HOUSE OF ASSEMBLY

Wednesday 6 March 2013

The SPEAKER (Hon. M.J. Atkinson) took the chair at 11:00 and read prayers.

STATUTES AMENDMENT AND REPEAL (TAFE SA CONSEQUENTIAL PROVISIONS) BILL

The Hon. L.W.K. BIGNELL (Mawson—Minister for Tourism, Minister for Recreation and Sport) (11:01): I move:

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

Motion carried.

NATURAL RESOURCES COMMITTEE: FOXES

The Hon. S.W. KEY (Ashford) (11:02): I move:

That the 77th report of the committee, entitled 'Foxes—Hunting for the Right Solution', be noted.

The committee's interest in foxes was instigated by committee member and member for Stuart, Mr Dan van Holst Pellekaan, in response to a number of complaints from constituents including sheep farmers about the increasing problems of the Mid North and Upper North of the state. Sheep, of course, are particularly vulnerable to fox attack. Mr van Holst Pellekaan brought to the committee some dramatic photographs—

The SPEAKER: Member for Ashford, it is—

The Hon. S.W. KEY: Sorry, the member for Stuart, I beg your pardon, sir. The member for Stuart brought to the committee some dramatic photographs sent to him by the shooter Mr Casey McCallum and taken from the Glendambo station in the electorate of Stuart. Many of you, no doubt, will see these pictures after they have been published on the internet. These photographs show large numbers of foxes feasting on kangaroo entrails during the night time shoot and a separate photo shows more than 50 dead foxes hanging and laid out from Mr McCallum's Toyota ute after a period where Mr McCallum turned his attention to shooting some of the foxes that were interfering with his commercial kangaroo shooting activities.

These photos by Mr McCallum dramatically illustrate the scale of problems presented by graziers in the Mid and Upper North of South Australia. As well as foxes, dingoes and wild dogs are increasingly infiltrating south of the dog fence and preying on sheep. Interestingly, foxes are not presently found in large numbers north of the dog fence where dingoes and wild dogs predominate.

Mrs Robyn Geraghty (member for Torrens and Natural Resources Committee member) also brought the issue of foxes to the committee on behalf of her constituents, emphasising the increasing impacts of foxes in urban areas. Foxes are commonly seen in metropolitan Adelaide—for example, the Torrens Linear Park during day and at night. The committee also took evidence from the member for Bragg. She was seeking to address the apparent explosion in the fox population in her electorate and the Adelaide Hills. The committee heard from officers of Biosecurity SA and from the Adelaide and Mount Lofty Ranges Natural Resources Management Committee and the Department of Environment, Water and Natural Resources, which maintain an interest in the issue.

To ensure a thorough understanding of the problem, the committee undertook a literature review on fox management. Despite this report not being a result of an official inquiry, the committee made five recommendations, based on the evidence received. First, members are convinced that the problem of foxes needs to be dealt with on a national scale, given that foxes do not respect state or regional boundaries. Baiting and shooting alone are not enough to eliminate foxes and more comprehensive controls are needed. The committee has recommended that there be more research and development into measures for controlling foxes; this may have to be some sort of biological control.

Secondly, the committee would like to see some consideration given to the use of fox bounties for landholders to complement programs already in use, with the proviso that such a policy does not encourage trespass or shooting without permission. Thirdly, the committee recommended amendments to the current baiting arrangements, allowing baiting closer to home in metropolitan areas, with neighbours' consent. The committee heard that the current guidelines make it difficult for smaller landholders to bait effectively.

Fourthly, the committee has recommended a trial baiting program for foxes in urban areas, similar to those trialled in Sydney. Fifthly, members consider that there is a strong argument for parliament to establish a joint select committee to further investigate foxes. In addition, the committee considered that this select committee could also look at feral cats, wild dogs, including dingoes, which also present similar problems for natural resource managers working in the urban and non-urban environments.

I thank all those who gave assistance to the committee with this report. The committee heard evidence from seven witnesses, and the committee extends its thanks for their appearance before the committee. I also commend the members of the committee for their contribution: Mr Geoff Brock MP, the Hon. Robert Brokenshire MLC, the Hon. John Dawkins MLC, Mrs Robyn Geraghty MP, Mr Lee Odenwalder MP, Mr Don Pegler MP, Mr Dan van Holst Pellekaan MP, the Hon. Russell Wortley MLC, and former committee member the Hon. Gerry Kandelaars.

I take this opportunity to commend the Hon. Gerry Kandelaars for his contribution to our committee. He is sadly missed, but we are making sure that we keep him close to the committee because we have appreciated his contribution. Finally, I thank the members of the parliamentary staff for their assistance. I commend this report to the house.

Mr PEGLER (Mount Gambier) (11:08): I will not go back over what our very able Presiding Member, the member for Ashford, has said in relation to this report, but I point out that, in my own area, we do a lot of baiting. All our neighbours, the national parks and the forests all get together; we do a lot of baiting. We reduce the number of foxes dramatically but for only a few weeks, and then they move in again. As far as I am concerned, I believe that all our efforts should be put into developing some form of biological control because I believe that is the only way we will be able to ever control foxes—and, whilst we are doing that, we should also be doing the same for cats. I certainly support this report.

Mr GOLDSWORTHY (Kavel) (11:09): I am pleased to make some comments in relation to the report that has been moved by the member for Ashford, the chairman of the Natural Resources Committee. Can I say at the outset that I commend the member for Stuart. As the member for Ashford highlighted in her contribution, the member for Stuart, a good local member who is across all the issues in his electorate, brought this matter to the committee for investigation. Obviously, a report has been produced and moved for consideration in the house today.

I come to this issue with some personal experience, having grown up living on a farming property in the Adelaide Hills. I also own a very small hobby farm with only a few hectares in the Adelaide Hills and I run a very small number of sheep on this block. Ever since I was a young child I clearly have memories of the issue of controlling foxes and the inherent damage they do to sheep. I still have pretty strong memories from when I was a small child.

Baiting and poisoning foxes has been a method of controlling foxes over many years. As a young lad I remember that the poison strychnine was used as a bait to kill foxes. My grandfather had a packet of strychnine kept, arguably safely in those days, high up in the cupboard in one of our farm sheds. Obviously, we know that things have changed over the years and strychnine cannot be held by just everybody and anybody and, over the decades since, the poison 1080 has been developed. It is my opinion, having had some experience in shooting foxes, baiting foxes and trapping foxes, that baiting is the most effective and efficient way to manage fox numbers, particularly in the Adelaide Hills.

Over the years we have seen more housing being constructed in the Hills so it is difficult to go out and look to shoot foxes. I know I have seen my neighbours down in their paddock at night-time with a spotlight shining around and obviously looking for foxes. However, it is difficult because obviously you have to be critically aware of where your line of fire is and that you are not looking to shoot towards a dwelling. There are some real constraints, I believe, in using that form of control for fox numbers, particularly in the Adelaide Hills region. As I said, that is where I live and is the constituency that I represent.

Over recent times I have gone to the local natural resource management office looking at methods to trap foxes. You can pay a deposit for the trap (which is a wire trap with a trapdoor) but I have to say that I persevered with that method for several weeks, if not months, but to no avail. I caught a couple of crows in the trap, and obviously freed them and let them go, but I have never trapped a fox. It has been my experience that baiting is the most efficient and effective measure to control fox numbers.

I have read the report that the committee has presented and, as the member for Ashford said, it has provided five recommendations. I think some of the recommendations are perhaps more relevant than others. The issue of developing a policy that explores the potential for introducing a bounty is worthy of some further consideration. I note in the report on pages 8 and 9 there were some quotes and contributions from committee members and, I presume, people giving evidence, concerning the potential for introducing a bounty on foxes.

I notice recommendation 3 talks about amending baiting guidelines so as to facilitate private landowners being able to bait in close proximity to their homes. I note the member for Ashford, in her contribution, raised this issue. At the moment, the protocols and practices are that you cannot lay baits within 500 metres of a home dwelling. In the Adelaide Hills, with the relatively close proximity of residences, that is not without its difficulties.

As I said at the outset of my contribution, I live on a very small area of land in the Hills—too small, actually, to be able to bait on my own so I join with my neighbours who have considerably more land than me. Working through the issue with the local NRM office, I have been able to lay baits with the written permission of my neighbour on their property because there is a certain area within their property that is 500 metres in distance from the nearest home residence.

There are some strict protocols and practices in place to manage baiting. 1080 is a poison which is extremely lethal to dogs. There is not much chance of survival, I am advised, if a dog takes a 1080 bait, and I have talked to my colleague, the member for Morphett, about this. So the protocols are that you need to advise all of your neighbours, which I do. You have got to run a schedule and write down on that schedule who you have contacted, when, how and so on. So there are strict protocols in place for the management of 1080. I certainly support the continuation of that method of fox control because of my experience, as I said, living in the Adelaide Hills on a small block and growing up on a rural farming property where one of our main operations was breeding prime lambs. Baiting is currently the most effective control of foxes.

I was concerned two or so years ago when there were some media reports and some talks and discussion in relation to ceasing the laying of 1080 baits in government-owned land. The government owns vast tracts of land right around the state, particularly in the Adelaide Hills. Forestry SA owns a significant area of land in the Hills district and so does SA Water with, obviously, the reservoirs and the land that surrounds the reservoirs in the Hills district. It was a concern that the media was reporting that there was some discussion on stopping the laying of baits in government-owned land areas and, to my knowledge, that has not occurred. From my perspective, I strongly support the continuation of those programs on government-owned land. They are a real refuge, a real harbour, if you like, for fox numbers and for fox breeding.

Talking about reservoir-owned land, we were driving down Lower North East Road late one afternoon and on the footpath, next door to the Hope Valley Reservoir land, a fox was trotting along. A fox was trotting along a footpath on a main arterial road! I said to my wife and my children, 'Have a look at this!' Here was a fox trotting along right in the middle of suburbia. I think that highlights the example that government-owned land is a real refuge, a real breeding area for foxes. I am pleased that the committee has seen fit to investigate this issue. In terms of recommendation 5, that the parliament establishes a joint select committee, I certainly support that.

The Hon. L.R. BREUER (Giles) (11:18): My contribution, like me, will be brief and short. In my 15 years of travelling around the outback of South Australia, I have never seen so many foxes as there currently are, and I have made this comment on almost every trip I have done recently—there are so many foxes.

We had a couple of very good years and there has been a rise in the number of kangaroos and other animals, but the fox numbers seem to be incredible; they are everywhere—all over the outback. I particularly support what the member for Kavel was saying about some of the parks and how they are right through there. My big concern is: what is happening to our native animals, what is happening to our native reptiles, etc., with those foxes around? So anything we can do to eradicate them, I think, is extremely important for South Australia.

Mr BROCK (Frome) (11:19): I will be very brief. Firstly, I would like to congratulate our Presiding Member, the member for Ashford, for her great leadership of this committee. I also commend and congratulate the other committee members on their inquiry into hunting for the right solution for foxes, and acknowledge the excellent job done by the committee staff. I also congratulate the member for Stuart for bringing this issue to the attention of the Natural Resources Committee.

I want to endorse the member for Mount Gambier's comments about the need to look at some biological control of foxes across the whole of the state. I can also speak from experience; when I used to live at Port Augusta and travel north, I used to see lots and lots of foxes up there, and the amount of damage that they do to livestock, particularly sheep and poultry. A lot of the people in the urban areas of the cities do not understand the damage that is caused.

The report has highlighted that the Natural Resources Management Board has spent nearly $700,000 across the whole of the state just in the management of fox control; that is only what we know. There has been hundreds of thousands of dollars worth of damage to the livelihood and success of graziers and farmers out there.

One of the things that I am finding, as other members have mentioned, is that foxes are coming back into urban areas. Just outside of Brinkworth, which is a small community in my electorate, one farmer has placed around 35 dead foxes on a fence; each time he shoots or baits one, he hangs it over the fence as a warning to other foxes in the area. I see a lot of foxes when I travel to and from Adelaide from my hometown of Port Pirie, and I have also seen a couple as I get into Adelaide, so they are not only in the country areas.

Certainly, the damage that has been outlined in the Natural Resources Management Committee report is one issue. The other is the damage and loss of income for graziers and farmers, and those people who are affected, as well as the heartbreak of seeing some of their sheep and livestock being mauled by foxes.

We can deal with this problem in different ways. I know about baiting and shooting, but, as the member for Mount Gambier has indicated, I think we need to look at biological control to make certain that we control these foxes in the long term. I certainly commend the report to the house, and congratulate all the committee members, and in particular our Presiding Member, the member for Ashford.

Mr WHETSTONE (Chaffey) (11:22): I, too, rise to support the Natural Resources Committee, and also commend the good work of that committee, as chaired by the member for Ashford. Foxes are a real issue in my electorate of Chaffey. There are considerable farming enterprises in the Riverland and the Mallee. While we have only a small livestock industry, as is the nature of the country up there, fox numbers are at an all time high in the irrigated settled areas.

I think it is no surprise to anyone that it is all about the food chain and the breeding cycle. Over the last couple of years we have had significant rainfall events and high rivers. It has been a long-term breeding season, and obviously foxes are not exempt from that.

I have had a lifelong association with foxes. I was born into a dryland and cereal property in the South-East, and moved up to the Riverland as a young adult—as I still am! It is about dealing with foxes, and I think one of the things that was instilled in me from very early on was how cunning foxes are and just what they can actually do. They almost have an instinct very similar to humans, as shown, in many instances, by their ability to outsmart humans.

My first encounter with foxes was very visual. I went out to the chook yard to collect the eggs, which is always a great exercise for any young farm sibling, and saw that the foxes had either jumped the fence, climbed the fence or gone under the fence. In some cases, I have heard of foxes undoing the lock on the gate, and in they go. It is not always about the foxes looking at what they are going to eat: it is about the destruction that they cause. I guess it is an insight into the nature of a fox.

I have touched on the high numbers. Particularly in the irrigated areas in Chaffey, it is nothing surprising to be driving along one of the roads with irrigated horticulture both sides and see dead foxes on the road, foxes crossing the road and foxes sitting back off the road a little bit just waiting for an opportune time to cross the road, and that is of real concern. It highlights the numbers and that they are out there breeding and looking for food, and it is always, I guess, to the detriment of, mostly, farming. That is what they impact on.

I take note of some of the ways we can deal with foxes. I picked up on the comments of the member for Mount Gambier that we have to perhaps look at a sterilisation program or ways we can combat their breeding cycle, and I think that is an excellent opportunity that I do not think has been addressed. The nature of the farmer has been to shoot or bait foxes. It is very hard to run one over, I have to tell you. You normally have to bedazzle them in the middle of the night, or by accident.

My background of living on farms and managing farm properties has always involved a spotlighting exercise, if you like. I have been out on numerous occasions and we have claimed

20 or 25. I know that my record for a night was 41 foxes. That is a significant number, and it demonstrates the numbers that were out there at the time. I might like to add that that was back in the 1980s, but I think that we are heading into that breeding cycle of foxes.

We need to look at those sterilisation programs, and we need to consider how hunting impacts on them and what effects poisoning or baiting programs have on foxes. I have been part of many baiting programs and there is a downside to them, that is, off-target impacts, whether it is dogs—domestic dogs or wild dogs. You cannot throw a blanket over whether you have the right target. It is also about birds, and that off-target can be that a fox has eaten a bait and it has residual impact on that fox, birds come along looking for food and, next minute, they are an off-target casualty.

The poison has changed for the better over the years. Once upon a time, you would do a couple of neutral runs of wheat or grain and then you would run out that 1080-laced grain to target the foxes but, over recent years, we have looked at different carriers of the poison. I know that we have used carrot and vegetable-based carriers for the poison and it has had a good impact, but we still are dealing with that off-target impact.

Some of the other impacts the foxes are having include damage to the native fauna. They really do have an impact, whether they are stripping bark off trees or digging holes around the bases of trees looking for a cooler habitat for either living or breeding.

Mr Pegler interjecting:

Mr WHETSTONE: Yes, and particularly up in my electorate, the Mallee fowl. The biggest impact on Mallee fowl is not humans and it is not people interfering with their nests: it is foxes. So, I think both myself and the member for Mount Gambier have similar issues with the impact on native fauna and flora.

Some of the visual impacts that still plague me is watching foxes drag down young lambs and, in some cases, a group of foxes trying to tackle young calves, newborn calves. That is something that has lived with me forever. That is why, as a farmer who has experienced the damage that foxes can do, I have an absolute hatred for them because of their impact but also the visual impact of exactly what they do. Watching them round up and drag the young and vulnerable livestock to the ground is something that has really had an impact on me forever.

Do we look at a bounty? I notice the member for Kavel touched on the bounty. It is something that perhaps needs to be debated. It has been a part of our culture over time, whether we have a bounty on foxes or whether we have a bounty, as they do in Victoria, on dogs. I think we need to have a debate on what the benefit of a bounty will be. Just on that, I think it is about a commitment. I think the commitment and the energy we need to put in there is about the biological control, it is about whether the sterilisation programs can have an impact and reduce that off-target impact, and that is probably where the debate needs to be headed.

The fox is an animal that I would like to see the many breeding cycles of reduced. The only way we are going to do that is by addressing the breeding cycle. Biological control seems to be a way that we can better address that because, in essence, it does not impact on the flora and fauna, it does not impact on some of our endangered species and it does not impact on our livelihoods. Livestock is, at the moment, a high value commodity and I would like to think that the Natural Resources Committee will be quite flexible on how we address that. I commend the Natural Resources Committee for looking into the control of foxes and I look forward to its findings.

Mr VENNING (Schubert) (11:32): I want to make a brief contribution on this because I was an ex-chair of the Invertebrate Pest Management Board, which later became the Animal and Plant Control Board and which now of course is the NRM board. In my younger days we were very active in relation to foxes, realising that it is an introduced species (a feral species) to Australia. Over the years it has been the subject of many a discussion in this place, in fact my own father used to discuss it, particularly the use of some of the more difficult things like baiting with 1080 and things like that. What we had back then was a bounty. We had this bounty that was discussed by the member for Chaffey. As we got the foxes we would cut the tails off. I think it was $10 a tail, so you could pay for your ammunition and whatever.

Mr Treloar: Put it on the car aerial.

Mr VENNING: That is right, put them on the aerial. You would gather them up and you were paid. That still happens in Victoria, and I just wonder how many South Australian foxes are ending up in the Victorian bounty system. It is amazing they have allowed it because we have a lot

of foxes that sit on the border at the South-East. It is quite a difficult situation, particularly with day old lambs. I can remember in my childhood it was quite a yearly ritual that about a month before the lambs were due to drop we would be out there fox shooting. We would make four or five sorties in the utility, racing around the paddocks at night with a spotlight, particularly along the waterways, shooting the foxes. We never seemed to get the numbers down. They seemed to hold their numbers. As somebody said earlier, foxes are a very cunning animal. You have to be very quick and very smart to outsmart them.

When I became a member of parliament some members of this house came up to my property. I will name one, the Hon. John Quirke, who would come to the farm and get on the back of the ute and away we would go. It was a real sport and quite entertaining to see the Hon. Mr Quirke not only with his shotguns and a couple of mates, but then he would come back with a couple of Colt six shooters. My God, I will never forget that. It was quite an entertaining time.

Controlling foxes has been part of our lives for a long, long time. For farmers the lambs are the biggest target. Foxes kill lambs and they also kill chickens. The saddest thing about chickens is that they just bite their heads off. They do not eat the chicken; they just bite their heads off, suck their blood and leave it there. You have to be very clever to keep them out of your chook house. You really have to dig the wire into the ground because they will get in there. Foxes are very wily and they will outsmart you unless you go to a lot of trouble.

The solution to it is very difficult. I am not sure whether the solution is what the member the Chaffey was saying about sterilising. I think that could be rather difficult. I do not know how you would go sterilising a fox. We are certainly looking for the right solution. We also had a campaign of destroying all the burrows and hides. That is a very effective way. In the old days we used to go around and get rid of all the fox burrows. We used to use a product called—and I say it cautiously—lavacide. I am lucky to be here because I got a dose of that as a youngster. My father very carefully hid it in the rolls of netting so that I could not get to it, but I got to it and undid the cap. One sniff of it, and some would say it has affected me still. These are the chemicals that were used for—

Mr Whetstone: Strychnine?

Mr VENNING: No, it was a gas. They put it down the burrows on a piece of cloth and then filled in the burrow; it was very effective. I think a more humane way used in recent times is using whistlers, which is quite unusual. You get in a bloke who is a professional whistler and he has this tin whistle and he walks along the watercourse with a shotgun and whistles. It is amazing because the foxes are so curious they will stick their heads up every time and, bang! And it's usually about a 95 per cent effective rate. The whistler is amazing because the fox just cannot resist. I would give you a demonstration, sir, but not in here because demonstrations are not kosher. Foxes are foxy, as we would say. We often say that about a person, that person is very foxy, because they are extremely cunning.

Mr Treloar: You're a silver fox.

Mr VENNING: I'm a silver fox? I don't think so. They used to wear fox as a fur. I cannot see any reason why we do not strip the fur because they are an introduced feral animal. I do not understand because in the old days it was quite 'with it' to wear your fox. One thing I can tell you is that skinning a fox is not a pleasant experience; in fact, they stink. I have memories of that; it is an absolutely evil smell. I do look forward to reading the report in detail. I have not looked at the recommendations but I am pleased that the committee did pick it up because it is a continuing problem, particularly today when environmentalists are watching very carefully, particularly the use of baits. I can understand the use of baits. As the member of the Chaffey said, the off target damage is a worry when using baits, particularly for birds, so you bury the baits, but it has been very effective.

I have had a lot of complaints in my electorate where people abut national parks, and the foxes living in the parks come out into the adjoining property and devastate the farmer's sheep and land; so, they would then bait the fence lines around these parks. That was happening 10 years ago, and I am not sure that it still is, but it is a delicate issue. I am pleased that the committee, as this committee does under this chairmanship, comes up with some very good subjects and puts an issue before the parliament. I look forward to reading it in detail and then looking at the recommendations.

Mrs GERAGHTY (Torrens) (11:39): Obviously, I support the report and agree with the comments that have been raised here today. The one thing that does concern me is when we talk

about using a biological method of resolving the issue. I appreciate that baiting can also have other detrimental effects, but biological resolutions to any matter cause me some concern; the first thing that comes to mind is the cane toad, so I think that we, or whoever is going to take this up, might look at some other alternative method. I think some of the biological pests that have been introduced to control one issue have raised more issues for us to deal with.

Mr Whetstone: Sterilisation, not biological.

Mrs GERAGHTY: Sorry?

Mr Whetstone: Maybe sterilisation.

Mrs GERAGHTY: No, I think they tried that with the koalas and that did not work either.

Mr Whetstone: And very expensive.

Mrs GERAGHTY: And very expensive, yes.

Mr TRELOAR (Flinders) (11:40): I, too, will make a contribution on this, and I duly note the 77th report of the Natural Resources Committee and congratulate them and their chairman, of course, on the work they have done in regard to foxes.

Mr Venning interjecting:

Mr TRELOAR: Good chairmanship, I hear. I, too, as a country member fully understand the impact that foxes, which of course are an introduced species and a feral animal, can have not just on the profitability of a grazing enterprise but also on the broader native fauna that exist across the state. They are a feral animal and a nuisance. They have consistently had high numbers over many years and do have an impact. As a grazier in previous employment, I was well aware of the impact the foxes had on our sheep numbers, particularly at lambing time.

I was just talking with the member for Kavel about the fact that foxes do not always target lambs just to eat them but in fact will kill just for the sake of killing at times. The member for Schubert has brought up the havoc they wreak on the chook yards around the state. Of course, there is nothing worse than losing a whole heap of chooks to a fox.

Historically, farmers and landowners have baited, but they have also shot foxes. As a boy, I remember going out night after night, often on very cold evenings, to try to shoot some foxes, which we did generally with a shotgun and a spotlight. A bit of whistling went on—that is, to whistle the foxes up close. In fact, some neighbours of mine were so successful in whistling up a fox that one night they had to shoo it away a bit so they could shoot it, so it is an effective strategy for attracting foxes. We are flippant and laugh about these things, but the fox does have a very serious impact.

In more recent years, baiting has been a really good strategy, and in the old days the pest plant board would facilitate a fox-baiting program in our district. In later years, the NRM board has coordinated the baiting program. I have to say that on Eyre Peninsula that has been remarkably successful. It has had good uptake from landowners, it has been strategic, and it has been timely, so that over a short period of time a large number of landowners (hopefully, almost all of them) undertake a fox-baiting program. That targeted and timely strategy has been very effective.

The effectiveness of that program really hit home to me a few years ago when I was driving down a lonely country lane and saw for the very first time in my life in our neighbourhood an echidna. I had never seen an echidna in my area up until the fox-baiting program began—so there lies the success, I think. It was a delight to see the echidna.

Of course, once upon a time, fox fur had some value. One of the reasons as teenagers we would go spotlighting was to supplement our pocket money, and often a fox fur would be worth $20, $30 or $40. As the member for Schubert quite rightly said, it was quite a task to skin a fox, and all sorts of weird and wonderful techniques were invented to make the skinning process easier. One of our favourites was pricking the hind leg of a fox once it was dead, inserting compressed air under the skin and separating the skin from the carcass. The idea was to make the skinning process easier; it never seemed to work that way. It was spectacular in a gruesome sort of way to see a fox blown up, but it did not make the skinning process any easier. Never mind, we persisted and made a little bit of money.

I do know that the local wool buyer in Port Lincoln still has a wall full of fox furs which he had bought when it was profitable to do so. Unfortunately the resale value dried up completely, for whatever reason, but we won't go into that here today. However, he has managed to keep hold of

these furs in the rather vain hope that one day they might be worth something again. You never know. So, congratulations to the committee. I was very pleased to get a fox around my house the other night because he, without a doubt, had been responsible for the removal of a number of boots from our back door.

Members interjecting:

Mr TRELOAR: They do that, don't they.

The Hon. L.W.K. Bignell: It must be a fox in socks!

Mr TRELOAR: Fox in socks. Well, in fact, I went out the back door one weekend—because I only work on the farm on weekends—

Members interjecting:

Mr TRELOAR: At best. In fact, I just went to get the eggs and there was no sign of my boots and I was blaming the kids and everyone else and eventually I found one somewhere else under a tree and obviously a fox had taken them. In fact, a fox was seen some kilometres away with one of my boots in its mouth, so it does happen. I was very pleased to be able to get that fox and—

Mrs Geraghty: Did you get the boot back?

Mr TRELOAR: No, I have got one boot and one boot is not much good, of course. I digress. I congratulate the committee on its work—

Mr Pegler: We all do.

Mr TRELOAR: We all do, yes—and the strategies, of course, that are so important in combating this feral animal that is such a nuisance to wildlife and businesses around the state. There will be no silver bullet with regard to the control of these animals—excuse the pun—but I think it is very important that we continue our efforts in an attempt to maintain low numbers of this feral animal.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (11:47): I thank the committee for the production of their report, dated 19 February 2013. I was pleased to give evidence to this inquiry, as this problem is something I have found is quite significant in my electorate, and I was pleased it was reported in this response that we have an urban problem with foxes, and certainly in the eastern part of my electorate in the Adelaide Hills there is a serious problem with the abundance of foxes.

I just note that on page 22 I am described, as a witness, as 'the member for Davenport.' I would just ask that that be corrected. But apart from that, the only disappointing thing about this report is the suggestion that there be further investigations and so on. I feel that the people who are on this committee are very well qualified to have received the evidence and put the advice to government and it is now time for the government to get on with the job.

I will say that I have since spoken to the chair of the Adelaide and Mount Lofty Ranges NRM Board when I attended a recent meeting—that is my local NRM Board—and at that meeting I confirmed the urgent need for there to be a regional action, at various times. I mean, bear in mind, as I said to the committee, I know nothing about foxes. I have spent the last three years trailing one fox in particular, but this is a different sort of problem, and this problem for these electorates, and in my electorate, is of the furry kind, and they are a problem and they need to be dealt with.

Now, the 1080 option is one that is still unavailable. The reason it is a problem in peri-urban areas is that there is a 500 metre limit, or minimum distance from the boundary to be able to place the baits, and so on small holdings it is near impossible to be able to find a place that will lure the fox, that is concealed sufficiently, that is not going to inadvertently kill the neighbour's dog. So, it is a serious problem.

In my view, one action the NRM can take immediately is to give notice and, with the support of the community, approve golf clubs, SA Water land—large parts of which traverse these areas in the Adelaide Hills—to have a regional action, as has been identified. Some regional action in New South Wales has been reported, and it talks about having the cooperation of local people. On the responses I have had in my own electorate, there is a very clear wish for the people to have this issue resolved. They are sick of having their chicken coops raided, and this is a major problem in the area.

I urge the NRMs particularly to take up the challenge and the issues that have been identified. I am not going to make any comment in relation to bounties; that will be a matter for others to deal with because, frankly, bounty options in peri-urban areas are extremely limited, if viable at all, but in other parts of the state which are represented by others around me this would probably be a very good option. We have a problem now, there is an identified way of managing it, and we ought to get on with the job and ensure that funds are allocated. The 1080 under prescribed distribution is available. Let's get on with the job.

The Hon. R.B. SUCH (Fisher) (11:51): I will make a few brief points. I hear members calling for the NRM to do something about this issue, and I support that, but often we hear criticism of the NRM boards for not doing things, or not doing enough. Pest control and pest plant control is one of their responsibilities, and I think it is important that NRM boards continue to fulfil the role for which they were established.

My solution usually for foxes is the Winchester one; however, you will never get rid of foxes just by shooting or even by baiting, but you will get the numbers down. Members have referred to bounties, and Victoria has gone down the path of a bounty, but there is some criticism of that. When Dame Roma Mitchell was Governor, I recall that foxes were living in the grounds of Government House, and we often see them still around the city and suburban areas because they are very adept at getting food from anywhere.

I think the long-term solution is genetic engineering. I believe the only way you will be able to deal with pest plants and pest animals in the long term is through genetic engineering, and that is where I think the focus should be. It is beyond the resources of the NRM, but I think governments at all levels should be putting more money into research, particularly genetic engineering to deal with pest plants and pest animals, including foxes.

The Hon. S.W. KEY (Ashford) (11:52): I thank all members for their contributions, and I think it is obvious that there is great support in this house for the five recommendations the Natural Resources Committee has put forward. I seek the house's support in the report being noted.

Motion carried.

ECONOMIC AND FINANCE COMMITTEE: ANNUAL REPORT 2011-12

The Hon. L.R. BREUER (Giles) (11:53): As the member for Lee is no longer the chair of the committee, I move:

That the 78th report of the committee, entitled Annual Report 2011-12, be noted.

The annual report of the Economic and Finance Committee details the three reports tabled by the committee, the numerous statutory functions performed by the committee and the ongoing inquiry references during the past reporting period. Before detailing the work of the committee, I take this opportunity to thank both the current and former members of the Economic and Finance Committee who contributed to the work of the committee throughout the past reporting period. On behalf of the committee, I also take this opportunity to acknowledge and thank the organisations, agencies and individuals that submitted evidence to the committee during the past reporting period.

In July 2011, the committee tabled its supplementary report into franchises. This inquiry sought submissions in relation to whether changes made to the Franchising Code of Conduct addressed the committee's recommendations in its previous inquiry into franchises in 2008. The committee received over 70 submissions and heard oral evidence in the inquiry. The committee found that 21 out of its 26 recommendations from the 2008 committee report had not been acted upon. It also found, however, that positive changes had been made to the regulatory regime. On 15 September 2011 the committee resolved to conduct an inquiry into the workforce and education participation. The committee received 15 written submissions in this inquiry and is in the process of finalising the inquiry.

Of particular interest, the committee undertook a two-day visit to the Regional Development Australia Yorke and Mid North region in May 2012. The committee was accompanied by the member for Goyder and also by Regional Development Australia staff. The committee attended businesses, local councils, a processing plant and a mine in locations including Balaklava, Kadina, Wallaroo, Maitland and Ardrossan. The committee also received briefings on the current copper-gold exploration and on a proposed wind farm project, both located in the Ardrossan area. The members found the visit to be very informative, especially in relation to the issues being confronted by those businesses and council areas striving to grow in regional South Australia. A report detailing this site visit is included in the committee's annual report.

In June 2012 the committee heard evidence and tabled its report into the 2012-13 emergency services levy, thus performing its duty to review the determinations made in respect of the levy for each financial year. As was reported to the house in June 2012, there will be no increase in levy rates for owners of either fixed properties or motor vehicles and vessels in 2012-13. The committee also noted in this report that the total expenditure on emergency services for 2012-13 is projected to be $233.4 million, and that total expenditure for 2011-12 is expected to be brought in line with the original budget estimate.

The Economic and Finance Committee further continued its work of reviewing passenger transport contract tenders under its obligations outlined in section 39 of the Passenger Transport Act 1994 in the reporting period. Tenders reviewed by the committee included a number of regional passenger transport services, and representatives from the department of education and children's services were invited before the committee in relation to school bus contracts.

Other statutory functions performed by the committee during the reporting period included receiving evidence from the Office of Recreation and Sport in relation to the sport and recreation fund, and receiving evidence from the Health and Community Services Complaints Commissioner. The committee also met with the Auditor-General on two occasions in relation to his annual report.

In May 2012 the previous presiding member (Hon. Michael Wright), the member for Norwood and the executive officer attended the Australasian Council of Public Accounts Committee's mid-term conference in Canberra. Along with discussing matters of interest with members of other public accounts committees in Australia and New Zealand, guest speakers at the conference included the commonwealth Auditor-General Mr Ian McPhee. The former chair presented to the conference, on behalf of the Economic and Finance Committee, in relation to the committee's recent events.

Finally, I acknowledge and thank the staff of the Economic and Finance Committee over the reporting period, including the former executive officer, Dr Paul Lobban, the current executive officer, Mrs Lisa Baxter, our part-time research officer, Ms Suzie Barber, and the committee's administrative officer, Ms Janine Roberts. I recommend the report to the house.

Mr GRIFFITHS (Goyder) (11:59): As a member of the Economic and Finance Committee I rise in support of the member for Giles. I have only returned to the committee relatively recently—in the last few months. I have enjoyed the opportunity to be part of the committee for the majority of my last seven years in this place. It is obvious to me that while there are differences of opinion sometimes, one common effort is being made by all members.

I commend the 2011-12 report to the parliament. The franchising issue about which the member for Giles spoke was quite complex. You had to understand it to appreciate the nuances involved in the issue, as raised by the concerned people who were affected. It was dealt with in the debate on the small business commissioner bill and how important is to our economy. I commend the report to all members.

