HOUSE OF ASSEMBLY

Wednesday 28 November 2012

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

STATUTES AMENDMENT AND REPEAL (TAFE SA CONSEQUENTIAL PROVISIONS) BILL

The Hon. C.C. FOX (Bright—Minister for Transport Services) (11:01): I move:

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

Motion carried.

GRAFFITI CONTROL (MISCELLANEOUS) AMENDMENT BILL

The Hon. C.C. FOX (Bright—Minister for Transport Services) (11:02): I move:

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

Motion carried.

VISITORS

The SPEAKER: I draw the attention of members to a group of students in the gallery from years 3 to 7 from the Aldinga Primary School. It is lovely to see you here and we hope that you enjoy your time here this morning. They are guests of the Minister for Health, I understand.

COMPANION CATS AND DOGS

Mr BIGNELL (Mawson) (11:04): I move:

That this house establish a select committee to investigate and report on the legislative and regulatory management of the trade in companion dogs and cats, with the goals of the elimination of cruelty and the reduction of the numbers of unwanted animals being euthanased, and in particular consider—

(a) options for the regulation of welfare standards for breeding companion dogs and cats;

(b) the adequacy of regulation of the source of companion dogs and cats for sale;

(c) the feasibility of a mandatory cooling-off period between registering intent to purchase a companion dog or cat and taking possession of the animal;

(d) the adequacy of the regulation of non-retail-shop trade in companion dogs and cats;

(e) how the registration, microchipping and desexing of companion dogs and cats might address these goals; and

(f) any other relevant matters.

I am sure many people in this place would have heard from constituents over the years and seen reports in the media of the stories that do not end well for companion dogs and cats, particularly around Christmas time when people buy a cute little furry ball of fun that they think the whole family is going to enjoy, and then, suddenly, when they are cleaning up after this kitten or this puppy, it is not quite the fairytale they had in mind when they wandered past the pet shop and were enticed by the friendly little puppy or kitten.

It is very hard to make changes in this area. It is a very emotional issue and I commend the member for Fisher who did bring into this place a proposal to look at puppy farms. The hard thing with puppy farms is that we are not sure that they are necessarily rife in South Australia. What we need to do is actually stop the problem at all its levels, so if puppy farms are being allowed to operate in Victoria and New South Wales, and then those puppies are being brought into South Australia for sale, we need to stem that trade.

It is my hope that this committee will examine all the possible areas that we can and hear from as many witnesses as we can, talk to people in the industry, from the breeders to the pet shop owners, and parties like the RSPCA and the Animal Welfare League, and just work out what we can do as members of parliament to bring in new regulations and new legislation to make South Australia a leader not only in Australia but around the world in how domestic cats and dogs—companion animals—are treated in this state. It is up to all of us to stamp out cruelty wherever it may be and this is a first step.

I would like to thank the members for Morphett and Hammond who have been very approachable on this, as has been the member for Fisher; also, the member for Port Adelaide who

has fought for the rights of animals for most of her life and has been very keen to be involved in this; the members for Torrens and Florey, who have both bred dogs at various times in their lives and are really interested in this matter and I thank them for their wise counsel during the past weeks as we have discussed this as a party; and the member for Mitchell as well, who has been contacted by people in his electorate and who has taken the fight up on their behalf.

I am really hopeful that, just as we did on the grain-handling committee, the Independents, the Labor Party and the Liberal Party can work together to look after the best interests of those creatures without a voice, and that is the dogs and cats in South Australia.

An honourable member interjecting:

The SPEAKER: Order!

Dr McFETRIDGE (Morphett) (11:08): I rise to support the motion by the member for Mawson. It is extremely important that this house does make some investigations, and possibly legislative changes, in relation to the regulation of the management of domestic animals, in this particular case, companion animals—dogs and cats. Having spent 22 years in veterinary practice and having a daughter who is a vet, I have been right at the coalface of pet ownership. I have seen many fantastic stories, but I have seen unfortunately some absolute tragedies where people take on more than they had ever anticipated or expected.

I have seen people being put in the position where they have been faced with shattering decisions concerning treatment of an animal that needs life-saving surgery because of the breeding of that particular animal and they cannot afford the surgery. Unfortunately you cannot be a benevolent society 100 per cent of the time—as much as you might like to be as a veterinarian; you do actually have to run the business—and people cannot afford to repair some of the genetic defects in some of these dogs that have been bred in what are called puppy farms and also by backyard breeders.

It is very important in this issue that we make sure that people are protected, but also from a veterinarian point of view that the animals are being protected, because to bring an animal into this world that we know will have genetic defects that will incur pain and suffering for many years—some dogs are living a lot longer than 14 or 15 years with modern treatments and modern diets—we need to make sure that the animals are not put through a lifetime of suffering. Animals are very stoic about pain and to anticipate and interpret the reactions to pain can be difficult for most pet owners. As a vet you get to learn to speak the language quite quickly, but to better prevent those situations occurring is something that I and the rest of the Liberal Party will be supporting, and I know the member for Hammond is very keen to come onto this committee, where we will do what we can to make sure that the future for pet ownership in South Australia is on the improve.

Dr CLOSE (Port Adelaide) (11:10): I rise to say how delighted I am that this committee is being supported across the parliament, and I would also note in reference to the earlier speech that South Australia has often taken a leading role with animal welfare. I believe that the original Prevention of Cruelty to Animals Act in 1985 was, if not the first, one of the first acts to regulate the conditions under which animals should be treated and, subsequently, five or six years ago the revision to the animal welfare act was a substantial improvement on that and it has kept South Australia at the forefront.

People have been legitimately concerned for a long time about whether there is cruelty in the breeding and sale of companion dogs and cats. While we are all easily touched by the adorable puppies and kittens that we see in pet shops, we are rightfully concerned to know that the mothers of those animals have been cared for and kept in good conditions. We want to know that our pets brought into homes, where they are showered with love and care, have come from adult dogs that were similarly well treated.

There is also a legitimate outcry when we hear of the numbers of dogs and cats being put down because they are unwanted or have genetic disorders. We want to be assured that people are not recklessly buying adorable puppies and kittens, then finding them a problem or burden as they get bigger, and get rid of them. It is right that we explore ways to reduce this toll. I am very pleased to be serving on this committee and look forward to working across the parliament on how to address these issues.

Mr PEGLER (Mount Gambier) (11:12): I just indicate that I certainly support this motion and I would say that I think it is extremely important that the committee comes up with a definition that is succinct on what a companion animal is, because the last thing I want to see is farm

sheepdogs and cattle dogs being brought into these regulations, if the regulations come about. I certainly support the intentions, but I do not want to see working dogs dragged into it at the same time.

Mr PENGILLY (Finniss) (11:13): I think this motion of the member for Mawson has a good deal of credibility and substance to it. I think the member for Schubert, a few minutes ago, said that in the last 20-odd years that he has been here we have never been able to win with dogs or cats, and he is probably right. I know in a former life I was partly responsible, along with the council, in putting in place some bylaws on cats, on Kangaroo Island actually.

For the life of me, these people who want dogs or cats and do not know how to look after them or do not know how to control them are the despair of many places. I heard what the member for Morphett said. I think that there is quite a bit of reality that has got to come into place on this, and we do not want dog farms, but I completely agree with the member for Mount Gambier. Keep farm dogs out of it, if you do not mind.

The other thing is that only this morning I had an email from a constituent in my electorate mightily concerned about the destruction of greyhounds that are not up to racing. I am not sure whether that is taking place in South Australia. I have to research the information a bit more, but that is something the committee may want to look at as well, if you can drag it into it.

But if I had my way on the cat issue, I would dispense with all of them. I would. Every single one of them. They are a nightmare in my electorate. They are a nightmare on my farm. I shoot cats regularly. The damage they do to the birdlife, the damage they do spreading cryptosporidiosis around rural areas and the impact they have on commercial sheep production is enormous.

For the life of me I cannot understand why people who live in towns have cats breeding and then dump the kittens 10 or 15 kilometres out of the town because they cannot bring themselves to get them destroyed. That is something the committee may also want to pick up on. If people want to have cats, get them sterilised, unless they are proper breeders for show cats or whatever. I would chop every one of their heads off. I would not even hesitate; I cannot stand the things. I might sound a bit harsh but I have seen what they do—

An honourable member interjecting:

Mr PENGILLY: A little bit harsh. I see what they do and I know there are nods around this chamber because other people know what they do. If you open up a feral cat you will find inside it birdlife—wrens, robins, all sorts of things. It is dreadful.

Mr Pegler: Lizards.

Mr PENGILLY: Lizards, the whole lot; they just wipe everything out. It is really important that if parliament can add to this at all through this committee—it might be something that parliamentary committees can pick up on—it would be a good thing. If there is room I would like to be on the committee, if it is possible—I do not know what deals have been done on this.

We have to discuss it as a party, of course, but I think there would be agreement amongst members on both sides that we need to do something about it. You really cannot blame the cats and dogs, you have to blame the damn fools who breed them and do not know how to look after them, and it goes on from there. I think the motion has a good bit of credibility, as I said at the start, and I will watch with interest.

Mr BIGNELL (Mawson) (11:16): As I said at the outset, this is an emotive debate and we have just had the member for Finniss speaking his mind. There are so many native species and animals that have been wiped out because of introduced pests like feral cats, so it is an issue and it is something that I am sure we, as a committee, will be looking at. The member mentioned sterilising cats and that is also something in the terms of reference.

I concur with the member for Mount Gambier—we had a discussion about this—about keeping farm dogs out of it. I grew up on a dairy farm for the first 10 years of my life and we had great dogs on the farm that were fantastic. It is a different lifestyle for the dogs and I know that pretty much all farmers look after their dogs because a good dog is worth a couple of workers.

We need to be careful that the committee does not go too broad because you end up not achieving anything and it just becomes a talkfest. I would like to see discussion with as many people as possible to get all the viewpoints that we can to come up with regulations and legislation

to look after the welfare of not just cats and dogs but all native animals in South Australia. For many of them it is past bringing them back because they are already extinct.

There are people like John Walmsley up at Warrawong sanctuary—he was a little bit like the member for Finniss; he wore his hatred for cats on his head—who used to shoot any cats that came over the fence and he made a cat hat from them. It was a great learning experience to go to Warrawong and see these creatures that used to roam all through the Adelaide Hills and the plains that have been totally wiped out and only survive in sanctuaries such as Warrawong.

Motion carried.

Mr BIGNELL: I move:

That a committee be appointed consisting of Mr Sibbons, Dr Close, Mr Pederick, Dr McFetridge, the Hon. R.B. Such and the mover.

Motion carried.

Mr BIGNELL: I move:

That the committee have power to send for persons, papers and records and to adjourn from place to place, and that it report on 6 March 2013.

Motion carried.

Mr BIGNELL: I move:

That standing order 339 be and remain so far suspended as to enable the select committee to authorise the disclosure or publication as it sees fit of any evidence presented to the committee prior to such evidence being reported to the house.

The SPEAKER: There not being an absolute majority present ring the bells.

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

Motion carried.

FISHERIES MANAGEMENT ACT

Mr PEDERICK (Hammond) (11:21): I move:

That the regulation under the Fisheries Management Act 2007, entitled General Variation, made on 27 September 2012 and laid on the table of this house on 16 October, be disallowed.

I will just go through what this variation of Fisheries Management (General) Regulations 2007 means. It means that we have regulation 8A inserted, which provides:

Possession of prescribed quantity of aquatic resource in prescribed circumstances.

(1) For the purposes of section 73(1) of the Act—

(a) a quantity specified in Schedule 7A is fixed in relation to the class of fish or other aquatic resource specified alongside that quantity; and

(b) The following circumstances, or any combination of the following circumstances, are prescribed:

(i) where the fish or other aquatic resource is—

(A) frozen; or

(B) stored in a freezer;

(ii) where the fish or other aquatic resource—

(A) has been pickled, salted, smoked, cooked or otherwise processed; or

(B) is otherwise stored,

in a manner designed to preserve the fish or other aquatic resource.

Then it talks about the offences under the act. Under schedule 7A—Prescribed quantities, the government has introduced a regulation of King George whiting:

(a) if the person has in his or her possession both fish and fillets of the fish: 36 fish or 3.5 kilograms of fillets of the fish

(b) in any other cases: 72 fish or 7 kilograms of fillets of the fish.

With regard to pipi, or Goolwa cockles, 1,200 pipi, and for razor fish, 100 fish. Why I am moving to have these regulations disallowed is that I believe we should just go to the weight limit amount because it is pretty hard to count fillets if they are in a frozen situation. I will stick to the seven kilograms of fin fish that the government has prescribed in the regulations.

On our side of the house we believe in possession limits but we believe they should be more generous. We believe that there should be a limit of 20 kilograms, which is similar to the Western Australian arrangements. I say that not only as the shadow minister for fisheries but as a regional member representing many people in my electorate who only get the opportunity to have an annual fishing holiday, as many people do right across the state, whether they are urban dwellers or whether they reside in the country.

For instance, I look at what is happening now in the country areas, and it is the culmination of the agricultural year with harvest under full swing. Some of the early farmers and croppers have already finished and they are obviously looking at going away on a few weeks' break in the near future. What usually happens is that people travel fair distances—and it does not have to be farmers, I am just using that as an example. They may want to travel to the West Coast or they may want to go to Ceduna—the whiting is pretty good catching up there. There is also—

Mr Pengilly: There's none over our way, don't come there! Caica is going to stuff it up completely.

Mr PEDERICK: The member for Finniss just reminded me of the fabulous fishing around Kangaroo Island.

Mr Pengilly: And the Fleurieu.

Mr PEDERICK: And the Fleurieu, which we both represent. With regard to Kangaroo Island, people get across on the *Island Seaway*. I was there the other day and encountered the stark reality of the distance—I guess you could almost say the isolation or the remoteness—when we had those lightning strikes, and I had a fire happening on my farm and I was trying to control it from Kingscote.

Mr Pengilly: They managed to get it out without you.

Mr PEDERICK: They did manage to get it out. The neighbours and everyone did very well and I appreciate that. They did a fantastic job and I must say my eight-year-old son was doing very well taking the calls. Be that as it may, for people who wish to go to Kangaroo Island, it is expensive, especially if you take a vehicle and then a boat or a camper trailer. That is just the way it is—you have to get over there by either the *Island Seaway* or you can fly.

Mr Pengilly: What? On SeaLink, I would have thought.

Mr PEDERICK: SeaLink, sorry. The member for Finniss has just—

Mr Pengilly: The *Seaway* went out in 1995!

Mr PEDERICK: That shows how long since I have been on a boat to Kangaroo Island. Thank you, member for Finniss. I have also been on the *Troubridge*, Michael, and that is going back many years. What I am saying is that it is not cheap to get to the Far West Coast, Yorke Peninsula (where there is some very good recreational fishing around there as well) or, for instance, Kangaroo Island. People mainly have the opportunity to go away on one decent trip a year and, certainly, I do not think the government regulations that bring the limits down to seven kilos of whiting is acceptable.

The amount is just too low. These limits came about because we were the only state in Australia not to have possession limits. There were possession limits across the other states and so it enticed people to come to South Australia, and there has been a whole lot of discussion about people fishing and catching thousands of fillets and them taking them away, whether it is to the Eastern States or elsewhere. A lot of that is anecdotal evidence, of course, but it certainly upsets commercial fishermen. That is why we have said that perhaps we need to even up the way possession limits are managed in this country and we agreed that we do need a possession limit but we believe that 20 kilos of fish—which could be something like 160 whiting—could be quite sustainable.

We are not talking about people having the opportunity to take thousands of whiting because that is obviously a commercial rate of fish, and we want to see that controlled. Obviously there are going to be issues with policing this. I understand that the method of policing is similar to

Western Australia where, if there is enough suspicion involved, a warrant is sought to inspect the person's premises, and they obviously need to be very suspicious that someone has a freezer with many fillets in it.

It certainly raised a lot of discussion during the months of debate that has been going on about recreational fishing possession limits. We have to understand that there are hundreds of thousands of people in South Australia that love the opportunity to go for a fish. As I indicated, there are many people who only have the opportunity to go fishing once a year and we want to see those people have the opportunity to catch a decent feed of fish that they can store for a few months and enjoy the fruits of their recreational fishing.

I am afraid that such a low limit of seven kilograms makes it completely unworkable. That does not allow people to fully utilise their holiday. If they have to stick rigidly by the rules, we could see people taking tourism dollars out of regional communities, which is a disaster. They will be shortening their trips. They might only go for a week or 10 days instead of maybe three or four weeks and that is going to be a disaster for the incomes of regional communities.

We have already seen the debate going on around marine parks and the chaos and uncertainty that has already caused in regional communities, and we do not any more. We do not need the marine parks fiasco, quite frankly, but it is going to be imposed on us. I think the people of South Australia will make their fair judgement in March 2014 regarding that debate. What we need to do in this state is foster all our communities and, especially in this case, our regional communities. People want to go away. They want to spend a few weeks away with their mates or their family and just catch a decent amount of fish. It is pretty obvious.

It is not just the people travelling over there that are impacted by this, it is also the accommodation at the motels and caravan parks. The local businesses will also be impacted, such as the local Foodlands or the local small shops, whether they be at Ardrossan, Ceduna, Port Lincoln, Port Broughton or anywhere in this state. People also like travelling down to the South-East to Beachport.

Mr Pengilly: Where's that?

Mr PEDERICK: Do you have to go on the *Island Seaway*? I think the many hundreds of thousands of people in this state that enjoy recreational fishing have a right to book a decent holiday, travel on this holiday and take their boat or their camper, or take both if they have a couple of vehicles and can get away. Some people can put the boat on top of the vehicle or the camper trailer. They should at least have the opportunity to fully enjoy and utilise their time off, which for a lot of people is the only opportunity that they have for a break.

That is why I am moving to disallow the regulations that were placed on the table by the government. It is not the simple fact that this is just about fishing as it is. As I have explained, it is about supporting regional areas and regional communities, and it is about giving everyone a fair go.

Mr PENGILLY (Finniss) (11:33): I rise to support the motion put up by the member for Hammond. I am a little bit concerned after his faux pas on the *Island Seaway* that he may have lost the plot but, anyway, we will give him the benefit of the doubt on that one. The issue of the regulations, as have been discussed, were probably advanced fairly vocally by the Mayor of Ceduna, Mr Allan Suter, who took this matter under his wing and made loud representations, quite clearly because interstaters—particularly Victorians, as I understand it—were going over to the coast, staying for months, doing regular trips back and flogging off the fish.

Mr Suter quite rightly raised that issue and, in respect to the regulations, I think a good deal of thought has gone into it. However, there are a few things that are amiss with it, as the member for Hammond raised a few minutes ago. This is only going to be exacerbated by the debacle that is going to be unleashed on South Australian rural communities when this hideous government unloads on the marine park sanctuary zones.

Port Wakefield people are in despair. They met with the chief of staff of the Premier's office only last week or so and they received absolutely no joy whatsoever. I know that the fishermen, both recreational and professional, in my electorate down on the western Fleurieu are extremely concerned and are at the point of taking very strong action, particularly those from Kangaroo Island, as, indeed, are those across the rest of the state.

If this government wants to go along and wipe out regional communities, they ought to put it fairly and squarely on the plate. I am given to understand that the government is currently

spending a huge amount of money on a media campaign to promote their sanctuary zones—here we go again. They cannot find money for hospitals, they cannot find money for schools, but they can find money for spin. I can assure minister Caica and Premier Weatherill that, in due course, they will get their just desserts big time.

In the meantime, we have to deal with this regulation that the member for Hammond wants to be disallowed. He quite correctly has brought this into the parliament and I am sure that there are other members for rural areas who will want to speak on it and support it. I would hardly be surprised if it did not get up; however, it may well be discussed in another place as well. It is important that this matter is debated and it is important that we, as representatives of rural and regional areas in South Australia, bring these matters to the parliament, put them permanently on the record in the *Hansard* and try to fix up a wrong that has been made.

Mr VAN HOLST PELLEKAAN (Stuart) (11:36): I rise to strongly support the member for Hammond in his motion to disallow these regulations. I point out that, as well as being an important regional issue, this is actually an important city and metropolitan issue as well. There are people from the city and people from the country who all enjoy going on their fishing trips. Our entire state benefits from our commercial fishing industry, as well as the recreational, and our entire state benefits from important environmental protections as well. This is an issue which is important to our entire state because our entire state has the opportunity to participate and our entire state is affected by these regulations.

The areas in question where the fishing occurs are really the Upper Spencer Gulf, Yorke Peninsula, Eyre Peninsula, Far West Coast, South-East, Kangaroo Island, Fleurieu Peninsula—those sorts of areas. It is very important that we have possession limits in place but, of course, where you set those limits is always going to be open for discussion.

There will be people with different views. We need to respect the commercial fishing sector's views and we need to have limits in place to protect their industry. We need limits in place to protect the environment. I do not think that commercial fishermen are going to wreck our entire coastline but, certainly, pockets of it could be very detrimentally affected.

Balancing that, of course, is the fact that we need our recreational fishermen, women, boys and girls to have the opportunity to go fishing and enjoy the fact that, these days, many people are limited to one or maybe two weeks' holiday at a time in a recreational area. They should not be penalised by the fact that they need to do all of their fishing perhaps just once a year.

We also do not want to penalise other related businesses. This is a very important tourism issue. The boating industry, caravan parks, campgrounds, hotels, general stores and many other businesses, particularly retail businesses, rely on the commercial fishing industry, so it is very important that people still have the ability to go and enjoy these holidays and make the most of things.

The member for Hammond, as the shadow spokesman for fisheries, has outlined our position with regard to where we think possession limits should be set. This is not so much about pushing a motion for those specific limits as it is for disallowing the regulations at this point in time, but, if we had the opportunity, we would not be shy about putting forward exactly what we think is right.

We see the WA model as being a good one to follow, not that we would do exactly that, but something along those lines, I think, is very important. I highlight also that in Tasmania, where recreational fishing is perhaps more important than any other state because they rely on trout fishing to support of gigantic part of their wealth creation, they give their fisheries inspectors very strong powers, very strong authority, and local Tasmanians do not object to that. They appreciate that and they respect that because they recognise how important trout fishing is to their state's economy, so there is no reason to be scared of rules and regulations.

I would also like to point out that, along with whatever possession limits may be set, there are some other important issues that need to be considered, and they include identification of fish. Obviously, if a group of people go fishing together, while they are away they might share a chest freezer or something like that, the possession limit is back at home (it would quite rightly apply to whole families), fish would need to be wrapped and clearly identified in terms of the date they were caught and who they belong to. It would be quite reasonable for a mother and father and son or daughter to have all of their personal fish stored in one place. We would need to identify whether exactly the same possession limits apply to adults as to children, and as with most things like this there is usually a cut off age of about 16, and that becomes very relevant.

We would need to make sure also that the fish being stored in a particular location, the fish being possessed in a location, and tagged with the owner's or the fisherperson's name are relevant to that household. It would be fruitless to set possession limits and then say that a person could have 20 other people's fish all stored in a freezer in a home and call them all their own just because they wrote Bill, Bob, Sally, Fred, and whoever else, on the fish. They are the sorts of things that need to be considered.

Let me say again that this is a very important issue for regional South Australia with regard to the contribution to the economy, but it is also an important issue with regard to metropolitan Adelaide with regard to who these possession limits impact upon.

I will wind up by saying that I am absolutely positive that if this was a conscience vote this motion from the member for Hammond would be roundly supported. I suspect very strongly that members in government, if they were looking at just what was best for their electorates, for the people who like to participate in recreational fishing in their electorates, they would support the member for Hammond on this issue.

Mr WILLIAMS (MacKillop) (11:42): There are a couple of issues at hand here. I will certainly point out first up that I fully support the motion brought to the house by the member for Hammond. One of the issues—and this has been debated at length over the years—is that under the Subordinate Legislation Act the parliament does not have the opportunity to move an amendment to a regulation, and that I think is a failure of the parliament, to address that particular piece of legislation.

Here is a classic case where the opposition and the government both agree on the principle. We agree that there should be a possession limit, but what we disagree on is what the limit should be. If we had the opportunity, under the Subordinate Legislation Act, to move an amendment to the regulation, that is what the member of Hammond would have done this morning; but, as it is, he only has the opportunity to oppose the regulation. That is one issue that I think the parliament should look at.

It has been a regular wont of mine to debate the issue of regulation making. I think that far too much of the law of the state is made via regulation, which to my mind bypasses this parliament and does not call upon members of the parliament to exercise their mind on the issues at hand. We have passed on to the bureaucracy many of our powers to make law. It is my firm belief that a number of ministers are simply rubber stamps for their bureaucrats. I suspect that this may well be a case in point.

The principle of possession limits is not in question: it is where we set that limit, and we have not had a debate, certainly not in the parliament. I think there has been plenty of debate in the community, and that is the problem. I think that is the point that the member for Stuart just made, that is, if this was going to be a conscience vote, he believes that this motion of the member for Hammond would certainly be supported, because that would truly reflect the debate that is happening in the community.

Again, I think the first thing we should ask ourselves when we are considering regulations being made is: what is the wrong we are trying to correct by the regulation? It seems to me that there have been allegations that a small number of people—sometimes individually but quite often in groups—go down to our coast as recreational fishers, catch as much of a particularly valuable species, like King George whiting, as they can, trot off home and then sell them. So, they turn what should be a recreational pursuit into a commercial operation. It is my understanding that that is the wrong we are trying to address. I am definitely not convinced that a seven kilogram possession limit on King George whiting addresses that issue.

The other thing that we need to consider is: are there any unintended consequences of this particular regulation? That is where I think we really do need to take on board what the member for Hammond has been putting to us. Seven kilograms of fish is not a lot of fish, particularly for those people who only go to the coast from time to time, as the member for Hammond said, on their annual holidays. They might be there for a couple of weeks.

It is a very common habit in my electorate in the South-East for people, particularly in the farming communities and living away from the coast, to use a portion of their summer holiday or the summer holiday period to go to the coast to camp or take up a residence in a rented accommodation. A lot of people actually own beach shacks in the various coastal towns: Kingston Road, Beachport, Southend, and then further on down into the member for Mount Gambier's

electorate. It is a very common practice for people living distant from the coast to spend a couple of weeks on the coast.

A lot of those people would like to be able to catch and take home more than seven kilograms of fish, and I do not think that is an unfair thing. There are a lot of people who live very close to the coast who spend the whole summer fishing on a very regular basis, and I am sure they would catch and consume a much greater amount of fish than what is possible for the people who I am referring to who go to the coast for a couple of weeks and then want to take some of that fish home and consume it throughout the year.

I think there definitely is potential for an unintended consequence, and that is that we will be forcing a lot of otherwise law-abiding citizens to break the law. They will be forced to break this regulation or they will inadvertently break this regulation just by continuing to do what they have been doing for many years and, in some cases, for generations. I do not think that seven kilograms is the amount which addresses the problem we are trying to address; that is, allowing a very few recreational fishers to turn that enterprise into a commercial enterprise.

I suspect that if they are pursuing fishing as a way of making a few dollars, seven kilograms would be very much below the threshold which they would find worthwhile. I think the member for Hammond's suggestion that we adopt a limit of 20 kilograms for total possession of finfish does a number of things. My personal feeling is that even that is quite low, but notwithstanding that, it means that you do not have to DNA test the samples of fish in the freezer, because you do not have to know exactly what species it is.

So that not only simplifies the policing of the regulation considerably but it also gets closer to the point of addressing what is the real problem, and that is—and I repeat—trying to stop people turning a recreational pursuit into a commercial operation in contravention of our other fishery management laws.

Having put that on the table, I still think that the Subordinate Legislation Act needs review to allow us to more adequately debate these sorts of issues in this place; but, notwithstanding that, we are stuck with what we have and, as a consequence, I can only support the member for Hammond's motion to disallow this regulation.

Mr GRIFFITHS (Goyder) (11:50): I also wish to rise in support of the motion for disallowance. I do so based on the fact that the area I have the great opportunity to represent in parliament has something like 20 per cent of the state's boat ramps so, therefore, recreational fishing has been, is, and always will be, one of the most important pursuits undertaken in the Goyder electorate. While I respect the fact that there have to be personal catch limits, boat limits and possession limits in place and that has to be supported by science, there also has to be a rational approach taken to it. The member for Hammond, in bringing forward this position and that he feels the seven kilogram possession limit is far too low, is one that I support.

Over the time I have lived on Yorke Peninsula (which is the majority of my life), I am lucky enough to have fished from most of the ramp areas—not very well—

Mr Pengilly interjecting:

Mr GRIFFITHS: Not very many.

Mr Pengilly interjecting:

Mr GRIFFITHS: That was the lucky one: that was the good catch. So, the fish are out there: indeed, it is just that there are poor fishermen who go out a lot more times and don't get them as often as others. On Yorke Peninsula in the busy times—say you are there at Easter or in January—if you look at the boat ramps and see the number of vehicles and trailers that are parked there, it makes you fully appreciate the true importance that recreational fishers play in the economy of the region, because they are there in vast numbers. I think Port Hughes is the busiest recreational fishing ramp in South Australia and Port Victoria is not very far behind that. There are literally 130 vehicles and trailers parked there on the busy days trying to find a spot to go out, and then trying to be successful in catching a fish. It is these people who we want to support by this motion of disallowance.

Recreational fishers often will come over just for the holiday opportunity. They will fish off a jetty first, then they will get a boat, then they will rent a shack or stay at a caravan park, then they will think about investing in a property and then move there full time. So, the recreational fishing possession limit is linked to the willingness of people to live in a community, and that is what has

driven our economy for a long time. We have to be very careful before we implement anything that will impact on the success of that economy in the future.

I do have great concerns about what has been put in place by the Minister for Fisheries here. I am concerned about where she might have got the advice from. I know that the shadow minister has spoken to other states about what the rules are that they have in place, and the position that we have taken is strongly supported by what is in place in Western Australia. However, we need to get it right.

There will be a variety of people who want to put this motion forward. I do hope some support exists within the chamber, because it is important for regional South Australians. There are about 300,000 recreational fishers and these people want a variety of opportunities to go out and catch fish. They want to be able to store the fish and use it themselves or give it to friends and relatives and, if you are going to have a seven kilogram possession limit in place, that is far too low. There needs to be a greater tolerance here. That is why I support the motion

Mr TRELOAR (Flinders) (11:53): I rise today to support the motion of the member for Hammond, who has quite articulately put his concerns about the regulations as they are proposed. I speak as the member of parliament who probably has the longest length of coastline of any electorate in the state, stretching from an area north of Cowell at Lucky Bay, right around Port Lincoln, all the way out to the West Coast and beyond to the Western Australian border.

In fact, it was one of our mayors (mayor Allan Suter) who highlighted the real concerns he had about particularly people coming from interstate, Understandably, this evidence was only ever anecdotal, but there was a really strong suspicion and concern that people were coming to areas like the Far West Coast and around the coastline of Eyre Peninsula and taking large quantities of fish and effectively exporting them out of the state and primarily to the eastern coast.

I must say that the parliament and all the regional members in particular took this concern very seriously. I have to say that the residents of Eyre Peninsula and also Yorke Peninsula, and other regional areas—Kangaroo Island, in particular, Upper Spencer Gulf, the South-East—wherever you go throughout South Australia, the locals take their fishing very seriously. It is more than recreational fishing: it is a very sophisticated and dedicated hobby and pastime for a lot of people.

Many of the farmers across the regional areas of South Australia take their summer holidays at their local shack and my belief is that the shacks evolved from the perspective that farmers tended to go to their closest beach for their summer holidays. Once harvest was finished, they went down and often built very simple shacks, very simple accommodation, where they spent the summer holidays. After Christmas, school was out and they took their children, who learned to swim.

Of course, they were within striking distance of the farm which they needed to visit every two or three days to check the sheep. They would go out fishing early in the morning and catch their feed for the day, then go home and check the sheep. It has really become a tradition across South Australia and it has been fished very effectively and conscientiously by the locals.

As I said, the concerns were around the amount of fish that were being taken, certainly not illegally at the time, but let us suggest immorally, from the very productive waters that we have on the West Coast. Whiting was the species that was really sought after. The South Australian King George whiting is renowned throughout the state, throughout Australia, throughout the world—

Mr Bignell: Hear, hear!

Mr TRELOAR: —as the primary fish for human consumption, although I have to say that I am a little bit partial to a fresh trevally, member for Mawson.

Mr Bignell: I like a bit of raw kingfish.

Mr TRELOAR: Raw kingfish!

Members interjecting:

Mr TRELOAR: There are contributions coming from everywhere on the preferred fish and, at the risk of—

Mr Griffiths: I like leatherjacket.

Mr TRELOAR: Leatherjacket, okay—any bids for flake? Member for Little Para, how about a bit of flake? Primarily, the whiting was the most sought-after species and of course there were limits—boat limits and daily bag limits—on that species, as well as a couple of others.

Mr Goldsworthy interjecting:

Mr TRELOAR: The member for Kavel reminded me where I started this conversation about fish with fresh tommies and, of course, as children having our summer holidays at Coffin Bay—which really is still the highlight of my life—catching fresh tommies out of a dinghy or off the jetty was a real thrill. To clean them and cook them ourselves and have them for tea, supplemented by a bit of tomato sauce, cucumber and whatever else was along, was a highlight.

