HOUSE OF ASSEMBLY

Wednesday, 3 December 2014

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

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE: PARTIAL DEFENCE OF PROVOCATION

Ms DIGANCE (Elder) (11:02): I move:

That the report of the committee, entitled Partial Defence of Provocation, be noted.

On 1 May 2013, the Hon. Tammy Franks MLC introduced the Criminal Law Consolidation (Provocation) Amendment Bill 2013 into the other place. The bill proposes to amend the Criminal Law Consolidation Act 1935 (South Australia) by way of insertion of a new section 11A to limit the partial defence of provocation, which I will otherwise refer to simply as the 'provocation defence'. The proposed new section 11A would read as follows:

For the purposes of proceedings in which the defence of provocation may be raised, conduct of a sexual nature by a person does not constitute provocation merely because the person was the same sex as the defendant.

The provocation defence, if established, will allow for a court to reduce a charge of murder to the offence of manslaughter. It is referred to as a partial defence because it only lessens the charge and potential consequences. By way of comparison, self defence can provide a complete defence to a charge of murder, entitling the accused to a full acquittal without further penalty.

The bill seeks to address the possibility that a nonviolent homosexual advance could be pursued to establish a provocation defence or what has often been termed 'the gay panic defence'. The honourable member, in her second reading speech, referred to Australian society's increasing acceptance of homosexuality and of her desire to ensure that homophobic violence will not be tolerated. Also noted were the considerable reforms which have taken place in the other Australian jurisdictions.

The committee strongly agrees with the honourable member's desire to ensure that homophobic violence should not be tolerated. The committee condemns all forms of unlawful violence and considers it to be an obligation of the law to effectively deter such behaviour.

On 30 October 2013, following debate in respect of the bill, it was resolved in the other place that the bill would be withdrawn and referred to the Legislative Review Committee for inquiry and report, pursuant to section 16(1)(a) of the Parliamentary Committees Act 1991 (South Australia). On 7 June 2014, an invitation to make submissions to the inquiry was advertised in both *The Advertiser* and *The Australian*. Twelve submissions were received.

Despite the fact that it was clear from the submissions received that the majority of the community supported the intent of the bill, the submissions received by the committee appeared to be divided into three camps: those who supported the bill, those who supported the bill but sought broader reform, and those who considered the issue the bill seeks to address to be settled at common law, thus making the bill unnecessary.

A number of submissions referred to the recent judgement of the South Australian Court of Criminal Appeal in R v Lindsay, a case involving an accused who sought to establish a provocation defence following the killing of a homosexual male after that male had made a homosexual advance to the accused. The judgement of the Hon. Justice Peek in Lindsay appears clearly to contemplate that homosexuality is now largely accepted as part of contemporary Australian society and certainly that it is no longer unlawful for consenting adults to engage in homosexual sexual activity.

Justice Peek did not allow the provocation defence to be put to the jury in the circumstances of Lindsay, and in light of the judgement it is now considered by the legal community that it is highly unlikely that a nonviolent homosexual advance will ever be sufficient of itself to establish a provocation defence. This view is accepted by the committee.

R v Lindsay must also be considered in the context of the previous High Court of Australia judgement of Green v The Queen. Green involved a number of factors argued as relevant to a provocation defence at trial, one being a homosexual advance. However, other factors included the experiences of other accused involving sexual abuse as a child, and another factor involved the deceased sneaking into a bed occupied by the accused and touching his genitals.

In Green, as part of the entire circumstances of the matter, the homosexual advance was accepted as one of the circumstances relevant to provocation at trial. As a result, other submissions considered that a nonviolent homosexual or even heterosexual advance may still be considered as a relevant factor amongst any number of further relevant factors when seeking to establish the provocation defence in circumstances such as those found in Green.

Due to the range of issues addressed within the submissions to the inquiry, on 6 August 2014, the committee formally resolved that the inquiry would involve a broader examination of the provocation defence and that it would not be limited to the bill. The committee took evidence in respect of a range of issues which were considered relevant to the provocation defence.

Following evidence in respect of the legal effect of R v Lindsay and Green v The Queen, the committee has resolved that the bill will not achieve meaningful legal reform of the provocation defence. The committee further resolved that the balance of evidence suggests introducing provisions to limit the conduct which may be considered by a court as relevant to a provocation defence at trial will also provide for ineffective reform, particularly given the complex evidential matrix which often accompanies the use of the evidence.

It was submitted to the committee that parliament could, through enacting the bill into law, provide leadership regarding the issue of violence directed at the gay and lesbian community. However, it is the view of the committee that it is not the role of parliament to enact laws of no meaningful legal effect aimed solely at conveying a message to the community. There are other mechanisms at the disposal of parliament to achieve that end.

Although the committee unanimously supports the position that a nonviolent homosexual advance should not of itself give rise to any potential defence of provocation, the committee is satisfied that the common law has already addressed this issue and that the bill should not be supported.

In particular, the committee formed the view that the wording of the bill, especially the use of the term 'merely because', could have unintended consequences regarding the now settled common law position. The committee's further finding is that it has been unable to identify other suitable options for reform of the provocation defence. Consequently, the defence should be retained.

I need to just quickly comment on the Hon. John Darley MLC's dissenting statement. The committee did give consideration to the total abolition of the provocation defence, but the view of the majority of the committee was that such a recommendation would have required a more thorough examination of the criminal law in relation to murder and, in particular, the sentencing options available in relation to a murder conviction. This was considered to be outside the scope of the committee's referral from the other place.

In conclusion, on behalf of the committee I thank all those who made submissions and gave evidence at the inquiry. I thank the members of the committee: Hon. John Darley MLC, Hon. Andrew McLachlan MLC, Mr Lee Odenwalder (member for Little Para), Ms Isobel Redmond (member for Heysen), and our presiding member, Hon. Gerry Kandelaars MLC. I also thank the committee secretariat, Mrs Jennifer Fitzgerald and Mr Benjamin Cranwell, who did a sterling job in providing support for the committee throughout this inquiry and regarding this report. I commend the report to the house.

Ms REDMOND (Heysen) (11:11): It is my pleasure to rise to make a few brief comments on this report, which was almost unanimous. I do note that the Hon. John Darley in the other place has issued a minority report, which I will refer to. I will try to keep my comments less legalistic than perhaps the topic necessitates. As has already been indicated by the member for Elder, this committee's report arises out of a bill introduced by the Hon. Tammy Franks in which she seeks to limit the defence of provocation as it applies in this state by, in particular, changing the act by adding:

For the purposes of proceedings in which the defence of provocation may be raised, conduct of a sexual nature by a person does not constitute provocation merely because the person was the same sex as the defendant.

If I can just paint the setting for this, in this state, in effect, we have various defences to the charge of murder which are what are known as 'absolute defences'. For instance, self-defence is an absolute defence. There is a requirement that self-defence be reasonable in the circumstances. That does not apply in the case of home invasion and so on, so there are some ifs, buts and maybes around that, but self-defence is what is known as an 'absolute defence'. So, if you are charged with murder and you can prove self-defence, you are not guilty of murder.

The same applies with mental impairment because the law requires both the actus reus and mens rea (that is, the actual act of doing something and the intention formed to be able to do it). If you have a mental impairment, whether that be a mental illness or an intellectual disability, senility or some other mental impairment, then you may not be found guilty of murder. It can be an absolute defence of that charge if you can show that you suffered from something which prevented you from forming the intention. Automatism, similarly—for an act to be a criminal act, you have to be able to act, and if you are suffering from a state of automatism then you do not act willingly of your own volition and therefore that is also a complete defence.

The defence of provocation is what is known as a 'partial defence' because what it allows is not for you to be absolved of the crime of murder but for the charge of murder to be lessened to that of manslaughter, and so it is raised in that context. Historically, this defence has been around since England in the 17th century, and it rose through the years and adjusted itself to the idea that if you are going to raise the defence of provocation—and, as I have mentioned, we have this idea of reasonableness of a response and so on—the test is essentially that of the ordinary person; that is, whether, in ordinary circumstances, an ordinary person would be provoked sufficiently to react in a particular way to particular circumstances. That obviously changes with the change in social mores over a period of time so that something that 100 years ago may have been considered particularly provocative may be entirely acceptable now. The position is that the test changes with the social mores of the time.

We have now a situation where what has come before this committee is a consideration of the proposal to change the law. It looked at face value to be pretty straightforward because I do not think there would be anyone in this chamber, and generally in the wider community there would be very few people, who would disagree with the idea that simply having a homosexual advance—nonviolent, non-threatening, just someone of the same gender making a sexual advance to you in a nonviolent way—should not actually be a basis for the defence of provocation, which would allow a murder charge to be reduced to manslaughter. The question before the committee was essentially in two parts: firstly, is there an evil or a problem to be addressed and, if there is, does the proposed bill by the Hon. Tammy Franks in the other place address that particular problem?

The committee met over many weeks on this issue and, indeed, we heard evidence from a number of people. In September, we heard from Mr John Wells, Acting Special Counsel to the Chief Executive of the Attorney-General's Department. On 24 September, we heard from Morry Bailes, the President of the Law Society, and Rocco Perrotta, the president elect of the Law Society, who also happens to be Chair of the Law Society's Criminal Law Committee. In October, we heard from Kellie Toole, who is a lecturer at the Adelaide Law School, and then finally, in November, we heard from Mr Michael O'Connell, the Commissioner for Victims' Rights, and Mr Thomas Manning, the Chief Executive of the Gay and Lesbian Community Services for South Australia and the Northern Territory.

In addition, we had submissions from the Attorney-General, South Australia Police, the Victim Support Service, the Director of Public Prosecutions, the Youth Affairs Council, the Legal Services Commission, the Equal Opportunity Commission, the South Australian Bar Association, Deakin University, the Commissioner for Victims' Rights from whom we also heard, Kellie Toole from whom we also heard, and the Law Society from whom we also heard.

So, the committee has taken its role very seriously in trying to come to a conclusion about this. Personally, while I found all the submissions to be very useful, and the witnesses were all very willing to have a free-flowing discussion with us about the issues, I found the evidence given by Mr John Wells to be particularly useful and compelling in my consideration of the committee's report.

As was mentioned by the member for Elder, the matter hinged very largely on whether there is still an evil to be addressed. I think it can be fairly said that the entire committee was at one on the issue of whether we wanted a provocation defence to be available if someone simply suffers a nonviolent, non-threatening homosexual advance. We were at one in saying, no, that should not be allowed, that is not what the law should be in this state.

As was mentioned, two cases were raised in particular; I will refer to those briefly, and I will not go into great detail. There was a 2014 judgement of the Full Court of the state Supreme Court sitting as the Court of Criminal Appeal. It was a situation where an accused sought to establish a provocation defence following the killing of a homosexual male after that male had made a homosexual advance to the accused.

The Hon. Justice Peek—and I will mention that the Chief Justice, Mr Kourakis, agreed with Justice Peek's finding—says that homosexuality is now largely accepted as part of contemporary Australian society and that certainly it is no longer unlawful for consenting adults to engage in homosexual activity. Justice Peek in those circumstances therefore did not allow the defence of provocation to be put to the jury in the case in question of Lindsay. In light of that judgment in particular, it is now considered by the legal community that it is highly unlikely that a nonviolent homosexual advance will ever be sufficient of itself to establish a provocation defence, and the committee accepted that view.

The committee also looked at the case of Green v The Queen, a High Court case from 1997. Basically, that case said that, again, there was a provocation defence at trial, and the homosexual advance was one aspect of that provocation defence. The finding was, however, that other factors included the experience of the accused involving sexual abuse as a child, and another factor involved the deceased sneaking into a bed occupied by the accused and touching his genitals.

In Green, as part of the entire circumstances of the matter, the homosexual advance was accepted as one of the circumstances relevant to provocation at trial. As a result, other submissions considered that a violent homosexual or even heterosexual advance may still be considered as a relevant factor amongst any number of further relevant factors.

In the more recent case of Lindsay in our state Supreme Court, Justice Peek specifically noted in that judgement that he did not question Green and he agreed with the findings in Green. In other words, the finding of the court at the moment is that, although a nonviolent homosexual advance will not of itself enable the accused to raise the provocation defence, it may be considered as one of a number of factors unique to each case.

The DEPUTY SPEAKER: Your time has expired.

The Hon. S.W. KEY: Deputy Speaker, I move an extension of time: two minutes.

The DEPUTY SPEAKER: Is this normal? Can we do it? We do not know if we can, but we are checking the records. It sounds simple, but it might not be.

An honourable member: You can suspend standing orders.

The DEPUTY SPEAKER: But then we have to have a whole majority and so on. How much more do you have, member for Heysen?

Ms REDMOND: About 30 seconds' worth.

The DEPUTY SPEAKER: Thirty seconds? Let's just pretend, then.

Ms REDMOND: Thank you, Deputy Speaker. I will be extremely quick. The upshot is that, while the committee was extremely sympathetic to the notion purporting to be furthered by the member in the other place, we came to the conclusion and our recommendation was simply that, although the committee unanimously supports the position that a nonviolent homosexual advance should not of itself give rise to a potential defence of provocation, the committee is satisfied that the law in this regard has already been addressed and that the bill should not be supported. In particular, the committee formed the view that the wording of the bill, especially the use of the term 'merely because', could have unintended consequences regarding the now settled common law position.

Finally, our second recommendation was that, if we did open up the law of provocation for a further, broader debate, we needed to look also at the position with respect to mandatory sentencing. Thank you for your indulgence.

The DEPUTY SPEAKER: Deputy leader—and we are not going to do the same for you.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (11:23): I am happy for the member to Heysen to have 30 seconds from my time.

The DEPUTY SPEAKER: I have just been told I have set a dangerous precedent.

Ms CHAPMAN: Thank you, Deputy Speaker, and I thank the member for Heysen for her contribution today and also as a member of the Legislative Review Committee. I thank the committee for the work they have done and, even though it ultimately determined that the narrow perspective which was the basis of the Hon. Tammy Franks' bill was not a proper course to proceed for all the reasons that have been outlined, the wider picture in relation to provocation is a matter which deserves attention. I wish also to place on record my appreciation of the current President of the Law Society and Mr Rocco Perrotta, who is the president elect and takes over responsibility at the end of this month, but in particular Mr Jonathan Wells QC, who provided valuable advice to the committee on those matters.

The Liberal Party were very vocal during the state election in respect of the importance of dealing with this whole question of provocation as a defence to the charge of murder. The areas of concern we are particularly desirous of having some attention include the use or abuse of the defence of provocation, usually by males, who use the defence to justify the killing of their partner, usually a wife or spouse, and/or the alleged lover of the spouse, found in bed together or at least under suspicion of having some intimate relations. It has been a standard defence for men sometimes in those situations to use the defence of provocation.

Similarly, there have been circumstances where women have used it on the basis that they believed that the person they shot, maybe a husband or a partner, has had or is alleged to have had intimate sexual relationships, incestuous or otherwise, with a child, sometimes in the household, and that they acted in a manner sufficiently spontaneous to be able to justify that they were provoked into a circumstance of killing that partner.

I had a case where the deceased was a male who had been shot six times by his wife. In short, the history was that he had two children from his previous marriage. Subsequent evidence revealed that the wife had fled from a highly volatile circumstance and in fact went to live in the United States of America, leaving the children with him, in fear that if she did not she would be tracked down and they would all be killed. He remarried my client and they had more children. It was then alleged that there was an incestuous relationship between the father and one of the children, and she killed him, shooting him multiple times.

She was charged with murder. Provocation was raised. In effect, what happened was that the jury—I suppose this is why we have juries and why they are so important—actually found her not guilty of anything, which in itself raises the question: how can you put six bullets into somebody and not even be charged with some kind of assault?

Mr Pederick: You must be a good lawyer.

Ms CHAPMAN: I cannot take all the credit from the legal counsel. We did have to deal with the first wife returning from America after his death hit the headlines, and we had to follow up how we then managed the reintroduction of the natural mother, back from America, to children who had been literally a baby and a toddler when she left. There are consequences of these circumstances, but in that case justice prevailed to some extent if one believes all the information that came out, bearing in mind that in this case the deceased was not there to give his evidence, of course.

Nevertheless, one could probably say that we did need to address the whole question of provocation. We do need to address on a broader scale the use or abuse of this as a defence mechanism, and we need to deal with it fairly promptly. The Liberal Party is very keen on this. We announced it during the election, and we are keen to have a review. I am thankful that the Legislative Review Committee, as is their responsibility of course, dealt with the Tammy Franks bill

on the narrow perspective that she raised, but we do need to look at this issue. I am confident that it will come about, even if it is from our side of the house.

We are disappointed that, even with reforms which have already occurred in this area in New South Wales over some time and are now in place, there has been no action from this government to actually precipitate this. Nevertheless, we are not going to be waiting around any longer. Our side of the house will be taking some action on this, and you can look forward to it being considered early in the new year. I thank the Legislative Review Committee for highlighting a number of the other areas that need to be considered, some of which were picked up. I am certainly appreciative of the work done by the committee to consolidate that information.

Ms DIGANCE (Elder) (11:29): I thank those opposite for their support of the work the Legislative Review Committee has done.

Motion carried.

PUBLIC WORKS COMMITTEE: RIVERLAND REGIONAL VISIT

Ms DIGANCE (Elder) (11:29): I move:

That the 508th report of the committee, entitled Regional Visit to the Riverland 9-10 September 2014, be noted.

In September, members of the Public Works Committee travelled to the Riverland to inspect a number of public works that had previously been considered by the committee. It included a visit to the recently completed Riverland General Hospital, where we were warmly welcomed by both staff and patients. We heard several positive stories about the opportunities the revamped facility is now providing, including how it will support the regional community. We also heard how the spend on the project was used extremely well.