Motion carried.

STATUTES AMENDMENT (REAL ESTATE REFORM REVIEW AND OTHER MATTERS) BILL

Adjourned debate on second reading.

(Continued from 14 November 2012.)

Mr ODENWALDER (Little Para) (12:01): I rise to speak in support of this bill. This is an important bill because obviously anything to do with real estate affects all South Australians. It affects particularly our young people, who are looking for perhaps their first home. In the current market it is quite difficult. The Statutes Amendment (Real Estate Industry Reform) Act 2007 came into operation on 28 July 2008, and this government continues to work on ways to improve how real estate transactions are conducted.

The proposed amendments in this bill will achieve two principal objectives: they will strengthen the rights of consumers and small business and reduce the administrative burden on real estate agents and auctioneers. A review of parts 4 and 4A, which were introduced into the Land and Business (Sale and Conveyancing) Act 1995, is required every two years. This review has resulted in recommendations that ensure regulation is updated to consider concerns of the real estate industry and, importantly, South Australian consumers.

Several amendments included in the bill were brought up separately to the review but were still considered appropriate. These include the fact that the reserve price cannot at any stage be

greater than 110 per cent of the selling price sought by or acceptable to the vendor as stated in the sales agency agreement. The vendor or agent will not be able to vary the sales agency agreement in respect of the selling price sought by or acceptable to the vendor. If the sales agency agreement is terminated, the vendor must not make a new sales agency agreement with the same agent specifying a selling price sought by or acceptable to them which is greater than that specified in the former agreement unless the period of the former agreement has elapsed.

There will be an establishment of a nexus between the selling price sought by or acceptable to the vendor and the reserve. This means that the expectations of the purchaser will be realistically met when the auction of a property is based on advertising reflecting the genuine selling price of the vendor. This bill ultimately will strengthen the regulation of the real estate industry. In doing so, it will improve fairness and transparency for South Australians who are buying a home and provide a sense of security for those people. I commend the bill.

Mr SIBBONS (Mitchell) (12:03): I rise briefly to indicate my support for this bill. Buying a house is the single most significant financial decision for the vast majority of families. The government recognises the importance of this decision. There is plenty to consider, whether for families or individuals. This bill seeks to deliver improved regulations of real estate legislation that will put the minds of South Australian homebuyers at ease.

Following the implementation of the Statutes Amendment (Real Estate Industry Reform Act) 2007, the REIR act in 2008, it became a requirement that new parts 4 and 4A, which it introduced into the Lands and Business (Sale and Conveyancing) Act 1995, be reviewed within two years. During the review process, several other comments were made during consultations.

These comments have been addressed in the bill to ensure that regulation is continually being updated to reflect the needs of the community and the industry, and they include the following changes. The definition of small business is amended to include businesses to the value of $300,000; this has increased from $200,000. A cooling-off notice will now be able to be delivered by email with the permission of the vendor. Bodies corporate will now have access to the cooling-off period if purchasing residential land.

Auctioneers or agents will be required to take all reasonable steps to give a purchaser notice of the times and places at which the vendor's statement can be inspected prior to the auction. Vendors or agents will now be permitted to display the prescribed notice in a prominent position at an open inspection, so as to indicate that the purchaser may take one if they so choose, rather than personally give a copy to every prospective purchaser.

In addition to these amendments, the bill importantly includes the creation of a nexus between the selling price sought by, or acceptable to, the vendor and the reserve. This will directly assist to achieve four main objectives: to encourage the vendor to specify an accurate selling price sought by, or acceptable to, them in the sales agency agreement; to eliminate the marketing of a price significantly lower than the reserve; to eliminate collusion between the agent and the vendor to estimate low prices in the sales agency agreement; and to create transparency in the auction process by allowing the prospective purchaser a reasonable idea of what the reserve will be if the property is marketed.

It is clear that the bill, after extensive review and consultation on existing real estate reform, plays a vital role in ensuring fair and effective regulation for both the industry and potential homebuyers. I know, from speaking to people in my electorate at street-corner meetings and when I am out doorknocking, that people want to see us improve the fairness and honesty around what is such a significant financial investment. I commend the bill to the house.

Mr GRIFFITHS (Goyder) (12:07): I also rise on behalf of the opposition and confirm that I will be the lead speaker for the Statutes Amendment (Real Estate Reform Review and Other Matters) Bill 2012. I note that it was introduced by the minister on 14 November 2012. I take from the other speakers the history that has occurred here, the reviews that have been undertaken and the general level of support that exists across the real estate industry for changes to occur.

It is fair, though, to note that, while generally supportive of the bill, there are issues that the opposition has raised via amendments that are intended to be debated during the committee stage of the bill, but I do look forward to its eventual passage, because it is important that there is a strong level of support and positive opinion in the community about the real estate industry, so that we encourage people to believe in it and have an acceptance that it will work for them, no matter whether they are purchaser or a vendor.

It is a pleasure to contribute to the bill. I note that it has been a matter that has been discussed at length for a few months by the Real Estate Industry of South Australia with the minister and the opposition. Indeed, the Law Society submitted a report to us also which was part of our joint party room consideration, and indeed I do note the willingness of the minister to be involved in ongoing discussions at this level. I note, indeed, that a senior officer had some level of unluckiness when it came to bike riding, and he has been unavailable in recent times, but he is back today. He looked a bit forced when I came in, as in painful, but that's about all.

But this is an important step forward, and it reflects the opinion I have had put to me by the real estate industry that a level of support exists. It is fair to say—and it might be my words not theirs—that they will live with it. They would probably like to see some changes occur to it, but they understand the numbers as they are and how the parliamentary process works, and that it is important for them as an industry to move forward with it too.

There might be some finer points that we might talk about in detail, but there is a level of support that exists from the industry. Greg Troughton, from the Real Estate Industry of South Australia, is not in the state today but he has advised me of an alternative officer I might speak to if there are issues to discuss. But from my discussions with him, and with the member for Chaffey—who I know also intends to speak—when he has spoken to real estate industry people, I know that there are some issues they want to raise, but there is a level of support that exists.

I also recognise the importance of the bill. When people buy or sell real estate it is often the most important and most expensive purchase or sale decision they make in their life. Like the member for Little Para and the member for Mitchell, and what they have talked about, my children are aspirational. I am quite pleased that in the last 18 months both my kids, who were 22 and 20 at the time, bought homes. It showed a level of confidence by them that surprised me, but it showed a commitment they wanted to make not only to their partners but also to owning their own home. It meant that my wife had to forget the kids for a little while, a bit earlier than we thought it might happen, but it has been exciting to see that.

Mr Venning: Empty nesters.

Mr GRIFFITHS: Empty nesters, as the member for Schubert points out. However, it has opened my eyes again to the real estate industry. As someone who has lived through it several times—as a seller, but the majority of times recently it has been as a buyer—I have had mixed opinions.

It is fair to say that when I read the consumer and business affairs report submitted by Mr Green, who works for the minister, when he provided me with an update of the concerns raised with the commissioner's office in the past five years about the complaints lodged by, predominantly, purchasers—and, in some cases, vendors—they have not been exceptional in number. However, I do recognise that for the majority of people there might be a level of frustration, but there is an unwillingness to lodge a submission through to the commissioner's office. It has not been a number that surprised the life out of me, but I do reflect that they probably represent a relatively small number.

It is important that we get it right. The 47 members who sit in here represent nearly 1.6 million South Australians, and they all have a story to tell—some bad, but mostly good, from the feedback I have had from within the industry. It is important that they believe in real estate professionals, and the industry itself is focused on positive outcomes. It recognises that the best way for its members to survive, do well and prosper is to have an industry that works well, that gives confidence to the consumer, as they purchase their product in buying a home, as well as to the vendor in selling it.

In my case, I had an experience with an agent that was somewhat frustrating. I felt as though he was working more for a potential purchaser than me as the vendor. At the time (this goes back a long time, and I will not give any more reference to timing than that), I paid him out. I wanted to get rid of him because I had an alternative arrangement in place that I had created myself. I went to him, explained the situation, wrote out a cheque in his name and finalised the agreement.

I understand that that is not the preferred option, but it was necessary for me at the time because I had little faith in the individual. Since then, whenever I have had real estate involvement it has been with positive outcomes, exceptional outcomes. The agent I have dealt with most lately, almost four years ago, was prepared to do anything for me without any reference to who I was or

what I did, all that sort of stuff. I think he is an example of the professional quality that exists within the real estate industry.

It must be evident, when I look at the issues the minister is bringing forward, and the relationship he must have with the industry and the industry with us as an opposition, to accept that change has to occur as well. It suggests to me a level of positiveness that is, I think, a good one. There is no doubt that for a real estate industry to work well, and for an individual agent to be successful, it is necessary that they get positive feedback, and they rely upon their customers—be they purchasers or vendors—to spread the word about how they operate. So the ones who have done well, no doubt in buoyant economies, have been people who have provided exceptional service for both sides of the equation and who have looked for opportunities to help people out.

My issues are reflective of those of many others. If a lot of people in this chamber rose, they would probably talk about a personal perspective on real estate. It is important that it works right, and that is the real reason to keep looking at improving legislation to give protection to purchasers and sellers. The member for Little Para, or it might have been the member for Mitchell—I apologise—has reflected upon the review that was undertaken of parts 4 and 4A a few years ago and how issues with that were identified and improvements suggested which are part of this legislation too.

I want to enforce the feedback that I have received from Greg Troughton of the real estate industry that they are prepared to accept the bill as amended by the government. I note several amendments will be discussed at the committee stage. One has been subsequently withdrawn, I believe, by the minister; the rest are still being proceeded with. Again, while it is not ideal for the real estate industry, they are prepared to work with it.

I note that two amendments came as late as last Friday, which emanated from a discussion that the minister had held the week before that with members of the real estate industry. I hope that the minister has had the opportunity to look at the opposition amendments which, I think, number eight. One of those might not be appropriate, others are contingent upon others, so we will see what happens about that in the debate.

I have reviewed the second reading speech of the minister, and noted it with interest, and there are a few issues that I wish to discuss which, obviously, people in the chamber will be making the minister aware of. The first point I wish to take up is the nexus and the capping of the reserve price. I really think that is a key issue because it talks about reserve price. I am not sure if I picked that up as early as I should have because I was working on the basis that a property is advertised at auction for a figure. We will have some discussion about the single figure versus the range later on.

My concern was that you are trying to determine what the market is prepared to pay. I have lodged amendments relating to this, but subsequent review has highlighted that we are talking about reserve price which really is, in effect, what the vendor is prepared to accept when they sell their property.

My initial concern was raised about how an agent determines in discussions with the vendor what the market is prepared to pay. I know they have experience in this locality, I know they have experience within the industry, but I know the feedback I have had is they are not necessarily qualified to provide the detail upon what the valuation would be—that is a separate level of person again. Even though, in practical experience, they probably have more day-to-day involvement than most others, they work within a range.

There will be some amendments lodged about this and there will be some subsequent debate take place, but this really has become a bit of a point for the opposition. I note that the real estate industry has had continuing levels of frustration with it but is prepared to work within its guidance, as I understand it, but I still think there is an opportunity for some debate to occur at the committee stage about the effects of that.

The second point I wish to raise is the detail that is provided about small business. It talks about an increase from $200,000 to $300,000, as I understand it. My desire is that, given we have had the GST since 2000, there be an opportunity to debate that it should be GST exclusive, so that a clear definition is provided and that no uncertainty exists so that potential market people understand what is meant. I have flagged an amendment, which has been lodged for 1½ weeks and which talks about $300,000 GST exclusive.

I note with interest that, within the rather lengthy debate that has occurred in this chamber about the Small Business Commissioner, there was no reference to a definition for small business at all. I asked that question ad nauseam. I would have thought that small business should have been defined there more than anything. I find it rather interesting that it has been talked about and had a figure attached to it for the real estate industry but not in a more general sense. So I am accepting the $300,000 figure, and the Liberal opposition is accepting the $300,000 figure, but there should be some definition as to whether it is GST exclusive or inclusive. Our position is that it be GST exclusive.

The third point is extension of sales agreements. I note that the minister, as part of the bill, has flagged the ability for a subsequent 90-day extension to be granted to an agency agreement. There has been a position put to us that, especially for some members within the real estate industry who operate in regional South Australia, 90 days and one extension only is restrictive upon them and they would seek an opportunity for a subsequent extension of an agency agreement to be put in place. That is a varied opinion, it is fair to say.

You would hope that with an initial agency agreement and a subsequent extension of 90 days automatically that would be sufficient, because it does represent six months of the year. History tells me that in a lot of regional communities that have had some harder times, six months might not be enough. While a vendor makes the decision about an agency agreement, that opportunity might not exist for them to change their mind anyway because of the size of the community. I suggest there might be a need for a position or review on that. The one that I have taken is that a subsequent extension be allowable so it becomes a 270-day agreement because it has been flagged to me by regional people who work within real estate.

Point four is about single price advertising. I am intrigued how this one is going to work. In the discussions that I have had with people again it comes down to an opinion, and opinions are not always correct. While they are informed opinions—and I respect that—it will come down to what the market is prepared to pay, and quite often that is a bit different to what the vendor's expectation is or what a purchaser's expectation is of a house. It only requires two people to decide that, yes, they want it and then serious things happen with that. It creates some difficulty in a single advertising price.

I know there have been some efforts to constrain the method that is used for that. Symbols used to be attached to it; now it becomes a figure again. I understand the reasoning for that but I seek some clarification from the minister on the reasoning behind single price advertising and its potential impact if he feels it will create some benefits attached to the real industry for purchasers predominately. How is it going to work: its impact on its range of property and its valuation based on what the market considers? It involves all those sorts of issues.

I also raise the point about comparable land sales. I note that it is a requirement now of an agent to provide to a vendor some history of comparable land sales. In the briefing that I had from the minister's staff I asked a question: what if it is not necessarily available? I understand that agents will make a reasonable effort (I think that was the term used) to try to provide that detail. I was able to quote some examples where comparative land sales and valuation opportunities might not exist. They may be rare, and there was coverage provided by the fact of 'reasonable effort'.

I am concerned, though, that if somebody becomes very strict in its interpretation of the bill when it becomes an act and they look at that and then they engage an agent and feel as though a disservice has been done to them, then it might provide an opportunity for them to express frustration to the consumer and business affairs commissioner. I raise that point because I understand that in the absolute majority of cases agents would do the best possible work for the people, so it is not a criticism of the industry, it is more about a practical application of a requirement that is coming upon the industry.

I flag the concern of the opposition about a requirement that properties be advertised with a single figure instead of a price range. I have talked about it a bit briefly, but it really is a worry to us because it impacts on the ability of the market. As a group of parliamentarians our deep philosophical point of view is that the market must have the opportunity to determine a price, and that is a very strong philosophy that we hold true. The concern is that when you advertise a single price it may impact on the willingness of some people to be involved in a potential process which takes them out of the equation. We are concerned about that and we would like to see some improvement on that—at least an explanation by the minister about the reasoning for that—because this is the place where debate is meant to occur.

I want to confirm that there is a level of support by the opposition for the bill. We recognise—and I will enforce this again—that the minister had a preparedness to meet with industry people about this. They have come to us and I have had some very recent conversations with the CEO of the real estate industry of South Australia which flags the fact that, yes, they would like to see some change. They recognise, though, that the minister has been very approachable. They are preparing to make it work.

They have asked us to look at things like implementation date, too. While I intend to put in an amendment about 'not less than six months' regarding its commencement date after assent by the Governor, as an industry they have come to me and said that ideally they would like three months. For them, it is important that they have an opportunity to educate their professionals about any potential impacts. So, that will require some time. I am not sure whether the bill highlights that issue, but that is one that we will put forward and, indeed, one that we hope the minister will recognise, too, as part of his implementation date.

Real estate is something that is a bit foreign to me—I am a bit of a bureaucrat by nature, so I am a process-driven person—so it has been rather interesting understanding it all. I have appreciated it because real estate impacts all of our lives. Most of us in this room would have, at one time or another, purchased or sold property, and we have had a level of pleasure or displeasure with respect to real estate agents. This is an opportunity to improve the way in which they act.

It is appropriate that the house debates this bill in detail because there will be issues which arise which might not completely suit the industry and might not completely suit the vendor or purchaser of a property. It is important that we find a balance that is right, and that is what it comes down to—an appropriate balance which allows not only the industry to have confidence in itself and the way in which it operates but, more importantly, that the purchaser of a product has confidence in the way in which they are treated to ensure that, when they purchase a property, they are paying a fair and reasonable price and the vendor is getting a fair and reasonable price also. I look forward to the debate that will occur in the committee stage and the passage of the bill.

Mrs GERAGHTY (Torrens) (12:26): I am pleased to have the opportunity to speak in support of this bill. I have been to a number of auctions over the last 12 to 18 months, and I have made some interesting observations, particularly at one of them. So, I think it is important that there is some reform.

This government has ensured, and will continue to ensure, that South Australians can be confident that they are getting a fair go when it comes to buying a home, because I think that is exceptionally important. The government is also working to enable the real estate industry to work as efficiently as possible, and the bill continues our efforts to keep the balance between protecting the rights of the consumer and supporting the industry.

On 28 July 2008, the Statutes Amendment (Real Estate Industry Reform) Act 2007 came into operation. These reforms were developed as a result of several concerns regarding the real estate industry. They include: dummy bidding at auctions, which is something I have observed for myself; over-quoting by agents to secure property listings; and bait advertising of properties for prices well below the actual estimated selling price. I might say that I have come across that occurring, which I found exceptionally disappointing, given that it was a property I was interested in. Undisclosed conflicts of interest and other misleading or deceptive conduct by some agents were also addressed by these reforms.

The reforms also required the new parts 4 and 4A, which it introduced in the Land and Business (Sale and Conveyancing) Act 1995, to be reviewed within two years. The review commenced in February 2010, and a report was tabled in September of that year. Submissions received from the industry covered a broad range of topics. Consumer and Business Services has now assessed all of the proposals for change. The bill now addresses six key measures as a result of the review of part 4 and part 4A, and these are:

- agents will be required to provide details of sales of comparable land or other information on which the agent will rely in support of his or her estimate of the selling price, which they must include in the sales agency agreement;
- agents will be able to extend a sales agency agreement for one further period of 90 days, provided that the vendor agrees to an extension within 14 days of the expiration of the original agreement and that the vendor has the right to terminate the extension with seven days' notice;

- agents will now have a more flexible time limit of 48 hours in which to deliver a copy of the verification of the vendor's statement certificate to the vendor and 48 hours (if agreed by the vendor) in which to deliver a copy of the sales agency agreement to the vendor;
- auctioneers will now only be required to audibly announce that the standard conditions of auction apply as binding contractual conditions;
- auctioneers will be permitted to use a unique identifier comprising a number, letter, colour or some other identifying feature when taking bids from purchasers rather than just a number;
- the definition of what constitutes a representation as to the likely selling price in marketing residential land will be tightened to prohibit the use of words or symbols in relation to a single price advertising and only allow the use of words or symbols in price range advertising when used to denote a range.

Evidently, these changes will make a significant difference in the regulation of the industry. The government is continually working towards helping South Australians to be in a position where they are able to afford to buy a home for their families. Further to this, we want them to feel secure in knowing their rights as purchasers are protected. The passage of this bill will:

- strengthen the rights of consumers, which is obviously extremely important;
- increase the level of transparency of real estate transactions, in particular auctions; and
- reduce the administrative burden on real estate agents and auctioneers.

I commend this bill to members.

Mr PEGLER (Mount Gambier) (12:31): I rise to indicate my support particularly for the intention that this bill brings to the real estate industry and I will look at the amendments with quite some interest. Buying a home or flat or whatever is often the biggest decision that many people make and it is a decision that they will probably only make once or twice in their lives. Those people often go to buy a property with a lot of trepidation: they do not know who to believe and they do not know who is reputable and who is not.

I am sure that the passage of this bill will give those vendors and purchasers a lot more confidence. Out in the country we probably do not have as large a problem as here in the city. If there is a disreputable agent most people soon find out and the message gets around fairly quickly in the country so it is mainly in the city, when people are buying homes, where that is the biggest problem.

There are parts of the bill that I have a problem with, but I agree with the agency agreement being for only 90 days with an option to extend for 90. We have to be careful, though, that one agent does not sit back with a potential purchaser until that 90 days has gone by so that he can swoop in and get both the purchase and the sale for himself.

We will also have a problem with comparable land sales, particularly in the country on agricultural land. Often those lands are tightly held and there are not many sales within a district so it is extremely hard to get comparable land values. I think we have to be fairly careful about how we put that into the act so that people who should not be swept up into it are swept up into it.

I also very much support the changes to the announcements that the agent has to make prior to sale. I have been to many auctions as a potential bidder and the agent has to stand up and spruik on for quite some time, and I do not think anybody has ever heard or understood what he has said and it has been a complete waste of time, so I certainly support that change, and I further indicate my support for the bill.

The Hon. L.R. BREUER (Giles) (12:34): I want to speak briefly today in support of this bill. I have had some experience of real estate in the last two or three years. My only previous experience was some 30 or 40 years ago when I bought a house. However, recently I decided to go back into it and I bought myself another house—a new house; I sold my other one and bought a new house. I bought a flat here in Adelaide, and I bought a shack, and then I lost my job, and now I am up to my eyeballs in debt and I cannot afford Tim Tams, ice-creams, or anything else, but we will struggle through and get there. So, I understand very well that for many South Australians buying a home is the biggest financial investment they will make, but this government will always ensure that when they do make that decision, they are given a fair go.

We have listened to the concerns of vendors and purchasers in the marketplace, as well as to those within the industry, and it has been very interesting in Whyalla in the last few years, where there has been an incredible amount of building going on, with new building right throughout the town. I understand the concerns surrounding the real estate industry and appreciate that it can be a confusing process. What I am pleased about with this bill is that it continues with our efforts to address concerns in the community about practices, including dummy bidding at auctions, a lot of overquoting by agents to secure property listings, and bait advertising of properties for prices well below the actual estimated selling price (and I have had some experience of that myself).

Since the Statutes Amendment and Repeal (Real Estate Industry Reform) Act 2007 was implemented in July 2008, several issues have been drawn to the attention of the government. These issues have been addressed in the bill. They include:

- disciplinary action against agents or sales representatives who are found guilty of specific offences (breaching marketing requirements, acting in conflict of interest situations and making false and misleading representations) and will be enhanced by requiring the court to cancel their registration and disqualify them either permanently or for a specific period, or until the fulfilment of stipulated conditions, or until further notice;
- agents who fail to comply with the marketing provisions of the legislation will not be able to demand, receive or retain commission or expenses in respect of the sale of the land;
- agents will no longer be permitted to specify their genuine estimate in the sale's agency agreement as a price range to better reflect the requirements of the prescribed minimum advertising price and subsequent marketing of the property; and
- various penalties will be increased to reflect the seriousness of those offences.

These amendments are a direct attempt to resolve the continuing problem of underquoting and bait pricing. The passing of the bill will give potential homebuyers the comfort of knowing that there are regulations in place to protect their consumer rights. The improvement of transparency around such a complex process and significant financial investment I believe is invaluable to the people of my electorate and to all South Australians, and I commend this bill.

Mr WHETSTONE (Chaffey) (12:37): I rise to support the real estate reform review bill and, having listened to all the contributions this morning, I note they have dealt with the myriad of issues we face entering the market to buy real estate or, of course, to sell real estate. As I see this reform, it is about putting a stop to perhaps unscrupulous behaviour or bad behaviour and also dealing with many issues.

What I see on the outside is that bait pricing is probably one of the issues that really does impact on people, and this is obviously being done to lure potential buyers into the marketplace to buy real estate. They are almost lured into a false sense of security about whether they can afford to buy something that has been a dream of theirs, only to find out that that dream is potentially being shattered because the value of that house is being undersold. I think that is something that really has put a bad taste in many people's mouth, and it is why in some instances that profession has been branded as one of the lower-regarded professions.

The minister for Goyder's contribution, as usual, was a very thorough examination of the bill, and I think he has put some of the scenarios in regard to how it will commence and how it will be supported. I have spoken to several representatives of real estate businesses and they are cautiously supportive of the bill. One of the things that has been brought to my attention many times, both here in Adelaide and in my electorate of Chaffey, is the view that this legislation is not being policed; the laws are not being adhered to by some unscrupulous operators, and the authorities are not policing the laws around this legislation.

This bill has been designed to reduce red tape, and I think that is great. Historically, documents had to be sent in hardcopy, but it appears that there will now be the flexibility to transfer these documents electronically. Looking at reducing any red tape and regulation is of benefit to businesses and consumer. One of my pet hates has always been overregulation and red tape.

I would like to note that since 2007, the Rudd and Gillard governments have introduced nearly 8,000 regulations. It seems that every time state and federal governments meet, we put more burdens on industry. We try to reduce it, but the general consensus appears to be that business transactions and moving on in life are always governed by the red tape and regulations.

Just briefly looking at real estate and house prices in my electorate of Chaffey: the median prices increased over recent years, but that has almost been skewered by the uncertainty about water allocations in the river. This uncertainty has driven house prices up and down. A restriction on water allocations is always a reflection on how people will deal with uncertainty, whether they have a job and whether they will be impacted by drought. This affects many houses and businesses within the market.

In listening to the member for Mount Gambier's contribution, it appears that the price of regional homes is affected by the uncertainty of commodity prices, water allocations, and various issues which affect that particular region. I note that building or selling a home on a regional property is usually affected by the certainty of the businesses around the home.

As an example, if a home was built in Adelaide for $1 million, nine times out of 10 you are going to get market value, which should be around the build price. However, if that same home was built on a property or farm in the regions, its value is not governed by the land price or potential market drivers: it is governed by the commodity prices that sit around that farm and are associated with the cost of that home. So, it really is a two-way street. That uncertainty could, in essence, create a desperate seller-opportunistic buyer scenario, so that is also part of the play when it comes to market prices for homes.

Let us take a look at how the auction system works. In some cases, it deals with people who are old hands and who know how the auction system works, or people who know how to play the auction system. It is also dealing with new entrants into the market, people who have not been to auctions. Normally, when you go to an auction or a house sale, there are those new players and the old hands at the game, and that does potentially play out at the end of that auction system.

One of the other issues that I have not got an answer for at the moment is the houseboat industry. How is the houseboat industry going to be affected? Obviously, the houseboat industry is dictated to by, we might say, river allocations—how much water is in the river. Is that river viable for someone to go out and invest in a houseboat? Will that industry be impacted on by this new bill? That is something that perhaps we can deal with, or maybe questions can be asked about, in committee.

I note the increased costs of actually owning and registering a houseboat, and all the rules and regulations that go with that. I accept that it is common that we have increased rates and costs of owning and maintaining a house, but we do not have the increased cost of registration that has gone up from, I guess, a fairly modest cost to, rather, a real burden on owning and operating a house. It is all about the costs of doing business. It is about the costs of dealing with regulations. I am sure that this current bill will address some of those issues.

There is something that we spoke about with some of my colleagues this morning, and that is new homes. We will come back to this bait pricing. We go out and see a house and land package and that will have an included price but, essentially, if you go out and look at how it has been advertised, it is normally about a base price of a home. It is about a base model. With today's expectations, we look at what a base house or home is about, but do we include the environmentally friendly attributes of a home? Will that cost more? Is air conditioning included? Is a garden included? They are almost those issues again of bait pricing. We see the price of a home advertised and then it is really about: does that home include some of the essential expectations that people today want in a home?

It has already been noted with several of the contributions that investing in real estate, in a lot of ways, can be one of the big tickets of life's experience—going out there for the first time or upgrading your home. It is about an experience. It is about progress and it is about moving on with what life offers you. As the member for Giles said, it is about living within your means. Suddenly, you are looking at expanding your home or the nicety of your surroundings. Do we deal with how our wages are structured and an expectation of whether you are challenged within a job? That will have a real impact on just exactly whether you are going to move on, buy a new home, upgrade a home or even downsize a home. There are many issues there. It is about getting the credible information and dealing with that information when you are entering a marketplace.

I think one of the biggest impacts for me, living in a rural area, is the comparison between urban pricing and urban realisation of the price and comparing it to that regional pricing and the baggage that comes with buying a home in country areas or on rural properties. It really does open up a can of worms, just exactly what values of homes and land is all about. I think everyone's contribution today has been valuable, and I have risen today to support the bill.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (12:50): I thank all members who have contributed to this debate. I think it is probably the case that most members of parliament accept that this is a very important area for vigilance in terms of protection of consumers, who are, after all, dealing with the one and only huge investment that most of them will make in their lifetime. This bill is the result of extensive consultation with industry and members of the public. I thank everyone who wrote to me and the consumer and business services people for their views and comments.

The proposals contained in the bill seek to accomplish three main objectives: to strengthen the rights of consumers, and I will come back to this in a minute when I make some remarks about the amendments being proposed by the opposition; to increase the level of transparency, and again I will make some comment about that in the context of the amendments to be moved by the opposition; and to reduce the administrative burden on real estate agents and auctioneers, and they certainly are intending to do that, there is no doubt about that.

Consumers will greatly benefit from the new provisions, should they pass, which are designed to stamp out underquoting, which apparently the opposition seems to think is rather good, and restrict advertising that uses words and symbols that are often misleading to prospective purchasers. Real estate agents and auctioneers will also benefit from new provisions permitting extensions to sales agency agreements, allowing more flexible time frames for document deliveries and modifying auction procedure to allow for more efficient and streamlined processes.

The government has carefully considered the balance between protecting the rights of consumers and allowing agents to conduct their business as efficiently and effectively as possible. The government has got the balance right. The bill, as moved with the modest amendments which the government has already tabled, will have, if passed, a widespread and positive impact on members of the real estate industry, particularly those in the overwhelming majority who are basically straight up and down decent businesspeople who are honest and do their best to do the right thing. If they were the whole of the real estate industry we would not be wasting our time in here debating this bill because it would not be necessary.

Unfortunately, there are a few rogues, who they know about, do not much like, do not want to dob in and force us to go through the process of doing this sort of stuff in order to catch up with them, but more on that a bit later. This bill will have a widespread positive impact on members of the real estate industry and those who call upon them to assist them in the biggest financial decision they are ever likely to make in their life.

As I said, I intend to make a few in-house amendments, and I will discuss these further during the committee stage. However, can I say this: I have been consulting consistently with the real estate industry about this matter. In fact, as recently as a few weeks ago I had Mr Troughton and a couple of members from the REI—I will not identify them so that they are not tarred and feathered by their colleagues—in my office, we had extensive conversations and we had come to a consensus position on the government bill, as amended by a couple of small fine tunes that we seek to bring in here.

I can indicate that the main one relates to the situation where a real estate agent has received an offer that the vendor is thinking of considering accepting prior to an auction. They were saying it is important that the agent be able to ring the other interested purchasers and say (a) there is another offer, and (b) we cannot tell you what it is but if you want to have a crack at this now is the time to say something or forever shut up. In our original bill we did not allow them to say there is another offer on the table. What we have said now is that if in fact there is another offer on the table, and you are going to have to prove that if you are called to, you can state the fact of there being another offer without disclosing the detail of the offer, which of course would not be appropriate. We have done that in order to accommodate the concerns of the real estate industry, and we are moving it.

For the first time today I have seen a copy of the amendments to be moved by the opposition on this matter. I do not necessarily criticise the member for Goyder in this respect, because they were tabled on 20 February. I can say that nobody from the opposition has sent me a letter saying, 'Here are our things,' but then again maybe that is not the routine anyway. I am not having a crack at the member for Goyder, but I just make the point that I have only just seen them.

But, having only just seen them, I am particularly alarmed at what appears to be a complete backslide in relation to one of the fundamental reforms contained in this amendment bill,

that is, the provisions relating to underquoting. Underquoting—that most evil, insidious, disgusting element of the real estate industry, the things that Mr Troughton and all his friends will tell you make them sick to the stomach, the things that all decent real estate agents say, 'If we could just stamp this vile practice out, everyone would have more respect for us as real estate agents.'

I sat them down in a room, when I was working on this legislation probably as long as a year ago, and I said, 'Do you agree with me that there are people out there underquoting?' And they said, 'Yes, we do.' I said, 'Who are they?' They said, 'We can't tell you, you have to find out.' I said, 'But you know it's going on, don't you?' 'Yes, we do.' I said, 'Rightio. Well, you tell me how we can change the law to stop them doing it. Here's my challenge: you go away and tell me how to do it and I'll do it your way. You don't come back with an answer and I'll do it my way.' Guess what? They never came back with an answer.

That is why we have the provisions in here in clause 13, which is the whole guts of the government's consumer protection effort in this legislation, the thing that protects people from the evil grubs who are out there underquoting—the very thing that the whole of this bill is about, the thing that is too hard for the real estate industry to deal with, the thing that all consumers are grumbling about, and quite rightly, the thing that even the ACCC has said is offensive. We have tried to put things in this legislation which will make that not only illegal but detectable.

Opposition amendments Nos 4, 5, 6 and, I think, 8, are typical of the opposition: when we try to get tough on anyone who is a crook, they pull the teeth out of it. So, I am interested in knowing, as we get into the committee stage of this legislation, how the opposition is going to justify to the public of South Australia that this consumer protection measure is to be neutered. Basically, we may as well be here gnashing our chops, completely wasting our time.

Do you know the people who are going to be laughing about this? The real estate agents who are underquoting, ripping people off, bringing the whole industry into disrepute. The people who other real estate agents say are grubs are going to be laughing their heads off when they read this; in fact, they will have the Moët out. I would not be surprised if the opposition did not get a case of Moët if this gets up. It will come from somewhere, I suspect, in the eastern suburbs.

If I was about naming individuals who are actually perpetrators here in my opinion (although I do not have proof), I would even say a name—I do not misuse parliament for that purpose, so I will not—but these people deserve to be caught up with. We need evidence to catch these people. We need procedures that are going to make them find it impossible to continue doing what they are doing and ripping off the public.

This is a very important bit of consumer affairs legislation, and I remind everybody that the Real Estate Institute itself was prepared to sign up for this, provided they got the amendment I have just indicated I will be moving. So, here we have an opposition offering less consumer protection to the consumer from grubs in the real estate industry than the industry itself wants to offer them. That is a pretty bad outcome. I seek leave to conclude my remarks at a later time.

Leave granted; debate adjourned.

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

WIND FARMS

Mr GRIFFITHS (Goyder): Presented a petition signed by 38 residents of Yorke Peninsula and South Australia requesting the house to urge the government to place a moratorium on the approval of any wind farm development until the parliamentary committee releases its findings and that the Ceres Project be scrutinised under major development status to ensure that the health, safety and financial position of residents and property owners are not negatively impacted.

