrafted provisions that relate to the hours in which premises covered by each licence class are permitted to trade. These amendments assist in the overall administration of the Act by making the provisions easier to understand and regulate.

Administration of Licensing Court

The Bill introduces a number of amendments to address administrative matters relating to the Licensing Court. These are purely administrative in nature and include:

- ensuring that the Court will have such seals as are necessary for the transaction of its business;
- providing for an acting Licensing Court Judge in the absence of the usual Licensing Court Judge responsible for the administration of the Court;
- providing for sittings, adjournment and hearings in public or private; and
- providing for rules of the Court to be made under the Act.

Technical amendments

Finally, the Bill makes some technical amendments designed to improve the administration of the Act including:

- providing a definition of the 'production of liquor' in respect of a Producer's Licence;
- allowing service on licensees of notices and documents to be executed by fax or email;
- extending the evidentiary aids in legal proceedings to include public order and safety notices; and
- an amendment to support a waiver, reduction or refund of fees by the Commissioner.

Criminal intelligence

It is foreshadowed that an amendment will be moved to reinstate the amendment inserting section 28A(2) relating to criminal intelligence. The proposed new powers of issuing a public order and safety notice in respect of a licence or imposing a licence condition to improve public order and safety may be exercised on the basis of information that is classified by the Commissioner of Police as criminal intelligence. The proposed subsection provides that in such a case, the Commissioner is not required to provide any grounds or reasons for the decision other than it would be contrary to the public interest if the condition were not imposed or the notice were not issued.

This provision is consistent with the approach current taken in the Act in respect of other decisions based on criminal intelligence such as a decision to refuse a licence or an approval or to revoke an approval of a crowd controller. The main purpose of the provisions is to protect the life and safety of informants.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Liquor Licensing Act 1997*

4—Amendment of section 4—Interpretation

A new reference to the Commissioner's codes of practice is included in sections 40 and 41 (allowing special circumstances licences and limited licences to be classified for the purposes of the application of the codes) and so a pointer definition is included in the interpretation provision.

The definition of extended trade is deleted and a pointer definition included for extended trading authorisation.

A pointer definition to the new concept of a public order and safety notice in new section 128B is included in the interpretation provision. An inclusive definition of public order and safety is included for the purposes of that new section and for the power to impose conditions relating to public order and safety.

5—Amendment of section 11A—Commissioner's codes of practice

Section 11A(2) is modified to contemplate codes of practice including special requirements for the sale of liquor for consumption on licensed premises between 4 am and 7 am on any day for the purpose of reducing alcohol-related crime and anti-social behaviour.

Section 11A(3) is an amendment allowing codes of practice to contemplate exemptions being granted by the Commissioner.

6—Insertion of section 13A—Seal

7—Amendment of section 15—Judges

8—Insertion of section 16A—Rules

9—Insertion of sections 22A to 22C—Time and place of sittings, Adjournment from time to time and place to place, Hearing in public

10—Amendment of section 24—Powers with respect to witnesses and evidence

11—Insertion of section 24A—Entry and inspection of property

These clauses contain a series of technical amendments relating to improvements in the processes of the Liquor Licensing Court.

12—Amendment of section 29—Requirement to hold licence

This amendment doubles the maximum penalty for a second or subsequent offence of selling liquor without being licensed to do so.

13—Amendment of section 31—Authorised trading in liquor

This amendment is technical and clarifies that a licence may set out trading hours fixed by the licensing authority.

14—Amendment of section 32—Hotel licence

15—Amendment of section 33—Residential licence

16—Amendment of section 34—Restaurant licence

17—Amendment of section 35—Entertainment venue licence

18—Amendment of section 36—Club licence

These amendments spell out in full the maximum trading hours of each of the relevant categories of licences and for what hours an extended trading authorisation is required. They are designed to clarify the Act and resolve various ambiguities.

19—Amendment of section 39—Producer's licence

This amendment clarifies that production premises will include a vineyard or like premises.

20—Amendment of section 40—Special circumstances licence

This amendment clarifies trading hours in the same vein as clauses 8 to 11.

The amendment also enables the licence to be classified for the purposes of the application of the Commissioner's codes of practice. This is necessary because of the diverse circumstances covered by these licences.

21—Amendment of section 41—Limited licence

The amendment enables the licence to be classified for the purposes of the application of the Commissioner's codes of practice. This is necessary because of the diverse circumstances covered by these licences.

22—Amendment of section 42—Mandatory conditions

This is a consequential amendment to the inclusion of the definition of code of practice.

23—Amendment of section 43—Power of licensing authority to impose conditions

The provision is amended to expressly provide that a licensee who is dissatisfied with a decision made by the Commissioner to impose a condition in circumstances in which there are no proceedings before the Commissioner may apply to the Court for a review of the Commissioner's decision as if he or she were a party to proceedings before the Commissioner.

24—Amendment of section 44—Extended trading authorisation

Section 44 is consequentially amended.

25—Amendment of section 45—Compliance with licence conditions

26—Amendment of section 46—Unauthorised sale or supply of liquor

27—Amendment of section 100—Supply of liquor to lodgers

28—Amendment of section 101—Record of lodgers

29—Amendment of section 103—Restriction on consumption of liquor in, and taking liquor from, licensed premises

30—Amendment of section 105—Entertainment on licensed premises

31—Amendment of section 108—Liquor not to be sold or supplied to intoxicated persons

32—Amendment of section 110—Sale of liquor to minors

These amendments double the maximum penalty for a second or subsequent offence for relevant offences committed by a licensee or responsible person for licensed premises.

33—Insertion of Part 7A—Offensive or disorderly conduct

New section 117A makes it an offence to behave in an offensive or disorderly manner in licensed premises or in the vicinity of licensed premises. The offence is expiable.

34—Insertion of section 120A

The new section introduces a new power to suspend an approval of a person under the Act or impose conditions pending disciplinary action. The Court is given power to revoke or vary the suspension or conditions imposed by the Commissioner.

