HOUSE OF ASSEMBLY

Thursday 1 March 2012

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

VISITORS

The SPEAKER: Honourable members, I draw your attention to the presence in the gallery of a group of students from the Encounter Lutheran School at Victor Harbor, who I had the pleasure of meeting earlier, as they have had a look around our place today. So, welcome; it is lovely to see you here. We hope you enjoy your time here, and your time at Clipsal afterwards.

ROAD TRAFFIC (TRAFFIC SPEED ANALYSERS) AMENDMENT BILL

The Hon. R.B. SUCH (Fisher) (10:32): Obtained leave and introduced a bill for an act to amend the Road Traffic Act 1961. Read a first time.

The Hon. R.B. SUCH (Fisher) (10:33): I move:

That this bill be now read a second time.

This is a modified version of an earlier bill I put in last year, and it relates to traffic speed analysers. For those who do not know, they are hand-held devices for measuring speed—allegedly. The current arrangements in relation to those devices—and members would know that I have had some experience in this area—are deficient because currently, and as I have pointed out before, the Honourable Justice Tim Anderson pointed out to the Supreme court that, under the current law, the police do not have to meet any standards whatsoever in relation to those.

Justice Anderson said that there are no legislated standards, they do not have to meet any standards. Justice Anderson also said that they do not even have to meet the Commissioner's Instructions through general orders. So, what we have here is people out there being allegedly detected for speeding—in some cases, losing their licence and losing their job—on the basis of an instrument which does not have to meet any standard.

The irony is, of course, that SAPOL is on the standards committee for lasers, yet here, for some reason best known to SAPOL and the government, they have always been reluctant to have any legislated standard. What they will say is, 'We meet the standard,' but when you go to court, they say, 'But we don't have to meet it. We are not required, legally, to meet it,' so, they get away with that particular line of argument.

Fixed speed cameras are calibrated regularly, tested regularly and subject to fairly strict conditions. There are occasions when they fail. There was one in January on the corner of Sturt Road and Marion Road that was faulty, and that was pointed out to me by an ex police officer who has an eye for these sort of things. When I raised it with the minister I got a reply saying, 'Yes, that machine is faulty and they are looking at either replacing or repairing it.'

Those fixed red light/speed cameras are subject to stringent standards and they should be. I have said before and say again that I do not condone speeding. I was not speeding in the case alleged against me, but the magistrate, I believe, didn't look at the issue fairly and appropriately and ruled against me.

Part of the problem in defending yourself is that you are trying to defend yourself against the system, which has no standards, which has no benchmarks. The officer in question in my case, Gregory Luke Thompson, said he did not have any real understanding of Australian standards and didn't know much about errors and all that sort of thing that can occur; he said that it was a beautiful instrument and that you can't really make a mistake. You will either get a reading or an error, but it may be off the wrong vehicle or it might be off something else. You can have erroneous readings. You will get a reading or an error, but you can get the wrong reading from the wrong vehicle. In fairness to the public—and I am surprised this situation has been allowed to exist since about 2002, where we have police using these devices that do not meet standards.

I had a case recently where someone came to me as he is about to lose his licence and could lose his job, because, according to a laser reading, allegedly he was 1km/h over the limit for excessive speed, which is 45 kilometres over the limit. I pointed out to him—he did not know and the police do not tell you here and do not adjust—that the manufacturer of those machines says

that, even if they are calibrated perfectly, everything operating perfectly, there is an error margin of plus or minus 2km/h.

In effect, if that person is given that margin of error, he has not broken the law to a point where he will lose his licence and his job. That is pretty significant. In New South Wales the police are up-front and tell people that these machines have an error margin and they deduct that from the alleged speed; police here do not. I do not know what it is about South Australia that we have to have this sort of secrecy and reluctance to have proper standards. In Queensland the police are very up-front and very open. They say, 'Come down here with our laser, have a go yourself, try it out.' Not here: they will not let you put your hands on one, even for a court case to get it checked independently.

So, you cannot have an expert here in court testifying in relation to a laser, because the court will say, 'Have you ever used a police laser, Mr Expert?' 'No.' 'You're not an expert, now get out.' That is what happens here. You cannot have an expert to defend you because the expert is not allowed to touch the instrument to say anything about it. What sort of cowboy state is this when that situation prevails?

I wanted in my case to get the laser tested by Professor Veitch at Adelaide University, where they have special testing equipment. No, we were not allowed to have the instrument because of commercial reasons. That is an outrage in what is, in effect, a criminal case, a traffic matter, that you cannot have the instrument to have it independently tested. Presumably, if you apply that logic you could not be allowed to have a firearm tested because Winchester or Marlin or some other company would object. What a load of bizarre carry-on that is in a society that is supposed to abide by rules of justice.

This bill will ensure that traffic speed analysers, hand-held lasers—a lot of people get confused and talk about hand-held radar; these are hand-held laser, a different principle of accelerated light, a different principle to radar. What the bill will do is ensure that these hand-held traffic speed analysers are operated in accordance with prescribed standards, which include the Australian standards, manufacturers recommendations, SAPOL general or specific orders, and standards prescribed by regulation.

Lasers are used for eye operations and all sorts of things. When you say to medical people, 'Look, you don't need any standards when you're using that equipment. Do what you like,' they would be drummed out of business straightaway. They would be deregistered immediately. You go down to the Royal Adelaide where they have got that sort of equipment and get an answer, saying, 'Look, we can use lasers here. We don't have to meet any standards,' there would be an outcry, yet we allow that situation to occur in daily dealings by police with motorists and others.

In the bill, where there is an inconsistency between the regulations and any other prescribed standard, the regulations will prevail. Where there is an inconsistency between the Australian standard and a SAPOL general or specific order, the Australian standard will prevail. Where there is an inconsistency between a manufacturer's recommendation and a SAPOL general or specific order, the manufacturer's recommendation will prevail.

Currently, if you challenge in court you will not be given the manufacturer's specifications or any information. The police say, 'We don't have to give you anything,' and they don't. Once again, we have a mickey mouse justice system in South Australia which is based on the police being able to do things which in other jurisdictions are not tolerated.

I put this bill to the house. It is not about helping my situation. It does nothing for me personally. What it is about is trying to ensure that, for people in South Australia, we have a fair, transparent system, where the equipment used to detect people is properly calibrated and has proper standards. I hope that parliament will support it because I think it is fair and reasonable; and I hope that the RAA, which claims to represent motorists and speak for them, will come out in support of this proposal. I commend the bill to the house.

Debate adjourned on motion of Mrs Geraghty.

FAMILY RELATIONSHIPS (SURROGACY) AMENDMENT BILL

Ms SANDERSON (Adelaide) (10:42): Obtained leave and introduced a bill for an act to amend the Family Relationships Act 1975. Read a first time.

Ms SANDERSON (Adelaide) (10:42): I move:

That this bill be now read a second time.

Currently under South Australian laws a potential mother in South Australia can legally engage a surrogate mother to carry her child under two eligibility categories, the first being that the potential mother is infertile, and the second being that the child is at risk of being born with a serious genetic defect or serious disease or illness that would be transmitted to the child from the potential mother.

The current legislation does not cover a mother whose own life or health would be seriously impacted by pregnancy or delivery of an infant. The proposed amendment was as a result of an inquiry to my office by a South Australian mother who has had serious health issues during her first pregnancy, and another pregnancy would likely lead to her permanently being in a wheelchair. Under current laws, she would need to move interstate to legally engage a surrogate to carry and deliver her child. I would like to read into *Hansard* a copy of her story that she has kindly typed up for me:

My husband and I were fertility challenged and eventually pursued IVF treatment as we were deemed infertile as a couple. This treatment was finally successful in October 2008 resulting in the premature birth of our daughter in June 2009. The IVF treatment has provided us with 3 healthy embryos that we are keeping frozen in the hope that a surrogacy arrangement may be made. I do not believe this will happen due to so many legal hurdles and it being such a difficult and expensive process here in Australia, in particular South Australia. I became incredibly ill whilst pregnant, which meant I spent 8 weeks in hospital prior to my daughter's birth and another 6 weeks post her birth. I was confined to a wheelchair for the duration of the hospitalisation and for a subsequent 6mths post discharge. I ended up with a walking aid of some kind for 20 months post my daughter's emergency C-section under general anaesthetic. I suffered a rare pregnancy condition called transient osteoporosis of the hip which resulted in the ball of my hip fracturing and the neck of the femur breaking down. I had 2 operations post birth to try to save the hip which was scheduled for replacement. This condition is believed to recur in future pregnancies and the specialists—

She has seen three endocrinologist specialists—

advised that it would be highly likely that if I was to carry another child I might end up in a wheelchair for life—hardly the ideal parenting situation! This likelihood coupled with the fact that I also contracted severe ulcerative colitis during my first pregnancy that contributed to my ill health and meaning I had to have 2 blood transfusions has meant another pregnancy would be extremely high risk. Both conditions would be likely to recur in future pregnancies. Treatment of this ulcerative colitis requires steroids that exacerbate bone deterioration thus making the risk of the transient osteoporosis condition returning even greater. Basically with all the blood, bone and weight loss I suffered my life was threatened by my first pregnancy.

We tried going down the surrogacy path with the blessing of my medical team but this was not with the blessings of the government. The only way we could consider a surrogacy arrangement was under Victorian law. This meant that we would have to have the baby in Victoria and become Victorian residents prior to and at the time of implantation and birth. We would also have to undergo lengthy psych testing and all fertility treatment in Victoria. This process is ridiculously long and tedious and it became way too impractical and expensive for us to continue this process. The family commissioning the surrogate must fund all travel, medical and overall expenses of a surrogacy arrangement, not only for the surrogate but for their immediate family as well. This is a hugely expensive considering you're flying 4 people + any children they may have—

to be a surrogate you must have already had children—

to all of the appointments. Although you do not have to pay a commercial fee to the surrogate there are LOTS of medical and fertility clinic and legal costs involved. Under South Australian law you need to employ 4 separate psychologists (one for each person of the 2 couples involved) for all of the testing and 2 independent legal teams. Victorian law only applies 2 which is why it can be the more attractive option to couples. At the end of the day we are a South Australian family and we really wanted to have a surrogacy arrangement here as it was more practical for our family and less expensive [being] something that ultimately affects the welfare of the child. We however were unable to proceed in [South Australia] with Repromed, the fertility clinic that houses our embryos, because we had not known our potential surrogate for more than 2 years (this is their personal policy and not a governmental one).

So it was then that [we went to the] Flinders fertility clinic stepped up to the plate. They were incredibly positive about trying to help us until their legal team determined our case did not warrant a surrogacy arrangement under the current South Australian laws. This was because I was able to carry another baby so it was unlikely there would be any risk to the actual child it was just my life that was being threatened. So it was fine to die (or risk death and disablement) thus leaving a baby motherless as opposed to entering a surrogacy arrangement that would allow a family to live healthy, positive lives thanks to the aid of the amazing medical knowledge we have [in] South Australia...We pursued surrogacy in Victoria but pulled out of that arrangement due to spiralling expenses.

And the fact that they had to move there to have the child. Basically, it has been requested that we bring our laws into line with New South Wales, Victoria, Queensland and WA. Tasmania also has surrogacy laws in parliament that are yet to be passed. After speaking with minister Hill we decided to add a second clause to expand the definition of what infertile means, so that instead of just being 'infertile' it also includes that you cannot carry a baby to term. The changes we have made with those two clauses are that we have inserted at (B) the provision that:

the female commissioning parent is, or appears to be, unable on medical grounds to carry a pregnancy or to give birth;

Then we have moved down sub-subparagraph (B) to (C), which provides:

there appears to be a risk that a serious genetic defect, serious disease or serious illness would be transmitted to a child born to the female commissioning parent;

That provision was already there but that was originally sub-subparagraph (B). Then we have also included sub-subparagraph (D) which provides that:

there appears to be a risk that becoming pregnant or giving birth to a child would result in physical harm to the female commissioning parent (being harm of a kind, or of a severity unlikely to be suffered by women becoming pregnant or giving birth generally);

It is certainly not my intention that we become like America where busy career women can just go and pay for somebody to have a child for them, basically: this is to do with the health of the mother and the best outcome for the family. I commend it to the house.

Debate adjourned on motion of Mr Griffiths.

EXPIATION OF OFFENCES (SPEEDING OFFENCES) AMENDMENT BILL

The Hon. R.B. SUCH (Fisher) (10:51): Obtained leave and introduced a bill for an act to amend the Expiation Offences Act 1996. Read a first time.

The Hon. R.B. SUCH (Fisher) (10:51): I move:

That this bill be now read a second time.

This is, I guess, the second string to the bow in terms of trying to reform the way in which traffic matters, and particularly speed, are managed in this state. Expiation notices go beyond speeding, but that is where their primary use is.

We know why governments like expiation systems; that is, it is a sure-fire way to make money because most people will just pay up. They will not challenge because, as we know, in South Australia—the justice state—if you challenge an expiation in court and you lose, you get a criminal conviction. That is South Australia, which does not make this state look too good in comparison with other places.

The expiation system, which is sometimes called a curial system—I would call it a curious system—is designed to simplify matters and ensure that there is a steady flow of income coming into the Treasury. The current arrangements relating to expiations are what I would call somewhat rubbery.

I indicate that because when somebody gets an expiation at the moment, what they get is a top tear-off slip which has minimal information on it—the name of the alleged offender, where it occurred, the offence that allegedly occurred, the date and occupation. I am not sure why that is important. I suppose if you put down 'judge' or 'magistrate', that might help. I am not sure why that should be on the top part but, anyway, it is.

That particular bit of information you get then tells you very little about the basis of the allegation against you. Currently in South Australia, you will not get the rest of that expiation notice that has the detail on it unless and until you go to court and, even then, the police will fight often to stop you from having the information that the police officer records at the time on what is in effect the bottom part of that sheet.

I make the point, which I have made many times, that most of our police are fine people. I know many of them. Many of my mates' sons are in the police force and I believe the overwhelming majority of police are fantastic, dedicated people, but you need to have a system which has integrity built into it as best you can.

When meeting with the Commissioner, he said that, ultimately, these things come down to the integrity of the officer and that is true. We should have a system where, wherever possible, it helps ensure that justice is served and that any complaint made is correct, the detail is correct and the person who is accused of something has the right obviously to defend themselves. That is currently not necessarily the case.

Once again, I can speak from my experience. I am not here to provide a cleansing ritual, but I do know from first-hand experience—it is the only way I did find out how these things do not work. The police, to their credit, have changed the expiation form a little bit in recent times, probably as a consequence of my stirring and letter writing and so on, but it is still inadequate. I will just give you some examples.

Currently, on the expiation, the officer puts down the location. Well, if it is put down as South Road, that is a pretty long road. Where? In my situation, Oakridge Road is about a three to four-kilometre road. Whereabouts? When questioned in court, the police officer said, 'I wasn't where I had it on the expiation, anyway.' I was further down the road. He could not fit in his half a kilometre visual estimation of my speed, so he changed his location, and magistrate Tracey allowed that—and I will let members pass their own judgement on it.

What needs to happen with the expiation is that it needs to be more specific. That particular officer, Gregory Luke Thompson, even though he claimed to be in a different location (what turns out to be No. 70), said that he had been there 11 times but he did not have any idea what the number of the house was. Well, that house has larger house numbering than any other house in the street, as far as I know—big bold numbers indicating No. 70—but he had been there 11 times and he said that he had no idea where he was.

On the expiation, the officer should be required to be more specific about the location because that can be critical in terms of things such as measuring speed. Speed is distance over time so, if you change the distance, you change the speed calculation; that is first-year physics. I think that people would be surprised to see how vague the current system is in terms of what is required on there. At the moment, the form does not allow for specifying a full range of what traffic is present.

In my case, in court—and I wrote the day after the incident—I nominated a red Falcon with its lights on coming up the road at the point where this copper allegedly pinged me, but the magistrate did not accept that because she said that you would have to say exactly how many metres away that car was. On the form there is only limited provision for what is the traffic flow. In court, the officer said that there was no traffic whatsoever on the road, which was untrue, but on the form it has 'light traffic; medium, heavy'. Well, there are other categories: it can be 'no traffic'. If that is what he believed, it should be on there.

What this bill does is amend the current legislation to ensure that a detailed copy of an expiation notice is provided to an individual within six months of allegedly being detected, and that will allow more time for someone to determine whether or not they want to challenge it in court. If you had a better, clearer, more transparent expiation notice system, you would have a lot fewer people challenging in court because they could make an informed decision about the alleged facts of the case.

This new bill requires that the expiation notice contain a lot more information, and it is also more specific in terms of the street location: if it is in the street, distance from a landmark and so on; the tracking history; if it is a hand-held laser, the range in metres; traffic conditions, no traffic, light traffic, medium traffic, heavy traffic; dry or wet; road construction. Some of these things are currently on there but not to the extent they should be.

It will also allow for an indication of whether the analyser was shown to the alleged offender or not. In my case, Constable Thompson did not show the analyser, and currently they don't have to. I think that is also a deficiency in the current system. If someone makes an accusation, they should be required to show you the evidence at the time. The magistrate said she was surprised I did not ask for it—well, I had been informed that they do not have to show it, and he did not show it.

The new form will require more details about the device used to detect the speeding when it was calibrated—all that sort of information—and the usual information about the amount of the fee, when it is payable, and choices available to the offender, including the opportunity to contest the matter in court.

So, this bill is really about openness and transparency. Talking to police frontline, motorbike police and others, they say they do not have a problem with giving a person the completed expiation there and then. However, in fairness to the officer in terms of time and so on, if it is made available to the alleged offender within reasonable time, then I think that is appropriate, so that a decision can be made, 'Oh, yes, I was in that situation. I was in that location and, therefore, I will or will not contest the expiation.'

I commend the bill to the house and conclude by saying that South Australia really needs to—in terms of the way in which traffic and other expiation notices are issued—improve the system so there is less opportunity for abuse and misuse in the system. In my case, Constable Thompson said that he did the morning and afternoon test at the same time in the morning, and he always got the same result. Well, that should show up on the form. It should be quite clearly shown when the

person did the test, and also that a more senior officer checked the information. In my case, he checked his own.

Now the commissioner has issued an instruction not to do that unless they are out the back-of-beyond, and I think that that is appropriate. So, some changes have been made and I welcome those, but I think it is time that the whole form was changed and updated, and improved and upgraded, along with the whole process of expiation notices because, as I say, if you challenge one and lose in court you get a criminal conviction, apart from all the other costs and so on. So, I think it is appropriate that people who are issued an expiation get the correct and complete details so that they can make an informed decision in terms of court appeal, or whatever the case may be.

Debate adjourned on motion of Mr Sibbons.

VOLUNTARY EUTHANASIA BILL

The Hon. R.B. SUCH (Fisher) (11:03): Obtained leave and introduced a bill for an act to provide for the administration of medical procedures to assist the death of a limited number of patients who are in the terminal phase of a terminal illness, who are suffering unbearable pain and who have expressed a desire for the procedures subject to appropriate safeguards; and for other purposes. Read a first time.

The Hon. R.B. SUCH (Fisher) (11:04): I move:

That this bill be now read a second time.

This is a reintroduction, in a slightly modified form, of a bill that has been previously introduced but in which debate was never completed. Following some suggestions from at least one member in this place, changes have been made and this bill would apply to a limited number of patients who are in the terminal phase of a terminal illness and who are suffering unbearable pain and are not able to get that pain treated. In South Australia, in one year, you are talking about maybe a dozen people, but they are still important—I do not care whether it is one person.

So, this bill is not a blanket. A lot of people have been critical and said, 'Look, you don't allow for advance requests, you don't allow for people who are despondent.' No; I am not advocating or putting in any proposal relating to that. My bill is specifically for people who have terrible illnesses, such as motor neurone disease, who are screaming out in agony, like the former President of the Legislative Council was, because the pain relief is not helping those people. Pain relief helps most people with pain, and that is why palliative care is fantastic, but there are some people suffering from things like motor neurone disease and some bone cancers who cannot adequately suppress the pain.

This bill is for the benefit of those people to have a choice to end their life. The person has to be compos, they cannot make an advance request and say, 'Look, if I'm in a vegetative state I want to have my life ended.' That is not possible under this bill. This bill does not allow for that. It does not allow for people who are depressed, or who do not want to live life. It only applies to that very small number who cannot get adequate palliative care, because my argument is that if you can get adequate palliative care and you are not suffering then I think it takes away a lot of the justification for ending the life.

I think people know the general issue, they either support voluntary euthanasia or they do not. I thank the member for Adelaide who relayed some changes in after meeting with other people. She asked if the bill could be changed so that the treating practitioners referred to were currently treating the person who seeks voluntary euthanasia. I think that is a reasonable proposition and I have put that in the bill. You do not want people, in effect, doctor shopping on a matter like this. It was a good suggestion which came from the member for Adelaide, I think after she met with people who are interested in this subject.

The member also asked if on the death certificate it could indicate that voluntary euthanasia was administered. I have put that in. I think that is also a useful provision. I do not see how it will alter the reality all that much, but some people thought it should go in. The bill has the usual, and continuing, elements from the previous bill: there will be a monitoring committee; the request cannot be made by someone who is suffering from depression; the medical practitioners have to be currently treating the person, so that avoids people shopping around; and adult witnesses must not be persons who are related to the person making the request. So, you cannot have someone making a request on behalf of someone else who is connected to them or who are in any way beneficiaries, financial or otherwise, of that person.

People suggest that sometimes people will want lives to end because they will benefit. Under this bill that cannot happen, you are prohibited if you are a beneficiary and you are prohibited if you are related to the person who has made the request.

Just to quickly summarise, some people talk about voluntary euthanasia bills as 'death bills'. I turn that around and say that this about the quality of life. I am not pro-death, I am in favour of quality of life, and I feel very passionately that people should have a quality of life. I have met with people from various churches—I have met with the local Catholic priest, I have met with and heard the opinions of people from the Lutheran church and some of the other churches, such as the Baptist church and so on. If you look at public opinion, you will find that about 80 per cent of the adult population supports voluntary euthanasia with appropriate safeguards.

I understand that some of the churches take the view that it is okay to withdraw life support, but I guess to them it comes down to the intent. In this bill, the intention is that it apply only to someone who is dying and in the final stage with significant pain that cannot be relieved. The reality is that we have we have euthanasia at the moment because doctors end lives through the increase of pain relief, or sometimes through treatments, and they know full well that by doing that they increase the risk of death.

The argument put forward by some would be that they are not seeking to end that life but that it is a consequence of their treatment. The reality is that euthanasia exists in our community, and I think that if medical practitioners were able to speak openly and freely without the threat of legal action they would tell you that that is the case.

I believe it is time that we did provide for those poor souls who are suffering, if they so choose: it is voluntary euthanasia. I think some people tend to get confused with voluntary and involuntary, but this is voluntary euthanasia. It is time that we gave those people a choice about their life and the quality of their life. If they wish to end it because of unbearable pain and suffering, then I believe they should have that legal right. I commend this bill to the house.

Debate adjourned on motion of Mrs Geraghty.

ROAD TRAFFIC (EMERGENCY VEHICLES) AMENDMENT BILL

Mr VAN HOLST PELLEKAAN (Stuart) (11:13): I move:

That the Road Traffic (Emergency Vehicles) Amendment Bill be restored to the *Notice Paper* as a lapsed bill pursuant to section 57 of the Constitution Act 1934.

Motion carried.

AUSTRALIAN YEAR OF THE FARMER

Mr VENNING (Schubert) (11:13): I move:

That this house—

(a) notes that 2012 is the Australian Year of the Farmer, and

(b) acknowledges the contribution that farmers and all others involved in primary production make to both feeding our nation and to sustaining Australia's economy.

Following last year's official launch of the 2012 Australian Year of the Farmer, this year we are celebrating the contribution primary producers make to Australia to raise public awareness of the importance of agriculture to our nation. I declare, at this point, that I am a farmer in my other life, and—

The Hon. R.B. Such: A gentleman farmer.

Mr VENNING: A gentleman farmer, the member for Fisher reminds me; that is correct. I only do occasional chores, but I do like to keep my hand in and try to keep up with technology. I have to say that I am losing the race.

Mr van Holst Pellekaan: Well, you cleared a fence line on a fire ban day—very responsible.

Mr VENNING: I did. That is my love, and when I leave this place that is what I will be returning to, not to get in my son's way but to finish my life the way I started it, that is, on the land. That is appropriate. I hope members will appreciate that I speak as a farmer and support this idea of recognising them.

The chairman of the Australian Year of the Farmer, Mr Phillip Bruem, AM, said that the idea to have a celebration for farmers came about in 2006 following discussions with a colleague, lamenting the fact that recognition of the importance of agriculture and farming was slowly eroding. In my time in this place I have made many speeches, and this was a fact that I and my colleagues have highlighted. I note the member for Stuart. The previous member for Stuart was a very strong advocate and it is great to see this movement where we saying that it is time we all took time out to consider.

Australian farmers contribute approximately 93 per cent of our daily domestic food supply, and supply at least 40 million to 50 million people overseas. The National Farmers Federation estimates that if farms and their closely related processing sectors—meat and dairy, wine-making, and oil seed crushing—are combined, they generate $155 billion per annum for the economy and approximately 12 per cent of gross domestic product. The contribution our farmers make cannot be understated, and I believe the parliament needs to recognise that 2012 is the Australian Year of the Farmer and acknowledge the contribution the agricultural sector provides to our nation generally.

It is fantastic that farmers and all others involved in primary production receive recognition and that we are able to celebrate the role farmers play and appreciate what they do and take this time to recognise that. It is about time that farmers received the recognition they deserve, especially from their city and metropolitan counterparts. Many take for granted that fruit and vegetables, grains and meats, are readily available on our supermarket shelves, without giving a thought to from where the product originated.

You only have to take time to speak to the younger generation in the supermarket. A few weeks ago I spoke to a young fellow of about seven or eight years, who had a bottle of milk. I said, 'Mate do you know where that comes from?' He said, 'Yeah, off the shelf; made in a factory.' He had not clicked that it had actually come from a cow. He looked at me as though, 'I don't know where you're coming from mate, but mine comes off the shelf.' A lot of people wonder how wool gets off the sheep. A lot of our city folk come on to the farms and are amazed to see what happens there. It is all education, and they do not realise where products actually come from.

The Patron of the Australian Year of the Farmer, Australia's Governor-General, Quentin Bryce, reminds us that the food we eat, the clothes we wear, the wine we drink (and I do my share), our shoes, our office stationery, the timber in our houses and indeed on the kitchen table, are connected to farming. How many essentials of daily life are there for us because of the efforts of our farmers?

Today's reality is that cities have burgeoned at the expense of country towns, and there is now a disturbing disconnect between the residents of both, with research telling us that nearly a quarter of city dwellers never make it to the countryside and even fewer go on to a farm. Madam Speaker, I know you are not one of those because you actually drive through all it time and keep an active eye on what happens on the farms, particularly around your home town of Whyalla.

It is hoped that this year's concentrated focus on farming throughout the Australian Year of the Farmer will establish closer ties between the Australian rural and urban communities and promote a better understanding of that role that our farmers play, not only as providers but as environmental managers in creating and delivering sustainability through best practice land management, while they feed us all as a nation. I commend our younger generation. I am the older generation, but the younger generation are really achieving and making fantastic results because they farm efficiently and, most importantly, they farm environmentally.

Farmers do not need to be educated today. The younger generation certainly has a strong passion, a strong belief and a strong ethic in relation to doing it environmentally, and they will leave their lands better than when they took them on. Quentin Bryce also stated:

> The purpose of this year is to celebrate all those who contribute—and have contributed—to our rich rural history. In doing so, it will introduce Australians to the farmer of today, and smash a few of those stereotypes in the process.

The board of the Australian Year of the Farmer represents a diverse group of prominent people from across Australia, all with the common goal of lifting the profile of farming in Australia. South Australia's own Marie Lally AM is a member of the board and has provided some excellent facts on the increase in agricultural production in Australia, reinforcing that Australian farmers are vital to our future. We have to feed more people from less land. There are some very salient facts here, and, over the years, I have expressed many of these sentiments, but here it is quite clear: we have to feed more people from less land every year.

From 1970 to 2010 the world population doubled (40 years), but the farmland certainly has not. In 2010 Australian farmers used 7.3 per cent less land than in the 1950s and produced 220 per cent more in that period of time—a staggering statistic. You wonder how that could be. Australian wheat production at this time grew by 300 per cent, Australian barley production also grew by 300 per cent and Australian sugar production grew by a staggering 900 per cent. I think that this is the quote that I really enjoy and appreciate the most:

> In 1950 one farmer produced enough food for 19 people. In 1970 one farmer produced enough food for 73 people. In 2010 one farmer produced enough food for 155 people.

That is a real 'wow' factor. I think that it is fantastic. We have the reputation of being the best farmers in the world and the most environmental farmers in the world, and we grow the cleanest and greenest food in the world, and long may it be the case. However, the cost of production has dramatically increased in this time and financial returns have been severely reduced, thus also reducing the attraction of farming as a way of earning a living and also as a business venture, which I think is pretty sad.

For the future Australian agricultural farmers have to innovate in their education programs to encourage future farmers to view agricultural production as desirable, fulfilling and a viable career path. They need governments to be supportive and not to place financial or regulatory obstacles in their way. I sincerely hope that, through this year, the focus generated by the Australian Year of the Farmer helps lift the profile of those in agriculture. Governments may be reminded how important the sector is and allocate more towards research and development rather than repeatedly slashing funding.

Australia leads the world in the adoption of technology in agricultural systems and conservation, but to meet the future challenges the industry needs support to continue to maintain Australia's food security—that is a comment that we are hearing a lot more about, and, as our new members have just arrived in this place, food security is probably going to be the issue they are going to confront more and more in their political careers—and to meet the demands of population increases both in this country and their overseas markets.

I commend the Chairman of the Australian Year of the Farmer, Mr Philip Bruem, for his drive and commitment to this worthwhile initiative, and encourage all people of Australia, both city and country folk, to become involved and to support this effort to raise the profile of Australian agriculture and its vital role in our country's future. I encourage people across Australia to stay tuned for special events in their towns and cities and to actively support them. I encourage schools to promote events to their students and to encourage information sessions on agricultural careers, particularly in country areas—even to visit a farm.

I would extend an invitation at this time, for the first time, to invite any member of parliament who wishes to come to the property as our guest to view the farming operation, particularly during harvest. It is quite a spectacular thing to observe. Come up there and be my quest. I also extend an invitation to anyone—

Mr van Holst Pellekaan: To have a look in the cellars?

Mr VENNING: To have a look at the cellar, too, if you wish, if you are so inclined, Madam Speaker.

Mr Pederick: Taste it?

Mr VENNING: And, of course, taste it. I am sure that there would be a lot of families just like our family who would extend this invitation to anybody who wishes to come in and observe the farm, and we will offer some good, Australian hospitality. I do encourage all members here to go back to their electorates and promote the Australian Year of the Farmer.

With my family and friends involved in agriculture across this state, in particular those residents from my own electorate of Schubert, I fully support the Australian Year of the Farmer. I do note in the Governor's opening speech of this parliament that the number one point was clean food production. Maybe this message is already filtering through.

I commend this motion to the house, and I hope the government will support it. I know there are other items on the *Notice Paper*, particularly the one in relation to a select committee on the right to farm. It is not to do with this, but it is allied to it. I hope that, too, will get a response. I have already spoken to some government ministers about that. I urge the house to support this motion.

Mr BIGNELL (Mawson) (11:26): It is a privilege today to rise and let the house know that the government supports the motion by the member for Schubert and indeed supports farmers right across our one million square kilometre state. Farming, of course, is what this state was built on, and it continues to contribute to the economic wellbeing of South Australians wherever they come from, whether it be rural parts of the state or the city. Sometimes there is a disconnect there in the fact that people in the city do not really realise where all the food comes from and where the money that makes our economy go around comes from either.

I think that by celebrating farmers this year through the Year of the Farmer it is a great opportunity for people from all walks of life to get out to promote farmers. I think we need to do it within the schools, as the member for Schubert said. Kids have lost contact with where things like milk come from or where wool comes from. It is what happens when you have a big proportion of your population based in an urban area. We need to be doing that on a daily and weekly schedule. I think the Year of the Farmer will allow things to be promoted through our schools and through other community events to draw awareness to everyone about what farmers do and what they mean for our state and our country.

I was fortunate enough to grow up on a dairy farm in the South-East, and I do not think that any form of farming is harder than dairy farming. It is such a commitment. I remember leaving home early in the morning to do the milking, and then we would get in the car and drive 50 or 60 kilometres to the beach. We would just seem to get out, get our buckets and spades out and start having a little play and a swim when dad would be getting back in the car. We would say, 'What for?' He would say, 'We have to milk.' I said, 'We just milked.' He said, 'Yes, we've got to go and milk again.' We had 120 milkers in that stage, back in 1976.

I think it was one of the things that really impressed upon me just how hard it was. I think it taught me a little bit about how to lobby. I said to dad, 'If you're looking for somebody to take over the farm, you'd better look at my sisters because this isn't going to be my caper for seven days a week for the rest of my life.' I have so much admiration for those people who continue to do it. It is just one of the toughest jobs. We could hardly afford to go on holidays because you would give away more to the person you got in to milk the cows than what it was actually worth to you.

I do not think people fully understand all that is involved in farming. I was fortunate enough to have cousins who were on sheep and cattle farms and cropping properties as well; so, to go and spend my school holidays with them and to elasterate sheep and mark calves and all this sort of stuff were things that a lot of people do not get the opportunity to do. I look back at those years as a teenager and think just how important they were in the formation of my understanding of not only how this state runs but also our entire country.

This is a $15 billion economic benefit, which is 10 per cent of the state gross product, and almost one in five jobs directly results from the agribusiness sector here in South Australia. We want to drive that that sector even further, as the member for Schubert mentioned. The number one priority as read out by the Governor of this state just a couple of weeks ago is to promote South Australia's clean, green food bowl. He is right when he says farmers do get it; farmers know their environment better than anyone else. They know how to protect it as well. They are also great conservationists because it is in their interest to be great conservationists.

There is no point going out there and doing something in this season and next season that is not going to give them a season in years 3 and 4, or maybe even longer than that. We need to do everything that we can to help our farmers preserve and protect the land, but also to promote the products that our farmers are producing. I think it is great to see farmers right across this state moving into value-adding.

I look at a company like Ferguson Australia over on Kangaroo Island and the work that they do in not just catching fish of all sorts but value-adding to it by producing olive oils that have a lobster blend and the way they package up their crayfish, crabs, abalone and other products. I think that is the way to go, rather than just farm something or catch something and then get that onto the market in its original form. The more we can value-add to it, the more we are going to have coming into our state's economy and into those businesses and more importantly into those regional towns and cities right across the state.

My great-great-great-grandfather came out on the *Buffalo*—the first ship here—and went down to Prospect Hill and started farming not far from where I am now, in the area I represent near McLaren Vale. The family diaries paint back to the 1830s and 1840s when my great-great-great-

grandfather and his 14 or 15 kids used to walk down to McLaren Flat and go grape picking. So, the tie to the land is there and has been there ever since settlement in this state.

Towns have sprung up around this state because of farming and because of that value-adding. There is a need for silos; there is a need for train lines; there is a need for ports. When we look at much of the infrastructure throughout the state, we have had 175 years of infrastructure being rolled out because of people who went there and worked damn hard in unbelievably trying conditions.

You can only imagine, in those days before the big air-conditioned harvesters and tractors that we have now, just how hard it would have been out there with a plough being towed behind a horse and people out there with their bare hands and really crude implements trying firstly to clear the land but then to plant crops and pastures and put in fences to contain livestock as well. We must pay tribute to those pioneers who set up the farming industry in South Australia.

It is interesting to look at the carpet in this place and to see the grapes and the vines in the carpet and also the wheat. It reminds us all what an important part the agriculture sector plays in South Australia, and I think it is fantastic that we honour that agriculture sector in such a way through the interior of this place. There are windows out the back on one side of the Speaker's dining room and on the other side in the little passageway here, and in those stained-glass windows there are tributes to the farms and the farming culture of South Australia.

As I said at the outset, it is a great opportunity for me personally to be here today to support the member for Schubert's motion on behalf of the government and well may we say we salute every farmer right across this great state and may they continue to farm well into the future.

Mr PENGILLY (Finniss) (11:33): I rise to support the member for Schubert's motion. I think it is very well founded and I am pleased to hear that the government will support this very fine motion, particularly in the Year of the Farmer. There are a number of members on this side of the house who are still actively engaged in rural production and will be for a long time, I suspect.

It is important, given the member from Mawson's comments, that we do not gloss over the pressures that many farmers are under from governments across Australia, and also from the federal government. They are continually under pressure.

They feed Australia and they feed the world and they can go on feeding ad infinitum. There is no question about that. Droughts come and go, wet years come and go and it is called the law of averages. We have an immense capacity to feed a greedy and hungry world, a growing world, a world with billions of people, which is ultimately going to have to come to grips with that population rise.