SOUTH AUSTRALIAN BRAND

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:03): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.W. WEATHERILL: This evening I will unveil a new brand for South Australia. For the first time, our state will have a brand that tells the rest of the world that South Australia is a

great place, whether you are buying from us, investing in us or learning, visiting or living here. Since the very beginning, our state has built a reputation for being progressive, creative, industrious and forward thinking in our approach, doing it the South Australian way.

As a government in modern times, we have been very keen to build South Australia's place in the world, recognising that too often people are unaware of where South Australia is. That is why last year we set about finding a new brand for our state and charged South Australia's Economic Development Board with responsibility for driving this. Government agencies, businesses, tourism bodies and universities all work hard to attract more investment, more export opportunities, more tourists and more students to help grow our state's economy.

What the state brand will allow us to do is to ensure all of these individual efforts are mutually reinforcing—continually making the case for what sets a product or service from South Australia apart from its competition. All our industries—from our manufacturers and our clean green food and wine industries to education institutions and hospitality businesses—could use this brand to pitch their products on the world stage. It is a brand that they will be able to stand behind confidently because it is real. It has been built directly from the input of more than 3,500 South Australians across the state, city and country, business and community. It reflects what we hold to be true about ourselves and it reflects an ambition to grow this into a competitive advantage that will make our state stronger.

It is also a bit audacious, making a bold statement about our place in Australia and our place in the world. The success of this brand will lie in its uptake. It is the South Australian way to rally and get behind the state we live in, work in and love. I am confident that South Australian businesses will want to use this brand and I am confident every South Australian business which does can make the brand stronger.

LEGISLATIVE REVIEW COMMITTEE

Mr ODENWALDER (Little Para) (14:06): I bring up the 22nd report of the committee, entitled Subordinate Legislation.

Report received.

PUBLIC WORKS COMMITTEE

Ms BETTISON (Ramsay) (14:06): I bring up the 469th report of the committee, entitled Legal Services Commission—Head Office Relocation.

Ms BETTISON: I bring up the 470th of the committee, entitled Riverbank Precinct—Pedestrian Bridge.

Report received and ordered to be published.

Ms BETTISON: I bring up the 471st report of the committee, entitled Tea Tree Plaza O-Bahn Interchange Commuter Car Park.

Report received and ordered to be published.

Ms BETTISON: I bring up the 472nd report of the committee, entitled St Clair Railway Station Project.

Report received and ordered to be published.

Ms BETTISON: I bring up the 473rd report of the committee, entitled Port Augusta Central Oval Redevelopment.

Report received and ordered to be published.

Ms BETTISON: I bring up the 474th report of the committee, entitled Port Wakefield Water Supply Upgrade.

Report received and ordered to be published.

QUESTION TIME

STATE ECONOMY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:08): My question is to the Premier. After 11 years of Labor government, why is South Australia in a recession?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:08): Never has a question been more anticipated than that visit to Mount Lofty. Can I first begin with the premise? The premise is wrong. The assertion of a recession is simply wrong. There is no basis on which to say that. Each year we publish the figures for the gross state product and that growth that occurs through the year. It is only done on an annual basis. That is the only basis on which you would be able to conclude that there actually has been that analysis of the economy and it of course has not been published yet, so how one could reach that conclusion is beyond me.

I presume that the figures which the honourable member is referring to in seeking to draw the conclusions he has reached are the state final demand figures. We had this debate some time ago in this place. That does not measure all that goes on in the economy. It is not a measure of production in the economy: it is a measure of spending in the economy. It does not, for instance, measure interstate transfers or exports.

On the last occasion, when I think it was the shadow treasurer who came into this place predicting recession on the basis of similar material, he was proven wrong by the publication of the annual figures, and we fully expect him to be proven wrong again. Indeed, I think there is strong evidence to suggest that that will be the case, because what we have seen in the recent BankSA series is that both consumer demand and business demand are picking up.

We knew that the last quarter of last year was a difficult quarter. That is why we took a range of steps to actually seek to put a floor underneath demand in the South Australian economy, by doing two particular things. One was a series of measures that were directed at stimulating demand in the housing and construction sector including incentives for off-the-plan apartments and incentives for a housing construction grant. You would have seen just yesterday, sir, the announcement of the bringing forward of $70 million of projects to provide for further stimulus to that particular section of the economy, so there was an acknowledgement that there was softness in that quarter to which we have responded.

I must say that you need to contrast that with what has been urged upon us by those opposite, that somehow our commitment to the economy, in terms of our infrastructure projects and the stimulus measures, were somehow a false economy. If the data that we are seeing from the ABS tells us anything, it tells us that those measures were well targeted and that they were sensible responses to the economic activity that we knew was finding its softness in that quarter.

We do expect that to change in the future and there is strong evidence to suggest that that is happening but there is no basis for suggesting that the economy is in recession. Indeed, since 2010, there have been an extra 12,800 jobs. It means 126,000 jobs since we came into government and that is a record of which we are proud and we will continue to pursue investments that drive job growth in this economy because we believe in this economy. We believe in this state.

STATE ECONOMY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:12): I have a supplementary, Mr Speaker.

The SPEAKER: I will hear it.

Mr MARSHALL: Given the Premier's answer that he does not accept that South Australia is in recession, can the Premier explain how South Australia is not in recession? Given that in both trend and seasonally-adjusted terms, state final demand has declined for the previous two quarters, gross exports have declined for the two consecutive quarters and net exports have declined for the two consecutive quarters, how can we possibly not be in recession in South Australia?

The SPEAKER: That is indeed a supplementary. The Premier.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:12): Simply, spending in the economy is not a measure of production in the economy and gross state product is a measurement of the productive effort of the economy, which is the measure of whether we are growing or contracting. That is measured once every year and last year we grew at 2.1 per cent and we fully expect to grow again this year. We have grown for the last 10 years and I think those opposite have been predicting contraction for the last 10 years. They have been wrong every year for 10 years; they will be wrong again.

WIND FARMS

Dr CLOSE (Port Adelaide) (14:13): My question is to the Premier. Would the Premier advise the house about the investment climate for wind power in South Australia?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:13): I thank the honourable member for her question and I acknowledge her strong commitment to environmental sustainability. It is something that I think we have come to associate with the member for Port Adelaide over her career well before she entered into parliament. She has taken those values and concerns into her role as member for Port Adelaide.

Wind power is one of the most cost-effective forms of renewable energy and plays an important role in reducing our level of greenhouse gas emissions. We have almost 50 per cent of the nation's wind power in South Australia, up from zero when we came to office. Every megawatt hour of wind energy cuts about one tonne of greenhouse gas emissions and, apart from bringing in vital investments in our state, the benefits of wind farms are significant for our environment. They are also important for jobs.

A recent Garrad Hassan report commissioned by the Clean Energy Council estimates that, for every 50 megawatt wind farm, 48 full-time equivalent direct construction positions are created. In addition to the direct employment generated by the construction and operation of a wind farm, there are flow-on effects to the wider community. Local retail and services benefit from the increased economic activity in the locality of the wind farm, and it is estimated that, for every direct construction and maintenance job created, two additional indirect jobs are created.

We clearly offer an attractive investment climate for wind energy in South Australia, which is clearly important for our future. We currently have more than $5 billion worth of wind farm developments in the pipeline, which could create 1,850 jobs. So, I was disturbed yesterday when I met with a significant proponent of wind farms here in our state who expressed their concerns at changes in that investment climate, including the uncertainty created by calls for a moratorium on wind farm developments by those opposite.

These calls are damaging the investment climate we have so painstakingly built over the last decade and therefore putting at risk the investment and jobs which flow from it. Under this government, we have established ourselves as the most supportive jurisdiction for renewable energy investment. We will continue to work closely with renewable energy and other local communities to ensure benefits for all South Australians, but I think what we are seeing is a pattern here: a cheap political point seeking to advance the interests of those opposite and jeopardising the productive infrastructure of our state.

Ms CHAPMAN: Point of order.

The SPEAKER: Has the Premier finished?

The Hon. J.W. WEATHERILL: Yes.

STATE ECONOMY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:16): My question is to the Premier. Why does South Australia have 17 per cent more unemployed under his premiership, three separate credit rating downgrades and now a recession since he became Premier and chose jobs over the AAA credit rating?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:16): Well, once again, we have a misrepresentation of the facts by the Leader of the Opposition.

Members interjecting:

The Hon. J.W. WEATHERILL: No; actually, jobs have grown since I have had this role. The number of jobs has grown since I have been in this role. This is something that we have been proud of as a government over the last 11 or so years: 126,000 jobs since we came into office and, since the last election, 12,800 more jobs.

Mr Pisoni: Part time.

The Hon. J.W. WEATHERILL: So, we continue to grow the economy and people, when they see a growing economy, many more of them—

Mr Marshall: It's going backwards.

The Hon. J.W. WEATHERILL: No, it is a growing economy.

Mr Marshall: It's going backwards.

The Hon. J.W. WEATHERILL: I know those opposite would like to see it go backwards. That's why they always talk down this state.

Members interjecting:

The SPEAKER: Premier, would you be seated for a moment. I call the Leader of the Opposition to order and I not only call the member for Unley to order, but I warn him for the first time for separate offences. Premier.

The Hon. J.W. WEATHERILL: What has always been the case in South Australia is that it has always been understood that we need to work a little harder to make things happen in this state. One of our great strengths has been the way in which we work together. Business, government and the community—we work together to create productive investment and to make this state grow. That is why it is so damaging when messages are sent to the business community by those opposite for cheap political gain. To talk up themselves, they talk down the economy and—

Mr PENGILLY: Point of order, sir.

The Hon. J.W. WEATHERILL: —indeed today we have seen the talking down of a particular project.

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

Mr PENGILLY: Standing order 98, sir. The Premier is debating the matter.

The SPEAKER: Yes, well, the question was most argumentative. The Premier does now appear to be debating the question, but if the Premier has more information to offer the house as distinct from debate, he may continue.

The Hon. J.W. WEATHERILL: The information I wish to offer the house is this: we are trying to create a positive investing climate in South Australia. It is utterly damaging to the investing climate when we see sudden shifts in policy, like moratoriums on wind farms. It is also utterly devastating to honest, decent businesspeople who are putting up their own money, seeking to take risks, to grow their particular projects and to grow this economy, when they are undermined and talked down by the Leader of the Opposition.

The SPEAKER: That is unquestionably debate.

FESTIVAL OF HISTORY

The Hon. S.W. KEY (Ashford) (14:19): My question is directed to the Attorney-General. Attorney, can you please update the house on the reasons for the recent change to the Summary Offences (Weapons) Regulations 2012?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (14:20): I thank the honourable member for her question and I also want to acknowledge the member for Hammond and, of course, the member for Mitchell, who have both been lobbying me on behalf of people concerned about this matter for some time. Both of them have served their constituents well.

Members interjecting:

The Hon. J.R. RAU: I will not be running against you, member for Hammond, so I am not so worried about it. Anyway, I just want to explain something about this anyway, we will get back to the topic. I am pleased to report the recent changes to regulations will allow the Festival of History to be held at Old Reynella this weekend and it will go ahead now as planned. The festival will feature theatrical re-enactments of famous battles, amongst other exciting events. The ability of these thespians to display bayonets during enactments—

Mr Venning: Real bayonets?

The Hon. J.R. RAU: Real bayonets—was put in doubt by a recent decision of the Supreme Court, and when members of the Festival committee, together with the member for

Mitchell and the member for Hammond, approached me about this issue, I was more than happy to arrange for an exemption so these re-enactments could proceed as rehearsed. It is important that responsible members of our communities are not prevented from engaging in legitimate pursuits. The exemption I have granted will secure the future for these pursuits whilst imposing harsh penalties on the idiots who use items, such as bayonets, for illegal purposes.

The Supreme Court decision has also cast doubt on the ability for members of archery clubs to continue to offer crossbow events. The exemption I have granted will also ensure the use of crossbows during legitimate sporting events will not be put in jeopardy. This is a fantastic example of the way in which members of this parliament can and have worked together to achieve a great outcome. I wish all the participants in the Festival of History a very happy and successful weekend this coming weekend. I say on behalf of the members involved that they are expecting a large crowd and anyone who has friends interested in this, please let them know. Apparently it is going to be an absolute ripper of an event, with authentic bayonets.

The SPEAKER: I call the member for Bragg to order for her interruption of the Attorney-General during that answer.

STATE ECONOMY

Mr MARSHALL (Norwood—Leader of the Opposition) (14:23): My question is to the Premier. Why was South Australia the worst performing state for domestic economic growth and the worst performing state for export growth in the December quarter?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:23): The Leader of the Opposition continues to make the same mistake. It is not a measure of economic growth: it is one component of our economic activity—the state's spending.

Members interjecting:

The Hon. J.W. WEATHERILL: I have the briefing. You should get yourself an economics degree.

Members interjecting:

The Hon. J.W. WEATHERILL: That's right; they don't get handed down through the generations.

Members interjecting:

The Hon. J.W. WEATHERILL: Can I just point to those pieces of good news that are going on in the economy, because those opposite obviously need some persuading of what is actually happening which is positive in the economy. What we are seeing is massive growth, continuing growth in our defence sector.

Members interjecting:

The Hon. J.W. WEATHERILL: We are continuing to see growth in a range of our defence sector—

An honourable member interjecting:

The Hon. J.W. WEATHERILL: We are going very well overall, yes we are in fact. Our defence sector jobs are up from 22,765 jobs in 2007-08—

Mr Marshall: 2007-08!

The Hon. J.W. WEATHERILL: —and the total is expected to increase to 30,847 jobs in 2013-14.

Mr MARSHALL: Point of order, Mr Speaker.

The SPEAKER: Would the Premier be seated. It is fortuitous that you have risen on a point of order, because I would like to warn you for the first time.

Mr MARSHALL: My point of order is relevance: my question specifically related to the December quarter statistics—specifically; there was no other reference. I am happy to bring it up, Mr Speaker, if you would like to have a look at the question. I am very interested in anything the Premier has got to say on the December quarter.

The SPEAKER: Well, the December quarter statistics don't mean terribly much unless they can be compared with some other quarter—

Members interjecting:

The SPEAKER: So I—

Members interjecting:

The Hon. I.F. EVANS: Point of order, Mr Speaker: in fairness, the question compared the economic performance of the December quarter to every other state—

The SPEAKER: Yes, I heard the question.

The Hon. I.F. EVANS: Because the question asked why South Australia was the worst performing in domestic economy and exports. That was the comparison: South Australia to other states.

The SPEAKER: I am sure the Premier is well aware of the question, and I will be listening carefully. I call the Premier.

The Hon. J.W. WEATHERILL: The question is actually predicated on a false premise, as we said before. The part of the economy that spending represents doesn't represent the economic activity for our economy. We canvassed this last time—you made the same mistake last time. You came in here predicting recession, and you were proven wrong by the annual figures. So you come in here, making the same mistake twice—

Mr PENGILLY: Point of order, sir—and I think you know what it is.

The SPEAKER: You think I am clairvoyant?

Mr PENGILLY: I do, sir—No.8.

The SPEAKER: Standing order 98—it would be that the Premier was debating the matter. Well, the question was combative. I will listen carefully to what the Premier has to say. Before he rises, I will call the member for Morialta to order, for multiple offences, that I will treat as one offence—

Mr Hamilton-Smith interjecting:

The SPEAKER: —and the member for Waite, who has probably forgotten his offence, so long ago was it. Premier.

The Hon. J.W. WEATHERILL: As I said, it is wrong in so many ways. It is hard to actually articulate all the ways it is wrong, but the first sense in which it is wrong is that it is not a measure of economic growth to actually talk about spending: it is a component of growth in the economy. If those opposite wanted some evidence of that, when they came in here trotting these figures in last time, which happened to then be revised—so, they weren't actually the final figures; in fact, the two figures they relied upon were revised from the negative to the positive after last year.

So, there is the first question about whether they will actually be the final figures. But, leaving that small matter aside, sir, they also only reflect a component of our economy, not the whole of the economy, which is measured for these purposes. So, that is the second sense in which they are wrong. To the extent that they suggest that we are, even on their completely erroneous analysis they are wrong about the fact that we actually had the slowest result in that quarter. I think Tasmania had a worse result in that quarter.

Members interjecting:

The Hon. J.W. WEATHERILL: Well, I have one in front of me—

Members interjecting:

The Hon. J.W. WEATHERILL: —and in any—

The Hon. A. Koutsantonis interjecting:

The SPEAKER: I call the member for West Torrens to order.

The Hon. J.W. WEATHERILL: In any event, it ignores what is happening in the rest of the economy. We are seeing strong growth which is emerging. We know that the last quarter of last year was a difficult quarter. Those opposite that have been advancing this idea that our

investments in infrastructure projects were somehow a false economy, imagine if those 9,000-odd jobs, which are in the economy because of what they suggest is the false economy, weren't there. Imagine the baying that would be coming from those opposite about the state of the economy. They would have us in recession; that is why they predict the recession so often. They would have us in recession if we adopted their economic policies.

PUBLIC TRANSPORT, SPECIAL EVENTS

Mr ODENWALDER (Little Para) (14:29): Can the Minister for Transport Services inform the house about the additional public transport services available for the upcoming carnival weekend?

The Hon. C.C. FOX (Bright—Minister for Transport Services, Minister Assisting the Minister for the Arts) (14:30): I thank the member for this very important question. This weekend promises to be yet another dynamic one in our already bustling city. The weather is going to be warm, there are a lot of activities on and, as a result, we are going to be planning extra public transport services for this long weekend. There is also going to be WOMAD, the Future Music Festival, the Adelaide Cup and the continuing Fringe and Adelaide festivals where we will be providing additional services specific to those events.

For the Adelaide Cup carnival Monday March 11, trams will be scheduled every 10 minutes; further additional trams will be ready for despatch at the completion of the Adelaide Cup (approximately 4.30pm) and the Future Music Festival at approximately 10.30pm. Extra buses will be on standby at the Morphettville Racecourse to assist the trams if required.

Additional buses from each contractor will be on standby over the whole weekend in the city on regular services and on substitute services on both the Noarlunga and Belair lines. With the excitement surrounding WOMADelaide, Adelaide Metro will be providing a Metroticket shuttle bus to and from Botanic Park during this event. Shuttle services will run between the city and Botanic Park with afternoon services scheduled for every 30 minutes and evening services scheduled every 15 minutes.

Members interjecting:

The Hon. C.C. FOX: Shall I continue?

The SPEAKER: The Minister for Transport Services.

The Hon. C.C. FOX: Also, to assist patrons attending the event all O-Bahn services will drop off and pick up from stop 2 Hackney Road for the duration of the event. To make it easier for commuters to spot the WOMADelaide bus stops, signage will be installed at designated stops to alert WOMADelaide patrons where to catch the bus. Further information regarding scheduled times and the shuttle routes are available from the Adelaide Metro and the Adelaide Metro website.

Our trains on the Outer Harbor and Gawler Central lines will have increased capacity on Monday, with four additional services available on the Gawler Central line from Salisbury between 9am and 10.30am. Extra capacity will be provided on the Outer Harbor line in the morning and afternoon and in the evening on the Gawler line. There will be additional staff and railcars to provide additional services throughout the day and the evening and, if we need to, we can run an additional late service to Gawler.

All available taxi drivers will be working over this carnival weekend; that is, 988 general taxis will be out there and working hard. We are putting into this system the largest amount of money that we have ever put in. We are upgrading the rail network; we are investing in buses that are built here in the Premier's electorate; we are busy changing the face of public transport in this state.

I do not resile from the fact that there is inconvenience involved, but I will say this right now: it is better to invest in the future of this state, to invest in the infrastructure of this state than it is to let it just lie stagnant. I am proud of the investment that we are making in public transport infrastructure in this state.

Members interjecting:

The SPEAKER: I call the member for Kavel to order, and warn the deputy leader for the first time.

STATE ECONOMY

The Hon. I.F. EVANS (Davenport) (14:33): My question is to the Treasurer. Following the government's decision to reduce this year's domestic economy growth forecast from 2.75 per cent in the budget down to 1.75 per cent in the Mid-Year Budget Review, is the government confident that it will meet the 1.75 per cent growth forecast given that halfway through this year the South Australian domestic economy has declined by over 3 per cent?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:33): The shadow treasurer repeats the error of the Leader of the Opposition, and I am getting some idea about how the Leader of the Opposition may have been led into error. In fact, just for the catcalling across the chamber that suggested that we could not read the ABS statistics, can I just point out for the Leader of the Opposition's edification, and his shadow treasurer, that both Victoria and Tasmania had lower state final demand figures for the quarter that they mentioned—so completely contrary to what they assert. You are just simply wrong. You are wrong in your analysis about what it means; you are wrong factually—just as you were wrong to go out and actually talk down that development today when you were out at Gilberton.

The SPEAKER: I anticipate the member for Davenport's point of order and would ask the Premier to come back to the substance of the question.

The Hon. J.W. WEATHERILL: Thank you. I am more than happy to return to the substance of the question, which was about the growth forecasts that are contained within the state budget. The growth forecasts that are contained within the state budget are conservative forecasts. They are consistent with a range of other forecasts that are made by other commentators from a range of significant accounting and business houses, which in many respects forecast high growth for South Australia in terms of its activity over this period. We have no reason to adjust those forecasts based on the material that is presently before us.

CITY OF ADELAIDE PLANNING

The Hon. J.D. HILL (Kaurna) (14:35): My question is to the Minister for Planning. Can the minister inform the house about the government's latest work to build a more vibrant Adelaide, particularly the work undertaken in Bank Street?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (14:35): I thank the honourable member for his question. I know that the honourable member is very much a supporter of Vibrant Adelaide, and he is very vibrant, although presently not as vibrant as he has been on his better days. Nevertheless, as minister assisting the Premier for the arts he contributed a great deal to the vibrancy of our city. Our planning reforms have unlocked a great deal of investment in the city and the government is very proud that investment is being brought into the city through planning reforms and initiatives like Bank Street. I hope most members, if not all members, have now had an opportunity to have a look at Bank Street.

We are delivering more places for people in the city centre because we want more people to come in and enjoy everything the city has to offer. Adelaide, as you would know, Mr Speaker, was recently identified as the most liveable of Australian cities. The Leigh Street trial has been very successful and we are hopeful that this will, in the fullness of time, become a permanent feature of Leigh Street. Can I say that the Liberal Party headquarters, I think, have officially endorsed the project. It shows how bipartisan the government is that we are quite happy to rejuvenate and make vibrant the street in which the Liberal Party headquarters sit.

The official launch party to celebrate the rejuvenation of Bank Street was held on 27 February. Bank Street traders have welcomed the investment, which includes 'parklets' for outdoor dining; closing one lane to traffic and widening pedestrian areas; and making the street more bike friendly. Feedback from businesses on the street has been outstanding. I might just quote from a letter written to my department from one of them without identifying the particular business, and I quote:

> [I write]...to thank you and your team at the Department of Planning, Transport and Infrastructure for the recent upgrade to Bank Street, Adelaide.
>
> It has been less than a week since the opening, and we are happy to advise that the store turnover has increased by 55 per cent and as a result we have had to increase the number of staff at this store.

So already the impacts of these measures are actually being felt in employment and improvement in business activity. This shows you where the government's priorities are. I go on with the letter:

> The positive feedback from our customers has been overwhelming and the community spirit on the street is engaging. It is vital to our business to use the unique and innovative design and development of Bank Street to showcase the street and the individual traders and to draw customers both old and new to the area.
>
> Although the launch on Wednesday was a little wet, it was a great concept and we feel that it is vital to maintain this community spirit through trader activities which we look forward to participating in.

Mr Speaker, that is the most marvellous letter a minister or a department can receive after doing work like this from people who appreciate the work and not only appreciate the work but employ South Australians in their business as a result of initiatives undertaken by the government.

STATE ECONOMY

The Hon. I.F. EVANS (Davenport) (14:39): My question is to the Treasurer. Can the Treasurer rule out a further increase in this year's deficit, currently predicted at about $1.2 billion, given South Australia's economic performance in the first half of the year?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:39): All those matters will be revealed in the budget.

MOUNT BARKER DEVELOPMENT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:39): My question is to the Minister for Planning. Why did the government engage a consultant to analyse options for growth in Mount Barker when that consultant had identified a clear conflict of interest as they had been lobbying the Minister for Planning on behalf of developers in that area?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (14:40): If I am not mistaken I was asked pretty well this same question yesterday, and I will give pretty well the same answer. I will consider—

Members interjecting:

The Hon. J.R. RAU: Let me finish. I will consider the matter contained in the Ombudsman's report and, when I have considered that properly and I understand what the facts are, I will be making a statement.

SAVOUR AUSTRALIA 2013

Mrs GERAGHTY (Torrens) (14:40): My question is to the Minister for Tourism. Can the minister provide an update to the house on new events happening in South Australia?

Mr Venning: Barossa Wine Train.

The Hon. L.W.K. BIGNELL (Mawson—Minister for Tourism, Minister for Recreation and Sport) (14:40): Close. It's about wine. I would like to thank the member for Torrens for her question and her contribution to the wine industry, too, as a consumer. Today it gave me great pleasure to join with the Premier, the Minister for Agriculture and representatives from Wine Australia to announce to the public that Wine Australia has chosen South Australia to hold a very significant wine conference here in September.

Adelaide has been chosen to host the first global Australian wine forum from 15 to 18 September. Eight hundred delegates will be coming to South Australia for this; 40 per cent of the delegates will come from North America, about 30 per cent from Asia (predominately from China) and 25 per cent from the UK and Europe, and then the remainder from Australia (about 5 per cent). It will be a great place to help promote South Australia's clean green food and wine culture of which we are all so proud. It will also enable us to dovetail tourism in there. We will have 100 of the world's leading wine people in terms of sommeliers, wine journalists, lifestyle journalists, distributors and winemakers, and of course the captains of industry, from around the world.

It will be a four-day, three-night conference here in Adelaide. They are looking at hosting one big function for all 800 people and then having lots of breakout groups as well in iconic buildings—

Mr Venning interjecting:

The Hon. L.W.K. BIGNELL: —including the State Library and perhaps even here in Parliament House. The member for Schubert is yelling out, 'Get them up to the Barossa'; that is exactly what we intend to do, member for Schubert. After the four days are over we want people to get out into the regions because there is no place better to taste the food and drink the wine of our great state than in situ. We have fantastic backdrops. If we can get people over to Kangaroo Island, get them up to the Riverland, to Coonawarra, Padthaway—

Mr van Holst Pellekaan: The Flinders Ranges.

The Hon. L.W.K. BIGNELL: Flinders Ranges—the southern Flinders Ranges wine region; Bundaleer has fantastic wines—and of course, Langhorne Creek, Port Lincoln. Let's get them over to Port Lincoln, where we have some great little wineries popping up over there and making really good wines. It is interesting that I was in Port Lincoln last week and I gave them a bit of a heads up that this might be happening and if we can get them on the Seafood Trail, that is one of the best gourmet travel and food trails anywhere in Australia.

There are people flying in by the plane load to do gourmet travel weekends. They start drinking the champagne in Sydney or Melbourne when they take off and they land and they are taken around. Not only do they get to eat the abalone, kingfish and the tuna, but they are shown how it is caught, how it is cut and everything else.

The member for Finniss, there is also a growing wine industry on Kangaroo Island with some of the best and freshest food you will find anywhere in the world. These are the attributes, not just the physical but also the food and wine, that we really want to show off to these delegates. It will cost the government about half a million dollars to host this event but, in terms of the return just for those four days, the economic input from the delegates will be about $3 million.

That figure will increase obviously for the regional trips that they will undertake, but the great benefit will be in the long term as South Australia and Adelaide are recognised as Australia's wine and food capital. I should also mention that we will be taking people to McLaren Vale. It is an area close to my heart. I did not want to leave out McLaren Vale after naming all those wine regions; that would have been an error.

Mr Venning interjecting:

The SPEAKER: I call the member for Schubert to order and I warn the member for Kavel for the first time. He was particularly rowdy during the early part of that answer.

GROWTH INVESTIGATION AREAS REPORT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:44): My question again is to the Minister for Planning. Why did the government instruct their consultant to fast-track an analysis of growth in Mount Barker without a specific agreement for them to perform that work?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (14:44): I thank the honourable member for her question and, for the sake of brevity, I repeat my last answer.

GROWTH INVESTIGATION AREAS REPORT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:44): Supplementary.

The SPEAKER: Yes.

Ms CHAPMAN: Have you even read the report?

The SPEAKER: That is not a supplementary. I have not read the report but I guess the question is, 'Has the Minister for Planning read the report?' If I can translate it for him, would he care to answer that separate freestanding question?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (14:45): I am wending my way through it slowly and methodically.

GROWTH INVESTIGATION AREAS REPORT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:45): My question again is to the Minister for Planning. Was any other organisation or individual who was making 'concerted

representations to the minister' on behalf of developers commissioned to inform the development of the 30-year plan?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (14:45): Thank you for the question and my answer is an enthusiastic ditto to my earlier answers.

UNIVERSAL CONTACT VISITS

Ms BETTISON (Ramsay) (14:46): My question is to the Minister for Education and Child Development. Can the minister inform the house about the home visiting services for new parents?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development, Minister for Multicultural Affairs) (14:46): I thank the member for Ramsay for her question. In November 2003, less than halfway through this Labor government's first term, we launched the Every Chance for Every Child program. In 2013 we celebrate a decade of improved services and support for new parents and their children.

A key element of the program is the Universal Contact Visit that is offered to all mothers following the birth of a child in South Australia. It began as a trial in 2003-04, was expanded across the state and is now delivered by 230 staff from 120 locations. The visits combine a health check for the baby with critical support information for new mums, screening for postnatal depression and referral to additional services. This service is usually provided in the home, but the huge number of staff and locations means new mums can get the help wherever it is safest and most convenient for them.

Since 2007, we have completed over 100,000 of these visits and a few weeks ago I had the privilege of meeting a mother who recently received a visit following the birth of her fifth child. The mother (Amanda) told me that, even though baby (Daisy) was her fifth, she still required the support and assistance offered by the CAFHS nurse, even more so than when she had her other children, because she underwent a caesarean this time.

These visits are recognised as best practice in early intervention and, where suitable, families may be referred to additional programs, as I said, focused on acute medical or social factors or that provide parenting advice and support for up to two years. While some families may not require additional help, the only way to ensure that every child has every chance to succeed is to make sure that every mother is offered a helping hand right from the beginning. This is truly an investment in the future, and it pays dividends. I can assure the house that we will continue with this really important program—another great initiative in helping to protect children here in South Australia.

GROWTH INVESTIGATION AREAS REPORT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:48): My question again is to the Attorney-General. What has been the total cost to government of trying to stop documents used to formulate the 30-year plan from being released to the public?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (14:48): Aside from the fact that I am not quite sure how one would reckon the process of answering that question, I will take it on notice. I will make the best of the question and make the best of having an answer.

GROWTH INVESTIGATION AREAS REPORT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:49): My question is to the Premier. As the government has brought forward building projects because it will be 'good for our economy', why won't the government now bring forward the establishment of the ICAC to investigate the alleged misconduct in the Mount Barker planning and development process—because it will be good for government accountability?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (14:49): I think it is probably appropriate that I deal with this question. The honourable member asks the question about whether we can bring forward the ICAC as if it was simply a matter of snapping one's fingers and the starting date could be summoned from here or there.

Mr Pisoni: It is about 11 years.

The Hon. J.R. RAU: Did I hear the member for Unley correctly? No, I didn't. The situation is this: we have been moving very quickly, with every expedition, to get the establishment of the ICAC underway as quickly as possible. Might I add that, had we not been frustrated in another place by the opposition for months and months and months last year, when they deliberately attempted to sabotage the legislation by placing within it provisions which were obscure—

The Hon. I.F. EVANS: Point of order. The minister is entering debate and also referring to debate in another place and reflecting on a vote.

The SPEAKER: I think you got it the third time—reflecting on a vote. Perhaps the Deputy Premier would care to adjust his answer not to reflect on a vote.

The Hon. J.R. RAU: I was only going to reflect, Mr Speaker, on their amendment, not on what happened to it; but it is a fact that they put up the most absurd amendment that I have seen. The member for Bragg, the deputy leader, is complaining about time lines. I point out we are moving as quickly as we possibly can and, if the member for Bragg and her colleagues were so concerned about these time lines, there was a very easy way to truncate the process by, I would reckon, approximately six months.

That opportunity occurred last year; that opportunity was abandoned because it was deemed to be imprudent for whatever reason inside their show to actually speed things up, because it gave them more time to complain that nothing was happening—which is exactly what is occurring now.

CHILD PROTECTION

Mr PISONI (Unley) (14:52): My question is to the Minister for Education and Child Development. Was the minister correct when she told the house yesterday that the monitoring of the screening process for volunteers and contractors working within the education system was the responsibility of school principals?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development, Minister for Multicultural Affairs) (14:52): My understanding is that when volunteers come into our schools to work that process is managed by the schools themselves.

CHILD PROTECTION

Mr PISONI (Unley) (14:52): I have a supplementary question, if I may, Mr Speaker.

The SPEAKER: If indeed it is a supplementary.

Mr PISONI: Was the minister aware of section 8B of the Children's Protection Act 1993 and that the screening process is the responsibility of the CEO and her department when she claimed yesterday to the house that it was the responsibility of school principals to do so?

The SPEAKER: I am not sure. Everyone is deemed to know the law, and quoting statutory provisions in a question is odd. The Minister for Education.

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development, Minister for Multicultural Affairs) (14:53): If I am incorrect in this I am happy to come back and advise the house, but my understanding—

Mr Pisoni: You haven't yet.

The Hon. J.M. RANKINE: Well, if we want to talk about coming in and correcting things that are wrong, perhaps the member for Unley might like to take the lead on that. Nevertheless, my understanding is that the process that is undertaken is a process that is managed by the principals. The requests for screenings go through to the screening unit in the Department of Communities and Social Inclusion. Obviously, chief executive officers have overall power for that, and those powers are delegated.

Members interjecting:

The SPEAKER: I call all those who are participating in that game in the background—the Minister for Transport Services and the member for Chaffey—I call them to order, and I warn the Deputy Leader of the Opposition for the second time and remind her of the mandatory minimum sentencing provisions of the sessional orders. The member for Stuart.