35—Amendment of section 121—Disciplinary action

Section 121(4) currently provides that if a licensee is convicted of an offence involving the unlawful sale or supply of liquor to a minor and a complaint is lodged on the ground of the breach of duty leading to the conviction, the Court must take disciplinary action against the licensee and, if the conviction follows a previous conviction for such an offence or previous disciplinary action for an incident involving such an offence, the Court must suspend or revoke the licence unless the licensee shows cause why that action should not be taken. The amendment extends this approach to an offence involving the unlawful sale or supply of liquor to an intoxicated person, an offence involving trafficking drugs on the licensed premises and any offences of a class prescribed by the regulations.

In addition, a licensee is required to show cause why a licence should not be altered to remove an authorisation to trade during the hours between 4 am and 7 am on any day if there is proper cause for taking disciplinary action against the licensee for an incident involving the commission of an offence against this Act on licensed premises during those hours and the finding follows a conviction of the licensee for such an offence committed within the previous 2 years or previous disciplinary action for an incident involving the commission of such an offence within the previous 2 years.

36—Amendment of heading to Part 9

This is a consequential amendment in recognition of the inclusion of new powers in Division 4 relating to public order and safety.

37—Insertion of Part 9 Division 4

The new Division includes 2 new powers.

The first is a power for the Commissioner to issue a short term public order and safety notice in respect of a licence. The notice may be issued if the Commissioner considers that the notice is necessary or desirable to address an issue or perceived issue of public order and safety or to mitigate adverse consequences arising from an issue or perceived issue of public order and safety. The notice is at the absolute discretion of the Commissioner. The notice may affect the licence conditions (including trading hours), may require the licensed premises to be closed and remain closed for specified hours despite a requirement of this Act to keep the premises open to the public during those hours, or may suspend the licence. The notice can last for a maximum of 72 hours. Ministerial approval is required if the licence has been subject to another public order and safety notice within the 72 hours immediately preceding the period for which the notice would apply. The provision provides that no civil liability attaches to the Commissioner or the Crown in respect of an act or omission in good faith in the making, variation or revocation of a public order and safety notice.

The second is a power for a senior police officer to issue certain orders if the officer believes on reasonable grounds that it would be unsafe for members of the public to enter or remain in a licensed premises or part of a licensed premises because of conditions temporarily prevailing there. The orders are the same as those that may be made under section 83BA of the *Summary Offences Act 1953* in circumstances of overcrowding of a public venue.

38—Amendment of section 135—Evidentiary provision

This is a technical amendment to extend the evidentiary aids to public order and safety notices.

39—Amendment of section 136—Service

This amendment allows fax or email to be used for service.

40—Amendment of section 138—Regulations

This is a technical amendment to support waiver, reduction or refund of fees by the Commissioner.

41—Repeal of Schedule

This is an amendment of a statute law revision nature.

Schedule 1—Transitional provisions

Clause 1 is an important provision designed to ensure that all the changes will have effect in relation to existing licences, approvals and authorisations. Clause 2 enables a licence, approval or authorisation to be substituted to reflect its trading hours and, in certain cases, classification for the purposes of the codes of practice. Clause 3 contemplates consequential variations to gaming machine licences to reflect that gaming operations can only be conducted during liquor trading hours.

Debate adjourned on motion of Mr Goldsworthy.

ROAD TRAFFIC (RED LIGHT OFFENCES) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

Mr VENNING (Schubert) (16:59): I know the house has awaited this speech with great trepidation because of my feelings in relation to red-light speed cameras, but it will be surprised by my outlook. It has been announced that red-light speed cameras will be installed at six metropolitan train level crossings, and this bill seeks to apply the same laws at these level crossings as those applying to road traffic intersections; that is, if a motorist is caught running the red light at the level crossing and speeding at the same time, they will be penalised for both incidents.

Accidents at level crossings can result in very serious injuries and fatalities, and there has been plenty of evidence of that. There have been 24 fatalities in the last 10 years, and the number of near misses is also of grave concern, with 23 reported in 2009-10. We can all recall the horrific accident back in 2002 at the Salisbury train station, where a vehicle had entered the level crossing when it was blocked and a train coming along the tracks was unable to stop. Four people were killed and 26 were injured—an accident that could have easily been prevented.

I have been very outspoken in this place about the effectiveness of speed cameras, and I have argued that their placement in some areas is merely to raise revenue for the government. However—surprise, surprise—I do think that placing red-light cameras with speed cameras at busy level crossings may deter people from trying to speed through at the last minute before a train passes, putting in danger not only their life but also the lives of others, particularly those in the train. So, I am speaking in favour of this measure and the placement of these cameras at level crossings.

The data obtained from a two-week study on the Womma Road crossing at Elizabeth is quite shocking. Approximately 21,000 vehicles exceeded the speed limit, over 12,000 vehicles entered the crossing when the lights had started to flash, and of those 237 were also speeding. Nineteen cars entered the crossing as the boom gate was lowering, and of those seven were speeding. I think these statistics do show that there is a case for putting cameras at level crossings as a deterrent to motorists who drive unsafely through level crossings and to prevent tragic accidents from occurring in the future.

I also note that in my electorate of Schubert six level crossings have been upgraded with the warning devices, and I would have no problem if some of the cameras that are currently hanging out on the roads were placed on level crossings. I would be happy for that to be done because people do some stupid things. When you see them playing Russian roulette with a train, all I can say is that, if we put the cameras there, at least if we see them and they will not be doing it a second time.

I welcome the upgrade of these crossings because they have been a problem right through country South Australia—we still have some crossings that do not have warning devices—and now is the opportunity to deal with it this because I think we have to. Six of these crossings were upgraded between Gawler and Angaston. I certainly welcome that because the train only comes up once a day and people are inclined to think that there are not many trains and they run across the line. Some of the drivers do not even look. So, now they have the warning devices, and the surrounds have been upgraded, I say to the authorities, 'Well done.' We the citizens certainly appreciate that.

I do not support the speed cameras on the open roads, but I certainly support them on level crossings. I believe cameras are all about saving lives and ensuring proper behaviour and not about raising money. I am on the record as opposing speed cameras, but in this instance I am on the record as supporting cameras on level crossings. We support the legislation.

Dr McFETRIDGE (Morphett) (17:04): I rise to support this bill, along with my colleagues, and thank the shadow minister, the member for Kavel, for the excellent job he has done in briefing members on this side. I am continually astounded at the risks people will take around trams and trains. Coming into this place on the tram this morning, we stopped at South Terrace and there was a pedestrian walking on the other side. He came through the gates, but he had earphones plugged in and he did not hear; he almost stepped in front of the tram.