Getting back to the motion at hand, we do support the member for Hammond in this motion and his concerns around the regulations as they would be proposed. I think we all recognise that there is a problem. There is an issue that has been highlighted by any number of our constituents and I think it is right for the parliament to take action against what would appear to be a threat to our native species, but we have to get the possession limit right.

There are models in other states of Australia that would be worth considering. Certainly, the Western Australian model has been mentioned a number of times, and it is all to do with the kilogram limit or the number of fillets that people are actually allowed to have in their deep freeze. What has occurred in the past is that fishers have come from far away, fished at places like Ceduna, Smoky Bay, Streaky Bay, even right around to Cowell, and taken more than their fair share. I seek leave to continue my remarks.

Leave granted; debate adjourned.

STATUTES AMENDMENT (APPEALS) BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (12:01): Obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935, that Magistrates Court Act 1991 and the Supreme Court Act 1935. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (12:02): I move:

That this bill be now read a second time.

This bill is intended to improve the present procedure for appeals in South Australia. There has been some agitation in South Australia for a process to enable renewed appeals against conviction on the basis of fresh evidence. In August 2012 the report of the Legislative Review Committee was released The committee's inquiry was prompted by a private member's bill introduced by the Hon. Ann Bressington to establish a criminal cases review commission in South Australia.

The committee looked at the many issues associated with a criminal cases review commission and made seven recommendations. It is timely, in light of the committee's recent report, to introduce a bill to improve the present appeal procedure for South Australian criminal cases. While I have been considering reform in this area for some months, the committee's report has been considered in the drafting and formulation of the bill.

The bill introduces four new measures. I seek leave to have the remainder of the second reading explanation inserted into *Hansard* without my reading it.

Leave granted.

First, the Bill provides for new procedures for renewed defence appeals against conviction in the event that 'fresh' and 'compelling' evidence comes to light after the usual right of appeal has been exhausted. These new procedures will apply to convictions imposed in any court. The Bill utilises the definitions of 'fresh' and 'compelling' in Part 10 of the *Criminal Law Consolidation Act 1935* for renewed prosecution appeals against an acquittal for a serious offence. These definitions should not preclude genuine applications, but a reasonably high threshold is necessary to guard against unjustifiable applications by convicted applicants. An applicant must satisfy a court that the evidence is both 'fresh' and 'compelling'.

Second, the Bill provides that a person granted a full pardon for a conviction on the basis that the evidence does not support such a conviction will be eligible to have their conviction quashed.

Third, the Bill provides that if a defendant appeals his or her sentence on the ground of error and therefore that a lower sentence should have been imposed, or alternatively on grounds that the sentence was manifestly excessive, then the prosecution will have an automatic right of cross appeal without the usual need to obtain

permission to appeal. The prosecution can appeal on the basis that an error was made by the sentencing court and the sentence should be increased or on the basis that the sentence is manifestly inadequate.

Finally, the Bill provides the Chief Justice with a discretion to constitute the Full Court by a bench of two judges (rather than three) for both sentence and conviction appeals.

The Bill will allow genuine applications by convicted defendants who can adduce fresh and compelling evidence, but weighed against this is the strong public interest in finality in criminal litigation. The Bill provides a sensible and balanced approach to the competing interests in this area.

I have deliberately introduced this Bill now so that the Christmas break will provide a suitable opportunity for thorough consultation to occur with all interested parties and individuals. Though I note that there was already extensive consultation on the issues involved during the Committee's deliberations and Report, any interested party or individual will still have ample opportunity to comment on the draft Bill. Any comment will be taken into account in considering if any changes to the Bill are necessary.

Background

The present appeal provisions in South Australia, and most of Australia, allow only one right of appeal and do not provide for a further right of appeal against conviction after that right has been exhausted, even if fresh and compelling evidence comes to light. The only avenue of redress in these circumstances is to submit a petition for mercy to the Governor. In practice, the Governor acts on the advice of the Attorney-General and the Government of the day.

The present process appears to work effectively but it is open to criticism as lacking transparency, accountability and independence. The criticisms of the present system were thoroughly ventilated before the Committee.

New Procedure in Detail

The Committee recommended that Part 11 of the *Criminal Law Consolidation Act 1935* be amended to provide that a person be allowed at any time to appeal against a conviction for serious offences if the court is satisfied that: 1. the conviction is tainted; or 2. where there is fresh and compelling evidence in relation to the offence which may cast reasonable doubt on the guilt of the convicted person.

This recommendation forms the basis of the new procedure for renewed defence appeals against conviction but some modifications have been made.

The Committee suggested that for consistency any new model for renewed defence appeals should follow the existing procedure in Part 10 of the *Criminal Law Consolidation Act 1935* that allows the DPP to ask the Court of Criminal Appeal to order the retrial of a person previously acquitted for a serious offence if 'fresh' and 'compelling' evidence come to light that calls into question the original verdict. This procedure has not been employed in South Australia to date. The Bill as far as possible duplicates the existing procedure in Part 10 and adopts the same definitions of 'fresh' and 'compelling'.

The Bill does not make specific reference to a 'tainted' conviction as in practice this will be shown through 'fresh' and 'compelling' evidence and it appears superfluous to make specific mention of a 'tainted' conviction.

The new procedure in the Bill should not preclude or deter genuine applications from convicted defendants. There is a strong public interest in closure and the finality of criminal cases. The public interest in closure and finality is especially important for victims and next of kin as the Committee itself acknowledged. It is important to guard against the potential misuse of any new model by vexatious applicants. The spectre of endless untenable efforts to reopen old convictions should be avoided. A robust threshold is necessary to deter or deny untenable applications.

The Bill strikes a proper balance and allows genuine and meritorious applications but deters or restricts vexatious or unsupportable applications.

The new model should also be available to any convicted defendant who has exhausted their rights of appeal, regardless of the court that imposed the original conviction. The Committee suggested that the procedure should be confined to serious crimes carrying a maximum of 15 years imprisonment. It is preferable to have one similar process for any renewed appeal against conviction. Though in practice the applications that are most likely to attract public and press scrutiny are those from convictions for serious offences, there are many circumstances in which a convicted defendant may wish to challenge a conviction imposed in the Magistrates Court.

The Bill also addresses two linked issues. First, the actual procedure that should be employed to progress renewed defence appeals against conviction on the basis of 'fresh' and 'compelling' evidence, and second, confirmation that the new procedure will be retrospective in its operation.

The procedure in the Bill to determine a renewed defence appeal against conviction will depend upon the procedure that is usually employed to determine appeals from that court. If the Court of Criminal Appeal in an application in respect of a conviction at a higher court finds that the evidence is both 'fresh' and 'compelling', it will possess the usual powers set out in section 353(2) of the *Criminal Law Consolidation Act 1935* on a normal appeal against conviction which will allow the court, if it allows the application, to quash the original conviction and to either direct a judgment and verdict of acquittal to be entered or to direct a new trial.

If the Supreme Court in an application in respect of a conviction at a Magistrates Court finds that the evidence is 'fresh' and 'compelling', it will possess the usual powers set out in section 42(5) of the *Magistrates Court Act 1991* on an appeal against conviction which will allow the Supreme Court, if it allows the application, to confirm,

vary or quash the judgement that is subject of the application or to remit the case for rehearing before the Magistrates Court.

Other Measures

The Bill also addresses two relatively straightforward issues regarding the appeal process.

The first issue is that at present if a defendant appeals his or her sentence, the prosecution has no right of cross-appeal. The defendant has 'nothing to lose' by appealing his or her sentence. The court cannot increase sentence on a defence appeal, no matter how untenable the appeal may be.

The Bill provides that if the defendant appeals his or her sentence and argues that it is manifestly excessive and/or discloses error, then the prosecution will be entitled to an automatic right of cross appeal without the usual need to obtain permission from the court. The prosecution will be able to appeal on the basis that an error was made by the sentencing court and therefore the sentence should be increased or on the basis that the sentence is manifestly inadequate. This power will apply to any defence appeal against sentence, regardless of the court that imposed the original sentence.

This change will ensure grater parity between prosecution and defence in sentence appeals. The process will send a clear message to sentenced defendants that if they seek to appeal the sentence imposed upon them, then they do so at their peril as, if the DPP decide to cross-appeal, all errors will then be up for scrutiny by the Court of Criminal Appeal.

The second issue is that at present the Court of Criminal Appeal when considering an appeal against conviction or sentence must be constituted by three judges. Though the Court of Criminal Appeal in South Australia does not have a lengthy waiting list (unlike some of its interstate counterparts), the present requirement for three judges is not always necessary or an effective use of limited judicial time and resources. There are straightforward cases where two judges would be adequate to properly consider and dispose of an appeal.

The Bill provides the Chief Justice with a discretion to enable the Full Court to be constituted by a bench of two judges for both sentence and conviction appeals. This model has been established interstate, in Victoria (by rules of court) and New South Wales (by statute, section 6AA of the *Criminal Appeal Act 1912*). It has not encountered any apparent problems. The Chief Justice supports this change. The proposal will save precious court resources. The two Justices hearing an appeal will have the discretion to refer an appeal against conviction or sentence to the normal bench of three Justices if the appeal becomes complex or difficult.

The Bill may not satisfy everybody. Some may claim that it goes too far, others that is does go not far enough. My response is simple. The Bill strikes a careful balance. South Australia is not Texas. This State is not awash with wrongful convictions and the falsely imprisoned. Equally no system of criminal justice is infallible and there needs to be some means for convicted defendants to bring fresh and compelling evidence that questions the safety of their original conviction before a court. The Bill is a fair and balanced measure to reconcile the conflicting interests in this area.

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 Consolidation Act 1935*

4—Amendment of section 352—Right of appeal in criminal cases

This clause allows the DPP a cross appeal as of right where the convicted person has been granted leave to appeal against sentence, or deferral of sentence, under section 352(1)(a)(iii).

5—Insertion of section 353A

This clause inserts a new section allowing a second or subsequent appeal (with the permission of the court) by a person convicted on information if the Full Court is satisfied that there is fresh and compelling evidence that should be considered on an appeal. The concepts of 'fresh' and 'compelling' evidence are defined consistently with the definitions in Part 10 of the Act.

6—Amendment of section 357—Appeal to Full Court

This clause allows the Chief Justice to determine that the Full Court may be constituted of only 2 judges (instead of the usual 3) for the purposes of an appeal under the Act.

7—Amendment of section 369—References by Attorney-General

This amendment would allow the Full Court to quash a conviction where a full pardon has been granted.

Part 3—Amendment of *Magistrates Court Act 1991*

8—Insertion of section 43A

This clause inserts a new section allowing a second or subsequent appeal (with the permission of the court) by a person convicted in the Magistrates Court if the appeal court is satisfied that there is fresh and compelling evidence that should be considered on an appeal. The concepts of 'fresh' and 'compelling' evidence are defined consistently with the definitions in the *Criminal Law Consolidation Act 1935*.

Part 4—Amendment of *Supreme Court Act 1935*

9—Amendment of section 5—Interpretation

This clause is consequential to clause 6.

Schedule 1—Transitional provision

The amendments are to apply to appeals instituted after commencement of the measure, regardless of whether the relevant offence was committed, or allegedly committed, before or after that commencement,

Debate adjourned on motion of Ms Chapman.

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 27 November 2012.)

Clause 4.

The Hon. J.R. RAU: Can I just clarify a matter that has been brought to my attention. I have been advised that yesterday I said, in terms of water supply, it was just the usage, but it is supply and usage. So, can you please mentally amend my remarks yesterday just to cover that off.

The CHAIR: We are on clause 4, as I understand it.

The Hon. J.R. RAU: I am following up on the honourable member for Bragg's questions yesterday. We have noted here that the honourable member asked: who would be required to pay water prescription levies? I am advised the answer is that if the member is referring to the new licensing regime for water resources across the Western Mount Lofty Ranges then this falls under the Natural Resources Management Act. Any levy applicable under that act is defined as a statutory charge (clause 4(8)(e) of the bill) and as such cannot be passed on by a landlord to a tenant. With respect to water charges, I think I have covered that off.

There was another question from the honourable member for Stuart, and that was: can rent be increased in line with land tax notice? This takes us to the rent increases, clause 29, page 14 of the bill. Currently, depending on the terms of the individual tenancy agreement, a landlord can increase the rent every six months. However, the bill is increasing this to limit rent increases to every 12 months. It is possible for a landlord to increase the rent on a rental property in line with an increase in their land tax assessment provided they adhere to the timing limits of a rent increase.

However, the Residential Tenancies Act protects from excessive rent rises by enabling the tribunal to declare the rent payable under a tenancy agreement as excessive and may, by order, reduce and fix the rent payable for the property not exceeding one year. I assume that you would not be necessarily in the category of being excessive for those purposes simply because you passed on a land tax impost, but that would be a matter for the tribunal.

In making such a determination the tribunal considers various matters, including the estimated capital value of the premises as well as the rent for comparable premises in the same or similar localities.

Mr VAN HOLST PELLEKAAN: I appreciate your coming back with that response, minister. The reason I asked particularly about the land tax is because it is listed in clause 4 as one of the statutory charges. I understand what you are saying about: it would then have to be incorporated into a tribunals decision about potentially excessive increases in rent. You said, very clearly, that while it would be a matter for the tribunal you do not expect that just passing on land tax would be considered an excessive increase. The reason I raise this issue is because—

The Hon. J.R. RAU: Perhaps I could clarify that. I was not meaning to convey that you could directly pass on the land tax. What I was saying is that, of course, when you are reviewing the rent for the property you could, in calculating what rent you want, include in your calculations the fact that land tax had been increased as a factor to be incorporated into the rent.

An honourable member interjecting:

The Hon. J.R. RAU: Subject to the excessive rent, yes.

Ms Chapman: What about if the land tax was excessive in the first place?

The Hon. J.R. RAU: I do not think that this would be possible under this government, surely.

Mr VAN HOLST PELLEKAAN: Minister, I did understand that but that is specifically why I asked the question, because you are saying that of course it would be up to the tribunal—so you are not making any commitment on behalf of them and what they might decide in the future—but that you think if the increase is directly related to an increase in land tax, that that would probably be okay in your mind. The reason that I raise it is that it is not that way in commercial tenancies, and land tax increases can relate to a lot of factors outside the specific property that the land tax is attributed to.

You can have a landlord who goes and purchases a whole swag of other properties, and the land tax through the grouping provisions on this one residential property in question can then skyrocket. I would suggest that it would probably not be acceptable to increase it in the rent but it is listed as one of the statutory charges just like water. If your water rates go up, it would be fair that it would be passed on directly, just like all of the other things, but I see land tax as a very different style of charge.

The Hon. J.R. RAU: I now understand the point that the honourable member is making and I do take your point that, in terms of the aggregation provisions in the land tax regime, if you own multiple properties you start moving yourself into higher and higher brackets of taxation so that the land tax is not necessarily calculated by reference to only that specific property. I get the point and I accept that potentially that may mean that substantial increases may not be able to be passed on (in the sense of, incorporated in the rent) and that not be deemed excessive. I accept that that is possible.

I think the guideline of what is and is not excessive is sort of clear from those words that I read out before, that is, regarding examples of comparable properties in comparable streets in that area. Using an example we can imagine where somebody owns just one additional property aside from their own home, and that property is being rented, and it is in a particular street, then arguably the land tax impost on that might be quite small—in fact, potentially there may be none, well, not none, but it would be small. But if that is one of 30 properties that they own, the aggregated land tax bill for that individual when divided amongst the properties might well create a significant land tax impost in that area.

I do not think that it is contemplated here that that could then just be wrapped up in the rent and that that property would be going for $1,000 a week and the property next door would be at the market value of about $400. Obviously I think the landlord would run into problems there and rightly so.

VISITORS

The DEPUTY SPEAKER: Before we go to the next question, I would like to draw members' attention to the presence in the gallery today of students from Aldinga Primary School, up in the Strangers' Gallery, who are guests of the Hon. John Hill, Minister for Health, and they are being escorted around the building by Penny Cavanagh. Welcome to the parliament and, particularly, the House of Assembly, the working house.

The Hon. J.R. Rau: Where stuff really happens.

The DEPUTY SPEAKER: This is where stuff really happens, that is correct. Member for Stuart.

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

Debate resumed.

Mr VAN HOLST PELLEKAAN: Thank you, Mr Deputy Speaker, and it is terrific to have the Aldinga Primary School here with us. That leads me then to my next point. I think we do understand each other. In the commercial context, the landlord does not have the right to automatically pass on an increase in land tax at the time that the landlord receives that increase in land tax, but at the next rent review has the right to ask for a higher rent because the landlord's costs have gone up. The commercial lessee will choose to accept or not accept that new rent and the landlord obviously needs to have reference to the competitive market out there. In this bill, then,

there is a parallel—you cannot pass it on immediately on the day that you get it as a landlord but you can ask for it at the next rent review, usually on an annual basis.

What is different here, though, is that the Residential Tenancies Tribunal has the right to make a decision if they choose to, to say, 'No, look, with the higher rent that you have asked for, because as a landlord your land tax has hypothetically gone up we are saying that, in the general residential market that we are dealing with here, the rent that you are seeking is excessive and we wouldn't allow it.' So does that then put the Residential Tenancies Tribunal in a very unenviable position to have to say, 'Yes we recognise that the land tax that has been applied to you as the landlord has gone up, but we are telling you that you cannot pass it on.'

So the government has applied this land tax to the landlord, but we are telling the landlord you cannot pass it on to your lessee because compared to the rest of the market it is higher, because, compared to the rest of the market, the other landlords do not own as many properties as you, so they are not caught up in this land tax regime. It seems to me that is a really awkward position to be putting the Residential Tenancies Tribunal into while, of course, they are trying to protect the tenant, and I am sure they want to look after the landlord as well, but then they have to make a judgement on the fairness, or otherwise, of the land tax that has been applied to the landlord and whether or not that person can pass that on to the tenant.

The Hon. J.R. RAU: I understand the point. However, the situation, I think, has always been that way. This is not a new phenomenon and I think we do need to bear this mind. We can have a debate about the land tax regime, about whether it is pitched at the right entry points and whether the gradations are appropriate or not. That is a completely different debate. But whatever that situation is, I think it is important to bear in mind that the people who are multiple property owners—and are therefore subject to higher rates of land tax in respect of individual holdings because of the aggregation rules—are generally speaking, people who, whilst they may not be receiving a great deal in terms of income in respect of those properties because a lot of that income may be offset by land tax outgoings, are nevertheless in normal times in receipt of an ongoing capital gain accrual in respect of the property. I understand the point, but I think it has forever been that way and we are not, in effect, seeking to disturb the prevailing situation. But I acknowledge and understand the point.

Clause passed.

Clause 5.

Ms CHAPMAN: The practice of adding in examples to bills is not one that I personally favour, but I do note that there is a proposed inclusion of an example to identify an area of exclusion under the right to occupancy, and I assume this is because, having greatly expanded the application of this legislation and the tribunal's management of the disputes, you want some reassurance for our educational colleges, St Mark's and others presumably, whereby you want to be able to say, 'We are not capturing you.'

That is fine, but what I want to ask about is share houses for country students—if one party purchases a property, for example, to educate their children at school or at university. This is not an uncommon thing from the country. Indeed, we even have property purchases, I know I have got some in my own electorate, where people from overseas have their wife or children come to South Australia, a property is acquired for them to live and the income-earning partner, frequently the husband, flies back and forth to Hong Kong, China, England, wherever they currently live, and they reside in South Australia quite often to access our independent schools, sometimes even our public schools, because I have the best ones in my electorate.

The object of the exercise is to reside here, but sometimes to offset the cost, the family who has acquired the property enters into an arrangement with other people in the local community to rent a room, to be able to house share or spread the cost. How does that operate and are they clearly not included in this, or are we going to see these people having to sign up to residential tenancy agreements?

The Hon. J.R. RAU: I am advised that boarders and lodgers are not covered. There are boarders and lodgers, then there is a share house and a rooming house. A rooming house requires at least three people on a commercial basis. A share house is a bunch of people who live together and have a tenancy that they share, in effect.

Ms Chapman: If four students are living in a house, are they caught?

The Hon. J.R. RAU: The question is one of control. Is somebody in control of that premise? If they are, that is probably a rooming house.

Ms Chapman: So they would be caught?

The Hon. J.R. RAU: They would be caught if they are in control of it, but if it is four students who have decided, 'We are going to collectively rent this place,' it is a tenancy, it is not a rooming house.

Ms CHAPMAN: Sorry, Attorney, perhaps you have misunderstood the question. I am assuming that one family have acquired the property, so it is not a shared rental arrangement, because they would all be tenants then, presumably, of the landlord. In my example the landlord is someone from the country. To offset some of the costs they then say, 'Well, look, I am happy for my neighbour's children to stay there in the house while they finish their uni degree,' or whatever, and they enter into a financial arrangement where they pay rent to be able to have a room for the duration. Sometimes it might be short term. It might be to do a practical training course or it might be a whole university degree. I am just using that as an example.

They live there and it can be pretty flexible, as happens. Of course, there is no expectation on behalf of the owner that they have to stay there for 12 months but, if they are going to stay there, they pay that contribution. It is a pretty informal arrangement. I am presenting this as an example, because it is intended under this act that the landlord should not have extra obligations, and the tenant is not expecting to have to pay a bond or any other thing. They want to be able to say, 'That would be great. I would like to be able to stay there for six months and complete my course,' or training or whatever. 'I will pay you X.' Are they going to have to be caught up in what is a very oppressive—for that sort of situation—regime of obligation?

The Hon. J.R. RAU: I thank the honourable member for her question and it is a very good question, because I can understand the practical issue that is being raised. There are a number of things to be said about it. First of all, under section 5, subsection (1)(b) provides the act does not apply to an agreement under which a person boards or lodges with another. So, that is clearly not a situation to which the act applies.

There is the concept of the boarder or lodger which, I think, is really what you were capturing in your example. That person is not caught by this legislation. Here I am giving an impromptu and, hopefully, partially accurate legal opinion but, if you go to the interpretation section 3(1) and look to the definition there of 'rooming house', that talks about:

> ...residential premises in which—
>
> (a) rooms are available, on a commercial basis—

I think that is an important element in the definition—

> for residential occupation; and
>
> (b) accommodation is available for at least three persons on a commercial basis;

Then, if there is a demarcation dispute as to whether something fits into that category or another, it is sorted out by the tribunal. My interpretation of that, having looked at those two provisions, would be that there are two critical points you can differentiate these from: firstly, there must be at least three people there, otherwise it is definitely not a rooming house; and, secondly, on a commercial basis.

I think what the honourable member was talking about was not an arrangement which was run for profit by the actual owner of the property: it was rather that they were just having costs affrayed and a contribution towards upkeep or whatever the case might be. In my book, that would be a lodger and we are not seeking to disturb that in anything we are doing.

Ms CHAPMAN: I just have a question on one other area, that is, the people who are long term—that is, more than 60 days—in a hotel. Are they caught up by this? It has only recently come to my attention that someone had actually lived in quite a pricey hotel here in Adelaide for over a year. Apparently, people do that and are quite happy to pay the nightly rate or weekly rate or whatever.

But, as you will appreciate, probably the more common case is where people undertake contracts in South Australia and, with the government's interest in securing interstate companies at such a high rate for all of their contracts, they come across here and rent hotel rooms on a weekly

basis and go home for the weekend—those sorts of things. These people are sometimes in these premises for a year or two. Do they escape this obligation?

The Hon. J.R. RAU: I am advised that the Residential Tenancies Act does not apply to an agreement giving a right of occupancy in a hotel or motel. It had been considered, apparently. You will remember that I spoke yesterday of the 10-year gestation of this project. At some point during that lengthy gestation, it was considered whether to extend the application of the act to apply to agreements where a person is given accommodation in a hotel or motel for a specified period of time. The good news is that the light touch of the present government prevailed. It was never identified as being an issue from the public point of view and so that arrangement is not captured by this.

Mr VAN HOLST PELLEKAAN: That light touch of the government I think is quite appropriate because the majority of those people are acting in a commercial setting anyway with regard to providing accommodation. I would like though to ask about similar situations, just to be sure we get it on the record. How would long-term stays in caravan parks and also independent living aged-care facilities be set up? There is a whole range of those that are not always run by what you would consider to be technically aged-care organisations. Councils run them and there is a range of different combinations there.

The Hon. J.R. RAU: I am advised that the caravan park people are covered by the Residential Parks Act, which is a separate legislative arrangement. We are not interfering with that arrangement. I think there is a Retirement Villages Act. There is a separate act, anyway, that deals with the independent living arrangements. We are not seeking to intrude into that space either.

Mr VAN HOLST PELLEKAAN: So even if it was essentially a community cooperative arrangement which might own a small group of properties, which is a very common situation in small country towns, and then rent those long term, ideally for aged people for a very long time, they would not be captured by the sort of thing?

The Hon. J.R. RAU: It certainly is not the intention. Can I get a fuller answer in due course and get back to you?

Mr VAN HOLST PELLEKAAN: Yes, that would be great.

Ms CHAPMAN: In the submissions that were received—which we do not know about because, of course, they are all secret—can you tell us were there any requests for any other areas of occupancy to be taken into account in this legislation that were declined as a consequence of your assessment of the review?

The Hon. J.R. RAU: Again, I do not believe so, but I am asking my departmental people to check that. I have also been reminded to clarify that, in terms of submissions, we are seeking the permission of the contributors to make those public. I have no particular issue about that one way or the other. We have had this conversation here on numerous occasions in the past, but if people write in response to an invitation from me to make a contribution about a topic, sometimes people are very comfortable having that made public and sometimes people are not. Sometimes people perhaps express things in those submissions which they do not intend to be expressed in a broader public context, which is the reason I do not make a habit of releasing those things without the author being content with that. We will follow up the point you raised and make the inquiry.

Ms CHAPMAN: In respect of the submissions, were there any areas of accommodation or occupancy that were included in this to which there was objection? So it is the reverse.

The Hon. J.R. RAU: I am advised that we cannot tell you with absolute certainty that there were no submissions which complained about anything, but we will check that to the best of our capability. I am advised that the support, particularly for the inclusion of the rooming people, was considerable. I cannot say to you that there was not a single person who wrote in and said they did not like it. That may be the case, I am not sure; we will check it, but certainly the predominance of opinion was in favour of what we are doing.

Ms CHAPMAN: In respect of the submissions, you indicate that it is your practice to obviously respect people who make a submission and to inquire of them if they are happy for their submission to be made public. You and I both know how that works in the sense that it took two years for the District Court to get you to disclose the documents surrounding the 30-year plan and the submissions over that; so you well understand the importance of that procedure. I for one note that it is not unreasonable to ask someone if, at the time they are making a submission, they should be made available publicly or if they have any objection to that. However, in this instance,

minister, you did not even ask the people at the time of calling on the submissions whether they gave a toss about whether it was public or not. You only wrote to them last week to inquire as to whether you had permission to publish their submissions.

My question is: if you cared about their submissions, if your department were completely frank about making these submissions available to the public (given that is the presentation that was offered), why did it take until last week before you even wrote to them to inquire as to whether they consented to those submissions going on the website rather than leading us all up the garden path about these being public, even post the briefings on it?

The Hon. J.R. RAU: It may be that the member for Bragg is one of those lucky people who executes all manoeuvres with perfection all the time. I am not: I am learning all the time. I think I am getting better, gradually.

Ms Chapman interjecting:

The Hon. J.R. RAU: No, last week the letters might have gone out but the history of this goes back, I think, a decade, and I have only been on the journey for the last year or so.

Ms Chapman: Don't pretend.

The CHAIR: Member for Bragg, you have asked a question. Give the minister an opportunity to respond.

The Hon. J.R. RAU: It was sort of a general question, which I am prepared to answer. My preferred position, quite frankly, is that all submissions we receive should just go up on a website and everyone could have a look at them. That would save me answering these questions all the time, and it would make it easier for the member for Bragg. I personally would prefer that.

We have adopted, in my office, a practice, which I hope is generally observed—if it is not, it is an omission on our part—saying, 'If you want to make a confidential submission, can you please indicate that on the submission, because it might be that there will be an application under the Freedom of Information Act or there will be a request for these to be put on a website. If you have got a problem about that, can you please let us know?' I think that happens generally, now, with everything we put out. I am advised that was in the discussion paper, too, that if you make a submission it may have to be FOI'd, irrespective of whether we try to respect your wishes and not hand it out just because we feel like it.

We are trying to accommodate the point you are making when we call for public submissions by saying to people, first, 'If it is confidential, you have got to let us know that is what it is,' and, secondly, 'Even if you say it is to be kept confidential, we remind you that that is not determinative of whether an FOI request in respect of this document may or may not be successful. That is a matter for the decision-maker to decide at the time.' It is my practice now that those sorts of comments are included in the material we send out to people so they are perfectly aware of what might happen.

When I first started consulting on things a couple of years ago, I was not alive to this issue, particularly, and it may be that some of the consultations that have occurred in the past have occurred where people have not received that clarification at the outset so they may or may not have turned their minds to that point originally.

Ms CHAPMAN: Under your watch, minister, the 30-year plan submissions did have it on it, so it has been operating for a number of years: it just did not operate in this one. In the letter that you signed and sent out to submission contributors six months ago, but this letter went out last week, it includes this in it:

> I would like to ensure that public debate about the reforms is as well informed as possible. To this end, I would like to make your submission public and seek your permission to do so. I would therefore be grateful if you would advise the Attorney-General's Department by Friday 7 December 2012 if you do not give permission for your submission to be made public.

So, why are we debating this now, when you have clearly sent out a letter last week to people on these submissions asking them to elect—in a date a week's time away—to disclose their submissions? Why haven't you written that letter and said to them, 'Will you give this permission before we debate this matter so that we can be as well informed as possible in respect of the public debate on this bill?'

The Hon. J.R. RAU: And that question is in respect of clause what?

Ms Chapman: Five.

The CHAIR: It is a long bow, I agree, but it does talk about the application of the act.

The Hon. J.R. RAU: I do not think we are getting anywhere with this. I assure you that I cannot recall having sat down and gone through, myself personally, every one of these submissions, but I have no recollection of anyone coming to me and saying, 'Look, you need to know: the secret recipe for the 11 herbs and spices is buried inside one of these submissions. Treat it with absolute care.' I have not heard that. As far as I know, I am not hiding or concealing any great secret.

There is no matter of embarrassment to me or anyone else as far as I am aware in relation to this and, quite frankly, can I say to the member for Bragg, we are talking about residential tenancies stuff. Most of the submissions and opinions are relatively predictable in that there are advocates for people like Shelter, for example, who quite understandably have a particular perspective on these issues and make genuine, sincere contributions which are, with the greatest of respect, relatively predictable.

Then, there are other people who represent the landlord perspective who likewise make relatively predictable and, no doubt, sincerely meant contributions. I am just not sure, ultimately, what point the member for Bragg is seeking to make. The practicality is, in terms of that whole process, as I understand it, this bill is certainly not going to be through the other place any time in the next 24 hours. There will be plenty of opportunity for consideration of those things, but if there is anything in there that is even the remotest bit of a surprise to anybody, I will go he.

Ms CHAPMAN: Having got to 7 December, with the exception of any written objections to you, is it your intention that on 8 December, or as soon as practicable after the 7th, these submissions will be put on the website at last?

The Hon. J.R. RAU: If people are cool about it, then so am I. I am entirely relaxed about it. We will put it on the website or, if the member for Bragg would like, we can organise a courier to bring documents around to her office. We will do whatever you like. We will send you an email. We are into communication.

Ms Chapman interjecting:

The Hon. J.R. RAU: If you ask us.

The CHAIR: It would be cheaper just to send a link.

The Hon. J.R. RAU: We could send a link, yes. Maybe we will do that to save our forests.

Clause passed.

Clauses 6 to 8 passed.

Clause 9.

Ms CHAPMAN: This is just the extension of the jurisdiction from $10,000 to $40,000. I think I indicated in my second reading contribution that the expansion of the jurisdiction is appropriate given the lapse of time, but is there some formula upon which this has been developed, and, if so, what is it?

The Hon. J.R. RAU: As I understand it, the Law Society thinks this is a bit high. The member for Bragg mentioned this yesterday. The increase was actually requested by the tribunal, which advised that it not infrequently heard matters where the application is limited to $10,000 simply so that it may be heard by the tribunal—in other words, to ground the jurisdiction. The civil jurisdiction in the Magistrates Court is being increased to $100,000 by the courts efficiency bill, which has been assented to but not yet commenced, so the tribunal's jurisdictional limit to hear residential park disputes under the Residential Parks Act is also $40,000.

Clause passed.

Clause 10.

Ms CHAPMAN: This was a provision that a notice, in respect of an application to the tribunal, need not identify the tenant, essentially, or the occupier. Presumably, it just had 'occupier' or 'subtenant' or some generic description—that is all that is going to be required under this amendment. I suppose the concern I raise in asking this question about where this has come from is that, especially at this time of the year—I do not know about the Attorney or other members—

when you get home your letterbox is full of Christmas brochures and all sorts of pamphlets and things with people wanting to sell you things. I suppose it is no more than what you get at election time if you live in a marginal seat.

In any event, our letterboxes are stuffed full of material about what we can buy people for Christmas, and all sorts of envelopes which are addressed to 'the occupier' or 'the householder' to inspire one to enter a lottery for a house in Queensland or whatever. I do not know about other members but I do a fairly brisk assessment about what is to be read and what is not and almost all of it goes straight from my letterbox to the bin. Unless it has 'Vickie Chapman' on it, it does not get opened or read.

