HOUSE OF ASSEMBLY

Wednesday 11 July 2012

The SPEAKER (Hon. L.R. Breuer) took the chair at 11:00 and read prayers.

NATURAL RESOURCES COMMITTEE: LEVY PROPOSALS 2012-13

The Hon. S.W. KEY (Ashford) (11:01): I move:

That the 67th, 68th, 69th, 70th, 71st and 72nd reports of the committee, concerning various natural resources management board levy proposals 2012-13, be noted.

One of the Natural Resources Committee's statutory obligations is to consider and make recommendations on any levy proposed by a natural resources management board where the increase exceeds the annual CPI increase.

I wish to thank all those who gave their time to assist the committee during the consideration of the levy proposals for 2012-13. Of the seven proposed increases in division 1 land-based levies for 2012-13, there were only two significantly that were higher than the CPI rate, which for this current financial year is 4 per cent. Only one of the division 2 water levy proposals was significantly higher than CPI. Overall, the committee is pleased to see the various NRM boards generally showing restraint when it comes to proposing levy increases.

Considering the above CPI levy increases presented challenges for the committee. Whilst members were sympathetic to the desire of the natural resources management boards to increase their funding base, members believe that, in principle, above CPI increases should be the exception rather than the rule. In this instance, the committee determined not to object to all of the one and two levies, with the exception of the division 1 levy of the Adelaide and Mount Lofty Ranges NRM Board.

The committee supports the process of equalisation of division 1 levies across the local government areas, as pioneered by the Adelaide and Mount Lofty Ranges NRM Board. However, after careful consideration, members came to the conclusion that, within the current economic climate, this above CPI division 1 levy proposal could not be supported and that it would be better for levy equalisation to occur at a lower level than that proposed by the board.

The committee initially resolved to object to the levy and then follow this up with a suggestion that the AMLR division 1 NRM levy for 2012-13 should be amended to reflect a rate less than that which appears in the proposed plan but greater than the 2011-12 rate. The committee is pleased that the minister has noted the committee's concern and consequently revised down the proposed increase to 6 per cent, as gazetted on 21 June 2012.

Every year, the committee aims to visit at least two of the NRM regions to meet the NRM boards, their staff and volunteers in their local environment. This year, committee members were fortunate to visit Mannum as part of our inquiry into the draft Murray-Darling Basin plan. Members appreciated the assistance of the South Australian Murray-Darling Basin NRM Board, as well as the Mid Murray Council, in arranging a number of meetings and site visits with local residents, landholders and traditional owners. This visit, although short in duration, provided us with valuable information for our inquiry.

The committee is also looking forward to returning to the Eyre Peninsula NRM region to collect evidence for our inquiry into Eyre Peninsula water supplies. Members look forward to learning more about the challenges of managing water resources on Eyre Peninsula, and welcome the assistance of the Eyre Peninsula NRM Board with the forthcoming visit to their region. The committee also hopes to be able to fix a visit to the Alinytjara Wilurara NRM region in the year if the funds and time permit. Unfortunately, the proposed visit to the region last financial year was cancelled.

I commend the members of the committee—Mr Geoff Brock MP, the Hon. Robert Brokenshire MLC, the Hon. John Dawkins MLC, Mrs Robyn Geraghty MP, Mr Lee Odenwalder MP, Mr Don Pegler MP, Mr Dan van Holst Pellekaan MP and the Hon. Gerry Kandelaars MLC—for their contributions. Finally, I would like to thank the parliamentary staff for their assistance. I commend this report to the house.

Mr VAN HOLST PELLEKAAN (Stuart) (11:06): As a member of the committee, and certainly as the member for Stuart, I also commend this report to the house, but I would like to put

on record my personal view with regard to NRM levies. I do not think that NRM levies should be allowed over CPI, and accordingly I voted that way in our committee. I respect the democracy of our committee, and I respect the other members of the committee as well, so our joint decision was not always the same as the decision I would have made independently.

I would like to say that this is not because I do not value the work of the NRMs; I certainly do. We can debate and discuss the values of how the money should be spent and where efficiencies might be gained, etc., but on the whole the NRM boards do very good work. I think their challenge is the fact that the work they are asked to do is essentially endless. They could be given three, four or five times the budget that they actually have and there would still be natural resources management work to do.

So, much like a family, it is always tempting to try to increase your income if you possibly can, and there would be no shortage of sensible, good ways to spend that additional income. But just like a family, it is typically not possible. I think the act makes it very clear that CPI is meant to be the limit, and I think that is appropriate. Our Presiding Member did mention that there were very few instances—two, I think—where levy increase requests were significantly above CPI.

For my own position, I chose that CPI should be the place where the line is cut off, in accordance with the act. Having said that, I repeat that I respect the democracy of our committee, and I was certainly only in the majority once in that case. That is something I am comfortable living with, because it is a very good, effective, bipartisan committee.

I would like to finish by thanking the NRM boards for the work they do across our state, and also thanking the staff who support our Natural Resources Committee: Mr Patrick Dupont and particularly, in this instance, Mr David Trebilcock, who is the one charged with putting work into analysing, summarising and providing us with a great deal of detail with regard to the levy requests put to us.

Mr VENNING (Schubert) (11:08): I want to very briefly speak on this. I did note the report, and I certainly support the decision of the committee not to exceed the CPI. I think it is a common-sense decision.

Just briefly, particularly after what happened yesterday, I want to reflect back on what has happened to the NRM—in fact, to landcare generally over the many years I have been here. When I came here I was very strongly supportive of amalgamating several aspects of landcare—soils, water, weeds, vertebrate pests—all in together. I was happy that we were amalgamating all of them together, but one at a time. I never supported the holus bolus of lumping them all together. I believe the landcare section should have stood alone. I was strongly advocating putting the soil boards in with the animal and plant board. I was the chairman when we put the animal and plant together in the first place, and it worked well—a bit at a time, slowly, slowly, catchy monkey. It should have been the way to go.

I had many disputes at the time when minister Hill was the minister in charge and Mr Wickes, who now lives in my electorate in retirement, was the CEO. I am concerned because what we had worked extremely well, with the volunteer ethic and local government's strong involvement in it, and the costs were minimal. Now we see a very professional outfit—top-heavy with bureaucrats, very expensive—and, with some trepidation, I have to say that I do not believe the job on the ground is as effective as it was then. The landowners owned the process then and they felt part of it. I believe today they are told what to do.

It is ironic that the current chair of the NRM Council is a lifelong friend of mine, Andrew Inglis, and he has a challenge that he understands. He is a good choice of person. I congratulate minister Caica for that. I am certain in my last days here to get on the front foot, be positive and try to make the best job of this we possibly can.

Finally, I want to say that I am happy that this was a bipartisan decision of this committee, and I commend the committee for that. As I have always said, I believe the committee system in this place works well; in this case, it certainly has.

Mr PENGILLY (Finniss) (11:11): I also support the outcome of what the committee looked into. I think it was probably something that needed to happen sooner rather than later. For many of the reasons the member for Schubert gave, I also support. Given the natural resources management system is the creation of this parliament, the boards need to understand that they need to come back to the parliament as they do on the levies.

My personal view is that they should be held at CPI without any change whatsoever. They should operate on CPI and base their operations around that CPI and, if they can attract money by the way of grants federally or from the state, so be it. However, I think the long-suffering ratepayers and taxpayers of South Australia at getting fed up to the back teeth with having increases thrust upon them over and above CPI, whether that be the NRM levy or council rates. I freely admit that in the past I have been part of bodies that have put up council rates more than CPI, but in these extremely difficult times the general ratepayer or taxpayer is struggling.

I find it absolutely ridiculous that people are using candles rather than electricity and the list goes on with fuel and whatever. In this place if we can make it easier for people by determining that increases to NRM levies are kept at CPI, I think we will have done our job. I agree with the member for Schubert, who is reading several editions of papers about his retirement. I should not point to him, should I?

Members interjecting:

Mr PENGILLY: I agree with him that some of these organisations have become top-heavy with bureaucracy. I wish I had never said that now, Ivan! However, I also agree with the member that not as much work is being done in some areas. Having been a member of the animal and plant control board, and the chair of one of those, I know that from a local perspective we kept a much tighter rein on things, on expenditure and in getting outcomes, so I think that is something the boards need to strive towards. I am sure that the parliament's NRC will keep an eye on those things. I congratulate the committee on what it has achieved here. Once again, I believe that this parliament needs to keep increases in levies at CPI—full stop.

The Hon. R.B. SUCH (Fisher) (11:14): Just quickly, I want to come back to a theme that I have raised before in here. The NRM boards, I think, are a good thing. My concern, as with all bureaucracies, is that over time, if you are not watchful, they tend to become top-heavy and they tend to focus on issues rather than get down to front-line, hands-on type projects.

It has happened in local government and it has happened in, I guess, other areas such as state and federal government as well. I will just give one example. My council where I live used to have one-third of workers inside the building—the administration of the council—and two-thirds outside. Now it is reversed and, if you are not careful, that is what will happen with other bureaucracies. It could happen, if it has not already happened, with the NRM boards and their staffing.

However, protection of the environment, which is largely what they are on about, is important. A lot of people think that the environment is protected now because we have a department under the state government, but the reality is that the environment will always need to be not only protected but managed properly, so I think the NRM board concept—but more importantly, what they do—needs to continue. Without the NRM boards, we would not have seen the restoration of many of the riverine environments, including the Torrens. It is not finished yet, but without that money and without that input, a lot of those good projects just would not have happened.

Just quickly, people cite the CPI. The CPI measures essentially, as it says, the consumer price index so it is measuring the cost of cornflakes and milk and things like that. That, you can argue—and councils do argue—is not a relevant index for their costs. I think before people readily dismiss the CPI index and argue that councils and others should stick to it, you have to bear in mind that it may not necessarily be relevant to the type of work the NRM boards are doing, as it may not be relevant for councils which, as I say, do not tend to use a lot of cornflakes in what they are doing.

I make the point again that the NRM boards are subject to scrutiny by the parliament which is very different from what all other agencies experience. The ones that spend the really big money never have to front the parliament in the same way, and they should. They should all front the parliament. I can remember when I was on the Economic and Finance Committee looking at the water catchment boards, we almost got down to counting the number of pencils they had and looking to see whether people attended meetings twice on the same day and all that sort of thing. You should not have to do that but the point is that all the other government agencies are never put under the same scrutiny and they should be fronting the parliament, not through the mickey mouse process of estimates, but through a detailed assessment and scrutiny of what they do.

To conclude, I commend the people who are working through the NRM boards, whether they are involved in soil conservation or whatever. What they do is important and valued and I think

as a parliament we need to come to terms with what is an appropriate measure. I do not think using CPI is necessarily appropriate or reasonable in the circumstances, because it does not necessarily relate to the work the NRM board does or indeed the work councils or other bodies do.

Motion carried.

PUBLIC WORKS COMMITTEE: JAMES NASH HOUSE REDEVELOPMENT

Mr ODENWALDER (Little Para) (11:19): I move:

That the 441st report of the committee, entitled James Nash House Redevelopment, be noted.

This proposal comprises a new 10-bed ward for the forensic mental health facility at James Nash House, landscaping and associated works, security and infrastructure works and sustainment works on the existing James Nash House facility. The total capital cost budgeted for this project is $19 million.

The redevelopment of James Nash House is intended to provide SA Health with a facility that will meet the future needs of consumers and staff and enable service synergies and enhanced collaboration between functions within the house environment and across SA Health. The facility will include a purpose-built stand-alone 10-bed facility with its own secure perimeter that delineates it from the existing James Nash House facility, thus providing a stepped approach to rehabilitation, recovery and accommodation.

The committee was lucky enough to visit James Nash House recently and to see the site. It is going to be a very good facility. It will be contemporary in style, yet robust enough to ensure the safety of patients, staff and visitors. There will be single bedrooms and ensuites that exceed the outdated accommodation at the Grove Closed Ward at Glenside and provide a sense of privacy for the patients. There will be access to courtyards and views that will allow patients to engage with the environment whilst in a secure environment. There will be internal space that provides multipurpose rooms for rehabilitation activities and daily active living skills to enhance recovery and to promote community living. There will be co-location of all forensic mental health services, ensuring streamlining of services and movement within the campus and ease of access to and for patients, staff and visitors.

The key objectives for the redevelopment are to co-locate mental health services in line with the statewide forensic mental health service plans; enable the sale of Glenside precinct 5 as part of the Glenside redevelopment plan; provide appropriate and safe accommodation for forensic mental health consumers, including vulnerable minority consumer groups (for example, women and Indigenous consumers); improve functionality of plant and office space availability at James Nash House to optimise service delivery and health outcomes; re-engineer services to maximise integration, coordination and responsiveness on the one campus; and enable future expansion of the James Nash House forensic mental health facility in accordance with the master plan, if and when required.

The project is to be complete by September 2013. Given this, and pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to the parliament that it recommends the proposed public works.

Mr PENGILLY (Finniss) (11:21): The opposition supports this project, it supported it in committee and it supports it in this place today. The chair of the committee, Mr Odenwalder, adequately put the points in favour of the development. From a personal point of view, I found the visit to James Nash House most interesting. I was most impressed with its relative informality and the relationships between the staff and patients. It was an opportunity for us to talk with some of the patients. One amusing anecdote was when we walked in and the member for Waite was approached by a patient who said to him, 'Mr Weatherill, I am pleased to see you.' Whether that is a taste of things to come I am not sure. However—

The Hon. M.J. Atkinson: It could be.

Mr PENGILLY: I beg your pardon?

The Hon. M.J. Atkinson: It could be.

Mr PENGILLY: Yes. It really opened up my eyes. There is a difference between our prison institutions and James Nash House, given that it is run by the Department for Health and Ageing and not Correctional Services. It is quite different; it is quite a different facility. I guess the usual sterility of these facilities and their, to some extent, run-down nature is indicative of what they are. I

think the fact that we are going to put in another 10 beds out there is a very useful exercise. Again, we support the project.

The Hon. R.B. SUCH (Fisher) (11:23): I support this redevelopment. I make the point, in the wider context, that I do not think that, as a society and as a parliament, governments, over time, have adequately addressed the issue of mental health and how it relates to criminal and antisocial behaviour. Once again, it is the old theme of early intervention. I am not an expert but I understand that most people suffering from personality disorders are untreatable, but anyone who has spent any time looking at how the court system operates will know that there is a constant cavalcade of people fronting the courts who obviously have some psychological or psychiatric problem. The police themselves are confronted every day with dealing with people who suffer in one way or another from a psychiatric or psychological condition.

The sad reality is that there will always be some people who have to be constrained and restrained and kept in a secure facility. I know of one character who has been in James Nash House for a long time, a lad who grew up near to where I did. He has spent most of his adult life incarcerated, and it is a very sad thing to observe.

I support this proposal. It does not tackle the root cause of the problem, but it is necessary to deal with some people who are not able or, in some cases, are unwilling to behave appropriately and be effective members of the wider community. I commend this project and once again encourage the government and the parliament to focus on some of the underlying causes and make a commitment to treat, where possible, some of these disorders before they result in criminal behaviour.

Mrs GERAGHTY (Torrens) (11:25): As James Nash House is in my electorate, I have watched what has been happening with it for many years. There were proposals quite some time ago to redevelop the centre, so I am really quite pleased that this is now going to occur. I think we are going to have a much better facility for people to be cared in, so I support the proposal.

Motion carried.

PUBLIC WORKS COMMITTEE: ELIZABETH SPECIAL SCHOOL NEW SCHOOL

Mr ODENWALDER (Little Para) (11:26): I move:

> That the 448th report of the committee, entitled Elizabeth Special School New School, be noted.

I note that this excellent facility will be moving out of my electorate and into another, but I am not bitter about that because it is a very good proposal. It involves the construction of a new school, to relocate Elizabeth Special School to a site adjacent to the excellent Mark Oliphant College at an estimated cost of $13.05 million, excluding GST.

Funds of $12.2 million were included in the 2009-10 state budget, together with funding of $0.85 million from the Building the Education Revolution (BER) program for a new activity hall, which brings the total project budget to $13.05 million, as I said.

The new school will accommodate approximately 130 students from reception to year 12. The scope of the development is summarised as follows: an administration and resource building; a gymnasium; a hall; a severe and multiple disabled subschool; junior, primary, middle and senior subschools; a sensory area; studio areas; a horticulture and bus enclosure; a central park; a staff car park; and student drop-off and pick-up zones.

The proposed project aims to provide modern, efficient and functional areas for the delivery of special needs education for Elizabeth Special School and for children in the northern suburbs. The key drivers for the development are to provide a secure, positive and caring community for the students, parents, caregivers and staff, where all are valued and can experience success in a contemporary educational setting, and to allow for students to develop to their maximum potential, with emphasis on the creation of flexible indoor and outdoor learning spaces. This project is expected to be completed by September 2013, and the Public Works Committee reports to parliament that it recommends the proposed public works.

Mr PENGILLY (Finniss) (11:28): The opposition supports the project.

The Hon. R.B. SUCH (Fisher) (11:28): The provision of these facilities is welcome. There is quite a debate amongst educators and parents regarding whether you mainstream children who have an intellectual disability or whether you provide a separate facility. Many parents do not want their child to be seen as different from other children, and I can understand that, but the thing about

these facilities, including these new ones, is that they are specially designed to cater for the needs of children who do have special needs. Some of these young people can be very challenging.

My brother John was a principal at Ashford Special School for probably 20 years and, prior to that, at Woodville Special School, and he was involved with Minda as well. The staff who work in these places are to be commended, because the challenges they face are significant. These facilities are special facilities, and that is what a lot of parents who choose not to send their child to one of these units often overlook. These special schools have particular facilities designed to assist those with an intellectual disability or some other disability.

I just make the point that the people who work in them—I could not do it myself—I commend for what they do, and we can help them and, more importantly, help the children by having up-to-date facilities. I commend the government for spending this money, because it is needed and it is important that we do not overlook children who have significant disabilities, and the provision of these new facilities will certainly help them and the wider community.

Motion carried.

PUBLIC WORKS COMMITTEE: RIVERLAND SPECIAL SCHOOL REDEVELOPMENT

Mr ODENWALDER (Little Para) (11:31): I move:

That the 449th report of the committee, entitled Riverland Special School Redevelopment, be noted.

The Riverland Special School was successful in achieving priority inclusion in the capital works program announced in the 2010-11 state budget under the special schools renewal program. It is proposed to develop a new Riverland Special School on the Glossop senior campus site. The proposal will improve the educational accommodation for the school and avoid the on-going costs of maintenance of aged transportable and Demac buildings.

It will also increase the available play space to meet the DECD entitlement and also comply with current disability access requirements across the site. This project is expected to be completed by September 2013 at an estimated cost of $7.65 million. Given this, and pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to the parliament that it recommends the proposed public works.

Mr PENGILLY (Finniss) (11:32): The opposition supports this project, as indeed it should. I heard what the member for Fisher had to say—

The Hon. M.J. Atkinson: Labor is always spending money in the regions.

Mr PENGILLY: If you want to make a contribution, Mick, you can wait until I sit down. As we have done with all these special school projects—I am not quite sure whether the member for Fisher has read up on all the projects we have done lately—projects such as Ashford Special School will be done in tandem with the adjoining school just down the road, so wherever possible these special schools are factored into working with the traditional schools.

However, the Riverland Special School was a much-needed redevelopment. It was interesting to have the co-principals down to talk about the project before the committee and we support the project. I think the member for Chaffey wants to have a crack.

Mr WHETSTONE (Chaffey) (11:33): Just briefly, I would like to talk about the Riverland Special School. I was actually privileged to go along last week and attend the 50-year celebration of the Riverland Special School. It is a school that has been there not for 50 years but for around 40 years, but to see what that school has achieved over that term of its life was truly—I would not like to say amazing, but many of the staff have been there since day one and were there at the reunion. It was a testament to what they had achieved and how dedicated they had been to that school.

The redevelopment is something that I feel has been a long time coming. For those in this place who do not understand, it is a school on the side of a hill, trying to address the needs of those less fortunate than us who, in particular, have physical handicap issues. With the wheelchairs, frames and the assistant products they use to get around that school, they do a remarkable job. I fully support the building of the new school, which will be down next to the senior campus of the Glossop High School in Berri. It has been a long time coming. The old asbestos buildings at the existing school are now in need of repair and are past their use-by date.

Again, it is a school that really has huge representation in the region. It is not that it is a centre for special needs students, but it has an attraction in that it offers so much to the young

students who need a school with the special capability of giving them the best chance in life. Again, the new school is much welcomed. It is an institution that has, as I said, been in the Riverland for over 50 years and supports the new school just down the road.

Motion carried.

PUBLIC WORKS COMMITTEE: PORT PIRIE GP PLUS HEALTH CARE CENTRE

Mr ODENWALDER (Little Para) (11:35): I move:

That the 450th report of the committee, entitled Port Pirie GP Plus Health Care Centre, be noted.

This report details the GP Plus Health Care Centre at Port Pirie, with a new facility to be constructed at Gertrude Street, Port Pirie, adjacent to the existing Port Pirie Hospital. This facility will provide physical infrastructure to support the delivery of integrated services with a health and wellbeing perspective, including space for consulting rooms, group meetings, therapy procedures and car parking. The total capital cost budgeted for the project is $12.49 million, including GST. The objectives of the Port Pirie GP Plus Health Care Centre include:

- one integrated health service provided to the community;
- increased equity of access and equity of health outcomes;
- improved balance on in hospital/out of hospital services;
- improved self-management of chronic diseases;
- additional services in areas such as diabetes, respiratory, cardiac problems and pharmacy;
- improved access to preventative health care;
- a reduction in accident and emergency presentations;
- reduced hospital admissions;
- increased volume of services available to the community;
- an increase in the range of programs available;
- an increase in the medical services available generally to the community; and
- integrated services between health partners.

I have seen firsthand the great success of the Elizabeth GP Plus clinic, which has certainly eased pressure on the Lyell McEwin emergency department. Given this, and pursuant to section 12C of the Parliamentary Committees Act, the Public Works Committee reports to parliament that it recommends the proposed public works.

Mr VENNING (Schubert) (11:37): I want to commend the committee on its report and say how pleased the community are up there that this has eventually happened. This was an idea of the previous member, the then premier Hon. Rob Kerin, and I am pleased that it has eventually come about. Port Pirie is very important to the region's health because it is the major hospital. Even though Crystal Brook is only a few kilometres down the road, Port Pirie is certainly the major acute hospital for the whole region.

I am a little bit concerned that, over the years, Port Pirie has missed out because it is a fair way from Adelaide. I believe that, when we have seen all the extra money that has been spent in the regions—Mount Gambier and Berri—and in the last lot of funding Port Pirie missed out. I am pleased that, at least through the GP Plus, we have seen an increase in the services.

I commend all those who work in Port Pirie Hospital because they do a great job. It is a large city and it is a very good facility. Can I say that the people of Crystal Brook certainly work well with the people of Port Pirie. We are so lucky to have a facility like we do in Crystal Brook because it is funded largely by private donations and private bequests, including from our own family—both my mother and father spent their last days there. It was a pleasure to go there just last week to see a room set up for palliative care with equipment donated by my late father and mother.

This is the sort of thing rural communities do and we are so pleased to have a facility like we have at Crystal Brook and we are just so thankful to the people who keep it there. It is a great place for older folk, who are aged and infirm, to go there and spend their last days, as both my parents did.

Without any further ado, I am pleased that this has eventually happened. It has been on the go for some time and I commend the previous member—the member for Frome, in those days—the Hon. Rob Kerin, for having the idea in the first place.

Mr VAN HOLST PELLEKAAN (Stuart) (11:39): I, too, rise to support the report and to support the upgrade of the Port Pirie GP Plus Health Care Centre. There is an enormous part of the electorate of Stuart that is serviced by medical people, services, facilities and support in Port Pirie, and I think that this is going to be an important development and that it is money very well spent. It also highlights the fact that, probably four years ago when the government announced its Country Health Care Plan and its intention to upgrade the hospitals at Port Lincoln, Whyalla, Berri and Mount Gambier, an enormous part of the state was missed out.

I do not begrudge those communities; in fact, I am very pleased that each of them are getting significant money spent (in the tens of millions of dollars) on those hospitals and good for those communities, but there certainly is a very good argument put forward that Port Pirie or Port Augusta should have been included in that list. I think that it showed a great lack of foresight that an enormous section of the Mid North—as well as the Flinders Ranges and outback area—was neglected by that plan at the time, so I think that this is money very well spent by the government.

As the member for Schubert quite correctly highlighted, this follows on from the original suggestion and plans by the former member for Frome, the Hon. Rob Kerin, and so I certainly strongly support the government making this investment in Port Pirie.

Motion carried.

ECONOMIC AND FINANCE COMMITTEE: EMERGENCY SERVICES LEVY 2012-13

The Hon. M.J. WRIGHT (Lee) (11:41): I move:

That the 77th report of the committee, entitled Emergency Services Levy 2012-13, be noted.

The Economic and Finance Committee has an annual statutory duty to examine the minister's determinations in relation to the emergency services levy. The committee has 21 days in which to inquire into, consider and report on the minister's statement after it is referred to the committee pursuant to section 10(5a) of the Emergency Services Funding Act 1998.

This year was no exception, with the committee receiving the minister's statement on 29 May. As required by the act, the minister's statement included the determinations that the minister proposes to make in relation to the emergency services levy for the 2012-13 financial year. Section 10(4) of the act requires these determinations to be made in respect of:

- the amount that, in the minister's opinion, needs to be raised by means of the levy to fund emergency services;
- the amounts to be expended for various kinds of emergency services; and
- as far as practicable, the extent to which the various parts of the state will benefit from the application of that amount.

On 6 June the committee heard from representatives from the Department of Treasury and Finance, SAFECOM, the Metropolitan Fire Service, the Country Fire Service and the State Emergency Service. The witnesses provided the committee with details on the proposed levy for the 2012-13 year. The committee notes the total expenditure on emergency services for 2012-13 is projected to be $233.4 million. There will be no increase in levy rates either for owners of fixed property or for owners of motor vehicles and vessels in 2012-13.

The committee notes total expenditure for 2011-12 is expected to be broadly in line with the original budget estimate. The committee also notes that cash balances in the Community Emergency Services Fund are expected to reach $2.7 million by 30 June 2012. The committee notes that the 2012-13 target expenditure of $233.4 million on emergency services is made up of the following components:

- the emergency services levy inclusive of remissions will fund $230.2 million. Private owners of property are expected to contribute $126.4 million, with the balance of $103 million being met by government;
- interest earnings and revenue from the sale of certificates will fund an estimated $2.9 million; and

- $0.2 million will be funded from the Community Emergency Services Fund's cash balance.

The committee also notes that the 2012-13 target expenditure of $233.4 million is $4.6 million higher than the 2011-12 estimated outcome. The committee was told that this is mainly due to:

- a full year of funding for the State Fire and Emergency Communication Centre;
- supplementation for the firefighters' enterprise bargaining agreement; and
- 2012-13 budget initiatives that provide additional funding for capital replacement for front-line services and for training for the safety of front-line community emergency responders.

The committee was also told of initiatives recently introduced into the emergency services sector by the witnesses who appeared before the committee. These included:

- the adoption of an emergency warning system to the community, including website development and interactive voice recording system and messaging systems;
- a state emergency call centre;
- the extension of the MFS road accident program;
- the introduction of the SES community education unit;
- extra training for volunteers in occupational health and safety;
- CFS community educators on bushfire preparedness; and
- website development on the use of social media as a way of communicating information relating to emergencies.

The committee has fulfilled its obligation under the Emergency Services Funding Act 1998. I take this opportunity to thank the members of the Economic and Finance Committee and the departmental representatives who assisted the committee in reporting on the minister's determinations for the 2012-13 emergency services levy. Therefore, pursuant to section 6 of the Parliamentary Committees Act 1991, the Economic and Finance Committee recommends to parliament that it note this report.

Mr GRIFFITHS (Goyder) (11:46): While no longer, sadly, being a member of the Economic and Finance Committee, I will seek the opportunity to comment briefly on it, having taken part in many of the previous reviews of the emergency services levy.

There was a lot of political capital used at the time of the introduction of the emergency services levy, and some concerns—there is no doubt about that—because it was another impost upon property owners. However, it is very clear to all of us that there is a great need for a regular source of funding to be available to fund all the needs that exist across the emergency services spectrum.

I learnt a lot from those briefings. I was truly amazed at how many people would attend a meeting, sometimes. Quite often, there were about 25 people in the gallery and only about three people who ever answered a question, but they had to be prepared for any question posed by a committee member. The Presiding Member, in my observation, has been a very fair person and, indeed, all of those who preceded you were very fair and allowed the opposition to ask a range of questions in any area.

Mr Venning: Like my dad.

Mr GRIFFITHS: Like his dad. It is appropriate, indeed (and the chairperson, in submitting the report, highlighted the fact), that $126 million comes from the purse of the South Australian taxpayers; and it is appropriate that there is a good level of scrutiny on that and a range of questions to ensure that not only the amount of money that has been received is appropriate (and I note that there is no change in the levy rate this year) but also the areas in which it is expended are the best they can possibly be.

In the absence of opposition members of the Economic and Finance Committee, I also acknowledge the submission of the report and look forward to further considerations by the Economic and Finance Committee in future years, in similar detail, about the scope of the emergency services levy.

Mr VENNING (Schubert) (11:48): I want to commend the Economic and Finance Committee. We do not hear enough of it in this place and it is quite a rare event to get a report.

The Hon. R.B. Such: They are modest.