People need to be far more careful around trams and trains. Why they speed through intersections, why they go through intersections when the wig-wags are going even when the boom gates are coming down, is beyond me because in the advert with the 1,000 horses pounding down the side of the train—they are going to cream you if you get in their way. The bill, by implementing speed cameras and red-light cameras at these particular crossings, is a good move.

I have some concerns with the way that traffic lights have been combined with wig-wags at various crossings, and I am not sure how this is going to work with the speed cameras. I need to give the example of the Morphett Road tram crossing as being an absolute cock-up. In fact, more strong words were used by the former head of the department of transport and trams a while ago when I discussed it with him. Some $450,000 was spent putting in traffic lights on that tram crossing, which then supposedly work in synchrony with the wig-wags and the boom gates and, hopefully, with the intersection of Morphett Road and Anzac Highway, a matter of 50 metres to the north.

It is not uncommon to be waiting at that tram crossing with traffic backed back nearly a kilometre south to Bray Street, and you will see traffic backed north in Morphett Road around to Immanuel College. It is an absolute bottleneck there because there is not a synchrony between the traffic lights at the tram crossing, the wig-wags, and also then at Anzac Highway. You will see the traffic lights on Anzac Highway on red, the tram crossing on green, wig-wags not working, and traffic still builds up across the crossing. It hasn't worked: $450,000 and it is an absolute cock-up. I have asked and asked for three years now in estimates in this place for that to be looked at and nothing has changed. It is an absolute stuff up.

The installation of red-light cameras and speed cameras is not going to be done at Morphett Road. I hope they can sort that intersection out because I see people going through red lights there, wig-wags going, it is an idiot's action, and we need to stop it. I am very concerned though, that Leader Street, Goodwood; Woodville Road, Woodville; Kilkenny Road, Kilkenny; Cormack Road and Magazine Road, Wingfield; and Womma Road, Elizabeth North—to the best of

my knowledge—none of them have traffic lights as well as wig-wags. I know, having grown up in Salisbury, and watched the traffic line up and build up over the Commercial Road crossing, that that is a really bad intersection.

The Commercial Road crossing at Salisbury North, not to be confused with the one in Salisbury itself, is a separate crossing. I do not know whether there are traffic lights there. If not, my question to the minister is: you have wig-wags working there, you are just going across that crossing, you are almost to the crossing and the wig-wags start. There is no amber signal like there are with red lights to warn you that you have to stop. You may be below the speed limit, but you are almost there and it is a physical impossibility for you to stop. Are you going to get done by the red-light camera? Is there going to be a slight delay because you have to have that?

The engineers will tell you what the delay should be if you are within the speed limit. If you are speeding, well, you should be done and penalised to the full extent of the law but you really do need to make sure that innocent motorists going about their daily lives within the law, approaching a crossing like this, are not going to be penalised if those red lights start flashing as they are about to enter that crossing. It would seem very unfair. I hope the minister can give us an answer to that one.

I want to know whether any of these crossings have combinations with traffic signals as well as the wig-wags because that is a complication, and the tram crossing at Morphett Road at Morphettville is an example of where things are not working properly. People get frustrated and go through red lights, and I think something needs to be changed there so that people are not risking their lives, and are not endangering themselves and the drivers and passengers on the trams.

That is all I really want to say about this. I do have a concern about the motorists entering as the lights start working on the wig-wags. I hope the minister has an answer for that. People who speed through tram and train crossings deserve to be prosecuted to the full extent of the law and I hope they think about not only their own lives but also the lives of the tram and train drivers, the passengers on the trains, and the families of those and their own families. The opposition supports this bill.

The Hon. R.B. SUCH (Fisher) (17:10): I support this bill. Like other speakers this afternoon who have reflected on idiots (you cannot call them anything else) who try to beat trains or drive around boom gates and so on, I believe this measure will help save lives and deter people from doing stupid things. I am not opposed to red-light cameras. If they are used properly in sensible and appropriate locations and they are properly maintained and have the correct certification and so on, I do not have a problem with them at all.

Some people might think I have a vendetta against speed cameras, but I do not. In fact, I am actually in favour of having cameras fitted to the hand-held laser gun. Before I get on to that issue a bit further, I have been arguing for a long time that locomotives, and trams as well, should have a small flashing amber light on the top of the cabin so that people can see from a long distance, and particularly from the side, that a locomotive or a tram or a railcar is approaching.

TransAdelaide has its railcars with flashing headlights, which is good, but that basically applies to people who are looking at a railcar front on. If the flashing amber light, which is available for about $30 at most, approach does not work, I wish that someone would tell all the vehicle users at airports and all the road safety people that they are wasting their time using those amber lights because no-one notices them. Well, they do notice them.

I cannot understand why, for the sake of $30 plus the fitting fee, which would not be much, you cannot have a flashing light on locomotives so that people could see the locomotive, the railcar or the tram from a long, long way away. I think it was the member for Morphett who mentioned someone listening to music, with their earphones in place. Even if that person cannot hear the movement of a tram—and these trams are pretty quiet—they would see the flashing amber light.

The other thing in relation to trams: I think that, when they enter King William Street or North Terrace, they should emit a beep sound similar to a reversing truck, because that would also help as an additional safety measure. Going a bit beyond the red-light camera, as members would know, I have had some experience with speed detection devices. I am still not satisfied that they are being used appropriately, because in South Australia, unlike the United Kingdom and New Zealand, they do not have a photographic capability.

A few years ago, I think it was the Minister for Transport (it might have been the minister for road safety) said that there was no objective evidence produced by those devices. That is true, and

that is not satisfactory. If you have a police officer who is not doing the right thing, the system is open to abuse. Last week, I met with the police commissioner, Mal Hyde, and had a very productive and fruitful discussion with him.

I showed him my expiation notice and two others that were obtained on the day that I was allegedly speeding. The commissioner, I think, was surprised that you get that only at the time you challenge it and go to court—so, about seven months after the alleged offence. However, the point is that, unless you challenge it and go to court, you will never know what that police officer put down, and it could all be bogus or false.