I might be out of sync with the rest of the world but the reality is that, if there is a notice to someone of some legal proceeding, there has usually been a fairly strict set of rules to adhere to. That is, a person has to have received the notice—and sometimes that is done and delivered not by a postie even but by a process server or sheriff's officer or somebody—which very clearly has to identify the person who is going to be the subject of the tribunal hearing. I would have thought that in landlord and tenant matters, the tenants are not there by accident—you know who they are. If they are a trespasser then you call the police. However, if it is somebody who is a known tenant, then I do not understand the need for this general description and addressing it to 'the occupier' or 'tenant'.

It just seems to me to fall very short of what we would normally expect in any legal action, especially when this could be a very significant impost on the recipient—either the tenant, who is being demanded to attend a tribunal for review of their bond or something or, indeed, for a landlord who might have missed out on a notice that they are going to have a shed built onto their house. It just seems to me that this is a very slack introduction to the requirements and, if it is not, I am sure you will enlighten me.

The Hon. J.R. RAU: Yes. I understand, as a legal practitioner, the point that the honourable member is making. However, I am advised that the practicalities of tenancies often involve a situation where—if I can put the converse before the parliament—the member for Bragg may have been the person who took out the residential tenancy in the first place; the member for Bragg then, for whatever reason, moves on but other people with whom the member for Bragg was sharing the tenancy have decided they are quite happy to stay there and they continue to pay the rent and they continue outwardly to observe the conditions of the tenancy, but they do so unbeknown, in particular necessarily, to the landlord.

If we were then to say, 'Before any action can be taken in respect of that tenancy'—which is subsisting basically in the absence of knowledge by the landlord really about the whereabouts of the actual person with whom they have made an agreement—then the landlord might be put in the position where they have to identify who these people are in there before they can validly serve anything on those people in order to execute any process under the Residential Tenancies Act.

That would be a bizarre outcome, because if they were trying to actually get them out and they had to find out who they were before they could serve a summons on them to get them out, but the people refused to tell them who they were, then they would never get them out. So, this is an attempt to basically ensure that whoever is the occupant has drawn to their attention the fact of a proceeding before the tribunal being imminent. I think we would be actually disadvantaging landlords in the case of where they have had some of these itinerant people moving in and out. There could be one or two turnovers of occupants in the place unbeknown to the landlord because, at least for a period, they might be observing all of the obvious requirements of the tenancy.

Ms CHAPMAN: In any event, it still seems to me an unsafe practice to expect that notice will be accepted on the basis that a general occupier notice is given. In any event, what frequently occurs is if the current tenant is no longer there, the letter is returned unopened. It is not unreasonable then for the landlord, in the example that you used, to advise the tribunal of that and be able to seek to dispense with the usual notice and requirements. Why would that not occur as in any other jurisdiction?

The Hon. J.R. RAU: I think all I can say is I do not believe the tribunal has any difficulty about this issue, and it is trying to make sure everyone does get a notice. Let's remember, too, this is a pretty informal tribunal; we are not talking here about the Supreme Court or something.

Ms Chapman: Who asked for it?

The Hon. J.R. RAU: Originally, this was raised by the tribunal, I am advised.

Clause passed.

Clause 11 passed.

Clause 12.

Ms CHAPMAN: This has got an inclusion of a provision in respect of evidence not being available to be used in criminal proceedings or for perjury. Is this some new initiative because there is nothing covered in the act currently for this, and who sought that this be included?

The Hon. J.R. RAU: I am advised that this was something that was requested by the tribunal because they thought it would facilitate them obtaining information from people rather than having people just come up and refuse to answer on the basis of potential consequences in answering the tribunal's queries. It is at their request to facilitate them doing their job, as I understand it.

Ms CHAPMAN: Is it proposed that there is going to be some notice given to people appearing before the tribunal that this clause now applies and that they can fess up to whatever the issue was, if they were running a brothel in the tenancy or something, that was contrary to the terms of their tenancy agreement but might have been in breach of the law? How is this going to be conveyed to the parties who appear before the tribunal?

The Hon. J.R. RAU: I assume that that will be a matter that the tribunal will inform persons of in the course of their involvement with the tribunal. I would also assume that the cases in which this type of issue might be significant will be very evident to the person in the tribunal because they will ask a question and the person will say, 'I don't want to answer that,' and then they will say, 'Is that because you believe that you might be in some way incriminated by answering that question?' The person would then reply, 'Yes, I am not going to answer it for that reason,' and then they could say, 'Can I draw your attention to'—that is not a problem. I assume that is the way it will unfold. I do not believe there is likely to be some general loud and specific broadcasting of this particular provision. I think it is something that will be utilised as and when it is useful.

Clause passed.

Clause 13.

Ms CHAPMAN: I would have to go back and have a look at the act, minister, but I thought the tribunal procedures were such that it was a fairly informal process anyway. The only thing that seems to be new here, and you can correct me if I am wrong, is that they can now deal with an application on the documents and if the parties do not turn up it could be disposed of. I assume that is a request that was put by the tribunal for ease of progressing things in their case load, so that if they are satisfied there is enough information on the documents they will make the order for return of the bond, or eviction, or whatever is before them. Has this been at the request of the tribunal, that they have this power?

The Hon. J.R. RAU: I have to own up to the member for Bragg, I think this was my idea, but I think the tribunal like it, and CBS like it. It did occur to me that there are many circumstances in which if a matter is so transparently straightforward or simple that it could be dealt with administratively, and the parties did not object to it, then why should that not occur so as to minimise the red tape and provide a fairly simple way forward? I think it needs to be borne in mind that any decision of the tribunal can be the subject of a review.

So, any anxiety the member for Bragg might have about matters being dealt with in this way and causing a problem, they are reviewable. This was intended to be a measure which would enable simple matters, transparent matters, obvious matters, to be dealt with in circumstances where the parties were obviously happy to do so on the papers. If the parties do not want that to happen then that is entirely reasonable and it would not occur this way.

Ms CHAPMAN: I am not sure, perhaps I do not have it in the bill I am reading, but there does not seem to be any requirement that this is under consent orders, which would be logical; that is, someone puts in an application for return of a bond and there is a document, affidavit, certified declaration, or something from the landlord that says that they have inspected the property and they are happy for the money to be returned and they would sign off. That would be apparent from the documents that everyone is agreed and it is just enforcing a consent order.

But this, it seems to me, is suggesting that there is no obligation for consent. This is, in fact, not that situation. It is suggesting that it is apparent on the documents that there is some basis upon which, we do not know what, they should be able to deal with it on the documents. If in fact

there were documents claiming that there was some agreement, there had not been a sign-off on it but the tribunal presiding officer picked it up and said, 'Yes, this looks like this is what the landlord says, that everything is fine,' and in fact it is not the case, that one of the parties had intended to be there but could not get a bus or the bus was late or does not turn up at all, which is more common these days, and could not get to the hearing.

This is your brain child, this is your thought bubble, can you explain to us, apart from minimising red tape, under what circumstances would you be saying to a tribunal hearing, 'I'm going to give you the power to just deal with the documents if these people don't turn up'?

The Hon. J.R. RAU: That is the last time I am going to own up to having had a thought.

The CHAIR: I think, minister, you need to report progress.

The Hon. J.R. RAU: Let us have some progress, please.

Progress reported; committee to sit again.

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

VISITORS

The SPEAKER: Members, we have a group of years 3 to 7 students in the gallery from Melrose Park Primary School, who are guests of the member for Fisher. Welcome to our parliament and I hope you enjoy your time here today. It is lovely to see you here.

SHERINGA SPEED LIMITS

Mr TRELOAR (Flinders): Presented a petition signed by 247 residents of South Australia requesting the house to urge the government to reduce the speed limit through the township of Sheringa.

TORRENS RIVER

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation): Presented a petition signed by 250 residents of South Australia requesting the house to urge the government to take immediate action to remove horses from the River Torrens and replace the area with wetlands.

ANSWERS TO QUESTIONS

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

MOTOR VEHICLE INSPECTIONS

75 Ms SANDERSON (Adelaide) (22 May 2012). Why is the cost of roadworthy inspections for previously written-off vehicles for motorbikes and scooters the same as that of larger more complex vehicles, such as people movers or four-wheel-drives?

The Hon. P.F. CONLON (Elder—Minister for Transport and Infrastructure, Minister for Housing and Urban Development): I have been advised:

For administrative simplicity, South Australia has categorised fees for roadworthiness inspections into two classes only, either 'heavy vehicles and buses' or 'vehicles other than heavy vehicles or buses'. The latter includes most vehicles under 4.5 tonnes, as reflected in the Road Traffic (Miscellaneous) Regulations 1999, Part 4—Miscellaneous, section 43—Fees for inspections.

The prescribed Tier 3 inspection fee for written-off vehicles is the same for all classes of vehicles. Vehicles must pass a comprehensive vehicle identity and roadworthiness inspection prior to being returned to the register to ensure the validity and security of the register.

While the inspection for a smaller vehicle such as a motorbike or scooter may not be as complex as for other vehicles, part of the inspection requires that consideration is given to a number of possible signs of damage such as water damage, corrosion and biological contamination. The presence of these conditions can be difficult to detect and if missed can lead to electrical failure with catastrophic results. Other criteria considered in the inspection include

checking the re-birthing of stolen vehicles, for stolen vehicle parts and the validity of paperwork for replacement parts and parts used in repairs.

The seriousness of the potential outcomes if these matters are not given due consideration requires that an appropriate amount of time is allocated to each inspection to ensure compliance.

ROAD MAINTENANCE

140 Mr GARDNER (Morialta) (17 July 2012). With respect to 2012-13 Budget Paper 4, vol. 3, p. 124—

Regarding Gorge Road being on the department's maintenance schedule (as confirmed by the minister during the 2012 Estimates hearings)—

(a) which section of the road will have the maintenance work conducted;

(b) what type of maintenance work will be undertaken;

(c) how long the maintenance is anticipated to take;

(d) when will the maintenance take place; and

(e) what is the total budgeted cost of the maintenance work?

The Hon. P.F. CONLON (Elder—Minister for Transport and Infrastructure, Minister for Housing and Urban Development): I am advised:

Gorge Road is included in the Department of Planning, Transport and Infrastructure's (DPTI) Road Resurfacing and Rehabilitation Works Program for 2012-13:

(a) maintenance resurfacing work will be undertaken on Gorge Road between Darley Road and Silkes Road.

(b) resurfacing work will involve repairing failed areas of pavement, applying level correction course of asphalt and then a final surface will be laid across the entire width of the road.

(c) DPTI's resurfacing work is expected take up to four weeks.

(d) the resurfacing work has been programmed to commence in November 2012 and be completed in December 2012, subject to Council completing the replacement of the concrete kerb and gutter; and

(e) DPTI has allocated a budget of $850,000 to complete the resurfacing work.

DISABLED STUDENTS, NATIONAL PARTNERSHIP PROGRAM

142 Mr GARDNER (Morialta) (17 July 2012). With respect to 2012-13 Budget Paper 6, vol. 2, p. 39—

The 'More Support for Students with Disabilities National Partnership: non-Government Schools' funding is described as to 'assist schools through a range of initiatives including professional support of teachers and school support staff to build their capacity to deliver special education programs through support and use of assistive learning technology and a range of other learning modes.'—

(a) will this support be available to teachers and SSOs in all schools and if not, why not?

(b) if only certain schools are eligible to receive this support, which schools are they and on what basis have those schools been chosen?

(c) will these funds be used to acquire assistive learning technology explanation and if so, what sort of technology does this include?

(d) what is the 'range of other learning modes' as described in the program explanation referring to?

(e) are there any other initiatives that will be supported by this National Partnerships in addition to those just described?

(f) is this program designed to assist students with disabilities in special schools, students with disabilities participating in special education programs in mainstream schools, or students with disabilities who are participating in mainstream school programs?

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development): I have been advised of the following:

The National Partnership—More Support for Students with Disabilities: non-government schools involves a direct agreement between non-government schools and the Commonwealth Government.

The State Government does not place conditions on non-government schools regarding how they implement the National Partnership.

The manner in which each school or education sector applies the funding from the National Partnership is a matter for them in accordance with their agreement with the Commonwealth Government.

TONSLEY RAILWAY LINE

163 Mr GARDNER (Morialta) (17 July 2012).

1. How many replacement bus services for the Tonsley train service have run and how many have offered disability access?

2. How many buses have been retrofitted to include disability access in 2011-12?

The Hon. C.C. FOX (Bright—Minister for Transport Services): I am advised:

There are 39 scheduled substitute bus services operating each week day replacing Tonsley rail services. These substitute bus services have been operating since February 27, 2012 and are provided by accessible Adelaide Metro buses.

No buses have been retrofitted for disability access. The rate of the bus replacement program means that Adelaide Metro is well ahead of schedule for a fully accessible fleet by 2022 as required by the Commonwealth Disability Discrimination Act 1992.

SHARED SERVICES SA

177 Mrs REDMOND (Heysen—Leader of the Opposition) (17 July 2012). In relation to the $10.5 million estimated to implement tranche 4 of Shared Services (2010-11 Auditor-General's report Part A, p. 12)—

(a) How much of this has been spent, and what is the breakdown of this expenditure by wages, office rent, equipment, etc;

(b) is this implementation expenditure funded by individual agencies or Shared Services;

(c) what is the revised budget for implementation now that it is non-compulsory for departments and agencies to opt in to Tranche 4;

(d) which departments and agencies to date have opted in to Tranche 4, and which have indicated they will opt in to Tranche 4 in the future; and

(e) which departments and agencies transferred their IT functions to Shared Services SA as part of Tranche 4 when it was compulsory to do so but reversed this transfer when it became non-compulsory and in each case, how much was spent transferring these functions and subsequently reversing the transfer?

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

(a) Up to 30 June 2012 $2.443 million was spent on Tranche 4 activities, made up of $2,163,652 for employee expenses, $43,040 for accommodation and service costs, $180,967 for general administration costs and $56,203 for IT expenses.

(b) This expenditure was funded by Shared Services SA, not by agencies.

(c) It is not compulsory for agencies to opt in. As reported on page 38 of the 2011-12 Mid Year Budget Review, the implementation budget was reduced by $6.3 million, leaving $4.2 million.

(d) As part of the machinery of government changes announced in 2011, ICT infrastructure support services currently provided by the Corporate Services division in the Department of the Premier and Cabinet will transition to Shared Services SA and the partial

ICT infrastructure support service previously delivered to the Department for Water will transition to the Department of Environment Water and Natural Resources.

(e) The government decided not to proceed with Tranche 4 before any agencies were compulsorily transferred. Prior to the 2011 machinery of government changes, some ICT infrastructure support services for the Department of Treasury and Finance were delivered through Shared Services SA. This structure was put in place in readiness for the then proposed Tranche 4 transition. As Tranche 4 did not proceed, the ICT infrastructure support function for DTF did not shift with Shared Services SA to DPC. Separate costs were not recorded for this activity, they are part of the costs referred to in part (a) of this question.

BUS CONTRACTS

178 Ms CHAPMAN (Bragg) (17 July 2012).

1. How many fines were issued for fare evasion on buses, trains, and trams since 2009 and what was the combined total of the fines in each year?

2. What was the bus contract cost per service kilometre for Adelaide Metro services in each year since 2009?

3. What were the total number of bus, train and tram boardings in each year since 2009?

The Hon. C.C. FOX (Bright—Minister for Transport Services): I am advised:

1. In the financial years, 2008-09; 2009-10; 2010-11 and 2011-12, 684; 640; 450 and 575 expiation notices were issued respectively. These figures do not distinguish between fare evasion and behavioural offences; however, the majority are for fare evasion. This represents fines totalling $150,480 in 2008-09; $140,800 in 2009-10; $99,000 in 2010-11; and $126,500 in 2011-12.

2. The average Adelaide Metro bus service cost per service kilometre for 2008-09 was $3.47; $3.70 for 2009-10; $3.73 for 2010-11; and $3.64 for 2011-12.

3. Total boardings (initial and transfer boardings) for 2008-09 were 67.523 million; 68.378 million for 2009-10; 65.949 million for 2010-11; and 63.514 million for 2011-12.

The decrease in patronage for 2010-11 and 2011-12 is related to major rail line closures (with additional patronage impact on feeder bus services). In 2011-12 closures included the Noarlunga rail line from early February until mid July 2011, the closure of the Gawler line from mid September until late March 2012 (both for major rail revitalisation works), as well as the closure from late February of the Tonsley line and reduced services on the Grange line.

In addition, traffic disruptions associated with projects such as the North-South Pipeline, Southern Expressway duplication and the Harris Scarfe redevelopment in the Central Business District impacted operations and had a negative affect on patronage. In response, the State Government has developed new timetables which came into operation on July 1, 2012. These changes have been made to better reflect travel times across Adelaide and together with the introduction of bus priority lanes on Currie and Grenfell Streets, are expected to improve customer confidence in the services and lead to an increase in patronage.

STATE FUNDS

291 The Hon. I.F. EVANS (Davenport) (11 September 2012).

1. What was the budget for the 'Promotion of the State Fund' in 2009-10, 2010-11, 2011-12 and 2012-13?

2. What was the budget for the Art Gallery Major Exhibition Fund in 2009-10, 2010-11, 2011-12 and 2012-13?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development): I have been advised of the following:

1. The budget for the 'Promotion of the State Fund' in 2009-10, 2010-11, 2011-12 and 2012-13 is outlined in the table below:

Financial Year	2009-10	2010-11	2011-12	2012-13
Amount	$1,615,000	$1,664,000	$1,705,000	$1,748,000

A standard indexation factor has been applied at a rate of 2.5% in accordance with the Department of Treasury and Finance instructions regarding the creation of forward estimates.

2. The Major Exhibition Fund is open to all of South Australia's major exhibiting institutions, including the Art Gallery of South Australia. The Art Gallery has been successful in receiving grant money from the Major Exhibition Fund. To date, the Art Gallery has been allocated:

- $170,000 in 2010-11;
- $100,000 in 2011-12;
- $525,000 in 2012-13; and
- $535,000 in 2013-14.

SCIENCE GRANTS

378 Mr MARSHALL (Norwood) (11 September 2012). With respect to 2012-13 Budget Paper 4, Volume 2, pg 183, program 2.1: Science and Innovation—

What are the details of all grants and funds mentioned in sub-program 2.1, including why some grants have been discontinued, and what the one-off grants and funds administered were meant to achieve?

The Hon. T.R. KENYON (Newland—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for Recreation and Sport): The grants and funds referred to in the question are as follows:

Program	Purpose
Playford Centre	In South Australia the Playford Centre acts as a virtual business incubator investing small amounts of seed capital provided by the Federal Government in emerging South Australian companies. The State Government funds provide Playford's operating costs.
SA Research Fellowships	The SA Research Fellowships have been established to expand the State's research talent and to target research activities that directly reflect government priorities. $1 million (over four years) has been awarded to each of the state universities to assist with attracting world class interstate or overseas researcher. The areas identified are: clean technology chemistry; minerals processing; and experimental physics.
Cooperative Research Centre's	The CRC Assistance Program was established to provide SA Government agencies the opportunity to participate in CRCs, influence the CRCs research objectives, activities and projects to address relevant SA issues, contribute to the employment of researchers and technologies in SA, promote regional development through the creation of new jobs and seeding of future industry opportunities and assist in the development of networks between researchers, industry participants and policy makers both nationally and internationally. Support through CRC Assistance Program is reliant on those CRCs receiving funding from the Commonwealth CRC program.
Northern Advanced Manufacturing Industry Group	Engagement of school students in potential career pathways in engineering and manufacturing.
STEM promotion	To address workforce shortfalls in STEM areas projected for 2020 in South Australia
Medical Devices Partnering Program	Flinders University received $200,000 to support the industry engagement activities associated with the Medical Device Partnering Program. The funding will be used to fund technical exploration of projects identified through facilitated workshops.

The question also seeks information on the cessation of funding for Playford Centre and why the funding to the Cooperative Research Centre (CRC) program will be lowering 2012-13. On 13 October 2010, the then Minister for Science and Information Economy, released a media statement announcing the State Government's decision to explore an orderly, well managed and phased wind down of Playford. This decision was based on the need to achieve substantial budget cuts across the State Public Service.

With regards to 2012-13 funding for the CRC program, in 2011-12 the SA Government's funding for the following CRCs with research activities in South Australia have ceased:

- CRC for Advanced Automotive Technology
- CRC for Contamination Assessment and Remediation of the Environment
- CRC for Internationally Competitive Pork
- CRC for National Plant Biosecurity
- Invasive Animals CRC
- eWater CRC
- CRC for Beef Genetic Technologies

This was due to the cessation of funding from the Commonwealth which resulted in several of the CRCs no longer being in operation. A number of the CRCs listed above have been successful in receiving further Commonwealth funding and these are CRC for the Advanced Automotive Technology—now renamed to Automotive Australia 2020 CRC, CRC for Contamination Assessment and Remediation of the Environment, CRC for Internationally Competitive Pork now renamed to CRC for High Integrity Australian Pork.

PAPERS

The following papers were laid on the table:

By the Speaker—

Local Government Annual Reports—District Council of Tumby Bay Annual Report 2011-12

By the Premier (Hon. J.W. Weatherill)—

Premier and Cabinet, Department of—Annual Report 2011-12

By the Treasurer (Hon. J.J. Snelling) on behalf of the Minister for Housing and Urban Development (Hon. P.F. Conlon)—

Land Management Corporation—Annual Report 2011-12
Urban Renewal Authority—Annual Report 2011-12

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

Defence SA—Annual Report 2011-12
Essential Services Commission of South Australia—Annual Report 2011-12
Funds SA—Annual Report 2011-12
Motor Accident Commission—Annual Report 2011-12
South Australian Government Financing Authority—Annual Report 2011-12

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

Local Health Network—
Central Adelaide Annual Report 2011-12
Northern Adelaide Annual Report 2011-12
Southern Adelaide Annual Report 2011-12

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

Communities and Social Inclusion, Department for—Annual Report 2011-12
South Australian Carers Recognition Act 2005—Review by the Office of Carers regarding the Operation and Effectiveness of the Act
South Australian Housing Trust—Annual Report 2011-12

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

Correctional Services, Department for—Annual Report 2011-12

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

South Australian Multicultural and Ethnic Affairs Commission—Annual Report 2011-12

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

Industry Advisory Group—
Alpaca Annual Report 2011-12
Apiary Annual Report 2011-12
Cattle Annual Report 2011-12
Deer Annual Report 2011-12
Goat Annual Report 2011-12
Horse Annual Report 2011-12
Pig Annual Report 2011-12
Sheep Annual Report 2011-12
Native Vegetation Council—Annual Report 2011-12
Save the River Murray Fund—Annual Report 2011-12
South Australian Water Corporation—Annual Report 2011-12
South Eastern Water Conservation and Drainage Board—Annual Report 2011-12
Stormwater Management Authority—Annual Report 2011-12

By the Minister for Manufacturing, Innovation and Trade (Hon. A. Koutsantonis)—

Manufacturing, Innovation, Trade, Resources and Energy, Department for—Annual Report 2011-12

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

Australian Children's Education & Care Quality Authority—Annual Report 2011-12
Child Death and Serious Injury Review Committee—Annual Report 2011-12
Education & Care Services Ombudsman, National Education & Care Services FOI & Privacy Commissioners—Annual Report 2012
Education and Early Childhood Services Registration and Standards Board of South Australia—Annual Report 2011-12

LEGISLATIVE REVIEW COMMITTEE

Mr SIBBONS (Mitchell) (14:07): I bring up the 19th report of the committee.

Report received.

VISITORS

The SPEAKER: I think we have a group of people in the gallery today from the Department of Planning, Transport and Infrastructure, who are here to see how their politicians are working today, so welcome to you also.

QUESTION TIME

HEALTH BUDGET

Mrs REDMOND (Heysen—Leader of the Opposition) (14:08): My question is to the Minister for Health and Ageing. Can the minister advise by how much the health budget was overspent in the first quarter of 2012-13, which ended of course on 30 September?

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:08): I understand the member has asked this question previously and I said I would get back to her.

Mrs Redmond: Yes, well, we're running out of time.

The Hon. J.D. HILL: You are running out of time, Isobel. No truer statement has been said by the Leader of the Opposition. She is running out of time.

Members interjecting:

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

Mr GARDNER: It was a fairly simple question and the minister is a long way from the point of it.

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

The Hon. J.D. HILL: The advice I have is that the whole matter of the budget is part of the Mid-Year Budget Review and will be reported on at that time.

Members interjecting:

The SPEAKER: Order! Supplementary.

HEALTH BUDGET

Mrs REDMOND (Heysen—Leader of the Opposition) (14:08): The minister promised on 18 October that he would bring an answer to that question back to the house.

The SPEAKER: That was not a supplementary question, it was really a statement. Did you want to add anything further, minister? No, obviously not.

ADELAIDE CITY WI-FI PROJECT

Mr PICCOLO (Light) (14:09): My question is to the Premier. Can the Premier inform the house of the new wi-fi proposal and how it will add to the city's vibrancy?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:09): I am pleased to advise the house today that the state government and the Adelaide City Council have launched a plan to make Adelaide the first capital city to offer free wi-fi outdoors for almost the entire city centre. Providing a freely available wi-fi service in public spaces to most of the CBD for residents, workers and visitors alike, will enhance and support the aims of the state government and the council to make Adelaide a vibrant, smart and connected city.

We are persuaded that modern regions compete on the attractiveness of their capital city, so this is great for the whole of South Australia—bringing people together in our CBD, connecting them up in a way which makes it a very attractive experience to visitors and to people who are using the city. The state government and the council have already co-funded a feasibility study, which was undertaken by KPMG and concluded that providing fast, reliable public wi-fi is technically feasible, practical and desirable.

We are now seeking proposals from IT businesses to develop and operate the Adelaide City wireless project. We will provide some of the initial infrastructure projects, however we also will seek commercial proposals that minimise the government's investment and provide for the continuing operation of the network on a self-sufficient basis. The aim is to roll out free wi-fi by the end of next year that includes coverage across the city in public areas such as Victoria Square, Rundle Street and the Riverbank Precinct.

It will help us continue to revitalise and activate the city laneways and other public spaces such as Parklands and squares. It will be great for events like the Clipsal 500, the Fringe, the Tour Down Under and the Christmas Pageant. People will be able to access up-to-date information much more easily.

In an increasingly connected world, free wi-fi shows that Adelaide is a modern, smart, progressive place to be. It will help attract and innovate—

Mrs Redmond interjecting:

The Hon. J.W. WEATHERILL: I know that those opposite have no ambitions for South Australia.

Mr GARDNER: Point of order, Madam Speaker.

The Hon. J.W. WEATHERILL: Well, stop her interjecting if you don't want a response.

Members interjecting:

The SPEAKER: Order! Point of order.

Mr GARDNER: The Premier is—

Members interjecting:

The SPEAKER: Order!

Mr GARDNER: —imputing an improper motive on members of the opposition and debating the subject as well.

The SPEAKER: Thank you. He was responding to interjections but, Premier, I refer you back to the question.

The Hon. J.W. WEATHERILL: They cannot help but talk Adelaide down. That's their—

Mr GARDNER: Point of order—

Members interjecting:

The SPEAKER: Order!

Mr GARDNER: The Premier is ignoring the ruling that you have just made.

The SPEAKER: Thank you.

Mr GARDNER: I urge you to bring him back to the question.

The SPEAKER: Thank you. I am sure the Premier will.

The Hon. J.W. WEATHERILL: I am more than happy to do that, if those opposite would stop interjecting.

Members interjecting:

The SPEAKER: Order! Can we have some quiet, please.

Members interjecting:

The SPEAKER: Order! Members on my left, order! Members on my right will stop antagonising them.

The Hon. J.W. WEATHERILL: Of course, this will help us attract the creative and innovative industries to South Australia, which will position us as an incredibly attractive destination for international students. It essentially makes the city a campus where people can wander around and use their mobile devices in an effective way.

Government, businesses, retailers and citizens will be able to provide information about their services and, by helping workers, shoppers, students, restaurant-goers and everybody that needs the information to get readily accessed information on the go, will make people's lives easier. I urge those in the IT industry to consider making a submission through the request for proposal process, and I look forward to the proposals that will see this great project delivered to the people of South Australia.

ENTERPRISE PATIENT ADMINISTRATION SYSTEM

Mrs REDMOND (Heysen—Leader of the Opposition) (14:12): My question is again to the Minister for Health and Ageing. Why is the government proceeding to spend around $0.5 billion on eHealth projects, including the EPAS system of electronic health records, given Victoria's recent abandonment of their eHealth system, after they spent over $500 million trying to introduce it? In relation to Victoria's eHealth systems, the Victorian Ombudsman said, and I quote:

> The project costing and timelines were ambitious and the Department of Health seriously underestimated the size of the task.

And that the eHealth system had:

> ...taken more than seven years to deliver only a partial implementation of the core clinical application.

Consequently, the attempt to introduce an eHealth system in Victoria has been abandoned.

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:13): Thank God we are not in Victoria. It is true that the Victorian system was a disaster and there have been a number of attempts in various jurisdictions over the years to introduce technology into various agencies, which have been unsuccessful. I am absolutely confident that the process that we have got in place in South Australia—the EPAS system—is working very well. In fact, we have employed—

Mr Marshall interjecting:

The Hon. J.D. HILL: Ask a question if you want to, but don't interrupt me when I am providing an answer to the original question.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The Deputy Leader of the Opposition is quick at interjections, but he is not allowed to ask real questions. He is on trainer wheels.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: He has still got his L-plates on. He should get advice from the member for Waite.

Mr GARDNER: Point of order.

Members interjecting:

The SPEAKER: Order! Point of order.

Mr GARDNER: No. 98: the minister continues to debate the issue. It is time to answer some questions, please.

The SPEAKER: Thank you. Minister.

The Hon. P.F. CONLON: The minister does not debate the issue, he answers persistent interjections. If the deputy leader would stop interjecting, he will answer the question.

Members interjecting:

The SPEAKER: Thank you. Order! Minister, I hope you have some silence to answer your question.

The Hon. J.D. HILL: This is a serious question. I take it seriously and it is a very important issue for parliament to understand. What we are attempting to do in the health system is to make sure that we have an integrated information system, so that any patient who goes to any of our hospitals has information recorded which is then able to be accessed by any staff member, any clinician, who works in any of our hospitals, if and when that patient returns to the hospital.

This produces huge efficiencies for the health system because it means the history doesn't have to be repeated. It means any of the clinical conditions that the patient has will then be known by any other clinician in the health system. So, if somebody came in, for example, unconscious, their record could be looked up, they could see what medications they are on, what they might be allergic to, what conditions they might need to have treated. This is absolutely the heart of making our health system modern. So, that's why we're doing it. It's not something we'd abandon for no reason.

In Victoria, this is the objective they had as well and the system that they tried to introduce did fall apart, it's absolutely acknowledged, but I can assure members of the house that the process we've gone through, and are going through, is absolutely on track. We have a very professional organisation, Zed Business Management, that is assisting us to do this. They are experts in this and, at the heart of introducing this system is not so much the rollout of the technology, it's the development of the culture change, it's the development of the individuals within the system who understand it.

Yesterday I attended a meeting of about 400 staff members who were amongst the early adopters of this technology, who will become the leaders in their various hospitals and institutions, who will then become the advocates and assist with the rollout of the technology in the hospitals. We have put the infrastructure largely in place now. We've been developing the software which is clinician led in many cases to develop the protocols that are applied, so that when the clinician at the bedside puts in information about the patient, the computer or the IT system leads them through a series of questions to help get to the right sort of conclusions.

So this is a very good system. It will include, when it is completed, capacity, for example, so a patient can order their meals through the system. If a patient, for example, is allergic to peanuts, the computer will say they can't order that particular meal, so it's a very sophisticated

system. It's absolutely on track and the rollout will begin in our hospitals at Noarlunga initially early next year. They have chosen Noarlunga because of the size of the hospital so they can test it in a relatively small environment in an Adelaide hospital, so whatever the bugs are, and there will always be issues around implementation of any system, of course, but using that hospital as the starting point then it will be rolled out over the next couple of years across all of our metro hospitals and a number of country hospitals.

CONSTRUCTION INDUSTRY

Ms BETTISON (Ramsay) (14:17): My question is to the Treasurer. Can the Treasurer please tell the house about the state's recent economic performance and, in particular, measures being taken to boost the housing construction industry?

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Workers Rehabilitation, Minister for Defence Industries, Minister for Veterans' Affairs) (14:18): I thank the member for Ramsay for her question. As members would be aware, the Australian Bureau of Statistics released its annual GSP figures last week and I am pleased to tell the house that South Australia recorded an economic growth rate of 2.1 per cent in 2011-12 with a GSP of $91.2 billion. Despite global economic uncertainty and a high Australian dollar impacting our exporters, this is the fourth strongest year of growth in South Australia in the past nine years. In per capita terms, South Australia recorded the equal third highest GSP growth rate of the states at 1.3 per cent, higher than both Victoria and Tasmania and on par with New South Wales.