We also inspected several of the riverine recovery projects along the River Murray, the upgrade of lock and weir No. 5 and the beautiful Chowilla wetlands. Here we saw firsthand the work being undertaken to replicate the original flows and the impact the River Murray and the wet, dry or flooding cycle have on the adjacent areas. It was a great opportunity to better understand these projects and other impacts on the surrounding environment. In addition to the flooding impacts, we were able to inspect several of the fishways and how these will assist fish in their migration up the river.

Whilst in the region, committee members met with local government representatives to canvass the key issues affecting the region. This provided a unique insight into the region and the ability to hear directly from local representatives what they saw as driving forces, key opportunities and impediments to their area. It was a very worthwhile discussion, and I thank the local mayors and deputy mayors for their time.

I would also like to acknowledge departmental staff for their time and assistance with our visit. Several staff members travelled from Adelaide to be with us on the sites, so thank you. It was a really informative visit, and I think all committee members would agree with that. We intend to undertake further regional visits next year. I recommend the report to the house.

Mr WHETSTONE (Chaffey) (11:31): I too rise to speak on the 508th report of the Public Works Committee and the visit to the Riverland, which I was very proud to be a part of. Being a member of the Public Works Committee and also the local member for the Riverland, I thought it was a great initiative for me not only to showcase what a beautiful place the Riverland is but also to look at some of the infrastructure upgrades and builds that have gone on along the way. Most of the committee attended, and I met the committee in the Riverland.

We looked at the Riverland General Hospital, and it was great to see the completion, finally, of the $36 million hospital upgrade. I note that the Public Works Committee did approve $41 million but that only $36 million was spent. There is still more needed to be spent, and I look forward to the government addressing issues with the community health centre, particularly the hydrotherapy pool that was touted as potentially being part of the project but was never fulfilled.

The general hospital is a great outcome for the region. It provides more opportunity for locals not to have to travel to Adelaide for specialist appointments, and it also gives the region more

relevance when people choose the Riverland as a destination. The community raised money for the chemotherapy chairs to complement the rest of the upgrades, not only the day procedure unit, accident and emergency, and renal dialysis, but also many more, including the mental health suite, which I think is an absolutely long overdue part of the hospital.

Mental health services are vital to the community, particularly in regional South Australia after what we encountered during the last millennium drought. I would like to put on the record that, while many are still complaining about the federal government's co-payment, at the regional hospital we pay a $60 co-payment: we visit the hospital, we pay $60, and I think people just need to be aware of that.

We looked at some of the riverine recovery projects. These really are rolled-gold infrastructure, and they are critical to the health of particularly the Ramsar-listed wetland at Chowilla. It was a long overdue project, and it was budgeted at $41 million, but I think it ended up blowing out to about $60 million. It will enable management to bank water and achieve about 50,000 megalitres a day that will enable water to go into wetlands and floodplains to water river red gums. In some instances, it will water some of the black box population—but only some of it. We really do need 80,000 or 90,000 megalitre flows to get the black box population watered.

It is a feather in the cap. It would be nice to think that the Murray-Darling Basin Plan will be rolled out and that we will not need the regulator, but it is there and it is an insurance policy to safeguard us from the devastation caused by the last 10 years of drought particularly in that region. We looked at the Pike River projects, and there are a number of those. I will just go back to the Chowilla project: there are six other small regulators to help bank up the water and I think they need to be recognised as a very important part of that Riverine Recovery Project.

We visited the fishways at Lock 5. It was very sad to see that, after all that infrastructure money that was spent, we now have an element of society saying that we have to humanely kill carp and that we cannot bury carp because of the collapse once they are buried. I think carp are one of the scourges of the river system, and we need to find ways of better managing and disposing of the carp caught in those fishways.

We visited the Mundic Lagoon and looked at the fishways. We also visited the Lake Merreti regulator and the Woolpolool regulator between locks 5 and 6. I think they are great assets, when you look at the degradation caused by the drought. Merreti was a 40-day, 40-night watering program, and I note that the locals are up there yabbying at the moment, so I think it is a great outcome for all.

Again, we did meet with local government representatives and RDA people. It was not part of the scope of the Public Works Committee, but I think it was an olive branch to those organisations to have a say and put forward their point of view, just to highlight some of the positives and deficiencies. We are trying to do business in the region. We looked at the RDA funding, the lack of infrastructure and the cost of power in the region.

Exporting power out of the region was something that was topical. For those members who do not know, South Australia has reduced its demand in power and we are now exporting power into Victoria. It goes through the interconnector in the Riverland and there are losses in those powerlines; sadly, the people who use power in the Riverland are paying for those losses, and that is having a significant impact.

We looked at CFS fire regulations for some of the infrastructure and new developments in the region. Again, we moved on and looked at crown land issues, tourism and flood banks—we looked at a number of issues up there. The ferry replacement, I think, has been through Public Works Committee and that is a great initiative, and long overdue, converting timber plank ferries to aluminium ferries. I note that Berri Barmera Council flagged that the motorsport facility in the Riverland is something that is much wanted by the greater population.

I thank the committee for coming up to the Riverland. It was a great trip. Not only did people look at what environmental infrastructure can mean and what regional health means to regional people but it also showcased what the Riverland has to offer. I thank the committee, and I think it was a trip worthwhile.

Ms DIGANCE (Elder) (11:39): Thank you to the member for Chaffey for his contribution in support of this visit to the Riverland. I agree wholeheartedly that it was worthwhile. It was certainly good to see the projects Public Works Committee had approved over time and, certainly, it was of value speaking to those people who live and work and advocate on behalf of the region. I look forward to further trips next year to other regional places.

Motion carried.

SOCIAL DEVELOPMENT COMMITTEE: RECIDIVIST YOUNG OFFENDERS AND YOUTH PAROLE BOARD ACT REVIEW

Ms HILDYARD (Reynell) (11:39): I move:

That the final report of the committee, on the review of the Statutes Amendment (Recidivist Young Offenders and Youth Parole Board) Act 2009, be noted.

The Social Development Committee commenced this inquiry in August 2014. We received seven submissions and the South Australia Police presented verbal evidence. Hearings concluded on 13 October 2014.

In part 5 of the Statutes Amendment (Recidivist Young Offenders and Youth Parole Board) Act 2009, there is a requirement that the Social Development Committee, in consultation with the Attorney-General, inquire into and report on the operation of the act and on any effect the operation of the act has had on the criminal justice system in South Australia.

In 2003, amendments were made to the Criminal Law (Sentencing) Act to provide South Australian courts with the discretionary powers to declare an adult offender to be a serious repeat offender. The introduction of the Statutes Amendment (Recidivist Young Offenders and Youth Parole Board) Act allows for this same principle and provides South Australian courts with the discretionary power to declare a young offender a recidivist young offender.

The act came into operation on 27 June 2010. It was initiated as a response to perceived community concern about the harm done by young offenders who engage in repeat offending of a serious nature, to consider community safety in sentencing and to allow young offenders to be tried as adults where a pattern of serious repeat offending was alleged to have occurred. It was intended to apply to just a very small group of particularly serious repeat young offenders who sadly and unfortunately seem to not have learned from previous experience within the youth criminal justice system. The act made amendments to both the Criminal Law (Sentencing) Act and the Young Offenders Act. The key changes to the Criminal Law (Sentencing) Act are:

- a provision to declare a young person a recidivist young offender;
- a provision for judicial discretion to make such a declaration;
- that the court not be bound by the rule of proportional sentencing; and
- for a nonparole period that is handed down to be at least four-fifths of the sentencing period and not at least two thirds as it is under the provisions in the Young Offenders Act.

The key changes to the Young Offenders Act are:

- a provision to establish a victims' register;
- a provision to keep a record of an informal caution, a provision that did not previously exist;
- a provision to impose a custodial sentence where there has been a declaration of a recidivist young offender; and
- a provision for the review board to be reconstituted as the Youth Parole Board.

During the four years of operation of the act, six offenders were eligible to be declared recidivist young offenders. Of these, four were brought before the Youth Court and, of these, three have been declared recidivist young offenders.

A number of submissions the committee received proposed that, given the small number of declarations, the operation of the act and its effect on the criminal justice system here in South Australia has been minimal because the legislation mirrors provisions that were already addressed in existing legislation.

Under pre-existing legislation, the Youth Court has jurisdiction to sentence young offenders to a term of incarceration up to a maximum of three years. All three of the young people who have been declared recidivist young offenders were sentenced to terms of incarceration well within the three-year maximum period. This may indicate that the introduction of the amendments has not meaningfully impacted upon substantive sentences imposed upon serious repeat offenders.

The committee heard from the South Australia Police that judicial discretion is a significant hurdle for declarations under the Criminal Law (Sentencing) Act. They hold the view that any young offender who satisfies the criteria under the act should automatically be declared to be a recidivist young offender. They propose that judicial discretion, as opposed to a mandated requirement, presents a significant hurdle.

The provision in the amendment act to increase sentencing periods for young people is based upon the notion of providing increased community safety, the premise being that while a young person is incarcerated they are not able to commit any further crime. It is not clear that current evidence-based research supports that view.

Some evidence presented to the committee suggested that introducing explicit measures to declare a young person a recidivist young offender, imposing longer sentences and imposing longer periods of incarceration by extending the period of time they are eligible for conditional release may be counterproductive measures.

Young people who spend longer periods in detention may become more entrenched in offending and find community integration increasingly challenging. Further, it is unclear if evidence-based research supports the view that more punitive measures for young people who offend will increase community safety or help them. Regardless, provisions already existed under section 16 of the Young Offenders Act for the Director of Public Prosecutions to bypass the Youth Court and lay a charge against a young person in the adult jurisdiction if the charge was a major indictable offence or if there was an appreciable risk to the safety of the community.

The object of the Young Offenders Act is to secure care, support, correction and guidance for young people who commit offences. Clearly, this must be balanced against the need for them to understand their obligations under the law and to protect our community against violent or wrongful acts. Insofar as the Statutes Amendment (Recidivist Young Offenders and Youth Parole Board) Act was aimed at personal deterrents of serious repeat offenders and protecting the public, the committee heard that those provisions appear to have been available in existing legislation.

Whilst the provisions in the act strengthen the requirement for consideration of community safety, they are silent on how a stronger emphasis for rehabilitation might be achieved. As mentioned, in the four years since the introduction of the Statutes Amendment (Recidivist Young Offenders and Youth Parole Board) Act there have only been three declarations of young people as recidivist young offenders. All three were sentenced to terms of detention well within the three-year maximum prescribed in pre-existing legislation; therefore, the recidivist young offenders legislation has not significantly impacted upon substantive sentences imposed upon serious repeat offenders to date.

Based on the evidence presented during the course of its deliberations, the committee considered that the operation of the act, which was intended to be directed at a small number of young offenders who have, sadly, refused to learn from experience, has been minimal to date and its effect on the South Australian criminal justice system has also been minimal. Given this conclusion, the committee recommends a further review be conducted three years from now.

In closing, I acknowledge the valuable contribution of the individuals and organisations who gave up their time to come forward and give information. We thank all those who presented evidence to this inquiry either in writing or through appearing before the committee. I also take this opportunity to thank members from the other place who provided valuable input into the inquiry: Presiding

Member, the Hon. Gerry Kandelaars, and the Hon. Kelly Vincent and the Hon. Jing Lee. From this chamber I thank Ms Dana Wortley (member for Torrens) and Mr Adrian Pederick (member for Hammond). I also acknowledge the work of the committee secretariat, Ms Robyn Schutte (committee secretary) and Ms Carmel O'Connell (research officer), who provide outstanding and invaluable support around this inquiry and the ongoing work of the committee.

Mr PEDERICK (Hammond) (11:48): I rise to speak to the motion that the report of the Social Development Committee, entitled Review of the Statutes Amendment (Recidivist Young Offenders and Youth Parole Board) Act 2009, be noted. The committee commenced this inquiry in August and we received a total of seven submissions, with SAPOL presenting verbal evidence. Hearings were concluded on 13 October 2014.

Amendments were made in 2003 to the Criminal Law (Sentencing) Act to provide South Australian courts with the discretionary powers to declare an adult offender to be a serious repeat offender. The introduction of the Statutes Amendment (Recidivist Young Offenders and Youth Parole Board) Act allows for the same principle and provides South Australian courts with the discretionary power to declare a young offender to be a recidivist young offender.

This act came into operation on 27 June 2010. It was initiated as a response to community concern about the harm done by young offenders who engage in repeat offending of a serious nature and also to allow young offenders to be tried as adults where a pattern of serious repeat offending was alleged to have occurred. The act made amendments to both the Criminal Law (Sentencing) Act and the Young Offenders Act. The key changes to the Criminal Law (Sentencing) Act are:

- a provision to declare a young person a recidivist young offender;
- a provision for judicial discretion to make such a declaration;
- that the court is not bound by the rule of proportional sentencing; and
- a nonparole period that is handed down must be at least four-fifths of the sentencing period and not at least two-thirds, as it is under the provisions in the Young Offenders Act.

The key changes to the Young Offenders Act are:

- a provision to establish a victims' register;
- a provision to keep a record of an informal caution, a provision that did not previously exist;
- a provision to impose a custodial sentence where there has been a declaration of a recidivist young offender; and
- a provision for the review board to be reconstituted as the Youth Parole Board.

During the operation of the act, six offenders were brought before the Youth Court, and of these three have been declared 'a recidivist young offender'. It is to be noted that in submissions presented to the committee the operation of the act and its effect on the criminal justice system in South Australia have been minimal because the legislation does mirror some provisions that were already addressed in existing legislation.

The committee also noted from a submission and from hearing from the South Australian police that the judicial discretion is a significant hurdle for declarations under the Criminal Law Sentencing Act, and they did propose that judicial discretion, as opposed to a mandated requirement, presents a significant hurdle for young offenders to be declared a recidivist young offender.

Some evidence presented to the committee suggested that introducing explicit measures to declare a young person a recidivist young offender, and imposing longer sentences and longer periods of incarceration by extending the period of time they are eligible for conditional release, may be a counterproductive measure. It is uncertain if evidence-based research supports the view that more punitive measures for young people who offend will increase community safety, but I add that there are many different views on that in the community.

The object of the Young Offenders Act is to secure care, correction and guidance for young people who commit offences, and this needs to be balanced with their need to understand their obligations under the law and that communities should be protected against violent or wrongful acts. There have only been three declarations of young people as a recidivist young offender, and it shows that the recidivist young offenders legislation has not significantly impacted upon substantive sentences imposed upon serious repeat offenders to date.

The committee considered that the operation of the act, which is intended to be directed to a small number of young offenders who refuse to learn from experience, has been minimal to date, and its effect on the South Australian criminal justice system has been minimal, based on evidence presented. Given this conclusion, the committee has recommended that a further review be conducted in three years from now.

Some statistics were presented in an appendix in relation to a study involving the act and looking at cases finalised in South Australia since 27 June 2010. The study was completed in January 2013, and the appendix states:

> Between 27 June 2010 and 31 December 2011 there were 96 individuals who were convicted of a total of 177 juvenile offences that were 'serious offences'. A total of 42 individuals who were convicted of a serious offence were sentenced to imprisonment. However, only 6 of these individuals fulfilled the two sets of criteria of 'recidivist young offender' of having been convicted and imprisoned twice previously for a serious offence.

Since the act commenced in 2009, there have only been six young offenders as at 31 December 2011 who were eligible to be declared a recidivist young offender.

In conclusion, I would like to thank members on the committee: from this place, Ms Dana Wortley (member for Torrens) and Ms Katrine Hildyard (member for Reynell); and from the other place, Hon. Jing Lee; Hon. Kelly Vincent; and the presiding member, Hon. Gerry Kandelaars. I would like to acknowledge the work of committee secretary Robyn Schutte and research officer Carmel O'Connell.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (11:55): I rise to speak on the report that has been provided to us from the Social Development Committee in respect of the recidivist young offenders legislation that passed in this house back in 2009 and came into effect, conveniently, three months after the 2010 election. The previous attorney-general was the mover of this legislation. We said at the time, 'This is not necessary, it will not work, and it is contrary to the UN convention in respect of children's rights; it is contrary to all academics of any note in respect of the appropriate sentencing rules regarding children, and it will not work,' and we were right. This report vindicates it.

I want to say a number of things about this report. This review in the legislation was required to be done within three years since the operation. That means it was supposed to be done by mid-2013, not six or eight months after the 2014 election. This should have been done in 2013 and I give notice to the house that I will be calling for the Social Development Committee, in its own recommendation, to review it in another three years to make sure that they do what they are asked to do under the legislation and that they do review this legislation. If the current Attorney-General is tardy in getting his submission in as part of that review, then let us know here in the parliament.

This is not acceptable. We have an election in March 2018 and I expect—and every member in this house should expect—that this report and the next review in respect of this useless piece of legislation will come back at least before the state election. Attorney-General Rau, who put a submission in to this committee, admitted in his own submission within this report that it is of little value. We raised the question at the time that it will probably end up that these three people, who have been declared recidivists and who have not got one jot of extra sentence in the course of this process, will treat it as a badge of honour.

Everyone lining up, including Senior Judge McEwen, the Attorney-General, and others who gave evidence to this committee, indicated that it is of little or no value and that the current law is perfectly adequate to deal with this. The then attorney-general Atkinson's great, hard, tough on law and order stance of, 'We'll treat children in the same harsh way; everyone over 10 who is in a recidivist capacity we will treat in the same way as we have adults,' turned out to be a nonsense.