However, it would be remiss of me not to say that, apart from dealing with the weather, as we do on the land, from day to day and from season to season, and understanding the weather, it is the failure of the bureaucracy to understand how farmers actually relate, live and work with the land. They understand the land, and they do not like being told by shiny backsided Sir Humphreys, male or female, how to go about running their farm, what they should and should not do, and generally putting them under even more pressure. That pressure includes driving families to ruin and, in some cases, leading to tragic consequences for families in the loss of loved ones. It is appalling, and it is ongoing—it is not going away—and I know that other members on my side of the chamber understand it and are fed up with it. As I have said, it is one thing to deal with the weather; it is another thing to deal with a total lack of understanding by some—not all—bureaucrats.

Fortunately, there are some members of the government—in the Labor Party—who do have some understanding of what it is like to farm and operate. Unfortunately, minister O'Brien, who was an excellent minister for primary industries, has gone on—and good luck to him—to be the Minister for Finance. He got a good grip of the portfolio. He understood, and he had his bureaucrats in primary industries understand. But there are other departments—the EPA, within the Department of Environment and Natural Resources, and other areas within there—that just totally make farmers' lives a misery.

There has been a great example of that with the NRM board in the Adelaide Hills and Fleurieu, with the water plan. It was only after I took minister Caica down to my electorate and did some on-site visits at Parawa and Mount Compass and just north-west of Victor Harbor—and I thank him for coming down—that he got an understanding of the pressure that was on farmers, and there have been some changes to that nonsense, and I am grateful to minister Caica for that.

However, let me say that the nonsense continues. The member for Bragg is a landholder on Kangaroo Island, and she forwarded a letter to me this morning—and she may well speak on this motion—putting more pressure on their area in relation to water-related activities. This is after we chucked out the NRM plan for water on the island. It has gone back, and it has come around full circle. This devious, scheming mob of bureaucrats find other ways to put controls on people who know what they are doing. She will speak about that—I do not have to—but I mention Fleurieu Peninsula because it is important.

However, on top of that, particularly on the Fleurieu and down around the Southern Fleurieu, another thing that is impacting farmers is that the small hobby farmers and landholders—generally speaking from the city who want a piece of land in the bush, which is fine; I do not have any problem with that—come down there. They have no understanding of the rural way of life or how farms operate, and they want to change the world.

They do not do anything with their weeds, they let the grass grow. They have pressure put on them by councils and whatnot to undertake activities to reduce the growth. But then they do not like sprays; they do not like this; they do not like that. Well, they just need to understand that farmers need to go about their business. Just as anybody in any small business does, they need to go about their business. They need to be able to put in their crops, raise their livestock, harvest water—they need to do what they know about.

It is challenging times, particularly in my electorate, on both sides, which is high rainfall country and has the capacity to grow enormous amounts of food and fibre. It is most important that these farmers are given the latitude to go about their business as they have always done, in some cases for generations. My wife's family have been farming for six generations, firstly in the Yankalilla area and then over on Kangaroo Island. There are others there who have been farming equally as long, and they know what their business is.

Not only that, but in this Year of the Farmer, the Australian dollar is certainly impacting things. It makes it much cheaper at the moment for fertilisers and chemicals and, to a lesser extent, for fuel, probably, for people who have to buy copious amounts of fuel.

I notice today that the price of petrol in Adelaide is up to $1.50, but I can guarantee that in parts of my electorate it is probably pretty close to $1.70, and the member for Flinders can probably speak about what it is on the West Coast and the Far West Coast. These costs are significant. Equally, the high dollar impacts very effectively on the product that goes out; whether it be grains, wool, meat or whatever, it is impacted on. Some people have this image of farmers being extremely wealthy. Well, let me tell you that I can produce any number of farmers in many areas who are living on the bones of their backside.

The SPEAKER: The member for Schubert.

Mr PENGILLY: No, not the member for Schubert!

Mr Venning: Madam Speaker, your protection is required.

Mr PENGILLY: Madam Speaker, you made me digress. I know farmers in my electorate who are struggling to make ends meet. They do not have enough land to produce on, and they are unlikely to get any more. I know farmers in their 50s and older who are working part-time jobs to keep their farms going.

Mr Venning interjecting:

Mr PENGILLY: Will you please stop it, Madam Speaker, and don't encourage him? However, the reality in South Australia is that we have a long, long history and, as the member for Mawson correctly pointed out, the carpets in this place indicate that. The vast majority of farmers have a great history of looking after their land, of providing food and fibre to the world, and of being innovative and terrific doers. I think it is important that we recognise the farmers from the tip of Yorke Peninsula, down through to Albany, South Australia, Tasmania—everywhere—it does not matter much where. There needs to be a greater understanding by city folk of the way the farming industry operates.

Local regional communities are critical, and in many areas numbers have drifted out, schools closed, sporting clubs closed, communities closed, and it is very sad. My daughter lives near Brown's Well, which a few years ago was quite a thriving little community—they even had a local district council, that's gone; they had a school, that's gone; and they had a bowling club, that's gone. The footy club and the netball club are all that are left of Brown's Well, and they are great

community activities. Right across, we are struggling to keep sporting clubs going, and we are amalgamating football clubs in the intense desire to keep rural life where it should be and enjoy that wonderful rural lifestyle.

The dairy farmers on the Fleurieu Peninsula have great difficulties from time to time, not only with drought but with prices, with supermarket chains trying to destroy their very businesses by discount milk. Wool is not too bad at the moment, but I know that the wool growers have gone through a couple of decades of absolute misery, and I know this well because I have been one. Grain growers struggle with the weather and the climate and, right at this current time, the grape producers up through the Barossa, the Clare Valley and the Riverland are getting copious amounts of rain right at the wrong time. It costs a lot of money to put in crops, a lot of money to produce livestock, and if things go pear shaped there is no way out of it.

I am sure the member for Hammond will have more to say in a minute, as I am sure he will speak on this. All we ask for is a bit of courtesy and respect for the farming community from our city cousins and a bit of understanding for our lifestyle. I could go on and on, but I am going to run out of time. I absolutely concur and agree with the member for Schubert.

Mr TRELOAR (Flinders) (11:43): I rise today to support this excellent motion from the member for Schubert to note that 2012 is the Australian Year of the Farmer and acknowledge the contribution that farmers and all others involved in primary production make to both feeding the nation and sustaining Australia's economy—an excellent motion. I congratulate the members for Schubert, Mawson and Finniss on their contributions, all members who have had a firsthand and longstanding association with the world of agriculture. This is about celebrating the contribution generally of the agricultural industry to Australia, to Australia's history to where it is today, and to our economy and how we base our economy. It also celebrates and recognises that farming is a profession. It recognises farmers as professional people and the contribution those professionals make to Australia.

As has been rightly pointed out, agriculture has a long and proud history in this state, dating from the very earliest settlement way back in 1836. I would assume that the first cereals were sown in 1837. It was not long before South Australia was taking the lead in agricultural development, not only in Australia but throughout the world. Within a couple of decades of that first settlement in 1836, South Australia had become the granary of Australia. We had a reasonable acreage of fertile land close to coastal regions, which made the cost of transport and the logistics involved in transport relatively easy. So, it was a natural development for farmers in this state to develop the land and grow wheat (in the first instance), then barley and subsequently other crops to feed Australia and the rest of the world. It was not long before we were exporting to other states throughout Australia and, indeed, through the clipper trade, Europe.

If I can indulge the house for just a moment. The member for Mawson spoke about his great-great-grandparents. My great-great-grandfather arrived in South Australia for the first time in 1843 and returned to settle in 1848. After having a short time at the Burra copper mine, he headed off to Victoria, along with many others in the gold rush, and although he did not make his fortune, he made a small find and enough money to take up a section at Watervale in the state's Mid North in the Clare Valley. By the early 1850s, he was growing wheat, and at one stage I understand he was growing wheat as far north as anyone in this colony.

Interestingly, he also planted vines at Watervale at a place which was originally known as Spring Vale, then was known as Quelltaler, I think Wolf Blass had it for a while, and it is now known as Annie's Lane. So, those original vines were planted there by Frank Treloar all those years ago. Not bad for a devout Methodist, member for Schubert.

Mr Venning interjecting:

Mr TRELOAR: Yes, that is right. I know you are a devout Methodist—a lapsed Methodist, member for Schubert. Frank devoted some acreage to his vineyard and, on reading some of the history of that time, he supplied a great deal of what they called harvest wine. Harvest wine was in lieu of wages to the harvest workers, which I think (probably) during the 1870s and 1880s was a big part of his production and income. Interestingly, he used to produce this wine in bulk, and those landowners who wanted to come and collect wine or buy wine from Frank were asked to bring their own cask. So, not much was spent on bottling or labels, member for Chaffey, nothing like these days—you would know all about bottling and labels, no doubt. So, that is an interesting part of my family history.

Frank's grandson, my grandfather, headed off to the West Coast in the 1920s. It was a time when the wealth of the nation was in the country and any young man with aspirations would look to take up land, often virgin land, as my grandfather did, or in newly settled areas. They had the opportunity in those days, if they were prepared to work hard, to build and establish a business, a farm, ultimately raise a family on that farm and contribute to the development of that myriad of small country communities we see dotted right around this great state of ours, the agricultural areas in particular.

That occurred right across Australia. In the first instance, the pastoralists (the graziers) and the farmers followed soon after. They built communities and achieved a lifestyle and standard of living that they would not otherwise have found, I would suggest. For 30 years before entering this place I, too, was a farmer, and enjoyed it very much. I loved my time as a farmer. I am still involved with the family farm; my two brothers now share farm our property. I am not involved in the day-to-day decisions, but I just love being out there, watching the crops being planted. I enjoy seeing the crops come out of the ground, and I enjoy the harvest, but I also enjoy that time immediately after harvest, when the South Australian countryside is at its driest, but the season has finished and—touch wood—a good harvest has been had.

There have been a lot of changes in the farming systems we have used over the years. Australian and South Australian farmers have been at the forefront of many of these changes and developments. I mentioned just yesterday, in fact, and will have another opportunity today to talk about the Ridley stripper, which was a world first here in South Australia. Then, of course, the discovery that our soils were deficient in phosphorous, and that the addition of superphosphate, which I think initially took place at Roseworthy, that great agricultural college—in your electorate, Mr Deputy Speaker.

The DEPUTY SPEAKER: And the stripper.

Mr TRELOAR: And the stripper, yes. I believe the Correll brothers, member for Goyder—

Members interjecting:

Mr TRELOAR: The Correll brothers on the upper Yorke Peninsula were the first to use superphosphate on a broad acreage, and it transformed a lot of the production in this state. However, it was not the last transformation; we had the development of the fallow system of farming, as subclovers and medics were introduced to add nitrogen to our soils a system of lay farming developed and, for a while there through the sixties and seventies, South Australia was exporting this technology and these developments to other parts of the world, particularly the Middle East. Sadly, that sort of cooperation no longer occurs, but it was a great contribution from the farmers in the industry in this state.

Our job—and we have been reminded all too often, as agriculturalists at least—is to rise to the challenge of feeding a growing world population. I put it to you, Mr Deputy Speaker, that we are well and truly up to that challenge. As I have said, farming systems have changed considerably over the last 150 years, they have changed considerably in the last 30 years, and they will continue to change. It will be the development and adoption of that technology that will allow us to meet the challenge of feeding the world's population. Some estimates are that that will be up to as many as nine billion people by 2050.

Historically, our ability to produce food has increased along with, and at some points in time in excess of, the growth in world population. I have no doubt that we will achieve that. Our challenge all the while in doing that, of course, will be to stay in business; that is the challenge for a farmer, more than anything else. The farmer does not feel any great obligation, necessarily, to feed the world; what he does feel is the challenge to stay in business. As I mentioned yesterday, regulation, red tape and general government policy can sometimes make that difficult.

Also, in terms of trade, with the dollar where it is and a world, at the moment, which is awash with wheat, this continually erodes our terms of trade. But, farmers are a resilient bunch, and I congratulate the member for Schubert on this motion. I fully support it, and I just hope that the whole of the Australian community embraces this year, 2012, as the Australian Year of the Farmer.

Mr PEDERICK (Hammond) (11:53): I rise to support this notice of motion by the member for Schubert, that notes that 2012 is the Australian Year of the Farmer, and acknowledges the contribution that farmers and all others involved in primary production make to both feeding our nation and to sustaining Australia's economy.

My great-great grandfather came out here from England in 1840, so only four years after the birth of this state. As I think I have mentioned in this house before, William Pederick was going to go down and book his passage—I think it was at Portsmouth—and his mother said, 'You're mad.' He wanted to borrow a horse, and she said, 'No, you're not riding into Portsmouth to book your passage to Australia,' so he walked the 30 miles to do it.

William and Mary came out in 1840. They settled in Plympton. They had a little shoe or boot shop, apart from a farm. We have a lot of discussion these days about protecting arable land. I suggest that Plympton and certainly where this chamber sits are probably on some of the most fertile land in this state. But that is the way of early settlement; they always settle along the rivers and that kind of thing. Some of this country would even challenge some of the most fertile country in the electorate of the member for Goyder on Yorke Peninsula. I know that is a big call, but it is good land.

They were there for quite a few years, but as the colony expanded they migrated north a bit to near the Gawler River and farmed in that area for many years. My grandfather farmed at Angle Vale near Heaslip Road. My father, who was born in 1920, farmed there as well before the compulsory acquisition of land for Edinburgh air base and the Weapons Research Establishment, after which time Dad moved down to Coomandook 51 years ago. Essentially that means I have been there all my life.

Our family, in a farming sense, have had a bit of a look around the state. I only have to go back one generation to my father, who used to walk behind horses. I find it an interesting entry in my grandfather's diary when my father was born. It goes along the line that one day he was ploughing the back 80 acres and the next day happened to be the day my father was born and my grandfather put in his diary, 'Went to Gawler'. There was no mention of what it was for, that it was to witness the birth of my father. The next day the diary entry was, 'Back ploughing the back 80 acres'. I guess it shows how committed my grandfather was to farming. It was a little odd that he did not make more recognition of my father's birth.

I certainly love hearing the stories of what happened in those early days. My grandfather initially would come into the city with horse and cart delivering hay, chaff or stooked hay. There were a lot of feed mills in the city and around the place. I remember dad telling me a classic story: being a good Congregationalist, he who would never have gone into a pub, but you had to weigh your own loads. He would go into the hotel and ask for the weighbridge keys and weigh the load for the feed.

Farming has progressed a long way from those days. Dad only stopped actively driving tractors with me 12 years ago, when he was 80. He was driving a 300-horsepower, eight-wheel tractor, and you could not lever him out of it. It was a bit of trouble getting him up there, but once he was in place he was there for the duration. This is what is happening with farming right across the state and country. We have heard that production has increased exponentially, as the member for Schubert rightly described. Farms can now feed so many more people than they used to feed. As the member for Flinders mentioned, and as I believe, we will meet the challenge of feeding not just the nation but the world in the future.

We have to make sure the right legislation and regulation is in place to assist farmers and does not hinder that growth. There are so many things people need to comply with. I saw recently after the drought that a lot of people in my electorate had to put in private desalination plants just to survive around the Lower Lakes—lakes Alexandrina and Albert. Now there is an issue where the EPA wants to license that brine disposal. They are going to charge people who have actually looked after themselves for their water, and I think that is absolutely disgraceful—capitalising on people who have invested better than $200,000 in each instance to look after themselves.

The progress of farming has been massive. We have gone from times, even in my early days, of operating tractors and putting in crops. You could work a paddock eight to 12 times before you sow it. Nowadays people spray the paddocks out over summer to get rid of the summer weeds, and then come in with one or two knock-downs coming into the season, when the season opens in April and May, to sow the crop. Many years ago we had single furrow ploughs. I know that, just in my area, we have 80-foot and 86-foot air seeders operating; and I know that in Queensland you have up to at least 100-foot air seeders operating, because it has always been about getting bigger so that you could remain viable to compete in this day and age.

But it is not cheap; it is expensive. Farming harvesters can be worth towards $800,000 or $900,000, depending on the options. Large air seeders, as I was discussing, complete with a

cultivator, can be around $600,000. Tractors can be $300,000. Self-propelled boom sprays can be $200,000 to $400,000. It is a massive investment for private operators who are not just feeding this state but feeding our nation and feeding the world.

One thing we certainly need to be aware of is the issue of foreign ownership, and I think that, certainly, on both a state and federal basis there should be a register of who owns what so that we can keep track of who is owning what. Let's not be wrong here, there has been some great initiatives by foreign investment in the past. We have seen, whether or not you like it, the Burke irrigation area opened up. We have seen Esperance opened up by the Americans. However, I think that, with the issue of food security that has been touched on by the member for Schubert and others, we do need to make sure that we know who owns the land, and just as importantly who owns the water, and I think that both these markets could be tidied up.

I note that minister Gago was recently asked at a function about the foreign ownership issue and she just dismissed it, from what I understand, as a federal issue. Well, I do not think it is just a federal issue. I think that we all need to be involved and be well aware of what is going on around us with the production of clean, green food in this state of ours.

I would like to congratulate Philip Bruem and the people involved in the Australian Year of the Farmer. It is a great initiative. I believe that it has some federal government backing, but also a range of sponsors have got behind the Australian Year of the Farmer organisation, and I congratulate every one of them. I know that they have got nine vehicles—I think they are Toyotas—they take to shows right around the country. I have certainly seen them at the Karoonda Farm Fair and at the Cleve field days, apart from other shows in the state this year.

We must all remember where our food comes from, because it is so important that we nurture our farmers, put the right legislative processes in place, and that we actually support research and development in this state instead of what we have seen recently—tens of millions of dollars being pulled from the primary industry sector. It is a sector that contributes three times the gross revenue of mining in this state, and it will contribute a lot more than mining for a long time yet, and we need to support it. I support the motion.

Mr VAN HOLST PELLEKAAN (Stuart) (12:04): I, too, join my colleagues in supporting the member for Schubert and his very important motion. This is a very important issue, not only for the electorate of Stuart but also our state and the nation. Unlike my regional colleagues here, I have never been an active farmer. I do not have a farming background, but I certainly did grow up in a family where my father was, and still is, an agricultural economist. He has been an agricultural economist for over 50 years. I grew up with that influence and certainly the knowledge, understanding and insight of how important primary production is for our state, particularly farming.

It is important to point out that farming is a word that is used quite generally and broadly. Of course, it means cropping and grazing. Importantly, in the context of the Australian Year of the Farmer it should also include pastoralists. However, when we talk about farming in South Australia we really are talking about people who operate orchards, dairies, piggeries, vineyards, apiarists, aquaculture and horticulture.

I think our state has a marvellous opportunity in years to come with the extensive development of horticulture around our regional areas. It is certainly something that even city members of parliament would be very familiar with. It has been a mainstay of Adelaide, particularly in suburban areas, although it is now not there because the land has been taken up with housing. However, I think a large part of regional South Australia will have a great opportunity to develop horticulture.

I would also like to comment on the Seawater Greenhouse project, which is a marvellous project near Port Augusta, where solar energy is used to pump and desalinate water from the Upper Spencer Gulf. That water is then used to grow at present just tomatoes in a trial site, but it certainly can be expanded to any other fruit and vegetables that can be grown in a greenhouse. It really is a marvellous project that I understand is doing exceptionally well in the pilot stage. It has the opportunity to be developed far and wide.

I now turn to environmental responsibilities. Nobody in this house would be unaware of the fact that, as every year goes by, as we should, we are more and more aware of our environmental responsibilities. I would like to congratulate South Australia's farmers for leading in that area. There is nobody more aware of or responsible for environmental sustainability and protection of their own land than people who use it for primary production and who plan to use it for primary production for generations and, potentially, centuries to come.

I really would like to congratulate our farmers, as the member for Schubert said, particularly the younger generation that is coming along, not that the previous generations deliberately did things incorrectly. They used the best technology and the best knowledge and were as responsible as they could be and should have been at the time, but our current generation of farmers have improved significantly on it. I am very optimistic that the next generation and the one after that will be better and better again. Farmers and the farming industry as a whole need to be congratulated for that.

They are under pressure. Our farmers are feeding our state, our nation and the world while their land is put under more and more pressure. Farmers take responsibility and succeed when pressures, both environmental and space-wise, are growing, and also the demand for their produce is growing. I think they do a marvellous job in that area.

No doubt, some people find efficiency a curse. Every time a new piece of technology is available from Australia or somewhere else in the world, if you do not have it you start to fall behind, but of course it is a benefit as well. Farmers who do have the capacity to use the latest and greatest technology available in the world will be the ones who succeed. They know that far better than I do.

Keeping up with efficiency is very important. It does not matter whether you are broadacre cropper trying to put in thousands, and in some cases tens of thousands, of acres or whether you are an apiarist, who might on a weekly or monthly basis be moving beehives around the countryside, being as efficient as possible and using the best technology and knowledge available is certainly what is going to keep people successful.

As people in this house know, my great passion is regional development. I would like to highlight the fact that there are hundreds—this is not an exaggeration—of communities just in South Australia who rely upon farmers for their survival. They benefit from farming, they need farming, but they are not all farming only communities. Many of them benefit from lots of other things, some of them from tourism, some from other industries. However, without our farmers we would instantly lose hundreds of communities.

Whether you are a country person or whether you are a city person—we cannot all live in Adelaide, we cannot all work in city offices—all of South Australia benefits from having a vibrant and successful city of Adelaide and all of South Australia benefits from having a vibrant, successful and sustainable regional South Australia as well. So, thank you to our farmers for contributing to that.

Of course, in relation to exports, our state started as, and still is, and probably forever will be, a state that requires exports for the vast majority of its wealth. Of course, included in that are mining exports, but farming and agricultural exports still do play an enormous role, and that will never, ever change. Wheat, wool and other commodities sustain our state enormously.

In that vein, it would be remiss of me not to express my concern, my dissatisfaction, my anger in some stages at the state government for continually reducing the funding to PIRSA. That is a great shame and incredibly short-sighted. It hurts our state, it hurts our regions and it hurts Adelaide as well. It really is very short-sighted. We must be on the front foot of research and development in our state, and those decisions taken by our government over the last decade are completely unacceptable.

Again, just paying tribute to our farmers, people underestimate how easy it is. I know there are a lot of people in Adelaide and other capital cities who just look at it and say, 'Well, look, if you're born into a farming family and you've got lots of land and if you get some rain, it's all going to be easy.' People do not realise the risks that are involved. It is incredibly hard to grow products that rely upon overseas markets.

Our farmers are price takers. They can grow the best crops, they can do a marvellous job, use all the technology, be environmentally responsible—everything they might like to do—but if the world prices collapse it is all for nothing in that one particular year. Of course it is true as well to say that there are a lot of benefits out of their control. If world prices are fantastic, they do very well, but to have weather out of your control, and to have prices out of your control, puts an enormous strain on farming families and farming businesses that people do underestimate, and I would like them to think seriously about that.

There is also of course the enormous capital investment. It is not just the land but, as the member for Hammond mentioned, in many cases, millions of dollars of equipment is required to be

at the cutting edge of technology and efficiency, and that does not come easily. You put that into the context of any other type of business you like. To be a price taker, to have volatile world prices that will determine your income in a particular year, to have weather that you cannot rely on and you cannot predict to determine your success in your year, with all of that left open, you still have to have millions of dollars, very often, invested in machinery and equipment and land. Otherwise, even if those other factors—the prices and the weather—line up, you are out of luck anyway. You are just not in the race if you have not done it.

To our farming families, to our farming communities, to farmers across our state and across our nation, we depend upon you for our economic success. I congratulate you and thank you for everything that you do for us.

Mr WHETSTONE (Chaffey) (12:13): I too rise to support the member for Schubert's motion and indeed, being today the first day of autumn, that is what farming really is all about: it is a seasonal profession, and with the seasons come the different procedures in farming. Looking at farming today, I am part of a family who has farmed in South Australia for well over 100 years. Predominantly, my great-grandfather and my grandfather were very successful stud Poll Hereford breeders—dairy, dryland farmers—and along the way I have come into farming through the irrigation sector.

I really must say, looking at what my great-grandfather and particularly my grandfather and father endured over time, you really do have to be a tough breed of person to endure the hardships, to endure the ups and downs, that farming presents.

As many of the farming fraternity here today would know, we have our good years, we have our bad years, because it all revolves around having a good season. Unfortunately, we roll with the punches when we do have those marginal seasons or the dry. In some cases, what some of the farmers are experiencing as we speak today is a serious wet season, particularly within vintage, and also within some of the horticultural crops, particularly the nuts that are now floating up the rows and floating out of some people's properties.

I guess I was fortunate enough that some my ancestors chased the best land, and I guess, predominantly, most of the state's best land was used for farming in earlier days. But over time, we have come to look at some of that marginal country, particularly up in the electorate of Chaffey. It is very marginal in the Mallee and they are, with technology, able to grow sustainable crops, particularly cereals. Look at the equipment from yesteryear to what we experience today. I still have very vivid memories of sitting on my grandfather's old Twin City tractor, which was a huge tractor—

Mr Venning: Still got it?

Mr WHETSTONE: Member for Schubert, he's hunting out old vintage equipment. But I remember sitting on that piece of equipment that, back in those days, was a prestige tractor, towing a very small scarifier or cultivator plough, or a disk, something on which we would then put a box seeder, and plant up a relatively small amount of land in comparative terms to today. It was a very, very viable industry back in those days, when the farmer rode on the sheep's back, when a pound of wool was worth a pound.

Again, we look at what we experience today. I was listening to the member for Hammond talking about some of the tractors and implements that some of the farmers use today, with 100-foot wide implements and tractors with 12 wheels, tractors that would pull buildings along. It really does amaze those who are uneducated just how they can pull such large pieces of equipment over these large pieces of land.

I would like to talk about my experience sitting on the select committee on the grain handling industry, which is a bipartisan committee, and experiencing what farmers have been through over the last couple of years in particular. In 2010, we had the state's record crop of well over 10 million tonnes of grain. The diverse problems and issues that farmers faced, I guess, explains what the farming fraternity has to go through, whether it is wet weather or dry weather, dealing with the handling of their produce and the marketing of their produce, and dealing with the quality of their produce. I think that Australia is world renowned for growing some of the highest quality grains in the world and targeting specific markets and export markets that really do supply food to the world.

Just looking at irrigation, I have a very keen interest in irrigation, because that was my line of farming some 25 years ago when I moved up to the sunny Riverland and ventured into business,

buying myself an orange grove. I relied very heavily on my father-in-law back then to give me some education and expertise, because irrigation is essentially different from the dryland or broadacre farming. It is essentially different from intense livestock farming, whether it is feedlotting or intense farming, or whether it is the wild game farming. There are many diverse types of farming. It is good to see that the small business minister is here today because, as he would understand, all forms of farming are about small business. It is all about small family farming. Whether it remains as a small family farm, or whether over generations they build up that empire to make it a large family farm, it is all about small business.

There is a myriad of types of farming, particularly here in South Australia. I will not mention all of them but it does not only include things 'born to the land' but also the wild fish catch. Much of the wild fish farming has evolved over the last five to 10 years, and I think that industry is on the cusp of becoming a huge industry, not only domestically but also export earnings for the state's economy will be unlimited in the years to come. We see many fish breeding programs now to suit or cater for the growing population's demand on fish. We see many issues with being able to breed not only fish but also breed animals and grow cereals and, at the same time, deal with the needs of what the world requires today. We look at much of the world's population that is now becoming more reliant on protein, and that is the way of the world of farming today; that is, we will be chasing high protein to meet the demands, particularly in Asia and in China. That will be the future of our export industry.

Again, the farming sector is underpinned by research and development. As the member for Stuart has highlighted, we continue to see government withdrawing its support for R&D, particularly in South Australia. It is a very sad exercise to think that we are world leaders in farming, yet the support for R&D so that we can remain at the forefront and continue to be world leaders in food production is being taken away. It is called being reliant on the private sector, being reliant on the suppliers of our products to do the R&D, which is really not a level playing field, because the commercial sector is there to sell products, it is not there for the benefit of anyone bar itself.

That is something that the government must give more consideration to. It must embrace what research and development does to keep us world leaders in food production and world leaders on the farming frontier. That also underpins the biosecurity that South Australia has been so reliant on over many years—particularly in my electorate, the lens coming into South Australia from the eastern seaboard with the fruit fly program, with weeds and the like. That is something we must keep at bay.

I also refer to the Murray-Darling Basin draft plan that all irrigators and farmers are about to embark on. That is something that we must embrace; and we must look at how we are going to produce more with less water.

Mrs VLAHOS (Taylor) (12:23): I rise today to support this motion. It is very dear to my heart because many of the people I have met in the north of Adelaide around the areas of Virginia, Two Wells, Reeves Plains and up to the edge of the Mallala area are involved in primary production and agriculture, growing the crops and food for our city, and also the animals which we consume—that is, the meat we buy at the supermarket. They work very hard and are very passionate about their profession. I know that they like to be innovative and increase their productivity, as well as stay ahead of the trends that are occurring in what is an important industry to our state.

I would like to place on the record my support for the motion and for the communities that support the farmers in the north. It is important that we recognise that this is the Year of the Farmer and what a worthy contribution farmers make. It was very good that the Governor-General started the year off around Australia Day by promoting this important year.

Ms CHAPMAN (Bragg) (12:25): I rise to support this motion and thank members of the government who have indicated their support of this motion, it is very worthy. In 1836, my ancestors who arrived at Kangaroo Island were farming families. In fact, my great-grandmother, Sarah Snelling, mother of 14 children, not only made a very significant contribution to their farm on the north coast of Kangaroo Island, in addition to raising 14 children (seven boys and seven girls) she was the granddaughter of a lady who had been widowed within weeks of settlement in South Australia who herself raised young children to become good farmers on Kangaroo Island. I disclose my interest and financial membership of the Country Women's Association and as a member of Women in Agriculture and Business of South Australia, and maintain farming interests to date.

What I wish to say is this: the new minister, minister Gago in another place, covering primary industry, has spoken on a number of occasions that I have been present at dealing with primary industry. As the Minister for the Status of Women as well, she has made statements commending the involvement of women in farming. That is to be applauded, but what I find (repeatedly) is this condescending and close to insulting assumption that we as women are just starting to get in on the game. It was like a statement I heard some time ago under this government where they were talking about encouraging women to learn to become truck drivers in mining in South Australia, and there is a push for it again, which is terrific, but to suggest that they have not already been out there driving trucks for 20 years is insulting.

Members interjecting:

Ms CHAPMAN: Just in mining development. It is important to minister Gago, or anyone representing the government on these issues (both women and agriculture and primary industry), that they understand they have been out there sharing the load for 175 years in this state, not least of which during two World Wars when a lot of our men were away, and sadly many did not return, and in those communities they ran the show. So, I want no more of this nonsense about, 'We are encouraging women to come into the world of agriculture,' because, by golly, they have been there for 175 years.

The second matter I wish to raise is the question of water. Unquestionably, farming is a gambling industry. You have to rely on commodity prices, the weather and, obviously, disease and so on which may affect the product and produce to which you are working toward. It is a high risk industry and it is hard work—you have heard from other speakers on those matters—but the rewards are there, in many different ways, not always financial, but the rewards can be there, particularly in lifestyle for the families who undertake these tasks.

Water is critical. As humans, we cannot live without water. We cannot grow anything without water. We certainly cannot keep our stock alive without water. We know the River Murray is a very important vein of life that runs through this state. The member for Chaffey has admirably covered the significance of that in the region that he represents in this state. The River Murray did not come to Kangaroo Island, the last time I noticed, nevertheless we still pay the levy and all those sorts of things and we are happy to make a contribution toward the water resources of this state.

So, when this government, in the last 10 years, has come up with ideas about how it is going to support the sustainability of water in this state, we have listened carefully and where it has been appropriate we have supported it, but it has come up with a few donkeys of ideas. One of them is to have prescription all over the Adelaide Hills, not just the western area of the Mount Lofty region but the eastern area of the Mount Lofty region (where they are just about flooding in water). On the western side, in which a number of my constituency reside, operate and produce (particularly horticulture and vineyards), they are under pressure in a one size fits all prescription proposal by this government. I have spoken on this before. While there is breath in me, I will not allow a tax to be made on rain by this government. We will continue to fight that.

Several years ago, there was an attempt by the government to introduce a prescription regime on Kangaroo Island. There were public meetings. There were concerns raised about the scientific data that allegedly supported the basis upon which that was to be done. Understand this: as I think the member for Finniss has stated on other occasions, Kangaroo Island is a rock in the middle of the ocean with a bit of dirt on it. It has almost no groundwater. It relies on heavy rainfall on the western side, from Parndana, and lower rainfall where the member for Finniss lives. He is over in crow country, we live in magpie country, and at his end they have a bit less water.

What has happened over the years to address that is that the Middle River system on Kangaroo Island has been dammed. I was only a little child when this was opened and launched, and was an important part of making sure that the people of Kingscote in the eastern end had enough water to stay alive—very happy, very proud, and it was an important piece of infrastructure for the state.

What is important to understand is at the very time that this new government came in to say that we needed to have prescription water there, it was absolutely unrefuted data at that stage that 95 per cent of the—

Mrs GERAGHTY: Point of order.

The ACTING SPEAKER (Mr Sibbons): Point of order, member for Torrens.

Mrs GERAGHTY: It seems to me that the member is speaking in contradiction to the motion. This is celebrating that 2012 is the Australian Year of the Farmer. The member seems to be talking about something that is in direct contradiction to that, and almost not related to the motion at all.

The ACTING SPEAKER (Mr Sibbons): Member for Bragg, can we just celebrate the wonderful farming community.

Ms CHAPMAN: I will, but if they're dead because they haven't got any water, then we won't be celebrating anything! That is the critical element of farming; we cannot grow anything, we cannot survive, unless we have water. So, in this project of water, which was proposed by the government, it was irrefutable that 95 per cent of that river system was flowing out to sea at Snelling Beach—named after my great-grandmother's family, I might add—and that continues today. So, when they came up with this plan, the Kangaroo Island community got together and said, 'Look, if there's a problem, let us look at how we might address it.' They said—

Mr Pengilly interjecting:

Ms CHAPMAN: The local member there is leading this as well—we had a very significant debate, and it was quite clear that the science that supported this proposal was crap and that we needed to go back to square one, and that the models that had been developed on it were unreliable, and therefore, we needed to remedy that. Appropriately, those in charge of this proposal said, 'Yes, we understand that; we will go away and we will look at it again.'

Yesterday, I received a letter from the NRM board, as a landowner, saying to me—and I paraphrase—'Yes, the information was wrong when we went to it before. We went away and we looked at it again, and we've come up with a new formula. This is the rule: you can't put any dams in unless we tell you.' None at all; not even under the 5 megalitre—is that what you call them?

Mr Whetstone: Five megs.

Ms CHAPMAN: 'Megs'—the full name is megalitre—that is currently allowed under the act. Now, I received no copy of the report, nothing—I have asked for a copy of the report, and I have no doubt that they will send it to me, but what I say is this: it is not acceptable, if we want farming in this state to survive, that we have this 'announce and defend' position of government and then through it, we have notices of what is going to happen, even without the information being provided prior to the decision being made. That is just unacceptable.

I think it is important that we understand that if we want a thriving farming community in this state, and we want it to be the bread basket for the world, and we want it to actually be the financial cornerstone, along with other primary industries in this state, then we have to make sure it has the support; not the disingenuous policies that are being emitted under the grounds that they are helping the environment or water sustainability, that they crush these other things.

Water sustainability is absolutely critical to the development of farming and anything else in this state—manufacturing, et al. But, it is not acceptable that the government comes up with proposals and crushes everyone, including the farming community, in direct contradiction of that being allowed to flourish. I support the motion.

Mr PICCOLO (Light) (12:33): Mr Acting Speaker, I would just like to speak briefly on this matter. My electorate of Light has a number of farmers; not only farmers in terms of crops, etc. (such as wheat farmers), but there is also horticulture and viticulture throughout the electorate.

First of all, I would like to make a couple of comments about the area close to where I live, and the history of some of the farming communities where I live. We arrived in the area in the early 1960s, and farming in the sixties to today has changed dramatically. I would like to pay particular tribute, in part of the celebration of farming, to some of the communities which have come and gone through the electorate.

In the early 1960s and 1970s the community where I live had a lot of people of Greek and Italian background and the farmers, who had obviously come from overseas, along with people from other nationalities as well, predominantly worked in glasshouses, as market gardeners, or chicken farmers. They were quite small farms, but they were able to make a reasonable farm income to raise their families. That has changed over time. I can recall a dairy farmer down the road who used to have a horse and cart—this was in my lifetime. He would go down the road and drop off milk.

The Hon. A. Koutsantonis interjecting:

Mr PICCOLO: There you go. More recently people from Vietnam and other countries of Southern Asia have come to live in the area, and they bring with them, as did the early migrants, a whole range of techniques they used in their country of birth and have tried to adapt them to Australian situations. In the main they have been very successful, predominantly for two reasons: first, they work very hard. If anybody has worked in a glasshouse—and I only do it once a year when I have to pick tomatoes for my mum—they will know it is very hard work. Secondly, they work together as families. That is one thing that is very common in rural and regional Australia, whether one is of European or Anglo background. Those rural communities have succeeded because they work as a family unit.

I also mention the important role played by women in farming communities. I agree in part with what was said earlier when we talked about women in the workforce. Women have been in the workforce since the year dot. In terms of the farming community, they have made major contributions to farming. They have not only done the work on the farms but also often had the role of raising families as well, so their life has been particularly difficult. I also pay tribute to the women: whether they have worked supporting market gardeners or farmers of different types, they have made a major contribution to our communities.