The police commissioner admitted that it comes down to the integrity of the individual officer. My view is that, if you are pinging people for speeding, for breaching red lights or for going across railway crossings under this new provision, you should have objective evidence to prosecute and to require the person to pay a fine. In my particular instance—and I do not want to dwell on it for too long—the particular officer, Gregory Luke Thompson, lied in court.

He lied on many points, and I will not go into all of them. People are welcome to read the transcript, and I will point it out to them if they are interested. Sadly, the magistrate, Joanne Tracey, was out of her depth when it came to vehicle and motor matters. She was, in my view, biased. A senior retired police officer told me before I went to court that that particular magistrate, in his words, 'hunts with the other side'.

Without deliberating on that too much, what I am saying is that you must have a system which is fair and transparent and in which you have objective evidence; in this case, with these cameras that will be focused on railway crossings, you will have objective evidence. It is pretty hard to argue against a camera offence. I wish in my case there had been a photo because I do not believe I would have gone through a pretty unpleasant experience (and a costly one) if there had been a photograph.

With these crossing cameras, there will obviously be a photograph. If someone says they did not go through the crossing, well, bing, there is the photo: yes, you did and you pay up. That is the way it should be. Ironically, those cameras, and the other fixed cameras, are calibrated according to a strict regime and they are checked frequently. In the case of the handheld lasers, they are not required to be maintained to a particular standard. The police say they do that, but there is no law that requires them to be maintained.

At the time of my alleged offence, the police laboratory was not accredited by the National Association of Testing Authorities. It had been suspended. During the court process, the police officer claimed to have initiated three different certificates of accuracy for the laser: the first one he said he could not really remember whether he did or not, but he probably did; the second one was incomplete; the third one had not been checked by an inspector, as required by law, and it had white-out on it and handwritten additions in biro, saying 'speed gun'.

What I do not want to see with this sort of provision—and it should not happen with the level crossing issue; if people are charged or have to face a penalty then it is quite clear cut—is any dodgy, phoney, risky accusation, which is the current case with handheld lasers. In this case, I assume they will be managed, maintained and properly accredited in terms of the standards that should prevail. There are standards for fixed cameras, and there are Australian standards for lasers, but the police do not have to meet them. As the judge ruled, they do not have to meet any standard; they can do what they like.

I welcome this measure. I think it is a good measure, and I think it will save lives and avoid the sort of costly exercise I had to go through, where you try to demonstrate your innocence when you are up against a police officer who does not tell the truth and a magistrate who does not understand motor cars or motor vehicle usage and has little or no understanding of maths and physics and therefore you are hung out to dry. I commend the bill to the house.

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) (17:18): I thank the honourable members who have spoken to this bill for their contributions today. Just to answer the question from the member for Morphett, there will be a delay in the road crossing. It will be the equivalent of an amber light.

I think the amber light cycle exists for roughly four seconds, and then there is a delay of a further second after that before it comes on at an intersection, a red light, a traffic light, and it will

be the equivalent at a level crossing. There will be some delay. I was pleased that the member for Morphett used the technical term that he did: my preferred technical term is 'ding-ding', but he had a 'wing-wang' or something like that. I am glad to see these technical terms creeping into the debate here today.

Crashes at level crossings can have catastrophic results in several ways. Car drivers and passengers often lose their lives, or at best are seriously injured in these crashes. These serious accidents can also lead to longstanding trauma for train drivers, their crews and passengers. In fact, every year in Australia an average of 37 road users, vehicle occupants and pedestrians die as a result of collisions with trains at railway level crossings. This bill contains a small amendment to section 79B of the Road Traffic Act 1961 relating to level crossing offences, as members have known and outlined in the debate.

Driving through a level crossing while the warning lights are flashing has serious road safety implications. Also, drivers often speed up when they see the level crossing warning lights flash and drive through the crossing above the applicable speed limit. However, the double penalty for these two offences arising from the same incident, when committed at an intersection or marked pedestrian crossing, does not apply to level crossings. This bill rectifies that anomaly by amending the definitions of red-light offence and speeding offence in the Road Traffic Act to include twin red lights, and these are the horizontal or diagonal alternately flashing red warning lights seen at level crossings, known by their various technical names.

These will have the effect of applying the existing double penalty of speeding through the red light at an intersection or marked pedestrian crossing to speeding through a level crossing where the warning lights are flashing. The changed definition will flow on to the Motor Vehicles Act 1959, and ensure that demerit points for both offences apply.

I want to stress that this is not a revenue-raising measure; rather, it is another important step towards encouraging drivers to slow down as they approach level crossings and discouraging them from trying to beat a train or a tram. You are never going to win in a collision with a train or a tram. The risks are simply too great, and a moment of madness by a driver trying to race a moving train can have fatal consequences, not just for those behind the wheel of the car but for train drivers and their passengers as well. That concludes my comments on the bill. I am very pleased for the support of the opposition, and I thank the department and my staff for getting this through here today. I commend the bill.

Bill read a second time.

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) (17:22): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SMALL BUSINESS COMMISSIONER BILL

Adjourned debate on second reading.

(Continued from 28 July 2011.)

Mr GRIFFITHS (Goyder) (17:22): It is indeed a pleasure for me to rise to make a contribution on the Small Business Commissioner Bill 2011. I will be lead speaker for the opposition on this bill; however, I do flag the fact that there are some eight or so members of the opposition who intend to speak, and I have no doubt that there will also be some members from the crossbenches who will speak on the bill.

This bill was introduced by the minister on 28 July. I must admit I expected that to have occurred some time before that. The consultation occurred in the first quarter of 2011, and the minister spoke to people about it late in 2010; indeed, my understanding at that early stage was that it was intended that two bills be introduced, one dealing solely with the Commissioner and one dealing with franchising. Be that as it may, we got it on 28 July, which was an opportune time because it allowed for consultation to occur during the break.

I do have some level of frustration, though. Under an FOI application I had to wait three months to get the 57 submissions received by the minister's office as part of the consultation draft

that was out there, and they arrived only Monday of last week. That was a bit of a shame because even though structural changes had occurred significantly, because the consultation draft was a very different bill to the one that has now been introduced by the minister, the comments received as part of that were quite good in the feedback that I was able to put together.