This report is a vindication that it is a nonsense. The Attorney-General should be coming into this house and applying to repeal that legislation, not just review it again in another three years.

It was a shameful act of this government to keep this information hidden before the last state election, and I implore the Social Development Committee to make sure that they do not have the wool pulled over their eyes again, and that we make sure we get the next report before the next election.

Ms HILDYARD (Reynell) (11:58): I just want to say thank you very much to the member for Hammond for his comments, and to all members of the committee.

Motion carried.

PUBLIC WORKS COMMITTEE: PORT LINCOLN, ADELAIDE WOMEN'S, MOUNT GAMBIER PRISON EXPANSIONS

Adjourned debate on motion of Ms Digance:

That the 506th report of the committee, entitled Proposal to Expand Three Prisons: Port Lincoln Prison, Adelaide Women's Prison and Mount Gambier Prison, be noted.

(Continued from 19 November 2014.)

Mr PENGILLY (Finniss) (11:58): I just wish to close my remarks very quickly and say that I fully support the project.

Ms DIGANCE (Elder) (11:58): I would just like to say thank you to all those who have contributed to this report and also to this debate. It has certainly been a very worthwhile debate.

Motion carried.

Motions

DEFENCE SHIPBUILDING

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (11:59): I move:

That this house—

(a) condemns the remarks of the commonwealth defence minister that he would not trust the Australian Submarine Corporation (ASC) to 'build a canoe';

(b) reaffirms its support for ASC workers and all other South Australians employed in the defence industry;

(c) demands that the Abbott Liberal government upholds its election commitment to build the 12 future submarines in Adelaide; and

(d) notes that Australians should have the right to trust the word of its leaders when it comes to decisions that affect the national security of this country.

I have just had the great pleasure of attending a fine South Australian business—Axiom Precision Manufacturing. It is a business which had much of its work confined to the automotive sector but decided seven years ago to branch out and diversify its operations. One of the areas it chose to diversify into was the defence sector.

The defence sector presented opportunities for this business, and so it sought to branch its activities out into this growing sector of the South Australian economy, with the strong leadership role that was taken by the South Australian government in pursuing an ambition for South Australia to be the defence state. We have been successful in that regard with in excess of 25 per cent of our in-country spend in Australia spent here in South Australia.

This company now has won sensitive contracts to defend our nation, so much so that its technologies in relation to the construction of equipment are protecting our soldiers in Afghanistan. Crucially, they are making components for our Collins class submarine—not just any components but components which are essential for protecting life and also for protecting the hull from incursion in the operating environment that these vessels undertake at the bottom of our ocean.

This could not be more sensitive and advanced manufacturing. The skills and capabilities of these workers could not be higher. It is a testament to the ingenuity and the enterprise of

organisations and workers who have been operating in these premises that they have been able to restructure their operations and take advantage of these opportunities as they have presented themselves in the defence sector.

So, when workers like these and other workers at ASC are diminished by remarks that are made by the defence minister to suggest that somehow their skills and capabilities are not up to scratch, are worthless, and that they do not have the relevant skills and capabilities that would be expected of somebody who can deliver a sophisticated, modern piece of manufactured kit like a submarine, you can imagine how demoralising it is for those workers in those businesses. Today, we heard from the principal at Axiom that he was disgusted with those remarks because he understands the quality of the workmanship that he and his workforce put in to this important set of capabilities for our nation.

Of course the remarks that were made by the commonwealth defence minister that he would not trust the Australian Submarine Corporation to 'build a canoe' are offensive. They are wrong, they should be condemned—and they have been roundly condemned—but one of the difficulties with simply saying, as the defence minister has, that he apologises or regrets causing any offence is that they betray a mindset which is not consistent with a defence minister bringing an impartial mind to the decision which has to be made.

This is not just any decision, but a decision about the defence of our nation, and not just any decision about the defence of our nation but the largest single procurement in the nation's history. We are expecting that somebody who has already declared their bias will bring an unbiased mind to this decision-making. It is simply inconsistent with the approach that we need to have taken in this matter.

It seems clear that much of the leaking that has been going on for much of this year has been about laying the groundwork, and I think all we saw was the hand coming out from behind the glove when those remarks were made public under pressure in the Senate. I think much of the leaking has either been authorised or permitted by the Minister for Defence in a way which has been calculated to lay the groundwork for a decision to back away from a promise. Not just any promise, but a promise that was made solemnly in the lead-up to an election where this government made future submarines an issue.

This was responsive to a question we posed. There was no surprise that the federal minister came to ASC. There was no surprise that he came to ASC, because we demanded clarity around these issues. So, in fact what happened in May of last year is the then shadow defence minister, Senator David Johnston, stood outside the Australian Submarine Corporation with the Leader of the Opposition standing next to him, and he committed that submarines would be delivered and they would be built right here in South Australia.

In fact, let me inform the house exactly what Senator Johnston said that day, because he has contradicted nearly every single word he uttered that day in May. He said these words:

> I want to confirm on behalf of the Coalition that we are firstly committed to submarines for the Royal Australian Navy, they are a very important and vital and special capability as a deterrent. Secondly, I want to confirm that the 12 submarines as set out in the 2009 Defence White Paper and then again in last Friday's Defence White Paper are what the Coalition accepts and will deliver.
>
> We will deliver those submarines from right here at ASC in South Australia. Now why ASC? Right across Australia there is only one place that has all of the expertise that's necessary to complete one of the most complex, difficult and costly capital works projects that Australian can undertake. It's ASC here in Adelaide. We believe that all of the expertise that is necessary for that project is here.

Could there be any clearer expression of commitment in the lead-up to an election where this was a material issue in that election, and standing next to the Leader of the Opposition who is entitled to feel equally as angry and betrayed as the people of South Australia? How dare he stand next to one of his own colleagues, make this commitment and then seek to walk away from it after the federal election? If the Leader of the Opposition has any self-respect and his party has any self-respect, he will stand with us and forcefully advocate for the commonwealth government to maintain its commitment in relation to this matter.

Members interjecting:

The DEPUTY SPEAKER: Order! I am on my feet. Members are entitled to be heard in silence and I will guarantee you that silence as well.

The Hon. J.W. WEATHERILL: You will get your opportunity to do it again in this house, which we will all be very pleased to witness. Can I say that this motion is about reaffirming our support for ASC workers and other South Australians, and also about upholding this commitment.

Let's just go to some of the arguments that have been advanced about why we should not move down this particular path, and they are all capable of easy disposal. The price—that somehow we will get some cheaper Japanese solution: it is cheaper. Well, almost every expert has lined up to say otherwise. The timeline—that somehow there is an urgency and we need to go for a Japanese solution which is available now and there is not sufficient time for a proper tender process. Wrong. We now know from experts that there is sufficient time for a proper procurement process to occur with a tender, which will allow this particular procurement to be completed and built in time to ensure there is no capability gap.

Within that, there is another mistruth, which is the fact that there is an off-the-shelf option from Japan. There is not. We now know, and it has even been conceded by the defence minister, that substantial modifications would be necessary. There is no cheap, off-the-shelf option to buy from Japan, given that they produce small, short-range submarines for deep, cold-water environments and Australia needs a large, long-range submarine for operating in warm, shallow-water environments. The modifications needed would likely mean the cost would be more from Japan than the estimated $21 billion to build them.

We know that Japan's two naval dockyards are fully booked for years, so any contract to build submarines for Australian operational purchases is likely to require Japan to build a new shipyard and recruit a new workforce. Australia already has an operational shipyard with the workforce to deliver the submarines.

This $21 billion invested in building the submarines in Australia over a 30-year period not only would support the planning and development of a high technology defence industry and create 3,000 jobs but would fuel additional spillover benefits through the creation of innovative products and IP. We know that the benefits for our nation would be profound—and think of the taxes that would be paid here as opposed to being paid in Japan.

We are at a crossroads in terms of the transformation of the South Australian economy. We are told by the federal Liberal opposition that we are not allowed to build cars any more. We are told that we have to get out of old manufacturing. Now we seem to be being told that we are not allowed to build the most sophisticated manufacturing product—a submarine. What is it that we are allowed to build?

The truth is that when you go to a business like the one I went to this morning at Axiom you can see that they have the skills and capabilities to match it with anywhere in the world. What sort of self-respecting government would not back its own citizens to have the skills and capabilities to make things? We learnt this lesson back during the Falklands War, when we had the Oberon class submarine, which was rendered unoperational because we could not get the parts necessary to run it. This is about sovereign capability—sovereign capability for our nation to actually defend itself. There could not be a more profound obligation that a nation has to its citizens but to equip it with the capacity to defend itself.

Members of this house, I urge you to support this, not just in South Australia's interests but in the national interest. This could not be a more important issue facing our state. It will assist us in the great transformation of our economy that is well underway. We need a federal Liberal government to stand with this state government, and we call on all members of the house to offer their unanimous support.

Mr MARSHALL (Dunstan—Leader of the Opposition) (12:12): It is my pleasure to rise, and I indicate that I will be the lead speaker for the opposition on this motion, which has been brought to the house by the Premier. I thank the Premier for bringing it to the house. Some would say that it is a cynical exercise, some would say it is politically motivated, but not me. I am not so cynical. I think it is important that we actually debate this issue and that we place on the record our support for the defence sector in South Australia.

There is no doubt that South Australia faces very significant challenges at the moment. This is a point the Premier has made time and time again. South Australia faces some very significant challenges, and principal amongst those, of course, is our alarming unemployment rate in South Australia. Most recently, in fact just two weeks ago, data was published which shows that South Australia recorded the lowest growth in online job vacancies of all states over the past 12 months. We are at the bottom of the class. South Australia recorded only a 1.6 per cent increase in online job vacancies in the 12 months to October 2014, compared with 19.6 per cent in New South Wales, 11.3 per cent in Victoria and 11.2 per cent in Western Australia. Even the ACT recorded an increase of 18.4 per cent.

One of the statistics which has recently been published which I am most concerned about is the rising number of unemployed and job losses in our southern suburbs. We have had almost 10,000 jobs lost in our southern suburbs in just the past 12 months. This is a crisis; there is no doubt about this. Six years ago, the government said that they had a plan. They had a plan to create 100,000 new jobs in South Australia over a six-year period. We are five years through that six-year period, and when we look at the scorecard it is a very damaging scorecard for this government. Seasonally adjusted, we have not created one single new job; in fact, we actually have 900 fewer jobs in South Australia seasonally adjusted. That is a very damaging statistic for us in South Australia. That is why what we should be doing in this place, quite frankly, is working in a bipartisan way to secure every single solitary job for South Australia that we can muster.

Let me tell you that the defence sector is an extraordinarily important sector for South Australia. It has been important historically, it is important now, and it will be important for the future, and that is why we should be working in a bipartisan way.

The Hon. M.L.J. Hamilton-Smith: Well, support the motion.

The DEPUTY SPEAKER: Order!

Mr MARSHALL: It is a significant industry. When we look at the most recently published statistics, we see that 27,000 people are employed in the defence sector in South Australia, 3,000 of them directly in shipbuilding. These are very significant numbers. Those numbers have not been updated for some time, and when I am out there talking to the defence sector, which I have been for years, what I am hearing is that we are losing jobs in our defence sector in South Australia. Anecdotally, I am hearing that we are losing a huge number of jobs in the defence sector in South Australia. They are doing it extremely tough at the moment.

The government wants to talk about the problems going forward. Well, I am here to tell you that there are problems right now, and when we analyse why we have these problems right now, we have to turn our attention to the federal Labor government over their six years in government. They made enormous promises to the defence sector—enormous promises to the defence sector—in fact, they broke $25 billion worth of promises to the defence sector. Of course, a lot of that money was coming right to South Australia. They either cut programs or they delayed programs to the value of $25 billion. They cut defence spending in Australia to a level that we have not seen since before World War II—that we have not seen since before World War II.

Quite rightly, they mentioned the important future submarine program in their white paper and the DCP which flowed from that. I think that is something that we can all agree on, and that is the need for the future submarines program to flow on from the current air warfare destroyer program that we have currently at Techport. It is very important that we have this continuous flow of programs coming to our defence sector in South Australia.

Of course, we are very parochial in South Australia: we would like to see it all come to South Australia, and we have got the best facilities in Australia; there is no doubt about that. We want to see that work come to South Australia, but this is not just important for South Australia, this is important for the nation. We need to have this capability, and we are only going to sustain this capability if we have a continuous build of surface vessels and submarines in Australia, and we need to have a long-term plan.

That is where federal Labor failed, because, whilst they announced the future submarines program, they did precious little work on the future submarines program. Despite the fact that they

pushed out the end of the third air warfare destroyer to try to cover up this valley of death that we are hurtling towards in South Australia, it did little to save us from this impending gap of work that we are now heading towards in South Australia. I have heard plenty of speculation about how we might solve this problem. There was some speculation for an extended period of time that we might have a fourth air warfare destroyer for Australia and that would be manufactured at Techport. A lot of people like that idea, but, of course, the Navy did not want that fourth air warfare destroyer.

Now I am hearing very pleasing speculation that we might bring the future frigates program forward so that that can start at the end of the build for the third air warfare destroyer, and, of course, we have the future submarines program. Quite frankly, I do not care what it is; I just want to see us have a sustainable, continuous, shipbuilding, submarine-building, submarine-sustaining capability here in South Australia. I know that the best way to do that is to work in a bipartisan way, and we do not have that at the moment. At the moment, we have the government in South Australia jumping at every opportunity to create political points simply to drive this fear campaign. No decision has been made. We want the decision to be made to bring as much work to South Australia as possible.

I attended the recent defence industry summit, and I will commend the Minister for Defence Industries in South Australia for organising this. I was invited to come along to that. I was not invited to speak but I must say that I was very pleased, when we moved to the open session, that the defence industries minister invited me to make some comments. Those comments were exactly the same as I am making here today.

People sitting at home do not really care too much about the argy-bargy that goes on in this place on a daily basis. What they are care about is jobs for the next generation. What they care about, and are concerned about, is rising unemployment in South Australia. What they care about is the fact that kids finishing school and university are giving up hope. They are moving out of our state. What they want us to do is come into this place and work in a bipartisan way. Let me tell you: it used to happen.

When the Techport project was going ahead—and there were some complexities with that project—the government and the opposition had a relationship which was at a level that enabled those issues to be dealt with without playing them out through the media on a daily basis. That is when we got an excellent facility for South Australia, and that was fundamental in our being able to win that air warfare destroyer project for South Australia. That was fundamental to our ability to turn around the sustainment work that we do here, to the point that the federal government has now acknowledged that the sustainment work done at the ASC is at the best level it has ever been.

I just make this point. We are at our best when we are working in a bipartisan way. I will state that we will be supporting this motion. I will state, as I did last week in the media, that the comments that were made by Senator Johnston were disgraceful. I think everybody agrees that they were completely and utterly unacceptable. I think Senator Johnston thinks they were completely unacceptable. The ASC workers are a fabulous, capable, technically astute group of employees, and they did not deserve the comments that were made; but we have to move forward right now and focus on the things that are important and that means the two sides of this house working together to bring as much work as possible to South Australia.

We on this side of the house would like to see everything come to South Australia but what we do believe is we have to stop this constant victim and blame mentality. We have to work as closely as we can with the decision-makers and we have to do everything we can and not blame somebody else for our demise but look to strengthen our opportunities. The government of the day should be looking at our unacceptably high taxation regime and our unacceptably high regulatory environment. These are the things that we need to do.

The government needs to take responsibility for their own poor performance over the last 12½ years and they should be doing every single thing they can to remove barriers to make sure we can win as much work as possible and, most importantly, make sure that, going forward, we work in a bipartisan way to bring as much work to the defence sector here in South Australia as possible.

The Hon. M.L.J. HAMILTON-SMITH (Waite—Minister for Investment and Trade, Minister for Defence Industries, Minister for Veterans' Affairs) (12:23): I thank the Premier and the Leader of the Opposition for their contributions, but I must say that I am disappointed by much of

what I have heard from those opposite. I am pleased that they are going to support the motion because what the motion asks the parliament to do is demand that the Abbott Liberal government uphold its election commitment to build 12 submarines in Adelaide. I hope by supporting this motion that the Leader of the Opposition and the opposition are going to go out on the steps of Parliament House after this and unequivocally demand that the promise made by the Coalition, with the Leader of the Opposition beside him, to build those 12 submarines be kept. I hope we are not just going to get a debate in the parliament and no action from the opposition, because the Leader of the Opposition and those opposite could influence this outcome—

Members interjecting:

The DEPUTY SPEAKER: I am on my feet. Order! The member is entitled to be heard in silence. In the same way I afforded that right to you, I will afford it to him.

The Hon. M.L.J. HAMILTON-SMITH: It will not work, Madam Deputy Speaker. To come in here and say one thing—

The DEPUTY SPEAKER: It will work if we talk about submarines.

The Hon. M.L.J. HAMILTON-SMITH: —and then to go away and fail to genuinely take action on the other hand—what must happen now is you should get in a plane, go over to Canberra, get in the room with the Prime Minister and say, 'Prime Minister, you've got it wrong'—

Mr Marshall interjecting:

The Hon. M.L.J. HAMILTON-SMITH: Well, do it publicly as well.

Members interjecting:

The Hon. M.L.J. HAMILTON-SMITH: Do it publicly as well.

The DEPUTY SPEAKER: Minister, sit down.

Mr Marshall: We've done it.

The Hon. M.L.J. HAMILTON-SMITH: Have you?

Mr Marshall: Yes.