The other thing I would like to mention is that farming has changed. A lot of those small farms have now disappeared. Farming productivity and efficiency has improved out of site. Some of the most efficient farming in the world occurs in this country and this state, which helps ensure we have food security not only for our own nation but for people around the world.

One of the areas that has obviously changed dramatically is in the area of intensive farming with the changes in animal welfare law. One of the challenges farmers are facing is how to meet the increasing challenges faced by consumer and other groups' expectations about the ethical treatment of animals, and that is an area into which farmers are moving. It is interesting as I have a pig farmer in my electorate who I am working with at the moment, and he is now looking at changing his whole farm to being environmentally sustainable farming. That is good for the environment and also much more friendly for the animals. The old days of pigs being raised in closed sheds are disappearing. So, we have a number of benefits.

Farmers are adapting. We have to be mindful that they cannot adapt overnight, and people need resources and time to do that. I get a little annoyed at times with some of the lobby groups who want change now. A lot of the farming community are happy to change, but they just need time as it is not a cheap process to do that—it is very expensive.

My next point is that a lot of farming is very marginal because of the lack of competition. Whether you are a vegetable farmer, growing grapes, fruit or wheat, with the limited number of people who retail, wholesale or purchase a product, the lack of competition particularly in retailing is putting the squeeze on a lot of farmers. Something about which we need to be very mindful in this place is that competition delivers benefits, but the lack of competition or perceived competition (and I am talking Coles and Woolworths, etc.) can distort the market significantly where we could literally wipe out our small producers. We need to be mindful of that.

With those few comments, again, I would like to pay tribute to all those farmers in my electorate, those people particularly who have come from overseas and who have adapted and farmed in this area. Again, I pay tribute to those small farmers around my area who came here and not only learnt a new language and a new culture but who have also successfully farmed. I wish them well.

Ms THOMPSON (Reynell) (12:40): I will not keep the member for Fisher long. The member for Taylor and the member for Light have spoken very eloquently and adequately on the government support for this motion and for the International Year of Farmers and our recognition that, indeed, we do rely on our farmers for our food; and particularly the comments of the member for Light about people who came from overseas and adapted to a very different climate, a very different culture and very different soil and who have been instrumental in bringing us new products in a very challenging environment.

However, I could not allow this debate to proceed any further without responding to some of the remarks made by the member for Bragg about the minister for women and the minister for primary industries, the Hon. Gail Gago. I am absolutely confident, and from my personal knowledge am aware, that the honourable minister has not just discovered women in farming. The honourable member is well aware that women have been on farms from day dot. My family emigrated to Australia in 1838 as agricultural labourers.

Members interjecting:

Ms THOMPSON: We do not know much about the history, but, with the involvement of the Irish community and working on the land, I am pretty certain that my great, great, great whatever grandmother was also working on the land, although her occupation is not recorded as the custom then was only to refer to the occupation of the man in the household.

In my own work as an equal opportunities officer and an adviser in the area of women in the then department of labour, I was involved in organising consultations with rural women in conjunction with the then women's adviser to the premier. This was quite some years ago (somewhere around about 1988, I think), and a time when the role of women was discussed. Women in farming then usually described themselves as 'farmers' wives'. They did not describe themselves as farmers. My great aunty Kath from Redhill always described herself as a farmer's wife.

It has been in the last 20 years that more women have been describing themselves as farmers, because I am sure there always were some who described themselves that way. The minister for women has been celebrating the changed role of women in farming and the fact that they are now driving the tractors and not only doing the books—and 'only' is not really appropriate, as doing the books is incredibly important.

When I lived in the country as a young child, we ran the Cambrai pub. I often happened to be in the bar at 6 o'clock and I was very well aware of all the farmers who came into the bar at that time, or close to, usually in the middle of winter when they had been out on their tractors. It was a port and stout that they had—a very warming drink; I thoroughly recommend it. Never once did I see a woman coming in off the tractor to have a stout and port. It was all the blokes.

Women are now driving the tractors. If they are cold after spending a day on the farm, ploughing away, they would probably now be having the stout and ports, too. There is a change, and we need to note that and celebrate it.

The Hon. R.B. SUCH (Fisher) (12:45): I support this motion. I have had a longstanding interest in agriculture; in fact, I left school when I was 14 to work on a farm over at Alford. I was a member of Rural Youth; I have still have the badge from those days. Farming is a very important activity. It encompasses not only grains and horticulture but the whole range of food production. It is a pretty tough gig being a farmer. We often hear all farmers are poor. That is not true; some are quite well off, but many do struggle. I am most familiar now with the Mallee. I think Mallee farmers are a breed unto themselves. I think they are fantastic. Not many of them make a fortune, but they are good, decent, honest people who toil hard.

There are a couple of issues I would like to mention whilst we are celebrating what farmers do. We need to acknowledge a lot of the cost pressures on them, the fact that we still do not have proper food labelling, and the decline of many country towns, and that means a reduction in services. I think there should be a charter which makes it quite clear that people who live in the country (obviously farmers are included) are not denied a proper level of services. I think that should be not just the catchcry of royalties for the region type argument but a basic right that people in the country, which, as I say, includes the farmers, are not denied services simply because they do not live in the big city. One of their big concerns is roads, because they are the lifeblood of rural areas. Many of the roads in country areas need attention, including some of the major arterials. I will keep raising those issues form time to time.

South Australian farmers have pioneered a lot of things, including dryland farming, and we are very much into direct seeding and no till and all those improved irrigation techniques. I commend our farming community for what they do. I think it is important that not just children in the city but everyone recognises that food does not come out of the supermarket. It might at the end, but it ultimately originates from the hard work of farmers. I know myself, trying to grow a bit of fruit as a hobby, how hard it is to produce quality produce when you are challenged by nature and minister Caica's parrots to produce fruit.

I say well done to the farmers. We will continue to support you and hope that over time the cost pressures on you are not unreasonable but ones that you can cope with and that you are not pushed out by those whose interests are other than in the best interests of this country. I support this motion.

Mr BROCK (Frome) (14:48): I congratulate the member for Schubert on bringing this to our attention. The contribution of farmers in all of Australia in the last century has been

underestimated, I believe. If you look at some people when they buy something from a supermarket, they do not understand where it comes from. They just get it, go home and put the food on the table and they eat it, and they do not appreciate the hard toil of the farmers over the last century.

In my younger days I lived at Wandearah. It was a very small community but it had lots of small farming allotments. Today, they are dramatically reduced and a large number of allotments are now made into larger allotments. It makes it harder for the communities to survive. I always wanted to be a farmer when I was younger. I thought it was a great lifestyle. I always wanted to be a dairy farmer. My uncle at Bute had a dairy farm, and it was fantastic going there, as well as Greenock and the other areas down there. It was beautiful to go down there to see and milk the cows. Looking back—

The Hon. R.B. Such: Look what happened to Brokie, though.

Mr BROCK: I will not go into Robert Brokenshire; he is a very good man and he is a great farmer. Things have changed: my electorate of Frome has a very diversified unit of agriculture. We have viticulture, we have grain and we also have dairy farming, but unfortunately that is a dying phase. The dairy farming in particular is being wiped out and, before we know it, everything will be coming from overseas. Australia has the greatest opportunity to be the food bowl for Asia. We have so many challenges going forward. There are so many issues there to face and, in particular, the security of water is a big issue.

I congratulate the women over the many years who have supported the husbands and the sons who have been on the farms and looked after them, and they also looked after the shearers when they were in the shearing sheds. You forget about that because the shearers would be there, and the wives, the daughters and the girlfriends would bring the food out and certainly look after those people.

The lack of security with water is only one of the issues. Our farmers have everything going against them. They have nature, world prices and the Australian dollar all as challenges, but they are very resilient and they will not die down. They will continue on. That is why I have great pleasure in being the chair of the select committee into the grain industry, to ensure that we make everything as viable and as streamlined as we can for the grain industry in particular to be able to go forward and to secure that industry, which is very important not only to South Australia but all over Australia.

I will close on this matter but, again, I congratulate all our farmers throughout all of Australia, in South Australia in particular, and again I congratulate the member for Schubert for bringing this to the attention of the house. I certainly endorse the motion and congratulate all our farmers across all of Australia.

Mr VENNING (Schubert) (12:51): I thank all members for their contributions and their encouraging words. I also thank the government for its offer of support. I hope that everybody will get involved in the various programs throughout the year. I commend Mrs Carol Schofield for taking their message to the people. I met her last Saturday at the Angaston show with the first caravan. It was great to meet her and she does great work. Again, I extend an invitation to anyone who wants to visit our farm, particularly during harvest. I urge other farmers to do the same because we know that showing is better than telling.

Motion carried.

BATTLE OF LONG TAN

Ms BEDFORD (Florey) (12:52): I move:

That this house acknowledges the 45th anniversary of the Battle of Long Tan and recognises the extraordinary efforts of D Company 6 RAR and supporting arms and services and all who served in Australia's deployment to Vietnam.

Because of the importance of this subject, I wanted to reintroduce this and give members the opportunity to put their remarks on record and of course to have the motion eventually pass.

The Vietnam War was unique. Until recently, it was our longest war. It remains, and I suspect will always remain, our most controversial war. It is the controversial nature of the war and the bitterness shown to our returning soldiers who did nothing more than the bidding of their government that shine a special light on those who served there.

I will not repeat all the remarks that I made in my speech on 10 November last year, but I do draw members' attention in reintroducing the motion and remind the house that the Battle of Long Tan in 1966, together with the more sustained battle of the fire support bases, Coral and Balmoral in 1968, were truly the defining military engagements of the Vietnam War. Of the two battles, I think Long Tan was particularly noteworthy because it occurred so soon after Australian troops had joined the war effort.

On 18 August, which was Long Tan Day last year, I was privileged to lead a group of Vietnam veterans to a service of commemoration. We were joined by other Vietnam veterans, their families and diplomatic staff. A poignant ceremony was held amongst the rubber trees in that area and I have it on good authority that it still looks very similar to the Long Tan of 1966. The group I led comprised six veterans and one war widow who were nominated by the senior ex-service organisations in South Australia that have significant Vietnam veteran membership.

This delegation's story is about a small number of veterans from one recent conflict. Other veterans we met during our time in Vietnam assisted our delegation and showed the same qualities. We thank them for their help. I am confident that these veterans represented comprehensively all those who have served our nation. They did their duty and they did us proud. I acknowledge their service. I particularly remember all others who have died serving our nation and those who returned, some wounded physically or mentally, all with lives changed forever. What better reason to work for and to want world peace. We will remember them, lest we forget.

Debate adjourned on motion of Mr Griffiths.

WOMAN'S CHRISTIAN TEMPERANCE UNION

Ms BEDFORD (Florey) (12:55): I move:

That on the 125th anniversary of the Woman's Christian Temperance Union, this house—

(a) recognises the South Australian branch's work from the early days of settlement in this state, its work on women's enfranchisement and personal safety; and

(b) commends its continuing work on exposing the dangers of alcohol and substance abuse.

I am reintroducing this motion, which was first moved on 5 May 2011, because I want to give members again the opportunity to remark on this. The Woman's Christian Temperance Union was founded in Cleveland, Ohio, in 1874. It is the oldest continuing non-sectarian women's organisation in the world. Here in Adelaide, for more than 125 years, the organisation has trained women to think on their feet, speak in public and run an organisation.

I will not again put on the record all the remarks I made that day, but I do want to give members the opportunity to speak to the motion and, again, hopefully have it passed, especially as we have recently welcomed two new women members into this chamber, who now work with us under the tapestry on the opposite wall, featuring the faces of Catherine Helen Spence, Mary Lee and Elizabeth Webb Nicholls.

As a councillor of the Women's Suffrage League, through the WCTU, Elizabeth Webb Nicholls helped to gather 8,268 of the 11,600 signatures for the 1894 suffrage petition to parliament. Before the first election in which women voted, which was in 1896, she prepared the 'Platform of Principles' and noted:

> They were not like women who lived in a harem, they were going to decide for themselves and not follow any one party blindfolded.

Her deeds and achievements were truly remarkable.

The message of the WCTU remains as relevant today as ever. The dedicated women of the group became active to change their community to make it a better and safer place for all. The lesson we learn from their history and commitment is that we can change laws and circumstances and become active in working for change. This is the lesson and the continuing legacy of the WCTU. I commend the motion and the group, which is still active organising on our behalf today.

Debate adjourned on motion of Mr Griffiths.

SCHOOL AMALGAMATIONS

The Hon. R.B. SUCH (Fisher) (12:58): I move:

That this house calls upon the Minister for Education and Child Development to review the decision to amalgamate junior primary and primary schools involving the loss of leadership positions and the consequential negative impact on student learning and behavioural outcomes.

One of my schools, Happy Valley Primary School, has asked me to raise this issue as a matter of concern because they believe that, whilst the government has said that it will compensate the school during any amalgamation, they do not believe that will fully deal with the issues that are currently catered for by having the additional senior staff.

I do not need to speak at length on this. There are other schools around the state that are in a similar situation. But I do ask the minister, when she looks at the recommendations from the various committees relating to amalgamations, to take into account any consequential and possible negative effects on the students' learning and on the behavioural outcomes in those schools. I commend the motion to the house.

Debate adjourned on motion of Mrs Geraghty.

[Sitting suspended from 12:59 to 14:00]

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

His Excellency the Governor, by message, recommended to the house the appropriation of such amounts of money as might be required for the purposes mentioned in the bill.

VISITORS

The SPEAKER: I believe we have a group in the gallery of students from Westminster School, years 11 and 12, who are guests of the Minister for Transport. Welcome to our parliament and we hope you enjoy your time here.

CHAMBER PHOTOGRAPHY

The SPEAKER: I advise members that I have authorised a photographer to take photographs from the galleries today, including the Speaker's Gallery, during question time for use on the parliamentary website and also for educational purposes, so please do not be concerned if you see someone taking photos today.

SUICIDE PREVENTION ADVISORY COMMITTEE

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:04): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: I am pleased to announce the formation of a Suicide Prevention Advisory Committee. This expert committee will advise me as Minister for Mental Health and Substance Abuse on strategies to reduce the rate of suicide in our state. Suicide is, of course, heartbreaking, not only for families and friends but for whole communities. The personal circumstances that lead a person to attempt suicide are often complex and varied. Over the past two decades, there has been an overall downward trend in the rate of suicide in our state, and of course we would want that trend to continue.

The new committee brings together 21 expert representatives from across government, non-government, academia, business and consumer and carer groups. These representatives have been chosen for their skills, expertise, their own lived experience of suicide and for their attempt to influence suicide prevention initiatives in the community. Together, they will share knowledge, review current practice and introduce reforms across our community.

South Australia's Chief Psychiatrist, Dr Peter Tyllis, will chair the interim meeting. The committee will oversee the new South Australian Suicide Prevention Strategy 2012-16, which is now being finalised following a period of public consultation. We published this report some months ago and had a lot of positive responses. I draw it to the attention of members of this place. The committee's work will also guide the work of SA Health and provide considered policy advice on issues relating to suicide and suicide prevention in South Australia and the effectiveness of current measures and gaps in service provision.

I think it is also important that they let us know about how we as public figures and how the media should deal with issues around suicide. There has been a view taken that it is best not to talk about suicide because there is a risk that by talking about it you will encourage others to attempt it. That has created a veil of secrecy, to a certain degree, around suicide. I think the more contemporary thinking is that we should talk about it, but we do not want to do it in a way which will make the situation worse for individuals who are at risk and in problematic circumstances.

This is a very sensitive area. I encourage all members to have a look at the report. I know that all members in their own electorates would be aware of people who are suffering from illnesses which might indicate that suicide might be an option that they are maybe considering. The committee will also promote partnerships between everyone involved in suicide prevention, both within government and outside and community sectors, in recognition that suicide prevention is a shared responsibility.

PAPERS

The following papers were laid on the table:

By the Minister for Police (Hon. J.M. Rankine)—

Death of—Robyn Hayward and Edwin Durance Report of actions taken following Coroner's preliminary findings
Firearms Prohibition Orders—Report 22 December 2010

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

Natural Resources Management Council—Annual Report 2010-11

By the Minister for Education and Child Development (Hon. G. Portolesi)—

Regulations made under the following Acts—
Education and Early Childhood Services (Registration and Standards)—
General
Revocation of Regulations
SACE Board of South Australia—Fees

Mr HAMILTON-SMITH: I rise on a point of order. I raise section 198 of standing orders, Papers and Returns, which requires that papers may be ordered to be laid before the house and that they are laid upon the table by a minister. Could I draw your attention to the Public Sector Act, section 12, which requires departments to submit to their minister their annual report within three months after the end of the financial year. Further, according to the act, the minister must table the report within 12 sitting days of receipt. The act states that any delay must be explained in writing in a statement to be displayed before each house of the legislature.

I note that the Minister for Health and Ageing has failed to table the Department of Health and Ageing's annual report 2010-11 and consequent financial reports. As a consequence, the Auditor-General, who has obligations to this house, has had to advise the house that he has been unable to meet his statutory requirements to the house to provide a full audit of the Department of Health and Ageing, which the house still awaits.

On 13 December, I wrote to the Minister for the Public Sector, the member for Napier, asking him to seek crown law advice on whether he, as the minister responsible for the Public Sector Act 2009, could ascertain whether the Minister for Health and Ageing and his department had acted within the law. His reply, dated 21 December, stated the following:

> I have personally raised the matters contained in this letter with Minister Hill's office and I have determined that a direct response from Minister Hill would be the most appropriate manner with which to deal with your queries.

I have not heard from the Minister for Health. I therefore ask you to consider, on behalf of all members, whether the Minister for Health has complied with his obligations under the law and, under standing orders, to report to the house in accordance with standing order 198.

As the Speaker of the house, I ask you to raise the issue with the Minister for Health and the Premier with regard to how the house might insist that ministers meet their statutory obligations to report to parliament and to provide advice to the house on the outcome in the interest of good governance and the people of South Australia.

The SPEAKER: That was a point of order, Minister for Health. I would ask that the member for Waite supply me with that information, and I can come back to the house.

The Hon. J.D. HILL: I will just give him the information right now, if he wants it, Madam Speaker.

The SPEAKER: Did you wish to make a ministerial statement, minister?

The Hon. J.D. HILL: I can. I will make a ministerial statement off the cuff, Madam Speaker.

HEALTH DEPARTMENT ANNUAL REPORT

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:11): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: Members have made comments by interjection for some time. The reality is that the Auditor-General still has the reports and, until he has finished with them, I cannot table anything until the financials have been signed off by the auditor. So, I am awaiting the Auditor-General's work.

Members interjecting:

The SPEAKER: Order! You will hear the minister in silence.

The Hon. J.D. HILL: They ask for information, and then they comment on it. It is fair enough if they want to comment, but at least let me complete what I was saying. The Auditor-General in the past used to audit the Department of Health's accounts initially, and that would be part of the normal Auditor-General's reports, and then the minister of the day would present the Department of Health's annual report.

Because of the changes, largely brought about by the establishment of the Local Health Networks (LHN) arrangements with the commonwealth, we now have a much more integrated set of accounts, and the Auditor-General determined that he was not going to audit the Department of Health's accounts until he had access to the accounts of the other hospital networks (the Local Health Networks). That was a change in his procedures, which caught us unawares.

He waited until all of those reports have come in, and he has had them now for some time. We are waiting for him to finalise those reports; as you can imagine, they are very complex. That was not the way he did it in the past; this is a new way of doing it. When I have received from him the audited reports, I will table the department's reports—they are ready to go, except for the financial statements, which have not yet been finalised.

That is the explanation. I apologise to the house that I have not brought them in earlier. I would obviously have wanted to bring them in earlier, but until the Auditor-General has completed his work I am unable to comply. My apologies to the house, but until he finishes I cannot do what you want me to do.

Members interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: Point of order: without wishing to engage in debate, Madam Speaker, I would simply reiterate my request that you respond to the house, as Speaker.

The SPEAKER: Thank you. If you can bring me that information, member for Waite.

The Hon. P.F. CONLON: A further point of order, Madam Speaker: when you consider that, could you please consider whether the Speaker has a role in enforcing legislation in regard to ministers, as opposed to the standing orders, or whether in fact it is the obligation of the Speaker to enforce the standing orders and, as long—

Members interjecting:

The SPEAKER: Thank you.

The Hon. P.F. CONLON: —as a matter is tabled under section 198, other legislation is not within the purview of the Speaker.

The SPEAKER: Thank you; I will take that into consideration also and report back.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! You have had your say.

TOURISM COMMISSION

The Hon. C.C. FOX (Bright—Minister for Transport Services) (14:14): I table a copy of a ministerial statement made by the Hon. Gail Gago in another place.

QUESTION TIME

TOURISM COMMISSION

Mrs REDMOND (Heysen—Leader of the Opposition) (14:14): My question is for the Premier. Why did the government appoint former Rann government staffer Rik Morris to the new position of General Manager of the Tourism Commission within days of asking the Tourism Commission to find $1.2 million worth of savings a year in the Mid-Year Budget Review, and how does this appointment save money and flatten the commission's structure, as claimed by the tourism minister today?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:15): Thank you, Madam Speaker. I am not aware of the circumstances that led to the appointment of Mr Morris, but can I say this, that the tourism—

The Hon. I.F. Evans interjecting:

The Hon. J.W. WEATHERILL: Well, fake laughter, that is the usual—

Members interjecting:

The Hon. J.W. WEATHERILL: —followed by noise.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Fake laughter followed by noise.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! Members on my left, quiet!

The Hon. J.W. WEATHERILL: Fake laughter followed by noise and then the Speaker has to intervene. The point about the structure of the Tourism Commission is that, of course, it is a statutory authority. It makes its own decisions about the appointment of staff within the purview of the chief executive of that agency. It is not to be confused—

Mrs Redmond interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Would you like to answer this yourself, would you? You seem to have all the answers there.

Mrs Redmond interjecting:

The SPEAKER: Order! The Premier is answering the question.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Madam Speaker, just to take members through it, it is an independent statutory authority, which, of course, is subject to direction by the minister but in a general sense. The circumstances of the announcement today concerned the relevant minister, the tourism minister, requesting that the tourism board, the statutory authority, take certain steps in

how it should allocate its resources and expenditure directed at getting better outcomes in terms of tourism and also saving money; and, so, the tourism minister made some general directions.

The tourism board then deliberated on those general directions about how it would respond to the minister's request and made certain recommendations back to the minister, and one of those included the termination of the current chief executive. The minister took that advice to Executive Council this morning, and the Governor approved the termination of the chief executive and—

An honourable member interjecting:

The Hon. J.W. WEATHERILL: There's a constitutional ignoramus over there. Madam Speaker, the other decision that the Governor made on advice from the minister today in Executive Council was to appoint a new chief executive, Jane Jeffreys.

Jane Jeffreys was, of course, the chair of the tourism board. She of course did not participate in the decision that was taken to appoint her or recommend that she be appointed, so that was also confirmed by cabinet today. Those are the matters that occurred today. They will then cause a restructure to be put in place. One of the remits of the restructure is a flatter structure, one which is more efficient but also more effective. They are the things that Ms Jeffreys is charged with the responsibility of implementing, and I am confident that she will do a good job because she is a very well-credentialled executive—

Mrs REDMOND: Point of order.

The SPEAKER: Order! Point of order, Leader of the Opposition.

Mrs REDMOND: Point of order, Madam Speaker, on the relevance of the Premier's answer. The question was about how Rik Morris's appointment as a former Labor staffer to a newly-created position of general manager could possibly flatten the structure.

The SPEAKER: Thank you. Premier, continue to answer. There is no point of order.

The Hon. J.W. WEATHERILL: Madam Speaker, there is no relationship between those two things. That appointment was made some time ago, as I understand it. I am not familiar with when it was made but it was made sometime ago. The decision that was taken today charges a new chief executive with the responsibility of, amongst other things, flattening the structure, looking at ways to create efficiencies within the tourism sector and also to promote better outcomes in terms of the Tourism Commission's work. Those are the—

The Hon. I.F. Evans interjecting:

The Hon. J.W. WEATHERILL: Well, if you are happy for the answer to end there, I am more than happy to finish. Thank you.

Members interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

The SPEAKER: Order! Deputy leader, behave! The member for Taylor.

ADELAIDE FESTIVAL EVENTS

Mrs VLAHOS (Taylor) (14:19): My question is to the Premier. Can the Premier please inform the house about the latest information concerning the March festival period and the government's plans for a more vibrant City of Adelaide?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:19): March is a time when the City of Adelaide really does come alive. The 2012 Fringe is the biggest yet. There are something like 4,000 artists in 923 events spanning the whole breadth of artistic activity—cabaret, comedy, circus, dance, film, theatre, puppetry, music, special events, visual art and design. There are more venues than ever before (there are 360 separate venues) and something like 15,474 tickets for 177 opening night events were pre-sold, a 63 per cent increase on 2011. So, this Fringe really does promise to be one of the greatest ever.

For the opening weekend I think the Fringe sold 118,104 tickets to the value of $3.4 million, and I am told that is a significant rise on last year's events. The opening night parade, for those who were able to see it, was an incredible success, going right down the middle of the city for the first time. The ambition now to bring the Fringe to the whole of the city really enlivens Adelaide.

Of course, this year's Adelaide Festival starts this evening, featuring 68 events and 386 performances, including 37 world premieres and 62 Australian premieres. Highlights this year include Isabelle Huppert in *A Streetcar*, based on Tennessee Williams' classic play; and the opening night performance of Ennio Morricone; as well as the new production of *I am not an animal*.

WOMAD, of course, is celebrating 20 years in Adelaide this year, with more than 500 artists from 30 countries, and there are some fantastic events in the beautiful Botanic Park.

Of course, today we are also seeing the Clipsal 500 roar to life, and I was very pleased to be down there with the Minister for Police celebrating with a range of volunteers who have been invited to the state suite—a range of young people (guardianship kids and people with disabilities and their carers and volunteers). It was fantastic to see them enjoying themselves at the Clipsal.

The culmination of these events in March will attract tens of thousands of visitors and enliven every corner of our city. This is what we talk about when we want to create a vibrant city—not just in March but across the whole year. This is the reason we have created this as one of our priorities. It is our vision to regenerate the city, and this part of the city that we are in at the moment is a crucial part of that—the Riverbank, the Adelaide Oval, the Convention Centre, the Royal Adelaide Hospital, the SAHMRI. All those will completely enliven this city. That, together with this wonderful festival, is an example of the way forward for our beautiful city.

Mr GARDNER: I have a supplementary question, Ma'am.

The SPEAKER: I will listen very carefully, but it may be considered as a question.

WHEELCHAIRS

Mr GARDNER (Morialta) (14:22): The Premier referred in his answer to people with a disability being given hospitality in the Premier's suite at the Clipsal. My question is: why is the government not paying for wheelchairs to be provided to those who need them for the event?

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Workers Rehabilitation, Minister for Defence Industries, Minister for Veterans' Affairs) (14:22): The fact is that in last year's budget we put a in substantial amount of extra money to ensure that there were no waiting lists for people wanting disability equipment.

Mr Gardner interjecting:

The SPEAKER: Order! The Leader of the Opposition.

TOURISM COMMISSION

Mrs REDMOND (Heysen—Leader of the Opposition) (14:23): My question is to the Premier, in light of the answer he just gave to his own member. Why is the tourism industry such a low priority for the government that the tourism commission will only get a part-time CEO to replace Ian Darbyshire, and why is the government restructuring the Tourism Commission now and not five months ago when the Premier undertook departmental restructuring?

The SPEAKER: Minister, you are probably going to do the same point of order, but there was some—

The Hon. P.F. CONLON: Yes. To say it is a 'low priority' is to engage in comment, which is forbidden by standing order 97.

The SPEAKER: Yes, I was going to make the same comment. Leader of the Opposition, be careful about not being provocative in your questions. The Premier may wish to reply to the substance of the question.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:24): Thank you, Madam Speaker. The simple truth is that tourism is amongst our highest priorities. The reason—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: That's right—fake laughter, noise, interjections.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: When we restructured the government agencies when I assumed this role, one of the things we chose to do was bring together the food portfolios with the regional portfolios as well as tourism. We did that advisedly, because a number of our significant tourism assets exist within our regions. It was taken on advice about the way in which the portfolio should be structured, and we thought that that was a rational way in which we could bring together a whole range of endeavours. I think our clean, green food agenda, which is very much connected with our capacity to market the image of our state, the work that is going on in Kangaroo Island at the moment that—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —is being supervised by the Deputy Premier, all speak to the image that we are seeking to project to the world about our clean, green city, which grows food within that environment, which is a deeply attractive tourism experience for people who wish to come and enjoy South Australia. We take this very seriously. That is why we have taken those steps to restructure the agency in that way.

At the same time, though, all government agencies are looking for ways in which they can economise so that we can meet the pressures that exist on us to provide the services that the community demands. We know that there are massive demands for health services, education services, and people have strong views about public safety. All of those things require us to place very significant amounts of resources to meet community needs. That means that other parts of government have to make economies, and where they can sensibly do that and get good results, sometimes even better results by making sensible economies, we always request our agencies to involve themselves in all the processes.

KANGAROO ISLAND FUTURES AUTHORITY

The Hon. M.J. WRIGHT (Lee) (14:26): Can the Deputy Premier please inform the house about the outcomes of a recent workshop with Kangaroo Island community leaders and the ongoing work to shape the island's future?

Mrs REDMOND: Point of order, Madam Speaker: some years ago speaker Lewis ruled that the use of the word 'please' was unparliamentary.

The SPEAKER: Thank you, Leader of the Opposition. That could change our whole question time. Deputy Premier.

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (14:27): I thank the honourable member for his question, even though apparently an element of it was disorderly. On Wednesday 22 February this year, I joined the Kangaroo Island Futures Authority Board in a meeting with Kangaroo Island community leaders. The meeting occurred at Kingscote in the morning, and I am able to say that the member for Finniss's path and mine crossed at the airport. He was heading to Adelaide to attend to the other part of his constituency, or heading to the Fleurieu Peninsula, I think, as I was arriving in Kangaroo Island.

We met with a number of people on the island, including a whole range of people from educators and teachers to farmers, and then we started work on taking forward the promise that was made to the people of Kangaroo Island last year that there would be some serious work done to improve the overall condition and circumstances on the island and those who live there.

There was a two-day workshop on the island which identified key priorities and strategies for the island, as well as actions that will be taken in order to advance the welfare and wellbeing of the island and its residents. This involved senior departmental officers, myself and representatives of the island community. I wanted to inform the house, in response to the question, about some of the outcomes of that strategy meeting.

First of all, everyone recognises the challenges that are associated with living on an island, as the community there does, and the transport implications of that. As in many instances, the challenge also creates an opportunity because it is that very body of water which makes a

challenge for the islanders which also gives it the opportunity to become a unique place in terms of marketing as a green, clean, natural, pristine environment which can add great value to produce from the island, in particular primary produce for which, of course, producers on the island are well recognised around the state as being innovators.

Many of you may or may not know—and I am sure the member for Finniss does—that the very lucrative market in Japan for non-GM modified canola oil is in fact being supplied at very reasonable prices by island farmers. That is one clear example of where they have turned their potential disadvantage into an advantage.

The board identified seven major strategies: first of all, an integrated island strategy looking at how all of the parts of the island's challenges and strengths can fit together; second, value-adding the island brand; thirdly, positioning Kangaroo Island as one of Australia's top four icons in national and international markets in terms of tourism; an integrated approach to island energy, communications, water and waste utility needs; a business partner strategy; competitive island access; and an integrated capability-building exercise. A great deal of work is going to come out of these meetings and it will be—

Mr WILLIAMS: Point of order, Madam Speaker.

The SPEAKER: Order! Point of order.

Mr WILLIAMS: If four minutes has not expired since the start of this answer, it certainly seems like it has.

The SPEAKER: No, it has not. He still has 29 seconds to go.

The Hon. J.R. RAU: Can I say that this has multi-agency support and can I say in terms of the delivery on the promise to Kangaroo Island we already have $2 million a year additional funding for roads on Kangaroo Island and some $6 million being spent with Kangaroo Island as the core focus of the South Australian Tourism Commission's advertising campaign in excellent advertisements, which I am sure you have all seen.

KANGAROO ISLAND FUTURES AUTHORITY

The Hon. I.F. EVANS (Davenport) (14:31): As a supplementary question, given the Deputy Premier's last comment about the extra money going into Kangaroo Island tourism out of the Tourism Commission and given the previous comments today about the cuts to the Tourism Commission, can the Deputy Premier confirm that none of those cuts will impact on Kangaroo Island?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (14:31): I am not the Minister for Tourism. I will take it on notice and she will answer that question in due course.

ROYAL ADELAIDE HOSPITAL

Mr HAMILTON-SMITH (Waite) (14:31): My question is to the Minister for Health and Ageing. Can he explain how it is that the 31,000 tonnes of soil assessed by experts to be high-level contaminated at the rail yards Royal Adelaide Hospital site comes to be reassessed as low-level contaminated soil or clean fill once removed to the contractor's depot? Before removal, this soil at the rail yards RAH site was thoroughly scrutinised by independent environmental experts engaged by the minister. The soil was found to contain lead and highly dangerous polycyclic aromatic hydrocarbons which have a long life and which cannot be eradicated.

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:32): I thank the member for his question. The first point I would make is that as the Minister for Health I am not an expert in site contamination. That is why we employ people who are and we have that process in place on this site. We have the EPA which controls the program that is put in place so they determine the outcomes and the standards which have to be applied and then an independent environmental auditor supervises the process. That is what happened in this case.

I am happy to seek advice from those involved in that to give to you, but the advice I have is that they made an assessment on the site, and then a more detailed assessment was done once it got to the landfill site, where they determined that the level of contamination at that site characterised it in a particular way and then it was dealt with according to that characterisation.

It is easy to come in here and use emotional language and throw a lot of scientific terms around to try and suggest that something that is white is black. The opposition is expert at that, but the reality is that we rely on expertise. We do not rely on politics to make these decisions.

VISITORS

The SPEAKER: Before we go on to the next question, I understand that the member for Taylor has a group of retired Australian Defence Force nurses in the gallery today. Welcome to them. It is lovely to see you here and I understand you have had lunch here today. That is very nice.

QUESTION TIME

The SPEAKER: The member for Little Para.

Ms Bedford: Supermember!

PORT ADELAIDE

Mr ODENWALDER (Little Para) (14:34): Thank you, member for Florey. My question is to the Minister for Transport and Infrastructure. Can the minister explain the nature of the document entitled 'Optimum decision making framework and precinct level multi criteria analysis' and whether any erroneous claims have been made about it?

Members interjecting:

The SPEAKER: Order! Do you need that question to be repeated, minister?

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON (Elder—Minister for Transport and Infrastructure, Minister for Housing and Urban Development) (14:35): I am more than happy to enjoy the laughter from the other side. I hope they continue to laugh for the entire length of the question. The document which so excited the member for Bragg yesterday I can tell you is, in fact, an extremely technical document which deals—

Mrs Redmond interjecting:

The Hon. P.F. CONLON: I'm sorry; do you have a point? I doubt it.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: It deals with techniques for the selection of maintenance and capital works, and it is created to enable the agency, at the appropriate time, to make informed forecasts and bids for funding for capital works to maintain assets. It has absolutely nothing to do, as was wrongly claimed by the member for Bragg, with Newport Quays. It mentions Newport Quays nowhere in its some 66 pages, makes no reference to the relationship—has nothing to do with it. But more concerning than that erroneous claim—

Mr WILLIAMS: Point of order, Madam Speaker. The minister—

Members interjecting:

The SPEAKER: Order! I can't hear the member for MacKillop.

Members interjecting:

The SPEAKER: Order! Members on my right, behave.

Mr WILLIAMS: The standing order is 98, Madam Speaker: the minister is clearly debating. The opposition made no claim. We simply asked a question yesterday, and the minister is now turning this into a debate, saying that we are 'claiming' it.

The SPEAKER: You are now also debating the point of order.

The Hon. P.F. CONLON: I will explain when the member for Bragg made this claim, on two occasions. But even more concerning is the fact that this was a document sought by the member for Bragg, as she is allowed to do, under freedom of information. It was initially refused by the Land Management Corporation because it was—

Ms Chapman: As they usually are.

The Hon. P.F. CONLON: Can I have these distractions subtracted from my four minutes, Madam Speaker, because I have very important things to tell the house. The LMC refused that because it had been made up for the preparation of a future cabinet submission. What concerns me is this: on 27 February, the Ombudsman, to whom the member for Bragg appealed, made an interim finding. That was sent to the applicant and to the Land Management Corporation on 29 February, that is, yesterday.

What concerns me is the question that was asked by the member for Bragg yesterday, and that was, to paraphrase it: when—not if—did I send this document to cabinet, or a summary of it? This was on the very day when she was told this by the Ombudsman:

> The document identified as a document within the scope of the FOI application was prepared for submission to cabinet. The document has yet to be submitted to cabinet, as the LMC is having further work undertaken.