Mr VENNING: Modest, absolutely; but it is a most critical and senior committee of the parliament. I commend the committee, and particularly the Presiding Member, on the work it is doing.

In relation to the emergency services levy, that is a topical thing and a very relevant issue to be assessing, and I appreciate what the committee has done. I think the report should be widely read by at least all the members in this place and also circulated to the regions, particularly where the CFS is very active.

I commend the volunteers and also the officials for the work the CFS does because we certainly would be lost without them. I am very concerned that, bit by bit, as occupational health and safety things come in, we are getting fewer people offering themselves as volunteers—not just for the CFS but also the SES and all the other bodies that are reliant on the volunteer ethic.

That brings me to the point: I was just wondering whether we could create a special category of person who puts their time and effort into volunteering, and should they not get some assistance in relation to this levy? I know it would be pretty hard to administer, but I believe it would be a good gesture of behalf of the people of South Australia, particularly from the parliament, that certain people who volunteer at a high level and also those businesses who allow their employees to go as soon as the siren goes to leave work, irrespective of the job at hand, and attend the emergency, whether it be a fire, whether it be an air incident, a road accident, or whatever. I believe it would be a very good gesture.

This levy is paid by all of us, including all those people who attend the fires. I believe they should get some recompense or some recognition that we as taxpayers will say that they ought to be exempt from this, and I think there ought to be work done to make that happen. I know it would be difficult to administer that, but I think in certain cases where there is no doubt of the service these people have been doing, and doing it for a long time, we ought to make that classification.

Mr van Holst Pellekaan: You can join up—

Mr VENNING: The member for Stuart says—yes, exactly right. After I leave this place I will certainly be involved in this. I do not think I will be on the back of the truck, but I certainly would be in the office, because I used to be a radio operator before, and I did that in the Army for two years, so I have some expertise in that area. Thanks for the advice; I do appreciate that. Again, I commend the committee, but, to the relevant minister: I would love to recognise these volunteers by giving them some assistance in relation to not paying this levy.

The Hon. R.B. SUCH (Fisher) (11:51): I think it is important to reflect on why we have the emergency services levy. We used to have a hotchpotch of funding arrangements for emergency services. They were inadequate and there was an unfair burden placed on some, no burden at all on others. Victoria is trying to emulate what we have already done here, so people should have a look at what is happening in Victoria and they will see the merit of continuing with the emergency services levy.

I will just issue a couple of cautionary points, that is, that these levies—whether it is the NRM levy, Save the River Murray levy, whatever—do not become an easy way of taking the load off the budget. There is always a temptation for governments to use these as an alternative budget provision when some of the things that are provided out of these levies should have come out of normal budget allocations.

Putting that aside, I think the emergency services levy is a good scheme and it has served South Australia well, but from time to time it will need to be finetuned to make sure it is doing what the community really wants it to do.

Motion carried.

ANTISOCIAL AND CRIMINAL BEHAVIOUR

The Hon. R.B. SUCH (Fisher) (11:53): I move:

That this house establish a select committee to inquire into and report upon:

(a) the causes of antisocial and criminal behaviour in South Australia;

(b) the strategies that could and should be used to reduce and deal with offending; and

any other matter.

The Attorney can speak for himself, and I am not sure at the end of the day whether he and the government are going to support it.

The Hon. S.W. Key: I thought you were on the Social Development Committee.

The Hon. R.B. SUCH: This is a select committee.

The Hon. S.W. Key: I know, but I thought you were on the Social Development Committee; why can't you do it on there?

The Hon. R.B. SUCH: The member for Ashford interjects, 'Why not do it through the Social Development Committee?' I think the Social Development Committee has got enough on its plate to keep it going for many, many years. As I was saying, the Attorney can speak for himself, but I have had an informal discussion with him about this matter.

What often happens is that as soon as you raise the issue of law and order, particularly leading up to an election, you get options from various parties, and others, trying to outdo each other with how many more people they can hang than the other party, or how many more hands they can cut off, or how many more people they can incarcerate. What we need to do is have a look in a rational way at the causes of crime and antisocial behaviour in South Australia and, more importantly, have a look at how we deal with that antisocial and criminal behaviour to reduce the incidence of it and also, obviously, the related offending.

My concern always is with the human aspect of things but, for those who want a financial incentive, one need only look at the statistics in South Australia. In 2005, we had 1,521 prisoners incarcerated. Last year, we had 1,998 prisoners incarcerated. At current rates, we can expect an increase of 120 prisoners per annum. That is taken from corrections data: ABS Corrective Services Bulletin. Translated into cost, the current cost, as estimated by the Productivity Commission, is $194 a day per prisoner, or $70,810 per annum per prisoner. If you add in the cost of the criminal justice system, according to the Department of Treasury and Finance, as cited in a report by Garrett in 2008 (so it obviously would have changed a bit by now), it was $795 million in 2006-07.

We cannot—and I do not believe we should—keep on trying to tackle the problem by incarceration. I know it is not the only strategy, but it does not work. A report was tabled in the Parliament of Victoria by the Drugs and Crime Prevention Committee on their Inquiry into Locally Based Approaches to Community Safety and Crime Prevention, dated June 2012. In their report they made the point that harsher penal laws, new prisons and the expansion of police forces have had a limited impact on reducing violence and have failed to discourage new crimes. They then detail a whole lot of things that should be considered

I will not have time to go into all of them, but they outline many initiatives that could be adopted, and they would be the sorts of things that this select committee could look at. I came across a staggering statistic the other day. People often look to the United States as a leader in a whole lot of things, but currently a quarter of the world's prison population is incarcerated in the United States. That is a staggering figure. It does not work and it has not worked, just as in the United States the death penalty in Texas and places like that has not stopped people committing murder.

Norway has a very efficient and successful prison system. In Norway, 20 per cent of their prisoners end up back in gaol within two years. In South Australia, it is about 40 per cent. In the UK and the US, it is between 50 per cent and 60 per cent. Even with the prison system, there is still a significant number of people who end up coming back into the system. This is not surprising when you look at the characteristics of prisoners.

In South Australia, 56 per cent of prisoners are between 20 and 35 years of age. They come from a background of social and economic disadvantage, generational unemployment, drug and alcohol addictions, and are functionally illiterate. Many have a psychiatric illness or an intellectual disability. Almost all male sex offenders were sexually abused as children and, according to Correctional Services annual report, 80 per cent had extremely low levels of literacy. Further, 40 per cent were unemployed at the time of their arrest and 32 per cent had an education level of grade 10 or below.

For women, they are usually under the age of 25. They are characterised by social and economic disadvantage, and drug and alcohol addiction. Most are mothers of dependent children.

Many have experienced sexual or physical violence in their life and many have a psychiatric illness or an intellectual disability. It is hardly surprising that these people end up in prison. Select committees can do useful things, as members will see shortly when the cemeteries bill is brought before the house. Select committees can look at things in a rational and nonpartisan way to help improve South Australia.

I urge members to support this motion, and I ask the government and the opposition to support it as well. It is not a partisan thing; it is not an attack on the government. It is to deal with a very serious problem relating to early intervention and all of those sort of things we can do to help reduce the number of people who engage in antisocial behaviour or criminal activity. I urge members to support this motion to help improve the quality of life in South Australia and to reduce the number of people who are offending or engaging in antisocial behaviour.

Debate adjourned on motion of Mrs Geraghty.

SITTINGS AND BUSINESS

The Hon. C.C. FOX (Bright—Minister for Transport Services) (12:01): I move:

That standing and sessional orders be so far suspended as to enable Private Members Business, Bills, Order of the Day No. 4, set down for Thursday 6 September, to be taken into consideration forthwith and that debate be limited to the times provided in sessional orders for the consideration of private members business.

The SPEAKER: An absolute majority not being present, ring the bills.

An absolute majority of the whole number of members being present:

The SPEAKER: There being 24 members present, I accept the motion.

Motion carried.

LOCAL GOVERNMENT (ROAD CLOSURES—1934 ACT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 31 May 2012.)

Ms SANDERSON (Adelaide) (12:04): I refer members to my second reading speech of 24 November last year, responding against this bill when it was last introduced. The bill was reintroduced on 31 May this year as a private member's bill by the member for Croydon, and it now appears in government business—yet still as a private member's bill. This would indicate that the member for Croydon still does not have his party's support, despite his lobbying for 23 years. Putting this bill in government business would also indicate that the government has run out of business.

The opening statement from the member for Croydon, on his last attempt at this bill on 10 November 2011, stated, 'The principle for which I have been arguing—'

Members interjecting:

The SPEAKER: Order! The member will be heard in silence. There is too much noise coming from my right.

Ms SANDERSON: Can we stop the clock every time we break, otherwise I will not have time?

The SPEAKER: Order!

Ms SANDERSON: The member for Croydon stated:

The principle for which I have been arguing for so many years is that, if a local council seeks to close or impose traffic restrictions on a road leading from its territory into that of a neighbouring council, it should do so with the consent of the neighbouring council.

Whilst there could be merit in this argument for future road closures, the member for Croydon was, and still is, proposing a retrospective change to a road condition that has existed for 25 years. Where is the fairness in that? A principle, as defined, is a fixed or predetermined policy or mode of action. This new bill, now finally perfected after 23 years in parliament, has many significant changes.

Mr PENGILLY: Point of order, ma'am. Could you ask the members on the front bench to keep their noise down? Every bit of it comes straight over here.

Members interjecting:

The SPEAKER: Order! We will have some quiet. There is a lot of noise coming in and it is projecting very loudly.

Ms SANDERSON: The so-called principle that the member for Croydon has been going on about for so many years is completely removed, and the bill now exclusively applies to Barton Terrace West. Now, that is what you call a vendetta; 23 years of pretending to be protecting a principle, and it boils down to a vendetta against the people of North Adelaide.

If this were such a great idea, so important for traffic flows, improved amenity and road safety, this so-called principle the member has been going on about, this would have been a government bill in 2002 when Labor first came to power, or it would have been passed when the member for Croydon first proposed amendments in 1999. It would not be a private member's bill, as it has been for all attempts in the House of Assembly: it would be a government bill.

When the fact that the member for Croydon did nothing for 10 years was pointed out by the member for Bragg last year, the member for Croydon replied, 'No; two defeated cabinet submissions.' So, does he really even have the support of his own party? Perhaps he has promised to retire if they get him this—maybe it would be worth it.

The member also insinuates that this was not agreed to in 1987 when the road was closed to all except buses. Barton Road was closed in 1987 as part of a major realignment of roads and the creation of the northern ring route around the city in the 1980s. The closure of Barton Road was not, as has been suggested by the member for Croydon, a unilateral decision made by the Adelaide City Council. At the time, these road alignments—including the Barton Road closure—had the support of Hindmarsh and Prospect councils and the highways department.

The consultation by the north-west ring route working party was extensive and included displays of the proposal to close Barton Road (which was Mildred Road at the time). Many residents have chosen to reside in the north-western precinct of North Adelaide since this time, knowing that Barton Road was closed. It is difficult to see what justice will be accorded to them if this road is reopened after 25 years.

I draw the house's attention to the fact that during the member for Croydon's last speech regarding this bill, on 31 May, 10 points of order were called against him, and he was completely vile, rude and an embarrassment to his party, to the parliament and to the people he represents. The member for Croydon accused me of being vindictive, yet he has dedicated his time in parliament to tormenting the people of North Adelaide, creating a false class warfare, wasting taxpayers' money on mail-outs and data entry and parliamentary counsel's time drafting and re-drafting—even seven extra amendments just this morning—and, all the time, speeches in the house.

I refer to the recent article in the paper that put the cost of state parliament at $100,000 a day. Given on average we sit for six hours per day, the member for Croydon having mentioned Barton Terrace West 563 times, having given 26 speeches, wasting upwards of five hours not including speeches in the Legislative Council and not counting the reply speeches that have been made defending his ridiculous attempts at having some relevance in this place, this is another example of the Labor Party's distorted priorities and endless waste of taxpayers' money—a decade of Labor waste.

Is this really how the member for Croydon wants to be remembered when he leaves parliament—as a member who pursued his personal vendetta unsuccessfully for his whole career? Seriously, give up. The member for Croydon tells the house that he has received 4,000 returns so far in favour of reopening and 40 against. This is after letterboxing the seat of Croydon and marginal seat of Colton. He informs us that he will also be letterboxing the seats of Cheltenham and Lee. Clearly, this is campaigning. This is a disgraceful waste of taxpayer money to survey residents who live more than 10 kilometres away from the issue, especially when he has not even surveyed the people most affected yet in Ovingham and North Adelaide.

I have doorknocked the streets of my electorate and surveyed those who would be directly affected by the reopening of the road, including those in Ovingham and North Adelaide. We doorknocked more than 600 homes. Of the residents who responded, 79 per cent would like Barton Terrace West to remain open only to buses as it is now. I also note that Hawker Street was changed to a 40 km/h zone in order to restrict traffic. This bill will only increase traffic onto Hawker Street and will cause more issues with the train crossing that is blocked by freight trains several

times a day for up to 15 minutes. This will cause gridlock as Hawker Street cannot take any more traffic unless there is a rail overpass.

According to the 1999 report commissioned by the Adelaide City Council, the findings of consultants Murray F. Young & Associates were almost singularly negative about the impacts and potential reopening of this link. The report estimates—

Members interjecting:

The SPEAKER: Order!

Ms SANDERSON: —an expense of $1 million to be borne by the Adelaide City Council just to re-engineer the one intersection 13 years ago. Now this figure would be substantially more. Last year a PhD candidate at the University of South Australia did a traffic simulation of the reopening of Barton Road from 8am until 9am on a weekday, and it showed considerable congestion along Barton Terrace West and the need to re-engineer several intersections. This would be at considerable cost and have flow-on effects to many other streets. This is another example of Labor's willingness to spend taxpayers' money—or, in this instance, ratepayers' money—on their own follies. We will soon be at the levels of debt we had during the State Bank disaster, and the member for Croydon thinks this would be a good use of money.

In 2002, traffic surveys undertaken in North Adelaide demonstrated that the control has proven effective in increasing the levels of road safety and residential amenity to North Adelaide streets. In 1986, before the road's closure, there were 51 vehicle accidents in Barton Terrace, with 11 people injured, several requiring hospital admission. In 2009, only one accident was recorded with no injury. Hill Street went from seven accidents in 1986 to one in 2009. Mills Terrace went from nine accidents in 1986 to one in 2009. With such vulnerable populations—elderly residents at Helping Hand Aged Care centre, children at St Dominic's, the patients and visitors to Calvary Hospital and Mary Potter Hospice, and the families accessing the aquatic centre along Barton Terrace West—the potential for tragedy is very real with such an increase in traffic.

Despite a campaign, or obsession, of more than 20 years, the member for Croydon has no supporting evidence—no traffic surveys, no mention of accident statistics, no traffic simulations or movement strategies, no costings—and now even the so-called principle he has been fighting for all this time has been completely removed from the bill, including seven extra omissions and amendments this morning. Clearly, this has all been about Barton Terrace West the whole time and a longstanding vendetta against the residents of North Adelaide.

It astounds me that the member for Croydon is willing to waste the parliament's time and waste thousands of taxpayers' dollars pursuing legislation to open a council road that was closed to return a residential street to the amenity it deserves—all for his own self-interest and obsession.

Ms CHAPMAN (Bragg) (12:15): I wish first to place on the record my appreciation, as a member of this house, for the excellent contribution from the member for Adelaide on this piece of legislation. The member for Croydon has, throughout his time in the parliament, been obsessed about a number of things but this would have to be at the top of the list, without a doubt. It is his most unsuccessful to date, I would have to say, but what is concerning is that we now come to the twilight of the debate on this piece of legislation at a time when, remarkably, we are near the end of the parliamentary sitting for this session and miraculously, this piece of private members' legislation appears in government business time.

There is no correspondence or advice as to why it has now been elevated to this status in some way. It gives an indication initially of one thing; that is, perhaps the government themselves were going to adopt this bill as their own. The alternative is that the government has decided that it is going to throw its weight behind this bill and, if that is the case, it does raise a number of questions about where it has been in the last 10 years but, more particularly, what this bill is really about, and what it has developed to as a result of some rather embarrassing situations that the government now faces.

I would like to suggest that there are a number of options here. I will say at the outset that the government's time, which is now allocated to deal with this matter, did prompt my office to request a briefing from the department of transport on this matter. That was wholly rejected on the grounds that this was not a government bill and therefore they were not obliged in any way to provide any information. Isn't that interesting? Nevertheless, we press on with it as a private member's bill in government time.

I would just like to put this piece of information to the parliament: no piece of traffic data or information from any transport expert, including anyone from the department of transport, has been presented in support of the effect of this legislation—to open up to all forms of traffic this part of Barton Terrace. Not one scintilla of professional information, and the reason that that is so important is that at the time of the closure, some 25 years ago, there had been the development, and subsequent implementation, of a very major piece of infrastructure along the western corridor of North Adelaide which I think has been an impressive piece of infrastructure and which has given extraordinary greater access to the people from the west going east and from the east going west.

That has all happened and of course the member, in this instance, wants to simply rip out his little cherrypicked piece of obsession to deal with it, completely ignorant of how that might impact on other traffic movement and activity surrounding it. That is the first thing: this is presented to us in complete isolation from any expertise that this is something that is both meritorious or even achievable in a traffic management sense.

The other aspect is this, and this is a new thing. The new event is that the government now owns the Clipsal site. The government has announced that it is going to develop this piece of property as a very significant housing development with lots of other design aspects of place, and the government has spent I think through the LMC about $10 million in promoting this piece of development. I do not think anything has actually been sold yet but, nevertheless, there have been all sorts of glossy magazines and special parties and champagne openings and all these sorts of things to develop it.

There are two things the government needs to do. One, is to make it attractive enough for people to invest in and ultimately buy dwellings there; and second, is to ensure that there is sufficient infrastructure and transport around it. One thing the government recently announced is its support, or contribution, to a $400 million grade separation of rail infrastructure, both at Goodwood and Torrens. The Torrens interchange is immediately adjacent to the Bowden development, the old Clipsal site. That is to include the undergrounding through that site of a significant portion of one of the rail corridors.

This is a major piece of infrastructure for the taxpayers of South Australia, and, in fact, for Australia (because the commonwealth is paying the other half), which will enhance the opportunities the government will have to develop, sell and make any profit out of that site. I think that is a concerning aspect in itself. I have no personal objection to the grade separation, the justifications, the freight benefits, and the like, of a grade separation at the Goodwood and Torrens interchanges. What concerns me is that the government should prioritise that with the clear objective, I suggest, of supporting its development.

The second aspect of that project is how the government proposed to get traffic around that precinct (the whole of the area) during the grade separation exercise—

The Hon. M.J. Atkinson interjecting:

The DEPUTY SPEAKER: The member for Croydon will have a chance to respond.

Ms CHAPMAN: —because that is obviously going to be a significant—

Mrs GERAGHTY: I rise on a point of order. I am quite fascinated by what the member for Bragg is saying but I am now having a bit of trouble relating it back to Barton Terrace.

Ms CHAPMAN: This is it. It is right next to it.

Mrs GERAGHTY: Yes, I know, but you—

Ms Sanderson interjecting:

Mrs GERAGHTY: I am not sure, but I think you have strayed a little bit.

Ms CHAPMAN: Can I perhaps make it absolutely clear for the member. I appreciate that it is not her electorate. Next to Port Road is what is the second part of the Goodwood/Torrens grade separation project. It is a $400 million exercise. It is in this year's state budget. The Torrens interchange is right next to the Torrens, next to Park Terrace, which is the apex point, I suppose, on Port Road and adjacent to the Clipsal site. The Barton Terrace we are talking about is just up the road. The whole of that infrastructure has been remodelled in the last few years. The next new piece of infrastructure the government has announced in this year's budget as its very high priority is the Goodwood/Torrens grade separation of the two rail lines that run across them.

I think I now have the member's understanding of the precinct. It is my contention, in the absence of any data from the member for Croydon, that the only benefit in the government coming to the party on this now (suddenly) is that it wants to develop that precinct and it knows that the one way it can deal with the development, including taking the rail line under Park Terrace, is to open up other access roads. That would be the only benefit to the government in doing this.

The second aspect is this: because it seems that the government has been pretty slow so far in being able to get some interest in the Bowden development, you might have noticed in the budget bill just recently that it cherrypicked a bit across to enable it to have the stamp duty exemption which the City of Adelaide people enjoy, along with a Western Australian developer on a Hackney site. The Bowden site has now been added in. What else could it do other than try to develop the opportunities at that site to say, 'You'll be able to have access through this road. You'll be able to go and have coffee on O'Connell Street,' whatever.

That type of self-interest by the government to scramble across and support the member for Croydon (20 years later) is almost laughable. The total self-interest of this government in now scrambling around and coming behind the member for Croydon is absolutely laughable. I am very interested to hear the Minister for Transport Services present in this debate because I am very much looking forward to hearing what the department of transport has advised on this matter. I am very interested to hear what the department has advised the Minister for Transport Services as to the merits of the proposal endorsed in the bill.

I will just mention one other thing. We have been presented with some amendments, which I can deal with in due course. This issue has been around for 20 years. I cannot understand why we should have to have these on the day of the debate. That is just lazy.

Mr PENGILLY (Finniss) (12:25): I also rise to make a few comments on this matter. I find it quite bizarre that after some two decades—and the former senior lawmaker in this state, who was a very senior member of cabinet, tried to introduce this nonsense before and got rolled—we are here debating a private member's bill on such a ridiculous issue.

The member for Bragg has stolen some of my thunder. However, there is absolutely no doubt in my mind that, if the government is going to support this bill, it is all about the disastrous development of Bowden, the Clipsal site, and the government sees the member for Croydon's bill on Barton Road as a means of propping up this development. We went through the development in the Public Works Committee, and I think, sir, you may well have been the chair at the time; I cannot recall. Why we are sitting here debating this issue defies comprehension, and I think the member for Adelaide very adequately put the case against this.

If indeed the government is supporting the member for Croydon in this debate and the bill gets pushed through this house, there will be a fine old tussle in the upper house when it gets there, if and when it does. I can see that there will be fun and games there, big time. Of course, the poor old member for Croydon will not be able to make a contribution. I am not sure how many allies he has there, but I can see that the various minor parties and Independents in that place will have a lot of fun and games with this bill, if it gets there.

I really see little point in wasting our time on this matter. It has worked for over two decades, whether the member for Croydon agrees with it or not. There seems to be some sort of obnoxious class warfare, which I do not find necessary at all. I just find it disappointing. To be perfectly honest, I do not go through that area very often so it does not make a lot of difference to me, but this is something that seems to have worked.

The member for Adelaide has well and truly covered the reasons why this bill should not succeed; however, I will repeat: the Bowden development has obviously gone pear shaped big time, as the member for Bragg indicated. The fact that you cannot get a briefing from the department of transport when the government is obviously going to support this bill leaves one shaking their head. I oppose the bill.

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (12:29): When I first came into this place back in 1997, I recall that the house sat in December of that year and then resumed on 17 February 1998, from memory. I think it was the day the then premier Olsen announced that the government intended to sell ETSA. It was probably very shortly after that date, probably some time in February or March, at the latest, of 1998, that the member for Croydon first raised the issue of Barton Terrace.

The Hon. M.J. Atkinson: No, I raised it before then.

Mr WILLIAMS: It was the first I was aware he had raised it. I have been here for almost 15 years, and the member for Croydon, particularly when he was on the opposition benches, raised this matter on an incredibly regular basis. He spoke of little else, to be quite honest, in those days. I remember him making the statement that it would be the very first thing that a Labor government would do upon coming to power. That, again from memory, was in March 2002, over 10 years ago. Not only that, but the member for Croydon at some stage was a relatively senior member of the cabinet, and the very first thing they were going to do on coming to power seemed to have slipped his memory.

The Hon. M.J. Atkinson: They had it ready for me on the first day.

Mr WILLIAMS: I am sure they did. But also ready for the member for Croydon were his colleagues—they were ready for him as well. Through all the years he sat at the senior end of the cabinet table his colleges refused to entertain this nonsense, because that is what it is. It is not about orderly planning, orderly development or orderly transport. It is not about the orderly movement of people in and about our city. This is about a piece of nonsense in the mind of the member for Croydon.

Ms Bedford: Not true.

Mr WILLIAMS: 'Not true,' says one of his colleagues. I look forward to his colleagues on that side taking their place at the microphone when I have finished my remarks to explain why it is not true, why what was going to be the 'first action' of a Labor government was never taken, notwithstanding that the member who made those statements was a senior member of cabinet for many, many years, and I repeat: it is because it is a piece of nonsense. It was good to get a headline and get a bit of media when the member was in opposition, but all his colleges knew that it was a nonsense and that is the way they treated it.

What has fascinated me is why the government is entertaining the member for Croydon by allowing him to bring this on in government time today. That has me a little intrigued. I am sure it is not because the government has reassessed the matter and decided that this is now all of a sudden important and will enhance the movement of traffic in and around our city. I am sure it is not going to solve the problem with their bus timetables: in fact, this will do the opposite. One of the biggest transport problems we have in this city at the moment is getting the buses to run on time.

Ms Chapman: Is the minister.

Mr WILLIAMS: I will be nice. The buses in fact do have access through this particular piece of road and, by opening it up to the rest of the traffic, I know what it will do to the buses. Here in Grenfell Street and Currie Street—

The Hon. M.J. Atkinson: Have you ever been on that bus, Mitch? What number is it?

Mr WILLIAMS: I have not broken the law. I have not driven through there.

The Hon. M.J. Atkinson: On the bus.

Mr WILLIAMS: No, I haven't been on the bus, but I have observed it.

The Hon. M.J. Atkinson: What number is it?

Mr WILLIAMS: I don't know what number it is. The government solution here in the city to try to get the buses to run on time is to exclude motor cars from parts of the thoroughfare in Grenfell Street and Currie Street; exclude motor cars to give buses absolute right of way on their own without any cars interfering to slow them down. The member for Croydon wants to do the very opposite at Barton Terrace. It is a nonsense.

One of the things I want to talk about on this is the member for Croydon's contribution when he introduced this bill. This is a matter about which I wrote to the Speaker, because it concerned me greatly. I want to quote from what the member for Croydon said in one part:

> So, the member for Adelaide must have known that her claim was false when she made it or was recklessly indifferent to whether it was true or false at the time she made it...

He goes on, but that was the relevant part. I wrote to the Speaker some time ago concerning that, because I thought the member for Croydon had been here long enough to understand that that sort of accusation, that somebody had knowingly misled the house, should only be made by a substantive motion. As the Deputy Leader of the Opposition, I took exception to the member for Croydon making that statement.

I thought he was well outside of the standing orders, and I had a significant discussion with the Speaker and the Clerk over that matter. I for one do not believe that his tacking on the back of his accusation 'or was recklessly indifferent to whether it was true or false at the time' exonerates the member at all. I think it is a very serious accusation that the member for Croydon raised in his contribution.

I think that, again, that illustrates more about the member for Croydon than anybody else in this place. The member for Croydon is on a frolic here and his frolic includes, in my opinion, abusing the rights that he has in this house. I also remind the house and come back to the point I was making that, in all those years in government, the member for Croydon was unable to bring this matter before the parliament because his colleagues would not let him.

One other thing that I think we should not lose sight of is that, for most of the time he was a senior minister in the government, the seat of Adelaide was held by the Labor Party. Is it not interesting that, when the government holds the seat of Adelaide, it will not do certain things, and one of them is to entertain the member for Croydon over this little piece of nonsense? It would not entertain the member for Croydon whilst it held the seat because—

Ms Bedford: He never gave up, let me tell you.

Mr WILLIAMS: No, he did not give up but, whilst you held the seat of Adelaide, you never entertained the member for Croydon. The good people of the seat of Adelaide will know. If this matter goes through the parliament and the road is reopened to traffic, I am sure it will cause chaos there between North Adelaide and Brompton with the steady flow of traffic on the ring route that has been created around there, because the traffic flows in that part of the city have changed dramatically from when the member first proposed this.

If it is reopened, there will be chaos down there as you cross from the Parklands into I think it is Hawker Street, Brompton, at the traffic lights there. It is bad enough getting across there now. It will cause chaos and the people of that part of the city and the communities affected will be told why this occurred. It occurred because the government lost the seat of Adelaide and the government decided that they would entertain a mere frolic on behalf of the member to Croydon—a frolic which has got nothing to do with good policy or good traffic management. It is a piece of nonsense, and I think the house should treat it as such.

The house divided on the second reading:

AYES (20)

Atkinson, M.J. (teller)	Bedford, F.E.	Caica, P.
Close, S.E.	Conlon, P.F.	Fox, C.C.
Geraghty, R.K.	Hill, J.D.	Key, S.W.
Koutsantonis, A.	O'Brien, M.F.	Odenwalder, L.K.
Piccolo, T.	Portolesi, G.	Rau, J.R.
Sibbons, A.J.	Snelling, J.J.	Thompson, M.G.
Vlahos, L.A.	Wright, M.J.	

NOES (14)

Chapman, V.A.	Goldsworthy, M.R.	Griffiths, S.P.
Marshall, S.S.	McFetridge, D.	Pegler, D.W.
Pengilly, M.	Pisoni, D.G.	Sanderson, R. (teller)
Treloar, P.A.	van Holst Pellekaan, D.C.	Venning, I.H.
Whetstone, T.J.	Williams, M.R.	

PAIRS (10)

Weatherill, J.W.	Redmond, I.M.
Bettison. Z.L.	Evans, I.F.
Bignell, L.W.	Hamilton-Smith, M.L.J.
Kenyon, T.R.	Pederick, A.S.
Rankine, J.M.	Gardner, J.A.W.