I am also pleased to report that new business investment in the state at $12.5 billion in the 2011-12 financial year was at its highest level since statistics started being recorded in the mid-1980s. The state also recorded positive figures for individual industries. The state's mining sector grew by 4.1 per cent, manufacturing by 1.4 per cent, wholesale trade by 2.1 per cent and retail trade by 0.8 per cent.

While this was very pleasing, the GSP release also indicated that the construction industry detracted the most from GSP growth. The state government has taken decisive action to respond to this decline and support this industry and, of course, most importantly, its workers. In the 2012-13 budget the government announced a full stamp duty concession for eligible off-the-plan apartment purchases in the Adelaide City Council area and the Riverbank Precinct to 30 June 2014, with a partial concession available for the following two years. This stamp duty relief has received huge support from the property sector, with developers and real estate agents actively referring to the availability of the concession in their advertising campaigns.

On 15 October, the government also announced an increase to the first home owner grant for new homes from $7,000 to $15,000 and introduced the new $8,500 housing construction grant. The introduction of the housing construction grant has received unanimous support from the Real Estate Institute of South Australia, the Property Council, Business SA, the Urban Development Institute of Australia and many others. It also sparked positive interest from the community, as evidenced by the 1,818 phone calls to RevenueSA in only five weeks, not to mention the calls that have also flooded members' electorate offices, as well as the offices of real estate agents and developers. In fact, two weeks ago Brock Urban Projects stated, and I am quoting:

> We've seen an increase in sales inquiries of about 200 to 300 per cent and then that's following through now with sales—sales are increasing as well.

This is a clear reflection of the positive impact that the government's new housing assistance package is having on the industry and the community. While the Liberal Party continues to talk down the state's economy and offer no policies of their own, this government continues to take action.

Members interjecting:

The SPEAKER: Order!

Mr GARDNER: Point of order: that is a long way from the substance of the topic he was asked about.

The SPEAKER: Thank you. I think the Treasurer has finished his response. The Deputy Leader of the Opposition.

ENTERPRISE PATIENT ADMINISTRATION SYSTEM

Mr MARSHALL (Norwood—Deputy Leader of the Opposition) (14:22): My question is to the Minister for Health and Ageing. Has the government completed a cost-benefit analysis for the $408 million EPAS system's electronic health records and, if so, will this be made available to the parliament and to the public?

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:22): I will seek advice on what is available to give the public and what is available to the parliament. The EPAS (Enterprise Patient Administration System) is absolutely critical for the running of a modern health system in our state. If the opposition is opposed to this, that is fine; they can develop their own policy initiatives, but I would be interested to know what the opposition's policy on information technology is, what their information technology policy is, in particular in relation to the health system. So, it is not to do this, Madam Speaker, now we know. We would be back to paper and quill if the opposition was in government. EPAS is an important system. It is on track to deliver a modern information technology system to our state.

Mr MARSHALL: Point of order: the question was specifically about whether there has been a cost-benefit analysis done by the government for this $408 million expenditure and will it be made available.

The SPEAKER: Your question was clear enough. The minister's answer related to the question. Minister, have you finished?

The Hon. J.D. HILL: Yes.

The SPEAKER: I have said before, if the minister's answer is relevant to the question, you cannot demand a yes or no answer or an answer that you choose.

HOSPITAL INFRASTRUCTURE IMPROVEMENTS

Ms THOMPSON (Reynell) (14:23): My question is also to the Minister for Health and Ageing. Can the minister update the house on the progress of improvements to South Australia's hospital infrastructure over the past 12 months?

The SPEAKER: The Minister for Health, you are having a busy day.

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:24): Yes, I can. I thank the member for Reynell for her question and I acknowledge her great interest in health issues, particularly in her area in the southern suburbs. Over the past two financial years, the state government has committed close to $1 billion to improve the infrastructure of our state's public hospitals. When we came to government we inherited some of the oldest hospital stock in the nation. One of the first priorities of this government was to redevelop all of our metropolitan hospitals, along with four country general hospitals in partnership with the commonwealth government.

Over the past 12 months we have reached some major milestones in this massive program of rebuilding. The most significant of these was the official opening in August of the $163 million Flinders Medical Centre redevelopment, which marked the end of a five-year project at that hospital. The redeveloped hospital has a bigger emergency department, more and bigger operating theatres, and new maternity and cardiac care wards, allowing it to cater for the growing southern suburbs population.

The new south wing, which accommodates the birthing facilities and maternity ward, has been awarded the first five-star green-star hospital building in Australia, underscoring the government's commitment to constructing environmentally responsible assets.

In Adelaide's western suburbs, a new rehabilitation and allied health building was opened as part of the ongoing redevelopment of The Queen Elizabeth Hospital, and the Premier and I did that opening in October. A 20-bed mental health unit for older people is under construction and will open at that hospital early next year. This demonstrates, I think, our government's very strong commitment to The Queen Elizabeth Hospital and the people of the western suburbs.

At Modbury Hospital, work has started on an expansion and upgrade of the emergency department, the first in two stages of planned and funded works. Lyell McEwin's hospital expansion into one of Adelaide's three major hospitals continues, with a new 96-bed inpatient unit and other parts of the redevelopment due to be completed in mid 2013.

Mr Venning interjecting:

The Hon. J.D. HILL: Work will start shortly on a new 120-bed state-of-the-art teaching, aged-care and rehabilitation facility at the rehabilitation—

Mr Venning interjecting:

The Hon. J.D. HILL: Somebody is making so much noise over there. I can't hear it.

Mr Venning: I was waiting for the Barossa.

The Hon. J.D. HILL: You had better stay around for another term, Ivan, I think. You stick around. There's a preselection that the Liberal Party would want to hold onto. Anyway, work has started on the rehabilitation facility at the Repatriation General Hospital in conjunction with the ACH Group and Flinders University—a great collaboration—and includes 60 new aged-care beds, 40 transition care beds, 20 new rehabilitation beds and a new ambulatory rehabilitation facility.

Milestones at the Women's and Children's Hospital include the opening of a new children's cancer centre, a children's medical ward, a lung disease centre and a gene therapy laboratory to care for children with a whole range of illnesses. Of course, site works at the Royal Adelaide Hospital were completed and piling work is now underway in readiness for construction, which will begin soon.

New GP Plus super clinics were officially opened at Noarlunga and Modbury, and construction has commenced on a new Port Pirie GP Plus clinic, adding to our growing network of GP Plus healthcare centres across our state. The construction of the new Glenside mental health and substance abuse hospital is well advanced and will open in 2013, and we inspected some of the work there yesterday.

In country South Australia, work is underway on the Whyalla hospital and Berri Hospital redevelopments and both are on track for completion late next year. Work will begin at Mount Gambier and Port Lincoln hospitals early next year.

Health has been, will be, and will always be, a priority for this government. In 10 years of opposition there has been not one policy from the other side except not building the new Royal Adelaide Hospital.

Mr GARDNER: Madam Speaker—

The SPEAKER: Yes, the minister has sat down. You were straying into debate.

eHEALTH

Mr MARSHALL (Norwood—Deputy Leader of the Opposition) (14:27): My question is again to the Minister for Health and Ageing.

The Hon. I.F. Evans interjecting:

The SPEAKER: Order!

Mr MARSHALL: Can the minister explain why the management of the government's eHealth initiatives has been put out to tender, and whether this is an admission by the government of their own inability to manage the implementation of these programs?

The Hon. P.F. CONLON: Point of order, Madam Speaker. You cannot put argument in a question. That is argument. Standing order 97.

The SPEAKER: Yes, you do not need that last part of your question. You have asked your question, I think: has it been put out to tender?

Mr MARSHALL: Yes, but with your leave and that of the house, I would like to explain. The eHealth Program Management Office is supposed to oversee the management and administrative rollout of half a billion dollars worth of eHealth projects, including EPAS. However, almost a year after the system was announced, the government has now invited private tenders for this, with applications closing this Friday.

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:28): I am not sure what political point the member is making. The government is prudent about how it manages these systems. We have a range of initiatives in the IT area. EPAS is one of them, we have another system called EPLIS

which is being worked through, and ESMI is another; and we have the implementation of Oracle, which is the system in place for procurement and financial management.

All of these systems need to be managed in a coherent way and from time to time we seek outside expertise because we are a department which runs a health system, we are not a department which has a lot of IT expertise, so we do need to hire in expertise. But that is appropriate for government to do that, I would have thought.

eHEALTH

Mr MARSHALL (Norwood—Deputy Leader of the Opposition) (14:29): Supplementary, Madam Speaker. How many staff are employed in the eHealth Program Management Office, the work of which is now being outsourced, and at what cost to the taxpayers of South Australia?

The SPEAKER: That is not a supplementary; that is a question.

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:29): Obviously, I do not have that information. I am happy to get some advice and respond.

Mrs Redmond interjecting:

The Hon. J.D. HILL: Do you have something to say there, Leader of the Opposition? Ask a question! Ask a question!

Members interjecting:

The SPEAKER: Order! The member for Mitchell.

Members interjecting:

The SPEAKER: Order! Member for Mitchell, before you start your question, we will have some order from both sides of the house. The member for Mitchell.

GM HOLDEN

Mr SIBBONS (Mitchell) (14:30): My question is to the Minister for Manufacturing, Innovation and Trade. Can the minister inform the house about how thousands of South Australians have benefited from the co-investment package with General Motors Holden announced earlier this year and how government policies and comments play an important role in supporting this vital sector?

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Manufacturing, Innovation and Trade, Minister for Mineral Resources and Energy, Minister for Small Business) (14:30): I will try to bring calm and peace to the house.

The SPEAKER: That's good to hear, minister.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: This state government is committed to our automotive sector and ensuring the continued operations of General Motors Holden at Elizabeth. This government is proud of what General Motors Holden is doing. This government is proud of the estimated $1.5 billion Holden contributes to our gross state product. This government is proud of the 16,000 jobs it creates in South Australia.

This government understands the importance of Holden to the whole automotive industry and how its closure would affect suppliers and, most importantly, workers across the state. That is why the South Australian government, together with the federal government and the Victorian government, worked cooperatively with General Motors Holden to unlock a $1.2 billion capital investment for engineering and manufacturing of two next-generation vehicles at Elizabeth in South Australia.

For our $50 million investment, this state government leveraged over $1 billion into our automotive industry. This is over $1 billion of foreign investment from Detroit in the United States. This investment will bring two new generation global architectures into production at Elizabeth and allow Holden to maintain its capacity to design and engineer vehicles in Australia until at least 2022. This is a decade of security for workers in the automotive sector in this state. Members

opposite and their federal colleagues are desperate to talk down the future of Holden in South Australia.

Mr GARDNER: Point of order!

The SPEAKER: Order! You are very quick at jumping to points of order, member for Morialta.

Mr GARDNER: The minister imputes improper motives on the opposition. He should be like Nectarios of Aegina and have love for our neighbours and not be a zealot.

The SPEAKER: Thank you, member for Morialta.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: Madam Speaker, I carry St George in my pocket, the spear carrier.

The SPEAKER: Minister, back to the question, please.

The Hon. A. KOUTSANTONIS: Those opposite are yet to tell us their plans for the automotive industry and manufacturing policies. I was shocked by the comments of the federal shadow treasurer, Joe Hockey, who said that 'people don't want to buy Australian-made cars...the cars are not meeting their demands as consumers'.

Mr GARDNER: Point of order!

The SPEAKER: Order! What is your point of order?

Mr GARDNER: Under 98, it is disorderly to be irrelevant to the question, when the minister for training does not even want to drive a South Australian-made ministerial car.

The SPEAKER: Thank you. Sit down.

Members interjecting:

The SPEAKER: Order! There was no point of order. Minister.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: However, Joe Hockey is wrong. The Commodore and the Cruze are stalwarts in the top 10 most popular Australian cars. What the Coalition is trying to say is that they do not like to drive Australian-made cars. They want to drive around in BMWs while the rest of us drive around in Great Walls or Hyundais.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: That is why they bash our automotive industry. That is why the Coalition has not committed to the industry beyond 2015. The simple fact is that our federal Coalition does not want to see submarines built in Adelaide and they sure as hell do not want to see Holden survive in Adelaide.

Mr GARDNER: Point of order, Madam Speaker! The minister is putting words in other people's mouths, putting policies that are not on the public record and the minister is now just making it up.

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: After the comments of the federal shadow treasurer there was silence from members opposite—absolute silence: no policies to support the automotive sector, no policies to support wider manufacturing. Perhaps if General Motors made yachts, if they manufactured yachts they would take an interest. The truth is that they have no automotive policy and they do not support General Motors.

Mr MARSHALL: Relevance, 98.

The SPEAKER: I do not think your point of order is probably relevance but I refer the minister back to the question. Have you answered the question?

Members interjecting:

The SPEAKER: Order! Deputy leader, order, and members on my right, stop shouting across back to him.

The Hon. A. KOUTSANTONIS: When a senior member of the Coalition attacks our automotive industry—we are the heart and soul of manufacturing in this country for automotive and when Joe Hockey—

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: —says, 'People don't want to buy Australian cars'—

Members interjecting:

The SPEAKER: Order! Thank you, minister.

The Hon. A. KOUTSANTONIS: —you should stand up for South Australia.

The SPEAKER: Minister, sit down. Order! There's a point of order.

Mr PISONI: We have had more than 4½ minutes.

The SPEAKER: No, he has 41 seconds left.

The Hon. I.F. EVANS: Point of order, Madam Speaker. Supplementary: does the minister agree with federal Labor minister Tony Burke's comments that Holden is too slow to move to fuel-efficient cars?

The SPEAKER: Member for Davenport, I do not know if that was a point of order or a supplementary question. It sounded very much like a supplementary question so there was no point of order.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: Sophie Mirabella and the shadow federal treasurer will not commit to our automotive sector post 2015. They will not commit. We expect all members of this house to stand up for manufacturing in South Australia and to stand up for South Australian manufacturers. The truth is this: if you want to save Holden you vote Labor.

GM HOLDEN

Mrs REDMOND (Heysen—Leader of the Opposition) (14:36): I have a supplementary question. In light of the minister's statement, can he tell us how many South Australian jobs are guaranteed by these arrangements and for how long?

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Manufacturing, Innovation and Trade, Minister for Mineral Resources and Energy, Minister for Small Business) (14:36): Another fair question.

The SPEAKER: That is another question.

The Hon. A. KOUTSANTONIS: The reality is this: $1.5 million to our gross state product every year; a $1 billion investment—

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: Madam Speaker, 16,000 jobs will add to the automotive industry in South Australia.

Mr Marshall interjecting:

The SPEAKER: Order! Deputy leader, order!

The Hon. A. KOUTSANTONIS: This state government has secured the long-term future of our automotive industry in this state. We have done it with a conservative government in Victoria and a Labor government in Canberra. The reality is this—

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: —they do not want to drive Holdens. They want to drive BMWs and they want us to drive Hyundais. They do not support local manufacturing. Where is their policy? Where is their automotive policy?

Members interjecting:

The SPEAKER: Order! Point of order.

Mr GARDNER: Surely the minister has had enough of a go now.

The SPEAKER: Yes.

Mr GARDNER: It's time to bring him to order.

The SPEAKER: I think the minister has answered the question. Thank you.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

LATE NIGHT TRADING CODE OF PRACTICE

Mr BIGNELL (Mawson) (14:38): My question is to the Minister for Business Services and Consumers. Can the minister inform the house about the progress of the draft late night trading code of practice?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (14:38): Yes. Can I thank the honourable member for his question. On 17 October the Premier and I released a draft late night trading code of practice inviting the community to provide feedback. Six weeks were provided for submissions and that consultation period ends this Friday, 30 November.

Ms Chapman: Are they on the website?

The Hon. J.R. RAU: Tune in next week and see how we go. So far Consumer and Business Services has received 24 submissions. I am advised that a number of industry bodies and other significant groups are still preparing their formal submissions and they have advised the Liquor and Gambling Commissioner that they will be contributing their feedback before the Friday deadline.

We know that the links between excessive alcohol consumption, public disorder and criminal offences and injuries are well established. However, we also know that the vast majority of people enjoy their night out without causing any trouble. Unfortunately, all it takes is a couple of idiots to ruin a good night out. The government believes that we must strike a balance. The new late night trading code of practice needs to encourage a culture of responsible service and consumption of alcohol to minimise the social and economic harm caused by excessive alcohol consumption and to reduce the level of alcohol-related violence that occurs in or near licensed premises.

Safer entertainment precincts will support the development of a more diverse, vibrant night-time economy and improve the community's feeling of safety when they are out at night. We want to encourage people to come into the city and enjoy everything Adelaide has to offer. The final late night code of practice is designed to be flexible in its application but firm in its consequences. A number of licensees across South Australia have already put in place some of these measures on a voluntary basis.

The government has made it clear that this is a draft, and I would encourage any interested parties who are yet to do so to provide their feedback before close of business on Friday by visiting the Your SAy website at www.saplan.org.au/yoursay.

The Hon. P.F. Conlon: There is no v?

The Hon. J.R. RAU: No; it is not five. These changes and today's announcement of a new licence category to encourage the establishment of small venues are about making Adelaide a more safe and vibrant place for people to live. I was delighted to be able to join with the Premier today in visiting Leigh Street. We went to one of the small venues there, a place called Udaberri, which I assume many in this place would have, at some time, visited. Some more than others, perhaps. That is an example of the sort of—

The Hon. P.F. Conlon: Is that somewhere near Booborowie?

The Hon. J.R. RAU: It is nowhere near Booborowie. It is an example of the sort of small venue which offers a very different kind of experience for people who come into the city. It is extremely well run by the people who own the place; they are there all the time. The new category of small venue is going to offer a great opportunity because it is going to provide particularly young entrepreneurs with the possibility of a low dock, low capital expenditure entry into the business of making Adelaide a vibrant place.

ENTERPRISE PATIENT ADMINISTRATION SYSTEM

Mr MARSHALL (Norwood—Deputy Leader of the Opposition) (14:41): My question is again to the Minister for Health and Ageing. How long will it be before EPAS is operating at every public hospital across the state? The minister has previously advised that only two out of the 72 country hospitals will be included in EPAS, and yet hospital Legacy systems cannot be abandoned until all public hospitals are covered by EPAS.

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:42): It is true that the current rollout of EPAS is designed to—and I think I have said this to the member when he asked me a question during the Auditor-General's inquiry a little while ago. EPAS is being rolled out to all of the metropolitan hospitals and to some of the country hospitals. It cannot yet be rolled out to all of the country hospitals. We do not have yet a specific date for the rollout to country sites. That is the ultimate ambition, but it will be in place where the majority of patients are I think within two years, but if that is not correct I will get the exact detail for you.

MURRAY RIVER

Ms CHAPMAN (Bragg) (14:42): My question is to the Minister for Water and the River Murray. Will the minister confirm that, despite widespread agreement that water needs to be returned to the River Murray, the government plans to increase the amount of water taken from the river and provided to SA Water customers over the next three years? SA Water's regulatory business proposal submitted to ESCOSA shows the government plans to increase the amount of River Murray water used by almost 10 per cent by 2015-16. This at the same time the government plans to mothball the desalination plant that is meant to reduce our reliance on the Murray.

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): Let me put it this way: SA Water will only take from the river what it is entitled to under its licence. As we all know, in making sure that people in urban Adelaide play their part in ensuring that the burden of adjustment on irrigators is lessened, SA Water is looking at providing water from its entitlement back to the commonwealth through the buyback program.

Members interjecting:

The Hon. P. CAICA: The member for Chaffey is aware of this. The difficulty with the member for Chaffey is that his electorate is more across things than he is when it comes to understanding what is going on with respect to the Murray-Darling Basin plan. That is why it has been very good to work with the people from the Riverland communities and their representatives who have been right behind the campaign of the government to fight for the Murray.

Members interjecting:

The Hon. P. CAICA: They will operate within whatever entitlement they have at any point in time, so it is quite simple.

CORRECTIONAL SERVICES

Dr CLOSE (Port Adelaide) (14:44): My question is to the Minister for Correctional Services. Can the minister inform the house how the Department for Correctional Services is contributing to community safety in our state?

The Hon. J.M. RANKINE (Wright—Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety, Minister for Multicultural Affairs) (14:45): I thank the member for Port Adelaide for her question. This Labor government is committed to protecting South Australians with 'Safe communities, healthy neighbourhoods' as one of our seven key priorities, and the work of the Department for Correctional Services is an important part of our overall strategy. The passing of amendments to the Correctional Services Act in June paved the way for a number of changes to increase security within our prisons and make our communities safer. These changes—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: These changes are some of the biggest reforms our corrections system has seen in 30 years. Despite the best efforts of some of those opposite, most of these changes were brought into force in August this year and the remainder came into effect on Friday 9 November. No longer will offenders—

Ms Chapman interjecting:

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

The Hon. J.M. RANKINE: No longer will offenders recently released from prison be allowed to visit serving prisoners. No longer will child sex offenders be allowed visitors under the age of 18 years. No longer will a paroled sex offender be allowed to withhold their offending history from a prospective employer, and the Parole Board now has specific legislative power to subject a parolee to electronic monitoring. Groundbreaking legislative reform is being backed up by practices within our prisons.

This year over 57,000 searches were undertaken in our prisons, and this is an additional 12,000 searches when compared with the year before. This substantial increase complements the new laws which have extended the ability of corrections officers to search visitors and vehicles in prison car parks and have increased penalties for those found to be introducing contraband to our prisons. This government has also made a significant financial investment in the prison system. This year, construction began on the $23 million expansion of the Mount Gambier Prison which will add 108 beds to the facility and take the total number of beds in our system to 2,350 by mid next year.

Only a few weeks ago, I opened the new Banksia Unit at Port Augusta Prison, the biggest corrections infrastructure project in a quarter of a century. This month I had the pleasure of addressing the department's 32 newest correctional officers. This takes the total number of graduates in the last 12 months to 108, and I want to congratulate our newest corrections officers and wish them the best in their new careers.

The work of the Department for Correctional Services is evidence that this government is delivering on its priorities through sound policy, and we must be doing something right: four years in a row, South Australia has recorded the lowest return-to-prison rate in the country and victim-reported crime has reduced by nearly 40 per cent over the last 10 years. This is in contrast to the members opposite who have failed to articulate any policies which will continue to help keep our communities safer.

Mr GARDNER: Point of order, Madam Speaker. She was doing so well up until that point and then she had to debate. She couldn't hold herself back.

The SPEAKER: Thank you. What is your point of order? There is no point of order. Minister, have you finished your answer? Supplementary, member for Bragg.

CORRECTIONAL SERVICES

Ms CHAPMAN (Bragg) (14:49): How many people have been prosecuted under this 'groundbreaking' new legislation for being in possession of illicit drugs in the prisons?

The SPEAKER: That, of course, member for Bragg, you are aware, is a new question, not a supplementary. If it is the same minister, the question has to relate to the answer. Minister.

The Hon. J.M. RANKINE (Wright—Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety, Minister for Multicultural Affairs) (14:49): Thank you, Madam Speaker. As I just outlined—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The minister is answering the question, not the rest of the front bench.

The Hon. J.M. RANKINE: As I have just outlined, parts of this legislation only came into force this month—

Ms Chapman interjecting:

The Hon. J.M. RANKINE: Pardon? What?

Ms Chapman interjecting:

The Hon. J.M. RANKINE: You have no idea how processes work, but that's understandable. You've never been in government, you're never likely to be in government—

The SPEAKER: Order!

Members interjecting:

The Hon. J.M. RANKINE: —and you're certainly—

The SPEAKER: Minister—

The Hon. J.M. RANKINE: —never likely to be leading.

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: In fact, you're the reason you're not in government.

The SPEAKER: Order! The minister will sit down.

The Hon. J.M. RANKINE: You're the reason you're not in government.

The SPEAKER: Order! The minister will sit down.

Members interjecting:

The SPEAKER: Order! Members on my left will behave or leave the chamber. Order!

Members interjecting:

The SPEAKER: The member for Bragg and the minister for corrections will behave. Order!

Members interjecting:

The SPEAKER: Order! It is getting close to Christmas, we can tell. The member for Stuart.

POLICE WEBSITE

Mr VAN HOLST PELLEKAAN (Stuart) (14:50): My question is also to the Minister for Police. Is the private information of people using the SAPOL online collision reporting website held securely and not accessible to third parties? The online website reportacrash.police.sa.gov.au can be used to report crashes where damage is less than $3,000, as well as details of the crash. Users

enter their personal information. The opposition has been advised that this website is not secure and personal details can be accessed by third parties.

The SPEAKER: Member for Stuart, can you just repeat the question initially?

Mr VAN HOLST PELLEKAAN: Is the private information of people using the SAPOL online collision reporting website held securely and not accessible by third parties?

The Hon. J.M. RANKINE (Wright—Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety, Minister for Multicultural Affairs) (14:51): I thank the member for Stuart for his question. I will get a report and advise the member.

TELECOMMUNICATIONS TASKFORCE

Ms BETTISON (Ramsay) (14:51): My question is to the Minister for the Public Sector. Can the minister inform the house about the government's initiative to identify savings in telecommunications?

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for the Public Sector) (14:51): I thank the member for Ramsay for this question. Since the Premier re-established the finance portfolio in October last year, the government has rigorously reviewed operational expenditure in key areas to deliver significant savings. As I have previously informed the house, these projected savings include government travel (around $2.75 million a year), postage ($573,000 over three years) and stationery procurement ($5.36 million over three years).

With regard to potential savings in telecommunications, the Auditor-General in his 2012 annual report highlighted matters that were brought to his attention by the Office of the Chief Information Officer. In April 2012, the CIO carried out an internal audit to examine agency carrier billing for services under existing purchase agreements. Four government agencies were analysed in this audit.

Some of these findings were noted in the Auditor-General's Report, including that 2,335 fixed voice services generated zero calls in the six month audit period, and 396 mobile services generated no calls or data usage. As I have said, these audits were actually done by government and the findings conveyed to the Auditor-General.

The Auditor-General has rightly brought these matters to public attention, and it is a priority of the government that wastage in telecommunications services is eliminated. The CIO will continue to monitor the usage of agencies and cancel superfluous services. To support this, I have established a telecommunications task force to monitor and identify savings initiatives. Reporting directly to me, the task force is chaired by the Chief Information Officer and comprises executive members of other agencies.

The task force has been given a number of responsibilities including: to undertake a review of external fixed lines to reduce the number where possible; to undertake a review of mobile data plans across government to ensure that all users are on the most suitable plan to meet their needs; and to develop a policy position to determine how mobile devices and associated data plans are allocated. The task force is also investigating the wider use of secure instant messaging to reduce telephone costs and fewer diversions of fixed line calls to mobiles.

As a result of these initiatives the task force is seeking to identify savings upwards of $2 million per year—a significant amount that can be better allocated by the government. Final recommendations from the task force will be submitted to me by March 2013 and I look forward to updating the house on the savings achieved.

CHILD PROTECTION

Mr PISONI (Unley) (14:55): My question is to the Minister for Education and Child Development. As the Premier's former education adviser, Jadynne Harvey, was a recipient of the same rape notification email received by the Premier's Chief of Staff, Simon Blewett, will Mr Harvey give evidence to the Debelle inquiry on oath?

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (14:55): I expect that Mr Harvey will fully comply with whatever requirements Mr Debelle establishes.

PRIORITY BUS LANES

The Hon. S.W. KEY (Ashford) (14:55): My question is directed to the Minister for Transport Services. Minister, can you inform the house on the trial of the new priority bus lanes in the CBD and whether the bus lane initiative has been a success since its implementation in July this year?

The Hon. C.C. FOX (Bright—Minister for Transport Services) (14:56): Thank you, member for Ashford, and I note your deep interest in buses.

Members interjecting:

The Hon. C.C. FOX: She uses them.

An honourable member interjecting:

The Hon. C.C. FOX: Exactly. I am pleased to announce the new priority bus lanes have been established on Anzac Highway and West Terrace, and they became operational as of this Monday. The new priority bus lanes were intended to build onto the bus lanes currently operating along Currie and Grenfell streets, which were installed in July this year and have proven to be extremely successful.

The priority bus lanes form part of an ongoing initiative to improve public transport services into and out of the city centre and have contributed to the improvement of on-time running for our bus network, which has improved significantly. More than 40,000 bus commuters have benefited from the installation of the Currie and Grenfell streets bus lanes in the CBD. This result gave impetus to the trial—and I should add that it is a trial—of the new bus lanes on Anzac Highway and West Terrace, and they will function in the same way as those on Currie and Grenfell streets.

The benefits of these priority lanes reach further than just increasing bus on-time running. Taxis, cyclists and emergency vehicles are also permitted to travel in these lanes, which has the additional benefit of making emergency response times a little easier. I encourage the increased use of bicycles as well as a part of the daily commute, and the new priority lanes will give cyclists more road space to ride in safety.

As the priority bus lane initiative is still in a trial phase I will continue to work with South Australia Police and the Adelaide City Council to monitor the operation of the priority bus lanes and the impacts of those lanes on all commuters. This will determine the effectiveness of the initiative and inform any future enhancements of the bus lanes, if needed.

CHILD PROTECTION

Mr PISONI (Unley) (14:58): My question is to the Premier. Will the Premier give evidence on oath to the Debelle inquiry and, if not, why not?

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (14:58): Thank you, Madam Speaker.

Members interjecting:

The SPEAKER: Order! Minister for Education.

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: Thank you, Madam Speaker.

Ms Chapman: Portolesi QC.

The Hon. G. PORTOLESI: Thank you. This government established this very high-level review by Mr Debelle, a former Supreme Court judge. He has all of the tools at his disposal to get to the bottom of what actually did transpire in relation to events that occurred nearly two years ago. I think it is really important that we allow Mr Debelle to undertake that work. We on this side of the house—I certainly have not instructed. I have not instructed, because it is not appropriate to instruct, Mr Debelle on how or who he may choose—

Members interjecting:

The Hon. G. PORTOLESI: So they are questioning the integrity of Mr Debelle: 'What is he doing?' They are questioning what he is doing. Well, I can tell you what he is doing. He is doing exactly that that he considers—

Members interjecting:

The SPEAKER: Order! Listen to the minister's answer.

The Hon. G. PORTOLESI: He is conducting the review in the manner which he considers to be fit and appropriate.

CHILD PROTECTION

Mr PISONI (Unley) (14:59): I have a supplementary question. Has the minister had any discussion with the Premier as to whether he will appear?

The SPEAKER: That is, of course, another question. Premier.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (15:00): Everybody on this side of the house and any public servant will cooperate with this inquiry.

COMPUTER GAMES CLASSIFICATION FRAMEWORK

Mr ODENWALDER (Little Para) (15:00): My question is to the Attorney-General. Can the Attorney-General inform the house—

Members interjecting:

The SPEAKER: Order!

Mr ODENWALDER: Can the Attorney-General inform the house about the upcoming changes to the way computer games are classified in South Australia?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:00): This month, the South Australian parliament passed the Classification (Publications, Films and Computer Games) (R18+ Computer Games) Amendment Bill 2012. This new law will allow for the new R18+ classification framework to be in on 1 January next year.

As members would be aware, Australia has not had a classification category for games that are intended for adults. We know that, for many years, the local gaming industry has faced a situation where Australia's classification laws were out of sync with those of many other countries. The new R18+ classification brings Australia into line with classification systems overseas. Overall, the laws are the result of 10 years of negotiations between the commonwealth, the state and the territories and follows a comprehensive consultation period.

As part of this process, there was overwhelming support from the public and industry for the introduction of an R18+ classification. From 1 January 2013, games that are classified as R18+ overseas should no longer need to be modified in an attempt to fit within the MA15+ classification in South Australia, which is the case at the current time.

This has previously been a costly exercise for the local gaming industry and put it at a competitive disadvantage to retailers overseas. On many occasions, gaming companies have had to modify their games a number of times before eventually being approved. Indeed, this has created a situation where consumers are purchasing their games on the internet from overseas rather than spending money in Australia at local retailers because of the absence of an R18+ classification in this country.

Games that fit within an R18+ classification will be properly restricted to adults and will lower the risk of games that contain high levels of violence being available to minors. However, the house should note that those games that do not come within the national classification guidelines for 18+ games will still be refused classification. This principle, which is consistent with that which is applied to films, has not changed.

For those interested, the federal Minister for Home Affairs (Hon. Brendan O'Connor) advised me last year that games such as *Porntris*, *Sexcapades*, *Wander Lust* and *Immoral Kumbat* will continue to be refused classification.

Members interjecting:

The Hon. J.R. RAU: You find that risible? Furthermore, national guidelines to come into effect from 1 January 2013—

Members interjecting:

The Hon. J.R. RAU: Should I start again? Furthermore, national guidelines to come into effect from 1 January 2013 will also bring in new criteria for MA15+ games. These include:

- strong and realistic violence should not be frequently or unduly repetitive;
- sexual violence is not permitted; and
- sexual activity and nudity must not be related to incentives or rewards.

As a result of these changes, some games that have previously been classified as MA15+ could now be subject to an R18+ classification. This will ensure that games that are really unsuitable for minors to play are properly and correctly classified as adult material. Overall, these changes strike the right balance, allowing adults reasonable access to games and protecting minors from being exposed to inappropriate material.

This government recognises the importance of supporting local industry through reasonable and responsible measures because this government supports and cares about local jobs. This is a very, very positive move for South Australia.

The SPEAKER: Thank you, minister, your time has expired. Member for Unley.