Madam Speaker, I ask: why would the member for Bragg, on the very day that she is being told clearly, in black and white, that it has not come into cabinet, come in here and try to trick people into believing that it has. Why would she do that? It is not—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: It is absolutely clear, in black and white, from the Ombudsman that it never went to cabinet.

Mr WILLIAMS: Point of order, Madam Speaker.

Members interjecting:

The SPEAKER: Order! Point of order.

Members interjecting:

The SPEAKER: Order! There will be no quarrels across the floor. Stop yelling at each other.

Members interjecting:

The SPEAKER: Order! Point of order, the member for MacKillop.

Mr WILLIAMS: Again, standing order 98: the minister is clearly debating. When he poses the question, 'why would somebody do something?', I suggest that is debate.

The SPEAKER: Order! Thank you. I would refer the member back to the substance of the question.

The Hon. P.F. CONLON: I simply refer to the *Hansard* record of what the member for Bragg did, and that was to assert that this had been to cabinet, on the very day that she had been advised by the Ombudsman that it had not. And I also refer—

The SPEAKER: Order!

The Hon. P.F. CONLON: —to the frequently repeated assertion that they don't get answers to questions. Well, can I say this: if, heaven forbid, the member for Bragg is ever a minister, if she answers questions with the candour she asks them, she is going to be in trouble very, very early. I refer, Madam Speaker—

Members interjecting:

The SPEAKER: Order! Point of order, member for Stuart.

Members interjecting:

The SPEAKER: Order! The member for Norwood, I understand that you are looking to ask a question later. You may not be here if you keep shouting across the floor like that.

Mr VAN HOLST PELLEKAAN: Point of order, Madam Speaker: clearly a personal reflection, not allowed under 127.

The SPEAKER: Thank you, member for Stuart. Minister, I refer you back to the substance of the question.

The Hon. P.F. CONLON: I close by saying this: on 27 January, the member for Bragg, in a press release, headed 'Secret Newport Quays risk report'—in which she refers to this document, completely wrong—says it came to me, completely wrong (it came to me for the first time yesterday), and suggests that the government was sitting on a decision to abolish the Newport Quays agreement for a year and never told anyone, completely wrong. I simply point out that the facts speak for themselves. The member for Bragg, it is no wonder that the national president of the AMA once said that she does not know her elbow from the terminal opening of her alimentary canal.

The SPEAKER: Thank you minister, your time has expired. Point of order, member for Bragg.

Members interjecting:

The SPEAKER: Order!

Ms CHAPMAN: As I understand the minister's response, he quoted from a draft judgement of the Ombudsman, which has not yet been published.

The Hon. T.R. Kenyon: Well, he sent it to you.

Ms CHAPMAN: As the applicant, that is actually the normal process, Tom.

The SPEAKER: Member for Bragg, I don't know what your point of order is. If you wish to make a personal explanation, you can do it after question time.

Ms CHAPMAN: No, the reason I raise this is not as a personal explanation from me, I can assure you. I am very happy to have the answer on the record of what the minister has said. I do raise with you, though, Madam Speaker, the efficacy of the publication of a draft document of the Ombudsman, who is a statutory officer—

An honourable member interjecting:

Ms CHAPMAN: No, he is on my side—of this parliament, before that judgement has been published. I do ask that you inquire into that and report to the house as to the conduct of the minister.

The SPEAKER: Thank you. I will report back.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: If it assists on the point of order, it was also sent to the applicant, and it didn't say, 'Please don't tell anyone.'

The SPEAKER: Thank you.

ROYAL ADELAIDE HOSPITAL

Mr HAMILTON-SMITH (Waite) (14:41): My question is again to the Minister for Health. Is the minister certain that there has not been any mixing of high-level contaminated soil removed from the rail yards RAH site with lower level contaminated soil or clean fill, either at the RAH site or off site, so as to conceal or mask the level of contamination, and is checking against this prospect a responsibility of the environmental auditor employed by the consortia, the EPA or others?

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:42): The conspiracy theory is kind of being promoted here by the member for Waite. What I can tell the house is this, and I have consulted with my colleague here, the minister for the environment, who knows how these things work better than I.

An honourable member: You're a former minister for the environment.

The Hon. J.D. HILL: I am, indeed—as were you, so you should know.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: I am deferring to my colleague who currently holds the brief. What I was going to say was that, in the process of removing contamination from the site, it is a bit like a

surgical procedure, I suppose, of a doctor or surgeon removing a cancer from the body. They take out the cancer, but they also take out flesh from around it so they make sure they have captured all of the body which is potentially toxic, and that is precisely what happened in the RAH site. So, there was—

Members interjecting:

The Hon. J.D. HILL: I cannot understand why they bother asking a question, then mock and groan as they get the truth. The reality is that they find an element of pollutants, of something which needs to be removed. They make sure they take that, and part of the process of taking that is to take a selection of material from around it which is of a lower level of pollution; that is just the way it happens. The question you asked is whether they mixed up on-site highly polluted with lower polluted. Well, yes, as a matter of course of removing it those two elements are then co-joined and transferred from the site, but that is the nature of how they clean up the site.

It is not just on the RAH site, it is on every other site. I have just had some advice that the same process was used at the SAHMRI site and was completed using the same sort of standard, the same sort of process and, in fact, it came in under budget. So, the process that is going on in relation to the new RAH is absolutely appropriate. The difference is that it is being run through a PPP arrangement, so it is not the government that is in control of the day-to-day operations other than through the supervisory role of the EPA, but it is the PPP partner and its own contractors that are running it, and they are doing it absolutely appropriately with proper supervision.

DEFENCE INDUSTRY

Mr PICCOLO (Light) (14:45): My question is to the Minister for Defence Industries. Can the minister inform the house about recent developments in defence industries in South Australia?

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Workers Rehabilitation, Minister for Defence Industries, Minister for Veterans' Affairs) (14:45): I thank the member for Light for his question and his abiding interest in defence industries. The defence industries have a high concentration, if not in his electorate then very close to it. South Australia is home to significant naval shipbuilding capabilities, particularly driven by the multi-billion dollar Collins class submarine sustainment contract and the $8 billion air warfare destroyer construction contract.

The South Australian government is serious about defence and has been for a number of years. We see South Australia making a significant contribution to the national defence effort over the long term and so defence has become a key pillar of our state's economic development and will continue to remain so. We are unequivocally committed to sustainable defence industry growth and to attracting additional defence units to South Australia.

The Hon. I.F. Evans interjecting:

The Hon. J.J. SNELLING: I presume John Olsen might also have been responsible for the location of the 7RAR in South Australia as well, according to the member for Davenport. We, in South Australia, have a solid reputation for delivering world-class defence projects and the state has invested significantly to provide long-term state-of-the-art infrastructure and an adequate, sustainable supply of appropriately skilled workers, who are so critical to industry's success.

The development of Techport Australia as the nation's premier shipbuilding hub, with a critical mass of naval shipbuilding, systems and sustainment expertise, is testament to our commitment. The common use facilities include one of the world's most modern shiplifts and a working area to support the construction and consolidation of the new air warfare destroyer and other commercial and military maritime projects. The precinct also boasts a high tech commercial campus and supplier precinct.

I recently attended Pacific 2012 in Sydney to reinforce South Australia's commitment to naval shipbuilding, systems and sustainment. Pacific is the major international maritime exposition in the Asia Pacific region, held biennially in Sydney. It featured a large trade exhibition supported by a number of specialist defence and technology conferences.

During Pacific, the Minister for Defence, Stephen Smith, reinforced the Australian government's commitment to acquiring 12 new submarines to be consolidated in South Australia over the next 30 years. The Future Submarine Project will be the largest and most complex defence project ever undertaken by Australia, providing significant job opportunities for South Australians for decades to come.

Over recent weeks, I have personally met with senior leaders in Defence to reinforce South Australia's focus on securing early opportunities arising out of the Future Submarine Project, including promoting South Australia as the logical home for project design and complementary facilities, such as the proposed submarine propulsion land-based facility.

Under Defence's current plans, the commonwealth will spend up to $250 billion over the next 20 years on acquiring and sustaining new ships and submarines, an enormous opportunity by any measure. South Australia is committed to supporting Defence with this ambitious target. We are primed to capture a significant share of this work with our highly skilled workforce, state-of-the-art infrastructure and experienced maritime industry.

Defence is a critical industry for South Australia, forming the foundation of our advance manufacturing future. Beyond naval shipbuilding, we are also focused on systems engineering and integration, military vehicles and aerospace components manufacturing. We are committed to providing the right infrastructure and the right people. This is a commitment that defence companies can count on, with confidence in a government that supports them and, importantly, supports their investment.

DEFENCE INDUSTRY

Mr MARSHALL (Norwood) (14:49): I have a supplementary question. Does the minister's support for the defence industries extend to the Defence Teaming Centre, established in the 1990s, which has enjoyed bipartisan support over the past 15 to 17 years?

The SPEAKER: I will not consider that as a supplementary question. I will consider that as a question.

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Workers Rehabilitation, Minister for Defence Industries, Minister for Veterans' Affairs) (14:49): Yes, it certainly does.

ROYAL ADELAIDE HOSPITAL

Mr HAMILTON-SMITH (Waite) (14:49): My question is to the Minister for Health. Has the consortia remediating the Royal Adelaide Hospital site for the government—

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: —and through them, the taxpayers of South Australia, been overcharged for the removal of high-level contaminated soil, and are financial arrangements in regard to the clean-up in accordance with both the contract and statutory requirements?

Public reports indicate that the contractors, ResourceCo, have been paid around $250 a tonne to remove high-level contaminated soil, which the company itself appears to have then reclassified, under secondary assessment, as low or intermediate waste, not requiring treatment.

The $250 figure provides for the expensive process of leeching leads and highly toxic metals from the soil before disposal. If the soil is somehow reclassified as clean fill, the contractor receives a windfall benefit because the expensive remediation processes would not need to be executed by the contractor. The 31,0000 tonnes might then be available for use as clean fill at building sites around Adelaide and country SA. The contractor would also, in this case, be able to sell the fill, receiving a windfall benefit.

The Hon. P.F. CONLON: Point of order, Madam Speaker: on two occasions, the member for Waite engages in comment arguing that the contractor will receive a 'windfall benefit'. I simply point out that the opposition cannot seem to ask an orderly question without argument.

The SPEAKER: Yes, I would ask—

Members interjecting:

The SPEAKER: The member for Waite took a long time to answer that question, and there were some issues in there that I have—I would ask him to be very careful in future about the wording of his question. Could you just—

Members interjecting:

The SPEAKER: Order! Can you just repeat the first little bit of the question?

Mr HAMILTON-SMITH: I note the minister is having trouble hearing, ma'am, so I wanted to explain the logic behind—

The SPEAKER: Thank you.

Mr HAMILTON-SMITH: —the question. Has the consortia remediating the RAH for the government and, through them, the taxpayers of South Australia, been overcharged for the removal of the high-level contaminated soil, as I explained.

The SPEAKER: Thank you. Minister for Health.

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:52): Madam Speaker, the consortium, as part of its contract, has to clean up that site, and we have what you could call a fixed-price contract of $1.85 billion to design and construct the hospital. Part of that is that they have to clean that site up to the standard that is approved by the EPA; that is what they have to do.

There is a process that they can go through—and, in any fixed-price contract, as people would understand—if you build a house, if you do something which is at variance or outside the parameters of the contract, then the person for whom the building is being built (that is, the government), has some sort of way of being asked to pay for more.

The mechanism that we have is that, despite all the extensive drilling and investigation that we have done on the site, if there is something that is found there which was not anticipated, or was not part of the original audit, then there is a formula that is applied, which is an 80:20 formula; in other words, we pay for 80 per cent of anything additional, and the contractor has to pay for 20 per cent. The contractor has to pay for a little bit, so that they are incentivised to do things properly.

So, in order for that 80:20 rule to kick in, two things have to apply. First, the contractor (that is, the PPP partner) has to demonstrate there was something that was unforseen and, secondly, that there was a cost that was borne as a result of that. There might be something unforseen that did not cost them any extra money, so you don't pay for it in that case.

In relation to the issues the member raised, there is nothing—there might be lots of claims made, but there is no agreement by our side (the health department) that we are responsible for any additional—

Ms Chapman interjecting:

The SPEAKER: Order, member for Bragg!

The Hon. J.D. HILL: The question, I think, was: is the government liable for any additional costs, or words to that effect.

Mr HAMILTON-SMITH: Point of order, Madam Speaker.

The Hon. J.D. HILL: No, I don't need assistance—

Members interjecting:

The SPEAKER: Order! Point of order, member for Waite.

Mr HAMILTON-SMITH: Relevance, Madam Speaker. The question specifically asked: was the consortia being overcharged by having to pay $250 a tonne to remove contaminated waste that subsequently was reclassified as clean fill.

The SPEAKER: Thank you. I would ask the member for Waite to bring me that question afterwards, too; I want to have another look at it.

The Hon. J.D. HILL: I think he also said, 'Is the taxpayer exposed in some way?' or words to that effect, and I was just making the point that the only circumstance under which we would be exposed is if those two criteria were met. If the consortia itself is overcharged by one of its subcontractors, well, that is something that they have to wear. If you were building a house and the builder hired a plumber who charged more than the plumber down the road, that is something the builder has to wear. That is part of a fixed-price contract—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Be that as it may. That is the nature of the contract. We only have to pay if you can prove those two things occurred. We do not believe that has been the case, and in negotiations those things may take place over time. I think that is really the kind of completeness of the answer, but if the consortium has paid too much for it with their subcontract, I am sure they will work it out with the subcontractor.

ADELAIDE OVAL

Mr SIBBONS (Mitchell) (14:55): My question is to the Minister for Recreation and Sport. Minister, how are the surplus seats from the Adelaide Oval redevelopment being re-used to assist community sports groups?

The Hon. T.R. KENYON (Newland—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for Recreation and Sport) (14:55): I would just like to thank the member for Mitchell for his question. The response of the South Australian sporting community to the offer of free surplus seats from the soon to be redeveloped Adelaide Oval has been absolutely brilliant. The Stadium Management Authority had been inundated with requests for seating after calling for expressions of interest from clubs earlier this month.

Sporting clubs and community groups across the state have submitted more than 400 applications for more than 70,000 seats. The way in which this opportunity to own a piece of history has been embraced really shows how revered the Adelaide Oval is by South Australians. Obviously, the amount of seats requested—at over 70,000—exceeds the 8,500 available, so we have decided that, in the interests of fairness, the best way to proceed is to allocate the free seats via a random draw.

Everyone who applied by yesterday's cut-off date will be included in the draw, but, unfortunately, some clubs and groups will necessarily miss out due to the overwhelming public response. The redevelopment of Adelaide Oval is a fantastic project, and I am sure that everyone is excited that work is about to commence. The seats being given away are predominantly from the Chappell stands, as well as the northern and eastern concourse.

I am proud of the fact that we are able to use these 8,500 surplus flip-style seats to create a lasting asset for sports clubs and community groups throughout the state. The successful clubs will be advised in writing by the Stadium Management Authority, and they will need to collect the seats from Adelaide Oval. Following the draw, a full list of successful clubs will be available at www.adelaideovalredevelopment.com.au.

ROYAL ADELAIDE HOSPITAL

Mr HAMILTON-SMITH (Waite) (14:57): My question, again, is to the Minister for Health. Why did the initial environmental auditor from Sinclair Knight Merz, Mr Don McCarthy, quit the job in May 2011, and is there any connection between his removal from the position and concerns about the removal of highly contaminated waste from the RAH rail yard site?

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:58): This is—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —truly a conspiracy theory. Let us deal with what we do know. What we do know is that this government is determined to clean the site up so that we can build a hospital there. If they had their way, they would be cleaning up the site to put a football stadium there; whatever we do, we have to clean it up. That is the first point. And we are going about cleaning it up. The consortium is responsible for cleaning it up. We have an arrangement in place where they have to pay for it unless there are areas where there are unforeseen pollutants. If there are, then we have some liability. To date we have not agreed that there is anything there that was unforeseen.

The way that we went through this is that we had extensive testing of the site in the 2008-10 area. In excess of 320 soil bores and 90 groundwater wells were drilled and sampled during this time. Testing was conducted by independent experts.

Mr HAMILTON-SMITH: Point of order.

The SPEAKER: Order!

Mr HAMILTON-SMITH: Just the issue of relevance, Madam Speaker. This question was specifically: why did the independent auditor quit? That is the question.

The SPEAKER: The minister can answer the question as he chooses, and it is relevant to the topic of the question. Minister, I would ask you, though, to keep to the substance of the question.

The Hon. J.D. HILL: Well, I was attempting to, Madam Speaker, because the member suggested that it was a kind of a conspiracy theory being proposed. For some reason he—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —was linking the quitting of an environmental auditor with a pollution outcome down the track. If that's not conspiracy, Madam Speaker, tell me—

Members interjecting:

The SPEAKER: Thank you, order!

The Hon. J.D. HILL: The man who knows about dodgy documents should know about conspiracy theories. Let's put that one on the table, Madam Speaker.

Members interjecting:

The SPEAKER: Order! There is a point of order. The member for MacKillop.

Mr WILLIAMS: My point is both relevance and the minister is entering debate. It is a question to which the minister could quite easily have given a yes or no answer.

The SPEAKER: Thank you. I refer the minister back to the question. I uphold that.

The Hon. J.D. HILL: What I was trying to do, Madam Speaker, was to say that the work on the drilling, and the like, occurred in 2008 to 2010. I was aware somebody had retired, quit, resigned or left—I am not sure what the term is—but the work was done prior to that happening. Testing was conducted, as I was saying, by Coffey and the results were verified by Sinclair Knight Merz, which was the independent environmental auditor.

I am not sure what link the member can make. I have no evidence to connect them. He is obviously taking advice from somebody who was disgruntled. We know there was another party who wanted to get this contract and did not get it. He might have evidence: he should bring it forward.

The SPEAKER: Thank you. There is a point of order. Member for MacKillop.

Mr WILLIAMS: The minister cannot give an answer without entering debate. His comment that the member was obviously taking advice from somebody else is supposition. He is debating.

The SPEAKER: Thank you. Minister, I understand you have finished your question. That was debate. The member for Morialta.

FAMILIES AND COMMUNITIES DEPARTMENT

Mr GARDNER (Morialta) (15:01): My question is to the Premier. On whose authority did the Department for Families and Communities use money from the personal client trust funds of 51 clients, as reported by the Public Advocate, to pay for equipment that was the responsibility of the department, how much money was used and why will the government not refund those clients?

The SPEAKER: Who was your question directed to, member for Morialta?

Mr GARDNER: The Premier, ma'am.

The SPEAKER: The Minister for Education and Child Development.

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (15:02): Clearly, it is a question that you consider to be of a serious nature and I will give you a serious response.

Members interjecting:

The SPEAKER: Order!

Mr Goldsworthy interjecting:

The SPEAKER: The member for Kavel, I think you can take a walk until the end of question time. You can leave the chamber.

The honourable member for Kavel having withdrawn from the chamber:

Members interjecting:

The SPEAKER: Order! Order, or someone else will go!

Members interjecting:

The SPEAKER: Order!

Mr Pederick interjecting:

The SPEAKER: Member for Hammond! Minister.

The Hon. G. PORTOLESI: I will need to get more information in relation to that matter, and I am very happy to bring back a response for the member.

STRATHMONT CENTRE

Mr GARDNER (Morialta) (15:02): My question is to the Premier again. Why did the government, for three years, serve hot food described as 'inedible' by the Public Advocate, John Brayley, to residents at the Strathmont care facility that had been cooked at Highgate and then transported in a van 15 kilometres to Strathmont?

The SPEAKER: The Minister for Police.

The Hon. J.M. RANKINE (Wright—Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety, Minister for Multicultural Affairs) (15:03): I thank the member for Morialta for this question. This was brought to our attention by the Public Advocate. As soon as I became aware of it, when I was minister, I went out there. I tried the food myself and processes were put in place to improve the standard of the food.

Obviously, when the numbers of the people at Strathmont got to such a low level, other arrangements were put in place. It was not economical to run the kitchen out there and they were taking the food from Highgate to Strathmont. I think it was very good of the Public Advocate to acknowledge that there was an immediate improvement in the food being supplied at Strathmont.

STRATHMONT CENTRE

Mr GARDNER (Morialta) (15:04): I have a supplementary question. The minister in her answer said that processes will be put in place to improve the food—

The Hon. J.M. Rankine: Were.

Mr GARDNER: Okay, were. So the current state of the food is what we see as the appropriate standard, then, according to the minister?

The Hon. J.M. RANKINE (Wright—Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety, Minister for Multicultural Affairs) (15:04): I think if you read the media reports you will see that the Public Advocate acknowledged that there was an immediate improvement in the standard of food.

Mr Gardner interjecting:

The SPEAKER: Order! You have asked your question, member for Morialta. Member for Norwood.

WORRALL, MR LANCE

Mr MARSHALL (Norwood) (15:05): My question is to the Minister for Manufacturing, Innovation and Trade. Why is Lance Worrall being paid more than $300,000 as one of three deputy chief executives in the minister's department, the same wage as before his recent demotion? Is he paid more than other deputies in his department? Is he, in fact, paid more than the chief executive he reports to, and is Mr Worrall the highest paid deputy in the South Australian Public Service?

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Manufacturing, Innovation and Trade, Minister for Mineral Resources and Energy, Minister for Small Business) (15:05): The new Department for Manufacturing, Innovation, Trade, Resources and Energy has a very big role to fill. It is about ensuring a stronger and diversified economy for future generations. It is not just about growing our mining sector, but also about growing other sectors such as resources and services technology, advanced manufacturing, scientific and professional services, ICT, construction, engineering and project management.

It will also focus on supply chain capabilities to ensure that benefits from the mining boom flow through to the community. This is one of the government's key strategies. Leading this work is Lance Worrall. Lance leads the Manufacturing, Innovation and Trade team in DMITRE. He has a particular strategic emphasis on maximising industry participation in the Olympic Dam value chain and mining generally. He is also focusing on the manufacturing strategy, which is currently being formulated. He will also work with Göran Roos, who will lead our manufacturing task force.

Mr Worrall was appointed chief executive of the Department of Trade and Economic Development in July 2010 based on his extensive knowledge and understanding of the South Australian economy, which makes him entirely qualified for this position. Mr Worrall has a background as a public adviser for over six years, playing a key role in reshaping the state's economy. He worked closely with Robert Champion de Crespigny and the Economic Development Board on the state's strategy to grow the mining and defence sector.

Mr Worrall played a significant role in our push to secure the air warfare destroyer contract and to establish Techport as well as being involved in establishing the PACE scheme, which saw a massive increase in mineral exploration.

On a broader front, Mr Worrall played an important part in developing South Australia's Strategic Plan, which has become the blueprint for shaping the state. Mr Worrall was employed on a five-year contract, commencing 1 July 2010. The contract ceases on 30 June 2015. I am further advised that an executive level E package is consistent with his previous employment as the chief executive of the Public Sector Performance Commission, and that package is a—

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: —standard for all CEs. We make no apology for his appointment; he is a very good deputy chief executive.

The SPEAKER: The member for Port Adelaide.

Members interjecting:

The SPEAKER: Order!

COUNTRY FIRE SERVICE VOLUNTEERS

Dr CLOSE (Port Adelaide) (15:07): My question is to the Minister for Emergency Services.

Members interjecting:

The SPEAKER: Order!

Dr CLOSE: Can the Minister for Emergency Services inform the house about what the state government is doing to support Country Fire Service volunteers so they can keep our community safe?

The Hon. J.M. RANKINE (Wright—Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety, Minister for Multicultural Affairs) (15:08): I thank the member for Port Adelaide for her question. I want to acknowledge that these people are vital in keeping our community safe. I am pleased to say that I share the Salisbury CFS with both the member for Port Adelaide and the member for Ramsay, a magnificent group of volunteer people out there. This government is committed to supporting our emergency services and our emergency service volunteers—

Mrs Redmond: So where are the volunteers?

The SPEAKER: Order!

The Hon. J.M. RANKINE: —ensuring they have the equipment, technology and training they need. Indeed, on Monday evening I will be visiting the Carey Gully CFS station to oversee the delivery of their brand-new truck. This is one of 27 new vehicles to be delivered this year, at a cost of $7.5 million. There will be 23 new trucks, two new road crash vehicles and two large bulk carriers will be delivered to support our volunteers in 2012.

Mrs Redmond: What about the Stirling CFS?

The Hon. J.M. RANKINE: Well, I am happy to tell you about Stirling CFS, if you like. I will get to the Stirling CFS. The fire that threatened Wilmington earlier this year was a clear example of the need for appropriate facilities when dealing with a potential disaster. I think everyone involved was relieved that the Wilmington brigade had just moved into its newly upgraded station. Ten stations will have upgrades completed, and several new sheds will opened across the state this year, including Stirling. We are focused on supporting—

Mrs Redmond interjecting:

The SPEAKER: Order! The Leader of the Opposition will not interject across the floor and the minister will return to the substance of the question.

The Hon. J.M. RANKINE: I understand that we have actually allocated something like $270,000 this year for the upgrade of the Stirling vehicle bay.

Mrs Redmond interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: We are focused on supporting our volunteers and working with them. Additional training resources to the tune of $2 million over the next four years are being provided. The importance of training—

An honourable member interjecting:

The Hon. J.M. RANKINE: The volunteer budget has actually increased. The budget has increased. The importance of training was also highlighted during the Wilmington fires. The Salisbury volunteers were caught in a burn over. Those involved said to me that the training made sense during that very tense time. They knew what they needed to do and they all returned safely.

By establishing a central, dedicated volunteer support team, we now have a more coordinated approach to recruiting, supporting and, ultimately, retaining CFS volunteers across South Australia: a new volunteer support team comprising four officers based in the metropolitan area plus another two mobile officers dedicated to travelling to regional areas and supporting the country volunteers; extra pagers, computer and broadband access for stations as well as the station upgrades are all part of a $9.4 million increase in funding since the Black Saturday fires; simplifying processes as much as possible so we can make the jobs of existing volunteers easier.

New e-learning and e-business platforms will be in place by Christmas, freeing up the paperwork and red tape and allowing volunteers to get on with what they do best. The broadband rollout and computer deliveries will also be well underway. The state government now allocates $220 million to our emergency services compared with $104 million in 2001-02.

COUNTRY FIRE SERVICE VOLUNTEERS

Mrs REDMOND (Heysen—Leader of the Opposition) (15:11): As a supplementary question, given the minister's answer, can the minister confirm that the government intends to redevelop the Stirling CFS station this year, given that yesterday I received a letter from the Stirling CFS indicating that the government had abandoned plans to redevelop the existing station and requesting the community to help them raise $180,000 for that purpose?

The SPEAKER: I do not consider that a supplementary. That is another question.

The Hon. J.M. RANKINE (Wright—Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety, Minister for Multicultural Affairs) (15:12): I understand that it is nothing unusual for local brigades to seek financial support from other organisations, to go out and do fundraising.

Mrs Redmond interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: I am sure the member for Heysen has donated on election day, when they have their election collection days. My understanding is that we have allocated $270,000 for Stirling, but they want a different design that is budgeted for about $478,000 to $581,000. It is not appropriate to take funding from one brigade and give it to another. There is a budgeted amount for the Stirling brigade, as I understand it.

STATE FINANCES

Mr MARSHALL (Norwood) (15:12): My question is to the Minister for Manufacturing, Innovation and Trade. Will the minister now confirm to the house that he was wrong when he publicly stated on 18 January that 'the former Olsen-Brown governments were dishing out grants willy-nilly without any sort of clawback provisions'. I have made an investigation of several grants provided under the Olsen and Brown governments, and I have spoken to former officers of the Department for Industry and Trade who confirm unequivocally that clawback provisions were included in the vast majority of all industry contracts under previous Liberal governments.

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Workers Rehabilitation, Minister for Defence Industries, Minister for Veterans' Affairs) (15:13): I am happy to take this question for the minister because it is my duty as the Treasurer to write off bad loans that were made during this period. I spend a lot of my time having to approve write-offs of bad loans, so I can—

Mr MARSHALL: Point of order.

The SPEAKER: Just a moment, Treasurer.

Mr MARSHALL: My question was very specifically, 'Will the minister now confirm to the house,' and will he stand by his comments on 18 January?

The SPEAKER: Thank you, member for Norwood. Any minister can answer a question. You cannot specify that a particular minister has to. Treasurer, have you finished your answer?

The Hon. J.J. SNELLING: I have.

TOBACCO SMOKING

Ms BETTISON (Ramsay) (15:14): My question is to the Minister for Health and Ageing. Can the minister inform the house of the latest rates of cigarette smoking in South Australia?

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (15:15): I thank the member for Ramsay for her question. I congratulate her on her appointment as well. I am very happy to tell the house that the most recent data for smoking in South Australia shows a downward trend in all age groups.

The smoking rate in 2011 for people aged 15 years and older is now 17.6 per cent, which is down from 20.5 per cent in 2010 (this is equivalent to 39,545 fewer smokers) and, pleasingly, daily smoking rates are now at 15.2 per cent, down from 17.2 per cent in 2010. Impressively, young people aged between 15 and 29 recorded a significant downward trend over the last year, from 22.9 in 2010 to 17.6 in 2011. In fact, in the last decade, smoking rates among this cohort peaked at 31.7 per cent in 2003. So, in less than 10 years, we have almost halved the smoking rates in that group. The daily smoking rate for young people has decreased from 17.3 per cent to 13.6 per cent, which equates to about 12½ thousand fewer smokers, and these are the largest reductions observed in the past 10 years.

These are huge achievements in our society, driven, I think, in part by the advertising campaign that we have been running to convince people to give up smoking and the support we provide to people who do want to give up smoking, and also the federal government's initiatives, particularly to increase the price of tobacco, but also to move to plain packaging. There has been a lot of debate and interest in the community about tobacco over the last year. We have targets in our state tobacco control strategy for 2011-16 to reduce by 2016 to 16 per cent for the 15 to 29-year-old age group, and we are well on track to reach that target.

I commend the achievements of DASSA, which is part of the organisation of Health which runs all of these initiatives. It has done an absolutely superb job. It is fantastic to see smoking rates declining. We are now at the stage where relatively few young people smoke. We know that the

recruitment of smoking occurs in those aged under the age of 18. So, if we have very few people picking it up, we are going to have very few people in the future who smoke. The fact that only 13 to 14 per cent of people of that age group smoke on a daily basis means that the peer pressure that used to be there has very much dissipated, and that is a huge improvement in the way in which our society works.

GRIEVANCE DEBATE

ROYAL ADELAIDE HOSPITAL

Mr HAMILTON-SMITH (Waite) (15:18): The government has chosen to build a hospital on a contaminated rail yards site in City West and has now encountered significant environmental issues with that proposition. I just want to recap some of the main points and lay out some very serious issues of concern.

On 22 December, *The Advertiser* revealed very serious concerns about groundwater and a risk to the health of workers at the site and the finished hospital due to extensive contamination beneath the site. It was even suggested that it might be necessary to build a membrane and vents to allow such fumes to escape. Later, on 2 February, further concerns were raised when it was found that soil thought to be clean soil was being taken away from the site and subsequently found to have been contaminated. Then, just last week, it was revealed that the amount of contaminated soil at the site had suddenly risen from 11,000 to around 31,000 tonnes. Somehow or other the government had overlooked the quantum of contaminated soil, and that was certainly raised on 23 February.

Now, today, we have new information that quite the reverse has occurred. Highly contaminated toxic soil appears to have been taken off the site and, as if with the wave of a magic wand, has been transformed back at the depot of the contractor into non-contaminated, safe, clean fill. Well, the minister seems to believe it, but I just say to the minister: if it is too good to be true, maybe it is not true. There are some very serious questions that arise from these developments.

The opposition believes it is a forward process, and that there needs to be an independent inquiry into all that has occurred with contaminated soil at the site. Let there be no mistake. The lead and metal toxins in this soil cannot be eradicated; they are long-lasting. This site was examined extensively when the contaminated soil was in situ. It was irrefutable that it was highly contaminated soil. Magically, once it moved to the contractor's depot site, it is suddenly all clear.

The assertion that has been put by industry stakeholders and others is very clear, and that is that there has been mixing of soil, clean fill and contaminated fill in a way as to dilute the contaminated soil. The assertion is that the contractor has then had their own auditor come in, examine the pile of soil, and he has magically decided that suddenly it is all clear. Suddenly this soil is fit to be delivered to fill sites around the city. Gilman has been suggested as one destination, so that homes and constructions of a business nature can be built on top of it.

I understand that the EPA has been involved in all of these processes, but I am alarmed to read this morning in *The Advertiser* that the EPA receives levies of $35 a tonne for material put to landfill, and stands to benefit to the tune of $750,000 from this entire process. What we need is a clear statement from ResourceCo that testifies to the authenticity and genuineness of this second evaluation that they have conducted at the depot, and I think the EPA needs to come clean with its technical analysis of its supervision of this reassessment of the soil, because it sounds suspect.

Only ResourceCo and the EPA can clear the air. Then there is the financial issue of any benefit to the contractor by this magical reassessment of this fill as clean waste. We need an explanation of how the money is moved here. We need an explanation as to how this contaminated soil has suddenly become decontaminated and we need a government that stops hiding behind public-private partnerships as a way to escape scrutiny.

I note that ResourceCo has been the recipient of grants from the government in the past: in September 2005, $3 million as part of a $10.8 million expansion for a waste processing company. And other grants going back to previous occasions: $42,000 for two projects for waste recycling; $100,000 for bituminous pavement product; and $250,000 for projects at Wingfield.

All of this needs to be gotten out into the open. We need transparency. Sunshine is the best disinfectant. The air needs to be cleared. We are looking for whistleblowers from within the EPA or the company, or else others need to come forward or address these issues that have been raised so that we can get to the truth.

LAKE WINDEMERE SCHOOL

Mrs VLAHOS (Taylor) (15:23): I am delighted to speak this afternoon about the $6.8 million Lake Windemere CPC school redevelopment that is about to occur in the seat of Taylor. It recently passed the Standing Committee for Public Works. As the local member of parliament, last week I toured the school with school leaders as part of a community morning tea to inform local community members and organisations about the exciting developments happening on this site. Some of these include the soon to be relocated chicken shed from one of the old sites where the children will be able to care for chickens, the new gardens that are being established and their new BER hall.

Only last year the new school opened with its new name of Lake Windemere on the old direct site. The Interim School Council and I sought special consent for the use of this name, as the Geographic Naming Board had initially rejected the community balloted preferred name.

I was pleased to inform them that the then minister Weatherill and now premier Weatherill was pleased to support the community's view on the naming of the new site as Lake Windemere CPC. Indeed, the recreation park next to the school is the reason for the name. The school has a strong affinity and custodial relationship with the open space of Lake Windemere. Its new uniform was balloted on by the students and reflects this emphasis in green, black and white.

The school is very committed to sustainability and maintenance of the local environment through stewardship at a community and educational level. The City of Salisbury is also currently seeking to upgrade the lake precinct, with local community providing solid feedback on the way forward.

I am truly happy that the Weatherill state government has provided $6.8 million of funding to give this school the vital upgrade it needs and deserves. I know the community will be pleased for this new stage in the school's life. The Chairperson of the Interim School Council, Dawn Westmoreland, has stated that 'the upgrade fits perfectly with the community's vision for the Lake Windemere School.'

When the Salisbury North West School and Direk School elected to close and establish Lake Windemere, our vision was to build a school with first class resources for excellent educational outcomes for our students. This is echoed by the deputy chairperson, Stewart Sparrow, who expressed a similar sentiment:

> This is also a great investment on behalf of the SA state government. We will be aspiring for great things.

The redevelopment will accommodate a maximum of 600 students and is scheduled to be completed in June 2013. The benefits of the $6.8 million school upgrade include: the construction of a new children's centre facility; three general learning areas; a new car park; landscaping; an upgraded administration area, which will include new work spaces, a sick room, plus a new street frontage presence for the school; and greater flexibility in learning areas and state-of-the-art ICT in all facilities. Congratulations to the Lake Windemere CPC school community and educational team. I know you look forward to these exciting changes and I look forward to sharing the opening of these new facilities with you in mid-2013.

INNOVATE SA

Mr MARSHALL (Norwood) (15:26): I rise to speak on the impending closure of Innovate SA. This government has gone to great lengths to talk about innovation, in fact it has gone to such lengths recently that it has renamed one of its departments the Department for Manufacturing, Innovation, Trade, Resources and Energy. So, we have gone through a very expensive process of re-jigging all of the signage, the letterheads and all the paperwork within that office to put in the word 'innovation'.

We have had the Premier and the minister talking in the media and at trade conferences, saying to people, 'Innovation is in our DNA.' They have talked about the importance of innovation in terms of driving industry in South Australia, they have talked about innovation in terms of creating jobs for future South Australians, but how have they actually performed? The only agency with responsibility for driving innovation in South Australia is Innovate SA, which is domiciled within DMITRE. It was announced last Monday that this would be closed at the end of this financial year. So, despite the rhetoric, the government has failed to live up to its commitments.

Let us have a look at a little bit of the history of Innovate SA. Innovate SA was first opened—are you ready for this—on October of 2009. It brought together a variety of different

functions which existed in other agencies within the government at the time: the Venture Capital Board, a range of education programs operated within the old department of trade and economic development, industry assistance programs (I want to talk about those in a moment), diagnostic programs and work that was done to assist SMEs to identify opportunities and grow their business, and general networking and support.