The Hon. M.L.J. HAMILTON-SMITH: You've been silent on the issue.

Mr Marshall interjecting:

The DEPUTY SPEAKER: I remind members of the standing orders; I will have to start warning people. Minister.

The Hon. M.L.J. HAMILTON-SMITH: The Leader of the Opposition has talked about jobs, but what I have not heard is a plan to create jobs. What I have not heard is any meaningful solution as to how those jobs might be built. One way to build those jobs is to make sure that the 120,000 man years of work on offer through the submarine project is built here—

Members interjecting:

The Hon. M.L.J. HAMILTON-SMITH: Well, you know what? Opposition leaders and Liberal leaders in Queensland and other states have almost made a story out of disagreeing with Canberra, yet we hear about bipartisanship, we hear about the need for everyone to agree. I will simply make this point: bipartisanship works when everybody wants the same outcome but has a different idea on how to get there. Bipartisanship works when the federal government is on our side.

I will just point out a few things to those opposite. In the early days of defence in this state, when we were building Techport, when we were winning the air warfare destroyer project, we had a Howard government that was on our side. The Howard government was a good government. The Howard government had four South Australian ministers who were on our side. They wanted us to win that project for South Australia, and there was bipartisanship. This government, this state Labor government, worked cooperatively with the Howard government to get the right result. Why? Because the federal government was on our side.

Then we had a Labor government, the Gillard/Rudd governments. The Leader of the Opposition rightly observes: things could have been done quicker. There is no doubt. Money was cut from defence—that is true—for a host of reasons during the GFC. It is true that things could have been done quicker, but that government was essentially on our side—

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. M.L.J. HAMILTON-SMITH: —it committed to building submarines and surface ships here. The Gillard, Rudd and Howard governments were on South Australia's side. I will tell you what has changed. What has changed is that South Australians are now asking themselves whether the Abbott government is on their side. If the Abbott government is not on our side, you can bang on about bipartisanship as much as you like, but you have to bring about a political outcome, and that political outcome must be that we build the submarines and surface ships here in South Australia, based in South Australia, as promised. You will not get it by standing up and banging on about how warm and fuzzy things should be.

The decision is not going our way. In case you have not sensed it—and I suspect you have because I think I know what the Prime Minister said to you—the decision is not going our way. It is certainly not going towards those 12 submarines being built here in Australia, based in South Australia. If it was, the Prime Minister and the Minister for Defence would have repeated the promise and so would the Leader of the Opposition and the shadow minister for defence. But you have not repeated the promise and the reason you have not repeated the promise is that you know it is about to be broken.

Mr Marshall: Get a briefing.

The Hon. M.L.J. HAMILTON-SMITH: You get a briefing, because what we need is some political courage. What we need is a state Liberal Party—

Mr GARDNER: Point of order.

The Hon. M.L.J. HAMILTON-SMITH: —standing up for South Australia, not kowtowing to their federal colleagues in Canberra.

The DEPUTY SPEAKER: The member for Morialta has a point of order.

Mr GARDNER: I was going to cite 128, but after that also 137 because the minister is refusing to accept your authority.

The DEPUTY SPEAKER: Well, none of you are listening to me, so I am going to have to call all of you on that side to order and ask the minister to continue his remarks, addressing the motion before the house.

The Hon. M.L.J. HAMILTON-SMITH: Thank you, Madam Deputy Speaker. This motion needs to be supported. It is going to be supported. So, support now not only the vote but the spirit of the motion and get out there and join our campaign. If you want some bipartisanship, I will tell you how to be bipartisan—

Mr GARDNER: Point of order.

The Hon. M.L.J. HAMILTON-SMITH: —stand out there with the Premier and unequivocally demand that the Prime Minister stick by his promise.

The DEPUTY SPEAKER: Just a minute. The member for Morialta has a point of order.

Mr GARDNER: Point of order, Madam Deputy Speaker: 128 again, and the minister is continuing to defy your ruling.

The Hon. M.L.J. HAMILTON-SMITH: They don't like it, Madam Deputy Speaker.

The DEPUTY SPEAKER: The minister will address the motion.

The Hon. M.L.J. HAMILTON-SMITH: They don't like it, because they are being called to account. Minister Johnston's remarks were sad, unfortunate and an absolute affront to Australian

workers, to Australian industry, and they are to be deplored. We have been over that, but it is the quality of the arguments that must be going on within federal cabinet within the defence and security committee of cabinet, that created the environment for those remarks to have ever been uttered. That must be the nature of the conversations that have been going on within the Coalition about the ASC being unable to build even a canoe.

If that is the attitude up there, then I can assure you all the bipartisanship in the world will not get us the result and the outcome we want. What will work is bipartisanship at the state level, sending a unanimous message from the states to Canberra about what we expect. The federal minister and the Abbott government generally have embarked on a campaign to negatively influence the Australian public's view of what has historically been a successful and buoyant ship-building industry.

We have built frigates on time and on budget. We have built submarines to an excellent standard. The problem is—and the Leader of the Opposition alluded to it himself—there has not been a continuity of deal flow. I say to the Leader of the Opposition, join with us in demanding that there be a continuity of deal flow because unless we get both the submarines and the surface ships, we will not have a viable ship-building industry. We need them both, otherwise our workers and our enterprises will fail.

Mr van Holst Pellekaan: Have you been to Canberra?

The DEPUTY SPEAKER: Order! The member for Stuart is warned a first time.

The Hon. M.L.J. HAMILTON-SMITH: Your colleagues are planning to buy those submarines in Japan. You know it and we know it. We need to stop that, so join with us and make it so instead of being given orders from Canberra to remain silent. You can come in here, vote for the motion and go away and do nothing—

Mr Gardner: We did two days of media last week.

The Hon. M.L.J. HAMILTON-SMITH: —or you can join our campaign.

The DEPUTY SPEAKER: Order, member for Morialta! You are warned for the first time.

The Hon. M.L.J. HAMILTON-SMITH: When the Collins class submarines were built in South Australia between 1993 and 2003, 80 per cent of the materials and labour were sourced in Australia. The Air Warfare Destroyer Alliance is on track to meet the mandated 50 per cent Australian content target written into the project. There were approximately 1,750 Australian suppliers, products and services to the air warfare destroyer build project and 1,250 Australian suppliers to the Through Life Support program for the Collins class submarine. The South Australian government has reaffirmed its support for our workers at the ASC and all other South Australians employed in the defence industry. We strongly support local businesses.

The Premier has mentioned a few. There are others, namely Ferrocut, which provides plate steel-cutting services; OneSteel in Whyalla; Ottoway Engineering, which provides pipe fabrication; Williams Laser Cutting, which supplies air-conditioning ducts; Thermal Ceramics for passive fire and acoustic protection; MG Engineering for the mast block construction; Century, which has supplied fittings; SAGE Automation, which has partnered with Navantia to build 500 control panels forming part of the AWD's integrated platform management system; Ultra Electronics Avalon Systems, which has partnered with Jenkins Engineering Defence Systems in the ITT EDO reconnaissance project and will supply the multipurpose digital receiver and sonar systems; Acacia Research, which is providing assistance to Ultra with sonar integration.

You can come in here and talk about jobs. You can whinge, 'Oh, there need to be more jobs.' Well, how about supporting the jobs in these companies and these businesses by actively—

Mr Marshall: We are.

The Hon. M.L.J. HAMILTON-SMITH: Well, I have not heard much from you.

The DEPUTY SPEAKER: Order!

The Hon. M.L.J. HAMILTON-SMITH: We need to hear, we need strong voices.

The DEPUTY SPEAKER: Order! It is unparliamentary to interject or respond to interjections.

The Hon. M.L.J. HAMILTON-SMITH: We need to hear more from those opposite. We have not heard enough. We need South Australian MPs who are on South Australia's side. The Premier has mentioned that there are a number of problems with what we have been told. For a start, we have three great friends in the region—we have many friends in the region, but three standouts—the United States, Japan and China. Commentators are now raising questions about why we would frustrate China by entering into an arrangement to build submarines in Japan, knowing full well that there are some difficulties between those two nations. And I remind members in the house that China is by far and away our major trading partner. It is not me saying this, it is commentators around the country who are saying so publicly.

It would be much more sensible to have a relationship with a European submarine builder which was building in Australia, but I must say it should not bother us whether we build a Japanese, Swedish, German, or French submarine—whatever. I do not really care about the model, as long as the work and opportunity is here; as long as it is done here. I do make the point that you have to be very careful about the strategic relationships you enter; and these are 30 to 40-year relationships.

If you said to people in 1914, 'We want you to develop a defence acquisition strategy that goes for the next 40 years,' it would have been 1954 by the time that arrangement came to an end. What happened between 1914 and 1954? Two world wars, the Great Depression, and the advent of nuclear power. And you are now trying to tell us what is going to happen in the next 40 years? You cannot tell. You have to be very careful about these relationships you enter into over the long term, and that is before we start to consider whether we are going to put our sailors to sea in submarines which, if they are built overseas, may result in them being dependent on that nation for their support.

We had problems with the Oberon-class submarine during the Falklands War; we had a problem with the Mirage fighter aircraft during the Vietnam War; we had a problem with the Carl Gustav anti-tank weapons where countries refused for one reason, or were unable to support us for various reasons, and those capabilities foundered. Be very careful before you make your defence force dependent on an overseas manufacturer.

We are being told by the federal government that South Australia is not good enough to do things. First of all, we were told we were not good enough to produce motor vehicles, and that industry was demolished. Then we were told we were not good enough to produce radio and television—the ABC has been cut. Then we are told we are not good enough to have science here—the CSIRO has been cut. Now we are being told we are not good enough to produce defence products here and we have a Liberal opposition who, it would appear, wants to have some sort of a moratorium on unconventional gas and wind energy—

Mr Marshall: Rubbish!

The Hon. M.L.J. HAMILTON-SMITH: Well, it is in your policy to have a moratorium on wind energy.

The DEPUTY SPEAKER: Order!

The Hon. M.L.J. HAMILTON-SMITH: You now want to have arrangements put in place—

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. M.L.J. HAMILTON-SMITH: Just listen to the mining and energy industry and what they are saying. So, 'We are not supportive of unconventional gas; we are not supportive of wind; we are not supportive of science; we are not supportive of the ABC; and we are not supportive of the auto industry. What are we supportive of?' Where are these jobs going to come from? What is the plan?

The DEPUTY SPEAKER: I bring the minister back to the motion before the house.

The Hon. M.L.J. HAMILTON-SMITH: I point out that I am picking up the points that the Leader of the Opposition raised in his address. He went on about jobs, and I am simply asking: what is his plan? Where are the jobs going to come from? Because if you are not supporting this, what are you supporting?

Mr Marshall: We are.

The Hon. M.L.J. HAMILTON-SMITH: If you are not out there advocating with us—

Members interjecting:

The Hon. M.L.J. HAMILTON-SMITH: No, you are not advocating with us—

The DEPUTY SPEAKER: Minister!

The Hon. M.L.J. HAMILTON-SMITH: —you are not fighting the fight.

Members interjecting:

The Hon. M.L.J. HAMILTON-SMITH: You are saying the words, but you are not taking the action.

Members interjecting:

The DEPUTY SPEAKER: He is not sitting down to give you a turn. He is going to sit down while you all listen to my rulings on this.

There being a disturbance in the strangers' gallery:

The DEPUTY SPEAKER: Would you mind escorting that man out. We would like you all to continue the debate in silence.

The Hon. M.L.J. HAMILTON-SMITH: I will talk about Team Australia because I think it is a good idea; I think it is something the Coalition had initiated which resonates. But do not expect Team Australia to get out there and win games on the paddock if the captain and coach are saying to them, 'You're not good enough.'

If you are saying to your industry, your businesses and your workers, 'You aren't good enough to do this; you can't build ships and submarines; you're not capable of making motor cars—we're not up to it. We need to go and buy these things from overseas because you just simply aren't good enough,' do not expect the team to go out and win the games. Do not expect Team Australia to be a team of champions if the captain and the coach are not backing them up saying, 'Yes, we can.'

I put this point to you: we have built submarines and surface ships, and we can do it again, but we need a customer who provides a regular deal flow, and on that we completely agree with the Leader of the Opposition. We need that regular deal flow to include both submarines and surface ships.

All the points the Premier made have been confirmed by experts around the country. There is time to go through a full tender process, look at all the options and get it right, and to have a submarine in the water before 2026 when the Collins begins to go out of life, before we even look at extending the life of Collins. There is time. There is the industry capability and the skilled workforce to make this happen. It is simply crucial that we make the right decisions about the submarine.

The whole furphy that, because of budget problems in Canberra, we need to rush off and buy submarines overseas because we will save money has been completely dispelled by experts everywhere. We will lose money by buying submarines overseas. There is no off-the-shelf product ready. It is high risk and, not only that, the sums produced so far have failed to include the payback through income tax, through GST, through revenues, through wages, through company tax and all the other benefits as that layer of complexity through the economy that is provided by a vibrant defence industry delivers benefits to our economy in real dollar terms. It is not correct to say that we are in a rush, it is not correct to say that we will save money by buying overseas, and it is not correct to say that our industry and our workers are not up to it.

I do not know if the Liberal Party is listening to the people of South Australia, but I can tell you that others are. This is one of the number one issues out there. It is bigger than submarines and ships; it is about whether leaders care about jobs. These are the jobs not only of today but these are the jobs of 10 year olds today because in 12 years' time they will be finishing university and they will

be saying to their parents, 'I want to be an engineer, but I have to go to Sydney or Melbourne or Japan to get a job.' That is not the sort of future we want—and we are doing something about it.

Unless there is one hell of a political argument put up over the next six to nine months, this decision is going to go the wrong way. It is not about what we do in here today. It is not about members opposite coming over here and sitting down so they do not have to go out to the media and explain why they voted against it. What it is about is every single one of us, federal and state, sending a message to the Coalition government that they must stop this frolic they are on about building a submarine in Japan or anywhere overseas.

A simple commitment to building both the submarines and the surface ships here would end all this. We do not care about the design—it could be Japanese, it could be German, it could be Swedish, it could be French; we do not care. The Navy can decide that; they are the experts. The commonwealth can make that decision. They then need to sit down and determine how we will make that work because you know what happened with the ANZAC frigates: the first two or three frigates ran over time and over budget, just like the air warfare destroyer, and the last six or seven came in under budget and on time, and it was an extraordinarily successful program. Once you commit to building the submarines and frigates here, you will get a competitive industry, and it will work and it will be a huge success.

I just make this point in conclusion: there is an alternative. If the Coalition decides to build these submarines overseas, I can tell you that all hell will break loose in this country because state governments here and in Victoria, in Western Australia and in New South Wales, who are our partners in shipbuilding, will not accept it and neither will the people of South Australia. There will be a solution, and that will involve changes of government because, if one side of politics is going to go to the next election arguing that we should export 120,000 man-years of work and the other side of politics is going to go to an election arguing that we should keep that work in Australia, I think I know what the Australian people will decide about that argument.

The Australian people are not silly. They know when a government is on their side and they know when a government is selling them out, and they know that at the federal and at the state level. So, let there be no doubt that if this decision goes the wrong way it will not only be the Coalition that pays the price—it will be the Liberal Party, both state and federal, around this country, because they will have signalled to the people of Australia that they are not on our side. There is only one way for this decision to go: these 12 submarines and all the surface ships must be built in our great country, based in Adelaide, and we must not be sold out.

Mr VAN HOLST PELLEKAAN (Stuart) (12:44): I rise to speak to this motion. I appreciate the fact that the Premier has brought it forward, and I wholeheartedly agree with it, as does the Leader of the Opposition and as do my colleagues. We wholeheartedly agree with the words in the motion. I will get to them in a minute, but it is important to point out that it really is just a stunt. As the Minister for Defence Industries has clearly outlined, it is really just an attack on the Liberal Party. That is what this is being used for, and that is completely inappropriate for such a serious issue.

This is a continuation of the government trying to use the blame game. Both the Premier and the Minister for Defence Industries have talked about the federal government stopping the car industry by saying that we cannot build cars here. General Motors decided that they could not build cars here. They actually said, 'It would not have mattered how much money the federal government gave us, we would have had to go anyway.' It is a public quote.

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr VAN HOLST PELLEKAAN: A public quote, Deputy Speaker. This is just about the government trying to use this as a stunt and trying to use it as a blame game, as they did on 5 March last year. A very similar motion was used on 5 March last year, but there was one key difference. Last year, the member for Waite thought a very similar motion was a stunt. He thought it was just politics and talked against it. I invite people to check *Hansard* of that date. Today, he thinks it is a good idea. Today, he is on the other side, so today he thinks the stunt is a good idea to pursue.

Let me just say that we support the motion. We support the motion even though we know that it is being used as a stunt. Let me go through the words the Premier has used:

(a) condemns the remarks of the commonwealth defence minister that he would not trust the Australian Submarine Corporation (ASC) to 'build a canoe';

Of course, that is blindingly obvious. It was a dreadful thing to have said, and I bet nobody regrets it more than the defence minister does. Nobody would regret that decision more than he does. While the Minister for Defence Industries says that he has not heard it, the Leader of the Opposition was extremely strong in his rebuke as soon as that remark was made. Publicly, privately, in our meetings, in the media and everywhere he went last week he was incredibly strong about rebuking that remark. We agree that it deserves to be condemned, and I bet that the Minister for Defence, David Johnston in Canberra, agrees too. The motion continues:

(b) reaffirms its support for ASC workers and all other South Australians employed in the defence industry;

Of course we do. We know how important this is. We understand the issues about defence industries. It is actually a much bigger industry than the automotive industry. It is a dreadful shame that we have lost the automotive industry, but this is an even bigger problem that faces us and we understand that.