NEIGHBOURHOOD POLICING

Mr VAN HOLST PELLEKAAN (Stuart) (14:54): My question is to the Premier. As chair of the Safe Communities, Healthy Neighbourhood cabinet task force, did the Premier receive a copy of the 2013-14 budget bid for neighbourhood policing teams?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:55): I thank the honourable member for his question. I have no doubt that material that was generated as part of the cabinet process was sent to my office in that capacity. I of course, do not attend all of those meetings. I have some other functions to actually involve myself in but can I say this about every budget deliberation and budget bid: no government agency gets an advantage by publishing their budget bids in the media and seeking to promote them and advocate for them in that fashion. It will be done in an orderly process as part of the budget process. In fact, I take a rather dim view of people seeking to jump the queue by having matters dealt with publicly.

POLICE FUNDING

Mr VAN HOLST PELLEKAAN (Stuart) (14:55): My question is for the Premier, again. Will the Premier confirm that he will not be supporting the cabinet submission that was leaked to the media for funding to recruit 25 extra police, given his prior comments that police have to 'manage within the budget they've been given'?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:56): If the honourable member had followed the chain of reasoning of the previous answer, he would probably reach the conclusion that I will not actually be answering that question publicly because that would be to breach my own edict. I will not be offering an opinion about the fate or otherwise of any budget process, but can I say this: we have an incredibly well-resourced police force. We have more operational police per capita than any other state in the nation and it is no surprise that we have seen a reduction in crime in this state in the order of 40 per cent because of the excellent work of that police force.

We have asked the police to engage in a savings task. It is the lightest of almost any government agency, in recognition of the fact that they are a priority, but it is also true that it is the case that we can achieve sensible economies in the way in which we run any business within government. We expect police to do the same, although we will work with them to make sure that we can achieve the twin aims of being the most efficient police force as well as the police force that is able to deliver the highest standards of excellence, which it has become known for.

POLICE FUNDING

Mr VAN HOLST PELLEKAAN (Stuart) (14:57): My question is to the Minister for Police. Can the minister confirm that it is he who is bringing a submission to cabinet for funding to recruit another 25 extra police?

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:57): I do not talk about budget process.

DISABILITY SERVICES

Dr McFETRIDGE (Morphett) (14:57): Mr Speaker, we are on a roll here. My question is to the Minister for Communities and Minister for Disabilities. Will the minister commit to introducing a bill for a new disability act into the parliament before the next state election? A new act was recommendation No. 1 of Monsignor Cappo's Strong Voices report, committed to by the Premier on 19 December 2011.

The Hon. A. PICCOLO (Light—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:58): I thank the honourable member for the question. I have nothing else to add to my previous answer on this matter when I answered a government question regarding the disability act.

Mr Gardner: Before the election? Are you going to answer it before the election?

The Hon. A. PICCOLO: Would you like to give me a chance to actually answer the question before you interrupt? Thank you. It is the intention of the government to introduce the act before the election, yes.

The SPEAKER: I warn the member for Morialta for the first time. The member for Morphett.

HOUSING SA

Dr McFETRIDGE (Morphett) (14:58): My question is to the Minister for Social Housing. Can the minister advise how many properties Housing SA is currently scheduled to sell this financial year; and was minister Hunter correct when he said last year that 793 properties would be sold, up from 642 in the last financial year?

The Hon. A. PICCOLO (Light—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:59): I thank the member for the question. Can he perhaps clarify what he means by his question?

Dr McFETRIDGE: I am more than happy to repeat the question.

The SPEAKER: No, do not repeat the question.

Dr McFETRIDGE: According to minister Hunter, he advised the parliament in November last year that 793 properties would be sold, up from 642 in the previous financial year.

The SPEAKER: Does that help?

The Hon. A. PICCOLO: Probably not, Mr Speaker. I don't have the exact figures in front of me, but I am happy to get those figures for you. If the member is referring to our plan to work with the social housing sector, certainly we have plans to provide some housing to the social housing sector for social housing.

DISABILITY SERVICES

Dr McFETRIDGE (Morphett) (15:00): My question is again to the Minister for Disabilities. Does the minister agree with Public Advocate John Brayley that government expenditure per disability user is still lower in South Australia than in any other state?

The Hon. A. PICCOLO (Light—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:00): I thank the member for the question. If the member is asking do we actually spend less dollars per individual who receives a service, that is correct. However, if the member is asking if we actually spend more money on more people in the system, in that case he is incorrect, because the way we operate the scheme in this state means more people are actually eligible for services. As a result, because we have more people eligible for services—

An honourable member interjecting:

The Hon. A. PICCOLO: That's right, we have a broader definition. We actually service more people per head of population, so we actually are supporting more individuals, more families, and, as a result, less dollars per individual. However, the needs of more people are met.

DISABILITY SERVICES

Dr McFETRIDGE (Morphett) (15:01): Again to the Minister for Disabilities: when will the minister implement the priority action recommendation of the Social Inclusion Board Strong Voices report to address the growing unmet needs listed for Disability Services? Since June 2012, the number of people on the unmet needs list has grown by 440 and the number of people on the unmet needs list for category 2 has grown by 208.

The Hon. A. PICCOLO (Light—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:01): Mr Speaker, can I have the question again?

The SPEAKER: It's an 'unmet need' question.

Dr McFETRIDGE: And I thought I was speaking slowly, Mr Speaker. You've just got to listen faster, guys, okay? When will the minister implement the priority action recommendations of

the Social Inclusion Board Strong Voices report to address the growing unmet needs list for Disability Services? And I will repeat the explanation, with your leave, sir.

The SPEAKER: Well, if you must.

Dr McFETRIDGE: I think I must, sir. They're not listening there. Since June 2012, the number of people on the unmet needs list (category 1, I believe that to be) has grown by 440 and the number of people on the unmet needs list for category 2 has grown by 208.

The Hon. A. PICCOLO: I thank the honourable member for the question. As I indicated in an earlier question, because of the way we operate the scheme in South Australia, we actually reach more people, and as a result of that, we have a list which is an unmet needs list, which is larger than other states because we have a much—

The Hon. P.F. Conlon: Because it's easier to get on it.

The Hon. A. PICCOLO: It is easier to get on it. In terms of the answer, we are doing what we can to ensure that we keep that list as short as possible.

DISABILITY SERVICES

Mr GARDNER (Morialta) (15:03): Supplementary question, sir. In relation to the unmet need list that the minister is referring to—

The Hon. A. Koutsantonis: Oh, the old shadow minister, isn't he?

Mr GARDNER: —can the minister articulate what category 1 actually is defined as on that unmet need list?

The SPEAKER: Before I call the Minister for Disability, I will warn the member for West Torrens for the first time.

The Hon. A. PICCOLO (Light—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:03): All it means is that the person has been assessed and is eligible to receive services—simple as that.

The SPEAKER: I call the member for Fisher.

GOVERNMENT AGENCY EFFICIENCY REVIEW

The Hon. R.B. SUCH (Fisher) (15:04): Thank you, sir. We do exist up here—contrary to popular rumour. This is to the Premier. In the lead-up to the budget (and it could be wider than that), will government agencies be subject to an efficiency and effectiveness review? Traditionally, the Auditor-General looks at what I would call bookkeeping—that might be a little bit harsh—but unlike other states he doesn't look—

An honourable member interjecting:

The Hon. R.B. SUCH: Currently a male—at efficiency and effectiveness of agencies. I am just wondering whether that will be part of the process leading up to the budget.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:04): It is an interesting question about the way in which the financial accounting works. I think to some degree I disagree with the member for Fisher. I think there are output and performance requirements which are now part and parcel of the budget statements and, indeed, I think you will find the Auditor-General does offer opinions about the effectiveness and efficacy of programs beyond just the mere financial elements.

That does not go directly to the member's question, which I think is a broader issue about a set of metrics, if you like, about the efficiency and effectiveness of the state public sector, and I think that is a worthy thing to give some consideration to. What I would say though is that we have sought to address this question by the creation of the Public Sector Renewal Program where we are actually investing in the performance and efficiency of the state public sector. We have seen what has been, I think, a pretty mindless debate about the size of the public sector, whereas I think the real issue is about its effectiveness.

The Public Sector Renewal Program has begun with five projects which are things like putting more police on the beat by cutting paperwork, and we have already seen the benefits of

that project occurring; getting healthy patients out of hospital quicker so we can free up emergency waiting rooms; creating more accessibility for our young people by using our schools as hubs for community services; and also the Mining Industry Participation Office making sure that we make the most of our existing mining industry by getting local businesses involved in that.

They are four of the five projects that are underway; the other one concerns TAFE. Those are about 90-day projects trying to enliven our state public sector and we will continue to roll out further projects, but I will take the broader point that the member raises on notice and give it some further thought.

SOCIAL INCLUSION UNIT

Dr McFETRIDGE (Morphett) (15:06): My question is to the Minister for Communities and Social Inclusion. Can the minister tell the house why there has been a $384,000 blowout in the cost of the Social Inclusion Unit this year? Last year's budget papers identified expenditure on the social inclusion subprogram of DCSI at $4.534 million in 2012-13; however the updated expense budget breakdown for the year, provided recently in an answer to a question on notice, identified that the social inclusion subprogram is now scheduled at $4.918 million for the year, an increase of $384,000.

The Hon. A. PICCOLO (Light—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:07): I would like to thank the member for his question. I will have to take that on notice and get an answer for him.

AUTISM PLAN

Dr McFETRIDGE (Morphett) (15:07): My question is to the Premier. When will the Premier commit to introducing a state autism plan as originally recommended when the Premier was the minister for education in October 2010 by the ministerial advisory committee and also by the Office of the Public Advocate?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:08): I thank the honourable member for his question. The question of autism and the services that are necessary to meet the needs of young people with autism will receive specific attention in the launch program for the National Disability Insurance Scheme. We are very proud of the fact that we have been chosen as the launch site to trial the launch of disability services for children. Of course, autism is something which manifests itself in young people, and early diagnosis is a crucial factor.

Early intervention is a very profound way in which we seek to minimise the disabling effects of autism in our community, so by being part of that trial site we will have an opportunity to address directly the needs of those young people who have an autism diagnosis. I might say though, for the reasons advanced by the Minister for Disabilities, many more people on the autism spectrum receive services in South Australia than they do, in fact, receive in other places because of our broader definition of disability. So all of the matters that are subject to the aspirations in the autism plan that is being promoted to us can be profitably addressed in the NDIS trial.

GRIEVANCE DEBATE

STATE ECONOMY

The Hon. I.F. EVANS (Davenport) (15:09): Today, the December quarter economic data has been released for the public to consume, and we find that Melbourne's *The Age* reports that South Australia is in a recession. If the public does not want to believe what the government and the opposition say, then go to *The Age* and believe what they say, because they say, having analysed the data, that South Australia is in a recession.

You will not have to go very far to find a business that will tell you exactly that, because the reality is that the economy, and small business in particular, are really struggling. They are struggling under the highest tax regime in Australia. They are struggling under the worst and highest-cost WorkCover scheme in Australia. They have just had the worst OH&S laws introduced, which puts another blanket cost right across the South Australian economy.

The reality is that the government runs around saying, 'Aren't we great fellows? We have all these cranes on the skyline.' I have counted them; there are about 14 or 15 cranes out there,

and that adds up to about $1 billion in debt for every crane, and that is the real issue for the South Australian public.

Let us look at the figures. The poor old Premier says that the opposition, in talking about whether the state is in recession, does not deal with exports. Well, that is simply untrue. Whether you look at trend figures or seasonally adjusted figures, the figures today say that South Australia's domestic economy has gone backwards in both the September and December quarters.

I now come to the Premier's point, 'Oh, you've forgotten about exports.' That is not true. According to the export figures—and it does not matter whether you look at the trend figures for exports or the seasonally adjusted figure for exports—South Australian exports performance went backwards in both the September and December quarters. They declined 2.8 per cent in the December quarter in trend terms, and that followed a decline of 3.7 per cent in the September quarter in trend terms.

The seasonally adjusted figures for exports also went backwards. The reality is that they went back 3.8 per cent in the December quarter and 2.2 per cent in the September quarter. The Premier might say, 'Hang on a minute, we're talking about net exports.' So, let us look at net exports, just in case the Premier tries to be technical and claim he is not talking about exports, he is talking about net exports.

Guess what, Mr Speaker? Net exports have gone backwards in both the September and December quarters on both trend figures and seasonally adjusted figures. Net exports have declined 7.2 per cent in the December quarter and 10.9 per cent in the September quarter. In seasonally adjusted terms, they declined 6.8 per cent in December and 4 per cent in September.

So if your domestic economy is declining, and all the measures of exports are declining, both in trend terms and seasonally adjusted terms, how else would you describe that other than South Australia being in a recession? If you do not believe Her Majesty's loyal opposition, then go to the great, ever-comical commentator this mob put out as their treasurer for the last decade, former treasurer Foley, and see what he says.

When the government wanted to defend itself when the ANZ bank said at one stage that South Australia was in recession, treasurer Foley said they should:

> ...go back to 'Economics 101', [because] they would have learned that any recession must have at least two consecutive quarters of negative growth.

That is not the opposition saying that; that is the government's own treasurer saying that, when you have two consecutive quarters of negative growth, you have a recession. The new Treasurer says, 'Yes, that's right, but you've got to consider exports.' Well, add in the exports: net exports and gross exports have gone backwards for two consecutive quarters.

This is the result of having a government that went out and trashed the AAA credit rating because they were going to create jobs. If you trashed the AAA credit rating, why are exports going backwards? Why is the economy going backwards? You only have to look at the high taxes, the worst WorkCover regime, and the anti-small business policies. The result of all that is what we have today: *The Age* reporting that South Australia is in a recession.

WOMEN'S SUFFRAGE

Ms BEDFORD (Florey) (15:15): In 1977, the United Nations General Assembly proclaimed 8 March as United Nations Day for Women's Rights and World Peace, an interesting combination of goals but, sadly, achieving both is still way beyond our reach. The issue, really, for women is equality. While much has been achieved there still needs to be more done. Here in parliament in particular, as of June 2012, there were 239 women in Australian parliaments, down from 249 in the year 2010-11.

Yesterday saw our first female Primer Minister in Melbourne attending the funeral of the first female speaker of the House of Representatives, the Hon. Joan Child AO, who died at the age of 91 having raised five boys alone after the death of her husband. Joan really did write the guidebook, as the PM said, for the women who followed. Joan was the first ALP woman in the House of Representatives, first elected in 1974, with the ALP's Senator Dorothy Tangney being the first senator elected in 1943. The first woman ever to take a seat in the House of Representatives was Dame Enid Lyons in 1943. Women were eligible to stand for federal parliament from the year 1902.

South Australia was the first place in the world to grant women dual suffrage in 1894, and the marvellous tapestries here in this chamber attest to the work of Catherine Helen Spence, Mary Lee and Elizabeth Webb Nicholls, herself a member of the WCTU—and more of that later. Sadly, South Australia was the last Australian jurisdiction where a woman was elected, Joyce Steele in the House of Assembly and Jessie Cooper in the Legislative Council, both in 1959.

The ALP's Molly Byrne began her distinguished career here in this place in 1965. I am indebted to Molly for her continuing support. Molly's merit was never recognised and she spent her time in parliament fearlessly representing her electorate, an example to which I have always aspired, for there can be no front bench without a back bench. We have the merit that others have found recognised in them, and I am happy to support our ministerial colleagues.

Another special woman in the ALP pantheon is Anne Levy, first ever Australian presiding officer, President of the Legislative Council here in South Australia from 1986 to 1989. The first woman House of Assembly Speaker was recently removed, unceremoniously, from her position of office, and I thank Lyn Breuer and acknowledge her service in the chair.

Today I want to particularly mention the suffrage struggle of the women in the USA especially as this week is the centenary of their famous suffrage procession. Less than a century ago, women in the United States were not guaranteed the right to vote. Many courageous groups worked hard at state and local level throughout the end of the 19th century, making some small gains towards women suffrage and seeing Wyoming become the first place in the world for a woman to be able to vote.

In 1913, the first major national efforts were undertaken, beginning with a massive parade in Washington DC on 3 March, one day before the inauguration of President Woodrow Wilson. Organised by Alice Paul for the National American Woman Suffrage Association, the parade called for a constitutional amendment. It featured 8,000 marchers, including nine bands and four mounted brigades, 20 floats and an allegorical performance near the Treasury Building. It is not surprising that this spectacle resembled those of the women in the UK, who only gained limited suffrage in 1918. Alice Paul was the organiser of the Washington parade and she was a veteran of the Pankhurst WSPU, being imprisoned nine times and force-fed for the struggle in England.

Picketing the White House was the first of many of her projects and capped a four-year campaign for a federal women's suffrage amendment that made Paul the country's most controversial suffrage leader. However, neither the parade she organised nor the lobbying, demonstrations, publicity stunts, meetings, petitions or electoral campaigns had won over the hostile Southern Democrats in Congress. Paul's work was eventually recognised and women were granted the vote in America in 1920 through changes to the 19th amendment being secured in the Congress. Her work for the Equal Rights Amendment proposed in 1923 was approved in late 1972 but still awaits national adoption, though many states already have it through their own constitution.

The women's movement in the US had the support of the WCTU (the Woman's Christian Temperance Union) and a statute of Frances Willard graces the Capitol building in Washington, one of the few monuments to women in that marvellous building. I am indebted to Bunny Galladora who so graciously arranged for me to see through the building. I was lucky enough to meet Bunny through an introduction from Sarah Ward, the international president of the WCTU. The Hon. Steph Key and I met Sarah on her visit to South Australia for this state WCTU's 125th anniversary, and it will be our pleasure to again meet with her, along with delegates of the world congress, to meet in Adelaide in May this year. We thank the Hon. Gail Gago, Minister for the Status of Women, for hosting the morning tea to be held here in Parliament House, which will allow delegates from all over the world to see the tapestries and hear our history.

When I think of the women I admire who have gone before and inspired me, there are many like Joan Kirner and Carmen Lawrence, but few have embraced me and been mentors, not because I was not prepared to take help but rather that I was not offered help. Colleagues like Deidre Tedmanson, the first president of the ALP here in South Australia, and Steph Key remain true colleagues and comrades.

KANGAROO ISLAND FUTURES AUTHORITY

Mr PENGILLY (Finniss) (15:20): I would like to spend a few minutes today talking about the expenditure of millions of dollars by the Kangaroo Island Futures Authority, more particularly in relation to education. I will immediately go to something that happened last week when they were behind an aquaponics workshop at Parndana on Kangaroo Island. There is an aquaculture

program at Parndana school that produces barramundi, which is basically a training centre, and they do sell some off commercially.

Suffice to say that a member of the governing council spoke to me expressing their concern that this workshop was being held and that the school administration, etc., had not been informed in any way, shape or form. I find it absolutely ridiculous. Further, the organisation KIFA has now put out a glossy video on an integrated education model for Kangaroo Island. Well, a little bit of history needs to be put into perspective here.

Some nine years ago Kangaroo Island community education was brought into vogue. I think that the member for Reynell was involved in that at the time; I think she chaired a meeting over there. It had a pretty rough start and it did not work all that well. The three schools were brought under one school banner and three campuses now operate. In the last few years it has starting performing like a Rolls-Royce. I can only express my admiration for the way the system is working, the way that the money is being spent on the developments and putting in place other things. It has been wonderful to see.

So I am somewhat stunned, bewildered and, indeed, highly annoyed that KIFA have decided that in their infinite wisdom they are going to put in place an integrated education model and put in another layer of bureaucracy to run over the top of the school and put together places like TAFE, schools, Housing SA, preschools etc., and bring them all under one banner. I find it absolutely point-blank ridiculous including preschools. There would have to be legislative changes to do this.

I have had a number of governing council members on the island express their concern to me. Whoever dreamt up this wants putting out in the back paddock, quite frankly. It is errant stupidity to do this to a system that is running particularly well. I find this waste of taxpayers' money on something like this to be completely ridiculous. If they spent money on something useful instead of putting pie-in-the-sky ideas like this into perspective, I could understand it. I have complete and utter faith in the current administration of the school, the principal, the three heads of campus and most of the governing council members who are running the operation at the moment.

It is running particularly well. It does not want this stupidity thrust upon it; indeed, it should not have this stupidity thrust upon it. Increasing bureaucracy is about the last thing that is needed. I wonder where some people are on this. They need to stand up and be counted. I have had concerns for some time about the activities of KIFA, and I will continue to bring those matters to the house. If they dealt with issues like the cost of sea transport back and forward across to the island instead of trying to invent ways to justify their existence, they might be of some use. However, at the moment they are really not serving too much useful purpose.

I know they are messing around with the electricity connection from the mainland. In my view, the best thing that can happen there is for the cable to break and then they would get a new cable. Messing around with the education system and trying to put in place a different model—a prototype—smacks of absolute hypocrisy. It is a ridiculous and stupid idea. I suspect that I will probably get a phone call from somebody in KIFA fairly quickly after this.

It is in the bailiwick of the Deputy Premier. I have spoken to him a couple of times about it, but from what I have gathered nothing has been put in place to halt this integrated education concept. It is foolishness, it is an act of madness in my opinion, and it should be left alone. The schools should be left alone to run as they are now, running very well, running properly, and running in the best interests of the students in particular, the staff, and the people of Kangaroo Island.

I would humbly suggest that the house picks up and take notice of this, that KIFA gets back into its collective box and deals with things that it would be able to deal with instead of perpetrating ideas and spending thousands and thousands of dollars on consultants to try to put in place something that is simply not needed. I am going to keep a close eye on this. If I have to come back to the house and talk about it again I will. I am not happy about it. I expect it to be stopped forthwith. Stop producing glossy videos and sending people running around the countryside. Getting back to the start of it, what took place last Thursday under the KIFA banner was an act of stupidity.

DESALINATION PLANT

Ms THOMPSON (Reynell) (15:25): During question time our Premier mentioned how important it is in South Australia that we work together in this state to make things happen. I want

to draw the attention of the house to a project where this, indeed, has happened with many long-term benefits, and I am talking about the Adelaide Desalination Plant which is in my electorate.

During the construction of this plant there were 600 local South Australian companies involved with more than 10,000 people working on the project, with many South Australian companies now on the map in terms of being able to work with international firms. Through the desal plant they started to work with companies such as ACCIONA, Trility, Abigroup, McConnell Dowell, Memcor, Schneider and others and are now bidding with those major international companies on projects worldwide.

This is something that could not have happened without the cooperative work that occurred during the construction of the desal plant so that not only has this plant protected us for many years against lack of water, the impact that has on our lives and the impact that has on industry, but it has been a boost to the long-term capacities of our local industry and created a lasting legacy for the community and business in terms of the skills that our state now has.

At this stage I want to pay tribute to two people or organisations. Milind Kumar, who was Project Director, obviously worked night, day, weekends and any other time to create a cooperative and effective workplace on that site. I met him several times during the construction of the plant. He was always enthusiastic about the project, always ready to respond to our questions—and of course representing my local community which was affected by it, some of those questions were quite challenging. He always responded in full.

The other group to which I want to pay tribute is Fibrelogic (now RPC Pipe Systems), a local business in my community which provided much of the pipe work for the desal plant. On my recent tour I was very proud to be able to have my photo taken alongside Fibrelogic pipes. This is a new system and, in many circumstances, it can replace the old fashioned steel pipes. It uses glass compound to produce a very flexible long-lasting and strong easy-to-meld-together system of piping.

They are having trouble explaining this new concept to some of the potential contractors; however, they have been now put in touch with relevant people in DTED to assist them with this process. They were major players in the construction project. At that time, they put on 400 staff—unfortunately, now they have under 100—but there were 400 people working around the clock to provide the piping for the desal plant which is less than two kilometres away.

During this process of the desal plant, more than 10,000 staff were inducted and trained at the site with more than 200 specialised welders trained at a dedicated local facility. The 'megaproject' was delivered within the original approved budget of $1.824 billion with the handover for operations milestone achieved within the original approved time line of end of December 2012.

Many people do not realise the extent to which we have been drinking and using desal water lately, but at times 50 per cent of the water used throughout metropolitan Adelaide has come from the desalination plant as it is tested to ensure that everything is working according to specification before the warranty period expires. As I mentioned previously, so far things are working better than expected. The examination of the environment indicates that the environment has not been damaged.

RIVER MURRAY ECO ACTION

Mr PEDERICK (Hammond) (15:30): I rise today to speak about the proposed no-wash zones for the River Murray. On 9 January 2013, *The Advertiser* reported that boat use will be restricted at 28 sites along the River Murray under a government-sponsored plan to reduce damaging wash in sensitive areas of the river and the lakes. The no-wash zone plan is a part of the River Murray ECO Action group's campaign. It is a campaign jointly coordinated by a number of organisations, which include the Boating Industry Association of South Australia and KESAB, with the support of local government, the Environment Protection Authority and the Department of Environment, Water and Natural Resources.

Of the 28 sites proposed by the ECO Action group, five are situated in the Hammond electorate. Of the five zones proposed for the Hammond electorate, the most vocal in my electorate have been residents at Sunnyside, Murrawong, Willow Banks and Greenbanks. The area includes roughly 40 shacks on a terrific stretch of the river. River users and people associated with the Sunnyside area have joined forces to combat the zone proposed for their patch and I have met with representatives at Sunnyside to discuss the matter. People who reside in or share this area have

been extremely proactive when it comes to using the river and managing the environment they love, and I personally believe a no-wash zone is not necessary for this area.

First, I want it to be known that I am a strong advocate for the health of the River Murray. However, I have several issues with the handling of the matter thus far. Since the no-wash zones were first reported, the plan has received considerable public backlash, yet the government and the ECO Action group have done little to provide substantial information to the public, failing to allay their fears on this matter. On 7 February 2013, the Minister for the River Murray was asked a number of questions in the other place regarding the ECO Action group's campaign. He responded with advice on the Riverbank Collapse Hazard Program, which is linked to the drought and shows a clear misunderstanding of the issue.

Social media such as Twitter and Facebook is driving a strong campaign opposing the no-wash zones. Two thousand and twenty-four Facebook users like a page that is extremely vocal against the proposals. A website has been established that provides up-to-date information on the situation and I am sure my email inbox is not the only one to have been filled by concerned constituents and river users. I have been informed the no-wash zones are a public awareness campaign, not a regulatory arrangement, but my major concern is the role the EPA and DEWNR are playing, which so far has not been made clear. Whilst currently the measures are not regulatory, I have witnessed several instances where members of the Hammond community have had the EPA blessing, only to find out in the future that the EPA wishes to impose licensing arrangements and fees, hence my concerns with its involvement in this so-called public awareness campaign.

In addition to this, I am concerned that there has been no public consultation and that the proposed sites are the conclusion of a 10-day on-water survey. I believe strongly that these two points are downfalls of an initiative that had the intention to create public awareness among South Australians who enjoy the river about threats to the natural environment from the wake of boats and to encourage them to act with care at a number of sensitive locations. Although a consultation process has since been mooted following the public backlash, I feel the damage is already done as far as getting the message out to the public.

Secondly, science-based conclusions are the only way when dealing with the mighty River Murray. We all want to enjoy a healthy river. However, it is decisions made based on a lack of scientific evidence that continue to have a negative impact on the lifeblood of our state. Fair and reasonable consultation, combined with in-depth scientific study, must be conducted before implementing the proposed no-wash zones and boating restrictions. If this is not done there is the very real possibility that tourism in River Murray towns will drop, in turn impacting local businesses in towns such as Murray Bridge, Tailem Bend, Mypolonga, Milang and Goolwa. I can assure you that all along the River Murray has suffered, very much so, financially and environmentally during the recent drought and they do not need any further impost on their communities.

OBSTETRIC FISTULA

Mrs GERAGHTY (Torrens) (15:35): Today I want to speak about a serious women's health issue that I believe I have actually raised before in the house, but it came to my attention again during a trip to Ethiopia. The problem I am talking about is obstetric fistula. Like many health problems in African countries and other developing nations, it is a condition which, thankfully, I do not think happens very often at all to Western women. It is something that women in Western countries no longer have to endure.

Put simply—and I think it is worth describing it, as unpleasant as it is—obstetric fistula is a rupture between the vagina and the bowel or bladder and the outside of the body. It occurs as a result of untreated protracted or obstructed labour. The fistula causes embarrassing body leakages and accompanying bad odours.

Obstructed labour globally affects about 5 per cent of women. In the West medical treatment can overcome the problem, but in other parts of the world women have to endure the labour and the after effects. Six in 10 women in developing countries give birth without medical assistance from a midwife or doctor. Estimates from the World Health Organization suggest that about 2 million women worldwide have untreated obstetric fistula, with 100,000 new cases each year.

The personal and social impact of this condition can be dire. To take Ethiopia as an example, women with obstetric fistula are often abandoned by their husbands and ostracised from their communities because they can no longer give birth. The condition stigmatises women,

isolates them from family communities and further impoverishes its sufferers. Ethiopian society places a high value on having many children. Many sufferers incur the condition in younger years, and with few hospital doctors and poor transport, they can be burdened with the dreadful physical and social consequences for the rest of their lives. Unfortunately, life expectancy for some of these Ethiopian women is only about 41 years of age.

Fistula can be cured by surgery, after which there is a good chance of a full recovery, and the cost can be now as low as $450 for the surgery and post-operative care. Two Australians feature in the story of treating this condition in Ethiopia. In 1974, Dr Catherine Hamlin from Australia and her husband, Dr Reginald Hamlin from New Zealand, established a fistula hospital in Addis Ababa. Today the hospital offers free fistula repair surgery to approximately 2,500 women every year and also houses 50 long-term patients. The hospital is a world leader in treatment, rehabilitation and prevention and now has three small hospitals operating in rural areas, but it has no public funding and relies on donations to keep this vital treatment going.

The hospital is helping many women, but this appalling condition is still a major health problem for millions of women. In 2003 the United Nations Population Fund and partners launched a global campaign to end fistula, with the goal of making fistula rare all over the globe, not just in Western countries. The campaign is aimed at prevention as well as treatment. It also raises awareness of the problem among policymakers and communities, to try to break down the stigma attached to the condition.

The campaign is undertaken in more than 40 countries in Africa and Asia and in 2010 the United Nations Secretary General called for $750 million to treat 3.5 million cases of obstetric fistula by 2015. When I visited the fistula hospital in Addis I was extremely proud of the condition of the hospital and the services that were being provided, but it was quite traumatic to see very young girls with this dreadful condition.

One young woman we saw was still a teenager and she was actually bent over and having to undergo physical treatment and physiotherapy to help straighten her body because of the dreadful leakage that comes with fistula. She had spent years curled up in a ball in a foetal position. It was just an amazing thing to see the work that was being done with her to help her be able to walk again, to go home and live a normal life and, hopefully, in the future to have more children without fistula.

MARINE SAFETY (DOMESTIC COMMERCIAL VESSEL) NATIONAL LAW (APPLICATION) BILL

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Transport and Infrastructure, Minister for Mineral Resources and Energy, Minister for Housing and Urban Development) (15:42): Obtained leave and introduced a bill for an act to provide for a national legislative scheme regulating domestic commercial vessels; to make provision for local matters associated with commercial vessels; to make related amendments to other acts; and for other purposes. Read a first time.

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Transport and Infrastructure, Minister for Mineral Resources and Energy, Minister for Housing and Urban Development) (15:43): I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to introduce the Marine Safety (Domestic Commercial Vessel) National Law (Application) Bill 2013.

In 2009, the Council of Australian Governments (COAG) agreed to a national system for regulating the safety of domestic commercial vessels in Australia; 'domestic' referring to the commercial vessels involved only in coastal voyages, not overseas voyages.

In August 2011, COAG agreed to establish a single National Regulator—the Australian Maritime Safety Authority (AMSA). AMSA as the National Regulator will replace eight existing federal, state and territory regulators.

This national system for domestic commercial vessels is the culmination of over three years of dedicated collaborative effort between South Australian Department of Planning, Transport and Infrastructure and other state and territory marine safety authorities, AMSA and the Commonwealth Department of Infrastructure and Transport.

The Commonwealth *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* passed by the Federal Parliament, and received Royal Assent on 12 September 2012, and will commence by proclamation on 1 July 2013. On proclamation, the Commonwealth National Law Act applies to the extent to the Commonwealth's Constitutional reach.

This Application Bill is South Australia's contribution to the delivery of a single, nationally consistent marine safety regime for all domestic commercial vessels.

This Bill applies the Commonwealth National Law as the law of South Australia and extends coverage of the National Law to cover any gap in the Commonwealth's Constitutional reach. The Commonwealth arguably has the Constitutional powers to regulate a substantial proportion of the State's domestic commercial vessels. These powers are however largely untested by the courts and may not apply to vessels owned by sole traders, partnership or family trusts operating only within the waters of the Gulf St Vincent, Spencer Gulf, historic bays, the River Murray and inland waters, and that do not engage in interstate trade. In light of this legal uncertainty of the total coverage of commercial vessels by the Commonwealth's Constitutional power, the States and Northern Territory are to apply the National Law in order to ensure a consistent and seamless single maritime safety regime.

If the Application Bill is not passed, this will result in two regulatory schemes for commercial vessels in South Australia—one for Commonwealth regulated commercial vessels and one for South Australian gap vessels. This will result in inefficiencies and inconsistencies in standards, administration, certificate regimes, enforcement and penalties.

There are approximately 2,000 domestic commercial vessels operating in South Australia and a total of over 28,000 commercial vessels throughout Australia.

The Intergovernmental Agreement which underpins the National Law requires that the Commonwealth, States and Northern Territory agree not to submit a Bill that would be inconsistent with, or alter the effect of, the National Law; and that the States and Northern Territory discontinue their commercial vessel safety regulation to the extent that it is inconsistent with the National Law.

The National Law (both Commonwealth and State) confers regulatory powers and functions on the National Regulator (AMSA) which:

- will be responsible for the development of standards and regulations;
- will delegate powers and functions under both the State and Commonwealth laws to State officers (if agreed by the State) and Commonwealth officers;
- will enter into service level agreements with the States;•will appoint State officers as marine safety inspectors under both the State and Commonwealth Acts.

In keeping with the requirements of the Intergovernmental Agreement, the Application Bill amends the South Australian *Harbors and Navigation Act 1993* to remove provisions related to matters covered by the National Law.

The National Law and supporting subordinate legislation will enable vessels and seafarers to be certificated for work in any Australian waters. This flexibility will maximise business opportunities through minimising different jurisdictional regulatory requirements. Consistent and efficient regulation of commercial vessel operations will reduce regulatory burden and administrative costs on business.

The National Law will apply to vessels used for commercial, government or research activities, subject to some exclusions. It will not apply to recreational vessels, foreign vessels, defence vessels, vessels regulated under the Commonwealth *Navigation Act 2012* or vessels owned by primary or secondary schools or community groups.