So, it was opened in October 2009 and guess when the funding was pulled? September 2010. You do not have to be Einstein to work that out. Eleven months after the agency was opened it was slated for closure. Importantly, when it was announced in the September 2010 budget, the minister stated that despite the government pulling the funding it was going to be the responsibility of the department of trade and economic development to look at alternatives for funding this important key organisation.

In the opposition we thought, 'Here we go, this is a government which is pulling its own funding, but don't worry, they are going to charge their officers with the responsibility of finding alternative funding.' Well, they failed. Last week, an email was sent out to about 6,500 on their database letting us all know that the government would not be finding the money and that this agency would indeed close on 30 June.

Before making that final decision, the government called upon Thinker in Residence, Göran Roos, to look at the importance of Innovate SA as a key agency in South Australia. I am told by many people that that report strongly recommended that Innovate SA be continued. Unfortunately, the government refuses to release this report. This is typical of this government. It likes to make big announcements. It likes to call press conferences and put out press releases, but by the time the ink has dried on the press release it has lost interest and moved on to something else.

Innovate SA also operated the SME industry development program, a very important program that was valued by many organisations in South Australia. Let me tell you about that program. In the last round of funding, the government opened the funding, encouraged businesses to put in applications, worked with those businesses in refining their applications, assessed the applications, told the companies that they would be awarded the money, and made recommendations to the minister; however, between the announcement of the program and the time that the minister signed on the dotted line, the Treasurer pulled the money.

These companies went through a lot of expense to put their applications in. I think it is completely wrong for the government to pull funding mid-application process. They can do what they like outside of it, I presume, but when they are actually within a grant round, I think it is completely inappropriate. Many companies in South Australia relied on the excellent services that Innovate SA offered. This government has not put up any alternatives whatsoever to the businesses that hope to grow and use innovation as the basis of their growth. The minister made the hilarious comment recently—

The ACTING SPEAKER (Hon. M.J. Wright): Wind up, please.

Mr MARSHALL: —that the government's interest in innovation would not be diminished with the closure of Innovate SA. We look forward to finding out how that will play out.

PORT ADELAIDE ART EXHIBITION

Dr CLOSE (Port Adelaide) (15:31): I am delighted to talk about an art exhibition that I was fortunate enough to open last week in the seat of Port Adelaide. It is an exhibition that is entitled *Reflections*, and is the first one to be held in a new gallery called Yampu, which is the Aboriginal word for dolphin. The Kaurna totem for the area is a black swan, but as we all know, dolphins are most-loved creatures in the Port River, and the gallery owners sought permission from Kaurna elders to be able to call the gallery Yampu.

The exhibition was set up by the Port Adelaide Artists Forum, and I would like to pay tribute to Bob Daly and Kalyna Micenko who set up the exhibition and are two of the most generous and community-minded artists I have ever come across. Prior to the election, I was involved in a fantastic exhibition of community activism in art through the Dragon's Breath Parade, in which several community groups, including the local group of the Labor Party, were enabled to create art—despite our evident lack of talent—through the good offices of Bob and Kalyna and their resident artist. We created lanterns that were then floated down the Port River in a very moving display.

The *Reflections* exhibition that has just opened at Gallery Yampu is not only a beautiful exhibition, of course, with very lovely art from local artists—mainly close to Port Adelaide, but also

from the wider Adelaide area—but also a very good theme for the area of Port Adelaide: to contemplate the reflections on the past, present and future of that area, which are highly contested and very dear to the people who live there.

The location of the gallery is at Jenkins Street, in one of the boat sheds, and that has gone from having a boating history—it still has some boating activity with the dragon boats—but is moving into becoming a real hub for art. I like to think of that as a very good example of the future of Port Adelaide, where Port Adelaide is emerging as a very vibrant arts centre, and I was delighted to see that in such a material representation in this art exhibition.

TONSLEY AND GRANGE RAILWAY LINES

Ms CHAPMAN (Bragg) (15:34): I rise today to speak on the new transport lines for the Tonsley and Grange lines. Much has been said in the media recently about announcements of the government that there would be a closure for consumers and users of the rail service known as the Tonsley and Grange lines which come into the city. This is an important service, obviously, for all those who use these train services. Much publicity surrounded, of course, the Grange line consumers when they objected strongly to notice on this, but it was subsequently announced that they would have some extra services in relation to their disruption.

People understand that services will sometimes be interrupted to enable capital upgrades, but they expect that disruption will be minimised and that the government will look at multiple options before cutting a service. The concerns that we have on these two services is that the people concerned, the communities who use these services, whether it is to go to a doctor's appointment or to travel to and from work, all the reasons people use public transport, is that they were given only a few weeks' notice.

The member for Mitchell yesterday, or today, I think tabled nearly the 1,000 petitioner signatures from the Tonsley line in relation to their concerns. Indeed, I met with three committed public transport users of this line a week ago who were very concerned about the closure of this service. They had been offered a bus service. They outlined their concerns about having had buses on previous occasions that were inefficient and ineffective in providing them with service. They read about this announcement in the paper, and obviously they are very concerned.

Will the people who catch the Tonsley line be disrupted in fact for more than one year as promised? Clearly it would make sense to complete electrification works while the track is closed. We know that the government has already previously announced its intention in respect of the electrification works, which, on briefings that I have had with the government's departments, tell us that in fact that will be commenced in 2013.

So we have a situation in reality where, if that is the case, then the people of Tonsley will be facing two years disruption to their service, not the one year as has been published. I think it is important for the Minister for Transport and Infrastructure—if it is clear that the Tonsley commuters are not going to have access to this service over the next year—at the very least to make sure that his department immediately brings forward the electrification works that need to be undertaken to minimise those who use this service.

The other matter I wish to bring to the attention of the parliament is that, as most people would know in South Australia, there was a derailment of the Tonsley train last week. I am told by people who have come to see me that it is not the first time that there has been disruptions, but, in that instance, there was a disruption to their train service for most of the day. It was late in the afternoon before we had an announcement from the government about what on earth was going wrong.

We heard reports that other trains were stopped or slowed prior to the derailment because of switching problems. Later that night I got home and found that there were apparently further problems and that that had been made public. But we have got two ministers now dealing with these issues, dealing with trains, in this state: we have a Minister for Transport and a Minister for Transport Services. We have got two ministers, we have got a huge department, yet, here we are, none of them have come forward to give us any explanation about what happened on that derailment.

The only explanation we have had is via a public servant who was trotted out on the day to give some explanation about the resumption of the service. So more than a week has passed and we still do not have any answer on what happened and some assurance that it will not happen again. What happened with the switching problem that was also referred to later that evening, and,

as I understand it, a further signalling problem? We do need to have some answers. The public are entitled to that.

Time expired.

WILLO'S MEN'S SHED

Mr PICCOLO (Light) (15:38): Today I would like to speak briefly about the Willo's Men's Shed, which is located in Little Paxton Street in Willaston in my electorate. It was established five years ago with a $50,000 grant from Wakefield Health, with the assistance of Employment Directions, which actually had the head lease on the site. The Men's Shed was established to provide a shed substitute for retired men who may no longer have access to their own shed, garage or workspace which they can call their own. Importantly, though, the shed also exists to provide men with a setting distinct from the pub or a football club—there is often nowhere else for men of a certain age to go.

Willo's Men's Shed also provides a place to enjoy the company of other men and a cuppa in a friendly and relaxed atmosphere created by blokes working shoulder to shoulder with other like-minded men. I think yesterday in this place the member for Florey spoke about a Men's Shed in her electorate. Willo's Men's Shed consists of three sections. There is the leisure room, a kitchen (which is used, obviously, for cooking and sharing meals) and a workshop (which contains workbenches, tools for woodwork, metalwork, etc.)

The Willo's Men's Shed consists of a core group of 35 to 40 active members, with a five-person management committee. Currently, the chair of the committee is Colleen Moyne, supported by Graham Carse, Ian Polkinghorne, Dwayne Reed, and Steve Frisdorf. In its five-year history, around 600 men have passed through the doors of the shed, some coming from outside the electorate itself. Also, I would like to acknowledge the work done by Mr Aaron Phillips and the Gawler Men's Health Group in establishing the shed five years ago.

In the workshop the men work on their own projects or do a lot of community work. They do repair work on furniture, etc, for the local nursing home, the show, etc. All the moneys made by the shed are reinvested in the shed itself.

There is also a group called Blokes at the Shed (BATS), and they meet on Tuesdays. It is a social group with a health focus, and around about 12 guys attend that event regularly, supported by Gawler Health Service volunteers. That group is particularly supportive of men who are isolated because of depression or divorce, etc. The shed also provides monthly cooking classes and men learn to cook quick, simple, healthy meals, either for themself if they are divorced, widowed or single, or for their families if they are just trying to pull their weight at home.

There is also the Talk 'n' Tools, which is in collaboration with Employment Directions (who are now moving on) and a Gawler Health Service youth worker and is about assisting at-risk young men who are not attending school. They come into the shed and work in small groups with the guys and learn a whole range of hands-on skills but, also, importantly, socialisation skills which, often, isolated young men do not have. It is a very important program.

The reason I raise this today is that the Men's Shed is under threat of closure. Unfortunately, the head lease, held by Employment Directions, is ending (they are moving) and the landlord (the Town of Gawler) cannot give a commitment to pass on that lease to the group. It would be a travesty if the Men's Shed was closed down because it provides such an important service, particularly in improving men's health.

On the point of men's health, I also congratulate the Royal Flying Doctor Service and the Adelaide Produce Market, who held a Pit Stop at the markets yesterday morning. A Pit Stop is one of those places where men come to have some basic health checks. It is often held with other events and, in this case, it was held in the workplace, which is the Adelaide Produce Market. It is being held this year because of the Clipsal 500, and it is about getting things serviced and repaired.

It is interesting to note that these Pit Stops are quite good at identifying health issues for men. Yesterday, for example, I am told that, as a result of the checks, nine men ended up seeing a doctor on the same day because of blood pressure and other issues which they were unaware of, so there are some benefits from that.

The reason Men's Sheds are important is that, generally speaking, men tend to have poorer health outcomes and the men's shed is a subtle or soft way of introducing men to talking about their own personal issues and also providing information in a supportive environment. It also

gets men talking about their own situation. Australian men are more likely to get sick from serious health problems such as cancer than Australian women. At the end of the day, we need to remember that men are fathers, sons, brothers and partners; and they need to be healthy physically and mentally.

GRAFFITI CONTROL (MISCELLANEOUS) AMENDMENT BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:45): Obtained leave and introduced a bill for an act to amend the Graffiti Control Act 2001. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:45): I move:

That this bill be now read a second time.

The Graffiti Control (Miscellaneous) (No. 2) Amendment Bill 2011 was first introduced into the parliament on 9 November 2011. Further consultation on the bill after its introduction with members in the other place, SAPOL and the Department of Planning, Transport and Infrastructure identified some issues with the operation of the new sections 10A and 10B in clause 13 of the bill.

These concerns have been addressed in the bill now before the house. The drivers licence sanctions have been amended so that a court may, for second and subsequent offences, order the suspension of an offender's driver's licence, including a learner's permit. A duty to produce a driver's licence in court, if required by the court, a police officer or registrar, has also been imposed.

Finally, the new police power to seize a prescribed graffiti implement has been amended so that the procedures relating to the seizure of a graffiti implement and the circumstances in which the graffiti implement may be returned or forfeited to the Crown are prescribed in the regulations. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Report

Graffiti vandalism is a significant issue not only because of the economic costs to State and local government, as well as individuals and businesses, but also because of the social costs. It is damaging and unsightly and can significantly impact on the amenity of an area and community perceptions of safety.

The South Australian Government is committed to ensuring that those who engage in destructive behaviour face serious consequences. As part of its election platform, the Government pledged to strengthen existing graffiti legislation to reduce the incidence and impact of graffiti vandalism. This Bill amends the *Graffiti Control Act 2001* to ensure that our laws act as a strong deterrent to offending and effectively deal with the perpetrators of graffiti vandalism.

Consultation

The Bill is the culmination of a six week public consultation on the Graffiti Prevention Discussion Paper.

During consultation, comment was received from over 45 interested parties, including retailer associations, government agencies, SAPol, local government, the Law Society, the SA Graffiti Network, the Youth Affairs Council of South Australia, the Hon. Bob Such and members of the community. All of the submissions received were considered by the Government and were taken into account in the drafting of the Bill.

What emerged from the public consultation was that there is broad support for tougher legislative measures to minimise graffiti vandalism and to deter potential offenders. Respondents also supported the use of non-legislative measures such as the education of young people and rapid removal strategies.

The Government recognises that graffiti prevention is not just about law reform. The Government is therefore committed to crime prevention through other measures, including the Crime Prevention and Community Grants program.

This program funds innovative and grassroots crime prevention and community safety projects and offers grants from $10,000 to $50,000 for community projects. The total of funding on offer through the grants program is up to $800,000 per year, with $200,000 set aside in the 2011-12 specifically for projects aimed at combatting graffiti. This is double the amount allocated for anti-graffiti projects last year.

Detail of the Bill

Preventative and educative strategies, although important tools in managing graffiti, need to be supported by criminal offences with adequate penalties in order to deter potential graffiti vandals.

Accordingly, the Bill will aid in the prevention and minimisation of graffiti vandalism by increasing penalties for existing offences, further restricting the sale and display of graffiti implements, giving the courts new penalty options and giving police the power to confiscate graffiti implements.

A major feature of the Bill is the increased range of sentencing options available to a court when sentencing graffiti offenders.

First, the Bill amends section 9(3)(a) of the Act to provide courts with an alternative to the requirement that a court must order that an offender remove the graffiti.

At present, a court that convicts an offender of the offence of marking graffiti must either order that the offender take action to remove the graffiti that was the subject of the offence or, if that is not reasonably practicable, order that the offender pay such compensation as the court thinks fit.

Effectively, this means that where the graffiti that was the subject of the offence has already been removed, the court must order that the offender pay compensation. Depending on the offender's financial circumstances, such an order may be nominal and therefore not reflective of the actual cost of rectifying the damage.

Where an offender is a minor, or an adult with limited financial means, participation in graffiti removal generally may be a more appropriate penalty in some instances than a compensation order. Under the changes to the Act the court will be able to order that an offender remove graffiti on any property, including the graffiti that was the subject of the offence.

This power will still be qualified by a requirement that an order should only be made if it is reasonably practicable to do so as in some cases removal of the graffiti or participation in a graffiti removal program may not be possible, either because the offender is physically incapable of performing the work or because there are no places available on a supervised program.

Whether an order is reasonably practicable will be left to the courts to determine based on the offender's circumstances and information given to the court about the availability of suitably supervised graffiti removal programs.

Second, the Bill creates a new penalty option in the form of a cost recovery provision.

Although an offender can be ordered to remove the graffiti that was the subject of the offence, the graffiti is often removed from the property prior to the offender being sentenced. For example, if the graffiti is on private property it may have already been removed by the owner or occupier of the property or by the council exercising its removal powers under section 12 of the Act.

Graffiti removal from public and private property within a council area can cost councils upwards of hundreds of thousands of dollars a year. For the most part, these costs cannot be recouped. To address this, the Bill empowers a court to order that an offender pay to the person who removed or obliterated the graffiti a reasonable amount for the removal or obliteration.

This new penalty option was supported by the majority of respondents. However, there were concerns that an offender's capacity to pay would not be able to be taken into consideration by the court. The power to make such an order is therefore discretionary so that the financial circumstances of the offender can be taken into account in sentencing.

Third, a new section 10A of the Bill empowers a court to impose restrictions on a driver's licence for graffiti offences committed under Part 3 of the Act.

At present, the *Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007* allows an offender's vehicle to be clamped or impounded for up to 28 days (or up to 90 days with a court order) or forfeited for a range of offences, including graffiti offences.

As a complement to these existing powers, the new section 10A provides that a court may order the suspension of an offenders licence for up to six months where the offender has been convicted of an offence of marking graffiti or carrying a graffiti implement. The possibility of a licence suspension should act as a deterrent to repeat offenders.

A driver's licence is a privilege not a right and one that should be reserved for responsible members of the community. A person who engages in graffiti vandalism is not acting responsibly and should not be not be entitled to the same rights that are afforded law-abiding members of the community.

Another feature of the Bill is the new restrictions on the sale and display of graffiti implements.

It is currently an offence under the Act to sell a spray paint can to a minor. The Act also restricts the storage and display of spray paint cans by retailers as the effectiveness of a ban on sale is reduced where the items in question can simply be stolen. Retailers are therefore required to store spray paint cans either in a locked cabinet or in an area of the store to which the public is not permitted access.

In line with the Government's election commitment to strengthen existing legislation, the Bill imposes similar restrictions on the sale and display of other implements that are commonly used for unlawful graffiti.

A ban on the sale of other graffiti implements was supported by a majority of respondents to the public consultation. There were concerns, however, that the imposition of similar restrictions on the storage and display of such items would impose an unreasonable burden on retailers, particularly given the diverse range of items that could be considered graffiti implements.

It is not the Government's intention to require retailers to lockup every possible implement that could be used for unlawful graffiti, particularly when so many of them are commonly used as school or office supplies.

However, bans on sale are more effective if they are supported by display restrictions to prevent the theft of such items. The Government therefore intends to only capture those implements that are frequently used for graffiti vandalism, such as wide-tip marker pens.

The current ban on the sale of spray paint cans to minors will also be extended to include a ban on supply to deter those over 18 from purchasing spray paint cans for the express purpose of supplying them to younger associates to use for an illegal purpose.

Of course the Government acknowledges that there will be instances when it is perfectly appropriate for a minor to be supplied with a spray paint can. For example, for the purposes of participating in an art class, in the course of lawful employment or to assist a parent in a renovation or other project around the home.

To address this issue, a defence will be available where the supplier believes on reasonable grounds that the minor intended to use the spray can for a lawful purpose.

The Bill also creates a new offence to advertise a graffiti implement for sale in a way that is likely to encourage or promote unlawful graffiti and a new offence of marking graffiti on memorials, cemeteries or places of worship or religious significance.

It is intended that the advertising offence will have extraterritorial application such that it will apply to advertising conducted in this State whether it is produced here or it is produced elsewhere and transferred here. In other words, it doesn't matter where the advertisement was made, it matters where it is displayed. For example, an advertisement made in New South Wales and displayed here would be caught by the offence.

The potential for the unlawful use of spray paint cans and other graffiti implements such as wide tip marker pens, is an ongoing problem. Advertising a product by promoting it as being suitable for graffiti vandalism is inappropriate and irresponsible as it encourages unlawful behaviour.

Retailers and manufacturers who choose to market a product in this manner glamorise an activity that is destructive and illegal and sends a message to impressionable people that this kind of behaviour is acceptable. Requiring retailers to advertise graffiti implements in a responsible manner will assist in the fight against graffiti vandalism.

The new offence of marking graffiti on memorials, cemeteries or places of worship or religious significance will attract a penalty of $7,500 or imprisonment for 18 months. This was supported by many of the respondents to the public consultation who agreed that vandalising these places constituted a more serious offence than marking graffiti on other public places.

Finally, the Bill gives police the power to seize a graffiti vandal's 'tools' thereby preventing graffiti vandalism from occurring in the first place.

New section 10B empowers police to seize a graffiti implement of a prescribed class from a person in a public place if the officer reasonably suspects that the implement has been, is being, or may be used in contravention of the Act.

This new provision helps to prevent graffiti vandalism from occurring in the first place by giving police the power to confiscate a graffiti vandal's tools of trade. This can be done without resorting to an arrest or charges which is currently necessary in order to seize a graffiti implement from a person.

Graffiti is not a trivial offence. The economic and social costs associated with graffiti are considerable. Graffiti undermines community perceptions of safety and is seen by many as a visible sign of social decline and anti-social behaviour.

This Bill sends a message to all potential offenders that participation in graffiti vandalism will not be tolerated by the Government or the community and that such destructive behaviour will attract serious consequences.

This Bill is an important piece of legislation and 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 *Graffiti Control Act 2001*

4—Amendment of section 3—Interpretation

This clause substitutes the definition of graffiti implement for the purposes of the measure and inserts a definition of driver's licence.

5—Insertion of section 3A

This clause inserts proposed section 3A.

3A—Extra-territorial operation

Proposed section 3A states that it is the intention of the Parliament that the measure apply within the State and outside the State to the full extent of the extra-territorial legislative capacity of the Parliament.

6—Substitution of heading to Part 2

This clause substitutes the heading to Part 2.

7—Amendment of section 4—Graffiti implements to be secured

(1) Subclauses (1) to (3) and (5) substitute references to cans of spray paint with references to graffiti implements.

(2) Subclause (4) increases the maximum penalty and the expiation fee.

8—Substitution of section 5

This clause deletes and substitutes section 5.

5—Sale or supply of graffiti implements to minors

Proposed section 5 prohibits the sale of a graffiti implement to a minor and the supply of a graffiti implement of a class prescribed for the purposes of proposed subsection (2) to a minor.

9—Amendment of section 6—Notice to be displayed

The changes to section 6 made by this clause are consequential to the replacement of the term 'cans of spray paint' with 'graffiti implement' throughout the measure.

10—Insertion of section 6A

This clause inserts new section 6A

6A—Advertising graffiti implements for sale

Proposed section 6A makes it an offence to advertise a graffiti implement for sale in a way that is likely to encourage or promote unlawful graffiti.

11—Amendment of section 9—Marking graffiti

(1) The amendment to subsection (1) increases the maximum penalty for marking graffiti to $5,000 or imprisonment for 12 months.

(2) Proposed subsection (1a) creates an additional, more serious offence for marking graffiti within a cemetery, on or within a public memorial or on or within a place of public worship or religious practice.

(3) Proposed subsections (3) and (3a) give a court the power to make certain orders when finding a person guilty of a prescribed graffiti offence.

12—Amendment of section 10—Carrying graffiti implement

This clause increases the maximum penalty for an offence of carrying a graffiti implement to $5,000 or imprisonment for 12 months.

13—Insertion of sections 10A to 10C

This clause inserts new sections 10A, 10B and 10C

10A—Court may make orders in relation to driver's licences

Proposed section 10A provides that a court finding a person guilty of a prescribed graffiti offence that is not a first offence may, in addition to making any other order under Part 3, order that the person be disqualified from holding or obtaining a driver's licence for a period (of whole months only) being not less than 1 month but not exceeding 6 months.

10B—Duty to produce driver's licence at court

Proposed section 10B ensures that, if required, a person who holds a driver's licence and is charged with a prescribed graffiti offence that is not a first offence must produce his or her driver's licence to the court at the time of the hearing of the charge.

10C—Seizure of prescribed graffiti implement

Proposed section 10C gives a police officer the power to seize a graffiti implement of a class prescribed for the purpose of the proposed section that is in the possession of a person in a public place, if the police officer reasonably suspects that the implement has been or may be used in contravention of the Act.

Debate adjourned on motion of Ms Chapman.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:47): Obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935, the Criminal Law (Sentencing) Act 1988, the Director of Public Prosecutions Act 1991, the District Court Act 1991, the Enforcement of Judgments Act 1991, the Environment, Resources and Development Court Act 1993, the Judicial Administration (Auxiliary Appointments and Powers) Act 1988, the Justices of the Peace Act 2005, the Magistrates Act 1983, the Magistrates Court Act 1991, the Supreme Court Act 1935 and the Young Offenders Act 1993. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:49): I move:

That this bill be now read a second time.

This bill was previously introduced into the house and read a first and second time on 23 November 2011 but was not then debated and it lapsed on the prorogation of parliament. It is now reintroduced in the same form. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

This Bill makes miscellaneous amendments to Acts within the Attorney-General's portfolio concerned with the courts and the justice system, as follows:

Criminal Law Consolidation Act 1935

Section 258BA of the *Criminal Law Consolidation Act 1935* currently provides for the Director of Public Prosecutions to be able, with authorisation of the court, to serve on a defendant a notice inviting the defendant to admit specified facts. If a fact is formally admitted in response to the notice, the public is saved the cost of proving that fact. The section encourages the admission of facts that are not truly in dispute, in that an unreasonable failure to admit facts can be considered in sentencing, if the defendant is found guilty. The aim of the provision is therefore to prevent the wastage of public resources that can happen in a criminal trial where the prosecution is forced to call evidence to prove facts that the defendant does not seriously dispute.

The section is underused. One possible reason for this is that the Director must apply for a court order at a directions hearing. The Bill proposes to abolish that requirement. There is no harm or unfairness to an accused in being served with a notice to admit facts. If he or she genuinely disputes the fact, then the response to the notice will indicate that the fact is not admitted and the prosecution will still have to prove it in the ordinary way. Therefore, there is no need to occupy the court's time in dealing with the question of whether a notice should be authorised. There may also be some benefit in that notices could be issued earlier.

Criminal Law (Sentencing) Act 1988

Several amendments are proposed to the *Criminal Law (Sentencing) Act 1988*. First, a new section 9D is proposed. This would give the Environment Resources and Development Court an express power to convene a sentencing conference, at which representatives of the neighbourhood affected by the environmental offence may express their views about the impact of the offence and may negotiate with the defendant for appropriate reparations. The results reached by the conference can be taken into account by the Court in sentencing. If an agreement has been reached for reparations, the Court may adjourn sentencing for this to be carried out and, if it is, may take account of the reparations in sentencing. It would be in the Court's discretion whether to convene such a conference in a particular case. A similar provision exists in the New Zealand *Sentencing Act 2002*, s. 10. Proposed new section 19D would permit the Court to defer sentencing to allow time for the defendant to carry out actions agreed at the sentencing conference.

Section 33C deals with imprisonment for contempt. A problem has been noticed in the relationship between the *Criminal Law (Sentencing) Act 1988* and the imposition of a prison sentence as a punishment for contempt of court. Where a prisoner is convicted and sentenced to imprisonment for contempt of court, whilst already serving a sentence of imprisonment, a problem arises if the prisoner becomes eligible for parole for the earlier offence. If the Parole Board orders the release of the prisoner on parole he or she will not in fact be released, but will commence a new prison term for the contempt.

When the Parole Board determines whether or not to grant parole, it must take into account, amongst other things, the likelihood of the prisoner complying with the conditions of parole, the impact that the release of the prisoner on parole is likely to have on the registered victim and their family and the probable circumstances of the prisoner after release from prison or home detention. Consideration of these matters becomes an artificial process when the Board knows that the applicant for parole is likely to serve an additional term in prison for contempt immediately upon parole. In these circumstances, it is unclear whether the Board should assess the application for parole as though the applicant were to be released upon the making of the parole order, or whether the Board should assess the application by attempting to predict what the relevant circumstances of the applicant will be after he or she serves the sentence for contempt. The longer the sentence for contempt the more difficult it will be for the Board to assess that.

It is proposed to amend section 33C so that where a sentence for contempt is imposed upon a person already serving a term of imprisonment, the term imposed for contempt is to be interposed prior to the conclusion of the serving of the term of imprisonment first imposed. This will enable the Board to assess questions arising upon an application for parole to be dealt with at the relevant time.

Section 48 and 50 deal with the supervision of offenders, for example, as a condition of a bond or ancillary to a community service order. Section 50 authorises a community corrections officer to give the offender reasonable directions. One of these optional directions is a direction to obtain written permission before leaving the State. It is proposed that, rather than being an optional direction, this should be a mandatory condition of supervision, to be included among those fixed by section 48. It is considered that offenders under supervision should never leave the State without permission. It is also proposed to provide, by an amendment to section 50, that a community corrections officer must give reasonable directions to the offender about regular reporting. That is, it is not intended that in each case the officer should consider whether the particular offender ought to report regularly. It should be the rule that offenders are required to report regularly. The discretion should relate to the frequency and manner of reporting, rather than whether the offender reports or not.

A minor clarification is required to section 58, to ensure that an extension of time to complete community service can be granted even if the time originally allowed has expired.

It is proposed to amend section 70I of this Act, which deals with reconsideration by the court of an order for payment of a pecuniary sum, where the defendant has been unable to pay without hardship. The Act allows the court, on reconsideration, to remit or reduce the pecuniary sum, or to convert it to community service or make other orders. The amendment is designed to make clear that the court can, if it sees fit, make different orders in respect of different portions of the pecuniary sum. That is, the court might convert part only of the sum to community service hours, leaving the defendant to pay the balance of the sum, or it might reduce the sum and also impose a disqualification from driving, and so on. This is expected to be useful where the sum is large and, for example, converting it to the maximum allowable community service hours alone would be insufficient.

The Bill also proposes to amend section 71 to allow a fine to be imposed in lieu of a community service order, in the court's discretion, when the order is not completed. Presently, this is only possible, under section 71(8), if a court is satisfied that the person's failure to comply with an order is excusable because of obligations to attend paid employment gained since the making of the order. However, there may sometimes be other cases where the failure to complete community service is not due to a person's employment obligations but there are nevertheless proper grounds for the court to consider substituting a fine. The amendment will allow the court to revoke a community service order and substitute a fine, whatever the reasons for failure to comply with the order, if the court sees fit.

Director of Public Prosecutions Act 1991

Section 6A of this Act, at present, permits the Director of Public Prosecutions to delegate his or her powers under the Act, but not the powers conferred by any other Act. An example is the power under the *Listening and Surveillance Devices Act 1972* to approve the making of an application to the court by a police officer for a warrant authorising the use of devices. Another is the power to apply to a court to revoke an order for the transfer of a prisoner under the *Prisoners (Interstate Transfer) Act 1982*, where the prisoner has attempted to escape or has otherwise offended in the course of transfer. The Government considers that it would be convenient for the Director to be able to delegate such powers in the same way that he or she can now delegate the powers in the Act creating his office and the Bill so proposes. This provision is of general application, but it is not meant to override specific provisions in individual Acts that preclude delegation. For example, the Serious and Organized Crime (Unexplained Wealth) Act expressly provides by section 37 that the Director's functions under sections 9 and 12 cannot be delegated. This amendment is not intended to override that specific provision.

District Court Act 1991 and *Supreme Court Act 1935*

It is proposed to make a small change to the mediation powers of the Supreme and District Courts. At present, a judge can refer the parties to mediation whether or not the parties agree, but a master can only refer the parties to mediation if they consent. It is proposed that a master should be able to refer the parties, in the same way that a judge can do, even without consent. Referral can sometimes be useful despite the absence of consent. For example, a party might underestimate the prospects of resolving the case by negotiation. The referral will not compel anyone to make or accept any offer.

Enforcement of Judgments Act 1978

An amendment is proposed to section 7 of this Act to clarify the powers available to the sheriff when executing a warrant against land. Section 7 of this Act permits the court to issue a warrant of possession, authorizing the sheriff to take possession of real property. The warrant enables the sheriff lawfully to eject any person who is on the land and who is not entitled to be there. In the case of a warrant relating to personal property, it enables the sheriff to seize and take possession of the personal property. The section however varies in its expression. While it expressly states that, in the case of personal property, reasonable force may be used, it is silent about whether reasonable force may be used to eject persons when executing a warrant relating to land.

Probably, the better view is that the common law, which permitted such force, continues to apply and thus that it was not thought necessary to refer to this in the statute. However, an alternative argument is that the reference to force in one context could mean that the absence of such a reference in the other context discloses an intention that force should not be used. The Bill would amend s. 7(2) to remove any doubt about the authority to use reasonable force.

Environment Resources and Development Court Act 1993

Section 29 of this Act deals with costs, permitting the making of costs orders where costs have been wasted, for example, through avoidable adjournments or through the neglect or incompetence of a representative. It is proposed that the Court should also have a power to award costs where this is necessary in the interests of justice to redress unfair conduct by a party. There is an analogy with appeals to the Administrative and Disciplinary Division of the District Court, which is not ordinarily a costs jurisdiction but which may award costs if to do so is necessary in the interests of justice. The aim is to penalize parties who unfairly waste the time and costs of other parties by the way in which they conduct litigation.

It is also proposed to insert a new section 40A dealing with custody of litigants' funds. In the Magistrates Court Act, the District Court Act and the Supreme Court Act, provisions already exist giving responsibility to the Registrar for the custody of such funds and giving a guarantee of their safety, such liability to be satisfied from general revenue. In practice, the ERD Court has not received litigants' funds, but with the growth in the mining industry, there is a possibility that in future this might occur, for example, in a case under the *Mining Act 1971* for compensation in a native title matter, and accordingly a comparable provision is proposed.

Judicial Administration (Auxiliary Appointments and Powers) Act 1988 and *Youth Court Act 1993*

Section 3(1) of the *Judicial Administration (Auxiliary Appointments and Powers) Act 1988* provides that appointments may be made to a 'specified judicial office … on an auxiliary basis.' Section 2 of the Act provides that 'judicial office' means, amongst other things, 'Judge of the Youth Court'. This Act would, therefore, appear to allow for auxiliary appointments to be made direct to the Youth Court.

The operation of section 3(1) of the *Judicial Administration (Auxiliary Appointments and Powers) Act* however sits somewhat uneasily with the scheme for appointments to the Youth Court set out in the *Youth Court Act 1993*. Section 9(3) of the *Youth Court Act* provides that, '[t]he Judges of the [Youth] Court are District Court Judges designated by proclamation as Judges of the Court.' This provision casts some doubt on how an appointment of an auxiliary judge to the Youth Court should be made.

The object of providing for auxiliary appointments is to promote flexibility, so the appointment of auxiliary judges to the Youth Court should not be restricted to those who are already appointed to the District Court but should include those who are eligible for appointment. The Bill would amend the Act to remove any ambiguity.

Justices of the Peace Act 2005

A justice of the peace may be appointed as a special justice, who may sit in the Magistrates Court or the Youth Court to hear minor matters. Such a person is bound by the Code of Conduct in the Regulations to notify the Attorney-General and the Court if charged with an offence (other than an expiable offence). Failure to do so may lead to disciplinary action. This notification would, for instance, enable the Court to decide not to roster the special justice to hear cases until the charges are disposed of.

The Bill proposes to go further and amend section 11 so that a special justice is automatically suspended from office upon being charged with an offence (other than an expiable offence) and ceases to be a special justice upon conviction for such an offence. This will mean that the special justice is not to hear any matters pending the disposition of the charges. If, however, this happens, the result of the proceeding is not to be affected.

The Bill proposes that the special justice could, however, apply to the Attorney-General to have the suspension lifted or to be reinstated in office. The Attorney-General will then be able to consider the gravity of the offence and, if persuaded that the person should be able to continue in office, to impose conditions.

Magistrates Act 1983

In the 2007 case of *O'Donoghue v Ireland*, there was a High Court challenge to an extradition, on the ground that the Commonwealth *Extradition Act 1988* could not validly impose a duty (in this case, the function of deciding whether a person is eligible for extradition) on state magistrates. The challenge failed, because the High Court found that it did not impose a duty, but rather conferred a power. It is proposed, however, to amend the *Magistrates Act* to insert a new Part 7 to make clear that the Governor has authority under this Act to enter into an agreement with the Governor-General for the purposes of the *Extradition Act 1988*.

Magistrates Court Act 1991

Section 42(1a) of the *Magistrates Court Act 1983* limits appeals against interlocutory judgments. It was substituted in its present form in 2005, after the decision in *Police v Dorizzi* (2002), in which the prosecution tendered no evidence following a ruling by the magistrate that CCTV tapes of the offence were inadmissible. The Supreme Court held that the prosecution had no right to appeal against that decision. It is clear from the Hansard debates about the 2005 amendment that the amendment was intended to enable the prosecution to make such an appeal, because the evidentiary ruling destroyed the prosecution case. However, in the case of *McIlvar v Szwarcbord* (2008), the Supreme Court held that the amendment did not achieve this effect. The Bill proposes to further amend section 3(1) to achieve what the Parliament intended. The new definition of 'interlocutory judgment' is designed to make it clear that an order or ruling relating to the admissibility or giving of evidence is a judgment and as such is appealable, subject to the constraints on appeal contained in section 42(1a).

Young Offenders Act 1993

Section 41A of the *Young Offenders Act 1993* specifies the process for conditional release of a young offender from detention, which varies according to whether or not the youth is a recidivist. The young offender must have served the required fraction of his or her sentence, being 2/3 for most young offenders but 4/5 for recidivists. The question has arisen whether the application can be made and considered before that period has elapsed, in

anticipation that it is about to do so, enabling eligible youths to be released immediately on having served the required fraction of the sentence.

The section intends that this must be possible, as otherwise young offenders would have to remain in detention after having served the required fraction, while waiting for the Board to determine the application. To avoid doubt, however, it is proposed that the section should expressly state that an application can be determined within the last seven days before the youth is potentially eligible for conditional release.

These amendments are of a technical nature and are designed to overcome procedural or technical problems or to improve the operation of legislation affecting the courts.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Amendment of section 285BA—Power to serve notice to admit facts

Section 285BA currently provides a scheme for the DPP to serve on the defence a notice to admit specified facts. The court must currently authorise the DPP to do so and may, in granting such an authorisation, fix a time within which the notice is to be complied with.

The amendments provide a more flexible system allowing the DPP to serve such a notice without obtaining the permission of the court except in a case where the defendant is unrepresented. A right to ask the court for an extension of time within which to comply with the notice is provided.