Because I got those comments just in time, they formed part of the discussion that the opposition joint party room had, when it came to its consideration of the bill, and I do think it is fair that I put on the record that the discussion in our room was quite vibrant (if I can use that word). That came from the fact that there are many people on this side who have a lot of experience in small business; operating it, working it, being part of second and third generation businesses. I certainly understand the impact of small business on the economy and I also have a great feel for where the level of government support needs to come from when it comes to small business activities.

I note that a briefing was provided. The minister's office contacted my staff quite quickly after the introduction of the bill offering a briefing opportunity. The only slight delay was as a result of mixing the diary appointments that I had in place with Professor Frank Zumbo, who is the minister's principal adviser on this bill. However, I was grateful that a briefing was able to take place on 10 August with Mr Mike Sinkunas, the Project Director for the small business commissioner, and Mr John Trezias, who is from the minister's office, I believe. We had a good conversation about lots of different things for about an hour and a quarter.

I must admit that the fact that I had been involved in the Economic and Finance Committee inquiry into franchising assisted my knowledge of the issue to some degree, and it certainly helped me in preparing the briefing paper that I put together for the joint party of the opposition. The minister has been questioning me today on the opposition's position on the bill. I was debating when to declare our hand, but I will confirm that after very serious consideration the opposition has decided to not support the bill.

I will outline the reasons for that. Indeed, it is still my very strong desire to ensure that questioning takes place on a lot of the clauses within the bill on the basis that I understand the numbers that exist within this room. You will certainly win the debate here, but it will be interesting to see what occurs in the other chamber. The fact that the opposition does not support the bill should in no way be construed as a lack of support for small business. If anything, it is actually the opposite.

Mr Piccolo interjecting:

Mr GRIFFITHS: No; it is the opposite. The member for Light, I am sure, will have a contribution and I know the minister will have a contribution. No doubt, I will sit here and take a pummelling, but there will be other members who will make contributions because it is an important issue. All of us here understand the importance of the role that small business plays in the economy. I quote it and the member for Norwood, because of his own experience, quotes the fact that small business involves some 136,000 separate entities.

As an economic driver in our state, small business can never be disregarded. Indeed, we have to consider: what is the best use of available resources by government when it comes to the support of small business? My great concern has always been that the introduction of the Small Business Commissioner Bill appears to be a reactive response to a problem which exists within an industry, or within a business relationship, that creates the need for an umpire to come in.

My position would certainly be that those services are available to some degree by other facilitators, and we will talk about that in a bit more detail as we go along. As I have expressed to the minister during the estimates debate, my desire would always be that government support needs to be there at the start or in the early mentoring period, or in the family generational transfer between small business operators. That is where my great concern is. Indeed, if you look at the program that exists within the budget devoted to small business, it is only in the range of about $1.9 million. For 136,000 different small business operators, that equates to a fraction under $14 per small business.

I recognise that the introduction of this bill is a commitment of between $1.1 million and $1.5 million. I think that was the briefing figure provided to me on what the recurrent cost would be for the operation of the small business commissioner. The apparent lack of respect towards small business as a prime driver of the economy and the level of direct allocation contained within the budget papers is of great concern to me.

Minister, I understand your family comes from a small business background. My family comes from a small business background—small operators in hotels and farming. There are many hurdles put in people's way. There are also many areas where assistance is required. I suppose it is for that reason that I have expressed concern during estimates and questioning in other areas about the decision to withdraw funding from the business enterprise centres, for example, from 1 July this year.

There are those in this chamber who might say it is relatively small dollars, $150,000 per organisation, a collective figure of $1.35 million; but, indeed, the business enterprise centres are a service that operates from a collection of funds from state, local and federal governments and, indeed, private enterprise which it supports, that has some 70,000 contacts per year.

So I know that the minister will constantly criticise the fact that we are not supporting the bill, but there needs to be the counter argument put that there needs to be an indication from government of the support that exists for small business in every possible way and not just that it is to be involved in a situation where there is a debate that is occurring about a failed relationship, the slow payment of an account, a disagreement about the conditions of a contract or whatever the situation might be that the proposed small business commissioner would actually deal with; and there needs to be a lot more support at the front end of the organisation, too.

I know there are shakings of heads and there are different philosophical viewpoints that come into this but, to me, there is tremendous opportunity to grow business and, by that, grow the economy and, by that, grow employment opportunities. It is that upfront support that will make the difference—as, indeed, will some level of support to sort out disputes that arise. That is where I say I am aware there are associations out there, and I believe one is the Housing Industry Association, that have a mediation service to be involved in dispute resolution.

There are other mediation services. Some, on my understanding, operate with some level of government support to sort out concerns and disagreements, too. We are going to talk about this for a while. Indeed, when it comes to support for small business, I also look at the decision made in recent budgets about CITCSA, the Council for International Trade and Commerce of South Australia. Mr Barry Salter is its executive officer.

There are 43 or 45—about that number—chambers of commerce from different nationalities where there are opportunities for South Australian companies to develop relationships with those countries to develop export opportunities. I know the minister wants to see an increase in our export dollars and whenever there is a poor result there is a message that comes from this side and when there is a positive result there are messages that come from that side.

There are always counter arguments flowing. But, as a bipartisan approach to this, we need to ensure that we create opportunities for our businesses to export their products or services. That is why I know there are many in the community and in this chamber who were frustrated by the decision to withdraw I think in the range of $200,000 from CITCSA.

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: The minister says $80,000. We will see. I am sure the minister will come back and correct me if I was wrong. It is that sort of thing that frustrates many people in the community, and they are vibrant associations of people who have business ideas. They have a relationship with another country, certainly either by birth or by their parents' birth. They want to ensure that the place they are now residing in, South Australia and Australia, has economic opportunity across those nations, and that is where I am disappointed by that.

As part of the submissions received by the minister and which we got on Monday of last week, there was a notation that previously a position of small business ombudsman had existed, which was removed I think in about 2006 or thereabouts; it might have been 2005. You could argue, indeed, that a small business ombudsman would take on a relatively similar role to what a small business commissioner is going to do.

You could argue, indeed, as the member for Norwood pointed out to me, that there was a small business advocate role that has existed within government structures which is no longer there, either. So it appears as though there has been a continual drawdown by government of resources devoted to positions and programs designed to support small business until, finally, the recognition has come from minister Koutsantonis that he wants to put out the small business

commissioner there based on what has occurred in Victoria since 2003, I think when they established their position.