CHILD PROTECTION

Mr PISONI (Unley) (15:05): My question is to the Attorney-General. Does the Attorney-General stand by his statement made on radio yesterday that witnesses will give evidence to the Debelle inquiry on oath? I was contacted by a witness who said that when she gave evidence she was not required to give it on oath.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:05): It is very simple: I am not running the inquiry, Mr Debelle is. I have answered a similar question twice. My view has not changed in this place about what that is.

PEOPLE AND PARKS

Mrs GERAGHTY (Torrens) (15:05): My question is to the Minister for Sustainability, Environment and Conservation. What are some of the key initiatives across the environment and conservation portfolio that have transpired this year that support the sustainable use of our environment and its natural resources?

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:06): I thank the member for Torrens for her very important question. A very recent initiative was launched last week: People and Parks. It is a long-term strategy to increase the use and enjoyment of our national parks, marine parks and reserves. One of the key projects in the strategy involves establishing the Mount Lofty Ranges as a nationally recognised destination for cycling.

A number of management tracks in Cleland Conservation Park and Belair National Park will be open to cyclists, and plans for trails in other parks are being considered. People and Parks also includes other projects, including the expansion of the number of trails and parks near Adelaide that are suitable for people with limited mobility, and upgrading facilities at some of our iconic tourist attractions such as Seal Bay on Kangaroo Island.

This year has also seen some notable achievements in the realm of coastal and marine protection. We are now on the verge of beginning the management of our marine park system following an unprecedented level of consultation with communities and key interest groups. As well as protecting unique areas of high marine conservation value, our marine parks will become a valuable asset in promoting our state as a destination and in building on the clean, green reputation of our seafood industries.

The Adelaide's Living Beaches initiative, which aims to protect coastal properties and infrastructure and maintain the amenity of Adelaide's beaches, has progressed well this year. The sand transfer project, including pumping stations, sand slurry pipelines and sand discharge

locations to beaches, is on schedule to be completed in this financial year. As part of an ongoing commitment to protecting important coastal environments and providing better protection to valuable land and wildlife in South Australia, Cape Blanche and Searcy Bay conservation parks near Streaky Bay were proclaimed in February 2012, adding to the protected areas estate.

In terms of protected terrestrial areas, this year saw the government deliver protection of Arkaroola from mining and other incompatible development with the passage of the Arkaroola Protection Act 2012 and the nomination of Arkaroola for state and national heritage listing. Other notable achievements in this area include the establishment of co-management arrangements with traditional owners with regard to the Flinders Ranges, Gawler Ranges and the Lake Gairdner National Park. Our Place. Our Future—

The Hon. I.F. Evans interjecting:

The SPEAKER: Point of order.

The Hon. I.F. EVANS: Point of order: this has been tabled before the house.

The SPEAKER: Thank you. I do not think there is a point of order.

The Hon. P. CAICA: Our Place. Our Future, our State Natural Resources Management Plan South Australia 2012-17, was launched this year, setting out a vision to care for the land, water, air and sea that sustain us, as well as providing direction and guidance for our NRM boards, government agencies and other organisations involved in the critical work they lead in conservation and sustainable use of natural resources. The creation of an integrated regional delivery service by amalgamating NRM board staff and DEWNR regional services staff under a single integrated workforce was also achieved.

Fire management activities continued in 2012, including the development of a Code of Practice for Fire Management on Public Land in South Australia in association with ForestrySA, SA Water and the CFS. DEWNR's prescribed burning program continued to reduce fuels in strategic locations across the high-risk areas of the state, along with the development of risk-based management plans covering a large part of our public reserves. Of course, Madam Speaker, as you would be fully aware, work has continued on implementing the Coorong, Lower Lakes and Murray Mouth long-term plan, including a service partnership with the Ngarrindjeri Regional Authority and in collaboration with local communities to repair damage caused by drought and build ecosystem resilience during dry spells.

I could go on by concluding about the EPA's accessibility to information and its interface with the public but, also, Zero Waste SA and its excellent outcomes regarding recycling and reuse. There are many more initiatives, as I said, I could continue to speak about, and I will on another occasion. But all this is in stark contrast to the Liberal opposition, from whom we have not heard an iota of sound—

Mr GARDNER: Point of order, Madam Speaker. Surely, sessional order 2 should have kicked in by now.

The SPEAKER: I am not sure about sessional order 2 but boredom is starting to, from all sides. Minister, you have got six seconds.

The Hon. P. CAICA: Six seconds, right, Madam Speaker. But all this is in stark contrast to the Liberal opposition, from whom we have not heard an iota of sound and considered policy and now—

The SPEAKER: Minister, your time has expired. I will have mercy on us all.

GRIEVANCE DEBATE

GM HOLDEN

The Hon. I.F. EVANS (Davenport) (15:10): In making a few comments today, I just want to touch very briefly on the minister for industry and trade's comments about Holden's in question time today. I hope he was not reflecting on members of the house who do not drive Australian-made cars. Of course, we could go back to the media report of 25 January this year when the minister for employment was a touch embarrassed about a Toyota Prado and I understand, Madam Speaker, according to this media report, that you also at one stage had a Prado, and, of course, the member for Ashford is reported in the media report as having also that type of vehicle. I

hope the minister was not reflecting on those members who, for whatever reason by their own personal choice, have decided not to support Holden.

Of course, we all know that the minister for industry and trade was a bit embarrassed that senior Labor Party minister Tony Burke came out, in the very same article that the minister was using to quote Joe Hockey, complaining about how the car manufacturing industry in Australia had been too slow to move to smaller and more fuel-efficient vehicles. Poor old Tom was a bit embarrassed by his federal colleague—we all understand that.

But we know on this side of the house—go to the *Hansard* record—that we said we supported the Holden deal. All we want the government to do is to put the deal before the Economic and Finance Committee's Industries Development Committee so we could actually see the final detail of the deal. But, of course, this government is too gutless to do that, and we cannot understand why. At the end of the day, the record is clear about our particular view on Holden.

However, I really want to touch today on an issue relating to the newsagents in South Australia. Newsagents are getting a double whammy from this government. There are around 380 newsagents in South Australia. They are going to get a double whammy on the Lotteries sale yesterday with online sales which is going to, long term, undermine their sales (there is no doubt about that); but, also, let us not forget that the Minister for Finance went on to FIVEaa a week ago about the whole-of-government stationery tender and the debacle that is schools purchasing their stationery and back-to-school packages via this whole-of-government stationery package.

The Minister for Finance went on radio and said that he was going to 'move heaven and earth' to overturn this deal, to fix the mess. Before he gave that commitment, he just could not help himself—so typical of this government. Guess whose tender it is, Madam Speaker. It is the government's tender. But, guess whose fault it is that the South Australian newsagents did not win the tender. Apparently, it is their fault, because the government brought schools into the equation. The minister is on the record as saying if he had his time again he would like not to do that. In other words, the government, when designing the tender, did not do their homework, designed the tender wrongly and essentially developed a tender that was impossible for the local newsagents to win.

I am just going back to the minister's own words. A week ago he told the public on FIVEaa that he was going to move heaven and earth to fix this mess. It has been a week. What has happened? The reality is that nothing has happened. When the minister went on radio last week, did the minister already have legal advice to the effect that he could not do anything? If he did, why did he make those comments on the radio?

There are only two solutions here. One is that the government cannot change its decision and will not change its decision. If that is the case, come out and make the public announcement. The other possibility is that the government can change the decision. If that is possible, given the minister's comments that he is going to move heaven and earth, then let's move it and come out and announce that schools are going to be taken out of the decision.

The government cannot have it both ways, but it is the height of hypocrisy of this government to say that they called the tender and it was the newsagents' fault that somehow they could not possibly win it. I think everyone who has had a look at the deal realises that it is the way the government constructed the tender that delivered the outcome.

GORGEOUS FESTIVAL

Mr BIGNELL (Mawson) (15:16): I rise today to commend the organisers of the Gorgeous Festival which was held in McLaren Vale on Saturday, and in particular, the festival directors, Sally and Alistair Cranney, who have done a tremendous job. Last year was the first Gorgeous Festival and Icehouse were the top bill at that concert. We have seen it grow. This year, we had almost a sellout crowd. There is capacity for 3,000 people there and there were 2,800 tickets.

Missy Higgins headlined this year's concert and it was fantastic. She was really well supported by Dan Sultan, another great Aussie singer, as well as Gossling, the Preatures, and Butterfly Boucher, who is a very good Adelaide performer. She produced the album for Missy Higgins and of course it is Missy Higgins' first album in five years. She has taken a bit of a break and now she has come back to music with a new album which has some great hits on it. Hayden Calnin and Johnny McIntyre were also on the main stage.

We saw side stages as well with great local acts but we also celebrated the other great things about McLaren Vale, and they are food and wine. I really want to commend the organisers

once again, Alistair and Sally, for really going after local producers and making sure they were showcased there as part of the festival. That was something that was done quite deliberately.

I know that the local restaurants—d'Arry's Verandah Restaurant, The Elbow Room, The Currant Shed, FINO, which picked up another award last week as best regional restaurant in South Australia, Ampika's Kitchen, a great Thai restaurant down in Willunga, and Blessed Cheese who picked up the best cafe at the same awards last week—all served up some great local food and of course there was lots of good McLaren Vale wine to wash it down.

We had the likes of d'Arenberg, Alpha Box and Dice, Chapel Hill, Shottesbrooke, Paxton's, Dogridge—they had 'The Pup' Shiraz there—Wirra Wirra and Battle of Bosworth. Battle of Bosworth of course has picked up many organic wine awards both here and across in New Zealand over the years. It was a tremendous night for it, great weather and a really good concert, and I wish Sally and Alistair all the best as they plan next year's festival.

I would also like to mention while we are on the subject of music that it is Oz Music Month—November—and triple j has done a great job once again. The Whitlam government set up Double J, as it was called in New South Wales in 1974 and it was meant to be the national youth network. Unfortunately, when Malcolm Fraser got in, he did not think that was a very good idea to have a national youth network, so we did not get triple j here in Adelaide until 1989. I know that Tom Kenyon is a great fan of triple j. They gave the Hilltop Hoods and great South Australian bands a really good start.

Members interjecting:

Mr BIGNELL: Everyone on this side; as I said, we are going to name everyone as great triple j fans. We really must commend triple j not only for the great music it plays but also for the way it supports, discovers and promotes so many great Australian acts. Listening to Home & Hosed over the last couple of nights we have had Fire! Santa Rosa, Fire!—a great Adelaide indie group who has been getting a lot of airplay—and then last night Full Tote Odds—I am sure Mr Kenyon would know Full Tote Odds—a hip-hop ensemble from the Adelaide Hills featuring Levelheaded, Slats, Eslev, Ross Read and DJ Hacksaw—a fantastic outfit. As Molly Meldrum might say, 'Do yourself a favour and go out and get the album,' because they are good; or download it onto iTunes.

South Australia has always had a proud history of producing great music acts and I really commend the Premier and people like the Hon. John Gazzola in another place who are really trying to reactivate the live music scene here in South Australia and get Adelaide as the national capital of live music, just as Austin, Texas is in the USA; they took the mantle over from Seattle. I think there are so many great things that can come from having a really strong music culture. Again, congratulations to everyone involved in the Gorgeous Festival. I am really looking forward to getting back there next year for another fine show.

The ACTING SPEAKER (Hon. M.J. Wright): Thank you; always very informative, the member for Mawson. The infamous member for Waite.

INDUSTRY DEVELOPMENT

Mr HAMILTON-SMITH (Waite) (15:21): Thank you, Mr Acting Speaker, and I always like to see you in the chair—a very good chairman. I want to talk on the subject of economic development policy because I think this parliament, and both major parties within it, may be doing our constituents a disservice by the way in which we are approaching our relationships with major multinationals as they look to invest in this state.

We need a new approach dealing with major enterprises with regard to mining but also into other industrial and manufacturing investments. There are plenty here: we have had BHP looking at Roxby Downs; we have had Navantia here (we are building their air warfare destroyers); we have issues going on with General Motors-Holden and its future in respect of co-investment; and we have lifted the share cap for Santos and required certain things of them. In each case we have dealt with each multinational differently without one common set of parameters, and with singular goals in mind.

These multinationals are often much bigger than we are. They are Goliaths and the South Australian parliament must be very clever in the way in which it deals with them. Take BHP for example, if I turn for a moment to Roxby Downs, an enterprise with $27.2 billion of earnings before interest and tax, and $17.1 billion of profits just last year alone. We were successful during the Playford period because Playford managed to ensure a level of bipartisanship in many of the

investment proposals he took to the parliament and to the people. Even during the Hawke and Keating period there was a level of cooperation with the Howard opposition. I recall Howard saying on a number of occasions that the opposition did not oppose the sale of Qantas, the sale of the Commonwealth Bank, or the deregulation of the banking system because it was the right thing to do for the country.

The Olympic Dam expansion, to take that example, was first given major project status by the Rann government in September 2005. Frankly, I think the state Labor government so over-promised and so over-hyped this deal that when the time came to negotiate the indenture we got done over like a dinner. I think the Rann/Foley leadership left itself with little choice but to give in to BHP on almost everything they sought in their indenture: royalty arrangements were generous; employment outcomes, little was guaranteed for South Australians; value adding was compromised; flow-through benefits to South Australian based manufacturers and businesses were not guaranteed in the indenture; we freeholded land; taxes and charges arrangements were generous; and we required little in the way of intellectual infrastructure and other co-investment back into South Australia.

You cannot blame BHP for that. It did a fantastic job in its negotiations. However, I think we do need a new approach. First, we must make sure that we encourage exploration and investment. Secondly, we must reduce the capital costs of major projects. We must get their costs down so they can invest. Thirdly, we must ensure taxation on projects is fair and reasonable. Fourthly, we should insist, as we do with defence projects, on a level of local participation on both labour and contracts. Multinationals are skilled negotiators, and, where practical, governments and oppositions should agree on the negotiating strategy from the outset so that the parliament is not divided and conquered. This requires quite a bit of leadership courage from premiers, from opposition leaders and from cabinets, on both sides of the parliament.

We must recognise that the resources are owned by our constituents, and our children and grandchildren must have something to show for it. We must take a holistic approach when measuring the costs and benefits of projects, with particular regard to GST revenues and wealth generation opportunities. We really need to question this concept of flying in and flying out workers and bringing workers in from overseas, and get the best deal for South Australia when negotiating mining projects. But this also applies with enterprises like General Motors Holden, where we must, when co-investing, get the best deal for our people.

I am calling for a renewed debate in parliament to improve the strategy for dealing with multinationals on major projects. We have the machinery through the committee process, particularly the Industries Development Committee, for there to be more bipartisanship in how we approach these deals so that the parliament goes with one bargaining position. When we deal with multinationals, we do so with the view of getting the best deal for South Australians, regardless of whether it is an air warfare destroyer, General Motors Holden, or a mining enterprise. We need to do better. I think we are failing our constituents.

WINDEMERE COMMUNITY MARKET

Mrs VLAHOS (Taylor) (15:26): I would like to speak today about an event I had the good fortune to open on Sunday of this week. It was the first Windemere Community Market, held at the Lake Windemere School at Salisbury North, a school that I do a lot of work with, and it has a fantastic principal leading it, Angela Falkenberg. In this particular instance, this remarkable first-time market was run by Nicky King, Caryn Turner, Emma Serstz and Joanne Bickle. These lovely ladies who have been involved in the school in the past have gone out and created a community market for our local area, and the community market was established to showcase the wide variety of local products and services that people in our area and the City of Salisbury produce, and also to give space for families to come together on a weekend three times a year. It is held at the Lake Windemere School and it also allows the children to take part in some free community activities and allows the families to bond.

On Sunday there was free face painting, animals for the children to handle, a bouncy castle, and many fantastic stalls for families to partake in and to buy Christmas products, as well as home-made food and cupcakes. Salisbury High School students were there teaching younger kids in the local area how to make cake pops and letting them decorate them.

It was a really wonderful occasion in the new BER hall and it was a great use of that community facility in Uraidla Avenue. The markets run between 11am and 4pm and they will continue to run on a regular basis, and this time the Vix Body Art, the bouncy castle and the free

show animals by Animals Anonymous were all provided, as well as the Salisbury Star Guides (Girl Guides) and the Rabbit Fanciers' Association, and there was a food demonstration by The Community Foodies, all of which added to this important community event. I would like to praise the first committee that has established these important community markets, and I look forward to attending the next one on 24 March 2013, as it grows from strength to strength, as it started on Sunday.

VICTOR HARBOR SCHOOLIES FESTIVAL

Mr PENGILLY (Finniss) (15:28): There are a couple of subjects I would like to talk about today, one being the recent schoolies event at Victor Harbor. Depending on who you speak to, Schoolies catered for somewhere between 10,000 and 15,000 17 and 18 year olds, or around that age, in an environment which was conducive to their safety and wellbeing. It is something that has developed into an extremely well-run event. It has been brought down to three nights; it used to take a week or even longer.

I find that the organisation of the event is absolutely superb. It was overseen this year by Superintendent John Bruhn, the area commander-in-chief. He was commander of the schoolies operation. He did an outstanding job and he should be congratulated, along with his fellow officers from SAPOL across the board, who were down there for those nights and days and who looked after the welfare of those young people. Senior Sergeant Adrian Burnett in charge of Victor Harbor and his local crew were also very busy. There was very little trouble. Obviously, there was the odd incident.

In addition, I would mention the 600-odd volunteers from Encounter Youth who gave up several days and nights to look after these kids, they should be commended for the way they go about their job, along with, of course, St John volunteers and professional officers and the City of Victor Harbor council, who go out of their way to make sure that everybody enjoys it, and all of the other services that assisted, there are far too many to mention. It is worthy of noting that it was a particularly successful operation and the young people who I spoke to—I was down there on the Friday and Saturday speaking to them around the streets—were all having a good time. I would say that nearly all of them who I spoke to were in a very good frame of mind. I spoke to them during the daytime. It is going to continue to happen. Obviously, not every local resident is happy about it, but it is going to continue to happen and streamline as it goes on.

The other thing I would like to pick up on is the activities of the government's Kangaroo Island Futures Authority. This has been in operation for well over a year and I am concerned about where it may or may not be going. In fairness to some people on it, I do get briefings from time to time. There are two aspects of it that are particularly worrying at the moment. Unfortunately, we have people in these positions who do not understand what it is like to live on an island and do not understand the requirements of islanders, my constituents.

In particular, I raise the issue of the airport, which is owned by the Kangaroo Island Council. I am seriously concerned that KIFA is doing some deal with others. It could be with the council, I am unsure on that. It is all very hush-hush. The fact of the matter is that it is locally owned and it needs to be maintained and controlled locally. I am concerned that we will hear an announcement that the airport is to be leased out to another operator, whether that will be a mainland operator, I presume it would be.

That really worries me. The costs will go through the roof. It is all very well to talk about doubling the number of visitors coming to the island by sea or by air. If this loses local control—it is hard enough now for local people to fly. It is extremely expensive, unless you get a discount fare. The number of locals who travel is reducing rapidly and it will make it entirely prohibitive if an outside operator takes this on board.

The other thing I wish to raise is the subject of the ferry terminal at Penneshaw. I am concerned about this. It has been held up. The federal member for Mayo recently mentioned it in the local press. I am concerned that this is not taking place. It worries me that KIFA is sticking its nose into private operations and wanting to know the inside operating figures of private companies. It is not its job to do that. It is its job to do what its charter was, not to interfere in business operations.

Yes, people complain about the cost of the ferry, but it is actually the lifeline for Kangaroo Island residents first and foremost, and it is the best service that we have ever had on the island. Attempts to have competition have failed in the past. Similarly, they have failed in the airline industry. It worries me that this terminal is being, yet again, held up at Penneshaw. It is almost a

disgrace what is going on there. The government takes a million a year out in wharfage and the Kangaroo Island council recently announced—

Time expired.

JUNCTION COMMUNITY CENTRE

Dr CLOSE (Port Adelaide) (15:33): The other week I had the privilege of attending the AGM of the Junction Community Centre. As a precursor to the AGM the Junction Community Centre dancers gave some performances and I was so impressed, not only with their performances but with the work that their club does, that I wanted to bring it to the attention of this chamber. I can think of no better way to do that than to read their own history, which is extremely well written and a good summary of their work:

> The Junction dancers have been based at the Junction Community Centre in the Port Adelaide/Enfield area for over twelve years and over this time a caring supporting community has grown from the classes. It has become obvious that this has become more than a dance class but in fact offers an extended family to all involved, students, parents and families alike. Twelve years ago the Junction Dancers were a group of approximately 20 children with no permanent venue but were already supported by a committed community of parents and friends and a single teacher, Lucina Fogagnolo [who I had the privilege of meeting the other night].
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> The group could have been described as consisting of mostly home schoolers, ethnic minority groups, special needs and foster care kids, misfits and trouble-makers but as with most things, attitude and perception shape the reality and consequently it was significant and [meaningful] that the group always identified itself as being an energetic and exciting group which allowed for, and in fact celebrated, individuality and diversity. It is this positive attitude which has been the foundation of all the group's growth and achievements.
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> In 2001, when classes began at the Junction Community Centre, the group finally found a home and all a home offers: support, faith and encouragement. In this positive, nurturing environment and under the leadership of a growing group of dedicated, generous teachers the group grew not only in numbers but also in achievements. There was also a growing realisation amongst the children to aim higher and that they were capable of attaining dreams and aims which previously may have seemed impossible.
>
> Over the years we have seen the group triple in numbers, however, this is only a small indication of a far larger community. The group has nurtured many children from infancy to adulthood and many still drop in to say 'Hello', some are helping to teach and all still support the group where they can, in many cases family and friends also continue to offer support. Thus a Junction Dancers community event is often an exciting 'family reunion' with well over a hundred people. The group defines the term 'extended family'.
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> It is hard to know where to begin when listing the achievements of the Junction Dancers: on a group level, they have performed in almost every state of Australia and students have taught not only peers from Adelaide but also fellow students as far away as the APY Lands in Central Australia. They have choreographed and performed on reconciliation day, performed in the Adelaide Fringe festival, marched in the Port Adelaide Christmas parade and danced in support of many community and school events.
>
> It is impressive to consider that a group coming from an area of low socio economic and working class families has helped to raise close to $10,000 from charity events. On an individual level, students have gone on to obtain entry to performing arts degrees, joined performance groups, achieved roles on television. However, just as impressive are the new arrival refugees who in a few short years have learnt English and become vital members of the Junction community, and who are regarded by all with much respect and affection. All our students have stayed in school and completed Year 10 with the vast majority going on to achieve Year 12, and some aiming for and attending university.
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> The focused, motivated attitude fostered and encouraged by the dance classes has helped the children grow into positive, generous, conscientious, caring, young people who interact positively within their family and peer groups. It is exciting to consider what these children will achieve in the future. It has become evident that the Junction Community Centre Dancers is not just a dance class but has evolved into more of a youth club and it is this area that continues to grow. In the future it would be great to provide academic tutoring, nutrition and cooking classes and health and lifestyle advice.
>
> This could be achieved through set workshops and classes but also through group camps and getaways. Also for the past seven years, older students have travelled interstate, both performing and teaching workshops in Central Australia, Northern Territory [and other states]. A highlight has been a special relationship which has grown between our dance community and an Indigenous community on the APY Lands in Central Australia.

I wish to put on record my earnest support for the Junction Community Centre Dancers and the work that they have done.

PAYROLL TAX (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

INDEPENDENT COMMISSIONER AGAINST CORRUPTION BILL

The Legislative Council insisted on its amendments Nos 3, 24, 39, 40, 42 and 43, agreed not to insist on its amendment No. 6 to which the House of Assembly had disagreed but made an alternative amendment in lieu thereof and made a consequential amendment to the bill as indicated in the following schedule:

Alternative amendment to Amendment No. 6—

Clause 7, page 13, after line 15—After subclause (3) insert:

(3aa) Before a person is appointed to be the Commissioner, the Attorney-General must ensure that the position is advertised in a newspaper or newspapers circulating in each State and Territory.

(3aab) A person may only be appointed to be the Commissioner if, following referral by the Attorney-General of the proposed appointment to the Statutory Officers Committee established under the *Parliamentary Committees Act 1991*—

(a) the appointment has been approved by the Committee; or

(b) the Committee has not, within 7 days of the referral, or such longer period as is allowed by the Attorney-General, notified the Attorney-General in writing that it does not approve the appointment.

(3aac) Despite the *Parliamentary Committees Act 1991*, the Statutory Officers Committee must not report on, or publish material in relation to, matters referred to the Committee under subsection (3aab) except to the extent allowed by the Attorney-General (but this subsection does not derogate from section 15I(2) of the *Parliamentary Committees Act 1991*).

Consequential amendment—

New clause, Schedule 3, page 67, after line 39—After Schedule 3 clause 49 insert:

49AA—Amendment of section 15H—Membership of Committee

Section 15H(1)—delete subsection (1) and substitute:

(1) The Committee consists of 6 members of whom—

(a) 3 must be members of the House of Assembly appointed by the House of Assembly, of whom—

(i) at least 1 must be appointed from the group led by the Leader of the Opposition; and

(ii) at least 1 must be appointed from the group led by the Leader of the Government; and

(iii) at least 1 must be a member who does not belong to the group led by the Leader of the Opposition or the group led by the Leader of the Government (unless there is no such member or no such member consents to appointment to the Committee); and

(b) 3 must be members of the Legislative Council appointed by the Legislative Council, of whom—

(i) at least 1 must be appointed from the group led by the Leader of the Opposition; and

(ii) at least 1 must be appointed from the group led by the Leader of the Government; and

(iii) at least 1 must be a member who does not belong to the group led by the Leader of the Opposition or the group led by the Leader of the Government (unless there is no such member or no such member consents to appointment to the Committee).

Consideration in committee of the Legislative Council's message.

The Hon. J.R. RAU: I have a point of clarification. I certainly want to make a few remarks about this, in addition to or connected with the resolution of this matter between the houses, and I suspect other members wish to do so also. Would that occur now?

The ACTING CHAIR (Hon. M.J. Wright): Yes, you can do that and I will give the same opportunity to other members if they wish as well.

The Hon. J.R. RAU: Thank you. First of all, I indicate to the committee what the resolution of this matter is going to be. It is essentially that the new propositions advanced by the Legislative

Council, and in particular their amendment No. 6 and the consequential amendment to No. 6, will be acceptable from our point of view, and we will no longer be insisting on our disagreement to the other provisions which were the subject of the original disagreement. I think that is a fair summary of our position. If I understand things correctly, that should mean that, when we conclude this debate, we now have the matter resolved as between the houses, which is terrific.

I want to say a little bit about this journey that we are on and talk about just a few aspects of it, because there have been a few aspects of this in the recent past that I think have been quite admirable demonstrations of what the parliament is capable of doing, and there have been a few that are less admirable. I want to give members a bit of a history of how this has evolved, from the government's point of view anyway.

In August 2009, the then premier called for the introduction of a national anticorruption commissioner. As members may or may not recall, in May 2010 I attended a meeting of the Standing Committee of Attorneys-General where I raised that particular proposition with them and I was advised that that was not something that found favour across the commonwealth. On 6 May 2010, I announced a review into the operation and effectiveness of the existing public integrity system within South Australia. On 14 May 2010, I called for submissions on the preservation and enhancement of the public integrity system. On 14 June 2010, those submissions closed.

In November 2010, there was release of a discussion paper entitled 'An Integrated Model: A Review of the Public Integrity Institutions in South Australia and an Integrated Model for the Future' for public comment, which we called the green paper. On 25 March 2011, submissions on the discussion paper closed and a total of 26 submissions were received, with a few late submissions nevertheless accepted for consideration.

In the 2011-12 budget cycle the government allocated $11.4 million over four years to establish and run the proposed new anticorruption body. The funding was provided from 2012-13 and is currently held in contingency, as I understand it, by the Department of Treasury and Finance.

Mrs Redmond interjecting:

The Hon. J.R. RAU: Yes. On 24 October 2011, cabinet approved drafting of legislation to establish an Independent Commission Against Corruption and a separate Office of Public Integrity. In March of this year, consultation began with the Telecommunications and Surveillance Law Branch of the commonwealth Attorney-General's Department about amendments to the Telecommunications (Interception and Access) Act (Commonwealth) to enable ICAC to utilise telephone intercepts. On 13 February this year, consultation on the draft bill commenced with the major people involved. On 27 February this year, Mr James Hartnett commenced as the project director for the ICAC or OPI project.

On 30 April this year, cabinet approved the introduction of the Independent Commissioner Against Corruption Bill. On 30 May, the bill passed the House of Assembly. On the same day, it was received and read for the first time in the Legislative Council. Today is 28 October 2012 and it is about to pass. So, from 30 May until 28 November—not October, November. Yes, I am sorry; I had lost a month, but I have got it back again. Between 30 May and 28 November 2012, this legislation has gone nowhere because basically it has been parked in the Legislative Council.

The reason I have gone over this to some extent is to just point out that there has been a certain momentum about this going on for some time, and any suggestion that this bill has come out of nowhere and has not been the subject of consultation or proper consideration or, indeed, public debate is, quite frankly, nonsense.

The second point I would like to make is, throughout all of that period that I have just described, up to the arrival of this bill in the Legislative Council, at no time, certainly not in here, was it moved or suggested by the opposition that the method of appointment contained in the bill was unsatisfactory. The method of appointment is the method of appointment that applies to judges, the police commissioner, the Auditor-General and virtually everybody else—namely, that they are appointed by the Governor in Executive Council. This was not raised as an issue at all.

I have to say also—and I compliment the Leader of the Opposition for this—that what the opposition did do early on was make it clear that the importance of protecting the integrity and public reputation of an individual who might, for various reasons, come to the attention of the ICAC but never actually be found to have misbehaved or be the subject of any charge needed to be very,

very carefully guarded. I give credit where it is due. The Leader of the Opposition was quick out of the blocks to actually agree with the government on that and I commend her for that.

In places like New South Wales, for example, their commission was established and, the next thing you know, their premier is bundled out of office for what turns out to be nothing, but his reputation is in shreds. You cannot put Humpty Dumpty back together again, as far as Mr Greiner is concerned but, bad luck, that is just a casualty of having a so-called open system.

The Hon. M.J. Atkinson: Misfortunes of war.

The Hon. J.R. RAU: Yes. I say again that I commend the Leader of the Opposition for having recognised the total unfairness of the possibility of such a thing occurring to any public official, whether they are an elected member of parliament or anyone else, in South Australia.

So, there we have it: a model which was broadly agreed upon. I think, if I am reasonably accurate in my recollection, the Leader of the Opposition ticked off on a number of things that she thought were important and needed to be contained within the thing and, basically, our draft had them. Then, enter into the equation the Hon. Ann Bressington in the other place who decides, for reasons best known to herself, that she wants to introduce an amendment which would see both houses of parliament having to publicly vote, and possibly debate, the suitability of a candidate.

The Hon. M.J. Atkinson: Trial by ordeal.

The Hon. J.R. RAU: Trial by ordeal. In fact, when I conjured this up, I was thinking—

The Hon. M.J. Atkinson: The duck.

The Hon. J.R. RAU: The duck in *Monty Python and The Holy Grail* where they meet Sir Galahad.

The Hon. M.J. Atkinson interjecting:

The Hon. J.R. RAU: Exactly, Sir Galahad by the pond. I was thinking to myself, 'Is this really what we have descended to?' In a more sombre moment, I thought of the famous senator—

The Hon. M.J. Atkinson: Remember, that ended with the words 'fair cop'.

The Hon. J.R. RAU: Yes, that's right. In a more sombre moment, I am reminded of the great works of that well-known senator from Wisconsin who entertained the American body politic for about a decade. Again, did this actually serve justice? Arguably not. This is a bizarre method of appointment, which does not find any analogue anywhere in this country, and at best you can say it is a crude attempt to graft a bit of American congressional artefact onto the rootstock of Westminster—a most peculiar idea, I would have thought. Anyway, initially I thought the opposition, consistent with their position here, will just treat this for the nonsense that it is and recognise the fact that no sane person of any quality would want to put themselves through that ordeal.

As has been said, it would be potentially a trial by ordeal, and what if only one chamber liked you and the other did not? There you are: not quite there and not quite not there. Then, how do you go back to your colleagues? You might be a member of the bench and all and sundry discover that you are thinking of retiring, you go down there, one chamber likes you, the other chamber does not. You cannot really go back to the bench, because you have told them you are on your way. So, that is the end of you; you are finished. Seriously, what sort of clown would stick their hand up for that? The answer is, the sort that you would not want to have the job, because you would have to be a goose to put your hand up for that.

Mr Bignell: Does that weigh the same as a duck?

The Hon. J.R. RAU: Similar, a similar way of testing, but they are all guilty. Anyway, the Salem witch trial aspect of this is the bit that was offensive to the government. For reasons that one can only speculate upon, the Hon. Stephen Wade picked up on this thing and decided that he was going to run with it.

A cynical person might think that this was an attempt by him to continue to be able to cobble together the coalition of the unwilling that he seems to manage up there in the other place, and that by picking up this suggestion he somehow welded that coalition of the unwilling into one spot and guaranteed a series of votes for the opposition on a number of other matters by reason of his stubborn refusal to move on this one. Who knows; I was not there, but I do know that, from 30 May until today, we have been struggling to move beyond the quagmire that we got into when the Bressington amendment got in there.