There are 25,000 or 27,000 people with families, children, mortgages and other commitments working in the defence industry, and nearly 3,000 of them are working directly on shipbuilding and submarine sustainment. We understand how very important that is, and we took a package of policies to the last election that would have supported enhanced employment and enhanced business growth. Unfortunately, we cannot put those into place, but our support for those workers has always been there and will never, ever change. The motion also states:

(c) demands that the Abbott Liberal government upholds its election commitment to build the 12 future submarines in Adelaide;

Of course, that is what we want, and I would say that anywhere. That is exactly what I want, and I am hoping and working, like the rest of my colleagues and I believe members of the government are doing so as well, to convince the federal government that that is exactly what should happen. There is no disagreement about that here. It continues:

(d) notes that Australians should have the right to trust the word of its leaders—

and this is a very important point. The Premier has said:

(d) notes that Australians should have the right to trust the word of its leaders when it comes to decisions that affect the national security of this country.

Why on earth did the Premier put in that last bit? Why not just stop with 'Australians have the right to trust their leaders'? Why did he say 'when it comes to issues that affect national security', which of course have nothing to do with the Premier or with the state Labor government?

I wonder why he decided to leave those words out. Would it be because of the promise of 100,000 new jobs that is not going to be fulfilled? Would it be because of a promise that there would be no job losses from the privatisation of the forests in the South-East? Would it be because the government promised the police Recruit 300 program and has failed there as well? Would it be because the government promised not to tax the family home, yet has introduced an increase to the emergency services levy and that increased money goes straight to Treasury? Not one extra dollar goes towards the emergency services sector.

Would it be that maybe that is why the Premier added that last bit, that this motion only refers to leaders and their decisions that affect national security? All leaders should be responsible for what they say. That last bit should not have been added; however, with the last bit in, we agree to the motion as well. I would have preferred that it was not there, but we agree with every single part of this motion.

So, anybody who comes in here and tries to pretend that it is not true is just making stuff up. Anybody who comes in here and tries to pretend that they do not know that the Leader of the Opposition has been out doing exactly this work very publicly for a long time is just making stuff up. Anybody who pretends, and particularly a person who has not done so himself, that the Leader of

the Opposition has not gone to Canberra to advocate on shipbuilding and submarines or that the shadow minister for defence industries has not done it, and anybody who pretends that that is not happening is just making stuff up.

The Minister for Defence Industries should do exactly the same thing. The Minister for Defence Industries should go to Canberra and do what the leader has done and what I have done, to try to do everything possible to represent the workers of South Australia in this very important industry. We agree with every single point of the motion, and anyone who tries to pretend differently is playing politics. Anyone who says that there is any difference with regard to the government and opposition in our opinion on this motion, that person or that group are actually the ones who are playing politics with this issue.

Where are we really with submarines at the moment? It is an incredibly important issue; we understand that. We want the 12 submarines and future frigates to be built here—of course we do. That is exactly what we want, and I know the Minister for Defence Industries understands this. He knows defence better than anybody else in this house. Step one: the Navy must get what they want. That is the absolute highest priority. Defence says, 'These are our priorities, these are our specs, these are our quantities—this is what we need.' That is first of all.

Once those priorities are identified, we can only buy what we can afford. It is an unfortunate truth: we can only buy what we can afford. We cannot break that fact of nature. Then, after that, where do we go? We want as much to be built, bought, employed, used and to come from South Australia as possible. We understand that there are other states in Australia that deserve to share some of that work, but we in the state opposition, just like the state government, want as much of that work as possible to happen in South Australia. There is absolutely no doubt about that.

We need the right products at the right price and as much of it as possible coming from South Australia. We need this because it supports our economy for decades to come. It is a gigantic, huge contract, but it is not just about the purchase price. It is actually about the next 20, 30 or maybe more years of sustainment work that can be done in South Australia. This is about trying to set our economy up for decades to come. We understand that, that is why we are fighting for it, and that is why we support this motion.

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (12:54): I thank all members for their contributions to the debate. The test for all members of this house is what we now do in the public advocacy for this most crucial issue for the future of our state. We look forward to seeing all members of this house raising their voice and raising their efforts to ensure that we achieve the correct outcome for not only our nation's defence but South Australia's future prosperity.

Motion carried.

Bills

ANANGU PITJANTJATJARA YANKUNYTJATJARA LAND RIGHTS (MISCELLANEOUS) AMENDMENT BILL

Introduction and First Reading

Received from the Legislative Council and read a first time.

Standing Orders Suspension

The Hon. S.E. CLOSE (Port Adelaide—Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for the Public Sector) (12:55): I move:

That standing orders be so far suspended as to enable the bill to pass through its remaining stages without delay.

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

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

Motion carried.

Second Reading

The Hon. S.E. CLOSE (Port Adelaide—Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for the Public Sector) (12:55): I move:

That this bill be now read a second time.

This bill seeks to do two things. The first is to provide the minister responsible for the administration of the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981 (known as the APY act) with a new power to suspend the executive board and appoint an administrator, exercisable on any ground the minister thinks fit.

The second aim is to make clear in the APY act that the Independent Commissioner Against Corruption (the ICAC) and examiners and investigators under the Independent Commissioner Against Corruption Act 2012 do not require permission to enter the APY lands if performing a function under that act. Strong administration is necessary if the APY is to operate as an institution that is effective and accountable to the communities they represent.

The APY act has served as a beacon in Australia for Aboriginal people and their hard fought struggle to regain land rights and cultural independence. The APY governing body, the APY Executive Board, is elected to make decisions for and on behalf of the APY. It must represent APY community interests at all times.

However, the APY has been through a period of significant instability in the past few years. Since 2010, there have been seven different general managers. This period has shown that difficulties can arise in APY governance that are of a more systemic nature and may not fit clearly within the limited grounds for ministerial intervention currently provided for in the APY act. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The current powers may be exercised only where certain failures of a specified kind have occurred on the part of the Executive Board or individual Board members. If one of the specified failures occurs, the Minister can issue a formal direction to the Executive Board to take remedial action. Only if the Executive Board then fails to comply with that direction can the Minister suspend the Executive Board and appoint an Administrator.

However, when a problem is less specific, and is of a broader, more intractable kind; there may be no particular recourse under the current APY Act.

Strong self-government depends on sound mechanisms to ensure accountability to those whose interests are represented. This means having effective checks and balances that allow all governance problems to be identified and rectified.

Ultimately, robust self-government by, and for APY, is essential to realising the vision for Anangu that underpins the APY Act.

For this reason, this Bill proposes a broad power on the part of the Minister to intervene where other options may not work. The amendment would add a discretionary power to the existing checks and balances available to safeguard the integrity of APY governance and its accountability to communities.

In relation to the second main amendment proposed by this Bill, I consider that the range of public administrative work undertaken on the APY lands is such that it is appropriate to put beyond doubt that officers of the new ICAC have scope to enter the lands without giving notice or having to apply for a permit. I propose the inclusion of an express provision in the APY Act to ensure that this is made clear.

I consider the current situation warrants these immediate measures, pending further amendments to the APY Act next year to change the eligibility requirements for membership and the electoral system with the aim of ensuring enhanced Executive Board capacity and better representation of Anangu.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

3—Amendment of section 4—Interpretation

This clause inserts a definition of 'Independent Commissioner Against Corruption' into section 4 of the principal Act.

4—Amendment of section 13O—Minister may suspend Executive Board

This clause substitutes a new section 13O(1) into the principal Act, allowing the Minister to suspend the Executive Board of Anangu Pitjantjatjara Yankunytjatjara for any reason he or she thinks fit. The new subsection will expire on the third anniversary of its commencement.

The clause also requires an Administrator appointed under the section to provide reports to both Houses of Parliament on the operations of the Administrator and APY during any period of administration.

5—Amendment of section 19—Unauthorised entry on lands

This clause inserts new paragraph (bb) into section 19(8) of the principal Act, allowing the Commissioner, examiners and investigators under the *Independent Commissioner Against Corruption Act 2012* to enter the lands without the permission of Anangu Pitjantjatjara Yankunytjatjara.

Debate adjourned on motion of Mr Gardner.

Sitting suspended from 12:59 to 14:00.

STATUTES AMENDMENT (SUPERANNUATION) BILL

Assent

His Excellency the Governor assented to the bill.

CIVIL LIABILITY (DISCLOSURE OF INFORMATION) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

INDEPENDENT COMMISSIONER AGAINST CORRUPTION (MISCELLANEOUS) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

The SPEAKER: Are there any more—

The Hon. A. Koutsantonis interjecting:

The SPEAKER: The Treasurer is called to order. And I thank the Deputy Speaker for writing in the names of every electorate in her pleasant handwriting, providing me with the morning's warnings.

Parliamentary Procedure

ANSWERS TABLED

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

PAPERS

The following papers were laid on the table:

By the Speaker—

District Council of Barunga West Annual Report 2013-14

By the Minister for Disabilities (Hon. A. Piccolo)—

TAFE SA—Annual Report 2013-14
Torrens University—Annual Report 2013

By the Minister for Forests (Hon. L.W.K. Bignell)—

South Australian Forestry Corporation Charter

By the Minister for Manufacturing and Innovation (Hon. S.E. Close)—

Coast Protection Board—Annual Report 2013-14
Marine Parks Scientific Working Group—Annual Report 2013-14

By the Minister for Transport and Infrastructure (Hon. S.C. Mullighan)—

Regulations made under the following Acts—
Heavy Vehicle National Law (South Australia)—Heavy Vehicle (Mass, Dimension and Loading) National Amendment Regulation—No.3

Ministerial Statement

WORK HEALTH AND SAFETY ACT

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:04): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.R. RAU: I wish to inform the house of my intention to introduce a bill into the next parliament, as soon as it returns, to amend the transitional provisions of the Work Health and Safety Act 2012. The amendment will be to insert a provision that will allow the minister responsible to extend the time limit for proceedings under the now repealed occupational health, safety and welfare act of 1986.

I have recently become aware of a technical error in the filing of two complaints under the OHSW act. The nature of the defect means that it is not possible to correct this error by simple amendment of the complaints. The only way to continue with these prosecutions is to file fresh complaints, making the same allegations with the defect corrected. However, the statutory time limit under the legislation has since expired on each of these matters which prevents the prosecution from proceeding under the existing complaint.

I am advised that there is no other means of resolving the issue—by an application made to the court, by administrative means or by regulation. The time limits can only be relieved by statutory amendment, and that is why I will be seeking to amend the act in the long term. No other cases but these two will be affected by the amendment.

The two prosecutions relate to serious workplace incidents. One incident resulted in a fatality and the other resulted in serious head injuries to the employee. For these prosecutions not to proceed due to a technicality is unacceptable. It is my view that it is important that these matters have the opportunity to proceed to a judicial determination on the merits of the case.

I have spoken with one member of the family of the person fatally injured and I have attempted to contact another to advise him of my intention to try to amend the act at the earliest possible time. Attempts are still being made to contact the affected injured person. Workers have the right to be safe and employers who do not provide safe workplaces should be investigated and, if appropriate, prosecuted for failing to meet their obligations. One workplace death or injury is too many and we should be working together to do all we can do to prevent these occurring.

Along with this amendment to the act, next year I will be considering possible changes to the operations of SafeWork SA. Following the successful passage of the Return to Work Bill earlier this year, I believe the next phase in the process is to further strengthen our work injury prevention measures.

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

Mr ODENWALDER (Little Para) (14:08): I bring up the 16th report of the committee, entitled Subordinate Legislation.

Report received.

PUBLIC WORKS COMMITTEE

Ms DIGANCE (Elder) (14:09): I bring up the 509th report of the committee, entitled Lightsview Transitional Support Apartments.

Report received and ordered to be published.

Question Time

SA WATER

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:09): My question is to the Treasurer. Can the Treasurer outline why he stated yesterday that SA Water assets are based on replacement costs, when former CEO of ESCOSA, Dr Paul Kerin, has said previously that contributed assets should not be included, as they have already been paid for?

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business) (14:10): Whenever you are upgrading infrastructure, it is important that you factor in profits to make sure you can replace those assets, otherwise you just run them down and have an asset that doesn't function. For example, let's say you are running a Wokinabox. It is important to keep things like the door locked, fixing a door or paying your staff wages. You have to budget for all these things. It is important to always keep in place a level of return on investment to always upgrade infrastructure.

The idea that you pay for infrastructure once and it lasts forever without any reinvestment is silly. Everyone from the private sector knows that whenever you have any private infrastructure you always value that asset on the basis of eventually one day upgrading or replacing it. Is the Leader of the Opposition really trying to tell us that once you invest in SA Water, or in a road or any other piece of public infrastructure, that's it? Is that what he just said? Did he just tell the parliament that he believes for all infrastructure, once you invest in it, that is the final cost? Well, of course it isn't, and SA Water is no different.

SA WATER

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:11): Supplementary: can the Treasurer comment on Dr Paul Kerin's comments in his evidence last Friday that contributed assets which have already been paid for were excluded from the regulated asset-based valuation? If there has been a changed valuation methodology, can the Treasurer outline when that changed methodology came into place?

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business) (14:11): I've got to say that from reading his comments to the committee, as I said to the parliament yesterday, I felt that Mr Kerin's testimony was confused. As I said—

Mr Tarzia: He's an expert.

The SPEAKER: The member for Hartley is called to order.

The Hon. A. KOUTSANTONIS: The arrangements for pricing water in South Australia have met and continue to meet all the appropriate regulatory requirements and are consistent with the National Water Initiative. The government has followed the rule book, and we have followed the rule book in applying accepted regulatory practices to SA's water prices since 2004-05. It is my opinion that Dr Kerin's evidence to the Budget and Finance Committee was not that of an independent regulator; it was that of a partisan political attack on the Labor government. He just did not—

Mr Knoll interjecting:

The SPEAKER: The member for Schubert will stop bellowing, 'He is one of yours.' And he is called to order. The Treasurer.

The Hon. A. KOUTSANTONIS: Dr Kerin simply didn't like the election outcome, and he says so in his resignation letter. There are many people who are disappointed with the election outcome. There are many people who look at the election outcome and they are confused; they don't know how it happened. They are not quite sure why it happened.

Ms REDMOND: Point of order on relevance: the election outcome is hardly an answer to the question asked by the Leader of the Opposition.

The SPEAKER: Yes, the Treasurer will return to the substance of the question.

The Hon. A. KOUTSANTONIS: ESCOSA conducted an inquiry each year from 2004-05 to 2010-11 into the pricing process, to ensure that pricing was consistent with COAG principles. I point out to the house that from 2004-05 to 2007 those COAG principles were endorsed by the then Howard government. The regulatory asset base is included in this process and is set in accordance with accepted regulatory principles. It is commonplace for the practice of a regulatory asset base to be set at the beginning of an independent economic regulation to minimise the impacts of changing methods. It has been done for a range of industries around Australia and, as I told the parliament yesterday, in Victoria, for example, the Minister for Water also sets the regulatory asset values for water entities at the start of independent economic regulation.

Our water pricing policies are designed to ensure fair and equitable service delivery for all South Australians irrespective of where they live, so I am amazed that there are country members in this parliament who are sitting quietly while the Leader of the Opposition is up attacking the very processes that give those country members postage price—

Members interjecting:

The SPEAKER: The member will be seated while I warn the member for Stuart for the second and final time, his having acquired warnings this morning. I should not have called the member for Schubert to order, I should have warned him a first time.

Mr GARDNER: Point of order, Mr Speaker: 98, the minister is clearly debating.

The SPEAKER: I will listen carefully to the Treasurer.

The Hon. A. KOUTSANTONIS: Thank you very much, Mr Speaker. Our water pricing policies are designed to ensure a fair and equitable service delivery for all South Australians, irrespective of where they live. I think it is important that the house understand that we are in a state that has lower rainfall than the rest of the country, that we are the driest state on the driest continent in the world, and the cost of that infrastructure is important. If we bring back real pricing of water delivery to regional and rural communities, they will see dramatic increases and they will be at the mercy of the budget process.

As I said to the house yesterday (and I notice that I am running out of time), under the previous government we suffered a lack of significant investment in water infrastructure but we had one aspect in common—that the asset base for the time was set out on accounting values based around replacement costs. These values are calculated by SA Water, as they still are.

Ms Chapman interjecting:

The SPEAKER: The deputy leader is warned.

SA WATER

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:16): Will the Treasurer table for the parliament the methodology that Treasury has used to determine the regulated asset base for SA Water?

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small

Business) (14:16): Rather than waste the parliament's time, why doesn't the Leader of the Opposition simply ask the Hon. Rob Lucas because he used to do it when he was Treasurer? I have to say these fake crocodile tears—

The SPEAKER: Minister, all crocodile tears are fake; that's the nature of them.

The Hon. A. KOUTSANTONIS: Yes, sir. I think that was my point, but thank you for being the independent umpire, invisible in the house, just interrupting every now and then when it is important to bring the house back into order.

These values were calculated by SA Water and they still are, and they form the basis for the regulatory asset base first used in 2004-05 at the beginning of the transition to regulation. Since we took government, we have steadily worked to improve the integrity and transparency of water pricing. ESCOSA is required under its act to transparently explain the methodology that they use in determining the values, such as the regulatory asset base and the cost of capital, and using them to determine an appropriate revenue cap for SA Water.

Mr Marshall: Will you table it?