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

5—Insertion of section 9D—ERD Court sentencing conferences

New section 9D makes a new procedure available to the ERD Court—a sentencing conference designed to negotiate action that the defendant is to take to make reparation for any injury, loss or damage resulting from the offence, or to otherwise show contrition for the offence.

6—Insertion of section 19D—Deferral of sentence following ERD Court sentencing conference

New section 19D contemplates an adjournment of the ERD Court following a sentencing conference to enable the defendant to take the action negotiated at the conference.

7—Insertion of Part 3 Division 4—Effect of imprisonment for contempt

New section 33C clarifies the effect of imprisonment for contempt. It provides that if a person is imprisoned for contempt of court—

- any sentence of imprisonment that the person has not yet begun to serve (and any non-parole period in respect of that sentence) will not commence until the expiry of the period of imprisonment for contempt; and
- any sentence of imprisonment that the person is then serving (and any non-parole period in respect of that sentence) ceases to run for the period of imprisonment for contempt.

8—Amendment of section 48—Special provisions relating to supervision

If a person is to be subject to the supervision of a community corrections officer, this amendment standardises the requirement that the person must not, during the period of supervision, leave the State for any reason except in accordance with the written permission of the CEO. Currently, section 50(1)(a)(iii) allows the community corrections officer to give reasonable directions to the person requiring the person to obtain the officer's written permission before leaving the State.

9—Amendment of section 50—Community corrections officer to give reasonable directions

The requirement to report to the supervising community corrections officer is made a statutory requirement rather than one left for the officer to impose.

10—Amendment of section 58—Orders that court may make on breach of bond

Currently section 58(3)(b)(i)(B) allows the court in appropriate cases to extend, by not more than 6 months, the period within which any remaining hours of community service under a bond must be performed. The amendment contemplates the court allowing a further period for the performance of community service even if the initial period within which the community service had to be performed has expired.

11—Amendment of section 70I—Court may remit or reduce pecuniary sum or make substitute orders

Section 70I deals with the powers of the Court faced with a debtor who has no means to pay a pecuniary sum. As currently constructed section 70I(3) contemplates the Court either remitting or reducing the sum, deferring payment or substituting an order for community service, disqualification or cancellation of licence. The substituted subsection provides the Court with the flexibility to divide up the pecuniary sum and deal with different amounts in different ways. This will enable the Court, for example, to impose a community service order for a portion of the pecuniary sum and defer payment of the remaining portion.

12—Amendment of section 71—Community service orders may be enforced by imprisonment

Currently, section 71(8) allows the court to convert a community service order into a fine (rather than imprisonment) on the basis that the person has the means to pay a fine without the person or his or her dependants suffering hardship only if the court is satisfied that the person's failure to comply with the order is excusable on the ground of the person's obligations to remunerated employment gained since the making of the order. The amendment removes that limitation.

Part 4—Amendment of *Director of Public Prosecutions Act 1991*

13—Substitution of section 6A

Section 6A currently allows the DPP to delegate to any suitable person any of the director's powers or functions under the Act. The substituted section also provides for delegation of functions or powers under any other Act. It also expressly contemplates subdelegation. This provision is subject to any Act expressly prohibiting delegation such as the *Serious and Organized Crime (Unexplained Wealth) Act* which expressly provides by section 37 that the Director's functions under sections 9 and 12 cannot be delegated.

Part 5—Amendment of *District Court Act 1991*

14—Amendment of section 32—Mediation and conciliation

Section 32(1) currently contemplates a Master appointing a mediator only with the consent of the parties. The amendment removes the requirement for consent.

Part 6—Amendment of *Enforcement of Judgments Act 1991*

15—Amendment of section 11—Authority to take possession of property

This is a technical restructuring of the provision allowing the sheriff to execute a warrant to take possession to ensure that the sheriff can enter land for the purposes of ejecting from the land any person who is not lawfully entitled to be on the land and use appropriate means and such force as may be reasonably necessary in the circumstances.

Part 7—Amendment of *Environment, Resources and Development Court Act 1993*

16—Amendment of section 29—Costs

This amendment adds to the power of the Court to make an order for costs, so that if the Court considers that a party to proceedings before the Court has engaged in misconduct, it may make an order for costs against that party in favour of any other party to the proceedings, but no order for costs is to be made unless the Court considers such an order to be necessary in the interests of justice.

17—Insertion of section 40A—Custody of litigant's funds and securities

This amendment replicates a provision in the District Court Act dealing with the same matter. It includes a Treasurer's guarantee for money or security in the Court's custody in connection with proceedings.

Part 8—Amendment of *Judicial Administration (Auxiliary Appointments and Powers) Act 1988*

18—Amendment of section 3—Appointment of judicial auxiliaries

Section 3 enables the Governor, with the concurrence of the Chief Justice, to appoint a person to act in a specified judicial office on an auxiliary basis. The person must be eligible for appointment to the relevant judicial office on a permanent basis or so eligible except for the fact that he or she is over the age of retirement. In some cases a person is only eligible for appointment to a judicial office if the hold some other judicial office. This amendment deals with that chain to ensure that eligibility to be appointed to that other judicial office is enough.

Part 9—Amendment of *Justices of the Peace Act 2005*

19—Amendment of section 11—Disciplinary action, suspension and removal of justices from office

This amendment adjusts what is to happen if a justice or special justice is charged with an offence. Currently under subsection (3), the Governor may, if of the opinion that conviction of the offence would show the justice to be unfit to hold office, by notice in writing, suspend the justice from office until proceedings based on the charge have been completed. The amendment provides that in addition, in the case of a special justice, if the charge is for an offence other than an expiable offence there is an automatic suspension from office unless the Attorney-General, on application, cancels the suspension. The Attorney-General is empowered to impose conditions specifying or limiting the official powers that the special justice may exercise.

Under subsection (5) currently if a justice is convicted of an offence that, in the opinion of the Governor, shows the convicted person to be unfit to hold office as a justice, the Governor may remove the justice from office. The amendment extends this to a case where the justice is found guilty but not convicted. The amendment provides that, in addition, in the case of a special justice found guilty or convicted of an offence other than an expiable offence

the special justice is automatically removed from office unless the Attorney-General, on application, reinstates the special justice. Again, the Attorney-General is empowered to impose conditions specifying or limiting the official powers that the special justice may exercise.

Part 10—Amendment of *Magistrates Act 1983*

20—Insertion of Part 7—Exercise of powers under Commonwealth Acts

New Part 7 allows the Governor to make an arrangement with the Governor-General of the Commonwealth in relation to the performance of functions or the exercise of powers by a magistrate under a Commonwealth Act.

Part 11—Amendment of *Magistrates Court Act 1991*

21—Amendment of section 3—Interpretation

Judgment is defined to include interlocutory judgment. Section 42 deals with appeals against judgments and places certain constraints on appeals against interlocutory judgments. The new definition of interlocutory judgment is designed to make it clear that an order or ruling relating to the admissibility or giving of evidence is an interlocutory judgment and as such is subject to the constraints on appeal set out in section 42(1a).

Part 12—Amendment of *Supreme Court Act 1935*

22—Amendment of section 65—Mediation and conciliation

Section 65(1) currently contemplates a master appointing a mediator only with the consent of the parties. The amendment removes the requirement for consent.

Part 13—Amendment of *Young Offenders Act 1993*

23—Amendment of section 41A—Conditional release from detention

Section 41A(2) sets out provisions that apply to the release from detention of a youth other than a recidivist young offender. The amendment adds to these provisions that an application for release of the youth from detention may be determined by the Training Centre Review Board no earlier than 7 days before completion by the youth of at least two-thirds of the period of detention in a training centre to which he or she has been sentenced. A similar provision is added in respect of a recidivist young offender (except that the period is four-fifths rather than two-thirds because that is the period that must have been completed before release).

Debate adjourned on motion of Mr Pederick.

STATUTES AMENDMENT (COURTS EFFICIENCY REFORMS) BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:50): Obtained leave and introduced a bill for an act to amend the Building Work Contractors Act 1995, the Controlled Substances Act 1984, the Criminal Law Consolidation Act 1935, the Criminal Law (Sentencing) Act 1988, the Domestic Partners Property Act 1996, the Magistrates Court Act 1991, the Mining Act 1971, the Opal Mining Act 1995, the Retail and Commercial Leases Act 1995, the Summary Offences Act 1953, the Summary Procedure Act 1921, the Unclaimed Goods Act 1987 and the Youth Court Act 1993. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:51): I move:

That this bill be now read a second time.

The Statutes Amendment (Courts Efficiency Reforms) Bill 2012 was first introduced in the House of Assembly on 23 November 2011, but lapsed without being debated when parliament was prorogued on 15 December 2011.

The bill I now reintroduce is in the same form as was introduced in 2011. Members would have received the detail of the bill last year. I reiterate that there have been no changes made since that time. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The primary focus of this Bill is reducing the backlog of criminal cases in the District Court and reducing delays in the finalisation of criminal matters, with the aim of improved court efficiency. The Bill predominantly focuses on the jurisdiction and procedures of the courts with further amendments to a range of Acts as proposed by various parties involved in the justice system, including the judiciary, to improve the general efficiency of the courts.

In recent years, there has been an increasing backlog of criminal cases awaiting finalisation in the District Court. This problem has been developing for some time and has become more acute over recent years, placing major pressures on the operation and resources of the court system and many other agencies, as well as contributing to South Australia's high rate of prisoners on remand.

Delays in finalising criminal matters in the court system are now commonplace, with matters routinely taking over 12 months, and in some cases 24 months or longer, from the time an accused is first charged until the trial takes place. Cases therefore continue to accumulate, leading to a backlog of matters pending, particularly in the District Court.

There are various and complex reasons for these problems, including, but not limited to: delays in the disclosure of evidence by the prosecution; late withdrawal and changes of charges; the substantial number of guilty pleas being entered at a late stage; courts over-listing cases based on the expectation that many will be resolved just prior to trial; and the increasing number of cases entering the criminal justice system.

There are some recent signs of minor improvements. According to the latest Courts Administration Authority Annual Report, in 2010-11 the increase in disposals in the District Court was greater than the increase in lodgements, as it was in the previous reporting year. However, there is still a substantial backlog of cases awaiting trial in the District Court and more needs to be done to make greater improvements.

If lengthy delays are allowed to continue, the trend will seriously erode public confidence in the criminal justice system. Long delays in getting criminal cases to trial increase the prospect of criminals escaping justice through attrition of victims and witnesses, add to the strain on victims and their families, increase the length of time people are kept on remand and means police, prosecution and forensic resources are devoted to preparing and processing cases unnecessarily for trial when those limited resources could be better allocated elsewhere. Delaying the finalisation of a criminal matter also weakens the deterrent effect because there is no immediate link between the offending and its consequences.

The efficient and effective operation of the criminal justice system is essential to maintaining public confidence in our legal system and is fundamental to maintaining peace, order and good government in our society.

In response to this increasing problem, in November 2005 the Chief Justice and Chief Judge requested His Honour Judge Paul Rice of the District Court to address '*how the trend towards an increasing number of cases in the criminal trial list and the steadily lengthening time between arraignment and trial (now averaging at least one year) can be reversed*'. The subsequent 'Rice Report' focussed on delays in pre-trial procedures and recommended a series of measures to address factors giving rise to the delays.

In October 2006 the then Attorney-General formed the Criminal Justice Ministerial Taskforce. At the relevant time, the Criminal Justice Ministerial Taskforce was chaired by the then Solicitor-General, now Justice, Chris Kourakis QC and included representatives from various government and non-government agencies, as well as members of the judiciary in an observer capacity.

The first report of the Criminal Justice Ministerial Taskforce recommended a range of measures to address inefficiencies in the criminal justice system, particularly directed at reducing delays in criminal cases coming to trial, including increases to the jurisdiction of the Magistrates Court.

Several recommendations of Judge Rice and the Criminal Justice Ministerial Taskforce have already been implemented. These include measures designed to reduce the workload of magistrates to make way for more matters moving down from the District Court, specifically legislation making driving unregistered and uninsured offences expiable as well as amendments to the *Magistrates Court Act 1991* in late 2009 to increase the jurisdiction of Special Justices in the Petty Sessions division of the Court to deal with other minor offences.

Other significant recommendations of the Criminal Justice Ministerial Taskforce included:

- introduction of a sentence discount scheme to encourage early guilty pleas and accused cooperation; and
- modification of the committal processes and timeframes in relation to major indictable offences; and
- increasing the jurisdiction of the Magistrates Court to alleviate some workload from the District Court.

The Taskforce also identified the need to consider revised funding options to provide incentives for defence lawyers to identify and finalise potential early guilty pleas.

The recommendation for a sentence discount scheme to encourage early guilty pleas forms the basis of the Criminal Law (Sentencing) (Sentencing Considerations) Bill 2011, which was introduced last year and is to be dealt with separately by this Parliament.

A review of the Legal Services Commission, chaired by the Solicitor-General, is also well underway and is likely to lead to legislative change in the near future. Part of the review includes looking at the fee structure and considering possible modifications to the fee structure, which would create incentives for counsel to read and consider material and advise their clients accordingly in line with the proposed discounted guilty plea scheme.

Several of the recommendations of the Criminal Justice Ministerial Taskforce do not necessarily entail legislative reform but are aimed at cultural changes to both the system and the practices of key players. The courts have themselves put in place modifications to committal processes, trialing case conferencing in the Magistrates Court. The District Court began in 2011 a trial of special directions hearings for criminal matters. The objective of case conferencing and special directions hearings is to identify matters that can be resolved at an early stage rather than near the trial date or to narrow the issues at trial.

Early indications are that both initiatives are delivering positive results.

Further, in recognition of the need to deal with the time taken to finalise prosecution briefs and the flow-on effects that this, and prosecution disclosure, have on defence disclosure and time taken to resolve criminal matters

or ready them for trial, the Government has asked the Honourable Brian Martin AO QC to chair a committee. The committee consists of members who are representatives of the Office of the Director of Public Prosecutions and South Australia Police, and will inquire into practices and procedures relating to the preparation and presentation of major indictable prosecution briefs.

Matters not proceeding as major indictable files and trials vacated as a result of *nolle prosequis* or late guilty pleas represent an inefficiency in the criminal justice system. Courts and lawyers are expensive and should not be involved in processes which do not advance matters. Accurate, informed and early decisions on charging in major indictable matters is crucial to the appropriate and efficient use of the court system and resources. Timely and effective prosecution disclosure, with a substantially completed brief, in a major indictable matter at a sufficiently early stage should mean a defendant knows the case they have to meet and whether they should be entering an early plea of guilty. The committee has been asked to make recommendations on changes to practices, procedures and legislation to achieve the following:

- Improve efficiency in the preparation of major indictable briefs;
- Facilitate timely and early disclosure of major indictable briefs; and
- Facilitate early and authoritative decision-making in relation to major indictable briefs by both the DPP and defence.

Reforms arising from the work of the committee would be expected to have a significant impact on time taken to finalise major indictable matters by guilty plea or trial in the superior courts.

The Chief Magistrate has also established a substantial inquiry into the processes of the Magistrates Court, to achieve similar aims in that jurisdiction. The Court Process Redesign Project is being steered by the court with a view to driving greater efficiencies to enable matters routinely heard in the Magistrates Court to be disposed of more efficiently.

Several recommendations of 2009-10 Thinker in Residence, Judge Peggy Hora (retired Judge of the Superior Court of California) in her report, 'Smart Justice: Building Safer Communities, Increasing Access to the Courts, and Elevating Trust and Confidence in the Justice System' (November 2010) are also implemented by this Bill, in particular her recommendations to increase the small claims jurisdiction and criminal jurisdiction of the Magistrates Court.

A wide range of other measures are currently being worked on or actively considered to improve access to justice and the effectiveness of the present system. These include amendments to the *Evidence Act 1929* in order to facilitate the giving of evidence by young children and mentally disabled persons. This important measure will also facilitate the effective progress and presentation of such cases within the criminal courts.

The measures in this Bill are designed to work in conjunction with the above projects to reduce the current delays in criminal cases coming to trial and to reduce the backlog of cases awaiting finalisation. Ultimately, the objective is to improve outcomes for victims of crime and meet community expectations for the timely dispensing of justice while maintaining appropriate checks and balances to protect the provision of substantive and procedural justice to defendants.

I stress that it is not intended that this Bill, by itself, resolve the diverse issues that lead to delays in the criminal justice system. The measures in this Bill are an incremental step in achieving that objective and must be seen as a piece of a much larger puzzle of the programs and proposals I have referred to, aimed at increasing the efficiency and speed of the justice system. In fact, there may be pieces to this puzzle that are yet to be identified and the Government welcomes input and suggestions from those who have an interest in seeing improvements made to the courts and the criminal justice system. Not all of the solutions will be legislative and not all need sit together in one piece of amending legislation.

It is again acknowledged that this Bill standing alone will not have a significant impact on the creation of system-wide efficiency. However that in itself is not sufficient reason to delay the introduction of these minor system improvements that have been recommended and supported by various players in the criminal justice system. As previously explained, it is intended that these reforms form part of a suite of measures to address the many and various causes of delays in the criminal justice system.

The Bill

The substance of the Bill was released for consultation in the form of a discussion paper in late 2010. 20 responses were received, including from the Chief Justice, Chief Judge and Chief Magistrate, the Office of the Director of Public Prosecutions, South Australia Police and the Commissioner for Victims' Rights. The key purpose of consultation in the form of a discussion paper was to identify any risks or procedural or operational issues with the proposals before seeking to draft a Bill. In this way, the Government has received the indispensable advice of the key users of the court system to devise a suitable package of reforms. Refinements have made to the proposals along the way as a result of the valuable input from these parties.

A number of interested parties, including the courts and legal profession, were also consulted on the form of the draft Bill. Submissions from these parties were considered by the Government in finalising the Bill.

The changes contained in this Bill will:

Make pre-trial rulings binding on a different trial Judge

The Bill provides that rulings made on any matter pursuant to section 285A of the *Criminal Law Consolidation Act 1935* in advance of trial are binding on the trial Judge irrespective of whether the rulings were made by the trial Judge. This will increase efficiency and timeliness in the criminal jurisdiction.

Provide for an appellant's presence at appeal to be satisfied by audio visual link

In 2006, the *Evidence Act 1929* was amended to insert Part 6C Division 4 (use of audio and audio visual links). The Division provides that evidence and submissions may be received by the court by audio visual or audio link where the required facilities exist (including for confidential communication between lawyer and client). It also introduced a default rule that most pre-trial remand proceedings in the Magistrates Court be conducted by audio visual link where the facilities are available. There are several exceptions to that rule, including the requirement for personal attendance at first appearances, committal proceedings where oral evidence is to be taken and inquiries into the defendant's fitness to stand trial.

The higher courts are in the process of increasing their use of audio visual links (video-conferencing) between the courts and prisons for criminal proceedings. This is happening administratively.

One proposal for increased use of video-conferencing that would require legislative change is to provide for an accused to be present during the hearing of their appeal by audio visual link from prison rather than in person in court.

Section 361 of the *Criminal Law Consolidation Act 1935* currently provides that an appellant is entitled to be present at an appeal to the Court of Criminal Appeal except for appeals on a question of law alone, applications for permission to appeal and other preliminary or incidental proceedings to an appeal, in which case the appellant may be present only with the permission of the Full Court or pursuant to Court rules.

As distinct from other hearings in which the accused might actually participate, it is fair to argue that attendance by audio visual link for appeals, in which there is no participation by the accused, is sufficient. By way of analogy, an appellant/applicant to the High Court has no right to be present during High Court appeals.

If all appellants witnessed their appeal hearings via audio visual link rather than in person in the courtroom, it may be possible to free up a courtroom in the Sir Samuel Way Building for the hearing of more jury trials.

The idea is that removing the existing legislative obstacle would enable the Court to issue a practice direction, when it is realistic, to direct that appellants attend appeals by audio visual link rather than in person. This could occur at such time as the Court is satisfied that this is administratively workable from the perspective of availability of video-conferencing facilities and Corrections staff.

Improve mechanisms for correcting technical errors in the sentencing process

In *Mallett v Police* [2007] SASC 102 doubts were raised by the Supreme Court about the ability for the Magistrates Court to bring a matter back on to correct a sentencing error. The case highlighted questions or limitations on the ability of courts to correct sentencing errors. These difficulties will be addressed by amending:

- section 9A of the *Criminal Law (Sentencing) Act 1988* to allow the court to invoke section 9A of its own motion (i.e. to make orders to rectify a sentencing error of a technical nature, whereas presently this power is only on application by the prosecution or defendant); and
- section 76A of the *Summary Procedure Act 1921* to make it clear that the time limit to set aside an order made in error and re-hear the matter does not apply where the court is acting of its own motion. This was the intention of the provision, however, the courts have not interpreted the provision as intended (e.g. *Police v Alikaris* [2000] SASC 163).

These amendments will reduce the need for costly appeals to correct errors of a technical nature, such as errors in calculating non-parole periods and taking into account time previously served.

Allow administrative extension of period for completing community service order

The Bill amends the *Criminal Law (Sentencing) Act 1988* to provide that the Minister for Correctional Services, and the Minister for Education and Child Development in the case of youths ordered to perform community service by the Youth Court, may extend the period of time during which an order for community service must be completed by up to 6 months where sufficient reason, such as illness, exists. The provision will not limit the power of the courts to vary the terms of a community service order, however it will save on court and Correctional Services' resources in those cases where an extension of time is warranted and could avoid the offender breaching the order.

Increase the maximum sentence of imprisonment that may be imposed by a Magistrate

Section 19(3) of the *Criminal Law (Sentencing) Act 1988* currently provides that a Magistrates Court (constituted by a Magistrate) does not have the power to impose a sentence of imprisonment that exceeds two years. The Court has power under section 19(5) of the *Criminal Law (Sentencing) Act 1988* to remand a defendant to appear for sentence in the District Court if the Court is of the opinion in any particular case that a sentence should be imposed that exceeds the limit prescribed by section 19(3).

The Bill will increase the maximum sentence of imprisonment that may be imposed in the Magistrates Court for a single offence from two years to five years. This amendment is critical to expanding the matters able to be dealt with for sentencing in the Magistrates Court, which is outlined below.

A further amendment will set a maximum sentencing limit for the Magistrates Court when sentencing for multiple offences. As it now stands, the sentencing jurisdiction of the Magistrates Court is and will remain effectively

unlimited except by the number of offences being considered. This result is achieved by legal authority which says the sentencing limitation on the Magistrates Court applies to each offence separately.

While currently a Magistrate is limited to a maximum term of imprisonment of two years for a single offence, if imposing sentence for more than one offence, the Magistrate may impose a sentence greater than two years imprisonment. That is so whether the Magistrate sentences globally or individually. For example, should the sentencing limit be raised to five years and there are three offences of theft, effectively the limit on the power of the Magistrates Court to sentence would be 15 years. A maximum sentencing limit to apply to the Magistrates Court when sentencing for more than one offence will prevent the incongruous situation in the above example. The maximum sentencing limit of the Magistrates Court for more than one offence will be set at 10 years imprisonment.

Increase the criminal jurisdiction of the Magistrates Court

The Bill will enable Magistrates to impose sentence where a defendant has pleaded guilty to a major indictable offence in the Magistrates Court. Currently the Magistrates Court has jurisdiction to try and sentence for summary offences and minor indictable offences where an accused does not elect for trial in a superior court. Major indictable offences presently may only be finalised in the superior courts.

Allowing Magistrates to sentence for major indictable offences where the accused pleads guilty should lead to increased efficiency in the disposal of a criminal file and alleviate some of the delay that would be experienced should the matter be required to be finalised in the District Court. Currently, for example, where an accused pleads guilty to a major indictable offence at the committal stage, the matter must be committed by the Magistrates Court to a superior court for sentencing. This is so, even if the facts of the matter or the nature of the offending would suggest the appropriate penalty would be within the range able to be imposed by a Magistrate.

This amendment will mean the Magistrates Court will be able to impose sentence for a major indictable offence where the defendant has pleaded guilty and both the defendant and the Director of Public Prosecutions consent to the matter being sentenced in the Magistrates Court. The Magistrates Court will then determine and impose sentence itself unless the Court is of the opinion that the interests of justice require committal to a superior court.

The limits on the sentencing jurisdiction of the Magistrates Court will apply to offences dealt with in this manner. Without the proposed amendment in this Bill to increase the sentencing limit of the Magistrates Court, there is a risk of matters still requiring transfer to the District Court for sentence, where the appropriate penalty for the offending is outside the range a Magistrate can impose.

The power in section 19(5) of the *Criminal Law (Sentencing) Act 1988* to remand a defendant to appear for sentence in the District Court if the Court is of the opinion in any particular case that a sentence should be imposed that exceeds the limit of the Magistrates Court will be available if the Magistrate considers the defendant may not be adequately punished, even with the proposed extended sentencing powers of the Magistrates Court.

There are efficiencies and other benefits to be gained in permitting the Magistrates Court to impose sentence in these circumstances. If a guilty plea is entered some way into committal proceedings the Court will already have some knowledge of the circumstances of the offending and the delays in waiting for a matter to be committed to a superior court for sentence can be avoided. In addition, where an accused is on bail and the matter is before a regional Magistrates Court, the matter can be dealt with in that community without the need for the defendant, and in some cases the victim, to travel long distances for a short hearing.

Although, it would be expected most guilty pleas will be entered at committal stage, the incidence of early pleas may in fact be greater with the introduction of the formal sentencing discount scheme. A feature of the guilty pleas sentencing discounts Bill currently before Parliament is that a significant discount will be available for guilty pleas entered prior to the defendant being committed for trial. In reality, a plea of guilty could be entered at the first appearance or indicated early and disposed of at a subsequent hearing. This would greatly reduce the court time and resources required for disposing of a major indictable offence.

An appeal against a sentence imposed by a Magistrate for a major indictable offence will be to the Court of Criminal Appeal, as is the case with major indictable offences sentenced before superior courts.

Increase the civil jurisdiction of the Magistrates Court

The Bill amends the *Magistrates Court Act 1991* to increase the civil jurisdiction of the Magistrates Court.

The increase was proposed by the Chief Magistrate in order to keep in line with other jurisdictions and improve access to justice.

The increase will also potentially have a positive impact on the criminal trial delays in the District Court by keeping more civil matters out of that Court, thus reducing the demand on District Court resources.

The monetary limits will be increased:

- from $6,000 to $12,000 for small claims; and
- from $40,000 (general claims) and $80,000 (motor vehicle injury and property claims) to $100,000 for all such claims.

A potential negative impact on the ability of parties to represent themselves in the enlarged small claims jurisdiction (in which the default rule is that parties represent themselves) must be weighed against the positive impacts of reduced cost of litigation and improved access to justice, with parties seeking to enforce their rights where otherwise the costs of doing so would outweigh the relatively small value of their claim. The impact on the parties as a result of

lack of legal representation is ameliorated in any event by the Magistrate taking on an inquisitorial role in exploring the claim.

Allow expiation of offences in section 24 of the *Summary Offences Act 1953*

Section 24 of the *Summary Offences Act 1953* provides that a person who urinates or defecates in a public place within a municipality or town, elsewhere than in premises provided for that purpose, is guilty of an offence. The maximum penalty for the offence is currently a fine of $250. Offences against section 24 are summary offences and presently an accused person must be brought before the Magistrates Court for the charge to be dealt with.

Court statistics show that, for example, in 2008 there were 349 matters before the Magistrates Court where this offence was the major offence charged. There were findings or pleas of guilt in 335 of those cases, with the remaining matters withdrawn, dismissed or discontinued as the prosecution tendered no evidence. These matters are clearly non-contentious and it is unnecessary to devote valuable court resources to the finalisation of offences against section 24. Offences against section 24 are also relatively clear-cut offences, meaning it will generally be evident to police whether or not the offence was committed.

This Bill will amend section 24 to make the offences contained therein expiable. This avoids the need for police to bring a person accused of infringing section 24 before a Magistrate. The availability of expiation to dispose of this offence should be more cost effective and efficient for both the accused person and the court system.

Of course, a person issued with an expiation notice under section 24 may choose to be prosecuted for the offence instead.

Allow Youth Court Magistrates to sentence for major indictable offences

The *Youth Court Act 1993* is amended to allow Youth Court Magistrates to impose sentence for major indictable offences.

The Senior Judge of the Youth Court has argued strongly for this change. This issue is not one of reducing Youth Court waiting lists, which are not currently a cause of concern, rather of increased efficiency and reduced transportation costs. It is argued that it is a waste of court resources to send a Judge to a regional or remote court to deal with a guilty plea, even where this is a major indictable offence. If the parties do not need to wait for a Judge to be sent on circuit, uncontested cases could be disposed of earlier, increasing the effectiveness of the sanction imposed on the youth and saving youths, and potentially victims, the time and cost of travelling to the Youth Court in Adelaide or the nearest circuit court location.

In the case of Youth Court Magistrates, they will have the power to impose sentence for a major indictable offence where a defendant young person pleads guilty without requiring the consent of the prosecution or defendant. A different approach to the issue of parties' consent is justified in the Youth Court. The concern is of youths refusing consent because they do not like a particular magistrate or to delay their matter, in the circumstance where the difference in sentencing power between Youth Court Magistrates and Judges is only one year, i.e. two years and three years, respectively. A different approach is also warranted because in the case of the Youth Court there is no remittance of a matter from a lower to a higher court, rather the matter stays within the Youth Court.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Operation of the measure is to commence of a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Building Work Contractors Act 1995*

4—Amendment of section 40—Magistrates Court and substantial monetary claims

Section 40 of the *Building Work Contractors Act 1995* provides that if proceedings before the Magistrates Court involve a monetary claim for an amount exceeding $40,000, the Court must, on the application of a party to the proceedings, refer the proceedings to the Civil Division of the District Court. This clause amends section 40 by changing the Magistrates Court limit to $100,000.

5—Transitional provision

The amendment made to the *Building Work Contractors Act 1995* will only apply to proceedings commenced following the commencement of the amendment.

Part 3—Amendment of *Controlled Substances Act 1984*

6—Amendment of section 32—Trafficking

7—Amendment of section 33B—Cultivation of controlled plants for sale

8—Amendment of section 33C—Sale of controlled plants

Under each of these sections of the *Controlled Substances Act 1984*, certain offences involving cannabis are to be prosecuted, and dealt with by the Magistrates Court, as summary offences. However, if the Court determines that a person found guilty of the offence should be sentenced to a term of imprisonment exceeding 2 years, the Court is required to commit the person to the District Court for sentence. Under the sections as amended by these clauses, the Court will be required to commit a defendant to the District Court for sentence if it determines that he or she should be sentenced to a term of imprisonment exceeding 5 years.

9—Transitional provision

The amendments to the *Controlled Substances Act 1984* apply to the sentencing of a person following the commencement of Part 3 whether the relevant offence occurred before or after that commencement.

Part 4—Amendment of *Criminal Law Consolidation Act 1935*

10—Insertion of section 285AB

This clause inserts a new section.

285AB—Determinations of court binding on trial judge

Proposed section 285AB makes it clear that a determination or order made by a judge of the court in proceedings dealing with charges laid in an information is binding on a judge of the court presiding at the trial of the defendant, whether the trial is the first or a new trial following a stay of proceedings, discontinuance of an earlier trial or an appeal. This principle does not apply if the trial judge considers that it would not be in the interests of justice for the determination or order to be binding or if the determination or order is inconsistent with an order made on appeal.

11—Amendment of section 361—Right of appellant to be present

Section 361 of the *Criminal Law Consolidation Act 1935* provides an appellant with the right to be present on the hearing of an appeal, despite the fact that he or she is in custody, unless the appeal is on a ground involving a question of law alone. The section as amended by this clause will provide that an appellant's entitlement to be present at the hearing of an appeal will be satisfied if there is an audio visual link between the appellant and the court.

12—Transitional provision

The amendments to the *Criminal Law Consolidation Act 1935* are procedural rather than substantive.

Part 5—Amendment of *Criminal Law (Sentencing) Act 1988*

13—Amendment of section 9A—Rectification of sentencing errors

Section 9A of the *Criminal Law (Sentencing) Act 1988* authorises a court that imposes a sentence on a defendant, or a court of coordinate jurisdiction, to make any orders required to rectify an error of a technical nature made by the sentencing court in imposing the sentence. The court may also make orders necessary to supply a deficiency or remove an ambiguity in a sentence. Currently, such orders can only be made on application by the Director of Public Prosecutions or the defendant. Under subsection (1) as recast by this clause, the court may also make the required orders on its own initiative. The subsection as recast also explicitly allows for such orders to be in respect of the purported imposition of a sentence.

14—Amendment of section 19—Limitations on sentencing powers of Magistrates Court

Under section 19 of the *Criminal Law (Sentencing) Act 1988*, the Magistrates Court cannot impose a sentence of imprisonment that exceeds 2 years. As amended by this clause, section 19 will allow the Court to impose a maximum sentence of imprisonment of 5 years for a single offence and 10 years for more than 1 offence.

An amendment is also made to subsection (4) to reflect the fact that, as a consequence of proposed amendments to the *Summary Procedure Act 1921*, the Magistrates Court will have the power to sentence a person for a major indictable offence if the offence is admitted by the defendant.

15—Amendment of section 50A—Variation of community service order

The amendment made to section 50A by this clause gives the Minister for Correctional Services the power to extend the period within which a person is required to complete the performance of community service. The Minister can do this if satisfied that the person will not complete the community service in the time required under the order or bond and that sufficient reason exists for the person not being able to complete the community service in the required time.

There is currently a power under section 50A for a court, on the application of the Minister or a person sentenced to perform community service, to vary the terms of the order or vary or revoke any ancillary order.

Under the section as amended, the period within which community service must be performed cannot be extended by a period of more than 6 months, or periods that, in aggregate, exceed 6 months.

If the Minister extends the period, the order or bond will be taken to have been amended accordingly. The Minister is required to notify the probative or sentencing court if he or she exercises his or her powers under the section.

16—Amendment of section 70L—Community service orders

Under section 70L, an authorised officer who is satisfied that a youth required to pay a pecuniary sum does not have, and is unlikely to have within a reasonable time, the means to satisfy the debt may make a community service order. The officer must also be satisfied that the youth or her or his dependants will suffer hardship.

The section as amended by this clause will allow a person required to perform community service in accordance with the order of an authorised officer to apply to an authorised officer for an extension of the period within which the community service is to be completed.

17—Transitional provisions

The amendments to sections 9A, 50A and 70L of the *Criminal Law (Sentencing) Act 1988* are procedural rather than substantive.

The amendment to section 19 applies to the sentencing of a person by the Magistrates Court following the commencement of Part 5 whether the relevant offence occurred before or after that commencement.

Part 6—Amendment of *Domestic Partners Property Act 1996*

18—Amendment of section 3—Interpretation

Under the definition of *court* in the *Domestic Partners Property Act 1996*, 'court' means the Supreme Court or the District Court or, if an application under the Act relates to property valued at $80,000 or less, the Magistrates Court. This clause amends the definition by increasing the relevant amount from $80,000 to $100,000. This means that if an application relates to property valued at $100,000 or less, 'court ' will mean the Magistrates Court.

19—Transitional provision

The amendment to the *Domestic Partners Property Act 1996* will only apply to proceedings commenced following the commencement of the amendment.

Part 7—Amendment of *Magistrates Court Act 1991*

20—Amendment of section 3—Interpretation

Under the definition of *minor statutory proceeding* in the *Magistrates Court Act 1991*, an application under the *Retail and Commercial Leases Act 1995* is a minor statutory proceeding unless it involves a monetary claim for more than $12,000. This clause amends the definition by increasing the relevant amount to $24,000 so that, under the definition as amended, an application under the *Retail and Commercial Leases Act 1995* will be a minor statutory proceeding unless it involves a monetary claim for more than $24,000.

This clause also amends the definition of *small claim* so that a small claim is a monetary claim for $12,000 or less. Currently, a small claim is a claim for $6,000 or less.

21—Amendment of section 8—Civil jurisdiction

Section 8 of the *Magistrates Court Act 1991* provides that the Court has jurisdiction to hear and determine an action for a sum of money where the amount claimed does not exceed $80,000 in the case of a claim relating to the use of a motor vehicle or $40,000 in any other case. Under the section as amended, the Court will have jurisdiction to hear and determine an action for a sum of money where the amount claimed does not exceed $100,000.

22—Amendment of section 9—Criminal jurisdiction

Under section 9 of the *Magistrates Court Act 1991* as amended by this clause, the Court will have jurisdiction to determine and impose sentence on a defendant who admits a charge of a major indictable offence. However, the Court cannot sentence a person who admits a charge of treason, murder or an attempt or conspiracy to commit, or assault with intent to commit, treason or murder.

23—Amendment of section 42—Appeals

An appeal in relation to a sentence passed on the conviction of a person of a major indictable offence is to be to the Full Court of the Supreme Court with the permission of the Full Court.

24—Transitional provision

The amendments made to sections 3 and 8 of the *Magistrates Court Act 1991*, which affect the civil jurisdiction of the Court, do not apply in respect of proceedings commenced before the commencement of the amendments.