The development of the national marine safety regulatory reform has been the subject of extensive consultation since 2009 and has received support from the maritime industry.

Existing vessels and crew will be able to continue operating as they do now. Current certificates will be recognised until they expire or until 2016, whichever is the soonest. As South Australian certificates expire, new national certificates will be issued, with grandfathering provisions to ensure current requirements apply, provided there are no changes to operations (including area) which increase the level or risk or modifications of the vessel which will require reassessment against standards.

Vessels not currently regulated as a commercial vessel in South Australia, which include those of the State Emergency Services, volunteer marine rescue organisations, the Crown (excluding primary and secondary school vessels), small hire vessels, and vessels used by yachting clubs to train persons for a recreational qualifications, will be able to continue to operate as they do now under transitional provisions in the National Law. These stakeholders will be consulted in relation any new requirements that may apply to them within three years from commencement. In South Australia, there will be approximately 230 Crown Vessels and approximately 50 industry vessel operations that will be newly captured under the national system. The Department of Planning, Transport and Infrastructure is working closely with these organisations to endeavour to minimise impacts while ensuring that a risk-based safety system is maintained.

Domestic commercial vessel marine safety services are to continue to be provided by State employees under delegation from the National Regulator. South Australia will continue to collect fees for these services.

South Australia will retain responsibility for regulating South Australian waterways, ports, harbors and moorings and will continue to enforce speed limits and drug and alcohol offences on the water.

This Bill also addresses several pressing matters affecting the administrative efficiency of the Harbors and Navigation Act. These amendments will:

- provide the ability to determine, by regulation, compulsory pilotage areas outside harbors for large laden vessels with limited under keel clearance transiting our Gulf waters, which could create high navigation risks if no pilot is used;
- devolve the power from the Minister to the Chief Executive (the marine authority in South Australia) to cancel a Boat Operator's Licence when a court has convicted the person of an offence showing the holder to have been incompetent or guilty of misconduct or failing in navigation duties; or where the holder has been disqualified from holding a certificate in another jurisdiction; or where the holder has been shown to have suffered from a mental or physical incapacity. This cancellation is a reviewable decision;
- remove the requirement for a port operator to manage a port in a way that avoids unfair discrimination against or in favour of any particular user of the port or port facilities, as this is intended for multi-user ports which are already regulated by the Maritime Services (Access) Act 2000 and monitored by the Essential Services Commission of South Australia. This will also remove uncertainty for the management of shipping safety in a harbor that is subject to an Indenture (e.g. Whyalla) or a single user facility;
- clarify the expiation fees applying when a vessel is marked but not registered, and when a vessel is neither registered nor marked;
- increase the maximum court imposed penalties for seven provisions of the Harbors and Navigation Act from $2,500 to $5,000 to bring the penalties into line with the penalties for offences with similar potential consequence; or to reflect the seriousness of the offence.

I trust honourable members will lend their support to this Bill and I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Purposes of Act

This clause sets out the purpose of this measure, namely to adopt in this State a national approach to regulation of marine safety in relation to certain commercial vessels.

4—Interpretation

This clause defines key terms used in this measure.

Part 2—Applied provisions

5—Application of Commonwealth laws as laws of this State

This clause extends the operation of the *Marine Safety (Domestic Commercial Vessel) National Law* of the Commonwealth and associated subordinate legislation to this State.

6—Interpretation of Commonwealth domestic commercial vessel national law

This clause provides that the *Acts Interpretation Act 1901* of the Commonwealth applies as a law of this State in relation to the interpretation of the applied provisions, and accordingly disapplies the *Acts Interpretation Act 1915*.

Part 3—Functions and powers under applied provisions

7—Functions and powers of National Regulator and other authorities and officers

This clause provides that the National Regulator under the national law, as well as other authorities and officers, have the same functions and powers under the extended national law as they do under that law as it applies as a Commonwealth law.

8—Delegations by the National Regulator

This clause provides that effect of any delegation done by the National Regulator under the national law as it applies as a Commonwealth law will extend to the national law as it applies as a State law.

Part 4—Offences

9—Object of Part

This clause sets out the object of proposed Part 4, namely to ensure that an offence against the national law as it applies as a State law will be treated in all respects as if it were an offence against the Commonwealth law.

10—Application of Commonwealth criminal laws to offences against applied provisions

This clause provides that an offence against the national law as it applies as a State law will be treated in all respects as if it were an offence against the Commonwealth law and not an offence against the laws of this State.

11—Functions and powers conferred on Commonwealth officers and authorities relating to offences

This clause provides that functions and powers relating to offences conferred on a Commonwealth officer etc under the national law as it applies as a Commonwealth law will extend to the officer etc in respect of the national law as it applies as a State law.

12—No double jeopardy for offences against applied provisions

This clause prevents a person from being punished twice for the same offence under the national law as it applies both as a Commonwealth law and a State law.

Part 5—Administrative laws

13—Application of Commonwealth administrative laws to applied provisions

This clause applies the Commonwealth administrative laws (as defined in clause 4) to the operation of the national law as extended to this State in substitution for the equivalent State laws.

14—Functions and powers conferred on Commonwealth officers and authorities

This clause provides that administrative functions and powers conferred on a Commonwealth officer etc under the national law as it applies as a Commonwealth law will extend to the officer etc in respect of the national law as it applies as a State law.

Part 6—Fees and fines

15—Fees payable in relation to officers or employees of State

This clause is a regulation-making power, enabling the Governor to set fees and charges for things done under the national law (as it applies both as a Commonwealth and a State law).

16—Infringement notice fines

This clause requires amounts received by the State in relation to an infringement notice to be paid into the Consolidated Account.

17—Fines, fees etc not otherwise payable to State

This clause requires fees payable under the national law (other than fees contemplated by clause 15) to be paid to the Commonwealth.

Part 7—Miscellaneous

18—Things done for multiple purposes

This clause provides that things done under the national law as it applies as a Commonwealth law will not be invalid (in respect of the national law as it applies as a State law) merely because they were done under the Commonwealth law and not the State law.

19—Reference in Commonwealth law to a provision of another law

This clause clarifies references to provisions of Commonwealth laws in sections 10 and 13 of the measure.

20—Regulations

This is a regulation-making power, enabling the Governor to make regulations under the measure.

Schedule 1—Marine Safety (Domestic Commercial Vessel) National Law

This Schedule comprises the *Marine Safety (Domestic Commercial Vessel) National Law* of the Commonwealth, extended in its operation to this State by virtue of this measure.

Schedule 2—Related amendments and transitional provisions

This Schedule makes amendments to the *Harbors and Navigation Act 1993* that are consequential to the enactment of the national law by the Commonwealth, and comprise, in general terms, the removal from the *Harbors and Navigation Act 1993* of provisions relating to domestic commercial vessels, since those vessels will now be covered by the national law (either the Commonwealth law or that law as it is extended by this measure).

The Schedule makes some cognate amendments to the *Harbors and Navigation Act 1993* that:

- provide the ability to determine, by regulation, compulsory pilotage areas outside harbors;
- allow the Chief Executive to cancel a Boat Operator's Licence in specified circumstances;
- remove the requirement for a port operator to manage a port in a way that avoids unfair discrimination against or in favour of any particular user of the port or port facilities;
- increase certain expiation fees applying when a vessel is marked but not registered, and when a vessel is neither registered nor marked;
- increase the maximum court imposed penalties for seven provisions of the Harbors and Navigation Act from $2,500 to $5,000.

The Schedule also makes a transitional provision, continuing in force certificates of competency to operate recreational vessels issued under the *Harbors and Navigation Act 1993*.

Debate adjourned on motion of Mr Griffiths.

MOTOR VEHICLE ACCIDENTS (LIFETIME SUPPORT SCHEME) BILL

The Hon. J.J. SNELLING (Playford—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for Defence Industries, Minister for Veterans' Affairs) (15:43): Obtained leave and introduced a bill for an act to provide a scheme for the lifetime treatment, care and support of persons catastrophically injured in motor vehicle accidents; to make related amendments to the Civil Liability Act 1936, the Motor Accident Commission Act 1992, the Motor Vehicles Act 1959 and the Stamp Duties Act 1923; and for other purposes. Read a first time.

The Hon. J.J. SNELLING (Playford—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for Defence Industries, Minister for Veterans' Affairs) (15:45): I move:

That this bill be now read a second time.

This bill represents a historic package of reforms, which are designed to deliver a better system for people who suffer injuries in motor vehicle accidents and the motoring public of South Australia. The bill introduces reforms to improve the affordability of the South Australian compulsory third-party insurance scheme, while at the same time providing better care and support for those who suffer serious injuries in vehicle accidents and, as a result, require lifetime treatment, care and support.

It is an important piece of social policy reform. It is an important piece of economic policy reform. It will deliver a fairer scheme for injured motorists. It will deliver a more efficient way of supporting those with serious injuries and it will deliver a cost-effective and affordable arrangement for all South Australian motorists.

Every year, approximately 1.3 million CTP insurance policies are taken out by South Australians when they register their vehicles. These policies are required by part 4 of the Motor Vehicles Act 1959. The insurer under our CTP scheme is the Motor Accident Commission, a state government instrumentality established by the Motor Accident Commission Act 1992. The commission has outsourced its claims management functions to Allianz Australia Limited, and currently the claims are directed through Allianz.

The CTP insurance scheme is fully funded by premiums paid by motor vehicle owners and income on the investment of those premiums. The government must balance how much vehicle owners can afford to pay and the flow-on effects to the cost of goods and services against the amount of compensation payable to people who are injured in motor vehicle accidents.

The CTP insurance policy insures the owner of a registered motor vehicle and any person who drives it or is a person in or on it against their liability to pay compensation and damages in respect of the death or bodily injury of any person caused by or arising out of the use of a vehicle. Such liability arises under the common law of torts when the death or injury is caused by the negligence of another person.

All states and territories have some special rule for motor vehicle insurance and accidents. All have compulsory third party personal injury insurance schemes; however, these schemes vary considerably. South Australia's fault-based scheme is most similar to the schemes that operate in Queensland, Western Australia and the ACT. Victoria and Tasmania, on the other hand, have no-fault schemes, while New South Wales has a no-fault care and support scheme for those who suffer catastrophic injuries with compensation otherwise remaining fault-based. The New South Wales government has recently announced a proposal to extend its no-fault scheme beyond those who are catastrophically injured.

The payment of compensation under our scheme is out of step with other schemes, and our premiums are unacceptably high compared with other states. Since 2000, South Australia's premiums have grown at a rate of over 5 per cent per annum—more than anywhere else. Without action, they will continue to rise significantly. South Australia has more than double the rate of claims per vehicle, as Queensland and Western Australia and our scheme pay significantly more for both economic and non-economic loss.

Last year, motor injuries accounted for around 90 per cent of claims. Statistics published in the government's CTP green paper indicate that around a third of compensation payments each year (in excess of $100 million) goes to claimants who have had little or no time off work. Another drain on the CTP fund is legal costs, which have risen by about 50 per cent since 2005. At the same time, the proportion of payments that are paid directly for the benefit of accident victims or their dependents has been declining, from 85 per cent in 2006-07 to below 80 per cent recently. Our CTP insurance scheme is becoming unaffordable.

At the same time, there are people who suffer terrible injuries in accidents who receive no benefit from the scheme. This is because the accident was entirely the injured person's own fault or because no-one was at fault. Examples of people who would have no entitlement to compensation are a driver who swerves to avoid an animal and collides with a tree or rolls, a person whose vehicle is hit by another vehicle, the driver of which had an unexpected heart attack, and a rider whose motorbike slipped on a wet road.

With that, I seek the leave of the house to incorporate the rest of the balance of the second reading speech into *Hansard* without my reading it.

Leave granted.

The mother of one accident victim is now vice-chairperson of the Brain Injury Network of South Australia which is an advocacy organisation for people with acquired brain injuries. She believes that most South Australians don't understand that they are uninsured in these circumstances and that this reform is badly needed. When her daughter was injured the physiotherapist said that she would have had this cover if her accident had happened in the right State.

She was a 25 year old woman who was travelling on a country dirt road. It is thought that dust created from a passing car contributed to her inability to negotiate a corner properly. She veered onto the other side of the road and was struck by a car coming in the other direction. She suffered catastrophic permanent brain injury and is unable to walk and talk, has little upper limb mobility, and suffers severe eating and swallowing issues. Her promising career as a teacher of Japanese in a private girls' school was cut short that day. 10 years after her accident she also developed severe epilepsy as a result of the brain injury.

She requires 24 hours care in all activities of daily living, but was not entitled to CTP compensation as the accident was deemed entirely her fault. Her family has had to build specialised living spaces and modify their home, including purchasing a spa, and her mother has given up working so that she is able to help care for her.

A young girl on P plates driving in the Riverland was startled when a bird swooped in front of her car. She over-corrected and her car flipped. On her nineteenth birthday she was brought out of an induced coma to be told she was a quadriplegic. No other vehicle was involved so there was no one for her to sue. 'It came as a huge shock to discover the insurance you pay for with car registration does not cover you in a case like this,' her mother said. 'I doubt virtually anyone who has not been involved in an accident like this would be aware they are not insured if no one else is at fault.'

Her mother has sold her home and cleaning business to become her daughter's full-time carer. They have moved to Adelaide to be closer to rehabilitation services. Her mother says people do not believe them when they explain what has happened to their lives.

It is estimated that in South Australia about 40 per cent of catastrophically injured accident victims are left without compensation from the CTP scheme each year. Some of these injuries are caused by people doing foolish things—like a young person speeding on a country road to get home late at night. Speeding is against the law, however, when that act causes an accident which leads to a serious brain injury that young person and their family are affected for the rest of their lives.

Currently, for those cases where someone is catastrophically injured and another driver is found to be wholly or partly at fault, the compensation from CTP insurance is paid to the injured person as a one-off lump sum, which is intended to cover all future needs. The compensation might not be enough to fund a lifetime of care. There are several reasons for this including that it is impossible to predict accurately a person's future needs, large sums might be mishandled or mismanaged, economic conditions affecting investment of the money might change. The amount awarded might be reduced by legal, medico-legal and other costs of litigation that are not covered by the award of party-party costs, or the amount may be reduced because of the person's contributory negligence. On the other hand, because of the difficulty of predicting the future, the amount might be too much.

The Productivity Commission has concluded that no fault schemes are superior to fault-based schemes for dealing with the care and support of those who suffer catastrophic injuries. They concluded that:

- existing fault-based insurance arrangements for catastrophic injury do not meet people's care costs efficiently—court outcomes are uncertain, people's future needs are unpredictable and poorly captured by a once-and for-all lump sum, compensation is often delayed, and there is a risk that lump sums are mismanaged;
- adversarial processes and delay may hamper effective recovery and health outcomes;

- no-fault arrangements on the other hand provide consistent coverage across injured parties according to injury related needs and provide much more predictable and coordinated care and support over a person's lifetime.

The Commission's report into Disability Care and Support was the catalyst for the National Disability Insurance Scheme (NDIS) and the National Injury Insurance Scheme (NIIS) proposals. Last December the Council of Australian Governments signed an Intergovernmental Agreement for the first stage of the NDIS which involves launch sites in some States (including South Australia). Under this Intergovernmental Agreement all States will endeavour to agree minimum benchmarks for a scheme for no-fault lifetime care and support for people who are catastrophically injured in motor vehicle accidents. This Bill is consistent with that commitment.

The Lifetime Support Scheme

The Bill would establish a Lifetime Support Scheme that would benefit people who are catastrophically injured in motor vehicle accidents occurring in South Australia, irrespective of who was at fault. It is proposed that the Scheme will commence on 1 July 2014.

The Bill would establish a Lifetimes Support Authority to administer the Scheme. The Authority would be a government instrumentality. Its role would be to ensure that the injured people who participate in the Scheme receive the treatment, care and support they need. The Authority, or people or organisations it engages, would develop long term relationships with participants. The approach will be different from that of an insurer, whose primary business involves declining, settling or litigating claims and paying the agreed or awarded amount in a lump sum.

A person would be eligible to participate in the scheme if they suffer a bodily injury in a motor vehicle accident, the scope of which is set out in the Bill, and the injury satisfies criteria set out in the Bill and Lifetime Support Scheme Rules. These Rules will be based on the Rules for the New South Wales Lifetime Care and Support Scheme and the criteria contained in the minimum benchmarks being agreed through COAG. People who will be eligible will include those who have suffered serious spinal or brain injury, multiple amputations, severe burns or blindness. The Rules will be made by the Governor on the recommendation of the Lifetime Support Authority. They will be laid before both Houses of Parliament and be disallowable.

There will be two categories of participants in the Lifetime Support Scheme—interim and permanent. This will allow for people to receive treatment, care and support before it is known whether they will need it for life and be eligible to participate in the scheme for life.

People who have been injured catastrophically in motor vehicle accidents before the commencement of the Scheme will be able to apply to participate in the Scheme on payment of a contribution determined by the Authority.

The Authority will provide necessary and reasonable treatment, care and support of the following types: medical treatment, pharmaceuticals, dental treatment, rehabilitation, ambulance transportation, respite care, attendant care and support services, aids and appliances, prostheses, educational and vocational training, home and transport modifications, workplace modifications and such other kinds of treatment, care, support or services as are determined by the Authority either generally or for a class of people or for a particular person.

Besides eligibility criteria, the LSS Rules will provide criteria for assessing the necessary and reasonable treatment, care and support needs of the individual participant. The Government will consult with local medical and disability experts in preparing the Rules. It is intended that the scheme operate in a manner that puts the participant, so far as is possible, in the centre of the decision making process as to the support they need, and the way in which it is delivered so that their independence and dignity is maximised. The Bill makes provision for agreed self-managed budgets where appropriate.

The Bill also contains dispute resolution mechanisms for participants and potential participants regarding eligibility and assessments of treatment, care and support needs. These are set out in Part 5 of the Bill.

The new scheme will not provide financial support to participants. It would not prevent a participant from making a common law claim for damages such as non-economic loss and economic loss or for damages other than losses associated with their care, treatment and support.

The Scheme will be funded by a new levy paid on registration of a motor vehicle. The amount for a Class 1 vehicle is currently estimated to be $105 before inflation, commencing in 2014. The levy will be set to ensure that the Scheme is fully funded.

At the same time the premium payable to the CTP scheme will fall. While this is partly the result of the shift of some existing CTP Scheme liabilities to the Lifetime Support Scheme, it is also the result of the remaining provisions in this Bill which put in place tighter restrictions and thresholds to address the escalating financial pressure on the system from the impact of compensation for minor injury claims.

Compulsory Third Party Insurance Scheme

Claims for compensation under the CTP insurance scheme are fault based common law claims as modified by statute law. A person is entitled to damages (financial compensation) only if he or she can prove on the balance of probabilities that his or her injury was caused by the fault of some other person. Common law rules are used to determine whether a loss suffered is compensable. Then the amount of damages is determined according to common law principles as modified by statute.

The amount of damages is determined on the basis that the person at fault should be required to put the injured person or dependants of a person who dies in the same position, so far as is possible, as they would have been in but for the injury or death. Because this became unaffordable, some legislative modifications have been

made to common law rights both in this State and in other Australian States and Territories: in South Australia by the *Civil Liability Act 1936*. This Bill would make some further changes for cases in which the death or injury is caused by a motor vehicle accident.

Currently the threshold for payment of damages for non-economic loss, that is, pain and suffering, loss of enjoyment of life, loss of expectation of life and disfigurement, is very low. If the person establishes that their ability to lead a normal life was significantly impaired for 7 days or medical expenses of at least the prescribed minimum are reasonably incurred they are entitled to damages for non-economic loss (assuming liability has been established) and the court is required to assign a number on a scale of 0 to 60 and calculate an amount according to an indexed scale set out in the Act. However, the Act provides little guidance about how to fix a number on the scale other than to require proportionality between the injury sustained and an injury of the gravest conceivable kind—i.e. 60 on the scale.

The amendments to be made by this Bill to the Civil Liability Act would introduce a 100 point scale for motor vehicle accident claims only. The scale is known as the Injury Scale Values (ISV) and it will align injuries within a point range of severity. Objective medical evidence will be used to place the injury within a severity point range while consideration of the differing impact of an injury on the particular individual will determine the final ISV within the range. The ISV table provides a mechanism for the court (or the respective parties pre-court) to determine the impact of an injury on an individual following a medical impairment assessment by an accredited medical expert. The ISV table uses a 100 point scale to classify injury severity. Damages for non-economic loss will be available when an injury exceeds 10 on the ISV. The amount to be awarded will be determined by a scale set out in the Bill.

The scale would be indexed according to CPI.

There will be changes also to compensation for past and future economic loss.

A person will not have to meet an injury severity point score threshold for past economic loss, but will be entitled to damages for loss or impairment of future earning capacity only if their injuries are assessed at more than 7 points on the ISV scale. It is expected that this will save a substantial amount that is currently paid out to people who have suffered minor injuries without much evidence of impairment of future earning capacity.

Assessing damages for loss or impairment of future earning capacity is notoriously difficult because it is not possible to predict what a person's future would have been if they were not injured and what it will be now that they have been injured. It is particularly difficult when the injured person is young and the predictions must be made for a very long period, and additionally difficult if the person is too young to have set a course in life.

The method of approaching this problem is basically that the court must first decide whether it has been proved on the balance of probabilities that the person's future earning capacity has been lost or impaired. If there is a residual earning capacity, the court must assess the extent of the impairment. Then an assessment must be made of what that means in terms of loss of future income. Sometimes there is evidence of possibilities or probabilities that would have either increased or decreased the persons' future earning capacity. These are also to be taken in to account in reaching a final figure, which might turn out to be too much or too little.

Assessments of damages may take into account chances that have only a remote chance of occurring, for example, something that has a 1 or 2 per cent probability of occurring. This has resulted in damages being awarded in some cases even though, at the time of assessment of damages, the person has not lost any time from work and might not lose any time in the future.

The Bill would make some changes to the way in which the quantum of these damages is assessed. The Bill is also intended to encourage a more methodical approach and greater rigour in assessing these damages.

The courts would take in to account the usual discount for vicissitudes of life, but would be required to not take in to account anything that has less than a 20 per cent chance of occurring and anything for which the court cannot evaluate the chance of it occurring. When the court has reached a figure, it will apply a discount rate that is currently 5 per cent, as is currently required, (because the injured person will be receiving these damages now in a lump sum instead of over coming years) and make any other deductions required by the Act or common law, for example for contributory negligence, and then discount the result by 20 per cent. These changes will ease the financial burden on the system while still ensuring people receive reasonable compensation for losses. The Bill also contains provisions which will encourage the courts to set out in detail how the amount for this component of an award of damages has been arrived at.

The policy intent is to ensure that awards or settlements for loss or impairment of future earning capacity must be linked to a specific rationale. It is anticipated that this will lead to some litigation once this policy is applied to offers of settlement from the insurer. The Government will carefully monitor the case law associated with these changes and if the interpretation applied does not reflect the Government's intention further amendment may be necessary.

The effect of loss or impairment of earning capacity on superannuation would be capped by limiting the amount that may be awarded to the contributions an employer would have been required to pay (currently 9 per cent), as is the case in NSW, Queensland and Tasmania.

The same approach for the assessment of pecuniary loss will be required in claims by dependants of people who die as a result of a motor vehicle accident.

There will be a change to damages for gratuitous services; that is damages for services provided on a voluntary basis by family members for which the injured person would otherwise have to pay. An injury severity score threshold of greater than 10 points will apply and these damages will be awarded only if the injured person

requires the services for six or more hours a week for at least six consecutive months. There will also be limitations in relation to participants in the Lifetime Support Scheme.

Damages for loss or impairment of consortium will also be subject to a 10 point threshold.

The Bill would introduce no fault compensation for medical and ongoing care costs for children who were under the age of 16 years at the time of the accident. The RAA raised this proposal in response to the Green Paper and the Government is pleased to support it. This provision will ensure that children receive immediate support for their medical and care needs following a vehicle accident without having to determine fault or contributory negligence. This will lead to better recovery and health outcomes.

The Bill also contains provisions for a new medical assessment and accreditation process for CTP insurance claims. These are intended to reduce bias, avoid excessive numbers of costly reports, and increase quality and objectivity of reports. Regulations will be made to supplement this part of the Act which will include limiting the number of medical assessments to establish the quantum of a claim. A suitable body would be appointed by the Minister to administer a register of experts and be responsible for the training and accreditation of experts. Requests for medical reports would be randomly allocated to the next appropriately qualified and available expert on the register. Guidelines would be issued to assist experts to produce useful reports and the quality of reports would be monitored for compliance with the guidelines. If there is disagreement about any aspect of a medical assessment, either party may request a maximum of 1 further assessment by a specialist of the same discipline, each.

Motor Vehicles Act 1959

Legal fees are a significant part of Compulsory Third Party costs.

The Bill provides that no costs will be awarded if the amount of damages awarded is $25,000 or less and will be capped at the Magistrates Court scale if the award is between $25,000 and $100,000 regardless of the court in which the proceedings are issued. These limitations on costs awards will apply to both the claimant and the insurer. It is also the Government's expectation that the Motor Accident Commission should act as a model litigant in defending claims. The court will retain a discretion as to costs in exceptional circumstances and there is an exception for costs directly related to seeking the approval of the court of a settlement of the claim of a child or person under legal disability for an amount of $25,000 or less.

There will be some procedural changes in relation to making a claim. A claimant must provide details of the claim, a certificate or opinion of a medical practitioner as to the nature and probable cause of the death or injury, any police report number, any prescribed information and an authority to obtain access to information relevant to the claim. The Bill requires the insurer to establish practices and procedures designed to assist claimants to comply with these requirements.

The *Motor Accident Commission Act 1992* would be amended to include among its objects encouraging early and appropriate treatment and rehabilitation of people in respect of whose injuries the Commission bears financial responsibility.

The results of the reforms will be monitored. If CTP insurance premiums exceed a prescribed percentage of State Average Weekly Earnings then the Minister would be required by the Bill to have Part 4 of the Motor Vehicles Act reviewed and the report laid before both Houses of Parliament.

The first stage of reforms will take effect from 1 July 2013 so that the reduction in CTP premiums can flow through to motorists as soon as possible. The reforms will not apply retrospectively.

It is estimated that the typical passenger vehicle (Class 1) CTP premium will fall by more than $100 in 2013-14. When the new Lifetime Support Scheme is introduced in 2014-15 it is estimated that motorists will still benefit from a net saving of over $40 before inflation.

The changes represent a major overhaul of Compulsory Third Party insurance in South Australia and a beneficial cultural change will be integral to their success.

The Government has engaged in an open consultation process regarding these reforms. In March, 2012, a Green Paper invited public debate about possible changes. More than 100 responses were received and considered. In November 2012 the Government announced its proposed reforms and released a booklet explaining them along with consultation drafts of what was then three Bills. Since that time further consultations have occurred, particularly with the legal profession who have held some reservations regarding the proposals.

As a consequence of those consultations a number of changes have been made to the proposals and these are now incorporated in this one consolidated Bill. The main changes that have been incorporated are:

- the threshold for claiming damages has been changed from above 15 points on the Injury Scale Value (ISV) to above 10 points for non-economic loss, voluntary services and loss of consortium; and to above 7 points for loss or impairment of future earning capacity;
- the limits on party-party costs awards have been varied;
- a right for an injured person to appeal to the District Court from a decision of an expert review panel that they are ineligible to participate in the scheme has been added.

In developing these reforms, the Government has consulted widely and listened. These reforms now incorporate proposals from many groups including health practitioners, disability experts, the RAA and the Law Society, Bar Association and Australian Lawyers Alliance.

The system will be fairer and more broad-based, more affordable for motorists and financially sustainable.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Interpretation

This clause provides definitions of words and terms for the purposes of this measure.

4—Treatment, care and support needs

This clause requires the Authority to pay the reasonable expenses incurred by or on behalf of a participant in the Scheme in providing for the treatment, care and support needs of the participant as are necessary and reasonable in the circumstances. The clause lists the treatment, care and support needs covered by this obligation.

5—Application of Act

This clause provides for the application of the measure and, in particular, limits its application to motor vehicle accidents occurring in the State on or after the measure comes into operation, and in limited circumstances, to motor vehicle accidents occurring before the commencement of this clause where the person who suffered the injury is accepted into the Scheme. Subclause (3) limits the application of the measure to a participant's injuries arising wholly or predominantly related to the motor vehicle injury or other injuries covered under the LSS Rules.

6—Persons injured before commencement of Scheme can 'buy in'

This clause makes provision for a person who has suffered an injury prior to the commencement of the measure, to apply to the Authority for acceptance into the Scheme. Applicants accepted into the scheme under this clause will be required to pay a contribution, determined by the Authority after applying any principle or criteria specified in the LSS Rules, to fund the treatment, care and support needs of the person as a lifetime participant. The clause prohibits approved insurers from making applications for entry to the scheme in respect of persons with pre-commencement injuries.

Part 2—Lifetime Support Authority of South Australia

Division 1—Establishment of Authority

7—Establishment of Authority

This clause provides for the establishment of the *Lifetime Support Authority of South Australia*, the body that will administer the Scheme.

8—Ministerial control

This clause provides that the Authority is subject to the general control and direction of the Minister.

Division 2—Board of directors

9—Board of directors

This clause establishes a board of directors to be the governing body of the Authority.

10—Composition of board

The board is to consist of at least 3 but not more than 10 persons with such qualifications and experience as are necessary to enable the board to carry out its functions effectively, appointed by the Governor on the recommendation of the Minister.

11—Conditions of membership

12—Allowances and expenses

13—Validity of acts

14—Proceedings

Clauses 11 to 14 are standard provisions in respect of boards and their membership.

15—Delegation

This clause provides for the delegation of the board's functions.

Division 3—Functions and powers

16—Functions

This clause provides for the functions of the authority which are:

- to monitor the operation of the Scheme;
- to provide advice to the Minister about the administration, efficiency and effectiveness of the Scheme;
- to provide support and funding for research, education and programs related to services provided to participants in the Scheme;
- to disseminate information about the Scheme;
- to keep the LSS Rules under review;
- to be responsible for the Fund;
- any other functions conferred on the Authority by or under this measure or an Act.

17—Powers

This clause provides that the Authority has all the powers of an individual to do anything necessary or convenient to be done in the exercise of its functions.

Division 4—Other matters

18—Staff and facilities

This clause makes provision for the Authority to engage staff, and to use the services, facilities or staff of a government department, agency or instrumentality.

19—Advances by Treasurer

This clause allows the Treasurer to advance money to the Authority (by way of grant or loan) from the Consolidated Account on conditions and terms determined by the Treasurer in consultation with the board.

20—Borrowing and security for loans

The Authority may not borrow money or give security for the repayment of a loan except as approved by the Treasurer.

21—Accounts and audit

The Authority must keep proper accounts of its financial affairs and its accounts and financial statements will be audited by the Auditor-General.

22—Annual report

This clause makes provision for the annual report of the Authority which must be tabled in the Parliament by the Minister.

23—Code of conduct

This clause provides that the Authority must develop and maintain a code of conduct, which is to be published in the Gazette and laid before both Houses of Parliament. The code of conduct must include—

- the procedures that will be adopted by the Authority to assist people to assess whether they are eligible to be participants in the Scheme; and
- the procedures that will be adopted by the Authority to assess the needs of participants in the Scheme and to ensure that participants are appropriately assisted under the Scheme; and
- other steps that will be taken by the Authority to ensure that the Authority interacts with people in a constructive and supportive manner; and
- a process for receiving and managing any complaints that may be made to the Authority about how the Authority has exercised a function or power under this measure; and
- any other material that the Minister considers should be included in the code.

Part 3—Participation in Scheme

24—Eligibility for participation in Scheme

A person is eligible to be a participant in the Scheme if—

- the person suffers a bodily injury; and
- the injury is regarded as being caused by or arising out of the use of a motor vehicle; and
- the relevant motor vehicle accident occurred in South Australia; and
- the coverage of this measure is not excluded under this clause ; and
- the injury suffered by the person satisfies the criteria specified by the LSS Rules for eligibility for the Scheme provided by this measure.

Participation in the Scheme may be as a lifetime participant or as an interim participant and a person is not eligible to be a participant in relation to an injury if the person has been awarded damages, pursuant to a final judgment entered by a court or a binding settlement, in respect of the future treatment, care and support needs of the participant that relate to the injury except where the person has applied to be accepted into the Scheme under clause 6.

The coverage of this measure is excluded in relation to a motor vehicle injury suffered by a participant in a road race or that is also a compensable injury under the *Workers Rehabilitation and Compensation Act 1986*.

25—Application to participate in scheme

This clause makes provision for how and by whom an application for a person to become a participant in the Scheme is to be made.

26—Acceptance as a participant

A person who is eligible for acceptance into the Scheme must be accepted if an application for acceptance into the Scheme is duly made. An interim participant must be accepted as a lifetime participant if the person becomes eligible for lifetime participation. A person accepted as a lifetime participant in the Scheme remains a participant for life.

The clause further provides that any period for which a person is an interim participant in the Scheme will be added to the period of 3 years applying under section 36 of the *Limitation of Actions Act 1936* (and that section will be taken to have been modified accordingly).

Part 4—Benefits under scheme

Division 1—Extent of benefits

27—Assessed treatment, care and support needs

This clause requires the Authority to pay for all the necessary and reasonable expenses incurred by or on behalf of a person in relation to the assessed treatment, care and support needs of the person while the person is a participant in the Scheme. The LSS Rules may contain criteria relating to determining which treatment, care and support needs of a participant in the Scheme.

As an alternative to paying the expenses for which it is liable under this clause as and when they are incurred, the Authority may pay those expenses by the payment to the participant of an amount to cover those expenses over a fixed period pursuant to an agreement between the Authority and the participant for the payment of those expenses by the participant (and this will satisfy any liability that would otherwise arise in relation to the matters to which the agreement relates).

28—Payment not required in certain circumstances

This clause provides that the Authority is not required to make payment in relation to any of the following:

- any treatment, care, support or service provided to a participant in the Scheme on a gratuitous basis;
- in the case of a child—any treatment, care, support or service that would ordinarily fall within the ordinary costs of raising a child (as defined in the clause); and
- any treatment, care, support or service that is required to be provided by an approved provider but is provided by a person who is not, at the time of provision, an approved provider; or
- any treatment, care, support or service that is provided in contravention of the LSS Rules.

However, the Authority may elect to make a payment in relation to any treatment, care, support or service referred to in above if the Authority is of the opinion that special circumstances exist that justify such a payment.