I think that small business in South Australia is a bit like the home ownership dream that exists around Australia and the world. For us to have a population of 1.6 million but to have 136,000 small businesses indicates to me, stronger than anything possibly can, that that is what people's dream is. They want to be in charge of themselves, they want to work hard and get a reward for that effort, they want to be able to provide for themselves and their family and grow the economy that they themselves benefit from and that the community they operate in benefits from. They understand that there will be a lot of challenges and they know that they are going to need assistance sometimes, and that is why they do look to government for a variety of resources to ensure that they have the best possible opportunity of success.

That is where I come back to the Business Enterprise Centres in regional areas. There is the Regional Development Australia organisation, there was the small business ombudsman who used to operate and the small business advocate who used to operate but, sadly, now it appears to me that the focus has fallen on the small business commissioner as the panacea for the issues that small businesses are dealing with, and that that will be the best fit for the dollars that the minister has been able to make available in the budget to get the best possible result.

My understanding is that the Victorian commissioner between 2003 and 2010 dealt with some 6,800 cases. My understanding from the briefing was that the budget provision that has been set for the proposed South Australian commissioner is in the vicinity of 30 per cent of what the operational costs were. Yes? I am getting a bit of a nod from the advisers to the minister.

Based on those numbers, if it is 6,800 and you bring that down to what the number would therefore be in South Australia, about 290, I think, complaints per year potentially have been budgeted for within South Australia, that is, if you look at similar numbers as they flow across. I am not denying that 290 complaints are not important—I never would do that. Every complaint, every issue, every poor relationship and every breakdown of a contract is important.

However, there are other services that are already available to some degree to actually help resolve those without the need to go to a court situation. There will be a difference in the philosophical viewpoint on that, but we just need to put those to the chamber. It is also important to say—and reports in recent days actually highlight this—that business confidence is challenged at the moment. People are concerned about what they see occurring around the world.

They are concerned with a possibility of interest rate rises, they are concerned about the fact that retail spending is down and they are concerned about the fact that people are so consumed by their level of debt that they are pulling back on their discretionary spending because they want to make sure that they can pay their bills. By doing that they help them themselves, but what is the net effect upon business activity within South Australia?

It is that level of concern about small business, as well as looking at the taxation regime that is in place and the level of red tape, and I do acknowledge that there is a red tape reduction plan. I think that it has been ordered to achieve some $150 million in savings. That was the last figure that I saw. However, that creates a great challenge to ensure that the best possible system is put in place for the dollars that the state has available to make it work.

I have talked about the commissioner's role; I will talk about franchising now. Again, I will just put some numbers to the chamber so that everyone has a scope for it. I am grateful for minister Koutsantonis confirming with me during the briefing that approximately $180 billion nationally is devoted to franchise expenditure, but the numbers are actually amazing. There are 1,270 different franchise operations existing in Australia, and 670 of those operate in South Australia alone.

Nationally, franchising employs 775,000 people. I have not done the sums for what that might work out for South Australia but it would be enormous numbers if you base it on 7.2 per cent of the population, or thereabouts.

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: Yes, very significant. Again, it is an example of people seeing franchising as an opportunity for them to be in charge of their own future. Having been a member of the Economic and Finance Committee I listened to the representations put before us and it was impossible not to be moved by it, and I do acknowledge that. The overwhelming majority of people

who came to present before the committee (of which the minister was then the chair and of which the member for Light was then a member) related sad stories.

They were people who were committed to working as hard as they could but, for whatever the reasons, the circumstances put in front of them made it bloody impossible for them to succeed, and they deserved better than that. We also know (and if we look at it objectively) that franchising is a system that works overwhelmingly well around the world. There are tremendous operators out there—master franchisors and franchisors who recognise that their greatest value is held in a strong relationship with the franchisee, which ensures that the business works.

The Hon. A. Koutsantonis: Good ones.

Mr GRIFFITHS: The minister makes the point, 'good ones,' and I agree entirely with him on that. There would be a lot of independent assessments out there about what the level of poor franchisor compared to good franchisor would be. My hope would be that the number of good franchisors would be in the high nineties. The facts are and human nature is such that, whenever any level of inquiry is undertaken—and I recognise that Western Australia also had an inquiry on this—the majority of cases put to any parliamentary inquiry will be on the poor experiences, and those people deserve to have protections in place. I would never say that they do not deserve that. But that is what the national code of conduct exists for.

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: Yes, but the national code of conduct is a compulsory code that is in place, and the member for Light nods his head and acknowledges that.

An honourable member interjecting:

Mr GRIFFITHS: That is the frustrating part of this; we talk separately, but I would rather have the debate across the table as we each made a point. The franchisors that are out there, who seemingly get their jollies from churning over businesses, deserve to be run out. Whenever I have had discussions with the Franchise Council of Australia—and, I must admit, it has been quite a few times in the last 18 months—they have told me that they totally agree with that.

An honourable member interjecting:

Mr GRIFFITHS: Well, that is the position they put to me. The member for Light has made a note about that comment, I think. That is the position that the Franchise Council has put to me. They want the industry to be strong, too, so that it actually attracts people to it. I am not brainwashed on this, minister, I am telling you.

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: We'll see.

The Hon. A. Koutsantonis: Because you are a decent, honourable man.

Mr GRIFFITHS: Honesty is always the best policy, minister.

The Hon. A. Koutsantonis: It certainly is.

Mr GRIFFITHS: It allows me to sleep at night.

The Hon. A. Koutsantonis: It certainly does.

Mr GRIFFITHS: I also respect that the eventual report submitted by the Economic and Finance Committee was a unanimous one. There were no dissenting voices. I think it made some 14 or so recommendations, and my recollection is they were directed more towards changes that could be made federally.

Members interjecting:

Mr GRIFFITHS: The minister says yes; the member for Light is not quite so sure. Anyway, I am sure that they will clarify that, but my recollection is that the recommendations were for changes to be made federally. I can only presume that that was the position because it was felt at that time by the minister, who was then the chair, and the member for Light that having changes created federally was the best way to go, because it creates a consistent approach to franchising around Australia.