Majority of 6 for the ayes.

Second reading thus passed.

In committee.

Clause 1.

Ms CHAPMAN: Could the member advise whether he has received, or sought, any advice from the department of transport on this bill?

The Hon. M.J. ATKINSON: From time to time I have had discussions with the department of transport, both when I was a minister and afterwards, but the department of transport is neutral about the matter. It concerns local roads.

Ms CHAPMAN: In the discussions that you had with the department of transport, did they prepare any material in respect of the cost of implementing the terms of this bill?

The Hon. M.J. ATKINSON: The cost will be borne by the Adelaide City Council.

Ms CHAPMAN: Were there any assessments undertaken of that cost, even if it is to be borne by the Adelaide City Council?

The CHAIR: The member for Croydon is indicating no.

The Hon. M.J. ATKINSON: I have no recollection of what that cost was.

Ms CHAPMAN: In the course of these discussions, did the member ascertain from the department of transport what other work would need to be undertaken, and at what cost, in respect of traffic movement along the western boundary of Barton Terrace, in the corridor between the seats of Croydon and Adelaide?

The Hon. M.J. ATKINSON: I do not think there would be any consequences at all for the ring route. This is off the ring route. My original plan was to maintain the current road infrastructure and to have alternate one-way movement. The Adelaide City Council objected to the cost of traffic lights to regulate that movement, so the current bill requires the city council to reconfigure the roads at that point to allow two-way movement, which should not be very hard because it was that way for decades.

Ms CHAPMAN: Has the member had any discussions with the Adelaide City Council in respect of their attitude to the bill?

The Hon. M.J. ATKINSON: The Adelaide City Council has always been entirely rejectionist of this bill. There are no grounds for discussion; they have not sought discussions that I am aware of. Moreover, the Adelaide City Council has defied the Supreme Court, which found that it acted entirely unlawfully in installing the configuration that is currently there in a case brought by police against Gordon Howie in 1990. The Adelaide City Council then applied under the Roads (Opening and Closing) Act to close the road permanently. That is the act which should be used to open or close roads in South Australia.

The Adelaide City Council was refused permission under the Roads (Opening and Closing) Act on the recommendation of the Surveyor-General. That left the Barton Road restriction without any lawful basis whatsoever, and that is when the Adelaide City Council resorted to using the temporary closure provisions of the Local Government Act, the same provision which is used to close King William Street for the Christmas Pageant and which will be used to close Elizabeth Street Croydon for the South Australian Living Arts Festival launch between 5pm and 10pm on 1 August.

Ms CHAPMAN: Has the member consulted any further with the Charles Sturt council in respect of the proposed bill?

The Hon. M.J. ATKINSON: As members of the opposition are wont to tell the media and the house, I am in constant conference with members of the Charles Sturt council. My understanding is that, if the matter were put to a vote, the proposition for reopening Barton Road would be carried by a considerable majority of the Charles Sturt council. It is true that in the first year of the council a resolution was put by councillor Agius of Beverley ward to reopen Barton Road, and that was defeated, but it was defeated on procedural and not substantive grounds.

Ms SANDERSON: I believe that it was defeated by the Charles Sturt council on the basis that there had been no traffic surveys, road simulations, or any movement strategy at all. I am wondering if the member for Croydon has done these now.

The Hon. M.J. ATKINSON: I will attempt to rely on the Adelaide City Council's Murray F. Young & Associates report of 1999 (I think) in which they found that if Barton Road were reopened on alternate one-way movement there would be an extra 2,500 vehicles per day on Hill Street.

Ms SANDERSON: Do you acknowledge that that was before the Clipsal development, which is expected to have thousands of people, so the effect would be considerably different, and that is why the council voted against it? It would be wiser to wait until the Bowden Urban Village is up and running and do actual traffic surveys and accident studies and then consider whether this is correct.

The CHAIR: The member for Adelaide, that is not a question. If you are going to ask questions, please ask a question.

Ms Chapman: Wouldn't it be better to wait, she said.

Ms SANDERSON: Yes, wouldn't it be better to wait? Wouldn't it be—

The CHAIR: No; I heard what she said, but the question had a lot of other material which has nothing to do with the question. Member for Croydon, do you wish to answer?

The Hon. M.J. ATKINSON: Sure. The 3,000 people who will ultimately live in the Bowden Urban Village are very keen to enjoy coffee at the premises on O'Connell Street, North Adelaide. No doubt some of them will be keen to get to St Laurence's Church, to the Helping Hand to visit elderly relatives, to Calvary Hospital if they are giving birth or visiting a spouse who is giving birth, and the doctor and dentist surgeries in that part of North Adelaide. Indeed, I am sure people in Bowden Urban Village will have girls attending St Dominic's Priory School, an outstanding school in the area which supports the reopening of Barton Road.

Ms CHAPMAN: Thank you.

The Hon. M.J. Atkinson: That's the three questions.

Ms CHAPMAN: We can go to the next clause if you like; I do not mind. We have eight clauses or so.

The Hon. M.J. ATKINSON: Do this one.

The CHAIR: I will allow one more, member for Bragg.

Ms CHAPMAN: The Calvary Hospital and Mary Potter Hospice is in the North Adelaide precinct relatively adjacent to Barton Terrace—

The Hon. M.J. Atkinson: Not really.

Ms CHAPMAN: Well, a little further south but on the main road that would support the receiving of traffic if Barton Terrace was reopened. Accordingly, has there been any consultation and, if so, what is the response?

The Hon. M.J. ATKINSON: People associated with the Calvary Hospital have always been supportive of reopening the road. They resisted its closure in the first place. In particular, Dr Chitti has led the campaign for the medical profession for the reopening of the road on the basis of easy and swift access to Calvary Hospital.

Ms CHAPMAN: That was not my question.

The CHAIR: I did not hear your question.

Ms CHAPMAN: My question was: will the member tell us if he has actually consulted with the owners of the hospital in respect of this legislation; not whether there is somebody that has been vocal from the hospital community. Have they seen the bill? Have you discussed it with them at all? Have you identified whether there are going to be any traffic management issues with the significantly-developed Mary Potter Hospice facility adjacent to the hospital and whether there is going to be any impact on that facility?

The Hon. M.J. ATKINSON: The member for Bragg is really hoist on her own petard now, because Calvary Hospital and Mary Potter Hospice have in the past been favourable to reopening the road. They do not need to consult on this particular bill because it is not so technical in its

nature that it needs further consultation. People associated with those institutions support the reopening of the road for easier and swift access of their clients to their institutions.

Clause passed.

Clause 2.

The Hon. M.J. ATKINSON: I move:

Page 2, lines 6 and 7—Delete subclauses (1) and (2) and substitute 'This Act will come into operation on 1 July 2013.'

I have consulted the Local Government Association extensively on this. Although it may be that section 359 of the Local Government Act will ultimately be repealed by agreement between the government and the Local Government Association, that agreement has not yet been reached, so I have deleted that feature of the bill by these amendments. All the other amendments are consequential on that matter.

Amendment carried.

The CHAIR: Do the rest of the amendments all deal with section 359?

The Hon. M.J. ATKINSON: They all deal with the same thing.

Ms CHAPMAN: I have one question in relation to that. The member has indicated that he has consulted with the LGA about this, and I assume all of these amendments are as a result of their advice to you of what is necessary to—

The Hon. M.J. ATKINSON: Yes.

Ms CHAPMAN: —comply with the intention in respect of the application of section 359. Have you consulted with the LGA on the whole of the bill?

The Hon. M.J. ATKINSON: Yes.

Ms CHAPMAN: Apart from the LGA, have you consulted with any other stakeholder? Apart from your petition, which you have claimed has X number of signatures—

The Hon. M.J. Atkinson: Including a whole lot from Ovingham.

Ms CHAPMAN: We will come to that another time; perhaps in the rebuttal that goes out for that. In respect of the actual stakeholders—the councils themselves—you have told us that you have not consulted the Adelaide City Council because they are 'wilfully disobedient' and you are not going to tolerate anything they do; that is pretty clear. You have not consulted the other council because you think they are just going to fall into line anyway and there is going to be a majority of support.

The Hon. M.J. ATKINSON: No, I have communicated with them. We have had an exchange of correspondence with Mr Withers, the chief executive, who thinks that he was misrepresented in the opposition's account of his letter.

Progress reported; committee to sit again.

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

VISITORS

The SPEAKER: Honourable members, I draw your attention to the presence in the gallery of the Hon. Kon Vatskalis, who is the Northern Territory Minister for Mines and Resources, I believe. Welcome. I am sure your parliament is much quieter than ours during question time.

SA WATER LAND

The Hon. R.B. SUCH (Fisher): Presented a petition signed by 238 residents of South Australia requesting the house to urge the government to retain access to the SA Water land on eastern side of Flagstaff Road for the construction of a permanent two-way dual carriageway.

OAKLANDS PARK RAIL OVERPASS

Dr McFETRIDGE (Morphett): Presented a petition signed by 91 residents of South Australia requesting the house to urge the government to construct an overpass at the Diagonal

Road, Oaklands Park railway crossing to improve traffic flow and increase the safety of pedestrians.

REGULATED AND SIGNIFICANT TREES

Dr McFETRIDGE (Morphett): Presented a petition signed by 15 residents of South Australia requesting the house to urge the government to take immediate action to reopen the consultative process with appropriate industry and community bodies with the intention of rewriting the Development (Regulated Trees) Variation Regulations 2011.

PAPERS

The following paper was laid on the table:

By the Minister for Sustainability, Environment and Conservation (Hon. P. Caica) on behalf of the Minister for Police (Hon. J.M. Rankine)—

Protective Security Act 2007—Ministerial Determination—Notice—Roxby Downs

QUESTION TIME

MURRAY-DARLING BASIN PLAN

Mrs REDMOND (Heysen—Leader of the Opposition) (14:04): My question is to the Minister for Water and the River Murray. Is it the government's position that it will not accept a River Murray plan which returns anything less than 3,500 gigalitres to the environment?

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:04): We recently forwarded to the federal minister our response—

Mrs Redmond: It is easy to say yes or no.

The SPEAKER: Order!

The Hon. P. CAICA: I thank the leader for her welcoming advice. What we say, and what South Australia has been consistent about saying on every occasion, is that—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —we will not accept a plan that does not deliver the Murray-Darling Basin to an appropriate level of sustainable health. Of course, what we want is an outcomes-based result; that is—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Members on my left, order! There is too much noise in here and it is very difficult to hear.

The Hon. P. CAICA: Madam Speaker, we have been very consistent with this. South Australia is the only state fighting for the future of the River Murray, and if South Australia does not do it no other state will. Of course, we would like the opposition to come on board with this approach. It is the case—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: We have always said that we will not accept a plan that does not deliver on the objects of the act. The objects of the act, of course, are to ensure—

Mrs Redmond: How much water?

The Hon. P. CAICA: If I can just quote the opposition spokesperson on this particular matter—

Members interjecting:

The SPEAKER: Order! The minister is answering your question. You will have some order.

The Hon. P. CAICA: On 28 May 2012 the opposition spokesperson was asked—

Mr WILLIAMS: Point of order. The opposition is very clear. We know what we have said; we are trying to work out what the government has said and what the government is thinking. It is called question time, minister.

The SPEAKER: Order! There is no point of order. The minister can answer the question as he chooses; he does not need to make a yes or no answer.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: Thank you, Madam Speaker. What we have consistently said in all submissions to the Murray-Darling Basin Authority to date is that we will not accept a plan that does not deliver on the objects of the act, the objects of the act being to return the system to an appropriate level of sustainable health. Of course, there are quite a lot of other issues—

An honourable member interjecting:

The Hon. P. CAICA: Well, you can measure what is an appropriate level of sustainable health. What we can say at the moment is that it is quite clear, on the analysis undertaken by this state, that that being proposed by the Murray-Darling Basin Authority—2,750 gigalitres of water—will not meet the objects of the act.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: If I heard the member for Chaffey, the solution is this: for all South Australians to back this South Australian government to ensure that this state—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —in turn, delivers not only for South Australia but the rest of Australia in ensuring a plan that meets the objects of the act, a plan that delivers the Murray-Darling Basin system to an appropriate level of sustainable health.

Members interjecting:

The SPEAKER: Order! If we have continual interruptions and delays we will not get through the question list and I will not be prepared to extend. Member for Ashford.

MURRAY-DARLING BASIN PLAN

The Hon. S.W. KEY (Ashford) (14:07): Considering all the interjections and noise, I am just wondering whether I can ask the Minister for Sustainability, Environment and Conservation whether he would update the house in preparation for the Murray-Darling Basin Plan.

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:08): I would be very delighted to. It is nice to get a question from the member for Ashford that is—

An honourable member interjecting:

The Hon. P. CAICA: —no—that is a bit more logical than the question that was asked by the opposition. On Monday 9 July the South Australian government—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —submitted, as I mentioned, a formal response to the federal water minister, Tony Burke, which in turn formed part of the formal response by the Murray-Darling Basin Ministerial Council to the Murray-Darling Basin Authority's latest version of the basin plan. Consistent with our previous submissions on the draft basin plan, and consistent with the position stated publicly, including in this house by both the Premier and I on this issue on numerous occasions, the response reinforced independent scientific analysis by the Goyder Institute provided to the government on 2 April this year. That confirmed that the 2,750 gigalitres that the plan proposes to return to the river will not be enough to return the basin to an acceptable level of sustainable health.

Also consistent with the advice from the Goyder Institute, we have not nominated a specific number in terms of a water recovery target but have reiterated our request that the authority model higher water recovery scenarios of 3,200, 3,500 and 4,000 gigalitres with so-called system constraints relaxed, or indeed removed.

We cautiously welcome the fact that the ministerial council has now requested that the authority model a 3,200 gigalitre water recovery scenario with key constraints removed as a step forward. However, our response makes it perfectly clear that, before we can accept a water recovery target, it must be demonstrated, based on science, that it can deliver the environmental outcomes necessary to return the basin to health and is consistent with the objects of the Water Act 2007.

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: If the member for MacKillop continues to interject, I am happy to read into *Hansard* some of the comments he has made on this issue. We also—

Ms Chapman: You've only got four minutes.

The Hon. P. CAICA: Yes, well, that's right.

The SPEAKER: Order!

The Hon. P. CAICA: We also reiterate that any final plan must recognise South Australia's past responsible behaviour in capping our take from the river some 40 years ago and the fact that our irrigators have been early adopters and investors in highly efficient irrigation practices. Unfortunately, those opposite continue to undermine South Australia's position by calling on us to accept what we already know—

Mr WILLIAMS: Point of order!

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

Mr WILLIAMS: The minister is now debating the answer and I think that is out of order.

The SPEAKER: The minister has been responding to numerous interjections, but he will return to the substance of the question.

The Hon. P. CAICA: Thank you, Madam Speaker—what we already know is an inadequate water recovery target because they do not want to offend their upstream colleagues. On 12 February, *The Advertiser* quotes the deputy leader, when referring to the draft plan, saying:

> This is obviously not a Rolls-Royce, but it's a very good Mazda and we're quite happy to drive in a Mazda.

Well, we are not. On 28 November on ABC radio, the deputy leader—

Members interjecting:

The SPEAKER: Order! We do not need three points of order. The minister is returning to the substance of the question.

Mr WILLIAMS: Madam Speaker, the reason we have a standing order that ministers should not debate answers is that when they make statements which are debate and are inflammatory, the people opposite do not have an opportunity to respond. If the minister wants to debate this, I will debate him because—

The SPEAKER: Member for MacKillop—

Mr WILLIAMS: —he has just supposedly quoted something—

The SPEAKER: —you will sit down now.

Mr WILLIAMS: —I said which I didn't say.

The SPEAKER: This is not a point of order; you have turned that into a debate also.

Mr Williams: Just because you read it in *The Advertiser* it doesn't mean I said it, Paul.

The SPEAKER: Order! Member for MacKillop—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

The Hon. I.F. Evans interjecting:

The SPEAKER: Member for Davenport, order, or you will leave. Minister, can you wind up your answer? You haven't got much time.

The Hon. P. CAICA: I certainly can, Madam Speaker. Of course, it was subsequently said again by the Deputy Leader of the Opposition that—

Mr PENGILLY: Point of order!

The SPEAKER: Point of order, the member for Finniss.

Mr PENGILLY: The question was quite explicit to the minister. He is talking absolute nonsense and debating the matter.

The SPEAKER: Thank you, sit down. When the minister is quoting from extracts, it is not debating, it is quoting. Minister, can you wind up your answer?

The Hon. P. CAICA: Madam Speaker, I intend to wind up but, again, what was said was that we need a government in South Australia—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —that actually fights for South Australians. Well, we are. This side of the house remains resolute in its desire and intent to use all resources available to us—

Mr Whetstone interjecting:

The Hon. P. CAICA: Would it be inappropriate now to quote the member for Chaffey, Madam Speaker? I assume it would be so I won't, but I'm quite happy to do that. It is our desire and our intent to use all resources available to us in achieving the goal of a healthy Murray River and I once again ask those opposite to join with us and the majority of South Australians to get behind our campaign to fight for the Murray rather than simply run up the white flag and kowtow to the rice and cotton growers upstream. What we want is a healthy River Murray system, and that is what South Australia is hell-bent on achieving.

MURRAY-DARLING BASIN PLAN

Mrs REDMOND (Heysen—Leader of the Opposition) (14:14): My question is again to the Minister for Water and the River Murray. Has the government now shifted its position with regard to its demand for water to be returned to the environment in the Murray-Darling Basin system? Premier Weatherill, who has been saying that South Australia is demanding a plan based on the best available science, told the media on 30 May, and I quote, 'What we have said consistently is that the best available science was 3,500 to 4,000 gigalitres.'

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:15): What we have actually always said is that the quantity of water that needs to be returned to the river needs to deliver outcomes.

Members interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

The SPEAKER: Member for MacKillop, order!

Mr Pisoni interjecting:

The SPEAKER: Member for Unley, order!

The Hon. P. CAICA: In the absence of science that determines and shows the outcome that will be achieved from an environmental perspective, it is clear that more water will deliver a better outcome. But what this state is demanding is evidence based on science that says these will be the environmental outcomes that will be achieved, and South Australia has consistently said that.

Mr Whetstone interjecting:

The SPEAKER: Member for Chaffey, behave!

The Hon. P. CAICA: We have consistently said that. We will not shy away from that, nor will we leave a stone unturned to get the result that this state requires, a result that is going to be to the benefit of all Australians—that is, to return the Murray-Darling Basin system to an appropriate level of sustainable health, to reduce the overallocation that has occurred, and to ensure that there is a sustainable level of take from the system. That, in turn, is going to—

Ms Chapman interjecting:

The SPEAKER: Member for Bragg, order!

The Hon. P. CAICA: That is going to provide security to the member for Chaffey's constituents and South Australians who draw water for consumptive purposes from the system—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. Snelling interjecting:

The SPEAKER: Order! Would the Treasurer please behave and stop talking across the chamber. Minister.

The Hon. P. CAICA: And that is what we are going to achieve. I will reiterate this point, if I can, if they allow me: in our advice and submission that we forwarded to the Murray-Darling Basin Authority, consistent with our publicly stated position, we have requested that they (the authority) model higher water recovery scenarios of 3,200, 3,500 and 4,000 gigalitres. So, in doing that, it is entirely consistent with what the Premier has said.

REAL ESTATE SALES

An honourable member interjecting:

Mr ODENWALDER (Little Para) (14:17): I'm not, no. My question is to the Deputy Premier and Minister for Business Services and Consumers. Can the minister please inform the house about the government's proposed reforms to benefit both consumers and land agents?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (14:17): I thank the honourable member for his question. Madam Speaker, as I think you are probably aware, and I think some others are aware, I have had a reasonably long and abiding interest in the real estate industry. It is important for all of us to remember that the investment that most people make in real estate is the largest single investment they will make in a lifetime. It is also an investment that they do not necessarily make frequently, so the notion that the ordinary person is actually as familiar with the transactional details of real estate as they would be with buying groceries is obviously poles apart.

The legislation has very important consumer protection aspects to it, given the significance of real estate investments to individuals. By the same token, it is important that agents are able to get on and conduct their business with as much transparency and flexibility as possible so that does not compromise the important primary objective of fair consumer protection.

In 2007, the parliament passed the Statutes Amendment (Real Estate Industry Reform) Act to establish higher standards for land agents in their professional behaviour. I was delighted that the government did so after being interested in the matter for some time. Since becoming Minister

for Business Services and Consumers, I have asked the department to conduct a review on how the legislation—

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: No, a review of the 2007 act. The criteria for that review were basically three criteria: first of all, to strengthen the rights of consumers and small business; secondly, to increase the level of transparency of real estate auctions; and thirdly, to reduce the administrative burden on real estate agents and auctioneers where that is not inconsistent with the first two objectives.

A bill has been prepared and some of the elements of that bill that might be interesting to members are that it ensures that the reserve price in an auction is linked to the acceptable selling price detailed in the sales agency agreement; secondly, toughening up disciplinary action against real estate agents who are found guilty of serious offences under the land and business agents act; and reducing red tape and paperwork for agents.

The Statutes Amendment (Real Estate Reform Review and Other Matters) Bill 2012 is now out for consultation. The bill is available for download at www.cbs.sa.gov.au. The closing date for written submissions is Thursday 26 July. I am pleased to have observed that so far there have been some broadly supportive comments offered by the Real Estate Institute and its representatives. I have been consulting with them all along on this piece of legislation, and many of the elements contained within it are things that they have been seeking to have addressed for some time. I would encourage all members, in particular those with an interest in this important consumer protection area, to have a look at the legislation and offer their comments within the time allowed.

CONSTRUCTION INDUSTRY TRAINING BOARD

The Hon. I.F. EVANS (Davenport) (14:20): My question is to the Treasurer. Is the Treasurer aware that the Construction Industry Training Board has, for the first time in its history, suspended its training operation funding because minister Kenyon has refused to sign a training plan by 1 July and as a result the Construction Industry Training Board has ceased funding under its training plan to trainees and apprentices? On the Construction Industry Training Board website today is a message to all trainees and apprentices, all registered training organisations and all group training organisations. The message is this:

> The Construction Industry Training Board has suspended Training Funding because The Minister for Employment, Higher Education and Skills, Mr Tom Kenyon, has withheld approval for the CITB's Annual Training Plan. This means that any new training transaction undertaken by the Board would constitute an incurred liability which would be beyond the power of the CITB.
>
> As a result, the CITB is unable to transact business in respect of its ATP.
>
> Until the situation is resolved, any shortfall in the cost of training which results from this will need to be met either by the apprentices and trainees themselves or their employers.
>
> This is the first time in the history of CITB that this has occurred.

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Workers Rehabilitation, Minister for Defence Industries, Minister for Veterans' Affairs) (14:22): I am not aware of that, but I am aware of the general background of the issues between the government and the CITB. The CIT—

Members interjecting:

The Hon. J.J. SNELLING: I am not going to speak over the top of them, Madam Speaker.

The SPEAKER: No.

The Hon. J.J. SNELLING: I will not speak over the top of them. There is a policy disagreement between the government and the CITB which we are attempting to resolve, and that is basically over the way the CITB expends the money that it collects—

The Hon. I.F. Evans interjecting:

The SPEAKER: Member for Davenport, you have asked your question.

The Hon. J.J. SNELLING: —from the levies that are imposed upon people who are building. You have to keep in mind that the levy is generally passed on to consumers. People who build houses and other people engaged in procuring the services of the construction industry pay, overwhelmingly, the bulk of the levy because it is generally passed on to consumers. It is not absorbed by industry.

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: So, government has a legitimate role to play in working with the CITB in the way those funds are expended. The CITB has traditionally expended a large proportion of those funds on incentives to employers to employ trainees and apprentices. That is not an illegitimate thing. There is nothing improper about them expending those funds in that way, but there is a policy issue, where the government and CITB—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. Conlon: Those Muppets.

The Hon. J.J. SNELLING: Waldorf and—I have forgotten the second Muppet. Waldorf and—

An honourable member: Statler.

The Hon. J.J. SNELLING: —Statler. Waldorf and Statler, thank you. There is a policy disagreement between the CITB and the government over the best way to spend that money. The government's view is that those funds should be expended principally towards the cost of training rather than on—

The Hon. I.F. Evans: They've suspended it. It's not happening.

The SPEAKER: Order! Member for Davenport, you have asked your question.

The Hon. J.J. SNELLING: —employer incentives. That is not to say, as I reiterate, that there is anything improper with the CITB choosing—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: —to expend money that way; however, there is a policy difference between the government and the CITB. The government's view is that the bulk of those funds, or an increasing amount of those funds, should be expended towards assisting people who want to enter the construction industry with the cost of their training. We think that that is a better use of those funds rather than on—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: Madam Speaker, I am answering the question. I am not entering into debate, and yet I have to deal with the rabble opposite, who are obviously unfit for government.

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: Unfit for government.

Members interjecting:

The SPEAKER: Order.

The Hon. J.J. SNELLING: Unfit for government.

The Hon. I.F. Evans interjecting:

The SPEAKER: Order, the member for Davenport!

The Hon. J.J. SNELLING: I presume that the reason for the minister being unwilling to sign off on the training plan by the CITB is related to this dispute, a dispute which we are attempting to resolve between the CITB and the government and which we hope will soon be brought to a satisfactory conclusion.

SCHOOL AND PRESCHOOL FACILITIES

Mr SIBBONS (Mitchell) (14:27): My question is to the Minister for Education and Child Development. Can the minister inform the house about what the government is doing to help improve school and preschool facilities for students and staff?

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (14:27): I thank the member for Mitchell for this really important question. Members would be well aware of the enormous investment infrastructure that we have seen occur at our school sites—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —over the last few years, and that is why I am very pleased to inform and report to the house on more than $10 million that has been provided to schools through the School Pride Asset Program. I was very pleased to sign many letters to many members of this place and many principals over the last couple of weeks advising them of investments that will be occurring at their site. The program is important because it assists very significantly in maintaining and improving our schools and preschools because they are such an important asset in the lives of our children and our community.

I am very pleased to report that, in the most recent round, the program is funding 300 projects in schools and preschools across our state, and that includes funding for things like heating and cooling to maintaining play areas for children. All the projects make our schools and preschools more comfortable, safer and offer much improved spaces for teaching and learning.

Some examples are: Banksia Park Primary School will receive $350,000 for air conditioning; Warradale Kindergarten will receive $10,000 for new toilets for children; and $230,000 will be invested for new security fencing at Willunga High School. In regional areas, Moonta Area School will receive $200,000 to replace the bitumen on the hard play areas and Renmark West Preschool will see $10,000 invested in, again, new toilets for children.

I point out that this program is taking place in the context of many millions of dollars being invested in our schools over many years. Since 2002, this government has invested around $1.6 billion in school capital works, maintenance and assets. This is in addition to the investment of new buildings and other support, including new gymnasiums, classrooms and learning areas for science, languages and trades, worth around $1 billion, as a result of our partnership with the federal government. I commend and acknowledge all these schools in our community that do a fantastic job. I am very happy to see this investment going to our schools so we can give every chance to every child in our community.

MURRAY-DARLING BASIN PLAN

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (14:30): My question is to the Minister for Water and the River Murray. Why is it a better use of taxpayers' money to spend $2 million on advertising in relation to the River Murray rather than investing those funds into works and measures to recover water for the environment? The minister told the estimates committee that the $2 million announced by the Premier to support South Australia's case on the River Murray would be spent on, to use the minister's word, 'communications'.

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:31): Again, quite simply, the state government is committed to doing whatever is necessary—

Ms Chapman: To make you look good.

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —to make sure the final Murray-Darling Basin plan is one that delivers on the objects of the act. We have said that and I and this government will continue to fight for that. That is why we have established the Fight for the Murray campaign, and we certainly request that the opposition come on board, because they are at odds with the majority of South Australians—

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —with respect to what we want to achieve and what we intend to achieve.

Mr Williams: What do you want to achieve again?

The SPEAKER: Deputy Leader, order!

The Hon. P. CAICA: We want to achieve a result that in turn ensures that the Murray-Darling Basin system has contained within it an extraction level that is sustainable, that in turn will sustain consumptive use, irrigation, for this generation and future generations. We want to ensure that the system is healthy enough when the next drought comes. The scientists tell me that the millennium drought was a glimpse of the future and that droughts will become more frequent.

Ms Chapman: Why do we need a pamphlet for that?

The SPEAKER: Order!

The Hon. P. CAICA: Droughts will become more frequent and more intense and, so that resilience is built into the system, so when that drought comes the system will not only just need to fight for another day but will be able to—

Mrs Redmond interjecting:

The Hon. P. CAICA: We will do whatever is necessary, unlike the opposition, to make sure the Murray-Darling Basin plan that comes out—

Members interjecting:

The Hon. P. CAICA: Getting back to what the member for MacKillop was saying, quite clearly we want an outcome that will deliver on the objects of the act. That is why we referred South Australian powers through to establish the independent authority. That is what we did, and we expect and the people of this state expect that to occur. We will use that funding that has been allocated—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —or certainly provisioned for—to ensure that we continue to build momentum so that Australia and all Australians get an outcome they deserve: a river system that will serve their needs today and the needs of their great-grandchildren into the future. We want an outcome based on science. It is very interesting. The Murray-Darling Basin Authority issues a draft plan. We then respond to that draft plan based on science. We say that if that is the case, what indeed are the Murray-Darling Basin Authority's interests it is protecting? Clearly the MDA position is based on the interests of upstream states; ours is based on the best interests of South Australia and indeed—

Mrs REDMOND: Point of order: I am struggling with the relevance of the minister's answer to the question, which was about why it was better to spend $2 million on advertising than on-the-ground works for the river.