The Hon. A. KOUTSANTONIS: Hang on a second. It is in stark contrast to the efforts of the former government. Given that the National Competition Council in 2001, when the Liberal Party was last in office, noted that the transparency of the pricing process in South Australia was a concern, it is this government that undertook the inception of a transparency statement, and that process began in 2004-05 and commenced the transition towards the regulatory practice we have in place now. Since then, the regulatory asset base for SA Water has been set in accordance with accepted regulatory principles. Furthermore, SA Water's practices in accounting for the asset base are properly audited.

Mr Marshall: Are you going to table it?

The Hon. A. KOUTSANTONIS: Hang on a second. When we transitioned regulatory powers to ESCOSA—transitioned regulatory powers to ESCOSA—in 2013-14, we looked carefully again at the value and the method for calculating the regulatory asset base.

Mr Marshall interjecting:

The Hon. A. KOUTSANTONIS: Hang on a second. With a view to ensuring that the revenue pricing impacts were minimised through this period of change, we determined that all assets as of 1 July 2013 would be captured in the initial regulatory asset base and that any new assets would be incorporated to the extent that ESCOSA determined that they are prudent and efficient. That is, ESCOSA will determine that they are prudent and efficient—not the government.

Consistent with the advice received from ESCOSA, the government adopted the line in the sand approach which involves setting the parameters that underpin price determination such that they generate prices, or returns, that are consistent with expected outcomes at the time. The initial regulatory asset base is now rolled forward on an annual basis reflecting new investments, as it should; depreciation, as it should; and new asset disposals, as it should.

Mr Marshall: Are you going to table it?

The Hon. A. KOUTSANTONIS: Yes, hang on a second. This approach provides a number of important benefits for the regulated businesses and consumers, including price stability. Price stability—very important, sir—business investment certainty and administrative simplicity. If we undervalue our regulatory asset base we risk undermining the ability to replace and improve our water infrastructure, and we risk not offering an attractive prospect to potential investors. If either of those risks are realised, we will inevitably have to account for the last minute full liability the government spent to prop up the asset base. Mr Speaker, the opposition can't have it both ways.

COUNTRY CABINET

Mr HUGHES (Giles) (14:21): My question is to the Premier. Can the Premier inform the house about how country cabinet allows the government to better understand issues facing those of us in the state's regions?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:21): The country cabinet initiative, which was rightfully put back—

Mr GARDNER: Point of order, sir.

The SPEAKER: Point of order.

Mr GARDNER: Standing order 97: I think that question contained argument that the government might better understand matters.

The SPEAKER: No, I do not uphold the point of order.

Mr Whetstone: 'It might.'

The SPEAKER: Contingent—it might.

The Hon. J.W. WEATHERILL: The country cabinet initiative, which was rightfully put back on the agenda by the Minister for Regional Development, has, I think, been a very beneficial addition to the way in which this government has gone about its business during the course of this year. We have had three country cabinets now: in the Riverland, Adelaide Hills and the West Coast, and I am pleased to say that we will be holding a further nine in the next three years.

This process is much more than hosting a cabinet meeting away from Adelaide; it's about meeting people, talking to businesses—

Ms Redmond interjecting:

The SPEAKER: The member for Heysen is called to order.

The Hon. J.W. WEATHERILL: —listening to their concerns and trying to find solutions that work for local communities. Solutions like relocation of the Berri Bowling Club which saw the government agree to the sale of crown land to the local council—an issue that had been unresolved for some time; or the renewing of the Riverland pilot in Renmark—an initiative that will activate business networks and create employment in the region, which can be replicated across other regional areas. It is also about my cabinet coming away with a greater understanding of the issues facing regional communities.

Two important events on the country cabinet schedule are the community barbecue and forum and the community and business leaders' luncheon. More than 1,200 people have attended these events this year. At the community barbecue and forum, locals get the opportunity to share a sausage with a cabinet minister—that's a rare treat—or an oyster, if you happen to be on the West Coast.

Members interjecting:

The Hon. J.W. WEATHERILL: No, in these straitened times, it's just one sausage. We cut it in two! Can I say the highlight is the cabinet Q&A session where all the cabinet ministers line up, and often there will be a local member of parliament there—except, of course, in the Adelaide Hills where we didn't, in fact, have the actual member for Kavel; we just had his image looking down on us.

An honourable member: A very young-looking one.

The Hon. J.W. WEATHERILL: That's right.

An honourable member: Looking beautiful.

The Hon. J.W. WEATHERILL: He did.

An honourable member: An omnipresence.

The Hon. J.W. WEATHERILL: The omnipresent—the eyes of Dr Eckleburg looking down on us as we were carrying out our work. Cabinet also visits businesses in the regions. Of course, in the Adelaide Hills I met with Hills Cider and the Ceravolo family—

Members interjecting:

The Hon. J.W. WEATHERILL: Ceravolo? They produce very good cider. In Streaky Bay, along with minister Close, I met with Renae and Sophia Edmunds from Streaky Bay Marine Products, and they have a great story about exporting to the Chinese market. We are also, where we can, collecting and resolving issues as we go, but we commit to get back to them within 90 days. There will be a report released in the next fortnight for the Adelaide Hills, and we have already released our Renmark report.

We also provide grants of $50,000 per community through the Fund My Idea program, and almost 6,000 people voted for their favourite submissions in the Adelaide Hills alone. Today, I can announce that two Adelaide Hills organisations will share the $50,000 grant. The Rockit Performing Arts Group will receive a $31,000 grant to install a sprung floor in the centre and purchase a selection of therapy equipment for special needs children.

The second grant of almost $19,000 goes to extend the Fox Creek Mountain Bike Trail and allow for the construction of an intermediate course—two great initiatives, submitted by locals and voted on by more than 6,000 people. I also understand that the Minister for Regional Development will soon be travelling back to the Riverland to launch one of the successful Fund My Idea programs at St Joseph's School.

The country cabinet initiative is here to stay. We look forward to the 2015 agenda. I know expressions of interest have already been put in by the member for Mount Gambier, and the member for Stuart on behalf of Peterborough, and we are certainly very keen to travel to those regions.

The SPEAKER: Alas, the Premier's time has expired. The leader.

SA WATER

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:25): My question is to the Treasurer. Has the Treasurer read the material prepared by ESCOSA on how to reduce the asset base, which Dr Kerin said is conservatively overvalued by $2 billion?

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business) (14:26): Sir, I am sorry, I don't accept the advice of Dr Kerin, because—

Members interjecting:

The Hon. A. KOUTSANTONIS: Yes, okay—I don't accept the advice of Dr Kerin—

Mr Marshall: No, this is ESCOSA's advice.

The SPEAKER: The leader is warned—

The Hon. A. KOUTSANTONIS: I know you're having a bad day—I know. It's okay, it will be over soon. It will be over soon, don't worry. You will have plenty of time—

The SPEAKER: The Treasurer is warned for failing to address his remarks through the Chair.

The Hon. A. KOUTSANTONIS: I apologise, sir. The Leader of the Opposition is having a bad day, sir, and I am just telling him it will be over soon.

The SPEAKER: The Treasurer is warned for the second and final time.

The Hon. A. KOUTSANTONIS: Sir, I do not accept the advice of Dr Kerin. He is acting—

Members interjecting:

The Hon. A. KOUTSANTONIS: He is acting in a partisan political manner. His resignation letter spells out his disappointment at the election of this government. He was hoping for the election of a Liberal government; it did not occur, and I take—

Mr Tarzia interjecting:

The SPEAKER: The member for Hartley is warned.

The Hon. A. KOUTSANTONIS: —all his comments in that light.

Mr Pederick interjecting:

The Hon. A. KOUTSANTONIS: Well yes, I do, because it is like taking advice, Mr Speaker, from the Leader of the Opposition: it is covered in bias, as is Mr Kerin's. So, I have to say, Mr Speaker—

Mr Marshall: Did you read ESCOSA's advice?

The SPEAKER: The leader is warned for the second and final time.

The Hon. A. KOUTSANTONIS: Mr Speaker, the leader can verbal me all he likes. The reality is that Mr Kerin acts in a partisan manner. He has made a partisan statement. His resignation letter was partisan and his entire, I believe—

Mr MARSHALL: Point of order—

The SPEAKER: No, I don't uphold the point of order.

The Hon. A. KOUTSANTONIS: And it just keeps on getting worse for him, Mr Speaker. So no, I do not accept his advice—

The SPEAKER: The Treasurer is very close to departing the chamber.

Mr Marshall: He has never been chucked out.

The SPEAKER: No, it's true, he hasn't been—

Mr Marshall: He got four warnings yesterday.

The SPEAKER: He got four warnings and two calls to order, I believe.

Mr Marshall: So, how does that work? Do I get four warnings?

The SPEAKER: Does the leader have a supplementary?

WATER PRICING

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:28): Has your department done any modelling to look at the savings that South Australians would have on their water bills if you revalued SA Water's asset base down by $2 billion?

Mr Pengilly: Come on, Jay, help him out.

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business) (14:28): Well, Mr Speaker, this is a—

The SPEAKER: The member for Finniss is called to order.

The Hon. A. KOUTSANTONIS: —very interesting question. I wonder, perhaps—

Members interjecting:

The Hon. A. KOUTSANTONIS: —if we should do a body of work for the benefit of the house and the Leader of the Opposition on the impact of Dr Kerin's real-price water settings and its impact on country water users. Perhaps, on the basis of the question the Leader of the Opposition has just asked, Mr Speaker, we should do that work and mail it—we will mail it directly to all country consumers about the Liberal Party's bold vision for new price water determinations. Perhaps we can let every country water user know the Leader of the Opposition's secret plan to increase water prices, Mr Speaker.

The SPEAKER: Point of order, member for Finniss.

Mr PENGILLY: I question whether the Leader of the Opposition and any plans he may make are relevant to this question. I ask your advice.

The SPEAKER: No, I think it is entirely germane, if slightly argumentative.

The Hon. A. KOUTSANTONIS: Mr Speaker, I accept the challenge of the Leader of the Opposition; I will do the modelling on real-price water delivery and what that means for regional

users. I am glad that the Leader of the Opposition has asked me to do that for the house, and I will get back to the house as soon as possible. Thank you.

SUBS IN SCHOOLS PROGRAM

Mrs VLAHOS (Taylor) (14:29): My question is to the Minister for Education and Child Development. Can the minister inform the house how schools are using submarines to extend their STEM learning?

Members interjecting:

The SPEAKER: If I hear from either the Leader of the Opposition or the Treasurer out of order for the remainder of question time, they may be leaving the chamber together. I will also accept a motion that they be arrested and brought to the chair and made to stand alongside me. Minister.

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:30): The Future Submarine Technology Challenge, or the Subs in Schools program as it has become known, is a merging of science, technology, engineering and mathematics into a project designed to extend the capabilities of students and bring a real-world relevance to their education. Currently being trialled in about half a dozen Australian schools, of which three are in South Australia, including—

Mr KNOLL: Point of order, Mr Speaker.

The SPEAKER: Point of order.

Mr KNOLL: This information is detailed in a press release on the ASC website from 5 May this year.

The SPEAKER: Can you email it to me, and I will check it against the minister's delivery?

The Hon. J.M. RANKINE: This program is being trialled in three schools in South Australia, including Le Fevre High School, Brighton Secondary School and St Peter's Girls' School. Schools have entered into industry partnerships for advice and assistance with manufacturing components. Brighton Secondary School is working with Babcock Pty Ltd, Le Fevre High School with Australian Submarine Corporation, and St Peter's Girls' with Saab Australia.

The Subs in Schools program is sponsored by the Defence Materiel Organisation and managed by Re-Engineering Australia. It is intended that the programs, resources and materials will be rolled out more broadly to schools to run a program similar to that of the F1 in Schools challenge next year.

Year 12 students at Brighton Secondary School have recently completed the build of a fully functional model submarine that has all the elements in working order, including remote control, rudder, dive capabilities and motor propulsion. It is certainly much more complicated than building a canoe, for example. Indeed, I was at Brighton Secondary School only a couple of weeks ago, and students were extremely proud to show off their submarine. Their federal MP, Andrew Southcott, however, looked a little sheepish. Understandably, he was too embarrassed to look at the submarine and too embarrassed to talk to the students.

The skills and capabilities students are developing through this program will lead to highly-skilled STEM university pathways, including engineering, naval, electrical and systems engineering, but these students—students in the southern suburbs, students down at Port Adelaide—may never have the chance to use these skills or work in these jobs. Liberal Senator David Johnston promised the people of South Australia that the next fleet of submarines would be built here.

The SPEAKER: Point of order.

Ms CHAPMAN: Point of order: this is about the Subs in Schools program, and not what Mr Johnston has got to do with this matter. It is entirely debate and trying to inflame this matter.

The SPEAKER: I will listen carefully to what the minister has to say. Can I say the member for Schubert has not nailed the minister on this. There is a great deal of elegant variation.

The Hon. J.M. RANKINE: Thank you, sir. Thank you for your wise adjudication. Now the skills that students are learning through the Subs in Schools program are at risk of being lost. The Abbott government needs to stop sending contradictory messages to South Australian students—

Ms CHAPMAN: Point of order: the minister is now repeating exactly what I have raised; that is, this question of debate with the federal Liberal government.

The SPEAKER: If the deputy leader raises that point of order again, she will be leaving us. Minister.

The Hon. J.M. RANKINE: Thank you, sir. The Abbott government is sending contradictory messages to our students. They are paying lip-service to the value of STEM education, but then taking STEM education and job opportunities away from our young people. It is a cliché, but actions speak louder than words. The actions of the federal government tell me they don't value education and they don't value—

Mrs Vlahos interjecting:

The SPEAKER: The member for Taylor is called to order.

The Hon. J.M. RANKINE: —the jobs of South Australians. This side of the house urges the federal government to make the right decision and have the submarines built here in South Australia.

The SPEAKER: In response to the deputy leader, I thought the education minister joined up her remarks to the question relevantly.

The Hon. J.M. Rankine: Sometimes you have to listen.

The SPEAKER: The education minister is called to order.

The Hon. J.M. Rankine: Thank you, sir. Stop talking and listen sometimes.

The SPEAKER: The education minister is warned.

Ms CHAPMAN: Now the minister is telling you to stop talking. This is outrageous!

Mrs Vlahos interjecting:

The SPEAKER: Was the minister telling the member for Bragg or the Speaker to shut up?

The Hon. J.M. RANKINE: I was suggesting that, if the member for Bragg sometimes stopped talking and let someone answer the question, she might know what was going on. I can give you the statistics of the interjections if you like.

The SPEAKER: No, I don't require them. Leader.

WATER PRICING

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:35): My question is to the Treasurer. When did the Treasurer first become aware of allegations that his officials may have breached the Public Service Code of Conduct by bullying and intimidating ESCOSA officials?

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business) (14:35): I define bullying as coming into the parliament under parliamentary privilege and besmirching the good name of hardworking, dedicated public servants. You want an example of bullying? How about attacking dedicated Treasury officials who work for nothing more than the benefit of the people of this state and people who were attacked who know that they can't defend themselves? That is bullying. I would have thought at the very least, despite our differences with the opposition, he would have stood with us and defended those public servants who can't defend themselves. They can't come in here and defend themselves.

Ms CHAPMAN: Mr Speaker, point of order: there is a very simple question—

The SPEAKER: No, I know what the question is: is it relevant, the minister's answer? Yes, it is.

The Hon. A. KOUTSANTONIS: I have complete confidence in those Treasury officials. Anyone who knows the men who were named by Dr Kerin would realise they are men of the highest integrity, dedicated public servants who give up their time, effort and labour—time away from their families—for the benefit of the people of this state.

Ms REDMOND: Point of order, Mr Speaker.

The SPEAKER: Point of order, member for Heysen.

Ms REDMOND: The question was when did the minister become aware of the allegations of bullying made by Paul Kerin.

The SPEAKER: Yes, but bullying is germane to the answer.

Mr Gardner: It's all he knows how to do, sir.

The SPEAKER: The member for Morialta will rise in his place and withdraw and apologise forthwith.

Mr GARDNER: I withdraw and apologise.

The SPEAKER: Thank you. Minister.

The Hon. A. KOUTSANTONIS: I have seen Dr Kerin's resignation letter and I saw his remarks in the Budget and Finance Committee. I do not accept his characterisation of those public servants and I reject it completely. I stand alongside them 100 per cent.

The SPEAKER: Supplementary? Leader.

WATER PRICING

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:37): Will the Treasurer investigate whether any of his officers have breached the Public Service Code of Conduct for their behaviour towards ESCOSA officials?

The SPEAKER: Well, that certainly brings it on. Treasurer.

Mr Marshall interjecting:

The SPEAKER: Because, first of all, you ask questions like that and then take a series of points of order when the Treasurer answers them in the spirit in which they were asked. Treasurer.

Mr MARSHALL: Can you provide some clarification on your advice to the Treasurer regarding that question? What did you find offensive about that question?

The SPEAKER: There is nothing offensive about the question, but bullying is germane to the question and therefore the answer.

Mr MARSHALL: I'm sorry, but I'll read the question again, because I'm not sure you heard the question, sir.

The SPEAKER: Yes, I did. The leader will be seated immediately or he will be leaving the chamber. Treasurer.

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business) (14:38): I do not accept—

The Hon. T.R. Kenyon: You wore your cranky pants today.

The SPEAKER: The member for Newland is called to order.

The Hon. A. KOUTSANTONIS: —that Treasury officials in any way intimidate anyone. I am not saying that they are loved—

The Hon. J.J. Snelling: They have a slightly poor dress sense, too.