The counter argument to that is that, if South Australia is to bring in provisions that allow for state-based legislation and therefore additional codes of conduct come in—and I will openly put

that the Franchise Council of Australia are the ones that have said this to me, but so have other independent franchisors also—you create a system where South Australia is seen as being a place not to invest. I do not want that, the minister does not want that and the member for Light does not want that. We always want to ensure that South Australia is seen as an attractive option for people to come and invest their hard-earned dollars, to commit their lives and to have the greatest possible chance of being successful. I am stating to the minister the positions that have been put to me.

Mr Piccolo interjecting:

Mr GRIFFITHS: As I said, the FCA and other independent franchisors too, who probably are members of the Franchise Council of Australia. I will respect that. The Franchise Council of Australia does have representation from both sides of the equation though. The franchisees are low in number—I will state that. I am pleased to see there are a few smiles appearing across the chamber. It will be interesting to see what the morning radio is like, but we will face that when it comes.

I was not surprised, therefore, given the report that was prepared by the Economic and Finance Committee and then the eventual private member's bill that the member for Light submitted I think on the last sitting day before the parliament rose in 2009—and then all the stars aligned when the minister became the Minister for Small Business.

Mr Piccolo: You lost the election.

Mr GRIFFITHS: Yes. You can say that; I won't. The member for Light got re-elected too.

An honourable member interjecting:

Mr GRIFFITHS: He did, in a hard-fought contest. When those stars aligned in that way, it was not a surprise to me that eventually we were going to receive a bill. The concern for me in relation to a small commissioner position had always been about the ability to mediate, not arbitrate. We will talk about that a little later, but the great issue for me was the amalgamation of the aspects of what I thought was going to be two bills.

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: No, don't. Mediation is what I am after, minister. It was the fact that the bill that went out for consultation was based around the commissioner's role itself and then, all of a sudden, there were significant changes made to the bill that has eventually been submitted to parliament.

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: Minister, it is also fair to say that when a bill comes before the parliament, and when you want to focus on the consultation that occurs with the community, you give the bill in its closest possible form to what is going to come to the parliament to the community for consultation.

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: I would expect you to, indeed—if you have 57—

The Hon. A. Koutsantonis interjecting:

The DEPUTY SPEAKER: Order! Gentlemen, the saddest thing about this interchange is that I actually just cannot hear it. You are having some sort of intimate chat.

Mr GRIFFITHS: You can hear my bit.

The DEPUTY SPEAKER: Well no, all I can hear is you saying, 'Yes, yes, yes, but...'

Mr GRIFFITHS: Well then I correct the record, Madam Deputy Speaker.

The DEPUTY SPEAKER: If the minister wishes—

Mr GRIFFITHS: I still apologise.

The DEPUTY SPEAKER: Yes, it is not just you; if the minister wishes to interject, of course, he could at least use the microphone.

Mr GRIFFITHS: Madam Deputy Speaker, you are correct. The seriousness of this bill deserves a debate to occur. I understand that we have been a bit familiar about this—

The DEPUTY SPEAKER: That's okay.

Mr GRIFFITHS: —and I will try to keep it more structured. Now, eventually the bill does come in, in a considerably revised form, and I intend to put on the record some comments that I have received from the Franchise Council of Australia today.

Mr Piccolo interjecting:

Mr GRIFFITHS: No.

The DEPUTY SPEAKER: Member for Light.

Mr GRIFFITHS: The member for Light asked me if I am an agent for the FCA, Madam Deputy Speaker, and that is not correct.

The DEPUTY SPEAKER: For the STA? The State Transport Authority?

Members interjecting:

The DEPUTY SPEAKER: The member for Light should stop interjecting. Having said that, the member for Goyder should know that he cannot respond to interjections, because you know that when you respond, it makes them go into *Hansard*, and then you just validate their speeches.

Mr GRIFFITHS: It confuses the whole issue, doesn't it, Madam Deputy Speaker?

The DEPUTY SPEAKER: It is entirely up to you, member for Goyder, quite frankly.

Mr GRIFFITHS: I will try not to do it any more then.

The DEPUTY SPEAKER: Whatever you need.

Mr GRIFFITHS: I now come back to the primary focus. I am sure the minister might hold an alternative position on this, but my belief is that we structured the 14 recommendations from that report to go to the federal people for them to look at—and I know that the member for Light actually presented to a federal parliamentary committee on this. I also know that the member for Light had a lot of frustration with his federal colleagues about the fact that they were not prepared to make changes. That is where the dispute lies between you and your colleagues in Canberra, who should—

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: No. I hope not. There is no dispute.

Mr Piccolo interjecting:

Mr GRIFFITHS: I am trying to be—

Mr Piccolo interjecting:

Mr GRIFFITHS: The member for Light is bothering me now.

The DEPUTY SPEAKER: Member for Goyder, does that mean that you are requesting my protection in this matter?

Mr GRIFFITHS: I am; I feel threatened.

The DEPUTY SPEAKER: All right, well, I am sure the member for Light will pull back from his outrageous behaviours—

Mr Piccolo interjecting:

The DEPUTY SPEAKER: No, no, there is no argument here. This is what I say, so it goes. The member for Goyder will just carry on and get on with it.

Mr GRIFFITHS: It is also fair to say that questions have been raised about the term 'in good faith'. I will ask questions about that when we actually come to that section of the bill, but it has been put to me. I read—

Mr Piccolo: By who?

Mr GRIFFITHS: I read—

Mr Piccolo: By who?

Mr GRIFFITHS: —one interpretation of it, and then the words of the minister, and I thought, 'Okay—'

Mr Piccolo interjecting:

The DEPUTY SPEAKER: Member for Light!

Mr Piccolo: I just want to clarify.

The DEPUTY SPEAKER: No! No clarification needed. None. Quiet times. Member for Goyder.

Mr GRIFFITHS: I do want to enforce the fact that the concern for us comes about by the fact of the great fear that by creating, potentially, two sets of rules (one that exists in South Australia and one that might exist in every other state in the nation), because I am not aware of any other state that has actually flagged its intention to put this sort of legislation before the chamber—

Mr Piccolo interjecting:

The DEPUTY SPEAKER: Member for Light, what has overtaken you?

Mr GRIFFITHS: Again, I need your protection, Madam Deputy Speaker.