The Hon. P. CAICA: We have always supported—

Members interjecting:

The SPEAKER: Order! I can't hear the minister. Order!

The Hon. P. CAICA: Look, it is in our best interests, it is in South Australia's best interests and in the nation's best interests to use what funding we have available to make sure that this is a campaign that is actually a campaign that is won. We don't shy away from that and wish the

Liberals would certainly join us in fighting for the interests of South Australia instead of the interests of the upstream states, which they appear to be doing.

GOODS AND SERVICES TAX

Ms THOMPSON (Reynell) (14:35): My question is to the Treasurer. Can the Treasurer update the house on when he last spoke to the GST Distribution Review Panel and what was discussed?

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Workers Rehabilitation, Minister for Defence Industries, Minister for Veterans' Affairs) (14:35): I would like to thank the member for Reynell for the question and for her abiding interest in the issue of horizontal fiscal equalisation. I had a telepresence meeting with the GST Distribution Review Panel earlier this week to again reinforce how important the current method of GST distribution is to South Australia. The GST Distribution Review interim reports outline several proposals that may lead to inferior results for South Australia and will be inconsistent with the principles of equity and efficiency, so it was important to me to make certain that the state's position was heard by the panel.

In particular, the reports propose to change the objective of horizontal fiscal equalisation to achieve comparable rather than equal fiscal capacities across the states and territories. Although the term 'comparable' isn't clearly defined in the interim report, it's our view that this may imply a watering down of the current HFE system and a significant departure from the full equalisation outcome.

This may ultimately result in the creation of tax havens, and people would be disadvantaged depending on where they live. Consider the Pharmaceutical Benefits Scheme which provides affordable prescription medicine to all Australians irrespective of the state in which they live. Can you imagine a PBS that applies in full to some states and partially to others? This would not be an equitable outcome.

The creation of tax havens would also result in an artificial incentive for households to migrate between states. In the absence of full equalisation, household decisions to move interstate would be influenced by the fiscal capacity of a state rather than its underlying economic opportunities. This type of migration is inefficient and would lead to an overall reduction in living standards.

Also, can I remind the house that South Australia is a beneficiary under the HFE system. Our state receives around 28 per cent—that amounts to about $1 billion—more in GST receipts under the current HFE system, compared to a population share distribution methodology. However, as our mining royalty revenues increase over time with the future mining boom, I will not do what Western Australia is now doing after being a beneficiary state up until just a few years ago. I'd be very happy for South Australia to be in a position where we are a net donor under the HFE.

The principles behind HFE have served our federation well for decades and should continue to do so into the future. For the reasons that I have mentioned, I will continue to argue for the continuation of a fully equalised HFE system in Australia and will continue to make sure that our position is heard by states such as Western Australia, the commonwealth government and the GST Distribution Review Panel.

Ms CHAPMAN: Point of order: the minister was asked a question about what the discussion was, what was presented and what the response was. I didn't hear anything about the response, only what he says he put.

The SPEAKER: There is no point of order. The minister can answer the question as he chooses. Deputy Leader of the Opposition.

Members interjecting:

The SPEAKER: Order! Deputy leader.

MURRAY RIVER

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (14:39): My question again is to the Minister for Water and the River Murray. Why has the government criticised the New South Wales government for achieving, in its words, 'limited water savings' from the $650 million it received in federal funding for the River Murray when the $610 million made available to the South Australian government has to date only recovered two gigalitres of water? In estimates committee, the minister stated that only two gigalitres had been recovered so far through the Murray Futures

program, with the government hoping to recover another 15 gigalitres at some time in the future—a sum total of 17 gigalitres from hundreds of millions of dollars of expenditure.

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:39): I thank the honourable member for his question. Quite simply, we are known in South Australia for being at the forefront of the way by which we irrigate, and we were forced to do that because, unlike the upstream states, we were not able to keep allocating to the extent that we overallocated in the system.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: It appears that those opposite know everything, but I will try to help them. We know that we have had a great deal of difficulty here in South Australia securing funds to be able to ensure that we could undertake what the upstream states have been able to undertake, and that is because of the inefficiencies. They have finally discovered that you can use water far more efficiently, which we discovered 40 years ago.

It has therefore been very difficult for us to be able to extract money from the commonwealth, and the member for Chaffey knows this, because his constituents would tell him this. It has been very difficult for us to be able to get money from the commonwealth in regard to those—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: We also know that it is increasingly difficult for us to deliver any large quantity of water back through these works and measures on the basis that we are already at a high level of efficiency.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: I would just remind the members opposite that, during the millennium drought, we had a system on the verge of ecological collapse. We had acid sulphate soils in the lakes. We had the highest ever salinity ever recorded in the southern lagoon. We are still suffering from acid sulphate soils in parts of the flats around—

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —Jervois. The point that I would make is that a lot of the $600 million that has been spent in South Australia has been spent on mitigating the ravages of the drought. That is how that money has been spent. Of course, we have also put forward to the commonwealth proposals for the expenditure of money to ensure that South Australia in turn continues to lead this nation and parts of the world with respect to our irrigation efficiency. We have had difficulty, given the criteria that it placed on that money, to be able to get that.

Mr Williams: Fifteen gigalitres.

The Hon. P. CAICA: Fifteen gigalitres is right, as the Deputy Leader of the Opposition says, and that relates to the Riverine Recovery Project. We will continue to put forward projects where we can improve the level of efficiency, but we do not have the luxury, as their colleagues upstream have, and that is because of the way in which they—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —have plundered and overallocated the system to the extent that it was on the verge of ecological collapse, which in turn provides them with the opportunity of introducing efficiencies in irrigation, efficiencies that this state adopted over 40 years ago because of the fact that we capped our take on the River Murray. We then had to ensure that we used that water as efficiently and effectively as we could, and that is the very reason why it has been difficult

to extract funds from the commonwealth for works and measures that will return water to the system.

Members interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

The SPEAKER: Order! Member for MacKillop, order! The Leader of the Opposition.

BENSTED, MS E.

Mrs REDMOND (Heysen—Leader of the Opposition) (14:43): My question is to the Minister for Sustainability, Environment and Conservation. Was the minister a referee for Elaine Bensted who was yesterday announced as the new CEO of the Zoo; and, if he was a referee for her, how is that not a conflict of interest for the minister who funds the Zoo and who has recently bailed out the Zoo?

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:43): The Zoo is an organisation independent of government. It is placed on our land—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —and, like many organisations, we do fund those organisations that are at arm's length from the state government.

Mr Williams: How many do you bail out?

The SPEAKER: Member for MacKillop, order!

The Hon. P. CAICA: Madam Speaker, yes, I was a referee for Elaine Bensted. I do not believe in any way that that is a conflict of interest—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —and I, indeed, welcome her appointment to the executive officer's position of Zoos SA.

ENVIRONMENT PROTECTION AUTHORITY

Mrs REDMOND (Heysen—Leader of the Opposition) (14:44): My question is again to the Minister for Sustainability, Environment and Conservation. Was the minister aware that a senior EPA media officer wrote an email on 11 October 2011 in relation to environmental contamination at the Sanitarium site on Hackney Road which states, 'Putting it in a media release draws more attention to it'? Documents obtained by the opposition under FOI indicate that the minister was briefed in relation to environmental contamination at the Sanitarium site on Hackney Road. However, a media release on this matter was never distributed publicly.

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:45): Madam Speaker, I would compare my record with respect to the promulgation of information that relates to contamination to what they did when they were in government any time. Of course, I have stood before this house and the media—

The Hon. I.F. Evans interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: —and publicly said that legacy issues from customs and practice in the past that are not tolerated today have resulted in circumstances which we wish did not exist—but they do. We have to be upfront about that, and the best way of doing that in the first instance is communicating directly with residents who either will be affected or not so much affected by it but become aware of it—unlike the opposition, who want to splash it all over the media to promote their own vested interests in whatever way they want.

It is important that the first people to know are the people who live in the vicinity of it. We make no bones about the transparency that is now in place with respect to the way in which the EPA communicates to residents and the broader South Australian public on matters of legacy issues that relate to contamination. I would compare our record against theirs any day.

ENVIRONMENT PROTECTION AUTHORITY

Mrs REDMOND (Heysen—Leader of the Opposition) (14:46): My question is again to the Minister for Sustainability, Environment and Conservation. Why does the public continue to find out via the media rather than the government about instances of environmental contamination, given that the minister told the house on 26 July 2011:

> What I have attempted to do since I have been minister is ensure that the EPA becomes totally transparent about the information it provides to people.

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:47): Madam Speaker, that is absolutely correct.

CHILD DENTAL HEALTH

Mrs VLAHOS (Taylor) (14:47): My question is to the Minister for Health and Ageing. What are the latest statistics regarding the state of child dental health?

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:47): I am very pleased to let the house know that dental caries (commonly termed 'dental decay') in school-aged children has been in decline since 2008. The level of dental caries in school kids across Australia (in fact, most of the world) had been increasing from the mid 1990s through to about 2007.

Pleasingly, analysis of South Australian School Dental Service oral health data for the years 2008-11 shows that decay rates have declined over this period. The six year old age group has had improvements of up to 6 per cent, with the average number of deciduous teeth with decay falling from 2.44 to 2.29 teeth; and South Australian 12-year-old children have improved by 13 per cent over that same period, with the average number of adult teeth with decay falling from 1.05 to 0.9 teeth per person.

Dental decay is characterised by chronic demineralisation of the structure of the tooth, and causes include deterioration in the quality of diet, the increased use of low fluoride toothpaste among children and the greater use of bottled water containing no fluoride (probably the biggest threat to the teeth of children). Exposure to fluoride and some other trace elements has the strongest influence on controlling dental decay.

The South Australian Dental Service has implemented a number of strategies over the past five years to address this, and a key preventive measure has been the increased provision of fluoride treatments and fissure sealants. A 'Lift the Lip' screening tool has been introduced in health checks to identify early signs of decay, and children identified as needing an oral health check are referred to either the public or private dental sector for treatment.

Education has been provided to pregnant women and midwives about the importance of oral health in pregnancy in the early years; and in 2009 copayments were removed for all preschool aged children, and this has resulted in a 55 per cent increase in the number of children aged one to four being seen by the School Dental Service in the past three years.

All of these measures, taken together, have had an impact and I am very pleased that we have started to see an improvement after a decline from the 1990s. I congratulate the School Dental Service, an excellent service that we have in our state, and I hope that the maintenance of these programs will continue to see improvements in the dental health of our children.

DISABLED STUDENTS, TRANSPORT ARRANGEMENTS

Mr PISONI (Unley) (14:50): My question is to the Minister for Education and Child Development. Why did the education department's Parent Complaint Unit phone Kirsten Richards this morning asking Ms Richards to explain to the education department the school's transport arrangements for her child, who has autism, and if Ms Richards could advise the education department who in the education department would know these details?

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (14:50): Thank you—

Members interjecting:

The SPEAKER: Order!

Mr Pisoni interjecting:

The SPEAKER: Member for Unley, order! You do not shout people's names across the floor.

Members interjecting:

The SPEAKER: Order! Minister.

The Hon. G. PORTOLESI: I thank the member for Unley for this question. I will ask the Parent Complaint Unit and bring back a response.

Mr Pisoni interjecting:

The SPEAKER: Order! Member for Unley, do you have another question?

TAFE FEES

Mr PISONI (Unley) (14:51): My question is to the Acting Minister for Employment, Higher Education And Skills. How many TAFE students have received invoices for additional fees in contradiction to earlier written advice from TAFE that their course fee was capped?

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Workers Rehabilitation, Minister for Defence Industries, Minister for Veterans' Affairs) (14:51): TAFE SA usually only enrols students by semester, not the full year. For most students who enrolled in the first semester of 2012 their fees have either reduced or remained the same for the second semester. However, diploma and advanced diploma students were advised when they enrolled at the beginning of the year that from the second semester in 2012 there could be increased fees, that some fees may go up and some may go down.

The change in fee structures is represented by a 25¢ per hour increase, which in some cases may be partially offset by the abolition of the materials fees. Skills For All costs should not be a barrier to further training, which is why VET FEE-HELP will be available for students studying diploma and advanced diploma courses. This means that from 1 July students can defer payment of course fees similar to the HECS-style loan scheme.

I am advised that there was some confusion at the start of the year about the continued application of the fee capping policy and that some TAFE SA education program areas incorrectly advised students at the start of the year of fee capping for student fees for the second semester. As a consequence, if any—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: As a consequence, if any student was provided assurance that the previous fee capping policy would apply, TAFE SA will honour that. Elaine Bensted, Chief Executive Officer of TAFE SA, has been instructed to send a reminder to all TAFE SA staff about the current fee policy—

Members interjecting:

The SPEAKER: Order!

Mrs Redmond interjecting:

The SPEAKER: Leader of the Opposition, order!

The Hon. J.J. SNELLING: Elaine Bensted, Chief Executive of the Office of TAFE SA, has been instructed to send a reminder to all TAFE SA staff about the current fee policy and to ensure students are provided with accurate up-to-date information. I am advised that, in the case of the woman to whom the member for Unley referred yesterday, she enrolled and paid course fees for a Diploma of Visual Merchandising for the first semester only. However, I understand that she was provided advice that the fee cap would apply for the full year, and that advice will be honoured. If students have any inquiries they can visit their local campus or, alternatively, contact TAFE SA on 1800 882 661.

NYRSTAR

Mr MARSHALL (Norwood) (14:53): My question is to the Minister for Manufacturing, Innovation and Trade. Can the minister tell the house whether he will be referring the funding arrangements for Nyrstar to the parliament's Industries Development Committee? The bipartisan Industries Development Committee was established by this parliament to look at funding packages to support industry. On 18 January this year, while discussing the Holden package on radio, the minister agreed that, and I quote, 'It was a very good idea to send this proposal through the IDC.' Seven months later, can the minister confirm that he will be reconvening the IDC to look at any major funding arrangement for Nyrstar?

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Manufacturing, Innovation and Trade, Minister for Mineral Resources and Energy, Minister for Small Business) (14:54): Madam Speaker, there's a Greek word that comes to mind.

The SPEAKER: We probably don't need to hear it.

The Hon. A. KOUTSANTONIS: No, you probably don't need to hear it. There is no funding proposal for Nyrstar, so I think the member for Norwood's question is hypothetical. Quite frankly, he's just trying to create mischief the same way he was yesterday when he was attempting to scare everyone in Port Pirie that the world would come to an end. Quite frankly, I think he should heed the call of the Mayor of Port Pirie—

Mr PISONI: Point of order: the minister is clearly debating.

The SPEAKER: Not necessarily. Minister, back to the question.

The Hon. A. KOUTSANTONIS: I am conscious of the calls from the community of Port Pirie that there be no more political point scoring on this issue.

Mr Marshall: So call the IDC then.

The Hon. A. KOUTSANTONIS: The Liberal candidate for Dunstan interjects.

Mr PISONI: Point of order: members are to be addressed by their electorates.

The SPEAKER: Yes. I did not hear that, but the minister knows that. He has been here long enough; 15 years on 11 October.

The Hon. A. KOUTSANTONIS: I know he is very sensitive; it's that glass jaw.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: There is no proposal to give Nystar any public money so, therefore, there is no need to convene the IDC.

ENERGY RESOURCES DIVISION

Mrs GERAGHTY (Torrens) (14:55): My question is to the Minister for Mineral Resources and Energy. Can the minister inform the house of the significant milestone of the Energy Resources Division of DMITRE?

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Manufacturing, Innovation and Trade, Minister for Mineral Resources and Energy, Minister for Small Business) (14:56): I thank the member for her question and her keen interest in all things oil and gas. It was an honour to celebrate, acknowledge and reflect on the wonderful work of the Energy Resources Division as it celebrated its 50th birthday at the Convention Centre on Friday night. I acknowledge the attendance of the shadow minister and his lovely wife who came along to help celebrate that night in a bipartisan way; we hope not to lose him any time soon.

The Energy Resources Division, together with the Mineral Resources Division, are responsible for delivering some of the state's most exciting economic developments. In summing up how the Energy Resources Division is perceived globally, I quote from the recently released 2012 Fraser Institute Global Petroleum—

Members interjecting:

The SPEAKER: Order!

Mr Whetstone interjecting:

The SPEAKER: Member for Chaffey, order! Minister.

The Hon. A. KOUTSANTONIS: In summing up how the Energy Resources Division is perceived globally, I quote from the recently released 2012 Fraser Institute Global Petroleum—

Ms Chapman: The Fraser Institute?

The Hon. A. KOUTSANTONIS: Yes.

Ms Chapman: Those climate sceptics?

The SPEAKER: Member for Bragg, will you leave the chamber until the end of question time.

The honourable member for Bragg having withdrawn from the chamber:

The Hon. A. KOUTSANTONIS: I did see her pass by, ma'am. I quote the Fraser Institute—the conservative Canadian Fraser Institute, not the one that the members opposite are aligned to. They see our department as being the best organised, the only jurisdiction that anticipates problems, and having the most competent and knowledgeable staff. Not only will the work of the division done to date deliver benefits for all South Australians for decades to come, but I am sure their tradition of excellence will also continue well into the future.

The support from industry at the event was testament to the high regard in which the division is held. Throughout the evening, guests heard from Stedman Ellis, the Chief Operating Officer, Western Region of APPEA, and a former ministerial adviser to conservative mines minister Norman Moore; James Baulderstone, the Vice President Eastern Australia, SANTOS; and Reg Nelson, the Managing Director of Beach Energy. All expressed their admiration for the hard work and common-sense approach to regulation of the South Australian Energy Resources Division.

Mr Nelson wanted to talk about the new regulations imposed upon Beach by the new Newman government, which were so onerous that they fly people into South Australia to use the toilet. A common theme across the evening was how the division has grown in parallel with industry during the past 50 years. As James Baulderstone said on the night:

> The oil and gas industry has a strong history in South Australia, characterised by ingenuity and hard work on the part of the industry and its regulators.

He goes on to say:

> Our industry's regulator...has worked consistently to facilitate the development in the sector, not just govern it. It's an important distinction.

The division is renowned for living and breathing a 'can do' attitude that is coupled with a collaborative and outward-looking approach that helps deliver the benefits of the mining boom for all South Australians. A long line of influential leaders have developed a team into its key roles as industry regulator, a promoter to attract investment and a source of trusted advice. It is said that knowledge is power, and the petroleum industry is more aware than most of its perceived 'standing on the shoulders of giants' by learning from the past. The division's expertise and advice are sought nationally and internationally for both petroleum and geothermal energy, and it is a testament to their approach that often South Australia leads the way.

The work of the Energy Resources Division means that I can stand here today and say that the petroleum industry is an intrinsic part of our state's economy. For the past 50 years, it has been a socially responsible employer, and it has been a major wealth creator. However, I believe the next 50 years will set South Australia apart from the rest of the nation in the way in which we manage emerging gas and oil players.

This government is committed to growing a robust and vibrant resources sector that will benefit all South Australians. The Energy Resources Division of DMITRE will continue to provide 'one window into government' for industry, and it will strive to continue to be Australia's best regulatory agency for the upstream petroleum and geothermal energy sectors. I am extremely confident that the division will continue to deliver leading edge, effective and efficient regulation, with a strong focus on environmental assessment to provide a framework for industry's ongoing social licence to operate. Madam Speaker—

The SPEAKER: Minister, your time has expired.

The Hon. A. KOUTSANTONIS: I am sorry, ma'am. I congratulate the department on its 50 years.

CARETAKER GOVERNMENT CONVENTIONS

The Hon. I.F. EVANS (Davenport) (15:01): My question is to the Minister for Health. Does the minister agree with Under Treasurer Brett Rowse and the CEO of the Department of the Premier and Cabinet, Jim Hallion, that public servants are unable to discuss opposition policies with the government during the caretaker period? During the estimates committees, the state's two most senior public servants expressed their understanding that the caretaker convention prevents the Public Service from discussing the opposition's policies with the government during the caretaker period. The minister has previously expressed to this house a different view.

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (15:02): Which I am entitled to do, as I understand it.

PUBLIC SERVICE PURCHASING PANEL

The Hon. M.J. WRIGHT (Lee) (15:02): My question is to Minister for—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. WRIGHT: —the Public Sector.

Members interjecting:

The SPEAKER: Order! The member for Lee.

The Hon. M.J. WRIGHT: Can the Minister for the Public Sector inform the house about how the government is making significant savings in the procurement of ITT-related goods and services?

The SPEAKER: The Minister for Finance.

Members interjecting:

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for the Public Sector) (15:02): Good idea.

The SPEAKER: Order!

The Hon. M.F. O'BRIEN: You'll go far. I thank the member for Lee for the question and the very savvy business propositions that are coming across from the opposition. I am pleased to inform the house that $6 million will be saved over the next three years through the establishment of a new panel of suppliers to provide printer and multifunctional devices. Expenditure under the new panel is estimated at $50 million over the initial term, or $175 million if all extension options are exercised on the contract, spread across all suppliers. The scope of the panel includes the provision of network printers and network multifunction devices.

All South Australian government agencies are required to use these new arrangements. Five suppliers have been appointed to the panel. They are Canon Australia, Fuji Xerox Australia, Konica Minolta Business Solutions Australia, Solutions Australia and Ricoh Australia. The new arrangements will deliver an estimated average of 24 per cent price per unit reduction for multifunction devices and a 33 per cent price per unit reduction for printers over prices paid under the previous panel arrangements. The new arrangements will see an estimated 20 per cent reduction in per page costs on new devices purchased when compared with current average prices.

Based on these price reductions, it is expected that the South Australian government will save approximately $2 million per annum compared with current arrangements. The estimated average number of units to be purchased each year across all segments is 2,470. The panel arrangement will ensure ongoing competitive pricing to South Australian government agencies for the purchase of network printers and multifunction devices and fixed minimum percentage discounts off retail prices for all categories of equipment and consumables.

GRIEVANCE DEBATE

MURRAY RIVER

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:05): Today, we gave the Minister for Water and the River Murray the opportunity to lay down exactly what the

government's position is with regard to the River Murray. Yet again the minister refused to inform the house of the government's position, just like the Premier has been playing ducks and drakes with this issue for so long. On the very day that the MDBA tabled the draft plan—I think it was 20 November last year—we saw the Premier come out and start talking about a High Court challenge. Before he had had any opportunity to read and analyse the document, he started to talk about a High Court challenge.

Ever since, we have had the Premier and the minister saying that South Australia would not be accepting the plan, that they were going to demand more water than what was proposed in the plan. Several times they have been quoted—both the Premier and the minister—as saying that they wanted this to be directed by the best science, and the best science was telling us that the number was somewhere between 3,500 and 4,000 gigalitres of water returned to the environment.

Today we asked the minister a simple direct question: is it the case that the government will not accept a plan that delivers anything less than 3,500 gigalitres? Guess what? The minister would not say yes. Why not? Because the minister and the Premier say one thing in South Australia to their domestic audience here, but are obviously saying other things when they are upstate. When they are in the upstream states or in Canberra they are saying something different. We know that the minister came out of a ministerial council meeting saying something completely different to what they have been saying here in South Australia.

It is outrageous that this government would behave in this manner. There is a significant number of people whose livelihoods depend on the outcome this debate. Communities up and down the river want a sensible outcome for South Australia; they want an outcome that delivers positive environmental benefits, but they also want an outcome that sees that the communities and the people who live and work up and down the river can survive and can have a viable future.

Yet the government is just playing petty, low class politics. It says one thing here in South Australia and something else upstream. I was delighted to read *The Advertiser* this morning. The minister and the Premier have been caught out, because it has now been revealed that the minister will say one thing in Sydney or Canberra and another thing here in Adelaide. That is why the minister refused to answer the questions put to him here in this parliament today.

What really irks me is that this government is going to use $2 million of taxpayers' money to try to cover its tawdry tracks. This government is taking $2 million of taxpayers' money, whilst the budget is going out of control, for an advertising campaign. It will not be about putting out the facts, it will not be about overcoming misinformation; it will be about the government trying to garner votes. This will be a simple, tawdry political campaign by a government that is bereft of ideas, a government that does not understand the river or the people who rely on the river.

This is a shame, that this government has no position yet wishes to garner $2 million of taxpayers' money to shore up its political position. It is no wonder that the Premier is in China. He knew that the ministerial council was going to expose the government this week, and he made sure that he was not in the state. It is a disgrace, and he should be condemned for it.

The SPEAKER: Member, your time has expired; and I think you had better sit down before you expire, by the sound of you. The member for Florey.

NAIDOC WEEK

Ms BEDFORD (Florey) (15:10): Thank you, Madam Speaker. I know you will join with me in wishing everybody in Darwin all the very best for the National Calisthenics Competition and look forward to my contribution on that topic in due course.

Last week was NAIDOC Week, a national celebration of Indigenous achievement. In my time today I would like to mention several success stories. One is a new scholarship that will include a two-year placement at hospitals in the city's south that will help Aboriginal students through the four-year medical degree at Flinders University. I quote from *The Advertiser* article of 4 July by Jordanna Schriever, where health minister Hill advised that this year seven students could apply and that the scholarship would be expanded in the future. The article quotes the minister as follows:

> Financial insecurity is one of the biggest factors holding back Aboriginal students from completing the program, so we hope this scholarship will take the pressure off.

The article continues:

Director of the Poche Centre for Indigenous Health and Wellbeing at Flinders University, Professor Dennis McDermott, said the program could boost the number of Aboriginal doctors in SA. 'Many Aboriginal medical students are mature students, who may have given up secure employment to become a graduate entry student,' he said. Theresa Francis, of Flinders Medical Centre, said Aboriginal doctors were the 'critical missing piece' for a thriving health service for the Aboriginal community'.

Good luck to the medical students, including Taylee Healy of Berri and Meg Torpey of Rose Park, who are featured in the article and who are among the students vying for the first scholarship.

Another thing that happened this week was the involvement of Professor Peter Buckskin in a conference looking at Indigenous education and Indigenous teaching numbers, so crucial to successful outcomes. The University of South Australia brought together the biggest gathering of Aboriginal and Torres Strait Islander teachers and educational leaders in Australia's history for the inaugural Teachers are Deadly Conference. At the moment there are over 2,000 Indigenous teachers. Professor Buckskin said that number needs to increase to 10,000, and I quote:

With Aboriginal and Torres Strait Islander students making up around 5 per cent of the school population, it is now more important than ever to increase the numbers of Aboriginal and Torres Strait Islander teachers beyond the current 1 per cent of the teaching workforce.

I look forward to seeing such increases and the resulting improvements they will bring.

On Wednesday 4 July, along with many supporters I attended the official launch by minister Caica and AFL superstar Gavin Wanganeen of Matjarra at the Adelaide Produce Markets. Nunga Produce is working with the Giangregorio family on a shared vision to cultivate opportunities and economic independence for indigenous families and communities, the key driving forces behind an emerging partnership to grow and sell herbs, bunch lines and chillies on a commercial scale. The Nunga Produce project collectively markets products grown by Aboriginal growers in regional South Australia through the Adelaide Produce Markets, and has undergone a rapid expansion since its inception in 2005.

Nunga Produce General Manager Ron Newchurch said the project is proof that closing the gap between Indigenous and non-Indigenous is a reality. Up to 25 people have so far been employed as a result of the project, with their produce soon to be made available in most greengrocers, IGA stores and Foodland supermarkets under the new Matjarra brand. Employment is expected to rise with increased demand for the products. Congratulations to all involved.

I would also like to put on the record the names of the winners of the NAIDOC 2012 awards for South Australia. The Person of the Year was Lorelle Hunter; the Young Male of the Year was Shannan Iuliano; the Young Female of the Year was Trischaye Lee Newchurch; the Female Elder of the Year was Janice Rigney; the Male Elder of the Year was our own favourite, Uncle Lewis Yerloburka O'Brien. 'The Old Man of the Sea' is here in brackets (I am not sure if he would want me to say that). Uncle Lewis was born at Point Pearce on 25 March 1930 (he probably does not want me to say that either). He is a proud Kaurna elder and statesman with whom we have all become familiar through his wonderful words of welcome to Kaurna country as ambassador of the Adelaide Plains people. He also holds the title of Honorary Fellow at the David Unaipon School, University of South Australia.

Cadet of the Year was Becara Hands; Scholar of the Year was Trenna Clark; Artist of the Year was Derik Lynch; Sportsperson of the Year was Sean Lemmens; and Event of the Year was the Reconciliation Event in Mount Barker, held on 1 June this year. Mark Elliott accepted the award for the event. The Adelaide Hills celebrated at the local recreation centre with a day of entertainment, songs, traditional dancing, a Blue Light disco and a huge barbecue attended by about 600 people.

In our own electorate of Florey I do not think we did as much as we might have done this year. However, our Tea Tree Gully council did have some activities. We very much look forward to making sure that one day our indigenous scar tree at the end of the North East Road, very close to the member for Newland's office, part of the Tea Tree Gully council area, also has an Indigenous trail with interpretive signage and dual language.

We would also like to see it as part of the Tea Tree Gully historic precinct where we know tourists will come. We would like to see cultural dancing and other activities available for people to come and see once or twice a month, depending on the weather, of course, and we very much look forward to future celebrations with all of our Indigenous friends on their achievements.

ZHU-LIN BUDDHIST ASSOCIATION

Dr CLOSE (Port Adelaide) (15:15): This past weekend, I was privileged to attend the Zhu-Lin Buddhist Friendship Dinner. I thoroughly enjoyed the evening and thank my kind hosts for their invitation and for their hospitality. The performances, speeches, ceremony and food were wonderful.