Not that long ago—a matter of six to eight weeks ago—I had a meeting with the Hon. Stephen Wade and the Leader of the Opposition and indicated to them basically as I have just told the house. My problem was with this bizarre appointment method and what it would do to the potential pool of candidates. If they wanted to have some method other than the appointment by Executive Council, I would be happy to have a conversation with them about it, and I put a number of options on the table and invited them to have a think about them and get back to me. Well, they did not get back to me with anything, really.

The next thing I know, we are heading for deadlock. I have become pretty experienced in deadlocks since the Hon. Stephen Wade has been shadow attorney-general. He seems to like deadlocks. He likes the comfort of them, I think: the idea of sitting around with a bunch of your colleagues from both houses, nobody knowing what is going on outside that room, Mr Crump being able to sit there and take notes, and to be able to say the same things over and over again in a sort of *Groundhog Day* type experience. In fact, I was trying to get a small recording device to be able to play that song *I Got You Babe* at all the deadlock conferences, because that is how poor old Bill Murray used to wake up every morning.

Anyway, we are trying to avoid the deadlock conference. What happens then? It seems like everybody is committed to a particular course and then we have an attempt by the Hon. Robert Brokenshire to break through the impasse. He suggested that, if there are judges who are going to be appointed, they should be appointed as per the government's original proposition, but somebody else could go through the Statutory Officers Committee.

The government said, 'Right, this is a fair compromise. We will go with the Hon. Robert Brokenshire's compromise.' It became evident that the opposition and the coalition of the unwilling were not prepared to go with that. Why? Well, the argument was trotted out, 'Oh, why are judges special?' Thereafter, there followed a week (last week, which is one of the longest weeks of my life) of negotiations with the crossbenchers and Mr Wade, pretty well every day, in order to try to land on some agreement, and nothing came of it. We basically broke up on Friday without any resolution.

I discovered on Friday that the Hon. Robert Brokenshire had moved a further amendment to his amendment, which would say that everybody, including judges, would have to go to the Statutory Officers Committee. And I thought, wow, this might actually cause a breakthrough, because that was the problem. Ah, but they thought of another problem. You see, every time you solve the problem, you have to invent a new problem that you have not told anybody about yet so that there is a reason for you not doing it.

The next problem was, 'Ah yes, but, that committee has a majority of people from the government.' Look, I have 10 fingers, but the way my fingers work is Labor, Labor, Labor—that is three—Liberal, Liberal—that is two—Independent—that is one. Now, where is the government majority on that committee? Three out of six ain't more than half when I went to school; but, because Mr Wade uses a different form of accounting to the rest of us, that constitutes a government majority. So, we have now got to the completely bogus reason for not supporting it, that is, three is more than half of six.

So we then advance a whole bunch of argument and, by the way, most of the debate on this very important topic occurs on Leon Byner's program, with me just tuned into it, not with me directly. Oh, no, you could not possibly do that, because it might get somewhere. I said several times, 'Can we please just talk about this ourselves rather than debating this in the media?' 'Oh, well you're not going to nail me down.' Okay, fine. Anyway, we get to the point yesterday where three actually equals four out of six. We took that as a serious proposition.

Can I say, the member for Little Para, in a selfless act of dedication only rivalled by that of Captain Oates, said to me and other members on the government side, 'Look, I want this ICAC up, just like you do and, do you know what, I think I can do something to help. Even though the Hon. Stephen Wade can't count to three, maybe he can count to two.' And we thought it is worth a try. The honourable member did the honourable thing, and the Premier announced publicly that he had done this honourable thing in order to assist the government to persuade Mr Wade that three is not more than half of six, because we were pretty sure we could persuade him that two is not more than half of six, although we were not sure. We made that statement and, goodness me, that was not good enough either.

Why was it not good enough? Because, the government of the day might change its mind and make it three again and, of course, we all know that three is more than half of six, and that

would not do. That would not do; we would be back to more than half again because we had three. So, we thought, goodness me, how can we solve this problem? And then we worked it out. We would actually put it in the legislation, in effect, that it is going to be two government, two opposition, two Independents, if there are Independents in both houses and, if not, up to the chambers. As best I can tell, Mr Wade got his abacus out and calculated it, and worked out that that meant that no one had a majority. At that point he announced to Leon Byner's listenership that we probably had an agreement.

The Hon. M.J. Atkinson: You mean the court of public opinion.

The Hon. J.R. RAU: The court of public opinion, indeed. To say this process has been tortured is the most grotesque understatement I will ever make in my life, but I will say this: in the end—

The Hon. S.W. Key interjecting:

The Hon. J.R. RAU: Pardon?

The Hon. S.W. Key interjecting:

The Hon. J.R. RAU: No, fair enough, I withdraw that last comment. It may not be the most grotesque. Although it has been torturous and although we could have had this thing up and running a long time ago, I say to the Leader of the Opposition quite sincerely that I appreciate, and the government appreciates, that finally we have been able to come to a landing on this point, in spite of all the tortured route to get here and in spite of all the manifestly peculiar (if that is a neutral word) statements by Mr Wade about why we were not here some months ago (usually on the radio over the last few months). The most gobsmacking one, of course, is this mathematical one where, as I said, three is actually more than half of six. I am still grappling with that one but, luckily, that is no longer a pitfall.

What is going to happen now is this. I am trying, if I can, to have ads in the paper this weekend. If it is not this weekend, it will be next weekend. I am about to, when I get out of this place, say to the team organising the preparation of the logistics—the finding of a building, etc.—

Mrs Redmond: *Thunderbirds Are Go.*

The Hon. J.R. RAU: '*Thunderbirds Are Go*. Press the button, folks. Start looking.' I will be very keen to move this thing along at the greatest speed I possibly can, and I am delighted that we have got past this point. Can I also say this for all those wise guys from interstate. Mr So-and-so from Western Australia has read a newspaper article in *The Australian* about our ICAC which goes into two columns and it is written by that fellow who has not read the bill himself and it says it is secret. He then feels he is in a good position to pontificate upon the detail of our bill. I am sorry, I am not impressed by you; and the chap from New South Wales, who seems to be the font of all knowledge about pretty everything, who goes into print regularly to talk about it.

Then, of course, News Limited were so late on the bus they missed it altogether. The issue about secrecy was dealt with six months ago, 18 months ago: in the last couple of weeks they have attempted to stir up this frenzy of activity about secret, secret, secret. It has been such a secret secret that it has been sitting there in front of him for the last 18 months. What a secret that is. But it is only in the last couple of weeks that they have got agitated about it.

Why have they got agitated about it? I suspect I know why. It is because Mr Peter Campbell came to visit me with some of his clients, who call themselves Free TV, to talk about another matter a while ago and one of Mr Campbell's clients said, 'You had better fix up the secrecy provisions in the ICAC. We're going to do something about that.' I said, 'No, you are not. That bus has gone, sunshine. The dispute between the houses does not concern that bit. Too late. Where have you been for the last 18 months?'

What happened, of course, as a result of that is we had the impartial commentator Mr Campbell in the *Sunday Mail* on the weekend telling me how unbalanced I am. But I do not act for most of the media outlets in South Australia. I think it would have been helpful if, instead of being described as 'media analyst and expert', he was described as 'lawyer for pretty well every media outlet in South Australia and for every TV station, etc.' That at least then would have put things in some perspective.

Anyway, I am pleased—I am genuinely pleased—that all of that is now behind us and we can go on with this in a very constructive way and get the place set up and established. I am hopeful that in the first quarter of next year we will have this thing functional in some rudimentary

way and hopefully by the middle of the year we will have sufficient of the systems up and running and in place for people to feel confident that the ICAC is functional and operational.

Even though it has taken a long time to get here and, as I said, it has been a tortured process, I do sincerely thank, albeit at the last minute, the Leader of the Opposition for accepting the wisdom of the compromise that was offered by Mr Brokenshire in the other place. We are all better off for this and we will go into the Christmas break knowing that South Australia is going to have the ICAC that it wants and the ICAC that it needs, and one that is designed for our requirements and not picked off a shelf somewhere in Sydney or picked off a shelf somewhere in Perth. Remember, those ICACs were designed to deal with an acute crisis brought on by a very clear catastrophic problem with public integrity in those states.

We are not dealing here with a situation where we are having to consider this in a state of emergency. We are able to reflect on this calmly in the context of us putting in place a form of insurance which will guarantee the public that, over time, there will be a watchdog which will report to this parliament and which will be answerable to a parliamentary committee in this place to give people confidence that the public sector in this state is functioning properly.

Mrs REDMOND: I am just bewildered that the Attorney-General suggests that it has taken a long time and a tortured process to get here because they are indeed words that I would use, not because it has taken six months, Attorney, but because it has taken six years. When I was shadow attorney-general, the then leader, Iain Evans, asked me to start looking into this way back, and then in 2007 we announced a policy which was steadfastly refused and refuted by this government for five of the last six years.

It is only in the last 12 months that this government has even agreed to the proposition that this state should have an independent commission against corruption, and I will guarantee you they only did that because their polling said that they needed to do it. Their polling said they needed to do it, so after five years of saying, 'No, no, no, we don't need an independent commission in this state,' their polling said, 'The public really want this and it's a problem for you because the other side have this policy.'

I attended Australia's first anticorruption conference and I remember at that conference they were talking in trillions of dollars as the amount of money that corruption costs communities and economies around the world—trillions of dollars. That is thousands of thousands of millions of dollars that it costs economies around the world. There is no reason on earth to suspect that South Australia is any exception to any other place. There will be corruption particularly as systems get bigger and more complex. The opportunity for people to act corruptly actually increases and it is inevitable, as the 'cartridgegate' scandal showed and as potentially the Burnside council matter showed, except that we are never allowed to find out what the outcome of that particular inquiry was.

At that very first anticorruption conference, Labor premier Morris Iemma made the opening address and he said, 'Any jurisdiction that thinks they don't need one is crazy,' but then that just shows that even he thought this government is crazy because they insisted that we did not need one. We did not need one, we were never going to need one and they resisted it and resisted it until the last 12 months. They were dragged, kicking and screaming, to a concession that, 'Yes, we do need an independent commission against corruption.' As I say, that was something that we initiated six years ago after Iain Evans as then leader asked me as then shadow attorney-general to start work on developing a policy in that regard.

In 2007 we announced our policy. In 2008 we introduced our bill and it was based essentially on the New South Wales model because we thought there was value in trying to learn from the interstate experiences. We looked at various models from around the country and we decided that the New South Wales model had the three essential elements that to us were the base stones of how we would build this ICAC, because there are three different parts.

People tend to concentrate on the fact that there will be investigations, and indeed there will. You may all recall, of course, that premier Rann used to say, 'It's going to be a lawyers' picnic,' but in fact there are not that many lawyers involved in the ICAC process. It is actually largely occupied by investigators, and a number of investigators in interstate ICACs are indeed former police officers, rather than lawyers.

There are not so many lawyers in the ICAC because, upon the successful investigation, if an ICAC decides that a matter is to be prosecuted, that prosecution actually goes off to the DPP or other appropriate authority for prosecution. It is not actually a place where you have a lot of

lawyers, but investigations are only one component of what is essentially, as I said, a three-pronged matter.

The second component is that of an education process. It is remarkable to me the number of people who simply do not realise what they are doing is corrupt—for example, the 'cartridgegate' situation in this state. I am sure that although some people acted knowingly in a corrupt way, there were others who did it quite innocently because, after all, if you are doing what they did in a private company that you owned yourself, there is no problem. If they say, 'Look, if you buy these cartridges from me at this price I will give you a flat screen TV', that is perfectly allowable if you are the person who owns the company doing the purchasing. The problem was they did not understand that, as public servants, their behaviour was corrupt.

As I say, I think there are probably public servants involved who simply did not realise that what they were doing was corrupt. There were, no doubt, some who absolutely knew that it was against the rules and that they should not be doing it. There are really vexed questions: what if the flat screen TV had, in fact, been used within the department and put up on the wall for some legitimate use within the department? Would that have been a corrupt action? Indeed, one of the most valuable parts of the anticorruption conference that I attended some years ago was a workshop involving trying to analyse some of these scenarios, which were real-life scenarios, to decide what was a corrupt action and what was not.

I do believe that it is really important for us to teach people about what is corruption. You may recall—I think it was Gordon Nuttall, the Queensland politician—he did not understand that it was corrupt of him to receive $10,000 a month from developers because, after all, he was not using it for his own benefit, he was simply using it to help his children get houses. That shows a striking lack of understanding of what might be corrupt conduct. Nevertheless, it does demonstrate that there is a vast lack of understanding in the community about what can constitute corrupt conduct.

Apart from investigating and educating the public, the third component—which is equally as important although, again, it does not get as much attention—is that of identifying the potential for corrupt conduct. As I said, we have much more complex systems these days and that leads to more potential for corrupt conduct to occur. Once upon a time a local sports organisation was managed with a cheque account that was signed by a couple of members of the committee, and there was a two-signature process on cheques, and that was basically your fail-safe to make sure that one person could not write a cheque for their own benefit and fix up the books. However, as soon as you start to put computer systems in place that one person will have access to, there can be problems with how you keep track and how you make sure that people are not able to corrupt the system for their own benefit.

I served for 28 years on the Stirling hospital board. It is not a government organisation so it is not going to be subject to an ICAC, but from day one of the appointment of a particular financial officer—who had come highly recommended with exceptional references from a company that turned out to be pretty dodgy—he started stealing from that community hospital. It never had any government money; it was a community hospital. We did not discover it for a few years; $450,000 later that community hospital discovered that this guy had been corrupting the system of bookkeeping. He was our chief financial officer. He spent a couple of years in gaol (which is a good thing) but, increasingly, particularly when you have people who may have gambling addictions or the like, there is the impetus to obtain money. When people get a bit desperate they will do things that perhaps they might not do in other circumstances.

So the third and important component of the Independent Commission against Corruption is that we make sure that we have people who are forensically skilled in the accounting processes and all the other processes of government agencies, departments and councils and so on to analyse the processes, see where there could be the potential for corruption, and ensure that that corruption is limited in the potential for it to occur.

Basically, I accept that the government's ICAC Bill includes those three elements and so, to that extent, there is a mutuality in what we have been wanting. However, can I remind you all that when we introduced our bill, because we had modelled it on the New South Wales model of the ICAC, we said, 'Well, okay, we know we will be criticised about how much this is going to cost. So that there can be no criticism of what it is going to cost, let us actually take the New South Wales model and ask how much it costs and we will use that amount.' So, it was $15 million at the time.

We thought, 'Well, no reasonable person could possibly argue that we were not particularly well funding this if we are using the same amount as New South Wales uses, given that they have a very significantly higher population and that theirs has been up and running for nearly 20 years, now.' We thought that no-one could possibly say that is not a sufficient amount, but from day one the government started saying, 'This is going to be not just a lawyers picnic, it is going to cost $30 million to $40 million.' Thirty to forty million dollars was going to be the amount that this ICAC was going to cost.

There was no justification for that figure, given that we based it on the New South Wales model and their much bigger population. We were using the same figure from their annual report as to exactly what it cost, and yet the government kept doubling it and then adding another third on top of it for good measure. So, what do we get when this government introduces its ICAC, dragged, as it was, kicking and screaming? Six million dollars, not even half of what we said in our original proposal, and yet the government says this is going to be more than sufficient. It is just extraordinary that they do these things.

As the Attorney-General said, we have been working on a number of issues that we had with this particular model because there were still some niggling issues that we thought needed to be sorted out. In spite of the fact that the government has been merrily saying that our model did not have any system of parliamentary scrutiny for the appointment that was about to take place of an independent commissioner, the reality was that in clause 90 of the bill we had said precisely that there would be a committee of the parliament which would oversee and, indeed, have an ability to veto the appointment.

Why would you want that to exist? You would want that to exist to ensure that the government made an appropriate appointment. We did not want to involve ourselves in the advertising, the consideration, the selection process. We were never about trying to make sure that we were a part of that process, but we did think it was important for the government and opposition, at least, to agree that it was an appropriate appointment.

Why would you want that? Pardon me if I am a bit cynical about this government but just in the last week we have seen a few questions in this chamber about the appointment of one Mia Handshin. The minister told us in the previous sitting week that Mia Handshin was appointed under section 14B(5)(f) of the Environment Protection Act.

Mr Griffiths interjecting:

Mrs REDMOND: It was out of (a), (b), (c), (d), (e), (f), (g), I think, and (f) was the paragraph that he selected as the potential appointment provision. When you look at subparagraph (f) what it says is that the appointee must have qualifications and experience in management generally—she said on radio that she did not have any—and qualifications and experience in public sector management. She admitted on radio that she does not have any of those qualifications and that specifically is what the minister said she was appointed under.

She does not have any of the qualifications required and yet the government has merrily appointed her, not just to the board but to chair the board. Why would a government do that? Some unknown person who happens to be a former Labor candidate; one of many former Labor candidates that this government has appointed to particular positions. So, you can understand that this side of the house was somewhat cynical about the intention of the government to appoint someone appropriate as the independent commissioner against corruption.

There were a couple of other things that we were concerned about in relation to this legislation. The Attorney-General reminded me of the issue of the secrecy of the intended commission and he is right, I absolutely recognise the need for a level of protection of people who are accused by people wishing to make a complaint to the commission. It has been obvious in a number of jurisdictions that the ICAC—I will use the term 'ICAC' when I am referring to the Crime and Misconduct Commission and the various other things around the country—has been used as a weapon, often a political weapon, to damage people's reputations and, indeed, to go in and report someone to the ICAC, it might be on a completely nebulous allegation, but then to come and do media outside saying 'I have just reported this person to the ICAC.'

We all recognise that considerable damage can be done to a person's reputation and often once done it cannot be corrected, so I absolutely accept and endorse the concept that we need to protect the reputations of people and give sufficient protection. There are a number of things you can do. I spoke to one of the commissioners in New South Wales—I do not think he is a commissioner any longer—and he said he always made it his habit to go to the person who put in

the complaint and say to them, 'If you breathe one word about having made this complaint, be aware that I will investigate you just as thoroughly as I am investigating the person you are asking me to investigate.'

There are various mechanisms but that turned out to be a pretty effective one according to him because people actually do not want themselves investigated but, equally, we have to make sure that we do not allow anyone to use it as a weapon in unjustifiable circumstances. Even where they think they have a legitimate complaint, it can nevertheless be a completely erroneous complaint, and someone's reputation could be trashed, and we need to do what we can to protect against that. Balanced against that, however, is the need that the public has confidence in the accountability and transparency of the process. So we believe a level of scrutiny will always be necessary and desirable.

For that reason, we have taken the view that, rather than having a blanket ban on public hearings or, indeed, a blanket requirement for public hearings, we should actually leave it up to the commission. I can envisage that there would certainly be cases where something might start out as a very private hearing until some sort of prima facie case is established, at which point it might become a public hearing. I think that that is an absolutely reasonable thing. In Western Australia they had a blanket ban on public hearings and, in fact, they have moved away from that. I think that they were the only jurisdiction that had that particular blanket ban, but they moved away from it for the good reason that you need to have confidence, and that equally with the need to protect the reputations of people, you balance the need for the public to be able to see what is going on so that it is not some sort of star chamber conducted totally out of the public eye and without the right of the public to know what is going on. So there is that need to balance that particular issue.

The other aspect where we still have something of an issue, but we have given ground on it at the moment, is that of the criminal onus of responsibility. The criminal level is, we believe, too high. We believe that the definition of corrupt conduct should be the internationally accepted definition rather than the definition provided by the government here which requires, basically, the criminal onus. I am sure that we are all aware of situations, whether we have observed them in local councils, departments or agencies—all sorts of places—where situations can arise where people think that is a pretty dodgy practice but it may well not be a criminal activity—and unless it is a criminal activity it is not going to be caught by this.

We believe that it should be a slightly broader definition because there are situations where people play favourites. If you are the owner of a business, once again, you are perfectly entitled to play favourites and to give your contracts to your best friend or your next door neighbour or whomever you want, but if you are a government department or a government agency or a local council you are acting on behalf of the public, and you do not have that same right to do those things at your discretion. Yet, it is obvious to me, from casual observation, that there is a lot of favouritism played in terms of letting of contracts and creating lists of who are going to be the favoured tenderers and so on, and that that is one of the issues that we need to get at.

We have the independence of the commission, we have the secrecy of the hearings, and we have the issue of this onus that we have to reach of criminal activity being required. Why do we give way on the secrecy and the criminal onus but not on the independence of the commission? It is very simply this: that those other two, the criminal onus and the secrecy provisions, can actually be checked and corrected by us in government, and we hope to be in government in little over 15 months.

The reason that the appointment of the commissioner was such a die-in-the-ditch issue was that, once that commissioner is appointed, we are stuck with that commissioner potentially for the next 10 years. So, if it is a bad appointment—and I have no reason to believe that it will be a bad appointment, but nor do I have any confidence in this government, given the Mia Handshin appointment to the EPA—then I actually think we need the chance to say, 'No, that is not an acceptable appointment.'

From my point of view, there is an absolutely rational decision about why we would say, 'Okay, those two matters can go through to the keeper; we can correct those in office, but we are not prepared to give complete ground—we have given up a bit, but we are not prepared to give ground.' Indeed, I thank the government for finally agreeing not just to have an ICAC but that the ICAC appointment needed some level of parliamentary scrutiny. I will finish on that note.

We believe that it is not a perfect model, as so many things are never perfect, but we are prepared to accept that the government has introduced an ICAC. We do not think they have

necessarily funded it at a rate commensurate with what their suggestions about our ICAC would have warranted, on their own commitment, but we do believe that it is essential for this state to have an ICAC. We have argued for it for six years. As I say, I am bewildered that the Attorney-General could baulk at the fact that there was six months of trying to negotiate this last bit of the outcome, but I am happy that we have it.

I am happy that by the end of the year, therefore, the Attorney-General can put in place the advertisements and so on to start the process of actually having an ICAC in this state, to bring us in line with every other jurisdiction in the country.

The Hon. M.J. ATKINSON: On the question of how an ICAC commissioner should be appointed and the story of how the Hon. E.P. Mullighan came to be appointed to conduct an inquiry into sexual abuse of wards of the state in 2004, the Hon. S.G. Wade, who was not a member of parliament at the relevant time and was not at the celebrated 2004 meeting, regaled the other place last night with a story to rival *The Protocols of the Elders of Zion* and Pugachev's claim to be Tsar Peter III.

In 2004, the Rann Labor government decided to appoint a commissioner to investigate sexual abuse of wards of the state. Many people were claiming to have been abused when they were wards of the state. Growing out of these claims, some of which were verifiably true, was the claim that there was a paedophile conspiracy at the highest level in Adelaide society. The cabinet canvassed appointing Justice Mullighan of the South Australian Supreme Court. He was still a serving judge but was due to retire in two or three years' time.

Justice Mullighan agreed to accept the appointment but stipulated that he would like the agreement of the opposition to his taking it. I do not know exactly why he stipulated this, but common sense tells me that opposition consent might inoculate him against some of the conspiracy theorists of the time, including one who was on Graham Archer's payroll at *Today Tonight* Adelaide.

The Liberal opposition was informed of Justice Mullighan's candidature. The Liberal opposition agreed to come to a meeting in the large boardroom of my ministerial office to discuss this with me and the then minister for families and communities, now the Premier. The opposition members attending were the Hon. R.D. Lawson, then my shadow, and the member for Heysen. I asked the Hon. R.D. Lawson what the parliamentary Liberal Party's position was. He replied that the matter had been discussed in the party room and some members of the party room—not him—were concerned that Ted Mullighan had shared chambers with Roma Mitchell, formerly a QC, Supreme Court justice and state governor. I asked what the problem with that was and the Hon. R.D. Lawson replied that we all knew what she was. This exchange lay dormant for eight years.

In debate on this bill in the house on 18 October, prompted by the Leader of the Opposition (the member for Heysen) making what transpired at that meeting a reason for not supporting the government's proposed method of appointing the ICAC commissioner and, indeed, making that meeting a reason for impugning the integrity of the Premier, I told the house what else happened at the meeting. The Leader of the Opposition interjected, and I quote:

> I agree it was said, but it wasn't the principal reason.

The word 'reason' in that interjection means the reason the parliamentary Liberal Party did not want Mullighan appointed. The Leader of the Opposition further interjected, and I quote:

> I said it was a reason that was mentioned at the meeting.

A reason for the Liberal Party's opposition to Mr Mullighan, according to the Leader of the Opposition, but not the principal reason. I ask members to note that the Leader of the Opposition, though she claimed then and subsequently to have notes of the meeting, does not attribute the imputation about Dame Roma Mitchell to me or argue that I was giving it as a reason for not appointing Mr Mullighan. Plainly, as the attorney-general of the day, I was supporting Mr Mullighan's candidature.

The Leader of the Opposition was then interviewed by Matthew Abraham and David Bevan on their breakfast program on ABC 891 on 24 October. Explaining her role in this meeting, the Leader of the Opposition confirmed that the imputation was made, but she said it was not the principal reason for the Liberal Party's opposition to Mr Mullighan's appointment and, in any case, she was only a new frontbencher. The principal reason, she explained, is that the Liberal Party

wanted someone from interstate. So it was left for a month. Last night, in another place, in a post-prandial contribution, the Hon. S.G. Wade told the chamber, and I quote:

> During the course of the discussion, the attorney-general said words to the effect, 'What if someone claims they were abused by Roma Mitchell?' Lawson responded by saying...'This is why we need an outside commissioner. Mullighan would have a conflict of interest if such an allegation was made because he has had a longstanding professional and personal relationship with her. They once shared chambers. He was her counsel assisting in the Salisbury Royal Commission.'

The Liberal Party returns to two of its favourite conspiracy theories: the high-level paedophile conspiracy conflated with the Harold Salisbury dismissal conspiracy. The remarkable thing is that, 34 days after the Abraham and Bevan interview and 40 days after the Leader of the Opposition's admission in the house, the raising of Roma Mitchell at the 2004 meeting is now transferred from the mouth of the Hon. R.D. Lawson to my mouth.

It is as if the Leader of the Opposition had, like Our Lord, retreated to the wilderness for 40 days to fast and pray, to commune with the animals and come up with an explanation for her admissions in the house and on ABC 891 and also to dig her old factional enemy, Robert Lawson, out of the pit into which she had cast him by her admissions.

I recall a meeting of the Statutory Officers Committee—now highly relevant to these deliberations—to hear from the then acting ombudsman, Mr Ken MacPherson. I think it might have been Ken's appearance before the Statutory Officers Committee to answer questions about his proposed appointment as acting ombudsman.

Mr Pengilly: Of blessed memory.

The Hon. M.J. ATKINSON: Of blessed memory. It was attended by the member for Heysen and the Hon. R.D. Lawson. The member for Heysen asked Mr MacPherson a series of hostile questions on the barely disguised assumption that he was an ALP stooge. The questioning became so angry that the member for Heysen rose in her place and flounced out of the meeting. It is all recorded on *Hansard*. The Hon. R.D. Lawson rolled his eyes extravagantly, shook his head, made a quip that I shall not repeat and brought us back to the business at hand.

I shall leave it to the common sense of my listeners whether, counterintuitive as I may be, I would raise at a meeting to discuss Justice Mullighan's appointment as commissioner the irrelevant and fanciful possibility that someone would raise an allegation against a woman then dead for four years who had a stellar career as Queens Counsel, Supreme Court judge and viceregal representative. It was me who was proposing Mr Mullighan's appointment and the Hon. R.D. Lawson who was seeking to veto it. The Hon. R.D. Lawson protesteth too much, and the Leader of the Opposition should remember the British version of the police caution: you do not have to say anything, but it may harm your defence if you do not mention when questioned something you later rely on in court.

Ms CHAPMAN: I join with others in welcoming the amendments from the other place and indicate my support of them. Given the rant that we have just experienced from the former attorney-general, I am compelled to make a contribution which will outline the whole of the material which has been issued by our leader. I will, of course, race to her defence in confirming her position on this matter. She said that in debate on the ICAC Bill on 16 October 2012 the member for Croydon claimed that, at a meeting between representatives of the government and the opposition regarding the proposal to appoint Ted Mulligan as commissioner to inquire into the abuse of children in state care, the then shadow attorney-general, the Hon. R.D. Lawson said:

> ...we've have had a discussion about this in the Liberal Party room and some members, not named, have made the point...that Ted Mullighan once shared chambers with Roma Mitchell.

The member for Croydon then claimed:

> ...it became clear that you could not have someone who had shared chambers with Roma Mitchell be a commissioner for an inquiry into the sexual abuse of wards of the state because someone in the Liberal Party room had raised questions about Roma Mitchell's sexuality.

The member for Croydon, then attorney-general, went on to claim:

> That was the principal reason that the Liberal Party would not accept Ted Mullighan as the commissioner of that inquiry.

These claims by the Hon. M.J. Atkinson, now just the lowly member for Croydon, are false. These claims have now been interpreted by Mr Abraham on the ABC on 24 October 2012 to mean that

the Liberal Party did not initially support Mr Mullighan's appointment because, to use Mr Abraham's words:

> ...the Liberal Party had a problem with somebody sharing chambers with a lesbian investigating child sex abuse...

That rather far-fetched interpretation is also misconceived. As our leader has previously stated on a number of occasions, the sole reason the Liberal Party did not initially support Mr Mullighan's appointment was the belief that the inquiry should be conducted by someone from outside of the state. The Liberal Party wanted a commissioner who would be seen, especially by the victims, as a person who was completely independent of South Australia. That was our only reason. Our objection was not to Mr Mulligan the person. The fact that Mr Mullighan had shared chambers with the late Roman Mitchell was never raised in the Liberal party room, nor, contrary to the member for Croydon's claim, did the Hon. R.D. Lawson ever say that someone in the party room referred to that fact.

The claim of the member for Croydon that the sharing of legal chambers was the principal ground of the party's objection is an invention on his part. The fact that Mr Mullighan and Roma Mitchell had once shared chambers arose in the meeting attended by Liberal leader Mr Rob Kerin (the former member for Frome), our current Leader of the Opposition, the Hon. R.D. Lawson, then minister Jay Weatherill, and attorney-general Atkinson. During the course of the discussion the attorney-general said words to the effect that:

> What if someone claims they were abused by Roma Mitchell?

The Hon. R.D. Lawson responded by saying words to the effect that, quote:

> This is why we need an outside commissioner. [Mr] Mullighan would have a conflict of interest if such an allegation were made because he has had a long-standing professional and personal relationship with her. They once shared chambers. He was her counsel-assisting in the Salisbury Royal Commission.

On 18 October our now leader said, 'I agree it was said, but it wasn't the principal reason.' Our leader was agreeing that it had been said at that meeting that Mr Mullighan and Ms Mitchell had shared chambers. She said:

> I was not agreeing to the proposition that it was said by Hon. R.D. Lawson or anyone else that you 'couldn't have someone who shared chambers with Roma Mitchell [as] commissioner...because someone in the Liberal Party room had raised questions about Roma Mitchell's sexuality'.

Our leader rejects the member for Croydon's attempt to verbal her by suggesting that her statement, 'I agree it was said,' had extended beyond her agreement that it had been said that the two people under discussion had shared chambers. Further, our leader had a recent discussion with the Hon. R.D. Lawson about the matter and what she had just said accords with his recollection.

The Hon. R.D. Lawson says that he had the highest personal regard for Mr Ted Mullighan and they shared legal chambers before Mr Mullighan was appointed to the Supreme Court. Likewise, he enjoyed a good professional relationship with Roma Mitchell. Mr Lawson strongly rejects the member for Croydon's allegation that he ever made any insinuation about her personal life or about Mr Mullighan's capacity to undertake the inquiry.

So, let us ensure that this information is on the record and clear in this part of the debate. I am very disappointed that the member for Croydon would come in and attempt to extract, even from yesterday's contribution in another place, selective excerpts for the purposes of pursuing what has been, I think, an unconscionable contribution to this debate about the history of this matter. I hope that it is laid to rest and that more energy by him, and others on that side, is put to the appointment of an ICAC commissioner so that we might progress the attention, detection and prosecution of corruption which surely resides in this state.

The Hon. J.R. RAU: I think we have all had a bit of a go at this today so I will not go for too long on this other than to say I do thank all members for their contributions. Can I say, though, that, having listened again to the Leader of the Opposition, she in particular seems to be focused on the ghosts of Parliament House. There was quite a bit of time spent addressing issues about the former member for Ramsay, who has not been here for quite some time and, as best I can tell, he is not particularly worried about what is said about him in here presently, and I do not think he was in the past. I do not know why we focused on that. The fact is that the government is working hard in the present and planning for the future. The opposition is existing in the present and raking over the coals of the past, and that is really a bit sad, I think.

The other thing, just to make an observation, is that up until the volte-face today (for which I am grateful) the opposition appeared to be determined to make sure that this bill was either defeated or perpetually deadlocked so that they could then bash the government out for not having passed the bill. That was the strategy. That was the substitute for them having a policy about pretty well anything. Anyway, I am glad that is finished. Therefore, I move:

That the House of Assembly no longer insist on its disagreement to amendments Nos 3, 24, 39, 40, 42 and 43.

Motion carried.

The Hon. J.R. RAU: As to amendment No. 6, I move:

That the House of Assembly agree to the alternative amendment No. 6 and agree to the consequential amendment.

Motion carried.