The amendments to sections 9 and 42 of the *Magistrates Court Act 1991*, relating to the Court's criminal jurisdiction, apply in relation to the sentencing of a person by the Court following the commencement of Part 7 whether the relevant offence occurred before or after that commencement.

Part 8—Amendment of *Mining Act 1971*

25—Amendment of section 67—Jurisdiction relating to tenements and monetary claims

Under section 67 of the *Mining Act 1971*, the Warden's Court currently has jurisdiction to determine a monetary claim for up to $40,000. Under the section as amended by this clause, the Court will have jurisdiction to determine a monetary claim for not more than $100,000.

26—Transitional provision

The amendment to the *Mining Act 1971* will only apply to proceedings commenced following the commencement of the amendment.

Part 9—Amendment of *Opal Mining Act 1995*

27—Amendment of section 72—Jurisdiction relating to tenements and monetary claims

Under section 72 of the *Opal Mining Act 1995*, the Warden's Court currently has jurisdiction to determine a monetary claim for up to $40,000. Under the section as amended by this clause, the Court will have jurisdiction to determine a monetary claim for not more than $100,000.

28—Transitional provision

The amendment to the *Opal Mining Act 1995* will only apply to proceedings commenced following the commencement of the amendment.

Part 10—Amendment of *Retail and Commercial Leases Act 1995*

29—Amendment of section 69—Substantial monetary claims

Section 69 of the *Retail and Commercial Leases Act 1995* requires the Magistrates Court to refer a proceeding involving a monetary claim for an amount exceeding $40,000 to the District Court if a party to the proceeding applies for the referral. Under the section as amended by this clause, the Court will be required to refer a proceeding to the District Court on application if the amount claimed exceeds $100,000.

30—Transitional provision

The amendment to the *Retail and Commercial Leases Act 1995* will only apply to proceedings commenced following the commencement of the amendment.

Part 11—Amendment of *Summary Offences Act 1953*

31—Amendment of section 24—Urinating etc in a public place

The offence of urinating or defecating in a public place is not currently expiable. This clause amends section 24 of the *Summary Offences Act 1953* by inserting an expiation fee of $80.

Part 12—Amendment of *Summary Procedure Act 1921*

32—Amendment of section 76A—Power to set aside conviction or order

Section 76A of the *Summary Procedure Act 1921* authorises the Magistrates Court to set aside a conviction or order on its own initiative or on application of a party. An application to set aside a conviction or order must be made within 14 days after the applicant receives notice of the conviction or order. Subsections (1) and (2) are recast by this clause to remove any perceived ambiguity as to whether the 14 day limit applies in relation to the Court exercising the power to set aside a conviction or order on its own initiative.

33—Amendment of section 103—Procedure in Magistrates Court

Under section 103 of the *Summary Procedure Act 1921* as amended by this clause, if a defendant charged with a major indictable offence admits the charge before it proceeds to a preliminary examination, the Magistrates Court may either determine and impose sentence on the defendant or commit the defendant to a superior court for sentence. The Court's discretion operates subject to new section 108(1), which provides that if a defendant admits a charge of a major indictable offence, and the Director of Public Prosecutions for the State or the Commonwealth and the defendant consent, the Court is to determine and impose sentence itself unless the interests of justice require committal to a superior court.

34—Amendment of section 105—Procedure at preliminary examination

Section 105 of the *Summary Procedure Act 1921* deals with the procedure to be followed at the preliminary examination of a charge for an indictable offence. Currently, if a defendant admits the charge, whether in writing or in person, the Magistrates Court is to commit the defendant to a superior Court for sentence. Under the section as amended by this clause, the Court may determine and impose sentence on the defendant (in the same way as a charge of a summary offence) or commit the defendant to a superior Court for sentence. The Court's discretion operates subject to section 108(1), to be inserted by clause 35, which provides that if a defendant admits a charge of a major indictable offence, and the Director of Public Prosecutions for the State or the Commonwealth and the defendant consent to the defendant being sentenced by the Court, the Court is to determine and impose sentence itself unless the Court is of the opinion that the interests of justice require committal to a superior Court.

35—Amendment of section 108—Forum for sentence

This clause inserts a new subsection into section 108. Under the proposed subsection, if a defendant admits a charge of a major indictable offence, and the Director of Public Prosecutions for the State or the Commonwealth and the defendant consent to the defendant being sentenced by the Court, the Court is to determine and impose sentence itself unless the Court is of the opinion that the interests of justice require committal to a superior Court.

36—Amendment of heading to Part 5 Division 5

37—Amendment of section 114—Procedural provisions of Criminal Law Consolidation Act

The amendments made by these clauses are consequential on the proposal to give the Magistrates Court the power to determine and impose sentence where a defendant has admitted a major indictable offence.

38—Transitional provisions

The amendment to section 76A of the *Summary Procedure Act 1921* applies in respect of convictions and orders made before or after the commencement of the amendment.

The amendments to sections 105 and 108 of the *Summary Procedure Act 1921* apply in respect of the procedure to be followed if a defendant admits a charge of a major indictable offence following the commencement of Part 14 whether the relevant offence occurred before or after that commencement.

Part 13—Amendment of *Unclaimed Goods Act 1987*

39—Amendment of section 3—Interpretation

This amendment to the definition of *Court* in the *Unclaimed Goods Act 1987* has the effect of increasing the jurisdiction of the Magistrates Court so that it can determine a question affecting unclaimed goods of a maximum value of $100,000. The current maximum is $80,000.

40—Transitional provision

The amendment to the *Unclaimed Goods Act 1987* will only apply to proceedings commenced following the commencement of the amendment.

Part 14—Amendment of *Youth Court Act 1993*

41—Amendment of section 14—Constitution of Court

Section 14(3) of the *Youth Court Act 1993* provides that the Court, when constituted of a Magistrate, may not impose a sentence of detention for more than 2 years. Under the section as amended by this clause, the Youth Court may be constituted of a Magistrate when sitting to determine and impose sentence on a defendant who has admitted a charge of a major indictable offence.

42—Transitional provisions

The amendments to the *Youth Court Act 1993* apply in respect of the sentencing of a person by the Youth Court following the commencement of Part 14 whether the relevant offence occurred before or after that commencement.

Debate adjourned on motion of Mr Pederick.

SERIOUS AND ORGANISED CRIME (CONTROL) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 February 2012.)

Ms CHAPMAN (Bragg) (15:53): It is with pleasure that I indicate that I will be representing the opposition as the lead speaker and contributing to the debate on the Serious and Organised Crime (Control) Act. This legislation, as has been set out by the Attorney some week go, is to effectively remedy the defects of the legislation that emanated from 2008.

At that time, the Serious and Organised Crime (Control) Act and the Statutes Amendment (Public Order Offences) Act were part of the government's response to outlaw motorcycle gangs. While the Liberal Party had supported those bills, we said that we would monitor the implementation and support an early review of legislation as we were, firstly, yet to be convinced that the regime would be effective in controlling serious and organised crime and, secondly, concerned to ensure that the regime did not unnecessarily impact on law-abiding Australians. Indeed, in those debates, those of us in opposition were successful in insisting on the inclusion of a sunset clause and a review of the act.

The key provisions of the Serious and Organised Crime (Control) Act were, as we now know, struck down in the High Court, in the Totani case, in November 2010. In August 2011, the government released a consultation paper and draft bills to both repair the control act and to expand the range of offences. We, of course, dealt yesterday with the offences aspect in other legislation.

The control bill that we are now discussing seeks to amend the anti-association regime that was introduced into the 2008 act to remove provisions found to be invalid by the High Court decision in Totani and later, in mid last year, in Wainohu. The control bill is similar to the anti-association bills tabled by the Western Australian government on 23 November 2011 and a New South Wales government bill tabled on 16 February 2012, the day after the South Australian legislation was tabled.

All the anti-association bills (that is, here and in those other jurisdictions) are founded in the principle that organisations which primarily exist to conduct crime have no right to exist (that is, there is a zero tolerance of that conduct) and, further, that it is appropriate to limit the rights of citizens to freedom of association to try to disrupt or dissolve criminal organisations. That is a rationale that the opposition entirely supports—that is, they have no right to exist—and we do need to use methods which will impinge on the rights of citizens to freedom of association to deal with it.

However, we do not take the view that this model necessarily will be effective in doing that, as presented by the government, and there are aspects of it that we consider will need to be remedied. As I outlined in the preceding debate, in yesterday's bill, the opposition has established an anti-gang task force. I seek leave to continue my remarks.

Leave granted; debate adjourned.

STATUTES AMENDMENT (SHOP TRADING AND HOLIDAYS) BILL

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (15:59): Obtained leave and introduced a bill for an act to amend the Acts Interpretation Act 1915, the Holidays Act 1910 and the Shop Trading Hours Act 1977. Read a first time.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (15:59): I move:

That this bill be now read a second time.

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

Leave granted.

The *Statutes Amendment (Shop Trading and Holidays) Bill 2012* will revitalise Adelaide by extending shop trading hours in the city and by identifying the Adelaide Central Business District as the Central Business District (CBD) Tourist Precinct. It will also create part day public holidays on Christmas Eve and New Year's Eve to recognise the importance of these special nights of celebration to the South Australian community.

The Bill amends shop trading and public holidays' legislation. These amendments reflect this Government's commitment to ensuring that Adelaide is a vibrant central meeting place for the South Australian community and for visitors to our State, while at the same time balancing the opportunities for workers to spend time with family and friends on special days of commemoration and celebration. The success of public holiday trading in the city centre on the recent New Year's Day and Australia Day public holidays and the recent tourist influx to Rundle Mall with the visit of cruise ships to our port emphasises the importance of ensuring that our State capital continues to attract locals to shop but also establishes itself as a prime tourist destination particularly at peak holiday periods.

South Australia's shop trading hours and public holiday legislation have long been used as political volleyballs with criticism over many years that the laws in these areas are outdated and inconsistent. The proposed changes will bring our law into the twenty first century while continuing to protect the interests of small retailers, retail workers and all workers in the state who are required to work on public holidays while the rest of us enjoy time off.

Shop trading and public holiday laws have also been criticised for being overly complex and difficult to understand. The Bill provides for a significant reduction in red tape as outdated procedures for receiving shop trading exemptions are streamlined.

Members will recall that on 7 November 2011, this Government announced its intention to extend shop trading hours on most public holidays in the central business district of Adelaide and to create part-day public holidays from 5:00 pm until 12:00 midnight on Christmas Eve and New Year's Eve. This Bill enacts that commitment.

There are many benefits for South Australia that will result from these changes, including the dramatic opening up of shop trading hours in the newly defined CBD tourist precinct. The Bill will see retailers in the CBD open on most public holidays, from 11:00 am until 5:00 pm, creating an atmosphere that will inject new life into Adelaide with significant flow on effects to surrounding restaurants, eateries and other establishments.

However, this Government also recognises the special significance of 25 December, Good Friday, and Anzac Day and the Bill ensures that shops will remain closed on those days, in recognition of South Australian community values and expectations.

These reforms will go a long way towards rejuvenating the CBD to create a vibrant cosmopolitan centre to visit and go shopping. The reforms will be further supported by the upgraded Adelaide Oval and other key developments outlined for the city. Once enacted, these amendments will ensure that South Australians and visiting tourists will view Rundle Mall as a central point in a city that is bustling with vitality and activity. By identifying the city centre as a tourist precinct for the purposes of shop trading laws, this government is further signalling its ongoing commitment to making Adelaide a tourist destination for the twenty first century. The combination of cultural attractions, good food and fine wine, and a unique shopping experience will combine to make Adelaide a must visit city on the Australian tourist map.

The legislation leaves unaltered the shop trading provisions applying to the suburbs in Adelaide. This fits with our understanding of the people of Adelaide, who want a vibrant, open, heart of the city, but want to preserve the best of our quiet, family friendly neighbourhoods.

And by doing so the legislation protects our local businesses like our independent supermarkets, or convenience stores, and their suppliers, from the pressures we see interstate of dominant businesses. There is no doubt that one of the reasons we have the strongest independent supermarket sector in Australia, and a strong produce sector, is that the Government has stood strongly against the total deregulation for which some in our community have lobbied.

The opportunity for shops to increase trading is balanced by the prescription of part-day public holidays on Christmas Eve and New Year's Eve from 5.00 pm until 12.00 midnight. This recognises the importance of these nights for community celebration and family gatherings. The part-day public holidays will allow workers to access protections and penalty rates if they are required to work on these special nights. These provisions acknowledge the fact that while most of us are at home or out enjoying ourselves at those special times of the year, there are others who are serving us and looking after us, such as nurses, police, ambulance officers, firefighters and hospitality workers.

Prescribing part-day public holidays gives private sector workers the right to reasonably refuse to work on Christmas Eve and New Year's Eve pursuant to the National Employment Standards in the *Fair Work Act 2009* (Cth), providing them with the opportunity to spend that time with family, friends and loved ones, or be compensated appropriately should they choose to work.

The creation of these part-day public holidays also recognises this Government's commitment to the family, religious and cultural values that are very important to most South Australians at these special times of the year.

In addition, the opportunity has been taken to amend existing provisions of the *Shop Trading Hours Act* to significantly reduce administrative processes for businesses seeking exemptions to trade by extending the '14 day' maximum exemption period to '30 days'.

Currently shops are issued with multiple exemptions over Christmas and other holiday periods due to the 14 day limitation. In the last Christmas period over 300 retail premises were granted exemptions from the *Shop Trading Hours Act*. This Government recognises that the current processes that are required to apply for exemptions can be a hindrance to retailers and by streamlining and removing many of them, this Bill allows retailers to better use their resources in other areas during busy trading periods.

The Bill also allows the Minister to grant a single exemption to all, or a majority of shops, in a Prescribed Shopping District. This removes the requirement for non-exempt shops to individually apply for exemptions and allows the Minister to grant 'blanket' exemptions across Prescribed Shopping Districts at special times of the year, such as Christmas, for a maximum period of 30 days; again reducing red tape for both retailers and administrators.

All of these administrative amendments reflect the Productivity Commission's and the Competitiveness Council's recommendations to improve South Australian shop trading hours legislation, by significantly reducing the time and resources that non-exempt shop operators invest in applying for exemptions.

Overall, this Bill represents the dawn of a new era for South Australia's shop trading and public holiday legislation. It dramatically deregulates shop trading in the Adelaide CBD on most public holidays. It provides workers with protections and entitlements when requested to work on Christmas Eve and New Year's Eve. It will inject new life and vibrancy into our city. It will create a tourist precinct. It will reduce red tape for retailers.

This Bill stands as a symbol of the regeneration of the City of Adelaide. It values our community and the expectations we share about how we celebrate the days that are important to us and to our sense of citizenship. It acknowledges and supports the fact that those of us who are required to work while we celebrate these special days should be appropriately rewarded.

This is a Bill for a modern, vibrant, confident South Australia.

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 *Acts Interpretation Act 1915*

4—Amendment of section 4—Interpretation

Subclause (1) inserts a definition of *part-day public holiday* into section 4(1). The remaining subclauses delete the definition of *public holiday* and provide that a reference to a public holiday is a reference to both a public holiday and, subject to proposed new subsection (4), a part-day public holiday. Proposed new subsection (4) provides that if for the purposes of an Act or statutory instrument a business day, working day or other period is expressed as excluding a public holiday, the exclusion does not extend to a part-day public holiday (unless the Act expressly provides to the contrary).

5—Amendment of section 27—Provisions as to limitation of time

This clause inserts proposed new subsection (2a) which provides that a reference in subsection (2) to a public holiday does not include a part-day public holiday.

Part 3—Amendment of *Holidays Act 1910*

6—Insertion of section 3B

This clause inserts proposed new section 3B.

3B—Christmas Eve and New Year's Eve

Proposed section 3B provides that the part of the day from 5pm to 12 o'clock midnight on 24 December and 31 December will be a public holiday (a *part-day public holiday*).

7—Amendment of section 7—Payments and other acts on holidays, Saturdays or Sundays

This amendment is consequential.

Part 4—Amendment of *Shop Trading Hours Act 1977*

8—Amendment of section 4—Interpretation

This clause alters the name of the Central Shopping District to the Central Business District (CBD) Tourist Precinct, makes a minor technical amendment and amends the definition of *public holiday* (consequentially to other amendments).

9—Amendment of section 5—Exemptions

Subclause (1) extends the period for which an exemption may operate to 30 days instead of 14 days.

Subclause (2) amends section 5 to remove the prohibition on the Minister granting or declaring an exemption under the section that enables all shops, or a majority of shops, in the Metropolitan Shopping District to open pursuant to that exemption.

10—Amendment of section 13—Hours during which shops may be open

This clause amends section 13 of the Act to allow shops in the Central Business District (CBD) Tourist Precinct to be open from 11.00 a.m. to 5.00 p.m. on public holidays (proposed subsection (2)), other than Good Friday, 25 December and until 12 noon on 25 April (proposed subsection (6a)).

Proposed subsection (5aa) enables shops in any shopping district to open on a part-day public holiday that falls on a weekday as if it were not a public holiday.

Proposed subsection (1) consolidates existing subsections (1) and (2) and the other amendments are consequential.

Debate adjourned on motion of Mr Pederick.

SERIOUS AND ORGANISED CRIME (CONTROL) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

The SPEAKER: Member for Bragg, the floor is yours again.

Ms CHAPMAN (Bragg) (16:00): Always accommodating of the Premier, of course. As I was saying, the Liberal opposition has established an anti-gang task force which commenced operation yesterday. It comprises the shadow attorney-general, Hon. Stephen Wade of another place, the member for Morphett, who is our shadow minister for police, and myself as the spokesperson in the House of Assembly on law and order matters. Yesterday we took some evidence—as I said yesterday, 'evidence' is probably a little high, there is nothing on oath—we took submissions from the first witness to present, and it is proposed that there will be a continuation of the hearing early next week.

The establishment of this is to do a number of things. One is for the opposition to consult as widely as we can in the limited time that we have. Again, I think for the sake of the record in this debate, it is a repeat from yesterday's bill, and that is because we have committed to the passage of this bill through this place. We do not wish to hold up the legislation in this place. We accept that, given the truncation of the approach of the government and its application that this be dealt with urgently, and we have acceded to that so we will not hold up the debate in this place. We will undertake our own investigations during the adjournment before it comes to the other place and, so, for that reason, we have established this as quickly as possible.

I said yesterday and I repeat, the disclosure by the government on its website of the submissions presented on this bill, together with the bill we dealt with yesterday, is welcomed. It is a fine standard. It is a new and good precedent which I hope the government continues, because clearly it is important that there be full transparency on this legislation, not only for the opposition

but also for other members of parliament to be able to view and comment on, and to aid them in their deliberations here in parliament.

It is also important for the public. They must also have an opportunity to be fully apprised of the issues. The issues in this case are complex. There are legal constitutional aspects. There are very significant human rights and civil rights issues, and there are certainly aspects that have captured the attention of the High Court already in relation to these models or strategies of approach legislatively dealing with organised crime. The public are entitled to have as much information as possible, especially from those who are vested with the responsibility as spokespersons in the law and order area.

Again, I confirm my disappointment, however, that we have not had an opportunity to view the crown law advice and the full legal advice that the government has relied on. The minister has previously indicated that he has not just relied on specific advice of the Solicitor-General or the Crown Solicitor's Office or the Director of Public Prosecutions. I think as he described it, in taking advice on this matter, it also took the form of long meetings.

In fact, there seemed to be a number of long meetings in which, clause by clause, the matters were discussed with a variety of these legal advisers. There were questioned raised, including questions of whether they would stand up in the High Court; that is, the scrutiny of constitutional challenge, the effectiveness, etc. It is through this process, as I understand the Attorney's answers yesterday, that at least he was satisfied, in the end, that what we have before us would stand up to scrutiny, to the extent that he was able to.

In fact, it seems that so confident is he that is the case that he implored the opposition to not try to tamper with the document; that is, not try to tinker around the edges (I think was his description), not try to cherrypick out amendments that might unravel that position. The consultation had been thorough, the advice had been extensive and the deliberation had been very careful, and on that basis the Attorney was asking us not to cause any difficulty with this by amending it. On the latter aspect, I cannot say that the opposition is prepared to simply take his word for that. We have a responsibility to look into this. We have committed to the government to support the prompt passage of this bill but we will not abrogate our responsibility in any way. We will do the best we can to ensure the integrity of the legislation.

I will say that the purpose (particularly) of considering any amendment of this bill, noting all of the research and work that has been undertaken by the Attorney and his advisers, our objective is to do three things. One, which is the obvious, is to enhance the prospect of the bill being effective in controlling serious and organised crime. In that regard, given the answers we received yesterday, it is a bit of a hopeful expectation that that might be the case. It seems as though there is not much data around about whether this type of legislation works, and I will raise that in the committee stage. We are prepared to give this a go, but we want to be assured that is going to be an outcome.

We also want to ensure that the legislation is targeted to criminal organisations and does not unnecessarily impact on law-abiding South Australians. This is something that I raised in the previous bill; that is, that if there is sloppy drafting to the extent of too broad definitions and the like, then we do not wish what is a pretty draconian set of new rules, which may well be justified for hardened criminals in organised crime, to capture ordinary people who, for whatever reason, breach the law and of whom we have given considered determination here in the laws as to what is appropriate in the rules to which they are prosecuted and of which they are tried and, further, the sentencing that applies if they are guilty.

We will not simply allow legislation to go through that we would see would unreasonably capture those people and place an onus on them to have to go into the expensive court arena to protect their ordinary civil rights. We simply will not stand by and allow that. We want to make sure that as best as possible the definitions are clear, confined and effective.

The third thing is to minimise the risk that the legislation is unconstitutional, so that the litigation does not impair the implementation of the scheme and the taxpayer is not then put to unnecessary legal costs. It is probably in the knowledge of the Attorney—I would be surprised if he was not informed of this, given the enormous amount of publicity surrounding members of organised crime gangs—who celebrated openly and publicly after the handing down of the Totani judgement.

It was quite obvious that they were overjoyed that they had had a victory against us all here in the parliament, but against the government in particular, who had pressed ahead with not just

the legislation but also with the declaration of one of the members of a particular organised motorcycle gang.

The air of celebration in the community of criminals in this state was palpable; it was humiliating, and we cannot revisit that. They have had their great day, they have gone out and celebrated, they have mocked the parliamentary determination, and they have rubbed the government's nose—and particularly the nose of the then attorney-general—in the judgment.

Whilst the former attorney-general came out, as I recall, in a rather poor attempt—nevertheless it was quite courageous to come out—to espouse all the benefits, attributes and wisdom that was published in the dissenting judge's determination, the reality was that the other six were not with them. The other six judges made it quite clear that the government got it wrong, and that the application would therefore fail.

It was a really dark day, I think, in the parliamentary process, but particularly embarrassing given the government's insistence that it proceed. So, we are keen to make sure that, as much as possible, and with what resources we have, we do not give them another chance to rub the face of the law in this state in the ground as a result of that.

Coming to what would have no doubt escaped the attention of the Attorney, and that was the assertion of the time—I think it was by representatives of the person declared to be a member—that not only had they won this High Court appeal on that issue, but that they had other issues on that legislation that they were ready to argue on.

That in itself is a concern, because sometimes what happens, as members would know, is that when superior courts (particularly appeal courts) hear cases, they obviously have a responsibility to make a determination on the facts of the case before them, but they have the opportunity to make other statements about their view or interpretation of pieces of legislation or common law which may apply more generally or in another aspect which is not directly before them for consideration. This is what lawyers refer to as obiter dicta.

That is often very helpful to us here as legislators, and obviously to other persons advising on other cases, where that particular issue may not come up, but you have an opportunity to consider other aspects—the judge of the full court does that, and it gives some clarity for those who are working in both law enforcement and advice in the judiciary and subsequent cases.

We are mindful of the fact that, in the Totani case, the High Court chose—as they are entitled to do, of course—to really just deal with the issues pertinent to the application before it, and if there were other areas of which the legal advisers to members of organised crime gangs are ready to run on, then that is of concern to us, because we may have to go through more and more court cases before we ever get the effectiveness known, hopefully positively, of this type of legislation.

I mentioned earlier that contemporaneous with South Australia dealing with this bill has been the introduction and consideration by Western Australia and New South Wales of what they are doing. The bills in those other jurisdictions are similar in that they are anti-association legislation, but the South Australian bill is significantly broader than the other bills, and we would suggest, in fact, that there is much significant potential there to affect the law-abiding citizens and infringe constitutional provisions.

If we are right, then we are much more vulnerable to come under attack down the track in the High Court or some other forum. The Western Australian and New South Wales' bills, for example, only make it an offence for members and associates of a criminal organisation and/or people subject to orders to associate with one another. The South Australian act as amended would make it an offence for any person to associate with a member of a declared organisation or a person the subject of a control order, or for two people with a criminal history to associate.

The South Australian model, which we have now before us, is much more expansive, is much broader, than the other two models in the other jurisdictions. There are some other distinctive aspects, and I will come to those in a minute. Can I say this: yesterday when we dealt with what we called the 'offences' bill that passed with our support, I said that I was concerned about the delay in the implementation of this package by the government.

I think it is fair to say that the government's explanation is twofold: one is that if it had rushed into the arena—back in here—to introduce new legislation post Totani's case, it would not have had the benefit of being able to deal with the New South Wales' decision which dealt with another aspect of this type of legislation, namely, the need to publish reasons by the determining

party—in this case a judge—of whether a declaration was made, and there is some merit to that. That did not come through until, I think, mid 2011.

After that they wanted to make absolutely sure that they were going to get it right, and one way of doing that was to ensure that they would meet with other colleagues around the country who are also grappling with the best way to deal with this, and that, as much as possible, they would be in harmony with each other so that they would make sure they got it right. This was one of the key explanations of the Attorney as to the delay of progressing this, that is, 'Let's just make sure that we're all going to be working on this together across the country; that we all get it right and that we have some harmonisation about what we're going to proceed with.' Well, what rubbish!

The reality is that South Australia has gone off on its own. South Australia's model is different from the other two models—markedly different from the other two models. Are we worried in the opposition about this kind of attempt to be out there as bigger and better and first and world beating? The usual puffing of the chest that happened in the previous administration under former premier Rann is just being perpetuated, and that leaves us vulnerable again. Instead of actually coming to a landing with others around the country so that they can confidently move forward with some kind of agreed position, oh, no, sure enough, here we are again, out at the front.

Apparently this is going to be better. This is going to be a new approach and they are going to be stronger and better and more effective, and so on, but they risk further challenge and they risk capturing people who should not be caught under this legislation. That is the reality of it.

What concerns the opposition is that they come in with excuses about why they are delayed, because of harmony and of having some kind of model that will work, yet what we have is something very different from New South Wales and Western Australia. We do not have to be the same as New South Wales. We could be more conservative in the approach we take on it if we wanted to be, but the Attorney-General cannot come in here and use this as an excuse and then present to us a model which is clearly very different from those other states.

There are other differences in South Australia, the first being that, here, the definition of serious criminal activity is any offence which would lead to imprisonment, that is, assault. Western Australia and New South Wales require that the penalty be five years' imprisonment or more. There may be a good case for not having the five-year imprisonment threshold in this jurisdiction, but even the person who has no contact at all with the criminal world or criminal justice in this state would understand that there is a very significant number of offences that we have that are above the five years and a lot more that are under the five years.

The reason for that is pretty obvious: if we have significant incarceration of people as a penalty, it is for the more serious offences such as bushfire lighting, murders and robberies. Everything that is serious, that we treat seriously, we obviously have very significant maximum imprisonment terms. So, when we are talking about serious criminal activity, we are not talking about the other states where the penalty is less than five years. They have set that as their threshold. We do not have any at all. We do not have that requirement of years of imprisonment.

The second significant difference is the inclusion of the mandatory elements of orders which may represent some constitutional risk. I have canvassed some of these in the other debate as well but, where you remove discretion, where you remove what would be seen as the normal rights and procedures for trials for the defendant, you are open to risk. That same requirement is not in the New South Wales or Western Australia legislation. Some of these do not feature at all there. It concerns us that we place ourselves at risk because of that.

The other aspect which is quite interesting—and it tells you, I think, a lot about the priorities of this government—is that the legislation here will fully apply to, and have absolutely no allowances for, minors, that is, children. The Attorney-General might take the view that if a 14-year old is tied up in organised crime, he or she has to be dealt with in exactly the same manner as anyone else.

The Hon. J.R. Rau interjecting:

Ms CHAPMAN: Well, the Attorney talks about the association that a minor might have with some of these gangs but let's be in the real world here: there are children of the hardened group that we are trying to approach. They have children, partners, husbands and wives, and we also have another pool of children in the community who do not have, for whatever reason, the support and protection of an upbringing or a family environment or even, indeed, a school

environment, and that leads to them being on the streets or otherwise vulnerable to becoming involved in these types of groups.

Let us be in the real world about this. If a minor is a member of one of these gangs, that is an indictment, in my view, on the community. I am not going to give a long treatise today about the inadequacies of our school system. The management of bullying alone, and the lack of reporting, is worrying to me. We had another case here this week, when weeks passed before the minister even did anything about a bullying incident in one of our significant public high schools in the state.

I am not going to go on about the dereliction of duty, responsibility, or capacity that we find in some parents in their upbringing of children, but hardly a week goes by these days when we do not have a police report, a Families and Communities report or a Housing SA report of children who for one reason or another are taken into care or custody and exposed to appalling circumstances in their family arrangements.

Of course, we end up with children on the streets. I have sat on juvenile justice inquiries with the member for Fisher and our leader in this parliament, and it is quite clear that a number of our children are out there on the streets vulnerable to being picked up by these sorts of groups and enticed, induced, seduced into activity when they have not had the protection of the upbringing that so many of our other children enjoy in this state.

It does concern me that the government, rather than understanding this and acting, as they were strongly advised by the late Ted Mullighan QC, who was the commissioner of an inquiry into wards of the state, about the dangers of leaving these children on the street, I would be very pleased if the Attorney, as a relatively new Attorney, came into this place and told me about what he was going to do to ensure that minors do not get into these circumstances; but, no, we have not seen this.

However, what I will put on the record is my concern and also despair at the government's insistence on proceeding with higher offences for minors, contrary to United Nations recommendations and inconsistent with any other jurisdiction in Australia, that they introduced in this parliament previously.

Judge Peggy Hora, who came here as a Thinker in Residence, obviously set out her recommendations about what we should be doing with juvenile offenders, and one was not that we absolutely load them up with higher penalties to keep them incarcerated for longer periods. That was not her recommendation. She put some good recommendations, including the vigilant supervision of children who offend, particularly those who are on bail or parole, and the requirement for them to come back before a judicial officer, not just a social worker or a parole officer. She made some great recommendations. We still do not hear a lot about that.

It concerns me that here we are dealing with very serious changes to the law to deal with a very serious problem to manage 274 people who we know of out there in the community, who are in a circumstance where we want to be able to shut them down, or at least shut down their operations. That does concern me. I finally say on that aspect that it is not acceptable for the government to come in here and say, 'Look, we had to properly consider this. We wanted to confer with our other colleagues, and we have done that, but it took some time and we want to be consistent,' because that clearly is not the case.

Another aspect that is concerning to the opposition is that we already have some very significant laws which cover a number of these people. I am at a complete loss still as to why some of these have not been effected, implemented, applied.

Let me just start with the public safety orders. We have, under section 23 of the current legislation, power to prohibit a group from a specified area. In the two years since the operation of that act, only twice has that been used—only twice! That was an important tool in the tool pack that was going to be available for the management of these issues. Public safety orders, I would have thought, were a no-brainer. I cannot understand why we do not have 274 of them out there that list prohibitions in certain areas for all those we already know are members of gangs in this state.

Then we have the firearms prohibition orders. Under the Firearms Act, we have the amendments that passed a few years ago—again, back in 2008—for the power to issue firearms prohibition orders. I note that the amendments on the Firearms Act at that time required there to be a review of that legislation after two years and the two-year anniversary of that was November 2010. Today we finally received from the Minister for Police a copy of the firearms prohibition orders report that her government was actually obliged to—

The Hon. J.R. RAU: Point of order, Madam Speaker. This has gone on for quite a while. We have had dissertations about youth which are actually not relevant to the legislation because there are provisions there that actually talk about this which have been basically glossed over or ignored. We are now off on firearms.

I realise it is part of a package but we did cover this turf pretty well yesterday, and this is the control bill. This is the one about having declared organisations. I am interested to know what, if anything, the opposition has by way of constructive criticism of it. I am wanting to listen to that. If they are supporting it, I am interested in that, but most of what we have been going through for the last half an hour or so has little to do with this, and it is just not on point.

We might be better off in committee. If there are particular questions that need to be asked, let us deal with them there. A discourse about firearms, for example, is not really advancing us anywhere.

The SPEAKER: Yes, Deputy Premier, I think you do have a point of order there that I will uphold. Member for Bragg, can you get back to the substance of the legislation. You have been going for quite some time.

Ms CHAPMAN: I intend to go for a lot longer, Madam Speaker. I am not dissenting from your ruling about the firearms orders. What I will say is this: organised gangs, motorcycle groups, whatever you want to call them, use guns and my point is this—

The Hon. J.R. Rau: They use toothbrushes as well.

Ms CHAPMAN: Well, they may. Remember, it is the minister who has publicly and in here said repeatedly, 'This is a big package. We don't want you to tinker with it. We want all these things.' My point is this: we complied three years ago now with the former attorney's amendments to the Firearms Act and we supported the government in having firearms prohibition orders.

I will not go on about the process about what was to happen because you ruled on that, Madam Speaker, but what I say is this: they still use these guns and there has been an opportunity in those last two years for the government, through their law enforcement agencies—in this case, through the police—to actually issue these orders.

The Hon. J.R. Rau interjecting:

Ms CHAPMAN: No, no; it is to do with this because we are dealing the most serious crime, we are dealing with breaking down these gangs by anti-association law. What concerns me is that the thing that triggered this great response and coming into the parliament with this legislation this year was the shooting we saw here in January.

The Hon. J.R. Rau interjecting:

Ms CHAPMAN: We had statements by the Attorney-General at that stage about what action they were going to take. We had the police coming out saying that they had plenty of resources. We had—

The Hon. J.R. Rau interjecting:

Ms CHAPMAN: Well, we had the DPP coming out saying that 'get tough' is not what it is about, it is 'get effective'. What we are saying is that we are happy to support this type of legislation, but we want you to act on it. So, if we give you powers over firearms prohibition orders, it is quite reasonable for us to ask the question: why have you not used it against the very people who are there?

What we do know now is that, over all of that time we have had, in that two years, we have had only 35 prohibition orders against outlaw motorcycle gang members. We have had a number of others; I do not know whether they are against fishermen using them, I do not know who have had them made against them. How can there be dozens of others who are more serious criminals in this state who have firearm prohibition orders against them, yet we have had hundreds of other members of the motorcycle gangs out there?

The Hon. J.R. RAU: Point of order, Madam Speaker. The honourable member was quite courteous yesterday and stuck to the point most of the time. Today, she is persisting in talking about a piece of legislation that is not before the parliament and is not a piece of legislation that is committed to me anyway. It is called the Firearms Act, and the relevant minister is the Minister for Police. I am not the minister for police.

Ms Chapman interjecting:

The Hon. J.R. RAU: You have been invited to go out there and do something about it. It might help the rest of her contribution: I am not a policeman, either.

The SPEAKER: I would also invite the member for Bragg to take up the Deputy Premier's offer, but perhaps some of this could be asked during the committee stage.

Ms CHAPMAN: I thank the Attorney for his indication of that. I had not acknowledged his invitation to do that. I think that, as a matter of process in parliament, I am entitled to do that, anyway, and I will be—and I will have a number of questions during the committee stage. But I make the point—

The SPEAKER: Can I refer you back to the substance of the legislation, please, member for Bragg.

Ms CHAPMAN: I will conclude on the issue by making sure that we are passing this legislation with the government having effect of it, the Attorney-General is the first law officer of the state. He may have other people who sit next to him in this parliament who are responsible individually for other aspects of that, but he is the number one person in charge of this, and to simply say, 'I'm not a police officer; I can't do this,' is below you, John; far below you.

Let me go to the submissions. The minister will be pleased to hear that I will not repeat a number of the aspects raised by the Legal Services Commission yesterday because they apply on cost and delay to the Legal Services Commission some of the aspects here. As the Attorney quite rightly pointed out, on the control legislation, they are unlikely, if we do not capture innocent people, to be called on for their services to be used in any of those cases, so I am not going to dwell on that. But I will say that I noted the submissions by the Hon. Simon Power, who is the Minister for Justice in New Zealand, who had received a copy of the package.

The Hon. J.R. Rau interjecting:

Ms CHAPMAN: Well you sent the submission to them, and they sent back a response. I say in respect of that that they also had given advice during the course of the consultation here. More specifically, though, the Minister for Justice and the Attorney-General from the Northern Territory really just indicated that they were not proposing to take any further amendments along the lines proposed in the legislation here in South Australia. So, it seems as though they have not come on board. The Attorney-General's Office in Western Australia and—

The SPEAKER: Point of order.

The Hon. J.R. RAU: I think the letters that are being referred to may not be directed towards this bill.

Ms Chapman interjecting:

The Hon. J.R. RAU: Yes, but the package means the package. I do not understand.