The Zhu-Lin Buddhist Association of South Australia was formed in 1986 and established by people from China, Vietnam, Malaysia, Hong Kong, Cambodia, Singapore and other parts of East and South-East Asia. The association is part of the Pure Land school of Buddhism and is within the tradition of Mahayana Buddhism. The teachings of compassion to all, gratitude, the ephemeral nature of all things and our journey to enlightenment are evident in any interaction with community members.

The Zhu-Lin Buddhist Association provides religious, cultural and charitable welfare services to the community, including marriage, funeral and burial services and counselling services for youth and any other member of the community who might seek help. The generosity of the community and its dedication to compassion across the world were shown by the community recently raising $50,000 for disasters in China and Burma.

The association conducts tours of its temples for schools, churches and other interested groups. The tours normally include basic Buddhist teaching, an introduction to meditation sessions and an introduction to the history of the temple and to the cultural and artistic aspects of Buddhism. I can personally attest to the warm welcome given to visitors to the temple and encourage anyone to go to the temple, meet the kind people and learn something of the teachings of the Buddha.

The Zhu-Lin community is constantly growing. Their first temple was set up in a garage and, due to the tireless efforts of the community in the early 1990s, the temple at Ottoway, in the Port Adelaide electorate, was built. Earlier this year, I attended the New Year celebrations at the temple, and it provides a welcoming and impressive place for people to gather and celebrate.

Now the community is starting the next development for their temple: the building of a magnificent pagoda. The four-storey building will take up to three years to complete, and the community is still actively raising money. The building has started right next to the temple, will house Buddhist symbols and artefacts and will be used for social, community and educational purposes.

The four storeys each has significance. The ground floor will be the Hall of Gratitude; the first floor, Happiness; the second floor, Inspiration; and the third floor, Peace. The pagoda will, therefore, be a tangible monument to the core teachings of the Buddha. I wish the community well in their endeavours and look forward to many years of visiting both the temple and the pagoda.

The SPEAKER: The member for Goyder.

MARINE PARKS

Mr GRIFFITHS (Goyder) (15:17): Thank you, Madam Speaker, and I appreciate your indulgence in allowing for arrangements to be made. Today I wish to speak about marine parks, if I may, and just put on the record some comments that have been coming through to me from my constituents who are very concerned about a couple of aspects of it: firstly, from a professional fisher's viewpoint and particularly around marine park 14.

There is a Mr Bart Butson, who is a sensible bloke, actually—a very sensible man. He is a professional fisher from Port Wakefield of at least second-generation. I know his son is also very keen to take over from him. He has had some discussions with me and is concerned that, with the sanctuary zone proposals for marine park 14, it really will mean the death of an industry that exists around the top of the gulf.

With the net fishers and the line fishers who operate out of there, we probably have something like 24 different professional fishers. Collectively, they employ something like 200 people. They have a turnover within the local community approaching $5 million or $6 million and they are very concerned that, with the draft sanctuary zones that are out there, their livelihood is going to be taken away from them.

They have had the opportunity to review some of the figures floating around out there about compensation payments that people are talking about. It is in the low $200,000s. For them, that does not provide them with any level of compensation that allows them to relocate or consider remaining in the industry. So, there are desperate people out there who are very concerned.

I know they have made approaches to minister Caica. I know he has indicated a willingness to talk, once the draft management plans are released, but I would urge him to ensure that that discussion does occur, because these people are reflective of many others who exist across regional South Australia who are concerned about the impact of the sanctuary zones.

I have also had approaches from people who are quite worried about the beach fishing aspect of it. I know that within the Goyder electorate something like 36 kilometres of 'no-beach fishing' is proposed, which is predominantly in mudflats on the Samphire Coast. I have had contact from quite a few people who are worried about that and who consider the Yorke Peninsula to be either their holiday destination of choice or their beach fishing destination of choice. Some of the spots identified as part of the sanctuary zones and where the beach fishing will be prevented are their preferred spots.

These people have been doing it for decades. They go there regularly. They have free camp sites there. They respect the environment. They take very little compared to what the full take is from the sea. They do not have the chance to relocate a lot and still get that regular feed of fish they are looking for. They are starting to contact us, and I know that other members have also had approaches about this. They just want to see fairness and equity in it. It is smaller amounts.

I acknowledge that the sanctuary zone proposals are in the range of 6 per cent of our marine waters, but it is an issue that will continue to crop up. The intention of the minister to release the management plans in August—and, indeed, the economic and social impact statements—is only going to open up another level of scrutiny that will just make the community rise. They are empowered by this. They know that their voice has to be a loud one. It is not just we as politicians who seek opportunity from it. We are here as the voice of the people who contact us.

Mr Pengilly interjecting:

The SPEAKER: Order!

Mr GRIFFITHS: The member for Finniss talks about it quite often. I have four marine parks—

The Hon. M.J. WRIGHT: Point of order, ma'am. I cannot hear the speaker because of the interjections on the other side.

The SPEAKER: Yes. The member for Finniss will behave or he will leave before he has an opportunity to do his grievance.

Mr GRIFFITHS: The member for Flinders has 10 marine parks. For us it is our bread and butter. It is the wish of the people within our electorates for us to continue to speak about it, so it is an issue that we will continually raise.

I want to finish on one point. I have had contact from a member of the Balgowan Progress Association—a lady who is used to putting her viewpoint forward. Her name is Helen Moyle, and she is very concerned about the fact that Mr Chris Thomas, who works—

Ms Thompson interjecting:

Mr GRIFFITHS: Yes. He is the project officer for this. He posted late last night, as I understand it, on a tweet site, I think it is, or a SA website, about the number of people who have made contacts and who have asked questions about the marine parks. He has developed a top ten of the 1,500 or 1,600 contacts. Supposedly he has identified how many contacts have come from the same person. In some cases the top 10 includes people who have made 300 or 400 contacts because that is what they are passionate about.

She just wonders what waste of resources has occurred here for him to make that information available seemingly to belittle these people in a public realm when all they are doing is trying to protect their communities. That is where there is a level of frustration, and Mr Thomas has to be held to account for his actions as we are in here. It is this issue that Mrs Helen Moyle has asked me to raise in the chamber because she wants an answer. She does not feel it is right for this belittling to occur when a very serious issue has been raised in the community, and he has just taken it as an opportunity to attack these people personally.

HANK, MR BOB

The Hon. M.J. WRIGHT (Lee) (15:22): I would like to pay tribute to the late, great Bob Hank. Bob passed away on 14 June. Not only was he a great footballer (and I will go into some of those details in a moment) but also he was a great human being, a great South Australian and a

great Australian. As I said, he passed away on 14 June, and I was fortunate, along with about a thousand other people, to attend his service at Football Park on 21 June.

His career is legendary. He played 224 games for West Torrens. He was captain of West Torrens from 1947 to 1955. He played in premiership teams in 1945 and 1953. He played 29 state games for South Australia. He was also captain on a number of occasions for his state team. He was a dual Magarey Medallist in 1946 and 1947. He was nine times best and fairest winner for West Torrens. These are figures that you just do not hear these days.

He coached West Torrens in 1951. He was an All Australian in 1950 and 1953. He was a Player Life Member of the South Australian National Football League and also a member of the AFL Hall of Fame. He really did it all. Those statistics are something that he and his family were extremely proud of. I know that in the West Torrens Football Club—and also now at Woodville West Torrens (the Eagles)—his name is legendary. In fact, he became the No. 1 ticketholder for the Eagles in 1999 until his death.

The Hon. M.J. Atkinson: And kissed my mother.

The Hon. M.J. WRIGHT: And kissed Mrs Atkinson. He will be very well remembered not only for his football feats but also for the way in which he conducted himself as a human being. Invariably he was at the Crows and Port Adelaide matches. He used always to be very easygoing, great to have a chat with and he certainly became a friend of mine. He lived at West Lakes and was a constituent in the electorate of Lee, and he was certainly very generous in the time that he made available to talk football and, for that matter, any other matter. Barry, one of his sons, said:

> He will be forever remembered and never forgotten as a champion sportsman in football, cricket and golf, and a true gentleman in life.

We all know about his football career, but he was also a very good cricket player. Incidentally, he clean-bowled Sir Donald Bradman and, when he would tell the story, he would finish by saying, 'Bradman was 207 at the time.' He was also a very good golf player. I think he had four holes in one and was captain of his golf club.

As Barry said, he was a true gentleman in life. Never was a fairer word said about someone—he was a true gentleman. Everyone respected him and everyone is obviously saddened by his passing. I extend my sympathies to his wife, Audrey, his children, his grandchildren and his great-grandchildren. Bob Hank will be sorely missed.

AIRLINE COMPETITION

Mr PENGILLY (Finniss) (15:25): I want to make a few comments in relation to the announcement last week of the arrival of Emirates airways and the few words that the Deputy Premier made in the house. I think it is important to put these things into some sort of order. Emirates is a good airline, an excellent airline, and I have no doubt that Australians, particularly those who live in South Australia, will pick up on the fact that Emirates is flying out of here direct to Dubai and other parts.

I follow the aviation industry with a fair bit of interest and can I also bring to the attention of the house, from *Australian Aviation* this month, some comments made by the editor Gerard Frawley in relation to Qantas. The issue for me is that, if you run off and use all these other airlines, ultimately, you will lose Qantas international. Domestically, Qantas is going okay but, internationally, it is a disaster. Mr Frawley says:

> It is the international operations that are faced with the full force of competition from some of the world's best airlines (Cathay, Singapore, Emirates) with cost bases far lower than Qantas's. As Geoffrey Thomas writes in *Contrails*—

and I will come to that—

> whenever an international airliner lands in Australia, it imports that airline's home country's cost base.
>
> So Qantas finds itself in the position of having higher costs and less efficient 'legacy' work, facing competitors that have lower cost bases.

He goes on:

> Every time an Emirates A380 with its 500 or so passengers departs Sydney or Melbourne, that is 500 passengers not travelling on Qantas.

I equate that to the 300-odd passengers that can come into Adelaide on Emirates and leave. They are passengers that will not travel on Qantas, either. So we are cutting off our nose to spite our face, in my view. He goes on:

> There are plenty of factors that Qantas has little or no control over—fuel prices, international deregulation, Australia's currency and geographic location.

Further on in the magazine, in the item *Contrails*, Geoffrey Thomas (another well-known aviation writer) writes:

> Adding to the complexity is the federal government's desire to have Qantas as a flag carrier supporting Australian jobs while opening the floodgates to competition.
>
> There is no turning back liberalisation but the government and unions must understand what that means.
>
> There are two dynamics that are unshakeable: every time a foreign aircraft lands on Australian soil it imports that country's labour costs, and most passengers today will change airlines for $10 as safety is no longer a major concern for 75 per cent of travellers.
>
> If a foreign-owned company such as General Motors qualifies for $275 million in assistance to keep open the Holden plant—

in South Australia, I might add—

> then 51 per cent Australian-owned Qantas certainly ticks the box for federal aid or at least a more level playing field.

We desperately need to have a national flag carrier like Qantas. In the past, there have been management issues. Alan Joyce has been castigated over some of his actions, but it is his job to get Qantas running properly, both domestically and internationally.

I, for one, have had disagreements with Qantas on various issues but, if we are going to sit here and welcome other airlines into Adelaide and international carriers such as Emirates, Air New Zealand, Malaysia Airlines, and others, we need to think about the costs they operate under and the costs that Qantas operates under and the pressure it is under. I think it will be a very, very sad day if we lose Qantas international, and we could. Remember that it is the airline that has never had a fatality in all its years of operation.

An honourable member interjecting:

Mr PENGILLY: That's correct. *Rain Man*.

An honourable member interjecting:

Mr PENGILLY: Yes, it is an old movie, but it is still the same—its record remains intact. I acknowledge that people will fall over in the rush to fly with Emirates when it comes to Adelaide, and I do not wish it any harm, but I do sincerely hope that Qantas is supported. It only operates, I think, three international flights into Adelaide (I will stand corrected, if necessary, on that). It is in dreadful trouble. It has some aircraft that it should not have bought, and it should have bought others. It is interesting that Emirates is operating the extended range Boeing 777 into Adelaide. They are magnificent aircraft, and I believe that Qantas would have been better off had they used that aircraft many years ago.

Time expired.

CRIMINAL LAW (SENTENCING) (GUILTY PLEAS) AMENDMENT BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:31): Obtained leave and introduced a bill for an act to amend the Criminal Law (Sentencing) Act 1988. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:32): I move:

> That this bill be now read a second time.

The Criminal Law Sentencing Act (Sentencing) (Guilty Pleas) Amendment Bill 2012 regulates and makes transparent the sentencing discounts given to offenders who plead guilty. The main objective of the bill is to improve the operation and effectiveness of the criminal justice system by reducing current delays and backlogs in cases coming to trial. It encourages offenders who are minded to plead guilty to do so in a timely way.

A secondary objective of the bill is to tidy up the operation of section 10 of the Criminal Law (Sentencing) Act 1998. The bill identifies three pivotal stages in major indictable cases, which are

the core around which provision for discount for guilty pleas can be made. The bill provides for a modified and simplified two-stage process for matters dealt with summarily to reflect the different nature of the typical summary case and operational consideration in the Magistrate's Court.

The bill provides for a graduated series of discounts for pleas of guilty. The quantum of the discounts are dependent on the timing and circumstances of the guilty plea. The earlier the plea the higher the discount. The bill restricts the conferral of discounts for late guilty pleas but permits adequate discretion to a court to ensure that defendants who may plead guilty at a late stage through no fault on their own part, or some good reason, are not unfairly prejudiced.

Any perception that the bill will allow offenders to escape their 'just deserts' and appropriate punishment by pleading guilty is mistaken. The figures for the discounts in the bill are not intended to be overly rigid or mechanically applied. They merely provide the upper limit at which a discount for a guilty plea can be set. Though there may be debate as to what should be the precise upper limits, the figures in the bill are not overly generous. They are consistent with existing sentencing practice.

What the bill achieves is the codification of the rule that the earlier the guilty plea the greater the discount. It places some limits on the freedom of the courts in providing discounts in sentencing. The bill is not radical or revolutionary. Its major effect is to make transparent and regulate what already happens or, at least, what should be happening, in the state's criminal courts on a daily basis.

There has been strong support in both Australia and overseas amongst law reform agencies, judges, academics and legal practitioners for a statutory scheme to encourage early guilty pleas and regulate discounts for guilty pleas. Such a reform helps tackle delay and thus assists all parties in the criminal justice process, especially victims and witnesses.

The Bill is taken from the Criminal Law (Sentencing) (Sentencing Considerations) Bill 2011, hereafter referred to as the Sentencing Considerations Bill. It was unfortunate that the Sentencing Considerations Bill was defeated in the Legislative Council in March 2012. There appeared to be no consistent or coherent theme to the opposition to the bill; a bill which had resulted from major and considered reform, drawing on the work and input of many sources and interested parties.

The Sentencing Considerations Bill provided for a comprehensive legislative framework for the provision of sentencing discounts for pleading guilty and/or cooperating with the authorities (both for normal cooperation and exceptional cooperation in the context of serious and organised crime) and also tidied up and clarified aspects of the operation of section 10 of the Criminal Law (Sentencing) Act 1988. The subject matter of the Sentencing Considerations Bill is simply too important and beneficial to be left unaddressed following its defeat in the Legislative Council and the government remains resolved to proceed with the reforms with appropriate changes. I seek leave to insert the remainder of the second reading explanation in *Hansard* without my reading it.

Leave granted.

The original Bill has been split into 2 new Bills. Exceptional cooperation in relation to serious and organised crime is the subject of the *Criminal Law (Sentencing) (Supergrass) Bill 2012* now before Parliament. The guilty pleas portion of the Sentencing Considerations Bill is covered in the present Bill. Both the *Criminal Law (Sentencing) (Supergrass) Bill 2012* and the *Criminal Law (Sentencing) (Guilty Pleas) Amendment Bill 2012* (the *present Bill*) are intended to be complementary in operation.

The present Bill is quite different from the original version that was first introduced in 2011. The present Bill includes the Government Amendments to the original Bill that were unsuccessfully moved in the Legislative Council. These changes are designed to clarify aspects of the Bill's intended operation and, in particular, to make it clear that the Bill is not to prejudice defendants who through no fault on their part enter a late plea of guilty. Any discount for normal cooperation is for future consideration and has been left out of the Bill in light of the major practical problems that it gives rise to.

The 2011 Bill was carefully drafted to promote the Government's policy to encourage early guilty pleas but not so as to prejudice or disadvantage offenders whose delay in pleading guilty was due to unforseen circumstances beyond their control. Both the 2011 Bill and the present Bill contain a general exemption allowing any court to confer a discount of up to 30% for a late plea of guilty if the guilty plea is entered at the first practicable opportunity and the reason for the delay is beyond the control of the defendant. It was considered that this provision was adequate to protect the position of the defendant who pleaded guilty late in the proceedings through no fault of his or her own. However, to dispel any lingering concerns, the present Bill puts the situation beyond any doubt and there is now further specific provision to allow a discount in sentence in certain circumstances for a late plea of guilty if good reason exists for the delay in pleading guilty. The Law Society accepts that, with these changes, the main concerns that it previously expressed about the Bill are now removed.

The present Bill represents a sensible and balanced model. Furthermore, contrary to some assertions, the present Bill should not result in the granting of unduly lenient sentences for offenders through excessive discounts. The figures for the maximum discounts in the Bill for a guilty plea are consistent with existing common law guidelines. Indeed, by preventing a court in the absence of some good reason from treating a belated guilty plea on the doors of trial in the same way as a prompt and early guilty plea, the Bill will help prevent the granting of excessive and undeserved discounts for late pleas of guilty.

A great deal of effort and preparation going over several years has gone into the Bill. The Opposition's approach has been unhelpful and obstructive. It is a bit rich of the Opposition to talk about alleviating the pressures on the criminal justice system and helping victims when all it does is seemingly oppose anything concrete that the Government comes up with. Whenever the Government makes a move to legislate to try and improve the effectiveness of the criminal courts, to tackle delays and assist victims and witnesses, maximise the use of prosecutors' time and minimise the amount of time defendants have to frustrate the system, the Opposition comes up with new arguments to oppose whatever the Government is proposing to do.

Background

The Bill draws on recommendations made by His Honour Judge Rice of the District Court several years ago and, later, the Criminal Justice Ministerial Taskforce (CJMT). At the relevant time, the Criminal Justice Ministerial Taskforce was chaired by the then Solicitor-General (now Chief Justice) Chris Kourakis QC and comprised the Commissioner for Victims Rights and representatives from the State and Commonwealth Offices of the Directors of Public Prosecutions, South Australian Police, the Law Society, the Bar Association, the Legal Services Commission, Aboriginal Legal Rights Movement, the Department of Treasury and Finance and the Attorney-General's Department. The Courts Administration Authority was represented in an observer capacity.

In its first report, the CJMT highlighted the need to reform and rationalise the recognition to be given to offenders for guilty pleas. Amongst its recommendations was the introduction of a graduated series of sentence discounts to offer incentives for defendants to plead guilty at an early stage and to discourage delays in pleading guilty.

The original Bill was the subject of an exhaustive consultation process with many expert commentators. The draft original Bill was placed on the Attorney-General's Department website and public comment was invited. The final version of the original Bill was the subject of further comment by the heads of the judiciary and the Joint Courts Criminal Legislation Committee. The original draft Bill was sent for comment to a range of interested parties. Comment was received from the then Chief Justice, the Joint Courts Criminal Legislation Committee the Chief Judge, the Chief Magistrate, the Senior Judge of the Industrial Court, the Senior Judge of the Environment, Resources and Development Court, the Senior Judge of the Youth Court, the Law Society, the State DPP, the Commonwealth DPP, the Legal Services Commission, the Victim Support Service, Prisoners Advocacy, the Commissioner for Victims' Rights, the Police Commissioner, the Bar Association and Volunteering SA. The Solicitor-General for South Australia, Mr Martin Hinton QC, provided expert advice to the Government and officers of the Attorney-General's Department in finalising the Bill.

The result of the consultation process was inevitably mixed. Though there was near unanimous support for the Government's objectives to encourage early guilty pleas and to improve the effectiveness of the criminal justice process, there was an inevitable difference of emphasis in how this should be attained. On the one hand some parties considered that the figures for the discounts in the original Bill were too generous while, on the other hand, some respondents considered that the figures were too low and that the Bill was too restrictive of judicial discretion, especially in respect of guilty pleas entered just before trial. These concerns have been addressed in the present Bill to widen the court's discretion in certain circumstances to cater for a late guilty plea.

The problem

The increasing backlogs and delays in cases coming up for trial in South Australian higher courts have been a major and longstanding concern. If allowed to continue, this trend will seriously erode public confidence in the criminal justice system and cause major problems in the administration of criminal justice. It is a well known and apt maxim that 'justice delayed is justice denied'. Though this applies to defendants, it applies especially to victims and witnesses and has an especially adverse effect on vulnerable victims, such as children or those with an intellectual impairment.

The criminal trial list remains unsatisfactory. In most recent years, the number of new criminal cases received in higher courts has exceeded the number of cases finalised. The number of criminal cases still 'in the system' has therefore significantly increased. The 2009-2010 Courts Administration Authority Annual Report showed that, although the number of new cases received at the District Court had remained largely steady from the previous year, the number of criminal trials listed but not heard at both the Supreme Court and the District Court, had actually increased despite more cases being dealt with and concluded during the year in the District Court. The increased number of cases finalised in the District Court was insufficient to reduce the current lengthy backlog of cases pending in that court. The 2010-2011 Courts Administration Authority Annual Report showed a significant improvement in easing the District Court's backlog of outstanding trials but delay remains a major problem in the courts and late guilty pleas are a leading contributing factor to such delays.

Efficiency in the system is the responsibility of all those that participate in it. No single participant can solve the problem acting alone. It is for this reason that the Government will continue to look at a range of measures designed to contribute to the efficient administration of the criminal justice system without compromising justice.

The impact of the problem

Some of the many aspects of the negative consequences of long delays include:

1. Increased risk of offenders escaping justice through attrition of witnesses, including deterioration of witnesses' recollection of key events over time. This is a major problem with vulnerable witnesses, such as children or those with an intellectual impairment.

2. Compounding of the well known adverse psychological effects on victims of crime with delays inherently extending the period of anxiety for victims awaiting participation in trials and the giving of evidence. Again, this is a particular problem with vulnerable witnesses such as children or those with an intellectual impairment.

3. Increased legal aid and public prosecution costs as current protracted criminal procedure provides for many pre-trial hearings.

4. Increased prisoner time spent on remand by people who either will not get a sentence of imprisonment at all or who will be sentenced to imprisonment for a period equal to or less than that spent on remand—at a well-known cost to the prison system. South Australia has the longest remand times in Australia.

5. Police, prosecution, forensic science and defence (especially the Legal Services Commission) resources devoted to preparing and processing cases unnecessarily for trial, when those limited resources could be better devoted elsewhere.

6. Unproductive use of limited judicial time and resources, especially reserving courts for trials that ultimately turn out to be non-effective.

A guilty plea just before trial is especially undesirable as it magnifies many of the adverse effects of delay. The longer a case remains in the courts' list, the greater the delay it causes in other cases being reached. Consequently, getting cases out of the list should contribute to a reduction in delay.

What causes the problem

The number and timing of not guilty pleas has been clearly identified as a major, though not the sole, contributor to delays and inefficiencies in the criminal trial process. Defendants are perfectly entitled to plead not guilty and to require the State to establish their guilt beyond reasonable doubt, However, at common law there is almost universal acceptance that there may be a reduction in sentence for an early plea of guilty. In *R v Place* (2002) 81 SASR 395, 412-413, the Court of Criminal Appeal endorsed an earlier statement by Chief Justice King about the importance of a discount for a plea of guilty and the pragmatic rationale for such a discount in assisting the orderly and effective administration of criminal justice. Discounts in sentence were intended to encourage guilty persons to admit their guilt, instead of putting the State to the cost and trouble of a criminal trial and thereby contributing to the congestion of the criminal lists and distress to victims and witnesses. The Chief Justice observed that this is an important public policy consideration and judges were to be encouraged to foster an awareness amongst people charged with criminal offences, and those who advise them, of the advantage to be gained by a guilty person by acknowledging his or her guilt at the first reasonable opportunity. The Bill reaffirms and reinforces this important common law policy.

The present practice in relation to reducing sentences by reason of a guilty plea is unsatisfactory. An offender who pleads guilty to an offence before trial will attract a sentence discount varying in quantum but generally up to a third where the defendant pleads guilty at the first opportunity and up to 50% where the defendant pleads guilty at the first opportunity and provides substantial assistance to the Crown.

Over recent years, it appears that, as Justice Duggan noted in the consultation process, the common law requirement that the plea be early is too often overlooked. Reductions of 20% and 25% are not uncommon for pleas entered within a few weeks of trial and defendants even receive significant discounts for a guilty plea literally entered at the doors of court on the day of trial. There does not appear to be sufficient difference in practice between the reductions for early guilty pleas and those much closer to trial. The trend of belated guilty pleas is undesirable and should be actively discouraged. Late guilty pleas represent a wasteful use of limited public and judicial resources and are unhelpful to all the parties in the criminal justice process, including defendants.

A guilty plea is far swifter to progress and finalise than a criminal trial. Clearly, any defendant is entitled to plead not guilty and to insist that the State prove his or her guilt beyond reasonable doubt. But what is a source of considerable and particular concern is the continuing substantial number of defendants who plead not guilty initially and are committed for trial, only to plead later in the proceedings, often literally at the doors of court on the day of trial.

The problem of late guilty pleas has been a recurring one over recent years. The State DPP noted that in 2008-2009 late guilty pleas were the cause of 188 of the 686 fixed higher court trial dates that had to be vacated. This represented over a quarter of the higher court trials that did not proceed. In 2009-2010 late guilty pleas were the cause of 308 of the 883 fixed higher court trial dates that had to be vacated. This amounts to well over a third of the fixed higher court trials that did not proceed to trial. In 2010-2011 late guilty pleas were the cause of 386 of the 1073 fixed higher court trial dates that were non-effective. This again amounts to over a third of the fixed higher court trials that did not proceed to trial. Over half of the defendants who are sentenced in the District Court, only plead guilty at the District Court and not in the Magistrates' Court at committal. This all represents a waste of limited court, prosecution, police, forensic science, Legal Services Commission and prison resources. The situation places major pressures on the operation of the District Court and other agencies and contributes to South Australia's high rate of prisoners on remand. It is common for trials to take well over a year from committal to be heard. This all puts acute pressures on victims and witnesses.

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

District Court's figures for 2010-2011 show that the Courts Administration Authority has made significant progress in addressing delays but it is clear that major problems still remain. It is timely and appropriate to consider other avenues such as encouraging early guilty pleas through this Bill and other linked measures to improve court effectiveness.

The Bill in detail

The Bill has a number of major features and, where appropriate, provides for a different application in matters heard summarily compared to those dealt with in higher courts, to reflect the different procedures for those matters.

The Bill provides, in all cases, a discount of up to 40% for pleading guilty within 4 weeks of the defendant's first scheduled appearance, whether in person or through a legal or other representative, in a court in relation to the case. The defendant will be admitting his or her guilt at the earliest opportunity. This discount applies to all offences. It is expressly contemplated on the basis that the prosecution will not have effected full disclosure of its case. There will be some offenders who will be willing to plead guilty without sight or consideration of the prosecution's detailed evidence. More often than not a summary of the alleged offence, an 'apprehension report', will be the only information available. The defendant will be admitting his or her guilt at the earliest opportunity and the police or other investigative agency will be spared the time-consuming task of compiling a brief of evidence that would otherwise be required. This higher discount is expressly confined to this class of case and can only be varied in narrow circumstances, namely that a court was not available within the 4 week period to take the plea.

For major indictable charges not dealt with summarily under the *Statutes Amendment (Courts Efficiency) Bill 2012*, the committal is another suitable focal point under existing legislation and practice for the defendant to be properly expected to offer a meaningful and informed decision as to plea. At present, it is clear that far too many offenders plead not guilty at committal, only to plead guilty later in the proceedings. The encouragement and expectation should be for those defendants, who are likely to plead guilty in respect of major indictable offences, to do so, before or at committal and not at some later date.

The Bill provides for a discount of up to 30% for a guilty plea after four weeks from the defendant's first scheduled appearance but before the committal for trial. This will typically be after the prosecution has completed the bulk of its investigation and supplied the bulk of its evidence to the defence and the defence lawyers are in an informed position to advise their client as to the strength of the prosecution case and to the appropriate pleas.

The Bill provides for a discount of up to 20% for a guilty plea in the period after committal and up to 12 weeks from the arraignment date set at committal. This discount is not absolute and limited exceptions are provided in the Bill. This third stage of 12 weeks after the arraignment date accords with the preference expressed in the consultation process by the Chief Judge. This third stage is designed to maximise effective court listing and to tackle the all too common present practice of belated guilty pleas. For those offenders who are still likely to ultimately plead guilty but who have not already done so within 4 weeks of charge or at committal, then the third focal point is designed as a final 'filter' to catch such defendants and encourage them to plead guilty before the considerable inevitable final effort involved in preparing for trial.

There is a need for a relatively strict approach in this area. The Bill's policy is to discourage the all too common present practice of defendants pleading guilty just before the trial. In order to tackle this culture, a point in time long before a listed trial date should be the cut off for a discount in the ordinary course of events. This will facilitate the aim of the Bill in achieving cost savings and efficiencies through early guilty pleas.