29—Approved providers

This clause provides for the Authority to approve specified persons or persons of a specified class to provide the treatment, care, support or services under the Scheme that are to be provided by an approved provider. The LSS Rules may also make provision for or with respect to the standards of competency of approved providers. Approvals by the Authority are granted on conditions or limitations determined by the Authority and it is an offence for approved providers to breach a condition or limitation of the approval without reasonable excuse. The maximum penalty for such an offence is $10,000.

Division 2—Treatment, care and support needs assessments

30—Assessment of treatment, care and support needs

This clause provides for the Authority to make an assessment of the treatment, care and support needs of a participant in the Scheme.

31—Cooperation by participant

This clause requires a participant in the Scheme to comply with any reasonable request in connection with the assessment of the participant's treatment, care and support needs.

32—Requirements under LSS Rules

This clause authorises the LSS Rules to make provision for or with respect to the assessment of treatment, care and support needs.

Part 5—Disputes and reviews

Division 1—Disputes about non-medical matters

33—Preliminary

This clause contains definitions for the purposes of this Division.

34—Resolution of disputes

This clause sets out the procedure for resolving a dispute about a relevant determination by the Authority. An interested party may apply (in a manner and form prescribed by the LSS Rules) to a review officer to have the dispute reviewed.

35—Appeals to District Court

This clause provides an appeal right to the District Court against a determination of a review officer and sets out the appeal procedure.

Division 2—Disputes about eligibility

36—Disputes about eligibility

This clause provides that, if there is a dispute—

- about whether an injury results from a motor vehicle accident or is attributable to some other condition, event, incident or factor; or
- about whether an injury suffered by a person satisfies the criteria specified by the LSS Rules for eligibility for the Scheme provided by this Act; or
- about the relationship between 2 or more injuries, including whether an injury is wholly or predominantly related to a motor vehicle injury; or
- without limiting a preceding paragraph—about whether an injury falls within, or is excluded from, the coverage of this Act under the LSS Rules; or
- about a matter prescribed by the regulations,

the dispute may be referred to an expert review panel. The panel's determination is final and binding (although that does not apply to any proceedings for judicial review). The costs of any proceedings before an expert review panel under this measure are payable by the Authority, excluding representation costs.

37—Appeals to District Court

This clause provides an appeal right to the District Court against a determination of an expert review panel and sets out the appeal procedure.

Division 3—Review of assessments

38—Review of assessments

This clause provides for a participant in the Scheme to apply to have an assessment of the Authority about treatment, care and support needs of the participant reviewed by an expert review panel. This clause lists grounds for review, as well as time frames for review. The decision of the expert review panel is final and binding (although that does not apply to proceedings for judicial review) and costs are to be payable by the Authority.

Part 6—Medical and other treatment or care costs

39—Bulk billing arrangements

This clause provides for the Authority to enter into bulk billing arrangements with the Minister for Health, service providers or others acting on their behalf for payment by the Authority of the expenses of participants in the Scheme for hospital treatment, ambulance services and other treatment expenses.

40—Payment of certain expenses not covered by bulk billing arrangements

This clause makes provision in relation to the rates at which the Authority is required to pay the expenses of hospital treatment, ambulance services, medical and dental treatment and rehabilitation services that are not covered by bulk billing arrangements.

41—Maximum fees payable for services not provided at public hospitals

This clause provides for the Minister, by notice in the Gazette, to set amounts to be paid by the Authority for certain treatment, care and support services to a participant in the Scheme provided at a hospital other than a public hospital and for which payment is required to be made to the hospital and not to the treatment or service provider .

Part 7—The Fund

Division 1—Establishment of Fund

42—Lifetime Support Scheme Fund

The Lifetime Support Scheme Fund (the *LSS Fund*) is established under this clause from which payments for which the Authority is liable in respect of the Scheme under this measure are to be made.

Division 2—Contributions associated with motor vehicle injuries

43—Determination by Authority of amount to be contributed to Fund

The Authority is to determine, before the beginning of each relevant period, an amount that the Authority considers is required to be contributed to the Fund—

- to fund the present and likely future liabilities of the Authority under Part 4 in respect of persons who become participants in the Scheme in respect of motor vehicle injuries suffered during that period; and
- to meet the payments required to be made from the Fund (other than excluded payments or payments under Part 4) during that period (to the extent that liability for any such payment has not been covered under the previous paragraph); and
- to satisfy the requirement to make any payment of duty under Part 3 Division 11 of the *Stamp Duties Act 1923* in relation to the relevant period; and
- to make provision for such other matters as the Authority should, in all the circumstances, make provision for under this Division in connection with any liability of the Authority under this measure.

The Authority's determination in respect of a relevant period is to be made—

- in accordance with a report of an independent actuary engaged by the Authority after consultation with the Treasurer to report to the Authority on the amount required to be contributed to the Fund; and
- after applying any principle or requirement specified by the Minister by notice in the Gazette for the purposes of this proposed section; and
- after taking into account any other payments that may be made by another body or person in connection with the operation of this measure.

The Minister will, after receiving a report of the Authority's determination, and after consultation with the Treasurer, determine an amount that should be paid to the Authority for contribution to the Fund for the relevant period.

44—LSS Fund levy

The required fund contribution for a relevant period is to be made by payment to the Authority of a levy (the *LSS Fund levy*) that is imposed on all persons who apply for any of the following under the *Motor Vehicles Act 1959*:

- the registration of a motor vehicle;
- an exemption from registration in respect of a motor vehicle;
- a permit in respect of a motor vehicle.

The LSS Fund levy will be an amount calculated under a scheme determined by the Minister after consultation with the Treasurer and the Authority, and the amounts to be recovered will be collected by the Registrar of Motor Vehicles at the time an application referred to above is made. The Registrar will pay to the Authority the LSS Fund levies collected with the exception that the Registrar may retain such administration expenses as are determined by the Treasurer for the purposes of this proposed section.

45—Recovery of payments in respect of vehicles not insured under State law

This clause entitles the Authority to recover from the appropriate person the present value of its treatment, care and support liabilities in respect of the motor vehicle injury of a participant in the Scheme if the injury was caused by the fault of the owner or driver of the motor vehicle and, at the time of the accident, the vehicle was not insured in accordance with the requirements of Part 4 of the *Motor Vehicles Act 1959*. Any amount the Authority may recover is to be reduced in proportion to any contributory negligence by the participant. The clause sets out who the *appropriate person* will be and provides for a defence in any proceedings to recover under this proposed section and contains the proviso that the Authority is not permitted to recover the present value of its treatment, care and support liabilities in respect of injuries to a participant in the Scheme if the participant paid an amount to the Authority under clause 6 in respect of those injuries.

46—Recovery in respect of persons in default

This clause provides that if an approved insurer or the nominal defendant has a right of recovery against a person (the *relevant person*) under a designated section and the person who suffered a bodily injury in relation to which the right of recovery applies becomes a participant in the Scheme, the Authority may exercise the same right of recovery against the relevant person for the present value of its treatment, care and support liabilities in respect of the participant in the Scheme as the approved insurer or nominal defendant has under the designated section. Sections 116 and 127A of the *Motor Vehicles Act 1959* are the *designated sections*.

Part 8—Miscellaneous

47—No contracting out

This clause provides that this measure will apply despite any contract to the contrary.

48—Release of information

This clause authorises the Authority to disclose and release information to parties the Authority thinks fit or to persons prescribed by the regulations. It also authorises insurers to disclose information obtained under *Motor Vehicles Act 1959* in relation to potential or current participants in the Scheme.

49—Immunity

No personal liability will attach to an assessor, a review officer or a member of a panel under this measure for an act or omission by the person in good faith and in the exercise or purported exercise of powers or functions under the Act.

50—Treasurer's guarantee

This clause provides that the Treasurer will guarantee the liabilities incurred or assumed by the Authority in pursuance of this measure.

51—False or misleading information

This clause makes it an offence to provide false or misleading information under this measure, the penalty for which is $10,000.

52—Absence of participant from Australia

If a participant in the Scheme is to be absent from Australia, the participant must, at least 28 days before leaving Australia, give the Authority notice of the proposed absence in accordance with the LSS Rules. If the Authority considers such action is justified, the Authority may—

- waive or reduce the period of notice that applies under this clause in relation to a particular person in a particular case;
- suspend the participation of a person in the Scheme while the person is absent from Australia (whether or not notice has been given in accordance with this clause).

53—Extraterritorial operation of Act

This clause makes express provision for the operation of the legislation in relation to the following:

- things situated in or outside the territorial limits of this jurisdiction;
- acts, transactions and matters done, entered into or occurring in or outside the territorial limits of this jurisdiction;
- things, acts, transactions and matters that would, apart from this measure, be governed or otherwise affected by the law of another jurisdiction.

54—Authority to act on behalf of participant

This clause provides that, without limiting any other provision, any authorisation or step that may be given or taken under this measure by a participant in the Scheme may be given or taken by a person with lawful authority to act on behalf of the participant.

55—Agreements with WorkCover Corporation

This clause allows the Authority to enter agreements with the Workcover Corporation for the provision of treatment, care, and support needs to persons with compensable injuries whom Workcover considers may benefit from those services.

56—LSS Rules

This clause deals with the making, varying, revoking or substitution of the LSS Rules by the Governor on the recommendation of the Authority. The *Subordinate Legislation Act 1978* (other than section 10AA and Part 3A) apply to the LSS Rules.

57—Regulations

This clause makes provision for the Governor to make regulations for the purposes of the measure.

Schedule 1—Expert review panels

Schedule 1 makes provision for the establishment, constitution, procedures, functions and powers of expert review panels for the purposes of this measure.

Schedule 2—Related amendments and transitional provisions

Part 1—Related amendments

1—Amendment provisions

This clause provides that in Schedule 2, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Civil Liability Act 1936*

2—Amendment of section 3—Interpretation

This clause proposes to amend the definition in the principal Act of *motor accident* to mean an incident in which personal injury is caused by or arises out of the use of a motor vehicle. This will better align with the *Motor Vehicles Act 1959*. A definition of *MVA motor accident* is also to be inserted and is defined as a motor accident where the motor vehicle is a motor vehicle as defined in the *Motor Vehicles Act 1959*. A new subsection is to be inserted to provide that, for the purposes of the principal Act, personal injury will arise from a motor accident if the personal injury is caused by or arises out of the use of a motor vehicle.

3—Amendment of section 52—Damages for non-economic loss

Current section 52 provides for compensation in respect of non-economic loss, which may include pain and suffering, loss of amenities of life, loss of expectation of life and disfigurement. This clause amends the way that awards for damages for non-economic loss are calculated for personal injury arising from an MVA motor accident. The clause inserts an *injury scale value* system where non-economic loss is assessed on a scale running from 0 to 100. A person may only be awarded damages for non-economic loss where the relevant injury exceeds 10 on the injury scale. The amendments also provide for the adjustment annually of indexed amounts of damages that may be awarded under this section.

4—Insertion of section 56A

56A—Additional provisions relating to motor vehicle injuries (economic loss)

New section 56A sets out the principles that apply to how a court is to determine damages for economic loss in relation to personal injury arising from an MVA motor accident.

5—Amendment of section 58—Damages in respect of gratuitous services

It is proposed to amend section 58 so that damages for gratuitous services in relation to personal injury arising from an MVA motor accident may only be awarded if the injury scale value for the injury exceeds 10. The clause makes further provision relating to persons who are participants in the Lifetime Support Scheme.

6—Insertion of sections 58A and 58B

58A—Limitations on damages for participants in lifetime support scheme

New section 58A provides that no award of damages may be made to participants in the Lifetime Support Scheme (to be established under the measure) for treatment and care needs in relation to the relevant injury, regardless of whether the treatment and care needs are included or excluded by the Scheme, and regardless of whether the person is an interim or lifetime participant in the Scheme.

58B—Additional provisions relating to death on account of a motor vehicle injury

New section 58B provides that any entitlement to damages for loss of financial support in respect of the death of a person arising from an MVA motor accident (a *relevant loss of financial support claim* applies subject to this new section. Under new section 58B(3), damages awarded in relation to a relevant loss of financial support claim must, after applying a discount rate (if any), and any other principle arising under the principal Act or at common law, be discounted by a further 20%.

7—Amendment of section 65—Spouse or domestic partner may claim for loss or impairment of consortium

This clause is consistent with other changes instituted by the measure. Damages in relation to loss or impairment of consortium, which is deprivation of the benefits of a family relationship due to injuries, on account of personal injury arising from an MVA motor accident may only be awarded if the injury scale value exceeds 10.

8—Insertion of Part 9 Division 13

Division 13—Regulations

76—Assessment of motor vehicle injuries

New section 76 provides for the making of regulations with respect to any claim, entitlement or award of damages in respect of personal injury arising from an MVA motor accident and for the establishment of an accreditation scheme in respect of health professionals.

77—Regulations—general provisions

New section 77 contains a general regulation making power in the usual terms.

Part 3—Amendment of *Motor Accident Commission Act 1992*

9—Amendment of section 14—Functions and objectives of Commission

This clause inserts as an objective and function of the Commission the encouragement of early and appropriate treatment and rehabilitation for people who suffer road accident injuries.

Part 4—Amendment of *Motor Vehicles Act 1959*

10—Amendment of section 5—Interpretation

This clause proposes to insert a definition of *LSS Fund levy*.

11—Amendment of section 20—Application for registration

Current section 20 requires that at the time of making an application for the registration of a motor vehicle, the applicant must pay to the Registrar a prescribed fee, the appropriate insurance premium and the stamp duty payable on the application. This clause requires that applicants also make payment of the appropriate *LSS Fund levy*.

12—Amendment of section 24—Duty to grant registration

It is proposed to amend current section 24 so that in addition to payment of the prescribed fee, insurance premium and stamp duty, as is the current situation, payment of the LSS Fund levy by an applicant for motor vehicle registration is required for the Registrar to register a motor vehicle under the principal Act.

13—Amendment of section 118B—Interpretation of certain provisions where claim made or action brought against nominal defendant

This clause is consequential.

14—Insertion of section 126A

This clause inserts a new section.

126A—Claim for compensation

New section 126A makes provision for how and by whom a claim for compensation can be made.

15—Amendment of section 127—Medical examination of claimants

These are related amendments.

16—Amendment of section 127A—Control of medical services and charges for medical services to injured persons

This proposed amendment inserts an additional subsection which provides that, in addition to the matters currently included in the current section, the Minister may, in relation to a particular case or class of case, increase a limit or charge that applies for the purposes of this section (and the prescribed limit or prescribed scale will, in that case, then be taken to be increased to the extent allowed by the instrument).

17—Insertion of sections 127B and 127C

This clause inserts two new sections.

127B—Liability of insurer to pay treatment, care and support costs

New section 127B requires the Authority to pay the reasonable expenses incurred by or on behalf of a participant in the Scheme in providing for such treatment, care and support for the participant as are necessary and reasonable in the circumstances. The clause lists the treatment, care and support needs covered by this obligation.

127C—Control of legal costs

New section 127C makes provision for the control of legal costs payable in respect of proceedings brought in respect of a claim for which a person is insured under this Part of the principal Act.

18—Insertion of section 134A

134A—Review of scheme

New section 134A makes provision for a periodical review, and report on the operation, of Part 4 of the principal Act.

Part 5—Amendment of *Stamp Duties Act 1923*

19—Insertion of Part 3 Division 11

This clause inserts a new Division.

Division 11—LSS Fund levy

82B—Interpretation

New section 82B inserts a number of definitions required for the purposes of the measure.

82C—Lodgement of statement and payment of duty

New section 82C requires the Authority to pay duty to the Commissioner in respect of each LSS fund levy paid to the Authority. It also requires the Authority to lodge a statement to the Commissioner with the levies received, and obligates the Authority to pay duty equivalent to 11% of the total.

Part 6—Transitional provisions

20—Civil Liability Act—transitional provisions

21—Motor Vehicles Act—transitional provisions

22—Contribution to liabilities of Authority—transitional provisions

These 3 clauses make provision for transitional arrangements following the enactment of this measure.

Debate adjourned on motion of Mr Griffiths.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) (NO. 2) BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (15:50): Obtained leave and introduced a bill for an act to amend various acts the administration of which is the responsibility of the Attorney-General.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (15:50): I move:

That this bill be now read a second time.

The Statutes Amendment Attorney-General's Portfolio Bill 2013 makes various amendments to rectify a number of outstanding technical issues that have been identified by affected agencies and interested parties in various acts committed to this portfolio.

In administering legislation, it is routine to have agencies and interested parties raising administrative legal issues they have encountered. I seek leave to have the remainder of the second reading explanation inserted into *Hansard* without reading it.

Leave granted.

Specifically, the Bill makes the following amendments:

Strata Titles Act 1988/Community Titles Act 1996

The Bill amends the *Strata Titles Act 1988* to provide that the articles of a strata corporation must not prevent an occupier of a unit who has a disability (as defined in the Equal Opportunity Act) from keeping an assistance animal or from keeping a therapeutic animal (as defined in the Equal Opportunity Act) that has been certified by the person's general practitioner as being required to assist that person as a consequence of their disability.

Currently, Schedule 3 of the *Strata Titles Act 1988* prescribes replaceable articles for strata corporations to govern the management of strata schemes. A corporation may alter or substitute these articles by agreement. Clause 4 of the replaceable articles states that a person bound by the articles must not keep any animal in, or in the vicinity of, a strata unit without the consent of the strata corporation.

In recognition that some people require animals such as guide dogs to assist with a disability, section 19(4) of the Act states that the articles cannot prevent an occupier who is blind or deaf from keeping a guide dog at the unit. This current prohibition is outdated in referring only to guide dogs for blind and deaf persons.

The Bill also amends the *Community Titles Act 1996* in similar terms.

Clarification of Statutory Defence for Child Pornography offences

Modern investigative considerations in dealing with offences involving child pornography have highlighted problems in the current statutory defence for such offences. Concerns have been expressed by SAPOL and the Education Department that the existing defence in section 63C(2) Criminal Law Consolidation Act 1935 is inadequate and could even unwittingly frustrate legitimate and proper law enforcement and child protection.

Section 63C(2) presently provides that 'no offence is committed against this Division by reason of the production, dissemination or possession of material in good faith and for the advancement or dissemination of legal, medical or scientific knowledge.' This defence is too restrictive. It is unclear whether such legitimate purposes as law enforcement, acting in the administration of the criminal law and the provision of legal advice or child protection would fall within this definition. It is important in an area such as this, that the actions of police officers and others within the criminal justice system and education and child protection sectors be not left in uncertainty. It is appropriate that any statutory defence should include both legitimate law enforcement and acting within the administration of criminal justice purposes and the reasonable provision in good faith for child protection or legal advice. There will be variety of circumstances in which otherwise under the present law an offence might in theory even be committed by police officers or others within the criminal justice system and education and child protection sectors acting reasonably and in perfect good faith and in accordance with their professional duties.

The Bill therefore clarifies that the statutory defence is available to police officers or other law enforcement officer acting in the course of his or her duties; or any other person such as prosecutors or judicial officers acting in the course of his or her duties in the administration of the criminal justice system and to persons such as teachers, defence lawyers or those in the child protection sector who act reasonably and in good faith for the purpose of providing genuine child protection or legal advice.

The defence should be applied sensibly and cautiously by the courts to ensure that it does not open the door to spurious claims by offenders that they are acting in good faith for the purpose of providing genuine child

protection or legal advice. Any claim can expect to be very closely scrutinised and subjected to a healthy degree of scepticism, especially if made by an individual who is not a defence or prosecution lawyer, judicial officer, law enforcement officer or child protection officer acting in the proper course of their professional duties. The courts are in the best position to make a determination as to whether someone falls within the clarified defence.

This clarification of the statutory defence is appropriate and strikes the proper balance in this area. The proposed defence mirrors similar defences that already exist elsewhere such as in Western Australia, New South Wales or the Commonwealth.

Criminal Law (Sentencing) Act 1988

The Bill makes minor amendments to the Criminal Law (Sentencing) Act 1988 to clarify who the applicable Minister is. The Act presently contains a number of references to the role and powers of a Minister. Such changes to the Act will assist in future machinery of government changes if the applicable Ministerial titles should change.

District Court Act 1991

Once the Statutes Amendment (Courts Efficiency Reforms) Act 2012 comes into effect, the Chief Magistrate will be taken to have been appointed as a judge of the District Court. The responsibilities and workload of the position of Chief Magistrate are such that the holder should be entitled to the status of a District Court Judge.

Consistent with the Statutes Amendment (Courts Efficiency Reforms) Act 2012, the District Court Act 1991 is amended to provide that a person appointed as the Chief Judge of the District Court will also be appointed as a Justice of the Supreme Court. As is the case with the Chief Magistrate, the responsibilities and workload of the position of Chief Judge are such that the holder is entitled to the status and conditions of a Justice of the Supreme Court. This will help ensure that the best candidates for this vital role are available. An existing Supreme Court judge might prove to be the most suitable candidate for the position of Chief Judge. Accordingly, the Bill allows a Justice of the Supreme Court to be assigned as the Chief Judge of the District Court.

During any such appointment, the Chief Judge, whilst enjoying concurrent appointment as both a Supreme Court judge and the Chief Judge, would not be able to perform any of the duties or exercise the functions of a judge of the Supreme Court, unless at the request of the Chief Justice. This provision will provide the courts with more flexibility (requiring appropriate specifications) in their approach to changing and allocating workloads between the courts.

Supreme Court Act 1935, District Court Act 1991 and the Magistrates Court Act 1991

The Bill amends the Supreme Court Act 1935 to allow records of 100 years or older, held by the Supreme Court, open to public access. This change is in response to a request from the Friends of South Australia's Archives and will assist historical research. The Supreme Court Act 1935 currently restricts access to old Supreme Court records. Section 131 of the Act was amended in 1995, court material previously considered to be open access, now falls within the restricted terms outlined in section 131.

Due to storage problems in the Court, many Supreme Court records have been deposited in the State Records Office. Accordingly, whereas before a person could go to the State Records Office and inspect or copy the material at no cost, they now need to go to the Court and the records are recalled to the Court so an assessment can be made as to whether the records fall within the terms of section 131. It is understood that this process is onerous and involves transportation of what is often old and fragile documents.

For consistency, the Bill also amends the District Court Act 1991 and the Magistrates Court Act 1991.

Evidence Act 1929

The Bill also makes a minor change to the Evidence Act 1929 to allow the maintenance of audio visual records in electronic files to be dictated by the Rules of the court. This will ensure staff of the Courts Administration Authority can carry out the duties whilst adhering to the Rules of the relevant court.

Police (Complaints and Disciplinary Proceedings) Act 1985

The Bill makes several changes to the Police (Complaints and Disciplinary Proceedings) Act 1985. The first change relates to investigations undertaken by the Police Complaints Authority and clarifies their discretion to refuse to investigate a complaint at the outset and refuse to continue to investigate a complaint.

The second change is to section 19 of the Police (Complaints and Disciplinary Proceedings) Act 1985 to allow 'preliminary' investigations of complaints to be conducted. Preliminary investigations offer an effective tool for case management and are a beneficial means of obtaining important information to determine whether a complaint should be formally investigated in accordance with section 21. Both the Police Complaints Authority and SAPOL advise that this has been the established practice. However, the present Act does not strictly authorise preliminary investigations. There is a need to clarify this situation.

Finally, all references to the 'internal investigation branch' in the Police (Complaints and Disciplinary Proceedings) Act 1985 are updated to reflect the unit's current name of 'internal investigation section'.

Graffiti Control Act 2001

The Bill rectifies a minor oversight in the recent Graffiti Control (Miscellaneous) Amendment Act 2013 and replaces the term 'cans of spray paint' with the correct term, 'graffiti implements'. The Bill further clarifies the operation of section 7(5) of the Graffiti Control Act 2001 in respect of the proof of identity to be produced by an authorised person.

Summary Offences Act 1953

Finally, the Bill amends section 67 of the Summary Offences Act and the Schedule of the Act to correctly refer to Schedule 1 of the Act. 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 *Community Titles Act 1996*

4—Amendment of section 37—Restrictions on the making of by-laws

The proposed amendments will prohibit the making of a by-law that would prevent an occupier with a disability from keeping an assistance animal or therapeutic animal on the lot or that would restrict the use of an assistance animal or therapeutic animal by the occupier if the animal is trained to assist the occupier in respect of the disability.

Part 3—Amendment of *Criminal Law Consolidation Act 1935*

5—Amendment of section 63C—Pornographic nature of material

The proposed amendments to section 63C would insert 2 new subsections that would provide that no offence is committed against Part 3 Division 11A (*Child pornography and related offences*) by reason of the production, dissemination or possession of material in good faith by a police officer or other law enforcement officer acting in the course of his or her duties or any other person acting in the course of his or her duties in the administration of the criminal justice system; or by reason of the production, dissemination or possession of material in good faith by a person acting reasonably for the purpose of providing genuine child protection or legal advice.

Part 4—Amendment of *Criminal Law (Sentencing) Act 1988*

6—Amendment of section 3—Interpretation

These amendments are of a technical nature and will assist in future machinery of government changes if ministerial titles were to change.

Part 5—Amendment of *District Court Act 1991*

7—Insertion of section 11A

New section 11A is to be inserted before section 12 of the principal Act as the first section of Division 2 of Part 3.

11A—Appointment of Chief Judge

New section 11A provides that the Chief Judge is—

- a Judge of the Supreme Court assigned by the Governor, by proclamation, to be the Chief Judge; or
- a legal practitioner of at least 10 years standing or a District Court Judge appointed by the Governor to be the Chief Judge.

Certain provisions in new section 11A relate to a Judge of the Supreme Court *assigned* to be the Chief Judge. They include proposed subsection (2), which provides that before a Judge of the Supreme Court can be assigned to be the Chief Judge, the Attorney-General must consult with the Chief Justice of the Supreme Court about the proposed assignment. Furthermore, a Judge of the Supreme Court assigned to be the Chief Judge ceases to be the Chief Judge if the person ceases to be a Judge of the Supreme Court.

The remuneration and conditions of service of a Judge of the Supreme Court assigned to be the Chief Judge will be the same as if he or she had not been so assigned and his or her service as the Chief Judge will be regarded as if it were service as a Judge of the Supreme Court.

The Governor may, by proclamation, made at the request or with the consent of a Judge of the Supreme Court assigned to be the Chief Judge, revoke the assignment of that Judge.

New section 11A also makes provision in relation to a person *appointed* as the Chief Judge. A person so appointed will be taken to have been appointed as a Judge of the District Court (if he or she is not already a Judge of the District Court) and as a Judge of the Supreme Court of South Australia. The retirement, resignation or removal from office of such persons is provided for. Proposed subsection (10) makes particular provision in relation to the resignation of a person appointed as the Chief Judge from multiple offices.

Certain provisions relate to the office of Chief Judge generally. It is provided that the Chief Judge may not perform the duties, or exercise the powers, of a Judge of the Supreme Court, unless the Chief Justice of the Supreme Court, with the consent of the Chief Judge, assigns the Chief Judge to perform the duties and exercise the powers of a Judge of the Supreme Court for period determined by the Chief Justice.

In addition, the new section provides that the office of Judge of the Supreme Court is the primary judicial office of the Chief Judge.

8—Amendment of section 12—Appointment of other judicial officers

9—Amendment of section 13—Judicial remuneration

The amendments proposed to sections 12 and 13 are consequential on the insertion of new section 11A.

10—Amendment of section 54—Accessibility to Court records

The proposed amendments would allow a person to have access to Court material (specified in section 54) if 100 years have passed since the end of the calendar year in which the material became part of the Court's records. Section 26 of the *State Records Act 1997* would apply to such records in the custody of State Records. Other records (for example, those still in the custody of the Court) would be accessible without the need to seek the permission of the Court.

Part 6—Amendment of *Evidence Act 1929*

11—Amendment of section 13C—Court's power to make audio visual record of evidence of vulnerable witnesses in criminal proceedings

The proposed amendments would allow the rules of court to regulate access to, and responsibility for, an audio visual record in the custody of the court. Currently, court officials are responsible for the custody of such records and access is restricted to those officials only.

Part 7—Amendment of *Graffiti Control Act 2001*

12—Amendment of section 7—Appointment and powers of authorised persons

The proposed amendment to section 7(2) is a technical amendment necessary to correct an omission in the *Graffiti Control (Miscellaneous) Amendment Act 2013*.

The proposed amendment to section 7(5) is a technical amendment that reflects the fact that an identity card only need be produced by a police officer who is not in uniform or an authorised person who is not a police officer.

Part 8—Amendment of *Magistrates Court Act 1991*

13—Amendment of section 51—Accessibility to Court records

This amendment keeps section 51 of this Act consistent with the equivalent provisions in the *District Court Act 1991* and *Supreme Court Act 1935*.

Part 9—Amendment of *Police (Complaints and Disciplinary Proceedings) Act 1985*

14—Amendment of section 3—Interpretation

The proposed amendment will substitute the definition of *internal investigation branch* with *Internal Investigation Section* or *IIS*. This reflects the actual name of the section in SA Police.

15—Substitution of heading to Part 3

16—Amendment of section 13—Constitution of Internal Investigation Section

17—Consequential amendments to Act

The above amendments are consequential on the amendment to section 3.

18—Amendment of section 19—Action on complaint being made to Ombudsman

The proposed amendment would allow the Police Ombudsman to undertake a preliminary inquiry in relation to a complaint.

19—Amendment of section 21—Determination by Ombudsman that investigation not warranted

The proposed amendment would permit the Police Ombudsman to refuse to entertain, or continue to investigate, a complaint on certain grounds, such as if the complaint is trivial, frivolous, vexatious or not made in good faith, or if the complainant lacks sufficient standing to make the complaint, or if the investigation or continuance of the investigation of the complaint is unnecessary or unjustifiable.

Part 10—Amendment of *Strata Titles Act 1988*

20—Amendment of section 3—Interpretation

These amendments are consequential on the proposed amendment to section 19.

21—Amendment of section 19—Articles of strata corporation

The proposed amendments are consistent with the proposed amendments to the *Community Titles Act 1996* and also incorporate what is currently in section 37 of that Act in relation to visitors. The proposed amendments to section 19(5) are drafted on the assumption that section 49 of the *Statutes Amendment (Community and Strata Titles) Bill 2012* will come into operation before this measure.

Part 11—Amendment of *Summary Offences Act 1953*

22—Amendment of section 67—General search warrants

23—Substitution of heading to Schedule

These amendments are of a technical and clerical nature only and make no substantive change.

Part 12—Amendment of *Supreme Court Act 1935*

24—Amendment of section 131—Accessibility to court records

This amendment keeps section 51 of this Act consistent with the equivalent provisions in the *District Court Act 1991* and *Magistrates Court Act 1991*.

Debate adjourned on motion of Mr Gardner.

STATUTES AMENDMENT (REAL ESTATE REFORM REVIEW AND OTHER MATTERS) BILL

Adjourned debate on second reading (resumed on motion).

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (15:52): Over the period of the adjournment I have had brought to my attention—I have to say not surprisingly because most of these events begin in this way—a letter from the Law Society, and the letter from the Law Society, I assume by some means, has found its way into the hands of the Hon. Mr Wade in another place, who treats these as if they were edicts from some place beyond us all, whereas in fact it is only the Law Society, as much as I like them, lovely people.

Ms Chapman interjecting:

The Hon. J.R. RAU: Lovely people, but unlike His Holiness they are not infallible and they do occasionally come from a perspective of policy which, in my opinion, means that I am entitled to treat them like any other policy contestant, not treat them as an august body passing judgement on drafting and other technical matters. If, as I suspect, because Mr Wade has outsourced his thinking on most matters to the Law Society committees, it turns out to be that this is where it is all coming from, I do have some remarks that I think need be made and recorded here, and those remarks are basically this.

The Law Society is revealed from this correspondence to have a particular perspective on this matter and at least they do declare the perspective and the perspective is that of the vendor. The Law Society is basically saying, 'Look, you people have got far too carried away with the person you call the consumer, who is the potential purchaser of the property. We think you have got the balance completely wrong. You need to be worried about the vendor,' and so it is interesting. What they have done is basically said, not in so many words because that would be crass and unbecoming, 'We therefore endorse misleading and deceptive behaviour on the part of the vendor because it maximises the vendor's position,' which undoubtedly it does—

Ms Chapman: That's complete nonsense, John, and you know it.

The Hon. J.R. RAU: I will quote a passage from a particular document. This is from page 3 of a document, which I believe was sourced from the Law Society in the middle of last year. It goes like this:

The assumption behind these amendments—

which are the ones that the government proposes—

is that vendors always know from the outset what price [they] would accept for their property.

Just hold that thought for a moment and think about what that means. Let us move on:

To the contrary, the Society is of the view that many owners in fact do not know what their property is worth, and the marketing process can be vital to informing the vendor and assisting them determine what they may expect to receive. Many vendors' expectations are formed and/or varied in both directions during this marketing process.

So far, so good. It is okay, as long as—and here is the real error at the basis of this particular thinking, and at the basis of what I apprehend is the motivation that the Hon. Mr Wade has had for making these amendments. I do congratulate the Hon. Mr Wade for bringing them into this

chamber for once, and I would like to thank the member for Goyder for that, because it is only when the member for Goyder gets his hands on a matter that we actually get an amendment in here. Well done, member for Goyder; I congratulate you, because you have been able to wring from the hands of the Hon. Stephen Wade something nobody else has ever been able to wring from those hands, which is an amendment presented to the lower house.

Mr GARDNER: Point of order: is the Attorney still quoting from the letter?

The DEPUTY SPEAKER: I think the Attorney has moved on from the quote.

The Hon. J.R. RAU: Yes, and I apologise to the member for Morialta; I should have said 'unquote' a little while ago. So, the member for Goyder has prised open the Hon. Stephen Wade's hands and snatched from them the amendments that he has been holding back, and at least we are seeing them in here. For that, I congratulate the member for Goyder, and I say 'thank you' most sincerely. I implore you to speak to your brothers and sisters and implore them to go to Mr Wade when he is fast asleep, prise those hands open and get those amendments out so we can actually talk about them down here, instead of sitting here—

The DEPUTY SPEAKER: Point of order, member for Bragg.

Ms CHAPMAN: I think that some licence is allowed in the debate about different views that are expressed, but I think a tirade against another member in another place and reflecting on them, especially in relation to the conduct of the debate, is totally out of order. I would ask you to bring the Attorney back to the subject matter in respect of this real estate reform.

The DEPUTY SPEAKER: I would not have really called it a tirade, and I do agree with your earlier analysis that we do allow some banter. I am sure the Attorney will take all of this into account and continue.