LIQUOR LICENSING (SMALL VENUE LICENCE) AMENDMENT BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (16:46): Obtained leave and introduced a bill for an act to amend the Liquor Licensing Act 1997. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (16:46): I move:

That this bill be now read a second time.

The Liquor Licensing (Small Venue Licence) Amendment Bill 2012 amends the Liquor Licensing Act 1997 to provide for a new category of liquor licence aimed at providing flexibility to the owners of small venues, and a new streamlined process for small venue licence applications.

The aim of the small venue licence is to provide entrepreneurs with a liquor licence that is flexible enough to accommodate a variety of small business models, from food-orientated businesses such as small tapas and sushi bars—or 'tay-pas', as it is referred to in *The IT Crowd*, for those of you who have watched that show—to hybrid businesses that operate as restaurants during peak meal times or on certain nights of the week, but bars outside of those times, to small specialist bars, such as wine or whisky bars, and small bars that provide patrons with an alternative to large, traditional hotels and night clubs. The proposal also aims to encourage small venues to host live music. This will encourage business activity and diversification in the liquor market and promote the live music industry.

On 23 November 2011, the Premier announced plans to transform the little-used laneways of Adelaide's CBD into vibrant spaces that attract people to the heart of the city. In his announcement the Premier identified changes to liquor licensing laws as one of the key areas for action. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Both Melbourne and Sydney have had success in revitalising CBD and inner-city laneways. In these jurisdictions the State Government has contributed to the laneway redevelopment programs by amending liquor licensing and planning laws to encourage the establishment of small licensed venues. These small venues, which operate as bars, cafes or under a hybrid bar/restaurant business model, offer a different experience, and aim to attract a different demographic, to hotels and nightclubs.

As currently structured, the liquor licensing regime does not properly accommodate this kind of hybrid business model nor does it provide a licence that is suitable for a small bar that does not wish to operate as a restaurant or night club. The current licensing framework provides for the following classes of liquor licence:

- hotel licence;
- residential licence;
- restaurant licence;
- entertainment venue licence;
- club licence;
- retail liquor merchant's licence;
- wholesale liquor merchant's licence;

- producer's licence;
- direct sales licence;
- special circumstances licence;
- limited licence.

There is no small or general venue or bar licence category.

While the hotel and special circumstances licences can, potentially, accommodate the business model of a small bar or hybrid venue, small entrepreneurs find them difficult and costly to obtain.

Hotel licences are provided for by section 32 of the Act and is the class of licence with the most extensive trading rights.

A hotel licence is subject to a number of conditions relating to mandatory opening hours and the service of meals. Consultation with small venue owners suggests that these conditions often renders a hotel licence unsuitable to the business model of a small bar or hybrid bar/food business.

A further problem posed by the hotel licence provisions is the requirement, under section 58 of the Act, that the applicant satisfy a 'needs' test.

Broadly speaking, the needs test is satisfied by proof of a gap in the market in the relevant locality rather than a general shortage of liquor, or even of a shortage in the particular locality. For hotels, this means demonstrating that they will deliver some service that is not already available in the locality. The applicant for the licence bears the burden of proving the relevant need.

The large number of hotels in the CBD make it very difficult for an applicant who wants to start a small licensed venue under a hotel licence to establish the venue is necessary in order to provide for the needs of the public in that locality.

A special circumstances licence, provided under section 40 of the Act, is very broad. It authorises the licensee to sell liquor for consumption on or off the licensed premises in accordance with the terms and conditions of the licence. Subject to whatever conditions may be imposed, a special circumstances licence provides sufficient flexibility to accommodate the business model of a small bar, restaurant or hybrid venue as proposed.

However, while the grant of a special circumstances licence is not subject to a needs test, it is subject to a major limitation. Subsection 40(2) of the Act provides that a special circumstances licence cannot be granted unless the applicant satisfies the licensing authority that:

- a licence of no other category could adequately cover the kind of business proposed by the applicant; and
- the proposed business would be substantially prejudiced if the applicant's trading rights were limited to those possible under a licence of some other category.

An applicant for a special circumstances licence who wishes to run a small bar or hybrid business will have great difficulty establishing that his or her business would be substantially prejudiced if it were forced to operate under a hotel licence, given the powers of exemptions available to a licensing authority. This creates a circular problem, as an applicant for a hotel licence is required under section 58 of the Act to satisfy the 'needs' test.

The difficulties posed by the hotel licence and special circumstances licence provisions mean that many small venue owners are forced to operate under restaurant or entertainment venue licences.

The problems with a restaurant licence, when applied to the business model of a small bar or hybrid business, are two-fold. Firstly, it requires patrons to be attending a function at which food is provided, or to be seated in order to be served liquor without a meal. Secondly, except as otherwise allowed by a condition of the licence, the business must be conducted such that the supply of meals is, at all times, the primary and predominant service provided to the public at the premises. While the qualification except as otherwise allowed by a condition of the licence provides some flexibility, a licensing authority cannot completely exempt a licence from the statutory conditions. This means it unlikely that a licensing authority could grant a restaurant licence with a condition completely exempting the premises from the requirement to serve meals or to be open during certain hours. It should be noted that 'meal' in this context means a substantial, sit-down, meal and does not include light food that may be served with or ancillary to liquor. This renders a restaurant licence unsuitable for a small bar owner who seeks flexible opening hours and who does not intend offering its customers meals (and, given the cost of operating a commercial kitchen, many may not wish to do so).

Similarly, entertainment venue licences, provided for under section 35 of the Act, permit the sale of liquor for on-premises consumption but only:

- for consumption with or ancillary to a meal to patrons in a designated dining area;
- when live entertainment is provided; or
- if the licence conditions so allow, to patrons attending a function at which food is provided or who are seated at a table.

Importantly, subsection (2) of section 35 provides that an entertainment venue licence must be subject to a number of conditions one of which is that the business conducted at the licences premises must consist primarily and predominately of the provision of live entertainment.

These limitations render an entertainment venue licence unsuitable for a small venue owner who does not wish to serve meals or host functions or sell liquor at times other than when live entertainment is provided or who otherwise does not wish to operate predominately as a live music venue.

Even where an applicant overcomes the problems with the licensing structure, other than where the premises operate under an entertainment venue licence (with the problems inherent with that category of licence), section 105 of the Act requires a further consent to be granted before licensed premises can have entertainment. In order to obtain entertainment consent, an applicant must satisfy the licensing authority that:

(a) the giving of consent to the entertainment would be consistent with the objects of the Act; and

(b) the entertainment is unlikely to give undue offence to people who reside, work or worship in the vicinity of the premises.

Although the need to obtain a separate entertainment consent may be appropriate for large venues or venues that seek to offer entertainment into the early hours of the morning, for small venues that wish to offer entertainment only up to midnight it is unnecessary and the requirement that multiple approvals be obtained adds to the costs incurred by small venue owners who wish to offer entertainment. Consultation with small bar owners and live music venue operators indicates this is a major disincentive to smaller venues offering live entertainment which has had a detrimental impact on the live music scene in Adelaide.

The Government also believes that the application process should be streamlined.

Currently, section 77 of the Act gives any person a right to object to the grant of a liquor licence. Under section 17, contested applications must be referred to conciliation. If conciliation fails, an application must be referred to the Liquor Licensing Court (unless the parties agree to the Commissioner determining the application). Where matters are determined by the Commissioner, section 22 provides general right to seek review of a decision of the Commissioner to the Court. Section 27 provides a right of appeal (with permission of the Supreme Court) from a decision of the Court. The right to object combined with the conciliation, hearing and appeal processes can draw out the application process and lead to significant costs being incurred by applicants and to inappropriate, overly restrictive, licence conditions. The costs associated with the process have been identified by small venue owners as a major barrier and disincentive to entry into the market.

The Government has consulted with small bar owners, live music venue operators, organisations such as Renew Adelaide, the Adelaide West End Association, the Adelaide City Council, and the Australian Hotels Association of South Australia (AHASA). As a result of this consultation, the Government proposes the creation of a small venue liquor licence, one that will allow a licensee flexibility in terms of the business operated under it. To cut red tape and business costs, a new streamlined process for small venues licence applications is also proposed.

A small venue licence will have these features:

- A small venue licence will authorise the sale or supply of liquor for on-premises consumption, and on-premises consumption of liquor with or ancillary to a meal, during specified hours of service. Sale of liquor for off-premises consumption will not be authorised.
- The maximum capacity of a small venue will be limited to 120 patrons (including internal and external areas).
- Standard hours of service (of liquor) will be 11am to midnight on any day other than Christmas Day or Good Friday. The hours of service will be able to be extended to cover midnight to 2am on any day other than Boxing Day or Easter Saturday or 8am to 11am on any day other than Christmas Day or Good Friday through an extended trading authorisation.
- At the discretion of the Commissioner, an entertainment consent authorising entertainment (other than prescribed entertainment) on the premises during standard hours of service (11am to midnight) will be deemed to apply to the premises without the need for an application for separate entertainment consent. Entertainment beyond standard hours will require a separate entertainment consent. Prescribed entertainment will include adult entertainment.
- Gaming will not be permitted.
- Small venue licences will only be able to be granted in prescribed areas. This will be limited to the Adelaide Central Business District for an initial period of 12 months after which additional areas may be prescribed by regulation following consultation by the Minister with relevant industry associations and councils.

A new process will apply to applications for small venue licences:

- Applications for small venue licences will be determined, in all cases, by the Commissioner.
- Small venue applications will have to be advertised.
- There will be no requirement that the Commissioner attempt conciliation of a small venue licence application.
- The general right of objection will not apply to a small venue licence application. Instead, there will be a general right to make submissions to the Commissioner on a small venue licence application.
- The Police Commissioner will retain the right to intervene in a small venue licence application, which will include the right to put evidence to the Commissioner.

- The Police Commissioner and the applicant will retain the right to seek review of the Commissioner's decision in the Licensing Court. The Police Commissioner will only have the right to seek review on 'fit and proper person' and 'public interest' grounds.

In all other respects, the provisions of the Act will apply: an applicant for a small venue licence will have to pass the 'fit and proper person' test; the premises will have to be suitable; licensees will have to comply with mandatory conditions regarding codes of practice.

These reforms have been the subject of consultation with small venue operators, regulators and groups such as Renew Adelaide, the Adelaide West End Association and the Adelaide City Council. There is widespread support across these groups for the Government's reform proposals.

I commend this bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Liquor Licensing Act 1997*

4—Amendment of section 17—Division of responsibilities between the Commissioner and the Court

This clause amends section 17 of the principal Act to require applications to which section 52 of the Act applies and that relate to the new small venue licence to be determined by the Commissioner.

The clause further provides that the conciliation provisions in section 17(1)(b) do not apply to an application to which section 52 applies that relates to a small venue licence.

5—Amendment of section 21—Power of Commissioner to refer questions to the Court

This clause amends section 21 of the principal Act to provide that, in relation to applications in respect of a small venue licence, the Commissioner can only refer questions of law to the Court for determination, rather than all of the matters listed in that section.

6—Amendment of section 22—Application for review of Commissioner's decision

This clause amends section 22 of the principal Act to allow the Court to review certain decisions of the Commissioner relating to applications for, or relating to, a small venue licence.

7—Amendment of section 31—Authorised trading in liquor

This clause amends section 31 of the principal Act to add a new class of licence, namely the small venue licence.

8—Insertion of section 40A

This clause inserts new section 40A into the principal Act, setting out what a small venue licence authorises, along with conditions attaching to the new class of licence.

Of special note is that a small venue licence can only be granted in respect of premises located in a prescribed area (which is currently the Adelaide CBD, but to which other areas may be added by regulations).

9—Amendment of section 53—Discretionary powers of licensing authority

This clause provides that the Commissioner has an absolute discretion to grant or refuse an application for a small venue licence, which (pursuant to section 21 of the principal Act) limits review of the Commissioner's decision in respect of the discretion.

10—Amendment to section 76—Other rights of intervention

This clause amends section 76 of the principal Act to provide that the section does not apply to proceedings relating to an application for, or in relation to, a small venue licence. New section 77A provides rights of submission in relation to small venue licences.

11—Amendment of section 77—General right of objection

This clause amends section 77 of the principal Act to provide that the section does not apply to proceedings relating to an application for, or in relation to, a small venue licence. New section 77A provides rights of submission in relation to small venue licences.

12—Insertion of section 77A

This clause inserts new section 77A into the principal Act, setting out the rights of people to make submissions in relation to an application for, or in relation to, a small venue licence.

13—Amendment of section 105—Entertainment on licensed premises

This clause amends section 105 of the principal Act to provide that a licensee of licensed premises in respect of which a small venue licence is in force does not require an authorisation to provide entertainment on the licensed premises, subject to the conditions set out in new section 105(1a).

Debate adjourned on motion of Ms Chapman.

STATUTES AMENDMENT (DIRECTORS' LIABILITY) BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (16:49): Obtained leave and introduced a bill for an act to amend various acts to modify or remove the liability of directors and other executives of bodies corporate for offences committed by the bodies corporate. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (16:49): I move:

That this bill be now read a second time.

The purpose of this bill—I could say it in one acronym: COAG—is to give effect to that part of the national partnership agreement to deliver a seamless national economy entered into through the Council of Australian Governments (otherwise known as COAG) in November 2008, in which the commonwealth and all the states and territories agreed to reform directors' liability provisions in their legislation. These are provisions that impose personal criminal liability on directors of corporations by reason of the position they hold in a corporation that has committed an offence. These reforms will extend to members of management committees and other bodies corporate. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

It has been common, not only in South Australia, but in other Australian jurisdictions as well, to include in legislation provisions that impose personal criminal liability that goes beyond the normal principles of accessorial liability. In many Acts there are provisions that hold each director criminally liable on proof of the company's offending, subject to a defence of due diligence that must be proved by the director. Frequently this has applied indiscriminately to every offence against the Act and also to any offences against the Regulations under the Act. Occasionally there was no statutory defence, so that a director became automatically liable to conviction.

The background to COAG's examination of the issue was reports and recommendations from bodies such as the Corporations and Markets Advisory Committee established under the *Australian Securities and Investment Commission Act 2001* (Cth) and the Commonwealth Governments Taskforce on Reducing the Regulatory Burden on Business (the Banks Report 2006). These reports found that there was a need for a more consistent and more principled approach to personal liability for corporate offences. They said such an approach would reduce complexity, aid understanding, increase certainty and predictability, and assist efforts to promote effective corporate compliance and risk management. The Australian Institute of Company Directors also made submissions to Governments seeking reforms.

COAG was concerned that the law should not impose unjustifiable burdens on business or discourage competent persons from becoming directors. It considered that reforming directors' liability provisions in a principled and consistent manner would improve productivity and have economic benefits for Australia.

A corporation has a separate legal identity from its shareholders or members, its directors and managers, and a corporation can be convicted of an offence. If directors or others are personally involved in the commission of the offence or have aided, abetted, counselled or procured its commission by the corporation they can be held liable as principal offenders or as accessories. In South Australia, this is generally done, if at all, via section 267 of the *Criminal Law Consolidation Act 1935*. Further, where a corporation commits an offence as a result of directors breaching their fundamental duties as directors, they may be prosecuted under the Commonwealth *Corporations Act*.

But in addition to these direct attributions of criminal responsibility, there are some circumstances in which it is justifiable in the public interest to hold the directors vicariously responsible for the wrongdoing of the corporation under State legislation. This is the view that has been taken across Australia for laws directed at very serious harms such as occupational health and safety laws and for some offences that are likely to cause serious environmental harm. These (and other such obligations) are of such public importance that the directors are expected to take an active part in ensuring their companies comply with the law. There are some other offences where there are compelling public policy reasons for making directors liable unless they can establish that they exercised due diligence.

This Bill will amend 50 Acts. It will reform directors' liability provisions in 43 Acts in addition to the reforms to directors' liability provisions in 25 Acts made by the *Statutes Amendment (Directors' Liability) Act 2011*. The Bill will also amend seven of the Acts amended by the 2011 Act so that directors will not be vicariously liable for offences against regulations made under them unless the regulations specifically provide for such liability.

This additional and more rigorous approach to the reforms is required by COAG decisions made after the *Statutes Amendment (Directors' Liability) Bill 2011* had been passed by the House of Assembly. In August 2011 COAG decided that all jurisdictions would conduct another audit of their legislation and make additional reforms in conformity with a new set of Guidelines that were to be developed to supplement the Principles that had previously informed reform. The new Guidelines are entitled *Personal Liability for Corporate Fault—Guidelines for Applying the COAG Principles* and they were approved by COAG on 25 July 2012. They are much more detailed and prescriptive than the Principles originally approved by COAG. All Australian jurisdictions have now identified additional provisions to be reformed.

The COAG Guidelines describe three types of vicarious directors' liability provisions and call them type 1, type 2 and type 3. The Guidelines require an examination of each offence provision to determine whether vicarious directors' liability is justified and, if it is, to determine which of these types of liability is appropriate.

Type 1 provisions are provisions where the prosecution must prove beyond reasonable doubt every element of the offence alleged to have been committed by the director including the director's lack of care.

Type 2 provisions provide that a person is guilty of an offence if certain matters are proved by the prosecution, subject to one or more 'defences'. An accused who wishes to rely on the defence must produce at least enough evidence to suggest that there is a reasonable possibility that the defence applies. If they do this, the onus reverts to the prosecution. Type 2 provisions are not used in South Australia.

Type 3 provisions are the typical reverse onus provisions where directors will be found guilty vicariously for corporate offences unless they prove on the balance of probabilities that they could not by the exercise of due diligence have prevented the company from committing the offence.

This Bill will remove directors' vicarious liability from 19 Acts. It will amend another 24 Acts by repealing the existing directors' liability provision and substituting other provisions. For these 24 Acts decisions have been made about whether there should be type 1, type 3 or no vicarious liability for each of the offences that can be committed by a corporation. When it is considered necessary that type 3 vicarious liability be retained for particular offences, those offences are either specified in the first subsection or described as 'prescribed offences' which are then defined in a separate subsection. The offences for which there is to be type 1 liability are covered by a subsection that requires the prosecution to prove that the corporation committed an offence, that the accused was a director at the time the offence was committed, and in addition that:

- the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and
- the director was in a position to influence the conduct of the corporation in relation to the commission of such an offence; and
- the director failed to exercise due diligence to prevent the commission of the offence.

For many of the offences in these 24 Acts there will be no vicarious liability and each of these is listed by section number in a subsection that disapplies the subsection for type 1 liability. These are in addition to the 19 Acts in which the directors' liability provision will be repealed without replacement.

The number of offences that attract vicarious liability, and particularly type 3 liability, will be vastly fewer than currently exist.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

By way of general comments about this Bill, amendments are made to 50 Acts to modify or remove vicarious liability of directors and other persons in positions of authority in a body corporate, for offences committed by the body corporate against the relevant Act or against regulations under the relevant Act.

Where vicarious liability has been modified, the new provisions provide for one or both of 2 types of liability: type 3 directors' liability and type 1 directors' liability.

Type 3 directors' liability

First, directors (or other persons in positions of authority in a body corporate) will be liable in relation to certain offences committed by the body corporate unless they prove that they could not, by the exercise of due diligence, have prevented the commission of the offence. This is called type 3 directors' liability for the purposes of this clauses explanation and is the more onerous of the two liability types in terms of the burden of proof on a director.

Type 1 directors' liability

Secondly, directors (or other persons in positions of authority in a body corporate) will be liable in relation to certain offences committed by the body corporate if the prosecution proves that they knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed, were in a position to influence the conduct of the body corporate in relation to the commission of such an offence and failed to exercise due diligence to prevent the commission of the offence. This is called type 1 directors' liability for the purposes of this clauses explanation and is less onerous on a director than type 3 directors' liability.

The term 'directors' liability' is used in this clauses explanation as a generic term to describe the vicarious liability that may be imposed on persons in positions of authority in a body corporate for the acts of the body corporate. This term will be used in this clauses explanation despite the fact that some of the Acts being amended refer to persons other than directors, for example, managers, chief executives, members of the governing body and others.

Part 2—Amendment of *Agricultural and Veterinary Products (Control of Use) Act 2002*

4—Substitution of section 34

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed for all other offences against the Act or regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

5—Amendment of section 36—General defence

The general defence under section 36 will no longer be available to a member of a governing body, or the manager, of a body corporate who is charged with a directors' liability offence under section 34. The defence available to such persons is incorporated within section 34 itself.

Part 3—Amendment of *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

6—Amendment of section 23—Offence in relation to obtaining permission to carry out mining operations

Directors' liability is removed for an offence against section 23 committed by a body corporate. There is no other such directors' liability in this Act.

Part 4—Amendment of *Animal Welfare Act 1985*

7—Amendment of section 38—Offences by bodies corporate

Directors' liability is removed in relation to all offences against the regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 5—Amendment of *Aquaculture Act 2001*

8—Amendment of section 88—Liability of directors

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed for all other offences against the Act or regulations committed by the corporation.

9—Amendment of section 89—General defence

The general defence under section 89 will no longer be available to a director of a corporation charged with a vicarious liability offence under section 88. The defence available to such a director is incorporated within section 88 itself.

Part 6—Amendment of *Authorised Betting Operations Act 2000*

10—Amendment of section 84—Offences by bodies corporate

Directors' liability is removed in relation to all offences against the regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 7—Amendment of *Building Work Contractors Act 1995*

11—Repeal of section 56

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 8—Amendment of *Citrus Industry Act 2005*

12—Repeal of section 24

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 9—Amendment of *Classification (Publications, Films and Computer Games) Act 1995*

13—Amendment of section 86—Proceedings against body corporate

Type 3 directors' liability (explained above in clause 3) is limited to prescribed offences only. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate.

Part 10—Amendment of *Collections for Charitable Purposes Act 1939*

14—Amendment of section 15—Accounts, statements and audit

Type 1 directors' liability (explained above in clause 3) is provided for an offence against the section committed by a body corporate or an unincorporated body.

Part 11—Amendment of *Conveyancers Act 1994*

15—Repeal of section 61

Directors' liability is removed in relation to all offences against the Act or regulations committed by the company.

Part 12—Amendment of *Development Act 1993*

16—Amendment of section 105—General provisions relating to offences

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 13—Amendment of *Electricity Act 1996*

17—Amendment of section 92—General defence

The general defence under section 92 will no longer be available to a director of a body corporate charged with a vicarious liability offence under section 93. The defence available to such a director is incorporated within section 93 itself.

18—Substitution of section 93

Type 3 directors' liability (explained above in clause 3) is limited to prescribed offences committed by the body corporate. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate.

Part 14—Amendment of *Emergency Management Act 2004*

19—Amendment of section 28—Failure to comply with directions

Type 3 directors' liability (explained above in clause 3) is retained in the principal Act only for an offence committed by a body corporate against section 28.

20—Repeal of section 35

Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate.

Part 15—Amendment of *Energy Products (Safety and Efficiency) Act 2000*

21—Amendment of section 8—Prohibition of sale or use of unsafe energy products

Type 1 directors' liability (explained above in clause 3) is provided for an offence committed by a body corporate against section 8.

22—Amendment of section 17—General defence

The general defence under section 17 will no longer be available to a director of a body corporate charged with a vicarious liability offence under section 8(6). The defence available to such a director is incorporated within section 8(6) itself.

23—Repeal of section 18

Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate. Note that it is retained for an offence committed by a body corporate against section 8 (see clause 21).

Part 16—Amendment of *Essential Services Act 1981*

24—Repeal of section 10B

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 17—Amendment of *Essential Services Commission Act 2002*

25—Repeal of section 46

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 18—Amendment of *Fair Trading Act 1987*

26—Amendment of section 88—Defences

The general defence under section 88 will no longer be available to a director of a body corporate charged with a directors' liability offence under section 90(3). The defence available to such a director is incorporated within section 90(3) itself.

27—Amendment of section 90—Vicarious liability

Type 1 directors' liability (explained above in clause 3) is provided for offences committed by the body corporate against section 28A or 37. Directors' liability is removed in relation to all other offences against the Act or the regulations committed by the body corporate.

Part 19—Amendment of *Fire and Emergency Services Act 2005*

28—Substitution of section 138

Type 1 directors' liability (explained above in clause 3) is provided for a limited number of offences committed by the body corporate against the Act. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 20—Amendment of *Fisheries Management Act 2007*

29—Amendment of section 71—Taking, injuring etc aquatic mammals and protected species prohibited

The defence under section 71 is not available to a director of a body corporate charged with a directors' liability offence under section 120(1) or (1a). The defence available to such a director is incorporated within section 120(1) or (1a).

30—Amendment of section 120—Offences committed by bodies corporate or agents, or involving registered boats

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 21—Amendment of *Gaming Machines Act 1992*

31—Amendment of section 85—Vicarious liability

Directors' liability is removed for offences committed by a body corporate against the regulations. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 22—Amendment of *Gas Act 1997*

32—Amendment of section 88—General defence

The general defence under section 88 will no longer be available to a director of a body corporate charged with a directors' liability offence under section 89. The defence available to such a director is incorporated within section 89 itself.

33—Substitution of section 89

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 23—Amendment of *Genetically Modified Crops Management Act 2004*

34—Amendment of section 22—Offences by bodies corporate

Type 3 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 24—Amendment of *Harbors and Navigation Act 1993*

35—Repeal of section 86

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 25—Amendment of *Health Practitioner Regulation National Law (South Australia) Act 2010*

36—Substitution of section 72

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 26—Amendment of *Heritage Places Act 1993*

37—Amendment of section 42—General provisions relating to offences

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences committed by the body corporate including offences under the regulations. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 27—Amendment of *Highways Act 1926*

38—Amendment of section 39G—Power to close roads or railway lines

This amendment is a drafting tidy up.

39—Repeal of section 41A

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 28—Amendment of *Hydroponics Industry Control Act 2009*

40—Substitution of section 31

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

41—Amendment of section 33—General defence

The general defence under section 33 will no longer be available to a director of a body corporate charged with a directors' liability offence under section 31. The defence available to such a director is incorporated within section 31 itself.

Part 29—Amendment of *Irrigation Act 2009*

42—Repeal of section 64

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 30—Amendment of *Land Agents Act 1994*

43—Repeal of section 59

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 31—Amendment of *Land and Business (Sale and Conveyancing) Act 1994*

44—Repeal of section 39

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 32—Amendment of *Land Valuers Act 1994*

45—Repeal of section 20

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 33—Amendment of *Legal Practitioners Act 1981*

46—Substitution of section 27

Type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or any other Act or the regulations committed by the company. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 34—Amendment of *Liquor Licensing Act 1997*

47—Amendment of section 134—Vicarious liability

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate. Similarly, liability is removed from persons occupying positions of authority in a trust for the commission by the trustee of offences against the Act or regulations.

Part 35—Amendment of *Livestock Act 1997*

48—Amendment of section 78—General defence

The general defence under section 78 will no longer be available to a director of a body corporate charged with a directors' liability offence under section 80. The defence available to such a director is incorporated within section 80 itself.

49—Substitution of section 80

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 36—Amendment of *Maralinga Tjarutja Land Rights Act 1984*

50—Amendment of section 25—Offence in relation to obtaining permission to carry out mining operations

Directors' liability is removed in relation to an offence against section 25 committed by the body corporate. There is no further directors' liability in the Act.

Part 37—Amendment of *Motor Vehicles Act 1959*

51—Repeal of section 143A

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 38—Amendment of *Natural Resources Management Act 2004*

52—Amendment of section 218—General defence

The general defence under section 218 will no longer be available to a member of the governing body, or the manager, of a body corporate charged with a directors' liability offence under section 219. The defence available to such a member or manager is incorporated within section 219 itself.

53—Substitution of section 219

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 39—Amendment of *Passenger Transport Act 1994*

54—Amendment of section 59—General provisions relating to offences

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 40—Amendment of *Plant Health Act 2009*

55—Amendment of section 54—Vicarious liability

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 41—Amendment of *Plumbers, Gas Fitters and Electricians Act 1995*

56—Repeal of section 38

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 42—Amendment of *Primary Produce (Food Safety Schemes) Act 2004*

57—Amendment of section 43—General defence

The general defence under section 43 will no longer be available to a director or the manager of a body corporate charged with a directors' liability offence under section 44. The defence available to such a director is incorporated within section 44 itself.

58—Substitution of section 44

Type 3 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate.

Part 43—Amendment of *Renmark Irrigation Trust Act 2009*

59—Repeal of section 69

Directors' liability is removed in relation to all offences against the Act or regulations committed by the body corporate.

Part 44—Amendment of *Second-hand Vehicle Dealers Act 1995*

60—Amendment of section 47—Offences by bodies corporate

Directors' liability is removed in relation to all offences against the regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 45—Amendment of *Security and Investigation Agents Act 1995*

61—Amendment of section 42—Offences by bodies corporate

Directors' liability is removed in relation to all offences against the regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 46—Amendment of *South Australian Public Health Act 2011*

62—Amendment of section 59—Defence of due diligence

The general defence under section 59 will no longer be available to a director or the manager of a body corporate charged with a directors' liability offence under section 106. The defence available to such a director is incorporated within section 106 itself.

63—Substitution of section 106

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate.

Part 47—Amendment of *Taxation Administration Act 1996*

64—Amendment of section 110—Offences by persons involved in management of corporations

Directors' liability is removed in relation to all offences against the regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases. The amendments at subclause (1) and (4) are drafting tidy ups.

Part 48—Amendment of *Teachers Registration and Standards Act 2004*

65—Amendment of section 59—Liability of members of governing bodies of bodies corporate

Type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate.

66—Amendment of section 60—General defence

The general defence under section 60 will no longer be available to a member of the governing body, or the manager, of a body corporate charged with a directors' liability offence under section 59. The defence available to such persons is incorporated within section 59 itself.

Part 49—Amendment of *Travel Agents Act 1986*

67—Amendment of section 40—Offences by bodies corporate

Directors' liability is removed in relation to all offences against the regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 50—Amendment of *Upper South East Dryland Salinity and Flood Management Act 2002*

68—Substitution of section 38

Type 3 and type 1 directors' liability (explained above in clause 3) is provided for a reduced number of offences. Directors' liability is removed in relation to all other offences against the Act or regulations committed by the body corporate. The amendments clarify that the regulation making power exists to enable the regulations to impose such liability should that be considered appropriate in particular cases.

Part 51—Amendment of *Water Efficiency Labelling and Standards Act 2006*

69—Amendment of section 72B—Liability of officers of body corporate

The amendment of section 72B has the effect of removing the vicarious liability of officers of a body corporate that has committed an offence against the Act or the regulations whilst retaining the liability of officers who knowingly promoted or acquiesced in a contravention of the Act or regulations by the body corporate.

Debate adjourned on motion of Ms Chapman.

STATUTES AMENDMENT AND REPEAL (BUDGET 2012) (NO. 2) BILL

Consideration in committee of the Legislative Council's amendments.

(Continued from 27 November 2012.)

The Hon. J.J. SNELLING: I move:

That the amendments be agreed to.

With the exception of clauses 37 and 38 all clauses of this bill have been passed by the Legislative Council. Clauses 37 and 38 contain the provision that would have allowed capped costs be awarded for an offence prosecuted by the police and set out criteria magistrates must consider when making cost orders. This is not an unreasonable proposal. The proposed cap of $2,000 was, in fact, higher than the median costs awarded against police in both 2010-11 and 2011-12.

There has been a substantial increase in costs being awarded against police over recent years despite a consistently low rate, less than 2 per cent, of all briefs adjudicated by police attracting cost awards. These costs divert police resources from front-line policing. I am disappointed that the Legislative Council and the Liberal Party again oppose this measure.

Nevertheless, in order to enable the Statutes Amendment and Repeal (Budget 2012) Bill to be passed, the government will have to accept this amendment. Obviously, the government is in a position where we could not allow further delays to important provisions as part of the 2012-13 budget, particularly with regard to stamp duty concessions for inner-city apartments and other changes that were part of this legislative package.

The government had put together, I think, a very reasonable proposal and should the Liberal Party ever have the opportunity to serve on the treasury bench any time in the future, they will rue the day that they decided to abandon all tradition and seek to make amendments to budget bills.

Motion carried.

SPENT CONVICTIONS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 November 2012.)

The Hon. R.B. SUCH (Fisher) (16:55): I will make a brief contribution, and I thank members for accommodating my desire to speak right now. I am absolutely delighted that the parliament, as a result of the Attorney's efforts, will see this measure, the spent convictions, further improved. There were some difficulties with the original legislation and this bill addresses those in a very fair and reasonable way so people in particular categories can take the matter to a magistrate appointed by the chief magistrate to deal with something that happened, usually a long time ago.

There are thousands of people in South Australia who may have done something very minor years ago and who have not offended for 10 years or more as an adult, or five years or more as a juvenile who are absolutely delighted that this legislation will go through the parliament and will bring them a lot of comfort because it will remove from them a stain which has been on their character, on their record, their reputation, for many years. It has been a long time in coming. The original bill started about 10 years ago, and now with this mark 2 model (which is an improvement on the original one) it will bring a lot of comfort and satisfaction to people in the community and I thank members for supporting it.

Ms CHAPMAN (Bragg) (16:57): I will be making one of my usual brief contributions to the debate on this bill, the Spent Convictions (Miscellaneous) Amendment Bill 2012, which is essentially to tidy up some aspects that need consideration after the implementation of this meritorious piece of legislation and I indicate that the opposition will be supporting the bill.