Under the Bill, there will generally be no discount in the higher courts if the guilty plea is entered in the period after 12 weeks of the first arraignment date and up to, and including, the first trial date. However, the Bill is not inflexible or absolute. It is not intended to unfairly or unduly prejudice defendants.

If the reason for the delay in any case, whether at the higher or summary courts, in the defendant pleading guilty is beyond his or her control and he or she has pleaded guilty at the earliest practicable opportunity, the court will still have a limited discretion to confer a discount in sentence up to 30%. This exception cannot usefully be further defined. It may, for example, be due to the late service of important evidence that has a major bearing on the strength of the prosecution case. The plea of the defendant may be accepted to a lesser or alternative offence. The defendant may even have provided a firm and reliable offer to have pleaded guilty to a lesser offence to the court and the prosecution, but the prosecution initially rejected that proposal but accepts it on the day of trial. The reason for the delay in pleading guilty may even be due to other factors or parties, such as the court. The reason for the delay may not lie with either the defendant or his or her lawyers for the discount to be available. The onus is on the defendant to satisfy the court that this exception is made out. It is not contemplated that this will require lengthy hearings or the calling of witnesses to resolve. Indeed, it is contemplated that, in most cases, this will be capable of being achieved either 'on the papers' or on the basis of counsel's submissions without the calling of any evidence.

The Bill allows a further discretion for a discount of up to 15% for a guilty plea in the District or Supreme Court in the period of 7 days following an unsuccessful legal argument by the defendant. It is not intended that this discretion will arise for a guilty plea following a frivolous or untenable legal argument put on behalf of a defendant. However, the defendant may have a valid legal argument to raise such as that a vital piece of evidence such as an incriminating confession or the result of a search should be excluded but be perfectly willing to plead guilty without any further delay if that legal argument is rejected by the court. This provision therefore provides that if a defendant pleads guilty within 7 days immediately following an unsuccessful application by or on behalf of the defendant to quash or stay the proceedings or a ruling adverse to the interests of the defendant in the course of a hearing of the proceedings, the defendant can still receive a discount of up to 15%. To assist with alternative court listing arrangements and to minimise the stress and inconvenience to the all the parties and witnesses in the proceedings, the guilty plea would have to be entered after committal and at least 5 weeks before the first date set down for the

commencement of the trial at the District or Supreme Courts. This timing is dependent upon the court listing the defendant's case for legal argument during the period in question as the clause clarifies.

The phrase 'commencement of the trial' is already well understood (see *R v Wagner* (1993) 68 A Crim R 81 and *Attorney-General's Reference (No 1 of 1998)* (1998) 49 SASR 1).

The Bill provides that the defendant will still be entitled to the applicable and relevant discount if the court did not list his or her case in the period in question. It has the specific effect in the context of the 15% discount that if the court did not list the pre trial legal argument in the period after committal and at least 5 weeks before the first date set down for the commencement of the trial at the District or Supreme Courts, the defendant is still entitled to a discount in sentence of up to 15% if the defendant pleads guilty within 7 days immediately following an unsuccessful legal argument.

Though court listing practices are clearly an issue for the Chief Judge, the Chief Justice and the Courts Administration Authority, it is hoped that this provision will encourage the parties in the proceedings to identify issues in dispute well in advance of the trial and the court to list pre-trial legal arguments significantly in advance of the trial date, rather than leaving them to the morning or day before a jury is empanelled. The introduction of binding rulings in the *Statutes Amendment (Courts Efficiency) Bill 2012* should help provide the support for listing legal arguments significantly in advance of trial.

The Bill further clarifies that a defendant is still entitled to the relevant and applicable discount if the court for any other reason outside the control of the defendant is unable to hear the defendant's case during the period in question. It has the specific effect that if the court for reasons outside the control of the defendant was unable to hear the pre-trial legal argument in the period after committal and at least 5 weeks before the first date set down for the commencement of the trial at the District or Supreme Courts, the defendant is still entitled to a discount in sentence up to 15% if the defendant pleas guilty within 7 days immediately following the unsuccessful legal argument. This is subject to the requirement that a court must be satisfied that the only reason that the defendant did not plead guilty within the relevant period was because the court did not sit during that period; the court did not sit during that period at a place where the defendant could reasonably have been expected to attend; or the court was, because of reasons outside of the control of the defendant, unable to hear the defendant's matter during that period.

The 15% discount is confined to cases before the higher courts. It is unnecessary to extend this discount to the Magistrates Court given the very different nature of both the cases and listing pressures and practices in that court.

The final exception is that any criminal court has a residual discretion in limited circumstances to provide a discount in sentence of up to 10% if it is satisfied that a good reason exists for the defendant's delay in pleading guilty. It is accepted in certain circumstances that, despite the late guilty plea, there is merit in a residual discretion for a late guilty plea if good reason exists to avoid an unnecessary trial, especially in a sexual case and/or one involving a vulnerable witness. This residual discretion will only apply once any other discretion in the Bill (including the 30% and 15% discounts) for conferring a discount for a late plea of guilty has been considered and discounted. This residual discretion will be available in both the Magistrates' Court and the District and Supreme Courts. Good reason is deliberately not defined. It will depend upon the sense and discretion of the court in each particular case.

The timing of the stages for pleading guilty in the higher courts will be capable of variation by Regulation. This is if, as is quite possible, working and listing practices and pressures in the higher courts should change in due course. It is more efficient that the periods can be changed to reflect these practices and pressures by regulation as opposed to having to return to Parliament to change the periods. There is a need for the law to be responsive in this regard.

The Magistrates Court is the workhorse of the criminal justice system and deals with over 90% of criminal cases. The Bill provides for a simplified regime to reflect the differing practices and pressures applying where matters are dealt with summarily. The Bill provides for a discount of up to 30% for a guilty plea after 4 weeks of the first scheduled appearance, whether in person and/or through a legal or other representative, but before 4 weeks of the first date set for trial for matters dealt with summarily. This will typically be after the prosecution has satisfied its pre-trial obligations of disclosure so that the defence lawyers are in a position to advise their client as to the strength of the prosecution case and the appropriate pleas.

The Bill provides that no discount is permitted for matters dealt with summarily if the guilty plea is entered in the 4 weeks before the first trial date. A limited exception of conferring a discount of up to 30% for a late guilty plea is provided in similar terms to that for the higher courts if the delay in pleading guilty is beyond the control of the defendant and the guilty plea is entered at the earliest practicable opportunity. A further residual discretion of up to 10% is provided for a late guilty plea if a good reason exists for the delay in pleading guilty.

As with the higher courts, the timing of these stages in the Magistrates Courts will be capable of variation by Regulation. This is if, as is quite possible, working and listing practices and pressures in the Magistrates Courts should change in due course. As with the higher courts, it is more efficient that the periods can be changed to reflect these practices and pressures by Regulation as opposed to having to return to Parliament to change the periods.

The Bill contains an overriding provision for any court to be able to decline to provide all or part of a discount for a guilty plea within the ranges in the Act having regard to public interest considerations, namely where the gravity of the offence and/or the circumstances of the defendant are such that the sentence that would arise from conferring the discount would be so inadequate as to 'shock the public conscience'. This expression is not new and is consistent with that already used in governing prosecution appeals against sentence. It is expected that the use of this provision will be rare but it is a necessary provision to make very clear that the courts' discretion is to award up to the level of the discount—it need not award the level of discount, especially for the most repugnant offender or offences. In fact, it need not award a discount at all if the circumstances demand such a course.

It is not intended that the Bill will affect the general way in which the criminal courts go about formulating the correct sentence applicable in any given case. The High Court has said that the correct method for determining an appropriate sentence is by a process of 'instinctive syntheses' of all the relevant circumstances. The Bill is not intended to displace this approach to sentencing. The Bill only modifies this approach to the extent that it requires the court to state in its sentence the amount of any discount that it is providing to reflect the guilty plea. The Bill does not require the court to go beyond this and to state any discount for any other mitigating factor. These will still be left to the operation of the common law and section 10 of the *Criminal Law (Sentencing) Act 1988*.

The Bill retains the existing requirement that the court, in determining sentence, may not have regard to the fact that a mandatory minimum sentence is prescribed for the offence, even though it may result in the court fixing a longer non-parole period than the court might think was otherwise appropriate in the circumstances. This especially arises with respect to the general 20 year non-parole period provided for offences of murder. The policy and content of this requirement has been discussed by the Court of Criminal Appeal in its recent decision in *R v A* (2011) SASCFC 5. The Government will carefully consider its position on this important issue and respond to the court's judgement in due course. The present Bill is not the appropriate vehicle to reconsider the issue of mandatory non-parole periods, especially in respect of murder.

Though the consultation process for the original Bill revealed considerable support for retaining section 10 of the *Criminal Law (Sentencing) Act 1988* as a central source of reference of the general principles of sentencing, the Bill, nevertheless, uses this opportunity to 'tidy up' the operation of that section. It is not a major restructure. Although section 10 in its original form merely set out the established common law principles of sentencing, section 10 has become increasingly unwieldy over recent years with the addition of various, sometimes ill defined, provisions. Therefore, for ease of reference and practical application, the Bill inserts a new section 10(1) that lists the original sentencing factors from 1988 whereas the additional factors added since 1988 have been included in a separate section 10(2). This should assist and 'tidy up' the operation of the provision.

Two consequential issues were also raised in the consultation process that are corrected in the Bill. First, a 'paramount consideration' identified in the existing section 10 of the *Criminal Law (Sentencing) Act 1988* is the 'paramount need' to protect children from 'sexual predators' by ensuring the need for deterrence. The State DPP has identified that this provision is undermined in practice by some judges insisting that the prosecution prove something more than sexual offending against children, namely that the offending was 'predatory' rather than opportunistic. The State DPP suggests that the term 'sexual predator' be changed to 'an offence involving the sexual exploitation of a child'. This suggestion makes sense and accords with what was the original intention of Parliament in inserting this provision. Secondly, problems were raised with the interpretation of the existing provision dealing with the lighting of bushfires. This has been replaced by an amended provision which makes it absolutely clear the extreme gravity with which Parliament regards the offence of lighting a bushfire.

It is appropriate to provide a means of oversight at the end of 2 years after the Bill's commencement to evaluate its effect. A suitable person recommended by the Chief Justice will be appointed by the relevant Minister to conduct an inquiry into the operation of the new law after 2 years. The inquiry will specifically look at the transparency of the Act in respect of the sentences given to defendants and the effect of the Act in improving the operation and effectiveness of the criminal justice system.

Any perception that the Bill either goes too far and unfairly restricts the conferral of discounts or on the other hand is too generous and will lead to excessive discounts is mistaken. The Bill is both balanced and fair. It is necessary to restrict the conferral of discounts for belated guilty pleas in the manner stated in the Bill so as to tackle the underlying culture of late guilty pleas. There is adequate discretion in the Bill to avoid unfair or undue prejudice to defendants who plead guilty late in the proceedings for reasons beyond their control or for other good reason. Not only must the underlying culture of late guilty pleas be addressed but there are other linked issues that also require major reform. It is acknowledged that defendants and their lawyers are not to be solely blamed for the current delays arising from late guilty pleas. The effectiveness of the committal process and the need for timely and effective prosecution disclosure and accurate and informed and early prosecution decisions on charging are also significant. A prerequisite if the Bill is to achieve its stated objectives of reducing delays and encouraging early guilty pleas is sufficient and timely prosecution disclosure of its evidence. It must be emphasised that the problems of delays and inefficiencies in the criminal courts are complex and involve different agencies. The answer to these problems is as much administrative and cultural as legislative and new laws or additional funding will not necessarily address or resolve these problems.

There are problems in the present arrangements for public legal aid funding which perversely discourage early decisions and resolution and encourage delays and cases been taken to trial and contribute to guilty pleas been entered literally at the doors of court. There is an ongoing review that is looking at the funding arrangements by the Legal Services Commission in criminal proceedings, especially to outside lawyers.

The Bill should not be viewed as an isolated measure or a sole panacea. Rather it is an integral part of a series of wider and ongoing series of linked reforms that the Government is taking to improve the effectiveness of various aspects of the criminal justice process and to continue to address court delays and backlogs and improve the position of victims and witnesses.

This Bill is a major step forward in this Government's determination to address court delays. It sets a benchmark in Australian criminal justice reform.

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 *Criminal Law (Sentencing) Act 1988*

4—Amendment of section 9—Court to inform defendant of reasons etc for sentence

This clause substitutes subsection 9(1) of the principal Act to require a court, when sentencing a person who is present in court (whether in person or by video or audio link) for an offence to state the sentence it is imposing and the reasons for the sentence.

A court is not, however, required to state any information that relates to a person's cooperation, or undertaking to cooperate, with a law enforcement agency

5—Insertion of section 9E

This new section is to be inserted at the beginning of Division 2 of Part 2 of the principal Act. That Division is entitled 'General sentencing powers'.

9E—Purpose and application of Division

This section clarifies the relationship between Part 2 Division 2 of the principal Act and the common law. The provision also makes clear the fact that, unless a particular provision in the Division expressly provides otherwise, nothing in the Division affects mandatory sentences, mandatory non-parole periods and similar special provisions.

6—Substitution of section 10

Current section 10 is to be repealed and a new section substituted.

10—Sentencing considerations

This section sets out the matters a court must, or must not, have regard to when sentencing a person for an offence.

7—Insertion of sections 10B and 10C

New sections are to be inserted immediately before section 11 of the principal Act.

10C—Reduction of sentences for guilty plea in Magistrates Court etc

This section sets out a scheme whereby a sentence that a court would have imposed for an offence may be reduced on account of the defendant pleading guilty. This section (as opposed to section 10D) applies where the sentencing court is the Magistrates Court, some other court sentencing for a matter that was dealt with as a summary offence, or in the circumstances prescribed by the regulations.

The maximum amount a sentence can be reduced is dependant upon when the defendant pleads guilty; subsection (2) sets out the maximum discounts available in relation to pleas at various stages in the proceedings.

The section provides for a defendant to receive the maximum available reduction despite having pleaded guilty outside the relevant period if the reason he or she could not meet the deadline was one set out in subsection (3).

The section also sets out matters a court must have regard to in determining the quantum of any reduction under the new section.

10D—Reduction of sentences for guilty plea in other cases

This section provides a scheme of the same kind as in section 10C in circumstances where that section does not apply. For example, this new section applies to the District Court and Supreme Court sentencing indictable matters.

The scheme is essentially the same as in section 10C, modified to take account of the different stages of proceedings applicable in relation to indictable matters.

8—Repeal of section 20

This clause repeals section 20, the effect of which is now located in new section 9E.

9—Substitution of Schedule

The current Schedule in the principal Act is to be repealed and a new Schedule is to be substituted that provides for an inquiry to be held 2 years after the commencement of the amendments proposed in this measure into the effect (if any) of the operation of the amendments on providing transparency in respect of sentences and improving the operation and effectiveness of the criminal justice system.

Schedule 1—Transitional provision

1—Transitional provision

The transitional provision provides that amendments made by this measure to the principal Act apply to proceedings relating to an offence instituted after the commencement of this measure, regardless of when the offence occurred.

Debate adjourned on motion of Mr Griffiths.

CRIMINAL LAW (SENTENCING) (SUPERGRASS) AMENDMENT BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:37): Obtained leave and introduced a bill for an act to amend the Criminal Law (Sentencing) Act 1988. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:37): I move:

That this bill be now read a second time.

The acute problem posed to our community by organised criminal gangs cannot be exaggerated. Gangs of this kind are involved in many criminal activities, such as the manufacture and trafficking of illicit drugs and the all too common and indiscriminate use of violence and firearms to resolve their internal disputes and to enforce their criminal will. Such activities are intolerable in any civilised and law-abiding society. The government remains determined, despite the recent blocking by the Legislative Council of the Criminal Law (Sentencing) (Sentencing Considerations) Bill 2011, to continue its ongoing efforts against the organised criminal gangs involved in serious crime.

These criminal gangs consider that they are above the reach of the law, and conventional law enforcement is often ineffectual in dealing with them because of the strong fears that their thuggery engenders and the resulting unwillingness of many witnesses to testify or assist the authorities in the investigation and prosecution of such criminals. This bill is an integral part of the comprehensive series of linked measures that the government is taking to help tackle the very real problems posed by organised criminal gangs involved in serious crime. The bill, in particular, supports and complements the operation of the Statutes Amendment (Serious and Organised Crime) Act 2012. The bill reintroduces part of the Criminal Law (Sentencing) (Sentencing Considerations) Bill 2011. I seek leave to insert the remainder of the second reading explanation in *Hansard* without my reading it.

Leave granted.

The present Bill is intended to challenge any notion of 'honour amongst thieves'. The Bill confers the power on a court grant an 'at large' discount in sentence to an offender in return for that offender's valuable co-operation with the authorities. The Bill encourages offenders involved in serious and organised crime to turn on their criminal associates and to assist the authorities in the investigation and prosecution of other offenders and/or other crimes. Such offenders are often known as 'supergrasses'. Such co-operation can, and in fact does, play an important role in combating crime, especially in bringing to justice the leaders of organised gangs involved in serious crime.

The policy of the Bill is deliberate and is not something revolutionary. For many years the courts have sought through substantial reductions in sentence where appropriate to discourage the notion of 'honour amongst thieves' (see *R v Golding* (1980) 24 SASR 161) and to encourage offenders to assist the authorities, especially in serious and organised crime. 'It would be to close one's eyes to reality', as Justices Deane and McHugh of the High Court observed in 1985 in *R v Malvaso* ((1985) 168 CLR 227, 239):

> *'to fail to recognize that in areas of organized crime in this country, particularly in relation to drug offences, the difficulties of obtaining admissible evidence are such that it is imperative, in the public interest, that there be a general perception that the courts will extend a degree of leniency, which would otherwise be quite unjustified, to those who assist in the exposure and prosecution of corrupt officials and hidden organizers and financiers by the provision of significant and reliable evidence…Any person who provides genuine information to the authorities about the workings of organized crime exposes himself to the danger of retributive violence. That danger can be aggravated within a prison environment.'*

These observations are as telling now as they were 25 years ago. To successfully prosecute the pivotal figures involved in serious and organised crime, there is a very real need to encourage individuals who may very well be criminals themselves to help the authorities.

The President of the Queen's Bench Division in England in R v P [2007] EWCA Crim 2290 at [22] explained in strong terms, which are equally applicable to Australia (see R v Cartwright (1989) 17 NSWLR 243, 252), the strong public interest in favour of encouraging offenders to come forward and co-operate fully with the authorities, especially to the 'Mr Bigs' of the underworld:

> *'There has never been, and never will be, much enthusiasm about a process by which criminals receive lower sentences than they otherwise would deserve because they have informed on or given evidence against those who participated in the same or linked crimes, or in relation to crimes in which they had no personal involvement, but about which they had provided useful information to the investigating authorities.*

> *However, like the process which provides for a reduced sentence following a guilty plea, this is a longstanding and entirely pragmatic convention. The stark reality is that without it major criminals who should be convicted and sentenced for offences of the utmost seriousness might, and in many cases, certainly would escape justice. Moreover, the very existence of this process, and the risk that an individual for his own selfish motives may provide incriminating evidence, provides something of a check against the belief, deliberately fostered to increase their power, that gangs of criminals, and in particular the leaders of such gangs are untouchable and beyond the reach of justice. The greatest disincentive to the provision of assistance to the authorities is an understandable fear of consequent reprisals. Those who do assist the prosecution are liable to violent ill-treatment by fellow prisoners generally, but quite apart from the inevitable pressures on them while they are serving their sentences, the stark reality is that who betray major criminals face torture and execution. The solitary incentive to encourage co-operation is provided by a reduced sentence, and the common law and now statute, have accepted that this is a price worth paying to achieve the overwhelming and recurring public interest that major criminals, in particular, should be caught and prosecuted to conviction.'*

The Bill builds on and promotes this important policy. It sends a strong signal to criminals involved in serious and organised crime to assist the authorities. The Bill does not cover normal or routine co-operation and is confined to exceptional co-operation or undertakings of exceptional co-operation given prior to sentence. The Bill duplicates the procedure in the *Statutes Amendment (Serious and Organised Crime) Act 2012*, supported by the Opposition, which allows an offender who has already been sentenced to be resentenced for exceptional co-operation in the context of serious and organised crime.

The Bill is not, as some have claimed, a 'get out of jail free' card for offenders who will somehow escape unpunished if they co-operate with the authorities. This is simply not the case. Offenders who provide exceptional co-operation to the authorities in the investigation and prosecution of serious and organised crime will still receive what the court regards in the particular case as the appropriate punishment balancing the nature and gravity of the crime that they have committed with the benefit and nature of their co-operation with the authorities. It is worthy of note that, should the authorities wish to allow an offender to escape unpunished in return for assisting the authorities, the Director of Public Prosecutions already has a power to grant a complete indemnity from prosecution in return for helping the authorities. The procedure in the Bill of allowing the court the discretion to grant an appropriate discount in sentence for exceptional co-operation is preferable to the offender been granted a complete indemnity from prosecution.

The *Statutes Amendment (Serious and Organised Crime) Act 2012* introduces a new procedure to allow offenders who have already been sentenced to seek re-sentence after their exceptional co-operation. The court on re-sentence may reduce their sentence by an 'at large' figure on account of their exceptional co-operation. It would be anomalous to have the statutory scheme in the *Statutes Amendment (Serious and Organised Crime) Act 2012* for sentencing supergrasses who have provided exceptional cooperation after sentence but to leave it to the common law to regulate exceptional co-operation by a supergrass before sentence. The law, out of consistency, should provide the same procedure for the sentencing of supergrasses who have co-operated with the authorities, whether such co-operation was extended before or after sentence. It is very difficult to see how one can logically oppose this procedure for exceptional co-operation before sentence but support it in respect of exceptional co-operation after sentence.

The Bill is confined to discounts for 'exceptional' co-operation in the context of serious and organised crime by what can be termed as 'supergrasses'. It will arise in only narrow and specific circumstances. The Bill draws on the definition of serious and organised crime in *Statutes Amendment (Serious and Organised Crime) Act 2012*.The Bill does not apply to co-operation with the authorities that can be regarded as routine, normal or standard.

The Bill is intended to cover the field for the discount to be conferred upon a supergrass for both co-operation with the authorities and a plea of guilty, if there is one. If the supergrass pleads guilty, the discount will cover both the plea of guilty and the co-operation. If the supergrass pleads not guilty and is convicted, the discount will cover only the co-operation. Other mitigating factors such as normal co-operation do not fall within the Bill and will be left to the common law and s 10 of the *Criminal Law(Sentencing) Act 1988* to regulate. The common law provides an existing range of about 20-40 or 50% for co-operation with the authorities. The Bill will allow a court to go beyond this to those offenders who will fall within the category of a true supergrass.

The Bill applies to supergrasses who have provided exceptional co-operation, whether they pleaded guilty or were convicted at trial. In practice, however, it is expected that most supergrasses who will fall within the Bill will have pleaded guilty to the offences that they face. It is inappropriate to fetter the court's discretion and confine the Bill to only those offenders who plead guilty. It may be appropriate in rare circumstances for a court to confer a discount under the Bill upon a supergrass who provides exceptional co-operation but did not plead guilty. However, there is a world of difference between a cynical supergrass who pleads not guilty and only agrees to act as a supergrass and help the authorities after he or she has been convicted at trial and realises that he or she now has nothing to lose with the frank supergrass who pleads guilty at an early stage and fully co-operates with the authorities from the earliest possible opportunity. There are real benefits in an early and timely plea of guilty. In deciding whether to grant an 'at large' discount, the court must have regard, amongst other factors, to whether the defendant pleaded guilty, and the timing and circumstances of any guilty plea.

The 'at large' discount in sentence for co-operation must reflect circumstances which are truly exceptional. The court, in its discretion, must have regard to the nature of the case, the value and benefit of the co-operation and/or the testimony, the nature and degree of the risk to the defendant and his or her family and the potential violent and other consequences to him or her in prison and any plea of guilty and the timing and circumstances of such a plea. In brief, the overall circumstances of the case must be such as to justify a departure in the public interest from the ordinary common law discount for normal co-operation of 20 to 50%.

The Bill has been the subject of much thought. It is designed to be narrow in its scope and application. The Bill is confined to offenders who give valuable information and assistance in the investigation and prosecution of serious and organised crime. These will be persons who, at considerable risk to themselves and their families, have provided valuable assistance to the authorities, generally through testifying, that has enabled major criminals involved in crimes of the utmost gravity to be brought to justice. It is likely that, without the assistance of these persons, these criminals would not have been able to be brought to justice. The Bill is designed to encourage exceptional co-operation from those involved in, or with knowledge of, serious and organised crime. It is necessary that there is a clear distinction between the supergrass who provides valuable and exceptional co-operation to the authorities in the context of serious and organised crime as defined in the Bill, and the offender, who in contrast provides merely standard or normal co-operation. In the former case, it may be appropriate for the court to exceed the normal common law range of 20-50% reduction in sentence for co-operation. In the later case, it would be inappropriate for the offender to receive excessive and unjustifiable discounts in sentence in return for such standard or normal co-operation. Hence the vital distinction in the Bill between 'normal' co-operation where the common law continues to apply and 'exceptional' co-operation where the possible discount is at large and could not exceed the normal range at common law of 20-40 or 50%.

The Bill includes a specific provision allowing an offender to be re-sentenced if he or she promises to co-operate with the authorities and is sentenced on that basis but later fails to satisfactorily honour his or her side of the arrangement. He or she should be re-sentenced but on the basis of the sentence that they would have received but for the original deduction for the promise of co-operation with the authorities.

If the defendant has pleaded guilty and falls within the definition of exceptional co-operation under the Bill, he or she should not receive one discount for the plea of guilty and another for the exceptional co-operation and then both amounts are arbitrarily combined together to produce one aggregate discount. Such an approach is artificial, and could lead to excessive discounts in practice. When such a combination of a plea of guilty and exceptional co-operation exists, it should not be the practice to attempt to identify a specific reduction for each of the factors. There should be no attempt to isolate a reduction for the fact of the plea and a separate reduction for assistance to authorities. Rather, the preferred approach is confer one discount that reflects both the plea of guilty and the co-operation with the authorities. This accords with the views expressed by the Court of Criminal Appeal in *DPP (Commonwealth) v AB* [2006] SASC 84.

It is not intended that the Bill will affect the general way in which the criminal courts go about formulating the correct sentence applicable in any given case and, apart from exceptional co-operation and any guilty plea, does not undermine the principle of 'instinctive synthesis' that the High Court favours.

The Bill serves an important purpose in the Government's ongoing integrated efforts against serious and organised crime.

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 *Criminal Law (Sentencing) Act 1988*

4—Insertion of section 10A

The following section is to be inserted after section 10 of the principal Act.

10A—Reduction of sentences for cooperation etc with law enforcement agency

New section 10A provides that a court may declare a defendant to be a defendant to whom this new section applies if satisfied that the defendant has cooperated or undertaken to cooperate with a law enforcement agency and the cooperation—

- relates directly to combating serious and organised criminal activity; and
- is provided in exceptional circumstances; and
- contributes significantly to the public interest.

In determining sentence for an offence or offences to which a defendant has pleaded guilty or in respect of which a defendant has been found guilty, the court may, if the defendant is the subject of such a declaration, reduce the sentence that it would otherwise have imposed by such percentage as the court thinks appropriate in the circumstances.

In determining the percentage by which a sentence is to be reduced under this section, the court must have regard to such of the following as may be relevant:

- if the defendant has pleaded guilty to the offence or offences—that fact and the circumstances of the plea;

- the nature and extent of the defendant's cooperation or undertaking;
- the timeliness of the cooperation or undertaking;
- the truthfulness, completeness and reliability of any information or evidence provided by the defendant;
- the evaluation (if any) by the authorities of the significance and usefulness of the defendant's cooperation or undertaking;
- any benefit that the defendant has gained or is likely to gain by reason of the cooperation or undertaking;
- the degree to which the safety of the defendant (or some other person) has been put at risk of violent retribution as a result of the defendant's cooperation or undertaking;
- whether the cooperation or undertaking concerns an offence for which the defendant is being sentenced or some other offence, whether related or unrelated (and, if related, whether the offence forms part of a criminal enterprise);
- whether, as a consequence of the defendant's cooperation or undertaking, the defendant would be likely to suffer violent retribution while serving any term of imprisonment, or be compelled to serve any such term in particularly severe conditions;
- the nature of any steps that would be likely to be necessary to protect the defendant on his or her release from prison;
- the likelihood that the defendant will commit further offences,

and may have regard to any other factor or principle the court thinks relevant.

Nothing in this new section affects the operation of sections 15, 16 and 17.

Serious and organised criminal activity is defined for the purposes of this new section to include any activity that may constitute a serious and organised crime offence within the meaning of the *Criminal Law Consolidation Act 1935*.

5—Substitution of heading to Part 2 Division 6

The proposed new heading is 'Re-sentencing'.

6—Insertion of section 29DA

This new section is proposed to be inserted immediately following the heading to Part 2 Division 6.

29DA—Re-sentencing for failure to cooperate in accordance with undertaking under section 10A

Proposed section 29DA applies if—

(a) a person is currently serving a sentence of imprisonment for an offence or offences that was reduced by the sentencing court under section 10A (the *relevant sentence*); and

(b) the person has failed to cooperate with a law enforcement agency in accordance with the terms of an undertaking given by the person under that section.

The Director of Public Prosecutions may, with the permission of the court that imposed the relevant sentence on the person, apply to the court to have the sentence quashed and a new sentence imposed, taking into account the person's failure to cooperate with the law enforcement agency in accordance with the terms of an undertaking given by the person under section 10A.