The Hon. J.R. RAU: Thank you, Mr Deputy Speaker. For the point of clarification, can I just make it clear to members opposite, who might be concerned about this, that I was not at all reflecting in an adverse fashion on the Hon. Stephen Wade, who, in the context of my remarks, we found fast asleep with amendments in his hand. He was asleep in my example, and therefore, no disrespect was meant to him. I was merely expressing my admiration for the skill of the member for Goyder to be able to get his hands open while he is still asleep and bring the amendments in here: that is what I was congratulating—

Ms CHAPMAN: Point of order.

The DEPUTY SPEAKER: Another point of order.

Ms CHAPMAN: This is a deliberate and offensive statement about a person in another place.

The DEPUTY SPEAKER: I am sure the Attorney is keen and willing to move on.

The Hon. J.R. RAU: I am keen to move on. 'Quote', member for Morialta:

> The assumption behind these amendments is that vendors may know from the outset what the price would be necessary to accept for its property. To the contrary, the Society is of the view that many owners in fact do not know what their property is worth and marketing can be vital to informing the vendor—

Etc.; end of quote. You see, that is all well and good except that some people now, acting for the vendor who 'does not know from the outset what price it would accept' or is waiting for the 'marketing process to be vital in informing the vendor'—in other words, the vendor has no idea what the vendor wants—have no idea.

The opposition's amendments mean, nevertheless, an agent can stick any number it likes out there in circumstances where it is transparently false to advertise a property—for example, $500,000 plus—if in truth the vendor has not the slightest idea what the property is worth, is not able to say, 'My reserve is 700' or 'My reserve is 500' or whatever it is, and the agent cannot actually converse with the vendor and say, 'Look, I've looked at other properties and I think your property is worth about 500. What do you think?' The vendor answers, 'Well, I reckon it's worth more than that because I've got the terracotta flamingo on the front lawn and that's going to add value'—and they have that conversation.

What the Law Society is complaining about is the situation where the vendor has no idea at all—zero. That just underscores my whole point and the point of this legislation. How dare somebody who does not have any idea how much they want for the property—and they are

genuinely in that position: they have no idea—put that property out and market that property for a price or a price range? How dare they do that?

Putting that out there is a complete misrepresentation because what it says to the hapless reader of our great metropolitan daily newspaper is that if you have $500,000 in your pocket you are in the hunt for this property. That is what it says. However, in the Law Society example, that person does not actually have any notion that $500,000 is anywhere near the number—no notion at all—and they have not recorded that in a sales agency agreement, they have not had a conversation with their agent or, if they have, they have said, 'Sorry, agent, we don't agree with you.' So it is alright then to put this bait number out there which, according to the letter the Law Society has sent, bears no resemblance to any known figure either by the agent or the vendor. It is sheer rubbish.

I ask those who would put forward these amendments: how is it in the interests of consumers that we as a parliament say it is really good for people knowingly to put rubbish numbers out there in respect of advertising for properties? How is that advancing the common good? I cannot see where the merit is in that. All we are trying to do in this arrangement is to achieve one thing, and that is to have some honesty and transparency in advertising about the sale price of real estate—that is all we are trying to do.

You might ask: why are we trying to do this? I will tell you why: because there are grubs out there who routinely put numbers in the newspaper in respect of properties that they know are wrong. They know those numbers are way below what their client will ever accept. They know that but they put them out there so that they can get all the tyre-kickers coming through and so that they can play all these games about marketing.

Marketing a property should not be some sophisticated version of a fly and spider game in a spider web. That is not how it should be. I do not care so much if we are dealing with a sophisticated commercial purchaser, if we are dealing with the Commonwealth Bank or Lend Lease or somebody like that—they are big enough and ugly enough to look after themselves. I am talking about the mums and dads who are buying a domestic property.

The fact is that the real estate industry acknowledges that this is a problem—that is a fact. The real estate industry acknowledges that some of their people are doing this, and they hate it, and rightly so. The real estate industry has told me it is absolutely baffled as to how to deal with it. I anticipate comments from the member for Bragg along these lines. The reason it is not simply a matter of going out there and prosecuting them is because to prosecute somebody you need something, and that something is called evidence. You need to be able to detect the offence and you need to have evidence of the offence. It is that simple.

What the government provisions do is provide that evidence, because there will be a record in writing which can be obtained by the relevant authorities at any time. They can have a look at that record and they can examine the conduct of the agent, and they can line up the conduct of the agent, the advertisements in *The Advertiser*, or anywhere else, and just compare whether what is in that document and what is being advertised lines up. That is what this is all about.

Now, this would not be necessary if everybody who is involved in the real estate industry was doing the right thing. And I have to place on the public record that I think most real estate agents are doing the right thing, and most of them want to do the right thing. I have consulted with a number of the more reputable ones in the context of putting this together and they are as concerned about this as I am. Their view on it is: 'We hate the fact that the public standing of real estate agents generally is being diminished by these grubs in our industry who are not being weeded out.' They don't like it, and nor should they.

The reform we are putting forward is only going to inconvenience the people who actually at the present time are getting an unfair market share as real estate agents because they are doing things which are below the standard that their colleagues are prepared to accept. It is going to hit those people because they are going to have to change their business model. They are going to have to start behaving ethically, so they are not going to like it, but for the rest of them it's not going to make much difference because the rest of them are doing the right thing. The rest of them are not playing this game. The rest of them are actually being fair and reasonable both to the vendor and to the prospective purchasers.

The other point I address from this letter is the idea that this is not a valuation. No, it is not a valuation: it is a price estimate. Nobody is holding the real estate agent who gives a guesstimate

about price to that thing so that they can be sued if it is not 100 per cent right. They have to make reasonable efforts. It is not strict liability. All they have to do is prove that in coming to the number they have given to the vendor, as the suggested number, they have had regard to stuff like recent sales in the area, comparable homes, etc., etc. That is all they have to do. They just have to demonstrate they actually turned their mind to what is a comparable property for the purpose of giving some evidence-based information to the vendor.

The vendor is then in a position to say, 'Well, look, you might say my place is worth 550, or whatever, based on sales around this area, but you know what? I don't care. I'm not going to settle for less than six.' At the beginning it is then clear that six is the bottom line, so why should they be able to advertise for under six? Why, no matter how unreasonable that vendor might be? I quite like my place. I do not yet have one of those concrete flamingos on the front lawn, but I am looking for one, and if anyone knows where I can get one—

Mr Goldsworthy: A garden gnome.

The Hon. J.R. RAU: I do have a gnome; I have got one gnome, but it is a small one and I will take it with me if and when I go. By my reckoning the flamingo would become a fixture and therefore part of the property because you would have to cement it in.

Mr Griffiths: Unless it's excluded from the contract.

The Hon. J.R. RAU: Quite right, unless it's excluded from the contract. Now, I might come to the view that once I get that flamingo—I do believe, actually, there is a place somewhere on Mooringe Avenue that sells all sorts of large concrete animals but I have yet to see a flamingo there. I have seen hippos, rhinos, elephants—they seem to have an African bent; they do not seem to be into things from South America and whatnot. Anyway, I digress slightly.

The point is that once I got that out there I might come to the view that my property is worth another $150,000 because of the artistic merit of the front yard. That may not be shared by everybody. There may be some who look at that flamingo and say it is actually detracting from the place or think it is not worth a cracker, but if I am completely committed to the idea that that cement flamingo has enhanced the value of my place and I will not settle for any less because I have it there, then shouldn't the unwary potential purchaser know that I have this obsession about my front yard? Shouldn't that be part of the advertising? Why should it be advertised at a price everybody knows I won't accept? Why?

So, there are two things here. The agents are only being requested to do their best, given the available information, to give a fair rational estimate. They are not being held to it but they have to demonstrate that they have turned their mind in a reasonable way to fixing that number. The second thing is it does not exclude the fact that some vendors may be completely unreasonable in their expectations and, if they are, that should be reflected in the advertising. There is no point in having some silly arrangement where the unreasonable vendor has a price in the newspaper which is $200,000 or $300,000 below what they are prepared to accept. That is not helping anybody. The last point, I guess, that comes out of this letter is the unusual property. Yes, it is true; there are such things as unique properties, no question.

Mr Griffiths: For valuation purposes.

The Hon. J.R. RAU: For valuation purposes. There are properties that just have—and I think in the industry they call it the wow factor—something that is hard to define but you know it when you see it.

Mr Sibbons interjecting:

The Hon. J.R. RAU: Yes. It is impossible to explain but once you encounter it, you know you have encountered it, as with a number of other things but let's not go there. So, the wow factor—there are properties that do have that. Even though nobody is much interested in every other place on the street, that one they really like. It could be my flamingo again, it could be anything. Nobody is expecting the agent to be able to either predict with absolute certainty this property does have that or to be able to predict how big a lift will come out of that. That is not what this is about, so that is actually a furphy. All they have to do is make a reasonable effort, that is all, to put a number against the property.

Getting back to the point, if the agent takes reasonable steps to work out a comparable property valuation for this property, the agent is fine. If the agent tells that to the vendor and the vendor says, 'No, that is not enough. I want more than that for the property,' as long as the agent

does not misrepresent that they have been told by the vendor that the vendor will accept less than the vendor in fact will, the agent is fine. If the property turns out to be one of those really special properties, the agent is still fine because they are by definition rarities and difficult to predict.

The only thing that is not fine is what the Law Society seems to think is okay, which is that you can advertise the property when the vendor has no idea what they want for it, apparently, at a price because by definition that is misrepresenting the vendor's position. If the vendor genuinely does not know what they want, how on earth are you able to advertise for a particular price when the person does not know what they want? It just does not add up. That is the problem.

I know that there are some people in the real estate industry who say that this is using a sledgehammer to crack a walnut. I have heard that a couple of times. But they have had a long time to deal with this. They have known it is a problem for a long time. I have invited them to give me a solution that would work; they have not. They all accept, I think, that this will make it a lot harder for people who are doing this underquoting business. They just do not like the way we do it.

In the end it comes down to this: are we serious about dealing with underquoting or aren't we? If we are not—look, there are other bits and pieces in here which are probably useful. A lot of this legislation is here because we have been asked by the industry to bring it in. A lot of this stuff is pro-real estate industry material. People should not get the impression that this is all just a big dump on the real estate sector; it is not. This is a mixture of things. We have reduced red tape for them, we have done all sorts of things which make their life easier.

All we are asking them to do in this space is to actually consider the fact that underquoting is an evil in the business. It is bad for their reputations and bad for the whole idea of there being open and reasonable conduct between people, and we are trying to get rid of it. With the greatest respect, the Law Society again has adopted a particularly partisan position, which is the position of the vendor, but in so doing has misconceived some of the elements in the legislation, most particularly the fact that they are only required to make a reasonable effort. There is no strict liability attached to this.

In winding up, I again congratulate the member for Goyder for having achieved what hitherto has been the unachievable and bringing forward amendments here. I congratulate the honourable member and I genuinely—and I am not being funny—appreciate the fact that when the member for Goyder is dealing with a matter he has the courtesy to come to this chamber and bring forward amendments so we can talk about those amendments in this chamber.

That is a courtesy that we seldom have extended to us by the Hon. Stephen Wade, who prefers to use the Pearl Harbor tactics in the other place. The first thing we know about it is we hear the words, 'Tora, tora, tora,' about 10 minutes before the bell rings in the other place when the amendments get rolled out. That is the first we hear about it. You can almost feel the Zeros going over your head. That happens to us week in, week out, month in, month out. To his great credit, the member for Goyder does not play it that way; he is a gentleman, and I congratulate him.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

Mr GRIFFITHS: I move:

Page 3, line 2—Delete 'This Act' and substitute:

Subject to subsection (2), this Act

I am interested in the version of history that the minister just related. I find it rather interesting and I might take a few moments to put some things on the record, as he certainly has. I do recognise that before the luncheon adjournment I had not forwarded him a letter of the amendments I proposed. They were submitted, though, with the parliament on 20 February and I advised an officer who works for him that it was my intention to lodge amendments. We were scheduled to debate this bill some two weeks ago or thereabouts.

The Hon. J.R. Rau interjecting:

Mr GRIFFITHS: The Real Estate Industry provided me with a copy of the letter they forwarded to you on 21 February only on Monday, and that certainly sets the record. If you had the

opportunity with your other commitments to be in the chamber for the whole time, you would have heard the positive way that we spoke about the need for the industry to be strong and vibrant and protective of all sides of it—purchaser and vendor. There is no doubt about that. All members spoke about that.

The amendment relates to the time of it coming into action. In my contact with the industry, they would prefer an opportunity to ensure that there is time for training that goes on with the people that are qualified to work with them. I have asked for a period of greater than six months I think it was. I am happy if it is 1 July, for example, but is the minister supportive of the amendment?

The Hon. J.R. RAU: I do not think the amendment is necessary. I can say and I place on the record that we will not insist on something within three months. We will consult with the industry about it. Whether it is four months, five months or six months is something I would not want to be nailed down to now, because I do not know exactly how long the training modules and so forth would take to be done. I will say now it will not be three months and therefore I do not believe the amendment is necessary and I oppose it for that reason only. I place on the record that we do not intend to sneak up on it.

Mr GRIFFITHS: Given that the minister has given a commitment that it will be no less than three months, I take by that it will be round about 1 July, potentially, then? I am prepared to accept that.

The Hon. J.R. RAU: We could certainly aim for that. I am advised there is some issue about getting regulations drawn up, but we will move along as swiftly as we can without catching the industry in such a position that they have no warning or ridiculously short time lines.

Mr GRIFFITHS: Given those commitments, I seek leave to withdraw the amendment.

Leave granted; amendment withdrawn.

Clause passed.

Clauses 3 to 5 passed.

Clause 6.

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

Page 4, after line 12 [clause 6(2)]—After inserted subsection (1a) insert:

(1b) Nothing in subsection (1a) prevents the Court from exercising such other powers under this section as the Court considers appropriate in the circumstances.

Just to explain briefly, under the bill if disciplinary action is taken following the successful prosecution of a prescribed offence, the court must cancel the registration and disqualify the agent or sales rep from being registered. This amendment does not change the tenor of the bill, but it clarifies it in the two following respects. First of all, the court has the power to issue additional penalties. In other words, it is not simply either cancellation or nothing; it expands it out to either a reprimand or a prohibition.

Secondly, the court has the power to make disqualification either permanently, for a specified period, or until the fulfilment of stipulated conditions or until a further order. If the disqualification is not permanent, the registry will be able to apply to the Consumer and Business Services for a new registration, but will of course then be subject to the fit and proper person threshold. So it actually in effect is turning a rather blunt instrument into a more refined one.

Mr GRIFFITHS: The opposition confirms that in discussion with industry it is prepared to accept the amendment.

Amendment carried; clause as amended passed.

Clause 7 passed.

Clause 8.

Mr GRIFFITHS: I move:

Page 4, line 25—after '$300,000' insert '(excluding GST)'

This one relates to the figure that is quoted for small business. I referred in my second reading contribution to my interest in this, given that no definition was provided under the Small Business Commissioner Act as to what the size of a small business is. In real estate you have done that. I

note you have increased it from $200,000 to $300,000, and the suggestion is to qualify for anybody who reads this that it is excluding GST. That is the suggestion. I am still keeping the $300,000 figure in place.

The Hon. J.R. RAU: I think that is entirely reasonable. We are not talking about the tax element, just the primary number.

Amendment carried; clause as amended passed.

Clauses 9 to 12 passed.

Clause 13.

Mr GRIFFITHS: I move:

Page 6, lines 33 to 40 (inclusive) [clause 13(5)]—Delete subclause 13(5)

This is the one I appear to be in a bit of trouble for, and there are a few amendments that are contingent upon the success of this one, too, so I note that. In my discussion with the Real Estate Institute, they provided me with a copy of a letter they sent to you on 21 February. They recognise that the change is going to occur, and I reinforce again that the institute wants to be professional in all the ways that it does things, but it did raise some level of concerns. Minister, I might take the opportunity just to read into the *Hansard* this letter to you from Mr Greg Troughton, chief executive officer, dated 21 February. The letter states:

> The Real Estate Institute of South Australia has appreciated your personal time over the course of the past few months to discuss the practicalities of the proposed amendments to the Land and Business (Sale and Conveyancing) Act—

which is a slightly different act to the one we are talking about now.

> It is strongly our view that we share common beliefs in the professional standard that all real estate practitioners should display, at all times.
>
> Our recent discussions have focused on three issues—

and I believe those discussions were held on the day or the day before this letter was drafted to you. Point 1 states:

> The requirement for the sales representative to insert a single figure in a Sales Agency Agreement at the time of listing the property for sale (previously this figure could be a range, not exceeding 10%). REISA acknowledges that the intent of inserting a single figure comes back to the need to more strongly monitor underquoting in the marketplace. However, REISA needs to highlight that a single figure could be interpreted as a valuation, when in fact, a sales representative is never qualified, or skilled, to provide such a service. Real estate sales representatives provide appraisals based on their local knowledge, and the final selling figure will always be dependent on current market conditions and the vendor's expectations. Whilst REISA remains concerned over the perception issue of an appraisal becoming something more in the eyes of a vendor, suitable words warning against this type of presumption could be placed into the Form R1 to try and minimise this very risk.

They continue with point 2:

> Under the proposed changes, a vendor will not be permitted to set the reserve at an amount exceeding 110% of the single figure set down by the vendor in the Sales Agency Agreement. Limiting the right of the vendor to sell their property for an amount they are ultimately satisfied with, we believe is unfair and will erode vendor confidence in the auction system. Market conditions will always dictate the final selling price and intervening in this system will simply create a market where people feel limited in their methods of selling, to achieve the best final sale price. REISA strongly believes that the vendor should have the option of whether or not to make a price representation to the market and we are pleased that the proposed amendments respect this.

I understand that it has moved forward from what the original draft proposal was but I thought it was important to put that on the public record. It was the basis, indeed, for the amendments proposed by the Hon. Stephen Wade when he was the shadow minister and we have brought them here today.

I respect the fact that, from what you have said, they are not going to get up and you have a very strong divergent opinion against that, but it was important I think that I put on the record why the amendment was suggested and indeed the effort that the industry has made in discussions with you and representatives of the industry to try to reach an outcome situation.

I recollect your comment that you have posed the question to the real estate industry to come up with a solution on this. They have not necessarily been able to, so you put the position out there which is the 110 per cent nexus figure, but there is still a responsibility for me as now the shadow minister to put the amendment before you.

The Hon. J.R. RAU: As I said, I have spent a lot of time with REISA and, by and large, it has been very constructive. They are broadly supportive of what we are doing here, I think, everyone would agree. There is one element in the letter that the honourable member for Goyder just read out which is slightly misleading. I am not suggesting that he is misleading us but I am saying that the author of the letter is being misleading because it says something about forcing the vendor to sell their property for something less than they want to sell it for, or words to that effect.

Here is the critical thing: we do not anywhere in this legislation force the vendor to sell their property for any price unless they want to. The only thing we seek to regulate is the price that they advertise the property for, so all we are concerned about is fair and honest advertising. If, on the day, the vendor does not receive a price for the property that they want (we are talking here about an auction, I guess) then there is nothing in this legislation that deems them to have effected a sale to the highest bidder. If it has gone over the reserve then, as far as I understand the provisions, they are still in control of whether they sell their property.

The provisions that they are referring to govern how they can market the property. There is a distinction between those two things. We are not seeking to interfere in any way with any individual's capacity to sell their property at a price that they feel happy with, but we are seeking to regulate the price at which that property is advertised to the public. I know that is possibly a bit of a difficult distinction to draw up, but you need to remember that all of this business about 110 per cent and fixing a price is not designed to box in the vendor in respect of the price that they might receive or accept for their property.

What it is designed to do is to compel the agent, when advertising that property, to use a number in the advertisement which is relevant to either their view of the value of the property or, if it is higher, the vendor's view of the value of the property. That is all. It does not cramp the vendor's style in terms of what they must or must not accept at the auction.

Amendment negatived.

Mr GRIFFITHS: I move:

Page 7, lines 23 to 32 (inclusive) [clause 13(7), inserted subsection (6d)]—Delete subsection (6d)

This was about agency agreements for selling the property. I raised this during the second reading contribution, and I did it from the viewpoint of trying to find a balance between metropolitan and regional areas about what they need to do. In regional areas there might not be as many real estate agents within a community, and there might be a desire to have agreements roll over, especially because it might take more than 180 days for a property to sell if there is any level of flexibility.

In posing the question to myself, I thought probably one of the best of ways of doing it is by moving this amendment which removes subclause 7(a) that the agreement must not be extended more than once. So, that is the reason why it is in there and indeed to allow for an extension opportunity of a sales agency agreement where the particular situation creates it.

Now, I am not sure how that fits with legislation all the time. Practicality sometimes interferes with what the law says, but there are certainly issues that have been brought to our attention regarding regional real estate operators. The quote provided to us was that they have had to employ people to actually continue to chase up people for extension of agreements beyond the second one that you provide for. So, I am just wondering what your opinion is on that.

The Hon. J.R. RAU: It is a really good question, and I do acknowledge that in regional parts of the state, probably the reality on the ground is different. This certainly hasn't been framed with a view to making things awkward for people in regional parts of the state. The genesis of this goes back a long way to where there were in effect abuses of the system because the sales agency agreement would sort of operate almost perpetually.

Once upon a time, once one of these agreements had been entered into, it was very difficult to get out of it. So, the idea was basically that the agreement would have a limited lifespan and that at the end of that lifespan it would be incumbent on the agent to go back to their client and have a conversation with them. That was almost the main reason it was there. It was: you will talk to your client, otherwise you won't have a client anymore and you will converse with them at that point, not only about extending the agreement, but presumably if the client has got any concerns about how you are performing or anything else, you will have to do that in the context of getting an extension. There were abuses.

It used to get quite complicated because sometimes there would be people who were not aware that a former agent of theirs considered themselves still to be their agent. They would go off and would think, 'I haven't heard anything from that chap for a long time, but I still want to sell my house.' They would go to some other agent and sign up and then eventually the property is sold by the second agent, and they get the surprise of a lifetime when there is a knock at the front door from the first agent, like a ghost of Christmases past, 'Hello, remember me? I am here for my 6 per cent commission,' and the person's jaw drops and they say, 'Your what?' That is what we were trying to clean up.

I am happy to have a chat to the member for Goyder about whether or not there would be some way of addressing the matter that he raises between the houses. The only thing I would say is that I would be wary of amending the general provision so as to address his problem for fear of creating exactly the problem we were trying to defeat back again in the metropolitan area.

It might well be that there is some capability for us to consider a regime where certain parts of the state could be gazetted as different or something, I do not know. I am just thinking off the top of my head about that; maybe we can do something in that space. I do recognise the point that is made, but I would resist strongly interfering with the general provision because it was put there for a very good reason and it would cause a lot of trouble in the metropolitan area.

Mr PEGLER: Just on this one, doesn't (6a)(c) cover that aspect; that is, if there is to be an extension then it has to be in writing and signed 14 days prior to the present one running out. Why would you need (6a) in the first place? If an agent can roll it over every three months, but he has to have the agreement of the vendor and it has to be signed, I cannot see why you would have (6a)?

The Hon. J.R. RAU: That is a very good question. I am advised the reason it is constructed that way is that, as the honourable member for Mount Gambier would appreciate, some of these fellows are quite wily individuals and we discovered—

An honourable member interjecting:

The Hon. J.R. RAU: I know, that is shocking, some of them are—that apparently it was not beyond their ken to actually turn up on the first day when they signed up the person for the sales agency agreement and also to get them to sign the 90 day extension, and technically they have got what they need. As I said, one of the objects of this thing was to force the agent to come back again and sit down with the person and have a conversation with them. They had to have the chat about, 'Well, look do you really want me to keep working for you?' or 'I am not very happy with the way you are doing things,' or whatever it might be. In this space, nothing is perfect, but this is designed to make the agent, I guess, not take their client for granted.

Mr GRIFFITHS: I respect the fact that neither I nor the minister want unintended consequences to occur, and so if there is an opportunity for us to have a conversation between the houses I would take that.

The Hon. J.R. RAU: I would add it is the same for the member for Mount Gambier, if he wants to have a chat to me about this matter between the houses, I am happy to try to address in detail the matter that he is just raising.

Mr PEGLER: I make one point. It says that it can be no earlier than 14 days before the agreement is due to expire. Obviously an agent would be breaking the law if, when he did the first agreement, he also did the second agreement.

The Hon. J.R. RAU: Yes, that's why we put that in. We put that in to avoid the circumstance I mentioned before, which is that you get only the one visit but you've got two documents at the first visit.

Amendment negatived.

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

Page 7, lines 25 and 26 [clause 13(7), inserted subsection (6d)]—Delete 'vendor must not make a new sales agency agreement with the same agent' and substitute:

agent must not make a new sales agency agreement with the vendor

I move this as printed and ask for it to be agreed to. Just by way of explanation: under the bill, the new subsection (6d) makes it an offence for the vendor to terminate or vary a sales agency agreement to reduce its duration and then to make a new sales agency agreement with the same

agent specifying their selling price at an amount greater than that specified in the original agreement before the agreement is expired.

This is one of the provisions in the bill designed to eliminate the practice of underquoting. However, after further consideration, the government believes that the responsibility for this offence should rest on the agent rather than the vendor. This is due to the following reasons: firstly, the agent is the professional person contracted by the vendor to provide the service required for the real estate transaction; secondly, the agent has undergone the required training, and has the required expertise and depth of knowledge in handling the real estate transaction; and thirdly, the vendor relies on the agent's knowledge in handing the real estate transaction.

This reliance upon the agent's knowledge means that if the responsibility was in fact placed on the vendor they would invariably be able to rely upon the general defence under the Land and Business Agents Act to avoid prosecution. All the provisions in the bill relating to underquoting place the responsibility solely on the agent, not the vendor. The amendment therefore removes the responsibility from the vendor and places it upon the agent.

Mr GRIFFITHS: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Clause 14.

The Hon. J.R. RAU: With regard to the government amendment to clause 14, page 8, after line 2, the government will not proceed with this amendment. This amendment was originally intended to circumvent the problem of verifying that an agent had in fact received another offer when disclosing that fact to a prospective purchaser. However, after further discussions with the industry—which I think could be fairly described as 'robust'—the government has decided that a better balance between the interests if the purchaser and vendor can be achieved, and this solution is canvassed in the next set of government amendments. I move:

Page 8, after line 22—After inserted subsection (2) insert:

(2a) Despite subsections (1)(e) and (2)(e), an agent (or a sales representative employed by the agent) may disclose to a purchaser the fact that an offer has been made if the following requirements are satisfied:

(a) the amount of the offer and any terms or conditions of the offer must not, at any time before the sale, be disclosed to the purchaser;

(b) a notice in writing confirming the fact that the offer was made must be provided, on request, to the purchaser;

(c) a copy of the notice must be kept as part of the agent's records.

(2b) An agent (or a sales representative employed by the agent) who, in making a disclosure of a kind referred to in subsection (2a), contravenes or fails to comply with a requirement specified in that subsection is guilty of an offence.

Maximum penalty: $5,000.

Expiation fee: $315.

Mr PEGLER: I have a question on the aspect that an offer has to be in writing. I will give you an example. A residential property had been on the market for 11 months and they wanted $390,000 for it. I made an offer of $375,000 over the phone to the agent. On the same day somebody else did the same thing for the same amount of money. The agent then rang the vendor and explained what had happened. This was all kosher and there is no doubt about the agent or the vendor whatsoever.

He then rang back to say that there had been another offer of the same amount and asked me if I wanted to up my offer, and he said the same to the other person. We both offered $395,000 each and then, of course, the agent had to tell the vendor that he had had two offers of the same amount again. Then they rang back and put it to us again. I offered $405,000 and the other person offered $420,000 so that person naturally got it. Where does that stand with this?

The Hon. J.R. RAU: That is quite an interesting story. There are a couple of things there. Just by way of observation if the honourable member is saying that the agent had disclosed either to him or to the other purchaser, during the context of the negotiations anyway, the actual amount that somebody else offered, that in and of itself is not correct behaviour. It is all right to say there is another offer, but until the offer has either been accepted or rejected or whatever you should not really be telling other people how much the offer is, because that is not appropriate under the

legislation. The second thing I am looking at here is the situation where we are going to an auction and prior to the auction an individual says, 'Look, I'm prepared to offer $500,000 for this property.'

Mr PEGLER: This property was not going to auction; it was a private sale.

The Hon. J.R. RAU: A private sale, okay. I suppose that is a different kettle of fish to some extent, but this is primarily aimed at auctions—I beg your pardon. It does not matter, because the point is that an offer is made and the vendor is thinking of accepting the offer. The agent says to the vendor, 'Look, during the course of the opens we have had half a dozen other people who have expressed interest and to get the best outcome we should actually notify them because they may wish to make an offer as well.'

So what we are saying here is that in that context the agent can ring those other people and say, 'Look, you've got an interest in the property; there is another offer'—they cannot say what the offer is but that there is another offer—'and if you want to make an offer I suggest you get on with it and make it now.'

Then 2(ab) states a notice in writing confirming the fact that the offer was made must be provided on request to the purchaser and a copy of the notice must be kept as part of the agent's records. The reason for that is that we have been trying to avoid the situation where people make things up and try to, in effect, churn people by saying, 'Look, bid now or miss out' or, 'Put your money down now or miss out.' That could be a bluff and a game. What we are actually saying to the industry is that they can go through that ring around process if they like, but they better have proof that when they made those phone calls they were not just pulling those people's leg, because if they were that is an offence. That is the basis of it.

Again, an honest agent would not do that, but if you had some person who was not that concerned about behaving ethically they could just get on the phone and ring up everyone and say, 'Listen get your bids in now,' and basically try to panic people into doing things, which is not good practice if there was in fact no bid. This is more about having evidence. I did check this out the other day; I had a similar conversation with people about this. We do not mean by this an executed contract with a deposit and all that sort of stuff. What we mean is evidence in writing; it might even be an email. We are not necessarily saying it has to be signed. In your example, for instance, you could have emailed the agent.

Mr Pegler: We did do that.

The Hon. J.R. RAU: Right then; you're cool. That would come within this. It is just so that if later on there is an argument about whether or not it happened, somewhere or other there is a piece of paper with some date or time or something on it, which means that you can prove whether or not the agent was telling the truth when they made those phone calls.

Mr PEGLER: Just for the record, an email would suffice?

The Hon. J.R. RAU: Yes; we just want it in writing. We do not want to be in a situation where we have some argument going on where, 'I rang you.' 'No, you didn't.' 'Yes I did.' 'No, you didn't.' 'I rang you Thursday.' 'No, it was Tuesday.' We do not want to be in that situation. We just want to have something, and they have to keep it so later on if there is a problem we can just go to the filing cabinet and there it is.

Amendment carried; clause as amended passed.

Clause 15 passed.

New clause 15A.

Mr GRIFFITHS: I move:

Page 9, after line 23—After clause 15 insert—15A—Amendment of section 24G

Section 24G—after subsection (7) insert:

(7a) However, a person is not considered to obtain a beneficial interest in land or a business merely because the person is appointed as property manager in relation to the land or business.

While I respect the industry, you and everyone in this whole place, I want to ensure that the industry acts professionally. My desire is to ensure that when a person purchases a property via an agent, acting appropriately on behalf of a vendor, they are not precluded from the opportunity to also be appointed as property manager on the basis that it is an investment property. It is just an

attempt to try to clarify some things. It is not an attempt to be mischievous. It is to try to ensure that the industry knows where it stands.

The Hon. J.R. RAU: Thank you. I understand the point. My advice is that this amendment is unnecessary; we don't support it for that reason. But we do not regard that there is any conflict in a person becoming a property manager because by reason of being a property manager they do not obtain a beneficial interest in the property. They are simply working as an agent or servant of the owner of the property and, therefore, we do not think this problem actually exists. For that reason and that reason alone we do not support the amendment because we do not think it is necessary because there is no risk of that person being caught.

Mr GRIFFITHS: I must admit the parliamentary counsel advice to me was quite similar to that and I understand the opinion that they put. I debated whether or not to even put the amendment but I just thought I would get from you on record what your position on that was, so I respect that.

Amendment negatived.

Remaining clauses (16 to 22) and title passed.

Bill reported with amendment.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (16:56): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (DIRECTORS' LIABILITY) BILL

Adjourned debate on second reading.

(Continued from 28 November 2012.)

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (16:57): I rise to speak on the Statutes Amendment (Directors' Liability) Bill 2012.

The DEPUTY SPEAKER: Are you the lead speaker?

Ms CHAPMAN: I am probably the only speaker.

The DEPUTY SPEAKER: Right. Good.

Ms CHAPMAN: This is a bill which the Attorney came into the chamber with in November last year. It is essentially to deal with a COAG agreement that had its conception back in 2008. It then had a torturously slow gestation period, moving at glacial pace—a bit like the government's coming to the table on ICAC—and we finally had some agreement as to what should occur.

Essentially, as apparently occurs at a lot of these COAG agreements, somebody came up with a bright idea that we need to have a national harmonious scheme where everyone is the same and everyone will be happy and that one size fits all is the answer to all ills. In the area of directors' liability this is probably not a bad thing to have some consistency because of the nature of people offering their services or accepting responsibility in the role of directors of companies and boards, which is covered at a national level in the private sector under our Corporations Law.

In the public sector similarly there are considerable responsibilities but, with the development of duties and responsibilities in this area, considerable liability and exposure to prosecution if directors fail knowingly in their responsibility. There has been some effort made to deliver some reform to provide for all Australian jurisdictions to have directors' liability at the same level, particularly those imposing vicarious liability on directors for actions of the corporation.

The situation as I understand it is that in 2009 the reform was initiated to be more consistent in respect of the personal liability of directors for corporate offences. The attempt to do this was then followed by an audit of legislation. In the South Australian parliament, it resulted in us passing the Statutes Amendment (Directors' Liability) Act of 2011. The whole process was then assessed by Corrs Chambers Westgarth, and suffice to say they did not consider that the action that had been taken was satisfactory at all. Accordingly, a second review was undertaken and now we are seeking to further amend the 2011 act.

This bill essentially intends to completely remove directors' liability from 19 acts without replacement and also, in 24 acts of parliament, to repeal the existing directors' liability provisions and substitute another regime. There is a varying code in respect of the types of offence that should prevail, and I will not go through those because I do not think it is necessary; they have been quite well traversed in the second reading explanation of the government.