The Hon. A. KOUTSANTONIS: —and they dress in a unique dark manner, but it is their job to keep the finances intact. I know that there are a number of ministers who are often subjected to

questioning about, I don't know, proposed spending initiatives that they perhaps are not always comfortable with, but that is their job. The idea that a man of the calibre of Brett Rowse would be called a bully because he disagrees with the assessment of what is quite frankly unique and different behaviour, the likes of which no independent regulator in the country has ever performed before, is unfair. So, there will be no inquiry because they have done nothing wrong.

Unless there is evidence from anyone else in ESCOSA, other than Mr Kerin, that there is bullying in place, there will be no inquiry. Mr Kerin, as I have said before, is acting in a political and partisan manner, so I reject his accusations completely and stand by my Treasury officials. But if evidence does come to light that any of my Treasury officials are behaving in any manner that is intimidating or bullying and not in the very best traditions of the Public Service, they would be the first to report it. They would be the first to stand up for those people who are being bullied. These people are of the highest integrity, and I think the Leader of the Opposition, in asking these questions, lowers the office of the Leader of the Opposition.

CHILD PROTECTION

Ms SANDERSON (Adelaide) (14:40): My question is to the Minister for Education and Child Development. Does the minister believe it is appropriate that someone who is still learning is the caseworker responsible for a vulnerable child, especially when there are signs that the child is at risk?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:41): I thank the member for Adelaide for her question. Clearly it is an issue that has been raised in the coronial inquest that is currently underway. Whether I think it is appropriate or not, the fact of the matter is that we have invested enormously in child protection in South Australia. The Coroner is looking at a very tragic case. I am not going to stand in this house and make judgement over reports that have been made in the paper. What I will do is await the Coroner's inquest and the recommendations he makes. But I am happy to point out to this chamber the investment that we have made in child protection whilst we have been in government. We have—

The SPEAKER: It would not be relevant. Member for Adelaide.

CHILD PROTECTION

Ms SANDERSON (Adelaide) (14:42): Supplementary: how many other student social workers are currently looking after apparently low-risk children like Chloe Valentine?

Mr PICTON: Point of order: can I seek a ruling, Mr Speaker, on whether you can read supplementary questions?

The SPEAKER: The member for Unley has set the standard. You can read everything. Minister.

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:42): We have student placements in the department all the time. It is part of the process of training—

The Hon. J.J. Snelling: Same as in hospitals.

The Hon. J.M. RANKINE: Same as in hospitals, yes. We have student social workers all the time taking placements in the department. Many of them take up permanent positions with the department.

CHILD PROTECTION

Ms SANDERSON (Adelaide) (14:42): Supplementary: how many of those are actually working on cases like the Chloe Valentine case?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:43): I think the member for Adelaide is making the assumption that somehow we have a crystal ball and we can tell what the outcome is going to be in each individual case. Of course we can't and, of course, if a student is working on a case, it is going to be something that is deemed to be of a lower order of risk. That simply makes sense.

CHILD PROTECTION

Ms SANDERSON (Adelaide) (14:43): Supplementary: how long must a student have been studying social work at university before they are given access to children through Families SA?

The SPEAKER: I will just say that the member for Kaurna probably had a fair point. It is a bit odd to see three supplementary questions read since supplementary questions are supposed to arise out of the minister's—

Ms SANDERSON: Can I ask it without my notes?

The SPEAKER: Well, you are on the question list for two more. I invite the member for Adelaide to do that on the next occasion. Minister.

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:44): I am happy to get the program that is put in place for the structure of learning for student social workers, if the member for Adelaide would like that.

CHILD PROTECTION

Ms SANDERSON (Adelaide) (14:44): New question.

The SPEAKER: Yes, without reading.

Ms SANDERSON: But this is a new question.

The SPEAKER: It is a new question, okay.

Ms SANDERSON: My question is to the Minister for Education and Child Development. What is Families SA's policy regarding children being transported unaccompanied?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:44): I'm assuming that the member for Adelaide is making the comment in relation to being unaccompanied by a social worker or a Families SA employee. It was not clear in the question, of course. We have young people being transported all the time, very often by volunteers, on their own. The volunteers go through police checks and Department for Communities and Social Inclusion checks looking at their child protection history. Those young people who are transported in other vehicles have to be transported by people who have similar checks.

CHILD PROTECTION

Ms SANDERSON (Adelaide) (14:45): Supplementary.

The SPEAKER: A supplementary? You won't be requiring the paper, then?

Ms SANDERSON: No, that's right; I won't. Does the minister think it's appropriate—

Mr GARDNER: Point of order.

The SPEAKER: If the point of order is the member for Unley's point of order, the member for Unley's point of order was that no-one should be reading in the chamber. Now, we can enforce that strictly or we can honour it in the breach. Which is it?

Mr GARDNER: Sir, we have established over the last 24 hours and over the last several years that the breach is accepted. The member for Unley didn't, in fact, make a point of order at the time: he made an interjection, which you have since made multiple comments on. In upholding your point of order, I think your continued comments do not add to the debate.

The SPEAKER: Well, the member for Adelaide issued a challenge and said that, given that her supplementaries are supposed to arise from the content of the minister's answer, she wouldn't read further supplementaries.

Mr Marshall interjecting:

Members

MEMBER FOR DUNSTAN, NAMING

The SPEAKER: The leader can leave the chamber for three-quarters of an hour.

Mr Marshall: This is an absolute farce.

The SPEAKER: The leader is named.

Mr Marshall: It's a farce, absolutely hopeless.

The SPEAKER: The leader is named.

The honourable member for Dunstan having withdrawn from the chamber:

The Hon. J.J. SNELLING: What's the motion?

The SPEAKER: The leader seems to be unaware that he can be heard in explanation.

The Hon. J.J. SNELLING: The leader needs to provide some explanation or apology to the house, I guess. I presume that he's not, so I have to move that the apology that is not forthcoming not be accepted.

Members interjecting:

Mr WILLIAMS: Sir, I could not hear what the—

The SPEAKER: I think the motion is that the leader be suspended from the service of the house.

The Hon. J.J. SNELLING: The procedure is that the member is given an opportunity to apologise or explain his actions. The house then moves, or a motion is then moved, to either accept or not accept the apology and explanation. He has stormed out of the house. I can't see how we can have a motion to accept the apology if he's not here. Only after that motion is carried, sir, can there be a motion to suspend the member from the service of the house, but as always I will take your lead.

The SPEAKER: Well, the question is whether the leader is going to return to the house and explain his conduct.

Mr WILLIAMS: Mr Speaker, with your indulgence, might I suggest that the sessional orders prevent the leader from doing that.

The SPEAKER: No, he has been—

Mr WILLIAMS: He has been summarily expelled from the house for 45 minutes.

The SPEAKER: No.

Mr WILLIAMS: If the house wants to be suspended—

The SPEAKER: No, he wasn't. He could have remained upon being named, and he can now return to the house if he wishes. How long would you like the house to remain waiting for him?

Mr WILLIAMS: I suspect that 45 minutes may suffice, given that's the time that you suspended him for, sir.

Mr GARDNER: Point of order, sir: under sessional order 7.1, having asked the leader to leave the house immediately, the leader has no further status except to assist in forming a quorum or an absolute majority or voting at a division, as per 7.2. Therefore, in naming him after you had suspended him under the sessional orders, I am not sure that facility was available, but if it was the leader certainly doesn't have the capacity to come back under the sessional orders, as the member for MacKillop has advised.

The Hon. J.J. SNELLING: To assist, I am more than happy to move that sessional orders be suspended to enable the Leader of the Opposition to return to the house and to provide an explanation. I am happy to move that motion.

Mr GARDNER: The question also, sir, would suggest whether the naming is, in fact, applicable, having been suspended under sessional orders.

The SPEAKER: I will accept the member for Morialta's point of order and will revoke the naming and will merely stick with the sessional order. Member for Adelaide.

Question Time

CHILD PROTECTION

Ms SANDERSON (Adelaide) (14:50): Supplementary: does the minister think it is appropriate for a driver, for whom Families SA do not have a copy of his police clearance and who has no training in child safety, to be left alone with a child who was pre-verbal on a 26-kilometre trip to return her to her mother who was allegedly intoxicated and verbally abusive?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:50): The circumstances in relation to Chloe Valentine, I think it is fair to say, have shocked all South Australians. She was a dear little girl who is no longer with us through clear acts of stupidity. The people who were responsible for her death are now in gaol.

We have a stringent regime around people who are licensed to operate chauffeured vehicles and also taxi vehicles. These people have to come from an accredited passenger vehicle service, whether it is a taxi bus or some other chauffeured vehicle. They need to have a valid DCSI working-with-children check, and the services that are contracted to Families SA are required by law to ensure all their drivers have the relevant clearances.

The SPEAKER: It has been drawn to my attention that I have previously ruled, and it is at page 366 of the 24th edition of Erskine May:

> A supplementary question may refer only to the answer out of which it immediately arises, must relate to government responsibility, must not be read or be too long.

Henceforth, irrespective of what I or the member for Unley have said, or the member for Kaurna, that will be the rule. Member for Adelaide.

CHILD PROTECTION

Ms SANDERSON (Adelaide) (14:52): My question is to the Minister for Education and Child Development. Can the minister detail the policy for recording all conversations regarding the welfare of at-risk children within Families SA, both informal and formal?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:52): I am happy to take that on notice and bring a document back for the member.

PUBLIC TRANSPORT

Mr WINGARD (Mitchell) (14:52): My question is to the Minister for Transport and Infrastructure. Can the minister advise whether he is planning to cut, or in discussions to cut, public bus services over the Christmas and new year period?

The Hon. S.C. MULLIGHAN (Lee—Minister for Transport and Infrastructure, Minister Assisting the Minister for Planning, Minister Assisting the Minister for Housing and Urban Development) (14:52): I know that the department has been in discussions with the three bus operators about arrangements over the Christmas period. It has been of concern, I understand, for some years to the people within the department who work with the bus companies on delivering services that we have, over the period between Christmas and new year, been offering full peak public transport services across our bus, train and tram network, but I would have to take it on notice how far advanced they are with those discussions, let alone whether any decision has been made about a recommendation on that.

PUBLIC TRANSPORT

Mr WINGARD (Mitchell) (14:53): Supplementary, sir: will those services be cut between 11pm and 6am during the festive season?

The Hon. S.C. MULLIGHAN (Lee—Minister for Transport and Infrastructure, Minister Assisting the Minister for Planning, Minister Assisting the Minister for Housing and Urban Development) (14:53): I think I mentioned in my response to the house about peak services, in particular. They are unlikely to be between 11pm and 6am.

MODBURY HOSPITAL

Ms BEDFORD (Florey) (14:54): My question is to the Minister for Health. Can the minister provide the house with an update on the rehabilitation ward at the Modbury Hospital?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Arts, Minister for Health Industries) (14:54): I certainly can, and I thank the member for Florey for her question. She is, of course, a fantastic advocate—

Ms Bedford: Almost obsessive.

The Hon. J.J. SNELLING: Almost obsessive, she says—for the Modbury Hospital. On Friday 21 November I had the pleasure of officially opening Modbury Hospital's new rehab ward. This project has created a modern ward and increased Modbury Hospital's capacity to care for rehab patients from eight to 28 beds. The heart of this growth is the dedication by the government to provide quality health services for people where and when they need them. Through Transforming Health, clinicians have told us that integrating rehabilitation services with acute medical care will result in better outcomes for patients. Instead of moving back and forth between the two services, patients are able to start their rehabilitation sooner and recover faster.

Locating rehab with acute care also makes it easier to access the full suite of diagnostic and other services found on an acute hospital site. By transferring rehabilitation services and beds from central Adelaide, we have been able to expand on the existing eight rehab beds provided at Modbury and bring services closer to home, to where patients live. This will not only help more than 350 patients who will pass through the ward every year but it will also help family and friends to visit and be involved in this care, which is such an important part of recovery.

Indeed, the member for Florey and I had an opportunity to meet some of the patients, including a gentleman who had had terrible injuries to his ankles. He is a painter and had fallen off a ladder and had spent considerable time at the Royal Adelaide Hospital. He said how important it was that he was at Modbury Hospital. It was much easier for his family to visit him and be involved in his care.

The Hon. J.M. Rankine: Great care, he was saying.

The Hon. J.J. SNELLING: He was saying what great care he had, the Minister for Education reminds me. She was, of course, there on Friday, as was the member for Newland. I am told as of last week 41 patients have been admitted to the new ward since it opened in early November, with all of them residing in the northern Adelaide and northern country catchment areas. These include stroke, amputee, orthopaedic and reconditioning patients.

I am also pleased to report that day rehabilitation services started at GP Plus Super Clinic Modbury and GP Plus Elizabeth on 10 and 11 November respectively. In the short time the services have also accepted referrals from rehabilitation patients in the new area. Patients recovering from stroke, illness or surgery will often, unfortunately, have to spend a lengthy period in hospital. By investing in new facilities like the rehab ward and therapy space, and with expert and caring clinicians, nurses and allied health staff, I am pleased that we can make that stay the best we possibly can.

A $2½ million rehab ward is a fantastic new facility. It is part of the government's aim to provide best care, first time, every time. Nevertheless, it is the ward's 50 plus clinicians—nurses and allied health staff—who provide the wonderful care to our patients, and for that I thank them. I congratulate all staff for their hard work getting this new state-of-the-art rehab ward up and running, and wish them well in the important work that will be done through these new services.

PUBLIC TRANSPORT

Mr WINGARD (Mitchell) (14:57): My question is to the Minister for Transport and Infrastructure. Will the minister confirm that there will be no cuts to bus services from the beginning of the 2015 school year?

The Hon. S.C. MULLIGHAN (Lee—Minister for Transport and Infrastructure, Minister Assisting the Minister for Planning, Minister Assisting the Minister for Housing and Urban

Development) (14:57): We have for some period under the current bus contracts moved services throughout metropolitan Adelaide. We have introduced new services, particularly in the growing areas of Adelaide. In some cases they have been taken up enthusiastically by patrons, and in some cases they haven't been taken up very much at all. I am sure all members would be alarmed to know that there are many hundreds of bus services which are running during the day, at night and over the weekend where there are no, or one or two, passengers on board.

Over the period of the contracts we have repeatedly and consistently moved bus services from areas of low demand to high demand. If those decisions are taken in the future, that may well impact on the area that the member raises, but I can't comment on that at this stage.

PUBLIC TRANSPORT

Mr WINGARD (Mitchell) (14:58): Can the minister confirm then that the government is going to cut bus services next year and have fewer bus services than are currently running in Adelaide?

The Hon. S.C. MULLIGHAN (Lee—Minister for Transport and Infrastructure, Minister Assisting the Minister for Planning, Minister Assisting the Minister for Housing and Urban Development) (14:59): Notwithstanding that the member read that supplementary question, as I have just explained to the house and given that it was a—

Mr Wingard interjecting:

The Hon. S.C. MULLIGHAN: Yes, you did read your supplementary question; that is correct.

The SPEAKER: The minister will not respond to the gesturing of the member for Mitchell.

The Hon. S.C. MULLIGHAN: Apparently the member for Mitchell looks at other pieces of paper while asking supplementary questions. What an extraordinary talent!

The SPEAKER: Oddly enough, minister, the question is not about supplementary questions.

The Hon. S.C. MULLIGHAN: As if to distract himself. As I have just explained in the content of the answer that I gave to the house from which the member for Mitchell asked a supplementary question, bus services are quite frequently moved from one area to another. It would be unusual if that was not a process which continued on in the future years including in 2015.

Members interjecting:

The Hon. S.C. MULLIGHAN: I am being spoken over the top of now, Mr Speaker.

Members interjecting:

The SPEAKER: These are two members having a quarrel over the chamber each of whom are on the maximum number of warnings.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:00): My question is to the Premier. Did cabinet reject the Adelaide Capital Partners initial offer for land at Gillman?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (15:00): There have been many times in this place that I recall where questions have been asked of various ministers about what has occurred concerning this matter and in particular when the decisions were made. I thought that had all been placed on the public record. There is nothing that I can add to that. If I am not mistaken, pretty well all of those questions were either asked by the deputy leader herself or the now not with us leader. Nothing has changed since those answers were given.

Ms Chapman: What's the answer?

The Hon. J.R. RAU: There were dates provided. It is on the public record. I do not—

Ms Chapman interjecting:

The Hon. J.R. RAU: There were dates provided about when these things were decided about time lines and suchlike, and I am not going to add to or subtract from anything that has been put on the public record and as—

An honourable member interjecting:

The Hon. J.R. RAU: Indeed. As the deputy leader is well aware, it is not appropriate or indeed possible for us in keeping with the requirements of our duties to go around having a chit-chat with people about what did or did not happen in cabinet.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:02): I will go to another question completely, if I am accepted; he will not answer that. My question is to—

The Hon. T.R. Kenyon interjecting:

The SPEAKER: The member for Newland is warned.

Ms CHAPMAN: I will ask a question of the Treasurer. Now that the Treasurer has had two weeks to investigate whether Treasury officials advised the government to sell the land at Gillman or not via an open tender process, did the Treasurer confirm whether this has been the case?

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business) (15:02): Regardless of any advice Treasury may or may not have given me or whoever the treasurer was at the time, cabinet has made a decision and collectively we agree with that decision. One of the principles—

Ms Chapman interjecting:

The Hon. A. KOUTSANTONIS: This is my answer. One of the principles of our system of government is that the cabinet is the decision-making body which oversees how these decisions are made. The government can at any time choose to sell a piece of land without going to tender or through an unsolicited bid—

Ms CHAPMAN: Point of order, Mr Speaker. Perhaps the Treasurer is misunderstanding, but I asked the Treasurer two weeks ago whether he was aware of any advice that had been given by any other officials to Treasury in respect of the advice on the Gillman land nothing to do with cabinet decisions at all, and he indicated that he would get that answer.