As we are now going to be dealing with pardons as one of the categories that needs to be considered, it was suggested that this form of dealing with prosecutions in this manner has not often been utilised, I would simply ask the Attorney to indicate if, in the lifetime of this government, he is aware of any pardons and, if so, how many? Otherwise, I indicate we will be supporting the bill.

Mr VAN HOLST PELLEKAAN (Stuart) (16:58): I will make a very short contribution to this. I will leave my learned colleagues with a legal background to go through more of the detail, but I would like to just say a few words on behalf of the people of Stuart.

My general inclination is that your record is your record and whatever is on it is on it. If you think there are extenuating circumstances, then chances are, if they are justifiable extenuating circumstances, you would be able to make that case for yourself. I have to say that I do support what is going on here because, as I said, that is my general feeling about things, but I have looked into this more deeply and I have also taken the opportunity to speak with some people who are actually caught up by this. So I do support what is going on here in principle and for some very good reasons.

I would like to draw to the attention of the house a case of a constituent of mine: a man who was convicted 40 years ago of having sex with a girl who was 15 and at the time he was also 15. The reality is that it was consensual. It was just 15 year olds either having fun or doing the wrong thing, or whatever was going on at the time, and this person is still finding it very difficult with regard to employment and business because on the record that he provides for jobs, or for access to certain workplaces through his own small business, this (technically) sex offence is on his record.

For the life of me, I cannot think why the police back then would have had to actually charge him. There may well have been circumstances I do not know about, but it is on there and in fine print somewhere else, a long way away on the page from the description of the offence, is his date of birth. So, unless somebody ties it all together and says, 'Hang on, he was 15 at the time and it was 40 years ago'. By the way, my constituent tells me that he is still very good friends with this girl's family. The girl has moved away. He still lives in the town. He still sees her family all the time and it is one of those things they could joke about, if it were not for the fact that it is actually quite serious for him in terms of the impact on his personal life.

I fully understand why employers, volunteer agencies, workplaces and all sorts of organisations would baulk, would be concerned and would be scared if they see 'had sex with a 15-year-old girl' anywhere on the description. Even if they did make all the connections and say, 'Well, here's where it says that and over there is his birthdate and so it must have been that long ago. Gee, was it really relevant?', they could still baulk at that. So, I offer this to the house as a good example of the sort of conviction that I think could be treated as a spent conviction. I will leave it up to others to work through the detail but I do now see that there are some good reasons why this would be very useful legislation.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (17:02): I thank all members for their contributions. The member for Stuart, in his contribution, has touched upon one of the most poignant and difficult aspects of this, where we have people who have done things, which are technically in the bracket of sex offence, a very long time ago, as in your example, member for Stuart, the person was a minor themselves at the time.

Mr van Holst Pellekaan interjecting:

The Hon. J.R. RAU: I beg your pardon; not the member for Stuart, I need to clarify that for the *Hansard*, but in his constituent's example, and this is a terrible blight for some of these people. To make it even worse, some of these people wind up on the register and are classed as being sex offenders. There is no obvious way of separating those people out from the people who we should genuinely be quite concerned about in the community.

I am delighted people are going to give this legislation some support, by the sound of it. There is one small amendment. We have to formally go into committee because there is one small government amendment in this, but I think that is the only matter in committee, so we can go straight in and deal with that and then if everyone is happy go straight to the third reading.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

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

Page 6, after line 8—Insert:

(3) Section 3(3)—after paragraph (b) insert:

(c) a period of detention under section 23 of the Criminal Law (Sentencing) Act 1988.

I do not want to waste anybody's time on this; I will be very brief explaining it. This amendment inserts a new paragraph (c) in section 3(3). Section 3(3) defines a sentence of imprisonment. Any sex offence for which a sentence of imprisonment is imposed is not an eligible sex offence and therefore cannot be spent by an application to a qualified magistrate. The problem we have discovered is that a person who is detained in custody until further order under section 23 of the Criminal Law (Sentencing) Act on the basis that that person is incapable of controlling or unwilling to control his or her sexual instincts may not be imprisoned.

Technically, if such a person does not reoffend they would be able to apply for their conviction to be spent, because the detention until further order is not considered to be imprisonment under the act. So, basically, what the amendment that we put in seeks to do is to move those people out of the classification of people who are not imprisoned and treat them as if they had been imprisoned. So I hope that explains it.

Ms CHAPMAN: The opposition consents to the amendment.

The Hon. S.W. KEY: I just want to ask the Attorney a question. I was very impressed that he held a review earlier this year to look at the whole issue of spent convictions, and invited a number of organisations, including members of parliament, to make a submission to that review, so I thank him for doing that. Although this is not directly related to this amendment, I am just wondering whether he could clarify for me the information that I received from him with regard to sex workers receiving a conviction in association with that work, and the differentiation of having a sex-worker conviction and a conviction of having a sex-related conviction. I think you clarified that for me in writing but I think that that would be a helpful clarification, particularly for sex workers.

The Hon. J.R. RAU: That is a good question. We are just checking up as to whether that is actually a sexual offence. It may well be that it is not and I think that that is probably the case but, in any event, if they were not imprisoned, or sentenced to appear out of imprisonment in respect of that offence, they would be able to take advantage of this anyway, as they would in respect of any other offence, and I do not think it is very common for them to be sentenced to imprisonment.

The Hon. S.W. KEY: I just want to ask another question, Attorney. One of the concerns that has been raised with me—and certainly, as I said, I commend you on the review and the changes that we have already dealt with in this place—is the administration of putting together someone's record. Some of the criticisms that I have received from constituents is that this will be a very good change to the spent convictions legislation but one of the problems is the instructions to the people who are actually putting together the record and whether, in fact, there will be any changes there.

Information that I have received—different constituents have said to me that everything that has ever happened to them in their life has been put onto their record because they were not aware of the fact that they needed to be more specific about why they needed this record. For example, someone who had worked as a truck driver was telling me that he had every single thing that he ever did in his misspent youth on his record but it really had no relevance to the job that he was applying for as a long-distance truck driver, but it made it look as if he was a very difficult customer indeed and, although he did get the job, he was concerned that he would be discriminated against.

Also there are a number of sex workers who have had very minor convictions for being associated with sex work—not necessarily as a sex worker—not able to get full-time jobs in the aged-care area or disability area even though they have qualifications that would support them at least being an applicant in those areas.

The Hon. J.R. RAU: There is a number of issues that the honourable member has touched on but I think the simplest answer to this question is that, if this legislation passes, the police and other people who are charged with the administration of this will be obliged to follow the rules, and the rules will have changed.

Amendment carried; clause as amended passed.

Remaining clauses (5 to 13) 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) (17:10): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (NATIONAL ENERGY RETAIL LAW IMPLEMENTATION) BILL

Consideration in committee of the recommendations of the conference.

(Continued from 27 November 2012.)

The Hon. A. KOUTSANTONIS: I move:

That the recommendations of the conference be agreed to.

I will begin by thanking the representatives of this house who participated in the conference for their constructive involvement. Honourable members would be aware that the resolution of these amendments paves the way for the commencement of the National Energy Customer Framework in South Australia. The framework introduces a robust national law to protect consumers' access to electricity and gas, and will improve the energy market for the benefit of energy consumers and suppliers.

Members will be aware that the government initially opposed the amendments of the Legislative Council moved by the opposition, as they would have the impact of increasing power prices for every South Australian. We are, however, strongly committed to providing South Australian customers with early access to the benefits of the National Energy Customer Framework and have therefore decided to support the amendments put forward by the opposition and the Greens in the interest of moving this important national legislation forward.

Once the framework commences, all retailers in the national market will be able to offer South Australian customers with competitive offers. Customers' participation in this competitive market will be assisted by the introduction of national protections to ensure they have continued access to essential energy services on reasonable terms. The government is also particularly committed to ensuring that vulnerable customers have the ability to access the hardship regimes included in the National Energy Customer Framework as soon as possible.

It is in this form and in this context that I can report that the conference representatives agreed to amendment No. 1 of the Legislative Council, which seeks to alter the definition of an 'excluded generator' in the Electricity Act 1996. The amendment requires that there are two or more meters measuring consumption on a site. SA Power Networks (SAPs) must take into account the electricity consumption on the site as a whole when enforcing the provision, excluding solar systems. Information supplied to the conference participants by SA Power Networks indicated that there are less than 107 customers who have been excluded from the feed-in scheme who may, as a result of this amendment, have the ability to redeem their eligibility for the 44¢ per kilowatt hour feed-in tariff.

In relation to amendment No. 2 from the Legislative Council, I can advise that the conference representatives have agreed to a compromise. Amendment No. 2 sought to permit solar customers who received approval from SA Power Networks for an upgrade prior to 1 October 2011 to carry out the upgrade at any time and retain eligibility for the 44¢ per kilowatt hour feed-in tariff.

Honourable members, the compromise amendment that I table today provides that solar customers who received approval from SA Power Networks for an upgrade prior to 1 October 2011, and chose to complete that upgrade by 1 October 2013 will be eligible to receive the 16¢ per kilowatt feed-in tariff for the whole of their solar system until 30 September 2016. The compromise ensures that customers with an approval for an upgrade are able to make an assessment as to whether it is worthwhile to complete the upgrade and receive a feed-in tariff as a category 2 customer, compared with retaining their category 1 status on a smaller system, and represents a significantly lower cost option to the amendment from the Legislative Council.

Conference representatives are also concerned that nine customers with eligibility for the 44¢ per kilowatt hour feed-in tariff sought in good faith to upgrade their solar system but, due to matters outside their control, completed their upgrade a short time after the cut-off date of 30 September 2011. The government has committed to ensure that SA Power Networks implement

an administrative solution to ensure that these nine customers retain eligibility for the 44¢ per kilowatt hour feed-in tariff for the whole of their solar system.

I want to give credit to the member for MacKillop. This was his idea. He used his influence within the Liberal Party and the parliament to have this success for these customers—congratulations to him. I thank all those members who contributed to the debate and I look forward to seeing the benefits that this legislation will have for household energy consumers.

I will finish by saying this: what occurred during this debate was perfectly legitimate in terms of the amendments moved by the opposition and the Greens. I do not begrudge them the ability to do that, but what did happen, as a consequence, was that important national reforms were stalled because members opposite and the Greens used a government bill to seek amendments for issues that concern them, and that is fine. The result is higher power prices.

Members interjecting:

The Hon. A. KOUTSANTONIS: Well, it is. It is directly your fault; you moved the amendments.

Ms Chapman interjecting:

The Hon. A. KOUTSANTONIS: The member for Bragg scoffs, but she sits in this parliament knowing full well the implications of her vote and, if she does not, then I am not quite sure what she is doing here. You can scoff all you like. Scoffing does not change your vote. Scoffing does not change the outcome.

The government has accepted the amendments and accepted the hard work of the member for MacKillop and his drive to seek justice for his constituents. I congratulate him for it, he has used his position well, as long as we know that the outcome of these amendments—and the member for MacKillop will argue otherwise—is higher power prices. It is indisputable. Liberal amendments, with the Greens, will result in higher power prices.

This national reform is very, very important and the government needed to pass it. I will also point out that, at the standing committee of energy and resources ministers, on which I am one of three Labor ministers—the rest are conservative ministers—they were very, very surprised that my honourable friend would team up with the Greens to move amendments. I suppose, Mitch, from where you are sitting, you have not got very many friends, so you have got to grab on to whoever you can. Good luck to you; you did it very, very well.

But this is important legislation. I think the point I want to make to the house is that, before the debate even began, the opposition spokesperson and I agreed on the outcome of the bill. What we disagreed on were the amendments and that is the problem with this process. These important reforms, which the member for MacKillop and I both agree are important for the people of this state and for the national electricity market, were caught up in delays based on events that happened in the past. I think that is unfortunate, but he had every right to do what he did. I do not begrudge him doing it and congratulations to him.

The CHAIR: Member for MacKillop, do you wish to say something?

Mr WILLIAMS: I feel obliged, thank you, Mr Chairman, to make a few comments.

The CHAIR: I thought you might say that.

Mr WILLIAMS: Can I say that I wholeheartedly agree with most of what the minister has just said. I certainly do not agree with his comment suggesting that these amendments are having an impact on power prices in any significant way whatsoever. However, I do agree with the minister's comments about the majority of the bill, which introduces the National Energy Customer Framework, the NECF legislation. It is a part of ongoing legislative reform which has given us a national electricity market.

This reform has been ongoing for over 10 years now. It began back in the mid to late 1990s. I think it began shortly after I entered this place, so that is a fair while ago. The reforms have been significant. The minister mentioned that in the last few years power prices have become a pretty hot topic because of their rapid increase. Interestingly—I will take the opportunity—I was looking at some figures which compared power prices across jurisdictions in Australia starting with the base at 1990 up until today's prices. These figures are straight out of the federal government's recently released white paper.

The power price increases from 1990 to, I think, the latest figure was 30 June this year have been almost identical in New South Wales, where the electricity assets are still retained in public ownership, as they have been in South Australia, where the electricity assets were sold off some years ago. The data in the federal minister's white paper puts the lie to this nonsense that there has been a cost impact, or cost impost, by the privatisation of our electricity assets here in South Australia.

Having said that, there is much public disquiet about what is happening with electricity prices. The National Energy Customer Framework will give some benefits to customers, hopefully, but, in reality, we are still facing rising power prices in Australia, and I do not see that stopping overnight because of this legislation. Hopefully, it will give some benefits to customers, but there are a number of factors causing an increase in power prices.

I turn to the amendments that the government has acceded to, which were moved successfully in the other place. There were basically two amendments, and they were to correct some anomalies that had arisen with regard to our feed-in tariff scheme in South Australia and the way that the legislation was impacting on a very small number of households—a very small number. The minister has said himself that the first amendment impacted on, I think he used the word, less than 107 customers, and the second amendment, I believe, has the potential to impact on nine customers; so we are talking about 115, 116 customers or less. The minister is suggesting that by delivering fairness to about 115 customers we are going to have an impact on power prices in some discernible way here in South Australia, when something like in excess of 100,000 customers have taken advantage of the government's feed-in tariff scheme.

The Hon. A. Koutsantonis interjecting:

Mr WILLIAMS: It was your government that introduced it. I have been sceptical of it all the way through, minister. Go back and read the *Hansard*. The reality is that the feed-in tariff in South Australia is impacting, in this year alone, on the average household customer to the tune of about $110, according to ESCOSA. That is a significant cost impost on the average electricity consumer in South Australia, wholly and solely attributable to the feed-in tariff scheme.

The feed-in tariff scheme was an ill-conceived policy. I said from day one that it was about a headline so the then premier could brag at the February 2008 Solar Cities Conference, held here in Adelaide, that his government was the first government in Australia to introduce a feed-in tariff. That is what it was all about. Once the headline had been achieved by the then premier, the government and successive ministers took their eye off the ball and, instead of reaching a target, and I think the government in the initial stages was talking about achieving 50 or 60 megawatts of installed capacity, we have ended up with a scheme where there are 100,000-plus participants and installed capacity of more like 260 megawatts.

The scheme got completely out of control, notwithstanding the review of the scheme that made recommendations to the government. The government got that review, I understand, some time late in 2009, if not very early in 2010, before the 2010 election. The recommendation of that review was that the scheme should have a shutdown provision like the Victorian government had. One of the triggers in the Victorian scheme was when the cost to the average consumer reached $10 the scheme should be shut down. I have just told the house that the average cost to consumers in South Australia is about $110.

When the minister talks about increasing costs to electricity customers through amendments to the feed-in tariff, he should take on board that it was his government that allowed the scheme in South Australia to get totally out of hand and impose a cost of at least $100 more than what happened in Victoria, and even under a Labor government there they managed to keep on top of the scheme and ensure that it did not do what has happened in South Australia.

Of the two amendments that the government has decided to accept, one impacted particularly on farmers where they had contracted to have a rooftop solar panel system, a generator, installed and the installers came out and said, 'There is no point putting that on your farmhouse because it is surrounded by large trees which shade the roof and the system will not be very effective. Let's put it on the shed.' The reality is that quite often the shed is on a separate meter.

On the very last day of the scheme, 30 September 2011, the government trotted off down to ETSA and told ETSA what the eligibility criteria would be. The government kept arguing that it was ETSA that came up with the criteria but my information (and I believe I am very well informed on this) is that the government said what the eligibility criteria were and ETSA had to accept that,

and that made a number of electricity customers who, in good faith, had installed systems ineligible.

The government set an eligibility criteria that a certain amount of electricity had to be used through the meter in the last year and in some cases that had not been used. I am not sure but it was probably a couple of hundred installations that became ineligible. Some were able to correct their ineligibility problem by combining the two meters—by physically connecting through—because quite often the two meters were in the same meter box.

We found that there were a little over 100, possibly 107, customers who found it impossible, without incurring an additional substantial cost, to hook up the solar panel system of generator to their domestic or household meter. Because the numbers were so small and the cost impacts so minimal, the simple solution that I came up with and had parliamentary counsel draft an amendment for, was to simply combine the usage from the two meters on the property in order to determine the eligibility. I am delighted that after significant negotiation—and I did not keep count of the number of meetings that were held in deadlock—eventually the minister saw the error of his ways and agreed to accept the amendment.

The second amendment, as I said a few minutes ago, related to a much smaller group of people, possibly nine, who again, in very good faith, had contracted with a supplier to upgrade an existing solar panel generator. The rules were somewhat different for people upgrading. The rules for a new system allowed until 30 September 2011 for the application to be made and accepted for installation of a system and then gave a 120-day window to arrange for what was then ETSA Utilities (now SA Power Networks) to come and install the import/export meter. It did not have to be installed in that 120 days but certainly an appointment had to be made for it to be done and then there was a further window for the completion of the system. Those who were upgrading did not get the benefit of that opportunity after the close-off date of 30 September. They had to have their upgrade completed by 30 September.

There were a small number of people in the state—we believe, possibly nine—who in good faith had set out to meet the eligibility criteria but were unable to do so due to circumstances well beyond their control. I can cite one example from my electorate where the installer did not come for a week or two after the close-off date simply because the weather was inclement and the installer travelled from Adelaide down to the South-East to do the installation. He was not prepared to send his team down there to do the work whilst the weather was inclement because he thought they would be hanging around for days and days waiting for an opportunity to do the installation.

I suspect there are a number of cases where similar circumstances occurred but there are only, I suspect, a very small number of cases where this actually became known to ETSA Utilities, who then made those customers ineligible. In the case that I have cited in my electorate, the unfortunate householder 'fessed up to ETSA Utilities, when contacted by them, that the work was not done for about a fortnight after the close-off date, and they were made ineligible. I thought that was totally unfair especially when I am absolutely certain that there are other people who found themselves in the same circumstances but probably allowed themselves, if they were ever asked the question, to tell a small white lie and got away with it. The second amendment was aimed at solving that problem.

The minister did point out in the second or third meeting in deadlock that, in fact, the way the amendment was worded opened up a huge opportunity for people. I was unaware at the time of moving the original amendment that there were well over 1,000—possibly a couple of thousand, I think—customers who had put in an application to upgrade their system but had not actually gone through with the work and the amendment would have allowed them until the end of the scheme, many years hence, to upgrade at any time and still become participants in the scheme.

That was never my intention. It was never the intention of those in the other place who supported the opposition's amendment, so we came to an agreement to change the amendment, and that is what the government has put as a compromise. The nine customers who have been identified will be satisfied through an administrative instrument. The opposition, Independents and minor parties who supported the opposition in the other place have agreed to accept the minister's undertaking that that will be sorted out for that very small number of customers. I am delighted that, at the end of the day, the government has accepted those two amendments. It fixes up what was otherwise, I believe, a very glaring problem within the feed-in tariff scheme.

I am delighted that the legislation to allow for the National Energy Customer Framework to progress will now have its passage secured through the parliament. I do not think that we have

actually held up the implementation. It is my understanding that it was always proposed to start in South Australia on 1 January. I understand that some other states are not starting until at least 1 July next, and the minister may, indeed, not start the scheme in South Australia until that date. I am unaware of that.

However, I can tell the minister that at the last conversation I had with his federal colleague (Martin Ferguson) I assured him that unless the minister failed to come to his senses he would have it by 1 January, or have the ability to have it implemented by 1 January. So I am delighted that the minister has Adelaide City Council accepted our amendments and I am able to keep faith with his federal colleague Martin Ferguson and that the minister will be in a position to implement it in South Australia by 1 January.

The Hon. A. Koutsantonis interjecting:

Mr WILLIAMS: Beautiful. I am delighted that the opposition was able to—and I can use the word—'force' the government to accept these amendments because I think they are the right thing to do. It has a miniscule impact, I believe—it is probably an undetectable impact on electricity prices, certainly relative to the impact that was caused by the government's what I can only describe as incompetence over recent years in managing the way the scheme has been implemented. However, I am delighted that we have come to this position and the government has accepted these very sensible amendments.

Motion carried.

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

In committee (resumed on motion).

Clause 13.

The Hon. J.R. RAU: I would like to say that the member for Bragg has nothing more to say but I think that would be misleading the parliament.

The CHAIR: Inaccurate, too.

The Hon. J.R. RAU: So I will not say that, as tempting as it is.

The CHAIR: If I remember correctly we are at clause 13 and the Attorney-General is about to provide answers to some questions. Is that right?

The Hon. J.R. RAU: Yes, I am here to answer questions absolutely; that is what I am here for.

The CHAIR: My understanding is that there were some answers outstanding—not outstanding answers but answers that were outstanding.

The Hon. J.R. RAU: I am glad you liked them. You meant outstanding but not in that fashion?

The CHAIR: No; they are yet to be provided.

The Hon. J.R. RAU: Right.

The CHAIR: They are both.

The Hon. J.R. RAU: I thought I was getting a compliment from the chair.

Ms Chapman: You were on thought bubbles.

The Hon. J.R. RAU: Yes indeed, the questions from this morning; I was at my thought bubble point a while ago. Member for Bragg, what I had in mind is that this was not intended in any way to be a way of circumventing due process or anything else, but if you had an instance where, for example, let us say there is an application to recover a bond and it is demonstrated by documentation to the satisfaction of the tribunal that the property has been trashed, or that the cost of removing rubbish from the premises in a clean-up situation at the end is a certain amount of money, and the application is made to recover that money from the bond, for instance, and parties do not bob up.

It seems to me that there should be some relatively low frills way of dealing with matters which are pretty well self-evident about the making of certain orders. It was never intended, and is not intended, that that provision would ever be used as some sort of alternative to due process

where there is any question about matters that are so ambiguous as to require some sort of evidence from people, or there is no confidence on the part of the tribunal member that the material is, essentially, self-explanatory. So, it is not intended to be a substitute for due process; it is meant to facilitate, in effect, a red tape reduction in cases where it is very clear what the outcome should be.

There were a couple of other questions I had this morning which I am now able to provide further information in relation to. First, the member for Stuart asked a question: are housing cooperatives covered? I am advised that the Residential Tenancies Act does apply to housing cooperatives within the meaning of the South Australian Co-operative and Community Housing Act 1991. There are also specific provisions in the act and regulations that only relate to housing cooperatives. The bill simply amends the definition of a registered housing cooperative to a registered community housing organisation which also includes a registered housing association. This was requested by the Department for Communities and Social Inclusion.

The second matter was a question from the honourable member for Bragg, who asked: did respondents suggest any other types of occupancy arrangements to be covered by the Residential Tenancies Act? I advised that, yes, there was a suggestion to create a separate class of student accommodation, however, it was determined that it would be difficult to differentiate between student accommodation and other share accommodation. Protections relating to student accommodation are being increased in other ways, for example, through improving the rooming house accommodation provisions. One of the most important reforms to the rooming house provisions is to require proprietors of rooming houses to lodge their bonds with the Commissioner for Consumer Affairs. Currently, this is not required.

The other point is that there was a suggestion to increase the protections available for older residents. Whilst we are not proposing to create a separate class of tenancy agreement for the elderly, these are rental villages where residents live in a retirement environment. They fall outside the scope of the Retirement Villages Act 1987 because they do not charge a premium; that is, an accommodation bond of $1,000 or above, which is the defining feature of a retirement village scheme. The bill amends the act so that lifestyle village agreements are treated as tenancy agreements and, most importantly, provides the elderly residents with access to the tribunal to enforce their rights.

Furthermore, there was a suggestion to create a separate class of employee accommodation, with a condition that accommodation agreement would terminate if the employment contract terminates. The termination of agreements is a fundamental area of regulation by the act and it would not be appropriate for the act to apply to agreements allowing for instant termination. There was also a suggestion to remove the current exemption from the application of the act for boarders and lodgers. This was not supported as it was thought it would create a burden on a section of the community that may house a boarder or lodger for reasons other than running a commercial enterprise like a rooming house, which I think is what we discussed earlier today.

Next question: were there any complaints from respondents about expanding the scope of the act? I am advised that expanding the scope of the act to apply to lifestyle village agreements was generally supported. No respondents were opposed to that proposal. Clarifying that the act applies to agreements for apartment style accommodation provided by operators who are not exempt educational institutions was generally supported. No respondents were opposed to the proposal.

The proposal to extend the scope of the act to apply to vendor tenants where the agreement for the sale of the property confers a right on the vendor to stay on the property for a period of more than 28 days after the sale was supported by most respondents. Some respondents thought the matter should be left to be negotiated between the parties. However, by making the agreement a tenancy agreement it clarifies the rights and obligations of each party in the event that things go wrong or the relationship breaks down.

In relation to the rooming house provisions, I am advised that no respondents were opposed to increasing the protections available to rooming house residents, who are often vulnerable and disadvantaged members of the community. The only significant negative feedback received from respondents on the proposed rooming house reforms, in the discussion paper that was released, related to the proposal to change the term 'rooming house' to 'boarding house'. It was thought that that term was more commonly understood; however, this was not supported by respondents and so it was not pursued and is not included in the bill.

Ms CHAPMAN: Just on that last matter of the boarding house definition, so I am clear about this, because you mentioned something about students: my understanding is that there is some provision to ensure that boarding houses in independent schools do not come under this, where students reside on school properties which are for a commercial—more than three people, etc. Is that right?

The Hon. J.R. RAU: They are exempt, I am advised.

Ms CHAPMAN: I am just not sure where that is. I couldn't find it anywhere, but assumed that was the case.

The Hon. J.R. RAU: I am advised that will be in the act. We will have a look for that whilst we go on.

Ms CHAPMAN: For the benefit of the member for Mount Gambier, can the Attorney confirm that it excludes St Mark's, which I gave you as an example before?

The Hon. J.R. RAU: I am advised that section 5(1) provides:

(1) This Act does not apply to—

(a) an agreement giving a right of occupancy in—

[inter alia]...(ii) an educational institution, college, hospital or nursing home;

Ms CHAPMAN: Minister, yesterday I think you made some ministerial statement or gave an answer to a question about changing some practices relating to residential arrangements. Can you just clarify that that is nothing to do with this legislation or regulations. It is just in anticipation of some new regime, is it?

The Hon. J.R. RAU: No, what I was advising the parliament about yesterday was that the member for Kavel asked me a series of questions earlier in the year about complaints that he had received about a number of consumer and business affairs matters and it came to my attention that there were, amongst those, complaints about the time it was taking for various matters to be processed by the Residential Tenancies Tribunal.

In the context of those complaints, I asked the department to explain to me what the then present circumstances were and discuss with me how we were going to fix them up, and the report to the parliament yesterday was in the nature of an update to the house that the following administrative steps had been undertaken by the department and the Residential Tenancies Tribunal by reason of changing their procedures or the department having additional staff available to clear backlogs and so forth, that we had improved the performance of the tribunal.

Those matters are quite independent of this bill, although I must say there are some machinery provisions in this bill which may add additional refinements, and the one you referred to generously as my 'thought bubble' may possibly fit into that category.

Ms CHAPMAN: The other subsection under clause 13 is about this change of power of the tribunal for proceedings and about the minimum informality and so on. I have not checked that with the act but there is some expansion there on the informality opportunity is there? Are we adding words like 'if it thinks appropriate'? All this seems a bit wishy-washy to me, to be frank, but, in any event, to have a clause that says they are not bound by the usual rules of evidence is the common short succinct phrase. Is this expanded to do what? To make it say 'Do what you like'?

The Hon. J.R. RAU: Are you looking at 13(4) in particular or what are you looking at?

Ms CHAPMAN: Clause 13(4), which is the substitution of the new do as you like clause, if I can call it that.

The Hon. J.R. RAU: I think that is a little bit expansive 'do as you like'. I prefer to say 'Do as you do' but without overly technical and formal process. I think ultimately that comes down to a drafting matter.

Ms CHAPMAN: It seems to be a much more generous description of what is going to be, what I would call, a sort of non-formal tribunal. We have small claims courts, and we have a number of different tribunals which are not bound by the strict rules of evidence for all the reasons which are obvious and meritorious, and it just seems that this is the broadest I have ever seen. Are we going to see this in other jurisdictions or is this some new standard that we are going to have: the distinction between lower order courts or tribunals and superior courts?

The Hon. J.R. RAU: I suspect having just spoken to my adviser and parliamentary counsel that it is a case of the tribunal having become aware that some other acts of parliament have similar provisions in them and it is seeking to have them put here. The formulation, as you point out, in 4(2)(b), is a very standard formulation one finds in many pieces of legislation. I do not think that it was meant to create some dramatic shift in the precision of the tribunal so much as to clarify that it is an informal body.

Clause passed.

Clauses 14 to 20 passed.

Clause 21.

Ms CHAPMAN: This relates to the obligation of the landlord to advise a prospective tenant before they sign up that they are going to advertise or intend to advertise the sale of a property. I suppose it raises the question: is it presumed here that, at the time of asking the tenant to sign up, if they have formed the intention to sell at that point is there an expectation that the tenant will be informed?

The Hon. J.R. RAU: Yes, I believe that that is the point of it.

Clause passed.

Clause 22.

Ms CHAPMAN: This in a way relates to some questions that I asked about sending out notices to people without knowing who is the tenant. There is quite a significant obligation on the landlord to advise the tenant of their name, their address, their numbers and so on, but there does not appear to be any obligation on the tenant to do the same, that is, to notify if they have vacated for any period of time, or if someone else is paying the rent in the meantime, which I think was your explanation for why notices on applications to the tribunal did not need to be named because it had to do with the occupier.

I do not disagree with the imposition of the obligation to disclose, apart from the person from a company, for example, who is on the tenancy agreement. It is reasonable for the tenant to have access to the name and reasonable contact details for that person but is there a reciprocal arrangement for the tenants and, if not, why not?

The Hon. J.R. RAU: There is not, as I understand it, in the amendment bill. We will have a look and see whether there is anything approximating that in the original act.

Clause passed.

Clause 23.

Ms CHAPMAN: I think we have covered this in the general second reading contributions but, as I understand it, your expectation is that the commissioner's office or someone in the department would have prepared the draft by the time we get to deal with this matter in another place, and on that basis I do not have any other questions. We will wait and see what they come up with—so I take that nod as being a yes.

The Hon. J.R. RAU: Yes. Given that that will not be happening now until, I expect, early in the new year, I think that should give us time to be able to prepare a draft document. I indicate that I will be very happy to speak with the honourable member for Bragg and enable—

Ms Chapman interjecting:

The Hon. J.R. RAU: I will enable you to see draft documents and comment.

Clause passed.

Clauses 24 to 34 passed.

Clause 35.

Ms CHAPMAN: This clause makes provision for extra bonds to be paid, and I think an extra week's rent, if you bring a pet. One of the issues of concern that has been brought to my attention is whether a week is long enough for a goldfish. Probably, because they are not going to cause too much damage; perhaps jump out of the bowl or wet the carpet. However, if you bring multiple cats or dogs, for example, there may be significant damage to the property, and is a week's bond enough?

What if it is a large pet such as a horse, for example, on a property? All these come with different circumstances in which damage could be caused. Is there any provision or consideration given for graduation, or the opportunity to negotiate a greater or lesser extra rent for the calculation of the bond, based on the size of the animal; the number of animals, birds or whatever; and the likelihood of damage?

The Hon. J.R. RAU: I thank the honourable member for the question. Quite obviously, we have the goldfish at one end, Mr Ed at the other and everything in between. There is quite a range of things that we could be talking about, but let's look at what the present law says. The present law says that it is reasonable for a landlord to say to a prospective tenant, 'I don't want pets in the place.' At the moment, though, there is no opportunity for the tenant to come back with any further point of negotiation, which might be, 'Can I keep my cat if I pay an extra bond?', because that is not provided for.

This clause simply provides for a mechanism whereby the landlord and the tenant can actually negotiate with that additional bit of flexibility. You see, at the moment it is either you get in or you do not. The landlord might say, 'Look, if I had an extra week's bond I might be prepared to risk you having a cat, but without that I am just not prepared to have you there with that cat.' The intention of this was to provide greater flexibility between landlords and tenants and, ultimately, that some landlords who might refuse the pet, in effect, might be persuaded to be less black and white about the pet question if there was some additional security given to them. So, that is the reason for that.

Have we considered a sliding scale, where we start off with hamsters and go to pachyderms? Not really. We thought that is about the most sensible way we can do it, and it is intended to give both parties a bit of room to move.

Progress reported; committee to sit again.

At 18:00 the house adjourned until Thursday 29 November 2012 at 10:30.