An honourable member interjecting:

The Hon. J.R. RAU: The point I am trying to make is that I do not understand these people we are hearing about to have been passing judgement or offering comment on the operative provisions contained in the amendment bill to the Serious and Organised Crime (Control) Act, which is what we are talking about.

Ms CHAPMAN: I can specifically refer to them. I am on Western Australia, and the Hon. Christian Porter, who is the Attorney-General there, gave a comprehensive response to the package. I do not propose to deal with some of the aspects that were dealt with in the bill yesterday. I do propose to deal with the question of the control orders, on which he specifically says:

I note that you intend to retain the Magistrates' Court as the jurisdiction to hear and determine control orders. This was considered in Western Australia but rejected, essentially on three grounds: cumbersome process involving two different jurisdictions—

The Hon. J.R. RAU: Madam Speaker, again, if the honourable member wants to read this stuff, which is historical material, dropped in in the context of discussions, at least it should be relevant. The fact is, the legislation that we are debating today does not have the Magistrates Court as the relevant body.

The SPEAKER: Member for Bragg, considering the time and the time you have spent so far, and the fact that this is not considered relevant by the Attorney-General, I think you really need to look at what you are saying and try to move on.

Ms CHAPMAN: I would agree with the Attorney-General if I were to go on to assert that the current bill has the Magistrates Court aspect in it, but in this submission (and I will try to paraphrase it) it seems that after that presentation was made, and the submission that a superior judge should deal with it, there had been some amendment here. This was as late as November last year, after the material went out last year. I make the point that there had been some consultation with these others, and also the Hon. Robert McClelland, who was the commonwealth attorney, and the minister for justice in Tasmania were standing by.

I would particularly like to refer to the Law Society on the control aspect, and for the benefit of the Attorney-General I will try to be as quick as possible. But understand, Attorney, you might have read this thoroughly, but I cannot imagine that anyone else, apart from you and I in this chamber, has actually gone through this in detail, and it is unreasonable if we cannot deal with one of the biggest issues.

The Hon. J.R. RAU: I am not trying to interrupt the honourable member, but can we please deal with the bill that is in front of us. There is no contest about the fact that we have been working on this for a long time, and I said on the record yesterday umpteen times that we have been working through endless meetings with contributions from lots of people. The fact that it is not exactly the same now as the working draft was in November is not remarkable, it is not a revelation; I said that yesterday. All I am asking is that if you have issues with the current legislation as before the parliament, fine, I am happy to listen, but, quite frankly, we are not talking about what is in front of us.

The SPEAKER: I take note of what the Attorney is saying, and I think you should also, member for Bragg, and get back to what the Attorney is trying to get you to talk about. You have been going for some time.

Ms CHAPMAN: Well, can I say this. The Attorney may take the view that he does not want to hear of circumstances on which he has already been picked up on something that has not worked or which he has even in some circumstances acknowledged and done some variations, but he has not had it all yet, and he is not perfect. The whole purpose of having this legislation is to make sure we go through the issues of concern.

The SPEAKER: He has admitted, member for Bragg, that it is different from what happened in November, from what was placed before you in November. He has moved on from there, and I suggest that you move on also.

Ms CHAPMAN: In due course, I will place on the record some of the continuing concerns of the Law Society and the Bar Association, because they remain. Given your ruling, Madam Speaker, what I will do now is move on to the submission that was presented yesterday to our own task force. The witness called was Mr Michael O'Connell, who is the victims of crime commissioner—

The Hon. J.R. Rau: Did you say 'the witness called'?

Ms CHAPMAN: I have explained to you before about that material, about the task force and whether it is evidence or a witness. The person who presented to this forum was Mr Michael O'Connell. He voluntarily attended, at the invitation of the task force to present. As members would know, he is the Commissioner for Victims' Rights. Indeed, he is accountable to the Attorney-General in the government under the process. He has, like so many others, remained concerned about the approach being taken by the government. He states the following:

Thank you for your invitation to comment on the proposed bills to counter serious and organised crime in our State. Please note that I have commented on the bills as part of the Government's consultation and, as you would appreciate, I should respect convention regarding my dealings with a Government minister, namely the Attorney-General.

The following are my broad observations on organised crime and combating it. I am prepared to discuss specific matters as the need arises.

Characteristics of organised crime—

- A conspiratorial arrangement
- A hierarchy or structured organisation

- Continuity
- Strict discipline, including a code of silence
- Bonding ritual
- Sophisticated methods and techniques
- Diverse illegal and legal activities
- Predatory tactics, including intimidation, violence and corruption

To be organised crime, it is not necessary that a crime-gang exhibit all characteristics; however, organised crime usually exhibits all or most of these characteristics.

It is not uncommon for crime-gangs or groups of criminal to be described as organised crime by reference to a particular criminal activity/activities. Police frequently highlight crimes committed by persons associated with particular groups as evidence of organised crime.

Corruption is a core element of much organised crime. The perversion of public integrity and the illegal, or improper use of public authorities (such as police power) for personal gain are central ingredients of corruption.

Organised crime can also be explained in the context of the illegal markets in which the criminal gang/group operates. The focus then is on the illegal goods and services (e.g. intimidation/extortion, money laundering, drug production and distribution, human trafficking from the illegal sex industry and for labour exploitation, and illicit arms trafficking) supplied and the demand usually of ordinary citizens. In this supply-demand market there are financiers, organisers, employees, enforcers and consumers.

Organised crime is a serious crime. It is a threat to security but not necessarily a serious threat to development in Australia.

There are enormous differences, however, between the organised crime problems in Australia and those in other places. In Australia organised crime has proven to be a consistent but, in my view, not severe problem. Fluctuating political will has aggravated the problem. Likewise, impediments to national co-operation and co-ordination in our federal political system have constrained but not prevented efforts to curb organised crime.

A prime objective should be preventing and combating organised crime.

A fundamental question for those tasked to attain this objective is whether the law and other instruments support their every-day activities in tackling organised crime.

Organised crime—especially 'bikie gangs' in South Australia—has become the explicit justification for the proposed serious and organised crime law reform. There should be a link between the characteristics of organised crime and the construction of the legislation. The nature of organised crime necessitates a drastic and sophisticated legislative response.

Although this opens the door to legislation that sets aside a number of safeguards common in law and legal procedure, care should be exercised to avoid innocent citizens becoming victims of state oppression. There needs to be a focus on the real threats so that the responses are creative, sharp and properly targeted, otherwise vague and divergent assertions about the threat may justify nearly any policy decision, legal reform and procedural change. In other words, the cure should not be worse than the disease.

It seems to me that the exceptions to the normal legal and procedural rules are both acceptable and necessary to combat organised crime, thus reduce (hopefully prevent) loss, injury and other harm. Overseas experiences indicate that there are overwhelming obstacles to dismantle organised crime. Furthermore, reforms should not weaken unnecessarily further the respect of human rights.

The proposed legislation focuses on the intent and capabilities of crime gang members and their associates. It seeks to address association as a facilitating factor and, according to the police, will empower them to disrupt opportunities to commit crime as arguably the proposed law has preventative elements. There is a need on the integrated strategy, complementary and shared commitments, robust implementation, minimisation of unintended consequences.

If organised crime and corruption go hand-in-hand the proposed ICAC has a role in the fight against organised crime. Need to foster community resistance, prevent exploitation, overcome instability, alleviate fear, reintegrate marginalised people. Civil disorder is a cue to the heightened fear of crime, and that fear can fuel popular vigilantism.

Money derived from confiscated criminal assets—

That is referring to another matter. He continues:

There should be safeguards to ensure that the interests of victims of organised crime are adequately represented, and the victims' rights are respected, and victim assistant matches victim needs. Minimise the risk of citizens being victims of overzealous policing, or manufactured allegations of criminal activity. Prevent the monopolisation of power in a government institution such as the police. Popular politics do not override fundamental legal safeguards without legitimate justification and comprehensive debate.

One aspect that Mr O'Connell presents further, which is certainly new to me and the Hon. Stephen Wade, and possibly to the Attorney, having comprehensively supported the concerns that we in

opposition have outlined as being a potential problem with this legislation—in particular, the capturing of those who should not be captured in this—is that he had recommended the consideration of a state organised crime prevention council, which would have the oversight on the operation of the proposed law as needed.

Now, I hear groans from the Attorney, but historically we have had parliamentary oversight of serious law enforcement agencies—National Crime Authority was one. We have, in other jurisdictions, and should have here, in whatever form we get an ICAC in due course, some parliamentary oversight to that, and it may have that role as well. What we are hearing from Mr O'Connell, which is not unique but which I think he succinctly put yesterday, is that corruption goes hand in hand with serious and organised crime—it is unavoidable. So there are other aspects that need to be brought in to make sure that we have protection as well.

I think that we are to have an ICAC bill. I think that we had an announcement in a ministerial statement from the Attorney or the Premier—I cannot remember which now—recently saying that it is on its way, and we look forward to seeing it. However, what we are saying is this: in isolation it is very important that we look at having a capacity for the state to deal with corruption, otherwise we are still not going to get anywhere. It seems quite clear.

The Hon. J.R. Rau interjecting:

Ms CHAPMAN: I always try to accommodate the Attorney, and, because of his desire to rush into committee, I am sure I can reserve other comments for the committee stage. I will find my notes on that and indicate that I will be requesting that the parliament move into committee.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (16:56): Madam Speaker, before we go into committee, can I just give a couple of brief responses to the relevant aspects of the honourable member's contribution.

The SPEAKER: Attorney, you understand that if you speak you close the debate?

The Hon. J.R. RAU: Yes. I want to say again—and I was at pains to say this yesterday, I thought, but I am going to say it again today—that we have genuinely tried to do everything we possibly could to make these bills as constitutionally secure as possible. That has involved us in virtually constant meetings, and I thought I tried to explain that yesterday. For the opposition to say, 'Well, you know ha, ha, you changed it since November. Aren't you silly?' Well, actually no, we are not silly: we are trying not to make mistakes, and we will continue to try not to make mistakes.

All I was trying to say yesterday, and I will say it again, is that so far I think we have improved the legislation that we had around the place to a point where I had sufficient confidence in it to bring it into the parliament. That does not mean that it is absolutely perfect. There may be something that the honourable member or that other fellow in the other place might come up with which will be an improvement. As I said when I briefed the opposition a few days ago, as recently as that time I foreshadowed there would be a government amendment to this bill, if you recall, in relation to a particular matter that was drawn to my attention by the Chief Justice. I mention—

Ms Chapman interjecting:

The Hon. J.R. RAU: No, it is not here; I foreshadowed it.

[Sitting extended beyond 17:00 on motion of Hon. J.R. Rau]

The Hon. J.R. RAU: I just want it on the record because, unfortunately, things get a bit turned around sometimes. In a briefing with the honourable member and the Hon. Stephen Wade a week or so ago, I indicated that we were still working on some bits and pieces, and I alluded in particular to a comment which had only been received by me virtually that day or the day before from the Chief Justice, and that we were going to introduce the bill so that we could get on with it—but I wanted the honourable member and the Hon. Mr Wade to have notice of the fact that there was this other matter.

The honourable member has said that they are going to be looking at things from the point of view of effectiveness, the breadth of catchment and constitutional security. I think that I have truncated about 35 minutes of what you were saying in there, but that is it.

As to effectiveness, yes, we do not mind having a conversation with you about effectiveness; and, again on the record, I issue the invitation to the member for Bragg and the Hon. Mr Wade that if they have constructive discussions they wish to have with us between houses about particular matters, provided it is not just grandstanding and tinkering because they can (or at least think they can), I am happy to have those conversations.

If it makes a better legislative package, that is fine, and I will join hands with the honourable member, and even the Hon. Stephen Wade, and walk into the sunlit uplands together with them, receiving the garlands from the happy populace. I do not want to leave them out. I do not want them to be left out. How is that for an invitation? You do not get that every day.

As to the scope of this thing, inasmuch as that amounts to tinkering, because you can, or you think you can, we might have some problems there. Inasmuch as that relates to constitutional security of the legislation and you have a decent argument, I am all ears. I want to hear it. If you are right, and if I am advised that you are right, the propositions you advance about the constitutionality of these provisions will be given very serious consideration. So, there you are. It is all there on the record.

There was something that I heard today that actually conjured up an image for me, because we have the image of the full bench of the task force—Wade, Chapman and McFetridge—receiving evidence—

Ms CHAPMAN: I have a point of order, Madam Speaker. It is bad enough, I think, that the Attorney should attempt to quash debate on this matter. It is insulting that he should suggest that our consultation, which we have truncated to facilitate the government's request to have the swift passage of this bill, is not acceptable. I find it insulting—

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

The SPEAKER: Yes, I would ask you to move on and please contain your comments to the bill.

The Hon. J.R. RAU: The image got caught in there and I couldn't get it out for a minute, but I think I have now. A couple of particular references were made that I think I need to briefly mention. First, the section 35 to which the honourable member referred is, in fact, not in this bill: it was in the old bill and it has not been touched. Inasmuch as you made references about children, I invite you to look at section 39V(3), which talks about the fact that anybody under the age of 16 cannot be the subject of any of these provisions.

A lot of the other comments which were made about this evinced an attitude of all care but not a lot of responsibility. My invitation to the honourable member and the opposition is this. We want to get effective legislation constitutionally secure to the extent that we are capable in our collective wisdom of arriving at such a point. We want constitutionally secure legislation in and passed as quickly as possible. That is what we are trying to achieve. Because no particular amendments have been foreshadowed as yet, I am not going to assume that we are going to be confronted in this case with the same sort of behaviour that we have had in other cases. I withhold any judgement about that matter and let us wait and see.

However, I say this: between the houses, if there are constructive comments to be made, we might even be able to move joint amendments in the other place, supported by the government and the opposition, rather than having some empty theatre go on up there where things are put up so they can be torn down and other people get to grandstand and jump up and down and say things.

I would be quite happy up there if the result is that we in the government are able to say to the upper house, 'We have had conversations, we have agreed on these things,' and the opposition stands up and says, 'Yes, we agree with them, too.' Thank you very much: end of story. That would be an achievement—a solitary one, I might say, in terms of this particular parliament.

That is the invitation. I am happy to talk. We do not wish to have the opposition hold back on genuine arguments about constitutional faults in the proposed legislation provided that is not used as some stalking horse for arguing about the all-care-no-responsibility proposition, which seems to be where, in particular, the Hon. Stephen Wade always wants to take everything.

Bill read a second time.

In committee.

Clause 1.

Ms CHAPMAN: Attorney, could you confirm who the government has consulted on the tabled version of the bill?

The Hon. J.R. RAU: I will attempt to. If I am being asked if we have consulted on the introduced legislation, my understanding is that the following people have been consulted on this very last version: the DPP, the Crown-Solicitor's Office, the Solicitor-General, the courts, the Law Society. By 'the courts' we are really saying the Chief Justice, and he is consulting with others. They are the people we have consulted with on the final draft.

Of course, other people saw earlier generations of the thing. I say now, quite frankly, that if a light bulb goes on in one of these people's heads between now and the bill going into the other place, and they think of something else they want to talk to us about, that is fine; I am relaxed about that.

Nobody can run away from this. This is complex stuff. This is not simple legislation. It involves complex drafting and constitutional issues, so it needs work. It has had a lot of work, but, as I said, it might be that more is needed.

Ms CHAPMAN: Apart from the two principal issues, which are dealt with in the two higher court cases and which we have dealt with, are there any other constitutional issues that have been dealt with in this bill; that is, they have not come to the attention of the courts yet, but which you have discovered need to be remedied?

The Hon. J.R. RAU: What we have done is said there are two clear constitutional issues that run through this like a seam, if you like. One of them is the implied right of free speech, assembly, and so forth, and the other is the Kable principle. We have attempted to run the ruler of those two things across the legislation in its original form, and it has been front and centre in our thinking about what we are introducing now. Likewise, in other legislation—for example, the bill we dealt with yesterday—we have also been trying to keep that in mind because clearly Kable represents a boundary that we do not want to traverse, if we can avoid it.

Ms CHAPMAN: I mentioned a number of differences between the Western Australian and New South Wales bills, and I am really keen to hear from the Attorney in particular why he has chosen to proceed with making it an offence for any person to associate with a member in a much broader way than those two jurisdictions.

The Hon. J.R. RAU: Can I say that, as I understand it, that is the existing section 35. That has been there since 2008. We have not fiddled with it in this legislation; it has not been disturbed at all. Is it going to be part of the whole thing if this is passed? Yes. Is it something that we are moving the parliament to introduce now? No, it is already there.

Ms CHAPMAN: I raise it in this sense: Attorney, you have made it quite clear that you wanted to meet with these other jurisdictions and try to have some similarities. Did you consider at all ever bringing that in line with what the other two jurisdictions are proposing to move ahead with—that is, to curtail that?

I think you would have to agree that clearly it is a much broader group of people, and you may still want to argue that it is meritorious in having that breadth, but it seems that the other jurisdictions, at least on the face of it and from what I have read, have decided that they are not going to run the risk of being challenged in that regard and they actually have narrowed it.

It just seems that you are insisting on wanting to proceed with that. I would have thought that would be an obvious one, where we have two other attorneys-general in the country saying, 'We're not going to run the risk of that. We're just going to make it very narrow and make sure that we get it through.'

The Hon. J.R. RAU: As I understand it, in Totani the High Court had to turn their mind to section 35 but in the context of section 14, and they did not indicate that 35 was in and of itself an issue. That, as I think you said in your remarks, does not necessarily mean they would not find it had they been directed specifically there. If there are particular discussions the opposition wishes to have with the government about those matters, I am happy to engage in those between the houses.

The advice I have received is that people were not particularly anxious that the current section 35 presented a vulnerable point but, if the honourable member has views or has advice of

substance that suggests we should review that point, then I issue that invitation and we will look at it.

Ms CHAPMAN: I thank the Attorney for that because I think it is pretty clear from all of the submissions that we have made in this parliament that we are concerned about that—not just the constitutionality but the appropriateness of having such a broad group. I accept that there are two different issues there, obviously, but in any event I thank you for that invitation.

The Hon. J.R. RAU: Can I just make it clear that my invitation was directed on the constitutionality point.

Ms CHAPMAN: I make the point that they are two different issues. It may be that the other attorneys-general take the view on the matter of principle that it should be narrow and that they have not even considered the constitutionality. I do not know what the discussions were with you in those meetings you had with them about what you are doing. In any event, they have taken that approach.

Clause passed.

Clauses 2 to 5 passed.

Clause 6.

Ms CHAPMAN: Attorney, is there a precedent in any other jurisdiction for the eligible judge model for declarations in the bill?

The Hon. J.R. RAU: I think the position is that the New South Wales legislation has 'eligible judge', but that was not the problem as far as the High Court was concerned in Wainohu. It was the fact that the eligible judge did not have to provide reasons, which was the defective aspect of it.

The Western Australian one uses different terminology but means, in effect, the same thing; it is called a designated authority. I believe the Northern Territory also has a similar process, which is an administrative process. The eligible judge, as the honourable member would appreciate, is a person who is not a judge for the purposes of the particular exercise. You probably would have noticed in the judgements that the High Court said that the persona designata issue was not one that troubled them. That is not a problem, as we understand it from what has been put in the judgements.

Ms CHAPMAN: On the bills that went out for consultation, we had this court-based declaration. We have now moved to this eligible judge model. Obviously, it is a different court as well, but we have changed the model. Did you have any legal advice that underpins the change in that regard, apart from the suggestions from Mr Porter, the Attorney-General for Western Australia?

The Hon. J.R. RAU: There were a couple of things that informed that. The first one was the practicality, the efficiency and the lack of formality that one has with this model rather than the other model. The second thing, I think, is that we did draw some comfort from the fact that other jurisdictions had independently turned their mind to this matter and come to a similar conclusion and that, given that that from a practical point of view delivered a better outcome, to get the better outcome, rather than a second-rate outcome, clearly was a preferred choice.

Ms CHAPMAN: I understand, Attorney, that there is going to be an amendment moved by the government in respect of the appointment process. What was the basis for making the decision, in any event, for the Attorney-General to be the appointing party? Why not just make it all Supreme Court judges, subject to the consent they give, rather than have an appointment by the Attorney?

The Hon. J.R. RAU: I think the answer to that is that the original New South Wales legislation had that as part of its framework. That was not, however, the bit that was attacked in Wainohu. On repeated reflection on Wainohu and the New South Wales model, and after, I think, in fairness to the Chief Justice, a discussion I had with him, there seemed to be an unnecessary risk in involving the Attorney at all.

So, the foreshadowed amendment that I think I discussed with the honourable member the other day was that we would simply hand over the whole process of appointment to the court, which then leaves the attorney of the day out of the loop altogether, which I am very happy about.

Clause passed.

Clauses 7 and 8 passed.

Clause 9.

Ms CHAPMAN: This is the applications for declaration by the Commissioner of Police. My question is, firstly, how many applications are currently being prepared?

The Hon. J.R. RAU: I am advised that they are operational matters which it may not be useful for us to publicly place on the record. It may be that in private some further conversation about those matters might be able to occur.

Ms CHAPMAN: I appreciate the sensitivity of some of those matters and I will not press that. We have had some indication—and I think I referred to this in the second reading—of there being some considerable delay before the police expect to be able to deal with these matters. I think three years was one period being looked at, I suppose, to get up and prosecute the application for declaration. It seemed a long time to me, but perhaps you could assist us. I can only read what it is in here, and what is expected to be collated for presentation. I would not have thought it would take years, but can you give us some assistance as to how long you expect for an application to be ready for the process?

The Hon. J.R. RAU: I think the only prudent thing for me to do is to reflect on how long the previous ones have taken, and I am advised that they have taken months, not years.

Ms CHAPMAN: One aspect that might facilitate the process is the regulations. Is it the situation that regulation or draft regulations are ready—or not?

The Hon. J.R. RAU: No, they are not ready, but there is not a great deal of regulation required in this area, and because it is at present just a bill, and we do not know how it is going to end up, it might well have involved parliamentary counsel doing a great deal of work for no good purpose. However, I can undertake that if the bill does pass it will be an absolute priority for me that parliamentary counsel attends to the speedy preparation of the appropriate regulations.

Clause passed.

Clause 10 passed.

Clause 11.

Ms CHAPMAN: This relates to the eligible judges making declarations. It involves an incorporation of associates, and the activity of associates as well as members in establishing the case for a declaration. What prompted the government to vary the draft bill to include the activities of these associates?

I can find another section, I am sure, on which I can ask. What has prompted you to introduce associates into the eligible judge provisions? Under the new section 6—I think your adviser is quite right. We are still on clause 6? If you just go back to there, on page 9.

The Hon. J.R. RAU: That is subsection (4), is it?

Ms CHAPMAN: Yes. Page 9, 'Eligible Judge may make declaration', so it is the new section 11(2)(b)(ii) and (c)(ii). Do you see that?

The Hon. J.R. RAU: Yes.

Ms CHAPMAN: My question is: what has prompted you to introduce that component in the declaration requirements?

The Hon. J.R. RAU: I understand that mirrors the existing act. That is my advice.

The ACTING CHAIR (Hon. M.J. Wright): We will go back to clause 11.

Ms CHAPMAN: My question is this: under this declaration process, is it possible that an organisation could be listed without any of its members directly being involved in serious and organised criminal activity?

The Hon. J.R. RAU: I am always loath to say an absolute never ever, but the individuals concerned must come together for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity, as defined, and they have to represent a risk to public safety. I guess it is conceivable that they come together for the first time and are organising (or whatever), and if they are allowed to continue doing what they are planning to do they will present a risk to public safety, but they have not yet done it. I guess that is possible, but I would be surprised if even

getting together and organising that did not amount to a conspiracy which would, in itself perhaps, be a serious criminal activity. It is a difficult one.

Ms CHAPMAN: I suppose it follows from that that because of these extra clauses it is also possible that the organisation could be listed, even though none of the respective members had had any contact or organised activity at all. In any event, you are saying you cannot say it can never happen but it is possible.

The Hon. J.R. RAU: As you and I both know, humanity throws up the most unexpected and interesting moments, does it not? I mean, how many times have we been in court and been presented with something nobody ever thought of? That is not contemplated to be where this is landing. Where this is landing and where, in practical terms, the efforts of the police are going to be directed is the known operators, people who have come to their attention, people who are on their radar, and they will be on their radar because they have been arresting them and they have been involved in an offence.

So, I suppose if the police had a crystal ball and could see into the minds of people who had yet to commit a crime and were able to work out that they were about to do it, and if we could grab them and then prove it, but I think we are talking about almost an abstraction.

Ms CHAPMAN: The new section 14, which is the revocation procedure, in the consultation bill the police could actually revoke it. That has now been removed. What has prompted you to take out the police?

The Hon. J.R. RAU: I think that continues to be the case: 14(1)(a) and 14(1)(b)(i).

Ms CHAPMAN: I think we are at cross purposes. I think the commissioner can make an application now but, under the previous consultation bill, he could revoke it of his own volition. Is that because it is consistent with it now we have a judicial appointment?

The Hon. J.R. RAU: I and those who are advising me presently do not know whether or not that was what was in the earlier draft; perhaps if we just take that on notice.

The ACTING CHAIR (Hon. M.J. Wright): We are up to clause 11; we have voted on clause 6. I think I have been fairly generous and I think we should move on.

The Hon. J.R. RAU: I am advised that, even under the consultation version, it was through the court.

Ms CHAPMAN: The prescribed activity, which is in the new section 22(5), and which applies under your regulation power—I can ask this question under clause 14.

The ACTING CHAIR (Hon. M.J. Wright): You do not want to ask this question under clause 11?

Ms CHAPMAN: I have lots, but I have missed the opportunity to do them in some areas, so I am going to find another space to ask them.

Clause passed.

Clause 12.

Ms CHAPMAN: Under the proposed section 39W(4)—Costs, which is on page 34, will this provision have the same effect on the alleged criminal offenders under the act that was proposed in the Statutes Amendment (Budget 2011) Bill in relation to court-awarded costs?

The Hon. J.R. RAU: I couldn't possibly say; I have to take that on notice.

Clause passed.

Clause 13 passed.

New clause 13A.

Ms CHAPMAN: I move:

Page 35, after line 30—After clause 13 insert:

13A—Insertion of new section

After section 42 insert:

42A—Review of operation of Act

(1) The Attorney General must, as soon as practicable after the fourth anniversary of the commencement of this section, conduct a review of the operation and effectiveness of this Act.

(2) The Attorney General, or any person conducting the review on behalf of the Attorney General, must maintain the confidentiality of information provided to the Attorney General or other person that is classified by the Commissioner as criminal intelligence.

(3) The Attorney General must prepare a report based on the review and must, within 12 sitting days after the report is prepared, cause copies of the report to be laid before each House of Parliament.

I simply indicate, as I think is self-evident, that there be a review of the operation of the act. Is it consented to by the Attorney?

The Hon. J.R. RAU: Yes.

Ms CHAPMAN: Fantastic; thank you.

New clause inserted.

Clause 14.

Ms CHAPMAN: The regulations are to include a prescribed activity, which is referred to otherwise in the bill, and it is proposed that this be done by regulation. What is proposed to be prescribed that will apply in the new section 22(5) as a prescribed activity?

The Hon. J.R. RAU: Which one is the prescription provision?

Ms CHAPMAN: In new section 22(5)(a)(ii), 'holding an authorisation to carry on a prescribed activity'. You are yet to make those decisions on that by regulation. My question is: what is intended to be prescribed?

The Hon. J.R. RAU: We can probably get a more fulsome answer on that, but I think it is basically saying that prescribed activity could include, for example, a particular occupation, like, publican, crowd controller, casino operator, or something.

Ms CHAPMAN: My final question, which may or may not be able to be dealt with by you, is how this legislation would deal with a group that is in flux, such as the Comancheros—change of name, etc. Is that covered in here, or is that going to be covered in another section?

The Hon. J.R. RAU: Yes, new sections 20 and 21. Section 20—Change of name etc, provides:

A change in the name or membership of a declared organised does not affect [the status]

Section 21 provides:

...members of a declared organisation substantially re-form themselves into another organisation...

And then there is an evidentiary aid there in clause 21.

Clause passed.

Schedule and title passed.

Bill reported with amendment.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (17:37): I move:

That this bill be now read a third time.

Bill read a third time and passed.

BUSINESS NAMES (COMMONWEALTH POWERS) BILL

Received from the Legislative Council and read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (17:38): I move:

That this bill be now read a second time.

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

Leave granted.

The *Business Names Act 1996* establishes a system for registering business names in South Australia. The Corporate Affairs Commission is responsible for the administration of the Act.

On 3 July 2008, the Council of Australian Governments (COAG) agreed to the development of a single national system for business names registration. It was agreed to transfer responsibility for the registration of business names from the States and Territories to the Commonwealth. This is one of the priority areas agreed to by COAG as part of the *National Partnership Agreement to Deliver a Seamless National Economy*.

An intergovernmental agreement supporting the implementation of the new national business names registration regime was signed at the COAG meeting on 2 July 2009.

The new national business names registration regime is expected to commence operation on 28 May 2012, and will be administered by the Australian Securities and Investments Commission. The new national business names registration regime has been the subject of extensive consultation with representatives from the Commonwealth, States and Territories, including South Australia. The new national regime will replace the current State and Territory systems and has been designed to be simpler, save time and reduce costs for Australian business.

Registration under the new national regime will provide a single national business name. For businesses operating nationally it removes the need for multiple business name registrations under State and Territory laws.

The new national regime will enable businesses to register online at any time. The process has been developed to be simpler and to reduce costs for businesses, in particular those businesses operating nationally.

Businesses that are currently registered under State and Territory business names systems will be automatically transferred into the new national business name register.

I now turn to the specific purpose of the *Business Names (Commonwealth Powers) Bill 2012*.

The object of this Bill is to adopt the Commonwealth legislation establishing the national business names registration regime and refer power enabling the Commonwealth Parliament to make amendments to the Commonwealth legislation. The adopted laws are the *Business Names Registration Act 2011* of the Commonwealth and the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* of the Commonwealth.

The Bill is to be enacted for the purposes of section 51(xxxvii) of the *Constitution of the Commonwealth*, which enables State Parliaments to refer matters to the Commonwealth Parliament, or to adopt Commonwealth laws that have been enacted pursuant to such referrals.

The Bill provides the Commonwealth with the necessary constitutional power to implement and operate the national business names registration regime.

The reference to support the enactment of the Commonwealth legislation was provided by New South Wales by the enactment of the *Business Names (Commonwealth Powers) Act 2011* of that State.

The Bill also incorporates a reference of power enabling the Commonwealth Parliament to make amendments to the Commonwealth legislation (referred to as the amendment reference). The amendment reference is subject to limitations specified in the Bill, and the procedure to amend the Commonwealth legislation set out in the *Intergovernmental Agreement for Business Names 2009*.

The content of this Bill has been developed in consultation with all jurisdictions. There are certain provisions included to protect the interests of States and Territories including provisions that restrict the amendment reference. To further protect States and Territories, the Bill also includes a provision which allows termination of the adoption and amendment reference.

The significance of this Bill is that it delivers on the COAG agreement and the priority to develop a seamless national economy.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines key terms used in the measure.

4—Continuing business names matters

This clause sets out what a *continuing business names matter* is. Those matters are referred to the Commonwealth Parliament under proposed section 6, and allow the Commonwealth to legislate in future about continuing business names matters by way of amendment of the national business names legislation.

5—Adoption of national business names legislation

This clause provides that the *relevant version of the national business names legislation* is adopted within the meaning of section 51(xxxvii) of the Constitution of the Commonwealth.

6—References of continuing business names matters

This clause sets out what is being referred to the Commonwealth Parliament under the *amendment reference*.

7—Amendment of Commonwealth law

This clause sets out how the national business names legislation can be amended, making it clear that the national legislation may be amended by provisions of national business names instruments, or by Commonwealth laws or instruments enacted or made on the basis of powers vested in the Commonwealth apart from any reference or adoption.

8—Termination of adoption and amendment reference

This clause will allow the Governor, by proclamation, to fix a day on which the adoption or the amendment reference, or both, will terminate. A day fixed for a termination must be not earlier than 6 months after the day on which the proclamation is published. Such a proclamation may be revoked by further proclamation (provided that the revocation proclamation is published before the day fixed in the earlier proclamation for termination of the adoption or reference, as the case may be).

9—Effect of termination of amendment reference before termination of adoption

This clause makes it clear that the separate termination of the amendment reference does not affect laws already in place. Accordingly, the amendment reference continues to have effect to support those laws unless the adoption is also terminated.

Debate adjourned on motion of Ms Chapman.

BUSINESS NAMES REGISTRATION (TRANSITIONAL ARRANGEMENTS) BILL

Received from the Legislative Council and read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (17:42): 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.

This Bill supports the *Business Names (Commonwealth Powers) Bill 2012*, which adopts the Commonwealth legislation and provides the Commonwealth with the necessary constitutional power it requires for the implementation and operation of the national business names registration regime.

This Bill seeks to address the transitional and consequential issues arising from the change to the new national regime.

The Bill makes a number of consequential amendments to other South Australian legislation including amendments to ensure they will, where necessary, refer to the Commonwealth legislation rather than the repealed South Australian law.

There are also transitional provisions set out in the Bill, including a provision dealing with the resolution of outstanding matters under the *Business Names Act 1996*.

As a precautionary measure to enable the ability to deal with unforeseen issues that may arise, there is a provision in the Bill to allow the making of regulations of a saving and transitional nature.

The existing *Business Names Act 1996*, which establishes the current system for registering business names in South Australia, is repealed by the Bill.

In repealing the *Business Names Act 1996*, we are contributing towards efficiencies for Australian businesses by creating a national regime for the registration of business names and ensuring a smooth transition for South Australian businesses into the new national regime.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines key terms used in the measure.

4—Commission may provide information and assistance to ASIC

This clause enables the Commission to provide information and documents in the Commission's possession to ASIC in respect of ASIC's functions and powers under the *Business Names Registration Act 2011* and the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* of the Commonwealth.

5—Limitation of operation of Business Names Act during transitional period

This clause allows the Registrar to refuse to exercise a power or function under Part 2 of that Act (the Part dealing with new registrations of business names and renewals of registrations) if the Commission thinks the matter would be better dealt with under the new Commonwealth scheme.

6—Continuation of registration of certain business names

This clause will allow the Commission to continue the registration of a small number of business names (being registrations expiring during the transitional phase in relation to which the Commission decides not to take action to renew) to the change-over day so that those registrations can be considered under the Commonwealth scheme.

7—Resolution of outstanding matters

This clause sets out how matters under the *Business Names Act 1996* that are outstanding at the time the Commonwealth scheme commences are to be dealt with. In particular, the Commission may continue to determine specified kinds of applications under that Act and then notify ASIC of the determination. The *Business Names Registration (Transitional and Consequential Provisions) Act 2011* of the Commonwealth sets out further provisions in respect of such notifications. The Commission may also continue to reinstate a registration that has been cancelled by mistake.

8—Immunity from liability

This clause provides no civil liability attaches to the Crown, the Commission or a person engaged in the administration of this Act in respect of the exercise or purported exercise of official powers or functions under this measure.

9—References

This clause clarifies references to the current *Business Names Act 1996* in instruments and documents etc will have effect as if it were a reference to the *Business Names Registration Act 2011* of the Commonwealth, or the corresponding provision of that Act.

The clause makes similar provision in respect of references to registered business names.

10—Evidentiary provision

This clause sets out evidentiary matters in relation to whether or not a particular business name was registered, and proving certain documents in the possession of ASIC or the Commission.

11—Regulations

This clause confers a power on the Governor to make regulations of a savings or transitional nature in respect of the referral of business names matters to the Commonwealth Parliament.

Schedule 1—Related amendments and repeal

This Schedule makes a series of related amendments to other Acts to change references to the *Business Names Act 1996* to the *Business Names Registration Act 2011* of the Commonwealth.

The Schedule also repeals the *Business Names Act 1996*.

Debate adjourned on motion of Ms Chapman.

VOCATIONAL EDUCATION AND TRAINING (COMMONWEALTH POWERS) BILL

The Legislative Council agreed to the bill without any amendment.

HEALTH DEPARTMENT ANNUAL REPORT

The SPEAKER (17:43): Earlier today, the member for Waite drew the chair's attention, by way of a point of order at the time the ministers were tabling papers, to the delay in the tabling of the annual report of the Department for Health for the year ending 30 June 2011. First, I would say that it is not the role of the chair to determine if the minister has complied with his obligations under the Public Sector Act, or any other act.

The member for Waite, in raising his point of order, reminded the house that the Auditor-General in his Agency Audit Reports, Supplementary Report, to the parliament tabled on 22 November 2011, advised the house that the audited financial reports of the four health regions, and therefore the audit department's financial report, was continuing at the time of his supplementary report to the parliament.

The Minister for Health, by way of a ministerial statement to the house following the member for Waite's point of order, has provided a further explanation to the house for the delay.

I also note that section 112(7) of the Public Sector Act 2009 requires that the annual report must contain information required by regulations under the act, which includes the relevant audited financial statements. I also note that section 12(9) of the same act requires that at the time the delayed report is eventually tabled it must be accompanied by a written statement of the reasons for the delay.

At 17:46 the house adjourned until Tuesday 13 March 2012 at 11:00.