The Director of Public Prosecutions, the chief officer of the law enforcement agency and the person will be parties to the proceedings on the application.

Nothing in this proposed section authorises a court to impose a new sentence that would exceed the sentence that would, but for the reduction given under section 10A, have been imposed by the sentencing court under that section.

Schedule 1—Transitional provision

1—Transitional provision

This clause makes it clear that the *Criminal Law (Sentencing) Act 1988*, as amended by this measure, applies in relation to proceedings relating to an offence instituted after the commencement of this measure, regardless of when the offence occurred.

Debate adjourned on motion of Mr Griffiths.

MOTOR VEHICLES (DISQUALIFICATION) AMENDMENT BILL

The Hon. C.C. FOX (Bright—Minister for Transport Services) (15:40): Obtained leave and introduced a bill for an act to amend the Motor Vehicles Act 1959. Read a first time.

The Hon. C.C. FOX (Bright—Minister for Transport Services) (15:40): I move:

That this bill be now read a second time.

The DEPUTY SPEAKER: Is this your first bill, minister?

The Hon. C.C. FOX: It is, yes. It is just an amendment.

The DEPUTY SPEAKER: It is still a bill. I congratulate you on your first bill.

The Hon. C.C. FOX: Yes, it is. Thank you. This bill addresses a problem facing governments in the age of electronic information gathering, storage and transmission—

An honourable member interjecting:

The DEPUTY SPEAKER: This is the minister's first bill, and we should grant her the courtesy of not interrupting.

The Hon. C.C. FOX: It's okay.

Ms Chapman: To remedy an ill.

The Hon. C.C. FOX: To right a wrong—namely, programming errors that cause systems to malfunction, resulting in information not being produced or actioned in reasonable time frames.

Currently, when a driving offence is finalised (for example, through expiation or conviction), information relating to the offence is transmitted electronically from the Courts Administration Authority and South Australia Police to the Registrar of Motor Vehicles. Once received, the registrar must add the offence to a person’s driving record. Offences appear on the record in chronological order according to the date on which they were committed (or, in the case of expiated offences, allegedly committed).

If an offence results in a person becoming liable to be disqualified from driving, the registrar must give the person a notice of disqualification. This would happen, for example, if the offence is a breach of a driver’s licence or learner’s permit condition, or if the offence attracts demerit points and, when added to the person’s record, the total number of demerit points incurred within a three-year period equals or exceeds 12 points.

At this point in time, the registrar has a statutory duty to give a notice of disqualification if the person becomes liable to disqualification under the Motor Vehicles Act. The registrar has no choice but to act in accordance with the law and is unable to withhold or determine not to give a notice of disqualification. This bill changes this position by not allowing the registrar to give a notice of disqualification where the notice has been delayed by 12 months or more due to government error. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

It is the delay in a disqualification being imposed, rather than the delay in information relating to an offence being notified to the Registrar, that causes the additional inconvenience to drivers.

Proposed section 94 provides that if as a result of a government administrative error, a notice of disqualification is not given to a person within 12 months after the person becomes liable for disqualification, the Registrar must not give the notice to the person.

In the case of a demerit points disqualification, demerit points are incurred when the persons expiates or is convicted of the offence by the court. When the total of the demerit points incurred by the person reaches 12 or more for offences committed within 3 years up to the most recent offence the person is liable for disqualification.

Section 94 will not assist a person who by their own acts delays action on an offence being finalised more than 12 months and therefore will not encourage deliberate manipulation of the system in an attempt to avoid a disqualification. Nor will it apply when due to legal processes action on the offence is finalised well after the offence was committed.

12 months is considered a reasonable period. Both the Courts Administration Authority and South Australia Police collect offence data (depending on how action on the offence is finalised). The data is processed on different systems and transferred to the Registrar, who must input the information onto another system, which operates the register of drivers licences.

The Government is taking this positive step as a result of a delay by the Courts Administration Authority that came to light in mid-2011 in transferring over 100,000 offence records relating to orders for relief (allowing for time-payment of expiation fees) dating back over several years. Approximately 8,000 notices of disqualification were given much later than they would have been without the delay.

Not all of these 8,000 people had to serve the disqualification, as 56% had the option of having a condition to be of good behaviour placed on their licence or of entering into a safer driving agreement with the Registrar which allowed them to continue to drive. The greatest inconvenience was to people who were a learner or a provisional licence holder at the time of the offence, had progressed to a higher licence stage prior to being disqualified and after serving the disqualification, regressed to a provisional licence or learner's permit.

The cause of the delay identified in 2011 was remedied and money has been allocated in the 2012-13 budget to develop a business case to consider improvements to the Courts Administration Authority computer systems. However, in undertaking an audit of its system this year, the Courts Administration Authority has identified approximately 1,200 further offences which were not transmitted to the Registrar at the time of their finalisation. These offences come within the ambit of the Bill.

This amendment should be welcomed by all members as a sensible response to the potential for future data delays and their unintended impact on driver's licence holders.

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 *Motor Vehicles Act 1959*

4—Insertion of section 94

This clause inserts a new section 94 as follows:

94—Administrative errors and notices of disqualification

If, because of an administrative error, a notice of disqualification is not given to a person by the Registrar in accordance with the *Motor Vehicles Act 1959* within 12 months after the person became liable to be given that notice, the Registrar must not, despite any other provision of that Act, give the notice of disqualification to the person.

Schedule 1—Transitional provision

1—Application of section 94

Proposed new section 94 is to apply in relation to a notice of disqualification that would (but for the operation of that section) be given by the Registrar after the commencement of clause 4.

Debate adjourned on motion of Mr Griffiths.

LOCAL GOVERNMENT (ROAD CLOSURES—1934 ACT) AMENDMENT BILL

In committee (resumed on motion).

Clause 2.

The CHAIR: Before we proceed, I understand that there has been a small procedural error. We need to put clause 2 as amended to the committee.

Clause as amended passed.

Clause 3 passed.

Clause 4.

The Hon. M.J. ATKINSON: I move:

Delete this clause and substitute:

4—Amendment of section 359—Prohibition of traffic or closure of streets or roads

Section 359—after subsection (4) insert:

(5) This section does not apply in relation to the prescribed road under Schedule 1 of the Local Government (Road Closures—1934 Act) Amendment Act 2012.

Amendment carried; clause as amended passed.

Schedule 1.

The Hon. M.J. ATKINSON: I move:

Page 3, line 1—Delete the heading and substitute:

Schedule 1—Section 359 of the Act not to apply to prescribed road

Clause 1, page 3—

Lines 3 to 28—Delete subclauses (1) and (2) and substitute:

(1) Any exclusion of vehicles from the prescribed road in force under section 359 of the principal act immediately before 1 July 2013, or due to take effect on or after 1 July 2013, will no longer have effect on 1 July 2013 (and the relevant resolution will be taken to be revoked).

(2) The Adelaide City Council must, when an exclusion ceases to have effect under subclause (1), take steps to comply with subclause (3) as soon as it is reasonably practicable to do so and must then, at an appropriate time, remove any barricades or other traffic control devices that have been installed to give effect to the exclusion.

Line 35—Delete the definition of 'council'

Lines 36 to 40—Delete the definition and substitute:

'prescribed road' means the area of road, or road reserve, marked with the letter 'A' in the plan set out in Schedule 2;

Clause 1, page 4, lines 3 to 15—Delete subclauses (5) and (6)

Ms CHAPMAN: My understanding, member for Croydon, is that the current bill before us exclusively relates to the Adelaide City Council's obligations—

The Hon. M.J. Atkinson: To Barton Road.

Ms CHAPMAN: To Barton Road, and no longer are other councils, under the previous bill, under consideration. Can the member explain why it was necessary to peel off all these others, given his principled position on this, about it applying to all councils?

The Hon. M.J. ATKINSON: Yes, sure. The history of this is that I tried to find some common ground with the Adelaide City Council and that group of North Adelaide residents who support continued closure. It is important to mention that there are North Adelaide residents who support reopening the road, and I will be—

An honourable member: Name them.

The Hon. M.J. ATKINSON: Well, Mr Keogh, the former mayor of West Torrens, lives up there. The nuns who live at St Dominic's Priory school support its reopening. When the bill was first moved I was contacted by people from North Adelaide saying that they supported the reopening. Indeed, Kate Ellis, the member for the federal division of Adelaide, had a street corner meeting in Wellington Square where a group of North Adelaide residents argued about whether Barton Road should be reopened or not; some were in favour of the continued arrangements, others were in favour of reopening it.

Presumably those North Adelaide residents who habitually drive through the bus lane going to and from the airport, certainly for that 30 seconds that they are on the bus lane, think it is a good thing to be able to move through the bus lane. Bob Francis supports reopening Barton Road, and he is a North Adelaide resident.

Moving on from that, I tried to arrange some sort of a compromise whereby the current bus lane would be retained—a kind of chicane—and there could be alternate one-way movement through that bus lane, regulated by a traffic light. That seemed to me to be a reasonable compromise, because people would not go rushing up Barton Road into western North Adelaide from my electorate or from Ovingham unless they had some business in western North Adelaide.

No-one seriously argues that reopening this road creates a route to the central business district; it is just not sensible for any motorist to go from Ovingham, Bowden, Brompton or Hindmarsh to the CBD via Barton Road. You would only use it if you had business in western North Adelaide, such as at Calvary Hospital, Mary Potter Hospice, St Dominic's Priory school, Helping Hand, doctors' and dentists' surgeries in that area—and, indeed, the O'Connell Street cafes and restaurants.

So I put this idea of alternate one-way movement through the chicane, but the Adelaide City Council's view is that they are not willing to discuss it or to compromise on it. It is their way or the highway, as it were.

My first bill said that the principle here is the principle that I had inserted in the City of Adelaide Bill and in, as I recall, the Road Traffic Act. I did that from opposition because even elements of the Liberal Party accepted my arguments—and certainly they were under pressure because of the support for my argument from the then member for Mount Gambier, the member for MacKillop (yes, strange as it may seem—he was then fiercely independent) and the member for Chaffey, and that was that, if a council wants to close a road running from its territory into the territory of another council, unless it went through the procedures of the Roads (Opening and Closing) Act, if it is going to use section 359, the temporary closure provision of the 1934 Local Government Act, then the council that is closing the road or imposing the restrictions ought to do so with the consent of the other council that is affected, and parliament accepted my argument and that is now the law in the Road Traffic Act and the City of Adelaide Act.

All I want is that principle applied to Barton Road, because I can assure the committee that, once the Supreme Court pointed out in 1990 that the closure there had been made without any legal authority—no legal authority substratum of law underlying it—and once the Supreme Court decided that, the then Hindmarsh council took a view that it was opposed to the closure. That is the predecessor in title of the Charles Sturt council. Indeed, if you look at my leaflet that I am distributing so widely, you will see a photograph in 1992 of me with my bicycle at the bus lane, standing alongside John Hunt who was a deputy chief executive of the town of Hindmarsh. So much for the member for Adelaide's argument that the town of Hindmarsh consented to this, that it was done with its agreement! It was not!

The Hon. A. Koutsantonis: Why would she say that?

The Hon. M.J. ATKINSON: Why would she say that? Perhaps the member for Adelaide says it because there was no dissent expressed from the Hindmarsh council in 1987, before the ring route bridge was completed over the northern railway.

Ms Sanderson: Part of the works.

The Hon. M.J. ATKINSON: That's right.

Ms Sanderson: It's all part of it.

The Hon. M.J. ATKINSON: No, the Barton Road restrictions were imposed three years before the bridge over the northern railway was opened to complete the north-west ring route around the city. The reason the Hindmarsh council would have acquiesced in that closure is that there was a valid traffic management reason for it at the time.

Visualise it if you will, visualise there being no bridge over the northern railway at Bowden: Park Terrace on both sides ends in huge piles of clay. So, one way to get from the western suburbs to the north or the north-eastern suburbs is to go from near Gerard Industries, Clipsal, travelling north-east; you go over North Adelaide Railway Station Road, a road that no longer exists, over the level crossing at the North Adelaide railway station; you then turn left up War Memorial Drive, Mildred Road (call it what you will) and you are travelling north. Then you turn right into Barton Road and go along Barton Terrace West because you are trying to get to Prospect Road or Main North Road. There was heaps of traffic going through there, and to put in that restriction was entirely legitimate.

If I had been asked at the time, I would have supported it. But, when the north-west ring route was completed with the bridge over the northern railway, the traffic management justification for the closure disappeared because people travelling from the north and the north-east to the west would use the ring route and people travelling from the west to the north or the north-east would use the ring route. What would they want to go through the side streets of North Adelaide for?

I was there when Frank Blevins, the minister, opened the bridge—I was a newly elected member of parliament—and the first thing that was done was the department of transport crew or highways department crews rushed in and closed North Adelaide Railway Station Road with 44-gallon drums. I remember Gordon Howie chasing them and asking them if they had legal authority for it at the time. I do not know whether they did but the road is not there. Indeed, there used to be another road leading from North Adelaide Railway Station up the hill to Strangways Terrace and that was closed a long time ago.

Ms Chapman: Should we reopen that one?

The Hon. M.J. ATKINSON: What a good idea!

The Hon. A. Koutsantonis: Restore Colonel Light's vision.

The Hon. M.J. ATKINSON: The member for West Torrens interjects that we are restoring Colonel Light's vision and, you know, he is right. If you look at Colonel Light's maps of Adelaide and North Adelaide, you will see Barton Road there hanging off the north-western corner of the city and leading down the hill to what would become the town of Hindmarsh, which was the first municipality created in South Australia, other than the city council.

Ms Chapman: What about Kingscote, thank you very much?

The Hon. M.J. ATKINSON: I'm sorry?

Ms Chapman: What about Kingscote?

The CHAIR: I don't think that is relevant to this debate. Can you get back to the debate, please?

The Hon. M.J. ATKINSON: No, Kingscote might have been a settlement, but it was not a municipality. Do you want to make it interesting? I will give you 5:2.

I was quite happy to have a situation whereby the Adelaide City Council would, by a bill that goes through the parliament, be given six months to ask Charles Sturt council whether Charles Sturt council would consent to the continued operation of the arrangements at Barton Road. That seemed to me to be a fair thing, especially since we have a very strongly anti-Labor mayor now who has a faction with a large representation on the Charles Sturt council. We have the member for Adelaide trying to tell the committee in the house that the Charles Sturt council is against the reopening of Barton Road.

The Hon. A. Koutsantonis: You're joking!

The Hon. M.J. ATKINSON: Yes, this is what the member for Adelaide is saying. You know what? I would be really happy if the member for Adelaide would be as good as her word and agree to my original bill, and then we will test what the position of the Charles Sturt council really is, because then they can have a vote. For the first time in 25 years, the municipality representing people in Ovingham, Bowden, Brompton and Hindmarsh can actually have a vote on this. I would agree to that. Will you agree to that, member for Adelaide?

The Hon. A. Koutsantonis: Of course not.

The Hon. M.J. ATKINSON: No, of course you will not because you know the truth is that, if the Charles Sturt council had a considered deliberative vote on this matter, they would overwhelmingly support reopening the road—she knows that. So, the member for Adelaide is speaking with a forked tongue on the question of what the Charles Sturt council's true position is on this.

Given that the Liberal Party and the city council were not willing to accept my suggested compromise, and given that the Local Government Association was anxious to retain section 359 of the 1934 Local Government Act to maintain the broadest possible discretion in councils to close roads on a temporary basis, I capitulated and brought in a bill, as amended, which relates only to Barton Road; that is, a bill that relates only to the particular misuse of section 359 of the Local Government Act which, I reiterate, is a temporary closure provision. When it was inserted in the act in 1986 both the minister and the opposition spokesman on transport (Hon. Diana Laidlaw) said, 'This is a temporary closure provision to close roads for the purposes of street fairs or pageants.' That is what they said. It is on the record. It was actually in the head note to the section—

The Hon. A. Koutsantonis interjecting:

The Hon. M.J. ATKINSON: No, it is not about improving property values permanently. I would say to the member for Adelaide that there has been a very, very long-term street fair going on in Barton Road for the last 25 years.

Ms Sanderson: You're the ringleader.

The Hon. M.J. ATKINSON: I'm the ringleader?

Ms Chapman: The clown.

The Hon. M.J. ATKINSON: Thank you very much. So—

The CHAIR: Order! I think that is unparliamentary.

Ms Chapman: What, the word 'clown'?

The CHAIR: The member for Bragg.

Ms CHAPMAN: With respect, Mr Chairman, I do not think there was any response to that interjection other than from you, in which case it would not be recorded.

The Hon. M.J. ATKINSON: It is now recorded and it is unparliamentary, is it not?

The CHAIR: I think so. I think that you should just withdraw it and we will move on.

Ms CHAPMAN: I am happy to withdraw it.

The CHAIR: Thank you. We move on.

The Hon. M.J. ATKINSON: The member for Adelaide said it, not the member for Bragg.

The CHAIR: Actually, both of them said it. I heard both of them say it. My hearing is pretty good.

Ms SANDERSON: I withdraw it.

The Hon. A. KOUTSANTONIS: Point of order. Could the member for Adelaide go to her place and do it properly?

The CHAIR: The member for Adelaide has withdrawn it. I accept that.

The Hon. M.J. ATKINSON: Thank you, Mr Chairman. Rather than—

Ms Sanderson interjecting:

The Hon. M.J. ATKINSON: Did you say 'Vice Chairman'? Surely he is the Chairman of Committees, are you not, sir?

The CHAIR: It doesn't matter. The member for Croydon.

The Hon. M.J. ATKINSON: I have moved to the position where, to keep the Local Government Association happy and neutral on this question, I have framed it so that the bill applies to a particularly flagrant misuse of the temporary closure provision of the 1934 Local Government Act. The reason that the Adelaide City Council used this section is that the Supreme Court found that the arrangements at Barton Road were wholly unlawful in 1990.

The reason they did that is that the police had nicked Gordon Howie (the indefatigable traffic law campaigner) at Barton Road and he had challenged his fine in the Supreme Court, and Gordon Howie won. At that point the Adelaide City Council realised that it had gone ahead with this plan without any legal underpinning, and therefore it had defined legal underpinning.

It then moved to use the correct section of the law, the Roads (Opening and Closing) Act, under which the proposed closure is advertised. Anyone affected has an opportunity to put in a submission about it, and the council concerned has to hear those submissions and make a recommendation.

By the way, during those deliberations we had Michael Abbott QC, who lived on, I think, Barnard Street in western North Adelaide, saying that the crime rate would go up if my constituents were allowed to use Barton Road and Hill Street—the crime rate would go up; it is on the record. Indeed, previously there had been anonymous material circulating in western North Adelaide saying, 'We can't let these lower-class people be riding and driving on our streets'—anonymous material circulated in North Adelaide. Indeed, the late Ray Polkinghorne, who was a columnist for *The Advertiser*, wrote—

Ms Chapman: A good one.

The Hon. M.J. ATKINSON: —a very good columnist—a column on how shocked he was by this hate material being circulated in North Adelaide anonymously about people from Bowden and Brompton. The important thing was that, from the point of view of the Local Government Association, this is simply a dispute between the Adelaide City Council on one side and the City of Charles Sturt on the other.

The association is happy for it to be resolved by a bill that addresses the particular vice and, if the government later on abolishes section 359 of the 1934 act or recasts it or transfers it to the Road Traffic Act with appropriate safeguards, then that is a matter between the LGA and the

minister for local government. I want to stay out of that. I want to keep the LGA neutral about this bill, so I have proceeded in the way I have to address the particular vice.

Ms CHAPMAN: To remedy the ill, member for Croydon, which you see yourself as the great warrior to do, at any time have you received any correspondence from the Charles Sturt council requesting you to progress this bill to protect—

The Hon. A. Koutsantonis interjecting:

Ms CHAPMAN: I do not need the minister's interruption. I just need to ask the member whether he has received any correspondence confirming any resolution of the council asking him to come to its aid and to advance this legislation? And, if so, when?

The Hon. M.J. ATKINSON: After the member for Adelaide quoted the Chief Executive of the Charles Sturt council, Mr Mark Withers, in aid of her cause the last time this was debated, or perhaps the time before last (I cannot remember which), I wrote to Mr Withers to say that I was persisting with the bill, that if the member for Adelaide were right perhaps he had some technical objection to the bill, and he wrote back to say that he felt that the member for Adelaide's account of what he had said was not entirely accurate, that what he had said was that, if the bill were progressed swiftly and became law swiftly, then that would be inconvenient for the Charles Sturt council because there might be certain knock-on effects of the reopening in the Charles Sturt area and he wanted to have time to respond to reopening. He has had that time, because the bill has been delayed by six months.

Ms CHAPMAN: So, at any time since that time, have you received any correspondence from the council, its having had time, as you suggest, seeking that you advance this bill?

The Hon. M.J. ATKINSON: Not from the current Charles Sturt council. I have had support, I think from resolutions of the Charles Sturt council and its predecessor in title, the Town of Hindmarsh and, indeed, there are members of the Charles Sturt council such as the councillor for Hindmarsh ward, councillor Paul Alexandrides, and the councillor for Beverley ward, Edgar Agius, who were elected explicitly on a platform of reopening Barton Road. That was their election platform.

When the member for Adelaide tries to say that the vote of the Charles Sturt council in, I think, November 2011 against councillor Agius's motion to move immediately for reopening, its defeat is an indication that the Charles Sturt council does not support the reopening, councillor Paul Alexandrides, who was elected on a platform of reopening Barton Road, voted against that motion. So, clearly, the vote on it was procedural and not substantive and, indeed, that is what councillors will tell me.

I notice that in the member for Adelaide's contribution today, and previously, she asserts, yet again, that I have not surveyed the people of Ovingham about the closure.

The Hon. A. Koutsantonis: You're kidding!

The Hon. M.J. ATKINSON: She said it.

Ms Sanderson: You said you haven't surveyed the people in my electorate.

The Hon. M.J. ATKINSON: No, I didn't. I surveyed the people of Ovingham first, and here they are. Wanting reopening of Barton Road—Noble Street, Ovingham; Park Terrace, Ovingham; Telford Street, Ovingham; Gilbert Street, Ovingham; Guthrie Street, Ovingham; Torrens Road, Ovingham. And so it goes on, and we are talking about a very small suburb. But, in fairness, I do have two households that have told me they want the road to remain closed, one from Telford Street and one who are not on the electoral roll.

Ms CHAPMAN: Having explained that you have responded to the request of the LGA in this regard and that you have now narrowed the focus of the bill just to Barton Terrace, one would hope that that will then alleviate questions being raised of whether roads such as Beaumont Road would suffer the same fate under a bill such as this. I think there will be argument that there had not been consultation at the time with all the relevant councils. Certainly the Adelaide City Council was keen to do that, and I do not think there is anyone in the south-east corner that is all that keen to have it reopened.

There are a number of people, I am happy to advise the house, including people who have viewed the options for sorting out the Britannia roundabout and the relieving of pressure of the eastern traffic moving through to the city, for whom the reopening of Beaumont Road might

significantly release the pressure in that regard. The department of transport has given advice on that matter to me as the local member. The fact that they are actively planting a whole lot of trees over it should be enough to indicate whether they have any intention of even considering that.

I think you will appreciate that, historically, Barton Terrace is not the only road that has gone through a process which, in today's expectation of consultation, has not proceeded. In any event, this is now narrowed to Barton Terrace. Given that we received these amendments, that were tabled this morning, when did you receive advice from the LGA that this would be the better course?

The Hon. M.J. ATKINSON: I had a cup of tea with Wendy Campana and her assistant in the House of Assembly lounge just last week, and I promised her to make sure the LGA stayed neutral in this stoush, that I would consult parliamentary counsel and narrow the question to Barton Terrace, to make the prescribed road provision one particular road reserve, and simply say that the Adelaide City Council would have until 1 July to reconfigure the road so that motor vehicles and bicycles could move in two directions through it.

My view is that to use section 359 of the Local Government Act for permanent closure is an abuse of the section. That is when Nick Xenophon and I got together in the 1997 to 2002 parliament to get a bill similar to this through the parliament and, indeed, we did get it through the other place; we got it through the Legislative Council. The only trouble is that we could not get it through the House of Assembly.

Ms Chapman: It might be the other way round this time.

The Hon. M.J. ATKINSON: Yes, who knows? One of the reasons Nick Xenophon was on board was because the Tea Tree Gully council had used, I think, section 359 of the Local Government Act to close the Silkes Road ford over the River Torrens without the consent of the Campbelltown council. So that was his Barton Road in his part of the world. Subsequently, the Campbelltown council consented to the Tea Tree Gully council going through a roads opening and closing act procedure to close the ford permanently, and it is now closed permanently, and that is the proper procedure to go through.

Ms CHAPMAN: I know that we have already voted on the second reading but, of course, I am expecting that you, member for Croydon, will be relying on your ministerial colleagues on your side of the house to support the third reading. I know the Minister for Transport and the Minister for Transport Services have not contributed to this debate but have supported the second reading at this point. Have they presented to you any modelling, traffic survey, management, or detouring that would in any way interfere with the proper traffic management of this area by the opening?

The Hon. M.J. ATKINSON: Let us get this issue into some perspective. On the one hand, the opposition belittles this bill as an attempt to introduce to the state parliament a mere municipal issue which is trivial. Trivial, it is an obsession of mine, but it is trivial and no one cares; no one is listening, as a member for Chaffey said yesterday.

On the other hand, the member for Bragg tries to do the opposite and says that this has statewide traffic management consequences for the north-west ring route and asks, 'What studies have been done by Transport SA to see how this will impact on the surrounding area?' Let us get this into perspective: this is principally about St Dominic's mums and dads taking their daughters to and from school in the morning and the afternoon.

Ms Chapman: Then there is a conflict of interest, Michael.

The Hon. M.J. ATKINSON: And what conflict of interest is that?

Ms Chapman: You know.

The Hon. M.J. ATKINSON: What is the conflict of interest?

Ms Chapman: We discussed that before.

The Hon. M.J. ATKINSON: No, tell us. Share it with the committee.

Ms Chapman: Go on.

The Hon. M.J. ATKINSON: No, it is so low and vile you will not do it. I will tell the committee what the alleged conflict of interest is: my daughter once attended St Dominic's Priory school.

Ms Sanderson: Jack Snelling's daughter now?

The Hon. M.J. ATKINSON: And apparently the member for Adelaide alleges that the member for Playford's daughter attends St Dominic's Priory school. Let us get this right: the Treasurer should not be allowed to vote on this bill because of conflict of interest because his daughter may or may not go to St Dominic's Priory school—

Ms Sanderson: We didn't say that.

The Hon. M.J. ATKINSON: —but Legh Davis, the Liberal Party treasurer and MLC, who owned a property on the corner of Hill Street and Barton Terrace West, was allowed to vote, and did vote on this bill when Nick Xenophon moved it. Talk about rich!

Members interjecting:

The CHAIR: Members on both my left and right will get back to the substance of the bill, please.

The Hon. M.J. ATKINSON: The consequences of this Adelaide City Council road being opened for the north-west ring route are nil, zip, nothing.

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: That's right.

Ms Chapman: They didn't give you any information?

The Hon. M.J. ATKINSON: Nothing. What will happen is that people who live in Ovingham, Bowden, Brompton, Hindmarsh, and perhaps some from further afield, such as the electorate of Colton, will decide that, rather than going all the way down through the golf links to the intersection near Memorial Drive, then turning left to drive up Jeffcott Street and going through Wellington Square to get to somewhere that they could see from the intersection of Hawker Street and the north-west ring route, they will instead go through Barton Road to Hill Street. Because this is not really about Barton Terrace West: this is about Hill Street.

The vast majority of cars that will use Barton Road, if it is re-opened, will turn right into Hill Street rather than going straight on along Barton Terrace West. It is not really about Barton Terrace West at all, because the institutions that we want to access are Helping Hand, St Laurence's church, Calvary Hospital and Mary Potter Hospice, and the St Dominic's Priory school. That is where my constituents want to go.

It is so typical of the South Australian Liberal Party that they already hold the seat of Adelaide, yet they are willing to look 1,030 people in Colton—a seat they have to win to form government—in the eye and say, 'We don't care what you think about this issue; we're going with our rich mates,' rather than the constituents living in an electorate which the Liberal Party has to win to form a government. I can be very precise about the number. As of yesterday, it was 1,030 people who took the trouble to fill in one of my cards. If you receive one of my cards, you can tick the box that says 'I do not support', and some people have.

The Hon. M.J. Wright: Not many.

The Hon. M.J. ATKINSON: One per cent of them have. In fact, I have some very humorous replies here, which I might read if the committee stage goes on.

Ms CHAPMAN: Point of order, Mr Chairman. I appreciate that the member for Croydon likes to bask in the glory of his own self-delusion, but my question—

The CHAIR: You are not helping your point of order.

Ms CHAPMAN: My question was very simple. It was whether the Minister for Transport Services or the Minister for Transport had provided any material in relation to the modelling and data as a result of the road being reopened. I am really at a loss as to what that has to do with the constituency of minister Caica's electorate. Certainly, as to the pathetic number of responses you have—

The CHAIR: Your point of order is under which standing order?

Ms CHAPMAN: —is absolutely irrelevant.

The CHAIR: Is that your point of order? The question has been asked, and now that it has been provided we will move on to the next question. I ask members on my left to note that, if you ask leading questions, you should anticipate leading answers.