The DEPUTY SPEAKER: No, member for Goyder, you keep responding to the member for Light.

Mr GRIFFITHS: I wasn't then. I was waiting for you to tell him to be quiet.

The DEPUTY SPEAKER: So you do require my protection? Okay, just checking.

Mr GRIFFITHS: On occasion.

Mrs Geraghty: Just throw them all out, and we can go home.

The DEPUTY SPEAKER: I haven't actually ever thrown anyone out, and the member for Torrens suggests that I throw everyone out.

Mr GRIFFITHS: Madam Deputy Speaker, if I may just comment. The member for Light, from across the chamber, has talked about Western Australia.

Mr Piccolo interjecting:

The DEPUTY SPEAKER: Member for Light, that does not mean you respond!

Mr GRIFFITHS: And I know what the answer is, too.

Mr Piccolo interjecting:

The DEPUTY SPEAKER: Member for Light, I am not joking anymore. Stop it! Member for Goyder.

Mr GRIFFITHS: Peter Abetz, who is a member of the Liberal Party in the Western Australian parliament, has submitted a private member's bill that deals with franchising. My understanding is that it will not be supported within the chamber. We will talk about this at length, there is no doubt about it. The primary reason for the Liberal opposition not to support the franchising issues as they relate to this bill is the concern about the effect upon the South Australian economy: it is a very serious one.

I respect the fact that the minister and his people in cabinet have introduced this on the basis that they feel it offers a level of protection for franchising. The opposition comes from the viewpoint of the great fear that it will be seen by whoever looks at franchising opportunities around the nation as an opportunity to say, 'Don't go to South Australia,' and that would be the worst possible result.

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: No, I am talking about franchising at the moment, minister. We need the economy to expand. We need successful franchisees and franchisors to base themselves within this state. That is why we formed the opinion that changes, when required—and code of conduct changes on the federal level occurred in July last year in 2010—are brought in on a national basis and are the result of discussion and negotiation.

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: In this case, I am a supporter of a national approach to rules. In this case I am a supporter of a national approach to controls because I believe that in this case it works best. I say that in all honesty to the minister. It had been put to me as an opportunity for an amendment that we might give consideration to—to suggest to you that there be some sort of time restriction in place whereby, as a flag to your federal colleagues, you say that South Australia has available to it legislation that creates an opportunity to bring in code of conduct changes of its own volition if the federal government does not get it right within 18 months. The member for Light does not like that, and the minister has not indicated his thoughts on it, but it is not the amendment I intend to flag anyway.

That is the level of feedback I have received from talking to people who operate within the industry. That is why I come from the viewpoint—and I will continue to talk about this fact—that that when change occurs (and I say this with my hand on my heart) it needs to occur at a federal level so that there is a consistent approach across all the states to ensure that the way in which franchising operates in Australia is done uniformly so that there is a common approach to it and there can be surety for people when they look to invest, no matter what state they look to invest in, that the rules under which they will operate, the code of conduct provisions which will control the way in which they operate, are consistently applied.

I appreciate the fact that there has been an open discussion here, but some submissions were received today that I want to put on the record. The first one is from the Local Government Association of South Australia, which I believe was also sent to the minister. The LGA seeks to have the following issues addressed:

> The Commissioner will have an important role in the mediation of disputes that may involve the local Government Sector—the LGA seeks an assurance that Councils are engaged early in the dispute resolution process and given the opportunity to respond to issues before any formal action is taken by the Commissioner. This is particularly relevant given the resource implications of taking this course of action.

Point 2 from the Local Government Association states:

> There is a lack of clarity on the role of the Commission versus the Ombudsman—

I intend to certainly ask questions about that later on, too, and in relation to the Commissioner for Consumer and Business Affairs—

> and the LGA is keen to ensure that there is no 'bouncing back and forth' between the two in respect to any dispute.

I notice that in one clause in the bill there is the option of the Commissioner for Consumer Affairs or the Commissioner for Small Business that it says the word 'or' in between and, to me, that creates a level of uncertainty. Point 3 from the LGA states:

> There is a lack of definition in terms of 'small business'—the LGA seeks that the Bill be amended to provide clarity as to the range of businesses it is intended to assist.

From my review of the 57 submissions the minister received, that was raised by quite a few people because there is uncertainty as to what size is a small business. Is the commissioner there only to support small business against small business? I do note, of course, that the second reading contribution from the minister talks about the availability of the commissioner to assist small business in local, state and federal government relationships also. But is it there to support small business versus big business disputes that might arise, too? The fourth point from the Local Government Association states:

> There is a lack of clarity around the role of the Commission will have in terms of advice on government policy, particularly in relation to planning policy which may impact on small business operations, and we seek that the Bill be amended to remove any ambiguity.

I do not know whether the minister's office has had a chance to review that. I had intended to ask questions about whether the commissioner is there to provide policy advice to the minister. Indeed, I had not considered the issue about planning advice, but the LGA raises that issue, so I bring it to the attention of the chamber.

I also put on the record comments received from Mr Stephen Giles, who is well known to some members of this chamber and who is the Chairman of the Franchise Council of Australia. I put this on the record purely to say that this is an email I received. It is my understanding that all electorate offices and members of the Legislative Council also received a copy of the email. I quote the email purely to bring it into the debate. Mr Giles understands that the bill is to be debated to day. The email states:

Dear Honorary Members,

This bill does not have the support of the Franchise Council of Australia in its present form. I also understand that the Shopping Centre Council of Australia does not support the bill. This is disappointing as the FCA supported the concept of a Small Business Commissioner, based on the Victorian model. However, the minister has dramatically amended the initial version of the bill circulated for public comment.

Notwithstanding the extent of the changes, no further version of the bill was circulated for public comment and the current bill goes well beyond the Victorian model and therefore cannot be supported. The FCA is concerned to ensure parliament is not misled as to the minister's consultative process or the level of support for the bill. The FCA believes that many of the organisations that supported in principle the original concept of the Small Business Commissioner, based on the Victorian model, would not support the bill in its current form.

I seek leave to continue my remarks.

Leave granted; debate adjourned.

COMMERCIAL ARBITRATION BILL

The Legislative Council agreed to the bill without any amendment.

At 18:00 the house adjourned until Wednesday 14 September 2011 at 11:00.