The bill will also allow for the regulations to impose vicarious liability for offences against regulations. They are as apply under the Animal Welfare Act, the Authorised Betting Operations Act, the Gaming Machines Act, the Second-Hand Vehicle Dealers Act, the Security and Investigation Agents Act (which I note is up for reconsideration in our legislative agenda this week), the Taxation Administration Act 1996 and the Travel Agents Act 1986.

There is a whole tranche of legislation that has been excluded from this reform and they relate to: occupational health and safety legislation; significant environmental protection legislation, including the Environment Protect Act, the Marine Parks Act, the Native Vegetation Act, the Nuclear Waste Storage Facility (Prohibition) Act, the Radiation Protection and Control Act, and the River Murray Act, in addition to the Dangerous Substances Act. As members would know, these acts attempt to prevent and have penalties where very serious harm would follow from decisions and where it is considered in the public interest that directors should be held criminally liable for actions of the company.

The Attorney-General I think in his second reading contribution also made the point that our current Work Health and Safety Act 2012 is already consistent with the COAG guidelines and therefore we do not need to interfere with that. We are also advised that the directors' liability provisions in the core environmental legislation may still be reviewed as part of the COAG green tape review, which is separate to the director liability reforms.

The general consultation on the briefing that has been provided and the material provided from the Law Society and the Australian Institute of Company Directors and the South Australian Joint Legislative Review Committee are supportive of the bill's underlying intention to reform directors' liability provisions, but that they are all quite critical of the government's execution.

The concerns that have been raised include—unsurprisingly, the Attorney might say—that the Law Society considers that the reverse onus type offence provisions in the bill should be amended so that a director has a defence if they can show that they have exercised due diligence. The society's concern has been expressed that where the defence of due diligence is available the bill does not state the standard of proof to which the defence must be proved and, not surprisingly, the Law Society outlines that it is intended to be the balance of probabilities, not beyond reasonable doubt.

The Law Society also outlines that liability created by type 3 provisions does not fit within the bounds of vicarious liability as described by the courts and the commentary but fits with the description of derivative liability and, as such, references to vicarious liability within the bill should be changed. That is really a matter which could be taken up. I do note that the Attorney has tabled a significant number of amendments today. Although I have not gone through those in detail, I am just trying to see whether there is any remedying of that aspect. If there is not, there certainly should be, but that is minor in the scheme of things. That is really in the description of whether something is really a vicarious liability or in fact whether it is a derivative liability.

The South Australian joint Legislative Review Committee identifies their concerns, namely that concepts such as due diligence, 'position to influence' and 'significant risk' are subject to judicial interpretation, which is influenced by the relevant act and organisation, and that this may detract from the government's goal of achieving certainty and clarity. The Australian Institute of Company Directors' criticism of the government's reform has flowed as a result. They suggest that the government has not followed the model suggested by their institute—perhaps a subjective view, but they consider theirs to be a better model—and that numerous acts retain provisions reversing the onus of proof. That of course has been reflected in the Law Society's concerns.

What is interesting is that the Australian Institute of Company Directors has identified a number of areas where they consider this reform has been omitted as applicable to directors' liability under some legislation. Again I am just trying to quickly view the amendments that have been tabled, but this does not appear to have any remedy in the amendments.

Their concern is that the following bills, they suggest, have been ignored and should have been included: the Aboriginal Heritage Act 1988, the Community Titles Act 1996, the National Electricity (South Australia) Act 1996, the Public and Environmental Health Act 1987, the Second-

hand Dealers and Pawnbrokers Act 1996, the Strata Titles Act 1988 and the Summary Offences Act 1953.

Personally, I have not viewed the provisions in those acts as to whether that is a concern that should be accommodated. I am assuming at this point that the government has had notice of the AICD's concerns about this apparent omission and that, if they are not in the amendments, they have rejected their submission in that regard.

Perhaps the most concerning aspect, I think, is to allow for regulations in the bill to 'impose such liability that can be considered appropriate in particular cases'. The Attorney is well aware of the opposition's view in allowing powers into regulation when they should be in an act. To compound the felony of using a clause such as this in regulation is the sloppiness—in my view—of the drafting. I do not mean that of those who have actually presented it. To have it in regulation is bad enough but to actually have an imposition of a liability in such a loose manner, let alone being a regulation power, the opposition does consider to be quite unacceptable.

Of all of those submissions, the two things therefore that are of most concern to the opposition are the reverse of the onus—and we think it is appropriate to amend the reverse onus provisions to provide a defence if a director can show that they have exercised due diligence—and for the reasons outlined, we should also remove the capacity to allow regulations to impose liability.

The only other matter that I would bring to the attention of the Attorney is that I recall, in about 2003, the government undertook some reform of governance of each of the three universities of South Australia. Members may not all be aware, but the statutory responsibility of our universities is actually under this state parliament's jurisdiction. Although often universities are seen as having a federal connection, and indeed they do have significant funding from the federal government and they are subject to and enjoy the benefit of significant income in grants from federal bodies, they actually have been born and continue to be managed under this parliament's legislation.

When the reforms came to this parliament to essentially streamline the structures of governance in our three universities, I was then the opposition's spokesperson for education. It was reform that was borne under the leadership the member for Ashford when she was the minister for higher education and concluded in the final debates of that under the former member for Adelaide, the Hon. Jane Lomax-Smith.

The reason I mention it is because it was the first time I had seen in legislation what appeared to me to be oppressive obligations on directors and extraordinary levels of fines and liability that could be placed upon directors, who, frankly, were giving of their time, experience and expertise to an academic institution which I think everyone would agree had the benefit of that wise council. To introduce legislation that I thought was so draconian and would have such an adverse impact on the willingness of good people to step forward and take up positions in leadership roles on the university boards was very concerning to me, and I expressed it at the time.

The minister, the Hon. Jane Lomax-Smith, I think was sympathetic to those concerns, so much so that when we finished the bills they were very significantly watered down. I was pleased that she listened to that. Perhaps because she had experience herself as being a member of the University of Adelaide council, she understood the importance of having good people undertake these positions.

I cannot recall being directly involved in doing any of the forensic examination of legislation that otherwise had introduced such draconian legislation, but it does seem that there is a lot of legislation out there in which there has been an unrealistic expectation placed on directors or prospective directors and an unfair burden of exposure to prosecution of very significant penalties, which they should be relieved of. So, I for one am glad that this bill has finally come to fruition. It seems as though attempts in 2011 to remedy this from the South Australian perspective were not as successful as we thought that they were going to be.

I am not saying that that is a direct reflection on the government. It does seem from the report from Corrs Westgarth that this is a difficult area to get it right, so although their assessment was quite scathing, the reality is that we have to try the best we can to remedy it. I think the government have really not fully understood the importance of ensuring that, firstly, we do not place directors in a position where they do not have the defence. I think therefore that is important that that defence must be there if the director can show that they had exercised due diligence. Also, we cannot have statements which allow for imposing liabilities under regulation in such a sloppy manner as is proposed in this bill.

Otherwise, with those two riders, we will support the bill and I will listen with interest to the Attorney's contribution on the amendments. No doubt these amendments have come with some further consultation and perhaps identification of some of the concerns that have been raised by the substantial stakeholders who have put submissions in on this. They may have simply just been errors that have been picked up, but they seem to be rather comprehensive, so I will listen with interest and if they are sensible then they will have my support.

Mrs GERAGHTY (Torrens) (17:20): I rise to express my support for the bill and I do not want to go over all the same ground that the member for Bragg did, nor the minister, however I do just want to say that I think it is worth noting some points. In November 2008 as part of the Seamless National Economy Agreement through the Council of Australian Governments, the commonwealth and all the states and territories agreed to reform the directors liability provisions in their legislation. The result of this agreement is this bill, the Statutes Amendment (Directors Liability) Act 2011 which amended 25 acts when it came into operation in January 2012.

After it came into operation, the Australian Institute of Company Directors voiced strong opinions against the principles and audits the bill was formed around, consequently a review was undertaken by Westgate Chambers at the request of the commonwealth, the content of the guidelines was contentious but they were eventually endorsed by COAG on the 25 July 2012. In order to meet COAG milestones South Australia, among other states and territories, conducted a second audit according to the guidelines. Under the Seamless National Economy Agreement, COAG agreed to make reward payments to jurisdictions on achieving various reforms.

The Attorney-General's Department conducted an extensive second audit of legislation to produce recommendations about each offence provision in each relevant act. Following this the recommendations and the draft guidelines were sent to every relevant minister in December 2011. The responses given by the ministers and senior departmental officers were heavily considered in the drafting of this bill. The bill amends 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 Statute Amendment (Directors Liability) Act 2011.

The bill has addressed three types of vicarious directors liability provisions as described in the COAG guidelines. Two of these are used in South Australia. They are type 1 provisions—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 and type 3 provisions—the typical reverse owners 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. The passage of this bill demonstrates the government's continuing efforts to provide South Australia with sound and fair legislation that is consistent with the rest of Australia.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (17:24): I thank the member for their contributions. It is refreshing to have people covering different ground and I do thank everybody for their contribution. I thought what I might do, if it is alright with the house, is to foreshadow the amendments that we are making and perhaps explain why, and that might make things a little quicker when we get to that point in proceedings.

In drafting the penalty increases, the pattern of the act being amended has been followed. So if an act contains divisional penalties, the new penalties are divisional penalties. If an act contains penalties expressed in dollars, the new penalties are expressed in dollars. Generally, the increases in divisional penalties have been to one division higher. Where an act has different penalties for bodies corporate and natural persons, that pattern has been followed in most cases.

Where there are different penalties for bodies corporate and natural persons, the practice in South Australia is to make the penalty for the body corporate five times that of the penalty for a natural person. That practice is reflected in the amendments I move today.

The penalty increase amendments are confined to those provisions that were identified during the consultation process with government agencies as being in need of revision. The amendment I move to sections 48, 49 and 49A of the Development Act are to increase the penalties from Division 4 fines (with default penalties of $200 per day) to Division 3 fines (with default penalties of $500 per day). This means the maximum fine would increase from $15,000 to $30,000.

These penalties should be in effect a deterrent to noncompliance by companies, and not seen as a cost of doing business. An offence against section 48 is a failure by a person who has the benefit of a development authorisation granted by the Governor for a major development or project to ensure that the development is used, maintained and operated in accordance with the authorisation and the documents submitted in support of the authorisation application.

The offence against section 49 is about crown developments and public infrastructure, and the offence may be summarised as failing to perform building work for this type of development in accordance with the certified specifications, or failure to comply with the building rules. The offence against section 49A may be summarised as a failure by a person performing building work on an approved electricity infrastructure development to ensure that the work is in accordance with the certified specifications or within the building rules.

The amendment to sections 69 and 71 would increase maximum penalties from Division 5 fines (with default penalties of $50 per day) to Division 4 fines (with default penalties of $200 per day). That means increases in fines from $8,000 to $15,000. The first offence may be summarised as a contravention or failure to comply with an emergency order made by an authorised officer in relation to a threat to safety, or a heritage or local heritage place. The second offence may be summarised as a failure to comply with a notice to report or take measures to ensure fire safety.

In relation to the Electricity Act, the effect of these amendments is to double the maximum penalties for five offences against the act from $5,000 to $10,000 and from $10,000 to $20,000. The existing penalties are considered to be insufficient to ensure compliance by companies. The offences against 61(1) and 61(4) involve failure to ensure that electrical installations are carried out and tested in accordance with regulations, and failure to give a certificate of compliance. The penalty would be increased for bodies corporate to $10,000.

Section 61A makes it an offence for a person to install electrical equipment that a person knows, or should know, is unsafe. The penalty would be increased to $10,000. In summary, an offence against section 84 is the unlawful interference with an electricity infrastructure or installation, and the penalty for this offence would be increased to $20,000. Section 85 prohibits unlawful taking of electricity or interfering with a meter, and the penalty for this will be increased to $20,000.

There is a further amendment (No. 3) to the Electricity Act. This amendment is to correct a technical error in the bill. The bill should have repealed only subsection (1) and retained subsection (2). Subsection (2) enacts the general defence that the act or omission constituting the offence against the act was reasonably necessary in the circumstances to avert, eliminate or minimise danger to a person or property.

There are then some amendments to the Fair Trading Act. In relation to those I would just say that section 43(2) of the Fair Trading Act prohibits creditors and their agents from making certain false representations to debtors for the purpose of recovering a debt. The penalty is currently $5,000 or imprisonment for six months. Corporations cannot be imprisoned and a fine of $5,000 does not reflect the seriousness of these offences. The amendment I move would increase the penalty for bodies corporate to $25,000 while leaving the penalty for natural persons unchanged.

There are then changes to the Fire and Emergency Services Act. The amendment to section 86 of that act would change the penalty from $10,000 to $50,000 for a body corporate while retaining the penalty of $10,000 for a natural person. The offence is failure to comply with the requirement of an authorised officer to take specified fire prevention measures.

Then under the Gas Act the particular amendment there would increase penalties from $10,000 to $20,000 for unlawfully interfering with a gas distribution system or installation or unlawfully extracting or diverting gas. This increase is the same as the equivalent offences against the Electricity Act.

Then under the Heritage Places Act 1993, this amendment is to section 36(2) of the act—which is not to be amended—imposes a penalty of $50,000 for damaging or destroying a state heritage place. Section 36(2) makes it an offence to fail to take reasonable care of a state heritage place or to fail to comply with a prescribed requirement concerning protection or repair of a state heritage place. Neglect can be as detrimental to a state heritage place as a positive act of damage. For that reason, I move this amendment to increase the penalty for neglect to the same level as the penalty for positive acts of damage, namely $50,000.

Then we have some matters under the Irrigation Act. These amendments change penalties for bodies corporate that commit offences against three provisions in the Irrigation Act from $20,000 to $100,000. The penalty for a natural person and the expiation fee would not change. The current penalties are very different from penalties in some other acts that protect water or provide for regulation of water use.

Section 40 prohibits connection of a channel or pipe to an irrigation or drainage system of the irrigation trust, placing structures or installing equipment in, on or adjacent to drainage systems of the trust without approval. It also prohibits a person who receives water from the trust from supplying water to another person without approval.

There are various other restrictions. The trust may direct landowners to do certain things such as erect fences to keep stock out of channels. Contravention of any of the requirements or prohibitions in this section is an offence. Section 62 prohibits interference with the irrigation or drainage system or irrigation property of the trust without authority. Section 63 prohibits taking water from the irrigation or drainage system without authority, or using water taken for an unauthorised purpose.

Under the Livestock Act we have an amendment to increase the penalties for offences against three provisions in the Livestock Act. The penalty for offences of failing to report a notifiable disease, not giving an inspector further information that the inspector requires or failing to take all reasonable measures to control or eradicate a notifiable disease is currently $2,500 with an expiation fee of $210. The amendment I move would increase the penalty for these offences if they relate to an exotic disease to $10,000; the penalty would remain the same for other notifiable diseases.

Section 33 of the act prohibits the movement of livestock, livestock products or associated property without a health certificate. This is an important element in the avoidance of the spread of disease. Subsection (4) requires the keeping of the required documentation for 12 months and the penalty is currently $2,500 with an expiation fee of $210. The amendment I move will increase the penalty for failure to keep documentation for 12 months to $5,000 and the expiation fee to $315. Then under the Livestock Act section 17 requires a person who keeps livestock of a prescribed class to be registered. I am advised that in the future it might be that the only prescribed classes will be bees and possibly deer; why those two alone I am not sure, but there we are.

Mr Treloar: Bees?

The Hon. J.R. RAU: Bees and deer. After further consideration and consultation, it has been decided that it would be more appropriate that offences against section 17 attract type 1 vicarious directors' liability instead of no vicarious liability. The amendment I move is to give effect to that decision.

Ms Chapman: Which amendment is that?

The Hon. J.R. RAU: This is amendment No. 10 to the Livestock Act. Then we have various other bits and pieces. The penalties in the Passenger Transport Act 1994 have not been changed since the act was enacted. The amendment I move will increase the penalties by one level on the divisional scale, with the exception of the penalty for one offence that would increase by two levels.

So, an offence that currently carries a division 5 fine, which is $8,000, will carry a division 4 fine, which is $15,000, and so on. The offence provision for which the penalty would increase by two levels is section 29(2). The offence is operating a centralised booking service without being accredited. The penalty is currently a division 5 fine, that is, $8,000. It would be increased by the amendment to a division 3 fine, that is, $30,000.

This will bring the penalty in line with the penalties for operating a passenger transport service without accreditation and operating a taxi service without accreditation. In view of the number of penalty increases, I will not summarise each and every one unless the house wishes me to do so. Under the Primary Produce (Food Safety Schemes) Act there is an amendment. This is simply to deal with a typographical error in the bill.

The new provision to be substituted for section 44 of the Primary Produce (Food Safety Schemes) Act 2004 bill should have referred to section 16(2), not subsection (1). Then we have amendments under the Renmark Irrigation Trust Act. The Upper South-East Dryland Salinity and Flood Management Act no longer exists. A bill to extend its operation beyond

19 December 2012 was defeated in the Legislative Council after this bill was introduced; so it becomes a bit irrelevant, really.

The Water Industry Act 2012 was passed with a reverse onus on directors' liability provision that applied to every offence against the act that could be committed by a body corporate. This is no longer acceptable. Each offence against the bill has now been examined in the light of COAG guidelines.

The Minister for Sustainability, Environment and Conservation was consulted and decisions were made in consultation with the Department of Environment, Water and Natural Resources about the appropriate way to treat each for the purposes of vicarious criminal liability of directors. The amendment I move will amend the water Industry Act in a manner that conforms with the guidelines. Hopefully, those rather lengthy remarks will ultimately save us some time. I suggest that we now go into committee.

Bill read a second time.

In committee.

Clause 1.

Ms CHAPMAN: I thank the Attorney for outlining in his response the anticipated amendments. I have tried to follow those through. There are a lot of amendments here, but he has categorised them in the groups that essentially increase penalties. As he says, there has been a general attempt to increase penalties consistent with going up to a new divisional level, explaining where he thinks that should be more punitive and, largely, to review penalties that are consistent to a person with X amount and then five times that being applicable to the corporation. I should also say that I know there were a couple of other corrections along the way which seemed to remedy things. In respect of this general upgrade, when was it first decided that there would be some review of the extent of the penalties in each of these pieces of legislation?

The Hon. J.R. RAU: I thank the honourable member for the question. The answer is that there was a second audit at the beginning of 2012 and this identified a number of things, and that is where this has come from. I have to say, if I may, that both for me and for the hardworking people in the Attorney-General's Department it is not a little bit frustrating that the goal posts have moved here. There were particular views which we thought were prevailing at one point.

As you would be aware, member for Bragg, we put an earlier bill through about a year to 18 months ago and we were under the impression that in so doing we had been complying with reasonable requests to move along with this only to discover that there was then a reappraisal so to speak of what was expected of people, and what we had considered to be a fair and reasonable attempt to be compliant was rendered unsatisfactory, which is why we have had to go back and return to this process. Anyway, the point is the time line started last year in terms of the review or the audit. I am advised that the level to which penalties should be increased was not worked out in the second audit. The penalties that needed revision were identified.

Ms CHAPMAN: Yes, I understand all that. We had the second audit; that is why we are here, that is why we have the bill. However, suddenly we have all of these amendments to penalty. While you say that was not in the second audit, I am assuming that is the case because otherwise it would have been in the bill in the first place. I just want to know. You delivered this in late November, we had briefings on it and suddenly we have all these penalties being brought to us, so I wonder where all this has come from. Are we fixing it up because it is convenient or has somebody written to you saying we need to sort this out while we are there and we just omitted it? This is quite substantial change.

The Hon. J.R. RAU: I suspect the member for Bragg is going to love this answer. In order to meet the COAG milestone, the bill had to be introduced in November but, given the body of work that needed to be done, we had not at that stage completed the full recalibration of all of these penalties. The bill was introduced to ensure that there had been formal compliance with the requirements of COAG. The hardworking people in the Attorney-General's Department—in particular Dianne—continued to work away on this. By the time we get to today, that work is complete and that is why there are amendments before the parliament.

Ms CHAPMAN: During the explanation you indicated, I think in relation either to the last bill or the penultimate bill, that you had sought the advice of the Minister for Environment on the question of reverse of onus, but I did not hear you indicate whether you had consulted with any other stakeholders, or in fact in relation to all of the other penalty amendments. At the very least

that seems to have covered the ministers for primary industry, transport, environment, emergency services, and yourself on the Fair Trading Act (I assume you cover that) and as the minister for planning. There are a number of pieces of legislation where there are very significant increases in penalty. Were other ministers and other stakeholders consulted at all in relation to these increases?

The Hon. J.R. RAU: I am advised that the other departments and/or ministers involved were consulted.

Ms CHAPMAN: Were any other parties or stakeholders?

The Hon. J.R. RAU: No.

Ms CHAPMAN: Whilst the review of penalties is something that is not uncommon and a number of these may well be appropriate, we will certainly have a look at whether in each of these instances they are appropriate. I will not hold up the bill today obviously in seeking to do that. However, I notice in particular one which is quite a standout, and that is to add under the Heritage Places Act not only an increase in penalty—doubling from $25,000 to $50,000—but that there will be a new penalty applying to neglect of a building or place, as distinct from there being some positive—presumably to bulldoze or to in some way destroy a heritage place.

I have to say that this is quite an extraordinary extension, not least because I would imagine it is causing some considerable alarm to persons who own heritage buildings and who are not in a position to invest sometimes very substantial moneys to maintain their current state of repair or disrepair, and they continue to crumble so to speak. I would have thought that the government itself would be placing itself in a very difficult position, as the owner and custodian of a number of heritage places, to expose itself—or members of its board in government entities—to that vulnerability or to prosecution in that way. I put the Attorney on notice that I think that is a very significant change and it is one on which we certainly may wish to make some further comment.

The other is in relation to water and water use, which I think is under amendment 8. I think the penalty increases with respect to taking water from an irrigation trust or supplying to another may well be justified. As to obligations to erect fences, etc., I think does raise some new aspects. Again, we will have a look at that in some detail, but if there are substantial penalties to that we will need to give it some careful consideration.

I notice (I think it is under proposed amendment No. 11) under the transport act that again there are significant penalties. There is also a massive increase from $8,000 to $30,000 for anyone attempting to operate a central booking agency without accreditation. Again, that may have merit, but we would certainly have to have a look at that. I recall, because that also related to taxis, that when this bill was being considered as to what acts it should apply to and how it should remedy it, there were a number of acts that did not turn up in this legislation, in anticipation that certain laws would repeal other acts and that there would be no need to cover them.

I am not quite sure where this comes in, but on my recollection the Co-operatives Act was not added in because we are about to deal with that at another time and that it is anticipated to be repealed. We dealt with the Rail Safety Act last year and we now have a national system. We have not yet dealt with the heavy vehicle national law. I think Queensland has passed its bill recently and we are yet to deal with it. The South Eastern Water Conservation and Drainage Act is one which does not show up here because it was expected that that would be repealed and replaced by another piece of legislation.

I have to say that, whilst it may be that a number of these pieces of legislation will pass through the parliament and the expected repeal will come to fruition, as a member of the parliament I think it is quite offensive to not include legislation even if there is an expected repealing of legislation in the future. We do not know what is going to happen between now and the time of those acts being dealt with in the way that the government wants them to be dealt with.

As I say, some of them may pass without moment, and be repealed as a result of that, but I think it is rather rude to the parliament, Attorney, for some of these to be omitted. I am disappointed that they have not turned up in the legislation, because clearly we still have not dealt with them. Some of them we may deal with in the immediate future, but some may be a long way off. In any event, I do not think that you or anyone in your government should presume that the parliament is just going to rubber-stamp what you want.

With those few words, I will not raise any further questions on the amendments that have been outlined, but will have a good look at them between houses. I just make a final comment to

say that I am disappointed that the Attorney has not taken the opportunity to heed the request for a defence to be introduced and that the provisions in the regulation which I have described as sloppy and inappropriate have not been removed. Nevertheless, that disappointment will remain, it seems.

Clause passed.

Clauses 2 to 15 passed.

New clauses 15A to 15E.

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

Page 10, after line 23—Before clause 16 insert:

15A—Amendment of section 48—Governor to give decision on development

Section 48(14), penalty provision—delete the penalty provision and substitute:

Penalty: Division 3 fine.

Default penalty: $500.

15B—Amendment of section 49—Crown development and public infrastructure

Section 49(14a), penalty provision—delete the penalty provision and substitute:

Penalty: Division 3 fine.

Default penalty: $500.

15C—Amendment of section 49A—Electricity infrastructure development

Section 49A(16), penalty provision—delete the penalty provision and substitute:

Penalty: Division 3 fine.

Default penalty: $500.

15D—Amendment of section 69—Emergency orders

Section 69(12), penalty provision—delete the penalty provision and substitute:

Penalty: Division 4 fine.

Default penalty: $200.

15E—Amendment of section 71—Fire safety

Section 71(14), penalty provision—delete the penalty provision and substitute:

Penalty: Division 4 fine.

Default penalty: $200.

New clauses inserted.

Clause 16 passed.

New clauses 16A to 16D.

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

Page 11, after line 29—Before clause 17 insert:

16A—Amendment of section 61—Electrical installation work

(1) Section 61(1), penalty provision—delete '$5,000' and substitute '$10,000'

(2) Section 61(4), penalty provision—delete '$5,000' and substitute '$10,000'

16B—Amendment of section 61A—Unsafe installation of electrical equipment

Section 61A, penalty provision—delete '$5,000' and substitute '$10,000'

16C—Amendment of section 84—Unlawful interference with electricity infrastructure or electrical installation

Section 84(1), penalty provision—delete '$10,000' and substitute '$20,000'

16D—Amendment of section 85—Unlawful taking of electricity, interference with meters or positioning of lines

Section 85(1), penalty provision—delete '$10,000' and substitute '$20,000'

New clauses inserted.

Clause 17.

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

Page 11, line 32 [clause 17, inserted subsection (3)]—Delete 'This section' and substitute: 'Subsection (1)'

Amendment carried; clause as amended passed.

Clauses 18 to 25 passed.

New clause 25A.

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

Page 13, after line 18—Before clause 26 insert:

25A—Amendment of section 43—Unlawful actions and representations

Section 43(2), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

In the case of a body corporate—$25,000.

In any other case—$5,000 or imprisonment for 6 months.

New clause inserted.

Clauses 26 and 27 passed.

New clause 27A.

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

Page 14, after line 1—Before clause 28 insert:

27A—Amendment of section 86—Fire safety at premises

Section 86(4), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

(a) if the offender is a body corporate—$50,000;

(b) if the offender is a natural person—$10,000.

New clause inserted.

Clauses 28 to 31 passed.

New clauses 31A and 31B.

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

Page 16, after line 13—Before clause 32 insert:

31A—Amendment of section 81—Unlawful interference with distribution system or gas installation

Section 81, penalty provision—delete '$10,000' and substitute '$20,000'

31B—Amendment of section 82—Unlawful abstraction or diversion of gas

Section 82(1), penalty provision—delete '$10,000' and substitute '$20,000'

New clauses inserted.

Clauses 32 to 36 passed.

New clause 36A.

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

Page 19, after line 1—Before clause 37 insert:

36A—Amendment of section 36—Damage or neglect

Section 36(3), penalty provision—delete '$25,000' and substitute '$50,000'

New clause inserted.

Clauses 37 to 41 passed.

New clauses 41A to 41C.

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

Page 21, after line 1—Before clause 42 insert:

41A—Amendment of section 40—Protection and facilitation of systems

Section 40(8), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

(a) in the case of a body corporate—$100,000;

(b) in the case of a natural person—$20,000.

Expiation fee: $750.

41B—Amendment of section 62—Protection of irrigation system etc

Section 62, penalty provision—delete the penalty provision and substitute:

Maximum penalty:

(a) in the case of a body corporate—$100,000;

(b) in the case of a natural person—$20,000.

Expiation fee: $750.

41C—Amendment of section 63—Unauthorised use of water

Section 63, penalty provision—delete the penalty provision and substitute:

Maximum penalty:

(a) in the case of a body corporate—$100,000;

(b) in the case of a natural person—$20,000.

Expiation fee: $750.

New clauses inserted.

Clauses 42 to 47 passed.

New clauses 47A and 47B.

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

Page 22, after line 7—Before clause 48 insert:

47A—Amendment of section 27—Requirement to report notifiable conditions

(1) Section 27(1), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

In the case of an exotic disease—$10,000;

In any other case—$2,500.

Expiation fee: For an offence against paragraph (a) or (b)—$210.

(2) Section 27(2), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

In the case of an exotic disease—$10,000;

In any other case—$2,500.

Expiation fee: $210.

47B—Amendment of section 33—Prohibition on entry of livestock or other property absolutely or without required health certificate etc

Section 33(4), penalty provision—delete the penalty provision and substitute:

Maximum penalty: $5,000.

Expiation fee: $315.

New clauses inserted.

Clause 48 passed.

Clause 49.

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

Page 22, line 34 [clause 49, inserted section 80(3)]—Delete '17,'

Amendment carried; clause as amended passed.

Clauses 50 to 53 passed.

New clauses 53A to 53L.

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

Page 24, after line 33—Before clause 54 insert:

53A—Amendment of section 5—Application of Act

Section 5(5), penalty provision—delete the penalty provision and substitute:

Penalty: Division 4 fine.

53B—Amendment of section 27—Accreditation of operators

Section 27(1), penalty provision—delete the penalty provision and substitute:

Penalty: Division 3 fine.

53C—Amendment of section 28—Accreditation of drivers

Section 28(1), penalty provision—delete 'Division 6 fine' and substitute: 'Division 5 fine'

53D—Amendment of section 29—Accreditation of centralised booking services

Section 29(2), penalty provision—delete the penalty provision and substitute:

Penalty: Division 3 fine.

53E—Amendment of section 31—Conditions

Section 31(7), penalty provision—delete the penalty provision and substitute:

Penalty:

(a) In the case of an accreditation under Division 1—Division 3 fine;

(b) In the case of an accreditation under Division 2—Division 5 fine;

(c) In the case of an accreditation under Division 3—Division 3 fine.

Expiation fee: In the case of an accreditation under Division 2—$315.

53F—Amendment of section 35—Related matters

Section 35(1), penalty provision—delete the penalty provision and substitute:

Penalty: Division 4 fine.

53G—Amendment of section 36—Disciplinary powers

Section 36(9), penalty provision—delete the penalty provision and substitute:

Penalty: Division 3 fine.

53H—Amendment of section 39—Service contracts

Section 39(4), penalty provision—delete the penalty provision and substitute:

Penalty: Division 3 fine.

53I—Amendment of section 42—Assignment of rights under contract

Section 42(1), penalty provision—delete the penalty provision and substitute:

Penalty: Division 3 fine.

53J—Amendment of section 45—Requirement for licence

Section 45(8), penalty provision—delete the penalty provision and substitute:

Penalty: Division 3 fine.

53K—Amendment of section 49—Transfer of licences

Section 49(1), penalty provision—delete the penalty provision and substitute:

Penalty: Division 3 fine.

53L—Amendment of section 54—Inspections

(1) Section 54(14), penalty provision—delete the penalty provision and substitute:

Penalty: Division 4 fine.

(2) Section 54(15), penalty provision—delete the penalty provision and substitute:

Penalty: Division 4 fine.

(3) Section 54(18), penalty provision—delete the penalty provision and substitute:

Penalty: Division 5 fine.

Expiation fee: $315.

New clauses inserted.

Clauses 54 to 57 passed.

Clause 58.

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

Page 26, line 25 [clause 58, inserted section 44(2), definition of *prescribed offence*]—

Definition of *prescribed offence*—delete '16(1)' and substitute '16(2)'

Amendment carried; clause as amended passed.

New clauses 58A to 58C.

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

Page 26, after line 27—Before clause 59 insert:

58A—Amendment of section 41—Protection and facilitation of systems

Section 41(8), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

(a) in the case of a body corporate—$100,000;

(b) in the case of a natural person—$20,000.

Expiation fee: $750.

58B—Amendment of section 67—Protection of irrigation system etc

Section 67, penalty provision—delete the penalty provision and substitute:

Maximum penalty:

(a) in the case of a body corporate—$100,000;

(b) in the case of a natural person—$20,000.

Expiation fee: $750.

58C—Amendment of section 68—Unauthorised use of water

Section 68, penalty provision—delete the penalty provision and substitute:

Maximum penalty:

(a) in the case of a body corporate—$100,000;

(b) in the case of a natural person—$20,000.

Expiation fee: $750.

New clauses inserted.

Clauses 59 to 67 passed.

Clause 68.

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

Page 30, lines 1 to 32 (inclusive)—Delete Part 50

Amendment carried; clause negatived.

Clause 69 passed.

New part 52.

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

Page 30, after line 37—After clause 69 insert:

Part 52—Amendment of *Water Industry Act 2012*

70—Amendment of section 103—General defence

Section 103—after subsection (2) insert:

(3) Subsection (1) does not apply in relation to a person who is charged with an offence under section 104.

71—Substitution of section 104

Section 104—delete the section and substitute:

104—Offences by bodies corporate

(1) If a body corporate is guilty of a prescribed offence, each director of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence when committed by a natural person unless the director proves that he or she could not by the exercise of due diligence have prevented the commission of the offence.

(2) If a body corporate is guilty of any other offence against this Act (other than an offence against the regulations), each director of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence when committed by a natural person if the prosecution proves that—

(a) the director knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and

(b) the director was in a position to influence the conduct of the body corporate in relation to the commission of such an offence; and

(c) the director failed to exercise due diligence to prevent the commission of the offence.

(3) Subsection (2) does not apply if the principal offence is an offence against section 11, 36, 39, 45, 49, 50(5), 50(6), 51, 53, 54, 56(5), 57, 59, 60, 69, 70, 76, 77, 78, 79, 80, 88, 92, 97, 100, 101, 108 or Schedule 2 Part 8.

(4) The regulations may make provision in relation to the criminal liability of a director of a body corporate that is guilty of an offence against the regulations.

(5) In this section—

prescribed offence means an offence against section 18, 27, 67 or 68.

New part inserted.

Title passed.

Bill reported with amendment.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (17:59): After that ferocious effort at legislation—

The DEPUTY SPEAKER: It was a good team effort.

The Hon. J.R. RAU: I have never seen such a machine-gun episode of legislating in my time, and I congratulate you on the way you dealt with it. It was magnificent, Mr Deputy Speaker: top shelf, champagne legislating. I move:

That this bill be now read a third time.

Bill read a third time and passed.

At 18:00 the house adjourned until Thursday 7 March 2013 at 10:30.