Ms SANDERSON: My question is procedural, really. Under schedule 1, clause 1(1) says the act 'immediately before 1 July 2013'. Then in subclause (2), it says that the Adelaide City Council must (1) take steps to comply with the subclause as soon as it is reasonably practicable and in the appropriate time. I am wondering whether they have to have already amended the road and have it open and running by 1 July 2013, or whether that is when the Adelaide City Council starts taking reasonable steps and, if so, how long is reasonable?

The Hon. M.J. ATKINSON: That is a fair enough question, and the answer is that the legal authority, flimsy as it is, for excluding bicycles and motor vehicles from the bus lane will, if this bill is passed, terminate on 1 July 2013. Subclause (2) is merely saying, 'When it expires, you had just better get on with removing the barricades or any obstacle to the two-way movement of bicycles and motor vehicles through the road.' So it is a common-sense provision.

The CHAIR: Just to clarify: the answer is that the City of Adelaide has to take action after 1 July?

The Hon. M.J. ATKINSON: Obviously, it would be far preferable if it took action before 1 July. But should the bill go through the other place this year, the Adelaide City Council would have at least six months to reconfigure the road there if that is necessary. In relation to the impediments to two-way movement, legal authority ceases on 1 July. If the Adelaide City Council takes the whole six months, as soon as practicable, the council must have the road ready for two-way movement.

Ms SANDERSON: Would that not be endangering people? If the estimates in 1999 were that it was a $1 million redevelopment and restructure of that area, that would surely have to take a considerable amount of time of engineering work, road widening and traffic signalling. There would be lots of things to be done. Surely, it would take a lot more than six months. The council would also have to put it into its budget, which has already been done until 30 June 2013, so I think it is pretty unreasonable. How flexible are you on that time frame?

The Hon. M.J. ATKINSON: If we were to make a concession on the time frame, the Liberal Party would still be implacably opposed to the bill. There are simply no grounds for compromise here. Six months is more than adequate time for a very, very small stretch of road to be widened to accommodate the two-way movement of private motor vehicles.

I do not particularly care how the Adelaide City Council does it; that is a matter for the Adelaide City Council. All I want to happen is for private motor vehicles and bicycles to have free two-way movement as they did for decades and decades before 1987. It is not that hard, I can assure the member for Adelaide: the Adelaide City Council merely has to go back and look at what was there before it unlawfully ripped it up.

Amendments carried; schedule as amended passed.

Schedule 2 and title passed.

Bill reported with amendment.

The Hon. M.J. ATKINSON (Croydon) (16:26): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (SERIOUS FIREARM OFFENCES) BILL

Adjourned debate on second reading.

(Continued from 10 July 2012.)

Mr PENGILLY (Finniss) (16:27): I never thought we were going to get to this bill today, the way we were going.

The Hon. M.J. Atkinson: We were having so much fun.

Mr PENGILLY: It may have been fun for you, Mick. I wish to make a few comments on this legislation and pose a few questions that I am sure my colleague the member for Bragg will raise in committee. Obviously we are supportive of the legislation; I think it is absolutely critical that we put in place measures that protect our police force. There is no question about that.

There are small numbers of people who want to go around and do the wrong thing in relation to the police, and the police—who are going about their lawful duty—should be protected at

all times, so I have no argument with that debate whatsoever. Indeed, it is a heinous crime when anyone gets shot deliberately, but it makes it even worse when the custodians of law and order in our state, the police, are shot. I think it was only in the last edition of the *Police Journal* that there was an article to do with the young police officer who was shot a couple of years ago.

I would like to have fleshed out somewhat, in committee perhaps, some parts of the bill. I think the mandatory conditions are something that need fleshing out, and the 'cogent reasons'. For the life of me I do not know what 'cogent reasons' will be, but I sincerely hope that we come up with some explanation of that during the course of the committee. He also talked about courts describing exceptional circumstances. That is something also that needs further explanation, as does 'cogent reasons'. What also needs saying in this place is that the number of people who offend with firearms is very small in South Australia and across the nation. We witnessed the absolute madness in Tasmania when John Howard was prime minister and the flat panic—

The Hon. J.R. Rau interjecting:

Mr PENGILLY: No, it occurred soon after he became prime minister, as you well know. It was a terrible event, but the government at the time rushed into wiping out semiautomatic weapons. Let me tell you that there are people in this place (and I am speaking of the House of Assembly and possibly also the other place) who use firearms regularly for sport and recreation purposes or who, like myself and others who live on the land, carry them around regularly.

I regularly carry around in my ute a .22 rifle, as does another member who may wish to speak. I carry it around for very good reasons. If I find stock that are down and cannot get up, I put them out of their misery immediately. If I find vermin that need destroying, I put them out of their misery and my misery immediately. Also, there are things that occur from time to time. Like the member for Flinders, I live on a country road and, if I am driving along the road, I frequently find kangaroos and, in my case, wallabies, koalas and other animals that have been hit by vehicles. People have not stopped to check out those animals and they have been left suffering, sometimes all night. The first thing I do is take the .22 out of the ute and shoot them to put them out of their misery.

I suppose technically I am committing an offence by driving around with a .22 in my ute. This is where it gets particularly stupid. This is where this business of trying to actually contain firearms, and seemingly create this state of mind that guns are bad, is totally erroneous. I also speak up for people with antique firearms who are pilloried. They come into my office regularly, most upset. They are antique firearm collectors; they are very responsible and look after their weapons, but they are pilloried and seemingly put under pressure by authorities because of legislation passed in this parliament on how they can house their guns, when they can use them, and the list goes on.

I have home in my gun cabinet I think 10 weapons, but they are not weapons, they are guns. Some are antiques that I have had for years. I recently purchased a .223 for shooting kangaroos, because the National Parks Act states that you have to have something a bit bigger than a .22 to shoot a kangaroo, and that is fair enough because you do. Unless you hit a kangaroo in the right place with a .22, they do not die. If you use something like a .223 they die pretty quickly.

We are sensible gun owners. We use our guns for sensible reasons and as a necessity, and I am sure the many farmers, station owners and primary producers around this nation, and around South Australia in this case particularly, are fed up with having this seemingly stupid opinion that circulates that because you have a gun you are a lunatic. I do not like it, and I am not sure whether the Attorney likes it.

The Hon. J.R. Rau: I don't.

Mr PENGILLY: Well, that's good: I am pleased to hear you say that. Some of us need to stand up in this place and speak up for the vast majority of firearm owners who do the right thing. I am sure he will not mind me mentioning it, but the member for Newland loves going target shooting, regularly—he loves it. Others do it and they should be given the benefit of the doubt. They are not evil people, neither am I, and neither is the member for Flinders. I am sure the member for Bragg has a couple of guns stashed away somewhere home on the farm. We need them. We treat our weapons with respect.

The other thing I mentioned is about having firearms in your vehicle. I suggest you could go out now and find that six out of 12 farmers drive around with firearms in their ute. If I am home on the farm and I have the firearm in my vehicle, and all of a sudden I have to go to town to get

something, I do not drive back to the house and say, 'Whoops, I have got to take the gun out, I have got to put it in the cabinet and I will come back and pick it up again.' I go, in this case to Kingscote, get what I want to get and I take the firearm with me. We should be able to do that and we should not be pressured.

If I am pulled over by the police, I probably get accused of being an irresponsible firearm owner. It has not happened and it probably will not happen, but the point I make is that we are doing the right thing. We are not stupid.

Returning to the point of the bill—serious firearm offences—yet again, I totally endorse the aims of the bill in protecting people like the police and co. It is a necessity. We have these absolute idiots who run around and do the wrong thing with guns. Whether they are violent people, whether they are under the influence of drugs or whether they are involved in criminal motorcycle gangs—they could be any of those things—all I say to the government is: do not penalise the rest of us who do the right thing just because of those damn fools. Lock them up, by all means. I will help you take them out.

Ms Chapman: Not literally.

Mr PENGILLY: Not literally. No, I do not mean it like that. I will do everything possible to bring those sorts of people to justice. What the parliament needs to understand and what the government needs to understand is that the vast majority of gun owners are good people. We want to get on with our lives, we want to get on with our business, we want to use our weapons as needed and not be penalised.

I speak again on behalf of the antique firearm owners in my electorate, who come to see me regularly and who feel as though they are being badly penalised. I say: get on with this piece of legislation. I know the Attorney wants to move on it, but please answer a few of the questions that will be raised in committee. Once again, for the final time, at the risk of repeating myself yet again, leave those of us who use firearms for business or for pleasure and who are responsible alone, for heaven's sake.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (16:37): I thank everybody who has contributed and, in fact, thank some of those who have not contributed because they have appreciated my scheduling difficulties and I do appreciate that, in particular, the member for Little Para. Can I just say a few things very quickly because, if it is possible for me to deal with what would otherwise be a matter raised in committee now, I would like to speak very quickly about those matters so we do not have to repeat ourselves then because I have had regard to the comments made by the member for Bragg and, indeed, the member for Finniss.

If I start with the member for Finniss and say that, at all times, it was my intention to have as the question set that had to be asked: will this interfere with law-abiding people who lawfully have registered firearms? If any of the answer to that was no, I was okay with it; but, if the answer was 'Yes, it will interfere with law-abiding people lawfully in possession of firearms that are registered,' then I have said, 'No, that is not what we want to do.' I particularly had in mind farmers because I know that, in rural parts of the state, a firearm is perhaps as much a tool in trade as a shovel or a pick or anything else.

Mr Pengilly: It is for fishermen too.

The Hon. J.R. RAU: Yes, so I understand that. It is important to know that this legislation basically targets two things: very small groups of criminal behaviour and firearms that people should not have at all, which immediately excludes you, member for Finniss, who lawfully has, for example, a .22 calibre, a .243, or whatever you might have. However, it does catch the person who does not have a firearms licence and who commits a serious criminal offence with a firearm, and it does catch the person who does not have a firearms licence and who is discovered with an UZI machine pistol or a Kalashnikov, or some other weapon, which cannot be legally held in this country, full stop.

These are the people we are trying to catch, not people who are just getting on with their business being farmers, or whatever—not interested in them. If you look at the legislation and you look at the particular classes of weapon that are picked up in there, it does not include stuff that you can lawfully have and register. You are not going to be worried about .22s and things like that unless they are used in the context of a serious organised crime offence, but that is not what we are talking about—driving down the street with it in the back of your ute.

If that is an offence—and it may well be—that is under the Firearms Act, and I am not disturbing that one bit here. I am not touching any of that. That is either an offence now or it is not. Nothing we are putting in here is going to change that one way or the other. That is the first thing. The second thing is that the member for Bragg asked a number of questions about particular words that are being used in the legislation, and that is fair enough.

Those words were chosen with care on the basis that I believe—and I know that the member for Bragg in particular has had the experience of observing—that the courts are capable of applying these words, and in many cases the words actually have an accepted judicial interpretation—they always treat certain words as meaning particular things, whether they are in this statute or that statute.

The first term I think the member for Bragg asked about was 'cogent'. It was intended to be used in its natural and ordinary meaning. I think that the honourable member gave us some lessons in Latin, and that is fine, because that is helpful and it actually does illustrate the point. 'Cogent' is meant to be applied by the courts in a common-sense way, and to say that it is cogent would mean that it is convincing, believable, forceful, clear or whatever; and it is intended that the court would apply that common-sense standard.

However, 'cogent' does not mean possible, an allegation, or something like that. It means something that, on the face of it, is cogent. I do not know that I can take that much further. The second one is that the member for Bragg spoke about the evidence and suggested that about a third of offences are about safe storage, and so on. Again, safe storage is not under this area. That is under the Firearms Act, and I am not in that space with this legislation.

I am advised that, of the 3,842 possess or use firearms charges against the Firearms Act between 2006 and 2010, the majority (which was 64.3 per cent) related to section 11(1), which is 'possess a firearm without a licence', and I am including in there the aggravated and non-aggravated versions of that. The government is also concerned that, for these offences, these are not storage offences but far more serious offences.

In a lower court a fine was the most common penalty; in fact, in 74.2 per cent of cases there was a fine. Suspended imprisonment and imprisonment resulted in only 2.4 per cent and 0.7 per cent of cases respectively. In the contrast, 60.6 per cent of cases finalised in the higher courts resulted in suspended imprisonment while 20.8 per cent resulted in imprisonment. This is what is behind the bill. It is not to do with storage offences. There is nothing misleading or irresponsible about the statistics.

I think the member for Bragg also sought some guidance about how the proposed presumptive imprisonment would work. I (and I am sure the member for Bragg would probably also agree with this) do not think that mandatory imprisonment is a good idea because it leads to absurdities in difficult cases. However, short of mandating imprisonment, what can the government do to say to a court dealing with a case, 'We regard this class of misbehaviour so seriously that the norm should be imprisonment'?

Ms Chapman: Only a day.

The Hon. J.R. RAU: That's making a mockery of it, isn't it? If they do get into the position where we are getting people imprisoned for an hour, or a day, or something like that, that would be the judiciary thumbing its nose at the legislature. It would be an observance in form, not substance, of the spirit of this legislation and we would have to revisit it if that absurdity went on.

I think we have to actually assume that the legislature will be respected by the courts and that the clear emphasis of this will be picked up. If we do find smart alecs behaving that way, yes, we will have to revisit it. All we are doing is saying to the court, 'We are not mandating imprisonment but, if a person who has done one of these serious offences does come to your attention, you had better have a really, really good reason why they are not imprisoned.' That is what we are saying.

There was also a request for an explanation about exceptional circumstances. I have been given a quote, and this is from Justices Gray and Layton—

Ms Chapman: That's already in your second reading.

The Hon. J.R. RAU: Right. I guess, without going through it again, what that illustrates is the fact that the courts themselves are used to applying a concept of exceptional circumstances in relation to many statutes. It is not as if it is an alien concept that has no meaning for judges.

Phrases like 'equity, good conscience and the substantial merits of the case' or 'exceptional circumstances' or 'must have regard to' are time-honoured judicial formulae, if you like. There are many cases that discuss them and the courts are familiar with them.

It is not possible for me to put a definition around what circumstances might throw up but, if you want me to make up a hypothetical that might come into that category, let's say there is an instance where an individual's car has been used by another person and this is an objective fact—it is not just an assertion: it is a known fact—and that individual retakes possession of their car and they are driving down the street 10 minutes later and they are pulled up and there is an Uzi pistol in the boot. Let's say—again, for argument's sake—that that individual can prove to the satisfaction of the court that what I have just told you is, in fact, what happened.

By any fair definition of that, whilst the person may be technically in possession of an illegal firearm, that offence has occurred in an exceptional circumstance. That is an example of where perhaps this sort of thing might have application. I do not mean by offering that example to in any way confine what the application of that might be. I am sure that the capacity of human beings to throw up peculiar circumstances is infinite—

Ms Chapman: It's not exhaustive.

The Hon. J.R. RAU: It is not exhaustive, absolutely not. It is impossible now to imagine all the weird and wonderful things that might be brought up, but I think it is pretty clear that 'exceptional' means exceptional, not just run-of-the-mill.

Referring to the business about a person on conditional liberty having a firearm, again, for the same reason, I cannot really give you the absolute parameters of it but let me give an example of something which might conceivably fit in that box. Let us say you have a farmer, or a person who works in a rural environment, who, as part of their normal activity, has a firearm which they use for shooting rabbits, or whatever it might be, they are the lawful holder of a licence for that weapon and the weapon is registered. If that person is charged with fraud and they are out on bail on a fraud charge, there is no suggestion of violence on the part of the person, there is no history of violence on the part of the person, there is no history of misuse of firearms and the person is able, in accordance with the formula given here, to provide affidavit evidence to the court that it is an essential part of their ongoing business or employment that they have access to firearms and they have a legitimate reason for wanting that, then that might be a circumstance in which this sort of thing would apply.

Again, it is not for me to define those things. I am just trying to give you an example that I think, by any definition, would probably fit. You have a person who has no history that is relevant, who is otherwise a lawful and responsible user of firearms, who has a legitimate reason to continue to have use of a firearm and is charged with an offence that has nothing to do with abuse of firearms. That circumstance is obviously quite different to that of a person who is charged with domestic violence and who may also have no history of firearm abuse, but one might be a little bit worried about giving the same latitude to that person. I am confident that the courts will be capable of dealing with those things.

As I understand it, there was also a question about serious repeat offenders. I have been advised by the DPP that they ran a text search within the electronic copies of sentencing remarks kept by the office. The search located four declarations under 20B since 2003. As the search conducted was a text search it is reliant on the search function picking up the appropriate phrase within the sentencing remarks, so I think we need to know that that does not necessarily mean it is an exhaustive and absolutely foolproof search. These declarations are not meant to be common. They are a drastic measure designed to deal with the worst habitual offenders.

I think the honourable member for Bragg raised a question about our amendment No. 1. I can tell the member that the chronology of this is roughly along these lines: like everybody else I was a bit concerned about the plight of the two police officers who were shot at by that fellow last year. I waited for the matter to be disposed of by the courts before I formed any view about whether things were going to be okay or not. I met with Mr Carroll and those two police officers in about October of last year, I had a bit of a chat to them and, in the context of having a number of other things relating to firearms on the boil, I added that into the mix.

When we got to the point of having the main part of the bill ready to go we were still having a discussion amongst ourselves about how exactly we would proceed with our solution, because there were alternatives. In the end, we settled upon the one that is amendment No. 1, 64(1). Accordingly, because the debate was coming on this week, we filed it so that everyone in this

house would have an opportunity to see what we were doing and it would not emerge for the first time in the other place. So, that is basically an explanation of where we are up to.

In summary, I thank everyone who has made a contribution and, indeed, those who have forgone a contribution. I cannot emphasise strongly enough that these measures are not intended to have any impact on people who lawfully have possession of registered firearms and are not committing a serious criminal offence. That is the important bit. If you have a registered firearm and you have a licence it still does not mean that you can commit a serious criminal offence. Those two things will not help you by themselves, but by the mere fact of you being in possession of a firearm, if the weapon is registered and you are licensed, we are basically not interested in you in this legislation. You are not in our radar screen unless you go out with your registered licensed weapon and commit a serious and organised crime offence, in which case you bring yourself back into the frame again, or if you shoot at police officers with your licensed weapon obviously you are back in the frame, but otherwise we are not interested in you.

The last thing I would say is that those provisions in there about conditional liberty, about bail, about licence, and everything else, are not mandatory either. They are intended to be the default setting, and the courts still have the jurisdiction to be able to, for good reason, change the default setting. That is all they are, just like the business about these people not receiving bail. Again, that is the default setting, but it does not mean there is mandatory imprisonment whilst on bail. It does not mean that; it just means that is the default setting.

All of this is to try to convey to the courts, at all levels—not just the superior courts but also the Magistrate's Court—that the parliament and the people of South Australia take these types of offences particularly seriously. All of us here are asking them, or directing them, really, on behalf of the people of South Australia to treat these amongst the most serious sorts of misbehaviour they have coming in front of them and to demonstrate that by actually, in effect, reversing a lot of the presumptions that presently apply to most people coming before a criminal court, but only reversing presumptions. With those probably too many words I finish.

Bill read a second time.

In committee.

Clauses 1 to 14 passed.

Clause 15.

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

Page 8, after line 8 [clause 8, inserted section 20AA, definition of *serious firearm offence*]—Insert:

(ba) an offence against section 29A of the *Criminal Law Consolidation Act 1935*; or

Amendment carried; clause as amended passed.

Clauses 16 to 25 passed.

New clause 25A.

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

Page 14—

After line 24—Insert:

25A—Insertion of 29A

After section 29 insert:

29A—Shooting at police officers

(1) A person who—

(a) discharges a firearm—

(i) intending to hit a police officer with shot, or a bullet or other projectile, fired from the firearm; or

(ii) being reckless as to whether a police officer is hit with shot, or a bullet or other projectile, fired from the firearm; and

(b) by that conduct, causes serious harm to the police officer, is guilty of an offence.

Maximum penalty: Imprisonment for 25 years.

(2) If, however, the victim in a particular case suffers such serious harm that a penalty exceeding the maximum prescribed in subsection (1) is warranted, the court may, on application by the Director of Public Prosecutions, impose a penalty exceeding the prescribed maximum.

(3) In proceedings for an offence against subsection (1), it is not necessary for the prosecution to establish that the defendant intended to cause serious harm to a police officer.

(4) A person who discharges a firearm—

(a) intending to hit a police officer with shot, or a bullet or other projectile, fired from the firearm; or

(b) being reckless as to whether a police officer is hit with shot, or a bullet or other projectile, fired from the firearm is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

(5) If—

(a) a jury is not satisfied beyond reasonable doubt that a charge of an offence against this section has been established; but

(b) the Judge has instructed the jury that it is open to the jury on the evidence to find the defendant guilty of a specified lesser offence or any 1 of a number of specified lesser offences; and

(c) the jury is satisfied beyond reasonable doubt that the specified lesser offence, or particular 1 of the specified lesser offences, has been established,

the jury may return a verdict that the defendant is not guilty of the offence charged but is guilty of the lesser offence.

(6) In this section—

reckless—a person is reckless as to whether a police officer is hit with shot, or a bullet or other projectile, fired from a firearm discharged by the person if the person—

(a) is aware of a substantial risk that a police officer could be hit with shot, or a bullet or other projectile, fired from the firearm; and

(b) discharges the firearm despite the risk and without adequate justification.

Ms CHAPMAN: I thank the Attorney for outlining in his response a number of issues that I flagged during my second reading contribution. I suppose one has to say that we would expect the judiciary to act responsibly and, as the Attorney has quite rightly pointed out, there are a number of cases—some of which he has referred to in his contribution already—that provide some guidance as to the use of some of this language. However, bearing in mind that this legislation, to the small extent that we are talking about here, applies serious fines/penalties to serious offenders—that group; narrowing that down—I think it is terribly important that we make sure that we do not inadvertently capture others and, if we do, that there is a proper process to ensure that they can be excluded.

It is all very well to have Full Court decisions telling us about what the difference is between exceptional circumstances and good reasons and so on, but we want to make sure that, in a law that is not going to apply to everybody and we are going to be cherrypicking out the very bad, we have very clear provision for those who are not very bad but are found in circumstances where, like you say, they are accidentally driving along in their car with some kind of disgusting weapon in the back. We need to make that clear, and I thank the Attorney for that.

This amendment, which introduces an offence specifically for conduct where a person discharges a firearm at a police officer with the intent of hitting that police officer, or being reckless as to whether the police officer would be hit or shot, is one that the opposition supports. Indeed, as the Attorney knows, it was announced yesterday morning by the opposition that it was the intention to move an amendment to this legislation. Very shortly thereafter, this amendment was tabled in the parliament.

Whatever the reason for the delay, I think the government has been a bit churlish, and I appreciate the chronology that has been outlined by the Attorney. Having met with victims apparently last year and waiting for the proper conclusion of criminal proceedings, the Attorney made some assessment about whether it was reasonable to progress this. If someone else—

whether it is the opposition, an Independent or other people in the community—raises a legitimate reform that is ultimately embraced and taken up, I think they should be acknowledged and recognised.

Mark Carroll, as the head of the Police Association, on behalf of two of his members in particular who were the victims of the disgraceful circumstances mid last year, has championed this as a significant reform that would in some way recognise and hopefully have the flow-on effect of protecting his members—namely, police officers—in the line of duty. He championed that. He championed it to the government, on our understanding, and he championed it to the opposition. The opposition—particularly the Hon. Stephen Wade—took up that important initiative. He presented it to the members of the opposition and we supported it. He made it public that this area needs to be embraced. The government shortly thereafter announced that they would be doing that, but with absolutely no recognition of what has occurred.

The Hon. J.R. Rau: That's not true.

Ms CHAPMAN: The Attorney shakes his head and says, 'That's not true.' After the government announced publicly that they were going to progress this offence, the shadow attorney, I think in good grace, welcomed that from the government as a decision that they had decided to take up, but again in a circumstance where there is no acknowledgement of that. I have to say that there have been other occasions when the government has been quick to bring in, embrace, hug, support and give accolades to other members of the parliament who are Independents or who are in minority parties when it suits.

I simply make the point that I expect—and I think every person in this house, whether they are an Independent or a member of any political party, including the same party as the Attorney, ought to expect—that, if the government does present with a particular proposal which is ultimately taken up and embraced as a government initiative, proper recognition is given it. Even the previous attorney did this from time to time—usually when it suited him, of course; never to a Liberal, I might say—when an Independent member of the house or a member of the community championed a particular reform. I think that that should not go unsaid. Nevertheless, it is here, it is before us. We welcome it and support it. I look forward to the passage of the bill.

The Hon. J.R. RAU: I just want to respond very briefly to the honourable member for Bragg. Obviously, we were aware that this bill was going to be coming on for debate this week. Equally obviously, we already had our draft provision ready to go by this week.

Ms Chapman: Why wasn't it in the bill?

The Hon. J.R. RAU: I agree: it was not in the bill. I told you before that we were still working on exactly how we were going to manage this, because there were a number of different ways one could do it. Anyway, the point is this: we had it ready, obviously, because you cannot just summon a provision out of thin air in five minutes. We had this; we had the bill coming back on. In my press conference the other day where I spoke to the media about this, I actually acknowledged that the opposition was supporting this, and I welcomed it. I said that at my press conference. I acknowledged that and welcomed it.

I do not think I am in a position now where I can actually pick up the opposition's legislation because, as far as I am aware, nothing has even been filed yet on behalf of the opposition. However, I did acknowledge the supporting sentiments expressed by the Hon. Stephen Wade and said that I welcomed that at my media conference about this the other day. I say it now on the *Hansard:* I acknowledge that the opposition has supported this. The advocates for this, which is basically the Police Association, have been—as the honourable member quite rightly says—speaking to members on all sides. They have spoken to me. They have not only brought the two victims of this last shooting to visit me, but they have also come to see me about this, and we have been working through our methodology for doing it.

Just to make it absolutely clear, we knew that the legislation was coming on for further discussion this week. We obviously had this draft in our ready-to-go pile, and it is a happy coincidence that both the government and the opposition agree on this. I welcome the opposition's support and I am sure that the Police Association will also welcome the opposition's support. I look forward to the speedy passage of the bill as amended.

New clause inserted.

Remaining clauses (26 to 36) 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) (17:09): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ADJOURNMENT DEBATE

PORT LINCOLN YOUTHORIA CINEMA

Mr TRELOAR (Flinders) (17:11): I take the opportunity to make this adjournment grieve, and I will make it brief, Frances, I promise.

Ms Bedford interjecting:

Mr TRELOAR: I would like to talk once again about the recent state budget handed down by Treasurer Jack Snelling. There was in that budget provision of just under $800,000 to install digital projection at various regional theatres around the state.

My congratulations and good wishes go to the towns of Whyalla, Port Pirie, Renmark and Mount Gambier on their being successful recipients of this not inconsiderable funding, but my question has to be: why was the theatre in Port Lincoln overlooked in this allocation of funds? I would hope that it was simply overlooked. I can think of no other reason why the public theatre in Port Lincoln should not be deserving of equal status with those other regional towns I have previously mentioned.

I can suggest that one possible reason for the theatre in Port Lincoln being overlooked is that all of the successful recipient theatres are owned by the local councils and are operated by Country Arts SA, whereas the Youthoria Cinema, as it is known, in Port Lincoln is operated by West Coast Youth and Community Support.

West Coast Youth and Community Support is an independent NGO, funded by DSI as the local homelessness services provider. In fact, it has been operating as an entity in Port Lincoln for the past 27 years. The operation of the Youthoria Cinema as a social enterprise project is managed and financed completely independent of that organisation but it is overseen by the organisation as an important valuable addition to the business.

West Coast Youth and Community Support is able to offer some young clients who are at risk, homeless, unemployed or disengaged from education supported training and paid employment at the cinema itself. This improves their work readiness and helps to break that cycle of unemployment that is present in many families. The group also works to provide a recreational facility (the cinema), which is well utilised by the local Port Lincoln community and beyond.

The Port Lincoln Youthoria Cinema, as it is known now, has operated for the past three years as a social enterprise, offering employment and training, as I have already mentioned. The main focus of this training is to be able to provide young people with training, work experience and to increase their work readiness.

This cinema, along with those other country cinemas I have mentioned, have been caught up in a situation where they have been required to upgrade an ageing projector to digital, and the cinema has worked very closely with industry to assist with this process. But as with many regional single-screen cinemas, the Port Lincoln cinema has had a chequered history of opening and closing down due to difficulty with their financial viability.

The Youthoria Cinema has taken a very proactive approach to fundraising to assist in the digital upgrade. The cinema is fortunate in that it has had very strong local support. In fact, due to not insignificant amounts raised by last year's Tunarama entrant Jessica Webb and also a donation from the Bendigo Community Bank in Port Lincoln, along with a donation from Port Lincoln City Council, the Youthoria Cinema has raised around $56,000 towards the upgrade of the digital theatre.

But, of course, the overheads are the same as for all council-owned facilities, except that this particular cinema has to ensure that it is profitable in order to maintain staffing and service levels, and any other upgrades to facilities or equipment that need to be self-funded. Of course, at this particular point in time the upgrade to digital projection needs to be a self-funded project.

I go back to my original statement, that for the life of me I cannot understand why Port Lincoln has been overlooked when Whyalla, Port Pirie, Renmark and Mount Gambier have all received funding. I urge the Treasurer and his government to reconsider Port Lincoln as part of this process and, if at all possible, make an allocation of some discretionary funding to the Youthoria Cinema. It does a fantastic job, it is very capably run, and it offers a service to Port Lincoln and the broader community. I think it deserves equal status with the other regional centres around the state.

At 17:16 the house adjourned until Thursday 12 July 2012 at 10:30.