The SPEAKER: Yes—

Ms CHAPMAN: So I am asking the Treasurer—

The SPEAKER: Has he got the answer? Yes, okay. We've got that.

The Hon. A. KOUTSANTONIS: Cabinet is the decision-making body and any advice that is sought by any minister goes to cabinet. So, if Treasury advice was sought, if a costing comment was sought, if the personal opinions of Treasury officials were sought or given, they go to the cabinet.

Mr Pengilly interjecting:

The Hon. A. KOUTSANTONIS: That is the process. Cabinet is a body that sits above the executive, for the benefit of the member for Finniss who will never sit on a cabinet, and that process is the supreme decision-making body of the government. When we make decisions, it goes to Executive Council for endorsement by the Crown. If that advice, whatever it is, is sent to the cabinet, the cabinet is within its rights to accept or refuse that advice. It is not for the Treasury, or any other agency, to sit above the cabinet process. They are simply there to inform us.

GILLMAN LAND SALE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:04): I have a question for the Minister for Housing and Urban Development. Has the minister now checked to see if Adelaide Capital Partners has sought, or been granted, an extension of time to purchase stage 1 of the Gillman land deal, as he committed to do in the last sitting week?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (15:05): I have sought further information on this matter and, assuming that I understand the question from the member for Bragg correctly, the answer goes something like this: there was a preliminary phase of this during which the proponents had to meet certain prerequisites. That stage has been and gone. There was then a subsequent stage during which further steps were to be taken, and at the end of that process, there either is or is not a crystallised requirement for them to make a payment to the government and to begin phase 1 of what is a lengthy development project. I have not been asked to change that date, unless something happened at a cabinet meeting that I wasn't at—

The Hon. J.M. Rankine: That happens.

The Hon. J.R. RAU: That can happen; but to the best of my knowledge, the cabinet has not been asked, and so far as I am aware, when I have made inquiries I have been advised that that date remains the same date it always was.

YOUTH JUSTICE

Mr GARDNER (Morialta) (15:06): My question is to the Minister for Youth. What is the minister's response to the findings and recommendations contained in the Social Development Committee's report on repeat youth offenders and the Youth Parole Board noted in the house this morning?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (15:06): Thank you for your interest in this area. I know that the report was laid on the table yesterday and, under the act, the committee is required to inquire into, consider and place a report within three years of the introduction of the act. Its response was part of the legislation that was required.

The committee's report noted that the sentencing of young offenders is undertaken according to the Young Offenders Act 1993, which falls within the responsibility of the Attorney-General. However, the report highlights the different legislative provisions under the administration of our youth justice system, as undertaken. I can advise the house that it is my intention to draft new legislation which captures these different legislative provisions in a new youth justice administration bill.

Mr GARDNER: Supplementary.

The SPEAKER: Supplementary.

YOUTH JUSTICE

Mr GARDNER (Morialta) (15:07): Given that the minister identified in the media three weeks ago that such a review and a redrafting of the act would take place, when did the minister make the decision to redraft the act, and was there any issue other than the Public Service Association raising concerns about young offenders now of adult age being in youth justice that led to the minister deciding to review the act?

The Hon. J.J. SNELLING: Point of order, sir. The question is asking for comment on the accuracy of media reports.

Mr Gardner: That's not a point of order, sir.

The Hon. J.J. Snelling: Yes, it is. Read Erskine May.

The SPEAKER: Can we have the question again, succinctly.

Mr GARDNER: When did the minister decide that the Young Offenders Act was to be rewritten, as she has just identified in her answer to the house; and prior to the minister's description of the matter in relation to the PSA's claim about adults in youth justice, had the minister given this matter any thought?

The SPEAKER: Well done!

Mr PICTON: Mr Speaker, Erskine May also says that there can only be one question in a supplementary question, and there were clearly two questions asked by the member for Morialta.

Members interjecting:

The SPEAKER: I have to confess that neither the Clerk nor I am familiar with every page of Erskine May—I know that will come as a surprise!

Mr PICTON: Volume 24, page 366, I am advised.

The SPEAKER: Move over Speaker!

Mr GARDNER: Can I suggest that if every page of Erskine May was adhered to then many of these government ministers would be in a lot of trouble.

The Hon. A. Koutsantonis: Well, he is younger.

The SPEAKER: Yes, he is younger, and just married. The minister can answer whatever she wishes.

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (15:09): Thank you, Mr Speaker. I recently received cabinet approval to progress the drafting of a youth justice administration bill. This bill will better reflect the current practice and make the administration effective and accountable for enhancing community safety in the delivery of our youth justice services.

However, the concept of the youth justice administration bill was developed by the former minister for communities and social inclusion. As I am advised, a significant consultation was undertaken to inform him of the context and objectives of the proposed legislation. The issue that you have raised within the house, that you say the PSA—this is something that I would—

The SPEAKER: That the member for Morialta has raised.

The Hon. Z.L. BETTISON: Sorry, that the member for Morialta has raised—obviously that would be something that we will look to cover within the new bill.

Grievance Debate

CROWN LAND

Mr PEDERICK (Hammond) (15:10): I rise today to speak about Ms Annette Gilbert, a constituent of mine who lives on crown land just outside of Murray Bridge. Annette is a 63-year-old lady who is on a disability pension. In 2009, she was granted permission to occupy the property by ForestrySA, because at that time the land was under the control of PIRSA. At the time, the property was considered derelict and the department was not interested in maintaining it, so Annette was informed that there would be no fees as the fees would be waived. In fact, I note that ForestrySA staff identified that they were surprised that someone wanted to live in the house, and even assisted in changing locks and the pulling up of old carpets.

As I indicated earlier, at this time the crown land in question was under the management of PIRSA. In 2012, PIRSA handed the management of this land to DEWNR, and DEWNR were unaware of my constituent's occupation of the land. DEWNR became aware of my constituent's dwelling in 2013. In June 2013, a letter was sent by a DEWNR staff member to inform my constituent that she had to apply for a licence to occupy crown land, and she was told that it was subject to minister's approval.

There were also broad conditions mentioned in that letter: they were looking at a licence fee of $100 a week, the area of the land was to be negotiated, there would be restrictions on activities, there had to be access by others to the scrub, and insurance and public liability was mentioned. It is to be noted that the previous tenants had been advised through the Residential Tenancies Tribunal that, because of the state of the house, a cap of $50 a week should be set on the value of rent on this property.

These conditions had not been negotiated or finalised. My constituent Annette had written to the author of the letter (the staff member at DEWNR) and never received a response, but according to the department, my constituent was meant to sign the form. During the time that she has been residing in the house she has kept up the house and garden, including managing the land by poisoning weeds and keeping the grasses down. Annette has spent a considerable amount of money for a person on a disability pension putting in a small kitchen, laying new carpet and other maintenance she can manage on her pension.

Ms Gilbert wrote to DEWNR with her concerns, stating that she had permission to occupy from PIRSA back in 2009, advising of the history and how much money she has spent on maintaining the house since she has occupied the property. She felt—and rightly so—that she could not fill in the licence to occupy crown land paperwork as the conditions were not finalised, and she never received a response to the letter she wrote. She advised DEWNR that she would wait for the negotiations to be complete. Annette did not hear back at all, so she assumed that it was decided to allow the arrangement to continue.

Some 16 months after the last communication, Annette received a phone call to say that DEWNR were coming out to discuss the land and the tenure. On 28 October this year, my constituent was handed a notice of termination of occupation of crown land by DEWNR staff. They gave her 90 days' notice to vacate and she must be out by Friday 30 January. DEWNR visited again on Thursday 27 November and still want to evict her.

As I indicated earlier, previous tenants were paying $50 a week to be there. Where does the minister expect a woman in her 60s on a disability pension to go? Where is she going to get a bond from, and how is she going to afford living costs? Evidently, the Department of Environment, Water and Natural Resources is looking at getting a builder inspector in. I think this is an absolutely disgraceful act by the department. I have emailed the particulars to a staffer in minister Hunter's office. I think the minister needs to do the right thing, overturn this ruling and let this woman live in comfort, as she has done for five years.

Forestry staff in Primary Industries indicated that she was actually doing everyone a favour because she was in a house that Forestry did not think was worth keeping. She was maintaining the areas around the property, including the paddocks where her horses were. I think it is an absolute disgrace and a show of absolute heartlessness by a government minister who just has no idea of the circumstances of this woman who would not harm a fly and yet does not have the right to live in a house where she is prepared to work out a very low rate of rent for what the house deserves.

The SPEAKER: Before the member for Florey rises, I uphold the member for Kaurna's last point of order. Erskine May says that a supplementary question may refer only to the answer out of which it immediately arises and should contain only one question, so I rule that Erskine May be applied. Member for Florey.

MILLER, MR ALAN

Ms BEDFORD (Florey) (15:16): It was with great sadness that I read an email from Luke Heffernan of the passing of Alan Charles Miller. Born in November 86 years ago, Alan passed away on 27 November this year at the Royal Adelaide Hospital, where he had been for some time, unfortunately, after a long illness. The much-loved husband of Beryl Miller and loved and loving father of Ralph, Peter (deceased), Diane and Paul, he was the treasured 'poppy' of all his grandchildren and great-grandchildren.

I have been proud to know Alan and Beryl through the Modbury Hospital Local Action Group since before my election in 1997. These two wonderful people appeared and became an integral part of MHLAG, as we lovingly called the group, attending every meeting and activity in our struggle to keep public health in public hands. I soon came to know them well and admire their commitment, zeal and dedication to the workers of the world.

Alan was a journalist by profession and spent his life communicating important messages. A joint winner of the Platon Greek May Day Award and the South Australian May Day Committee spanner, Alan and Beryl were permanent fixtures at factory gates, most particularly standing shoulder to shoulder with Holden workers. When looking through my files to prepare to speak today, I

happened upon an article from 2005 talking about car workers facing the sack—one of the many articles and papers Alan distributed in solidarity with car workers.

But it was not only car workers who benefited from the support of Beryl and Alan's solidarity, for I cannot remember a rally, march or protest over the past 20 years where Beryl and Alan were not front and centre and contributing in every way possible—the great MUA dispute of 1998 at Port Adelaide, the anti-war marches, the anti-ETSA privatisation gatherings, just to name a few of them.

In relation to the recent federal announcement regarding cuts to the national broadcaster, the ABC, Alan would be working to make sure that everyone knew that 37 workers will lose their jobs here in Adelaide, which will see the end of TV production in South Australia. Many of these workers will lose their jobs before Christmas. This will have a major impact on the industry, seeing the end of the *7.30* program locally and losing a distinctly South Australian voice and our stories. It will also close opportunities for young people to become active in this industry.

Other staff are being pitted against each other in a *Hunger Games* style process to fight for their jobs. This is an appalling situation for these workers, particularly as some of them have worked for the ABC for well over 20 years. The effect of this terrible situation is putting workers under great stress. This situation is something the federal government cannot walk away from, as it is in part a direct result of the sorts of policies Alan spent his life opposing. Alan's quietly determined approach and knowledge of national and international politics and policies meant that his views were well expressed as well as well informed.

On a personal level, he was always encouraging of my endeavours and attempts to champion public ownership of essential services, none more so than those provided by the Modbury Hospital. It was certainly a proud moment to share with Beryl and Alan, as well as other members of the Modbury Hospital Local Action Group, such as Ken Case, Sue Daley and June Chaney—all dear friends of Beryl and Alan—when the management of the hospital came back into government hands. Today, we see now the benefits of a more than $18 million investment in the accident and emergency area and the ground-floor services and the now operational rehab ward, which the minister spoke about today in question time. These are the sorts of results that Alan spent his life working to achieve.

Alan's many comrades will rally for his funeral service on Wednesday next, 10 December, in the Acacia Chapel at Enfield Memorial Park. His life will be remembered and celebrated by those who stood shoulder to shoulder with him on many of the occasions I have talked about today. South Australia and the workers of this state will all remember people like Alan for many years to come. We thank him for his service to workers in South Australia.

RETIREMENT VILLAGES

Mr WINGARD (Mitchell) (15:20): I rise to speak today about retirement villages in my electorate and the proposed recommendations of the select committee to change the Retirement Villages Act. I am fortunate to have some very proactive people in my community who have a real passion for this sector. There are a number of villages across my electorate—including Albion Mews, Dover Gardens; Walnut Grove Estate, Old Reynella; Grandview Heights, Trott Park; and Life Care Village, Old Reynella—and there is scope to build more villages in the future to support this growing sector.

Across the state, there are over 500 registered villages that accommodate more than 24,000 residents. By 2036, the number of people over 65 years in a retirement village in South Australia will reach 495,000. With an ageing population, retirement villages are expected to increase in number and popularity in the years ahead. I note that the recent Select Committee on Retirement Villages came up with some very good recommendations to amend the act and make it more workable for the increasing lifestyle choice within our community.

There were more than 30 recommendations in total and, while I am not going to explore them all here today, I would like to touch on some that have been raised with me by members of my community. Firstly, it was noted in the report that the name of the act could be looked at because so many varieties of retirement villages are available today and in some cases people could be living in

them who are not retired. It was suggested that a name change around the lifestyle these villages offer could be considered.

Many people who live in retirement villages have raised concerns about the lack of clarity about contractual and administrative matters, and I note that this was outlined in recommendation 4 from the committee. Many people go into retirement village accommodation in some cases not having read the contract or, in other cases, not having understood the contract due to its legal complexity. Some people are unclear that they face the possibility of having to pay significant costs if they choose to leave the village in either the short or long term. These are known as 'exit fees', and these fees and charges vary between different villages. Many residents have also faced a variety of unexpected charges.

The recommendations of the committee include a suggestion that the act be amended to introduce standard disclosure documents prescribed by regulations to assist residents in comparing villages and in understanding their rights and obligations. It was suggested that the standard disclosure documents include information relating to all fees and charges that residents will be responsible for prior to entering the village, while residing in a village and upon leaving a village, as well as examples of exit fee scenarios and definitions of fees, charges and funds. A large number of people have raised these points with me. This is a key issue that has been raised with me in my electorate.

People looking at this style of living want it made simpler. They do not want to have to engage lawyers at every turn. They do not want to burden their children or families with having to help them through reading pages and pages of documentation. They just want the legalities around their fees and charges outlined clearly in easy to understand language. The suggestion of an extra 15 days to cool off on contracts, which I noted was supported, also had a good response from my community.

It was noted that the minister did not support the concept of a web-based calculator being developed so that residents are able to enter exit scenarios and be provided with examples of how much their refund amount would be under various scenarios. The minister also did not support the suggestion that the Property Council be encouraged to produce a set of pro forma contracts that are recommended templates for operators. The Office for the Ageing currently produces pro forma contracts that are reflective of the act's requirements so, hopefully, with the proposed changes to the act, the pro formas will be automatically changed and the contracts will reflect these amendments.

Greater transparency in relation to management fees and head office costs charged to village dwellers is another issue that is prominent with people who have spoken to me, as is the ability of residents to appoint an independent valuer on vacating the village if a valuation is not agreed to between both parties.

Given the perceived growth in this sector over the coming years, I trust the government will take up the vast number of recommendations that have come out of this report. I look forward to them following the recommendations and putting measures in place to make the Retirement Villages Act a better piece of legislation that is far easier to follow and understand. For all involved, this is a vitally important area that needs to be amended, and the people in my community feel that way.

SALISBURY HIGH SCHOOL

Mrs VLAHOS (Taylor) (15:24): I would like to speak today about two events I recently attended near my electorate. I have spoken before about how my electorate does not have a public high school, so I often attend events in neighbouring electorates. I recently attended two events at Salisbury High School in Salisbury North: the opening of the Confucius classroom on Wednesday 26 November and speech day last Friday. Both events highlight the positive futures that this school is creating for its nearly 800 enrolled students in our local area. I would like to thank Ann Prime, the principal, for her ongoing exemplary leadership, the secretary, Cheryl Birmingham, and the team at Salisbury High School, and the governing council for their excellent leadership.

The opening of the Confucius classroom was a dynamic morning. The member for Little Para and I first became aware of the opportunity to have a Confucius classroom in the north when we were on a study tour in Beijing, China, in 2010. This was coordinated with the University of Adelaide. As I am a Confucius Institute ambassador, it was appropriate that I visit Hanban in Beijing and advocate for Salisbury High School at that time. It was wonderful to see the classroom actually being

developed and the student's language capacity being broadened so that they could interact with other cultures, both locally and globally, and have a competitive advantage in today's global import and export-driven markets for employment as northern suburbs adults moving forward from their schooling.

The master of ceremonies on the afternoon I was there was year 10 student Thomas Kong, who also won some academic awards at Friday's presentation. There was a lion dance and drumming, which was fantastically performed and very dynamic. It was almost gymnastic-like, with lions jumping on tables and eating lettuces and doing wonderful, spectacular things in outfits. There was also a presentation by Alex Knoop, Thomas Kong and Miguel Santos, who did some magic on the day in speaking Mandarin. It was a fantastic day. There was also food provided to the guests afterwards and Chinese songs were sung: 'The Jasmine Flower' and 'Sorry, my Chinese is not good' by Teagan Akeroyd, Kyle Finey and Thomas Kong. Finally, a dance group got into a sort of karaoke mood, with Bing Yuan Piao Yi Wu and some year 8, 9 and 10 students leading the Chinese dance.

Friday's presentation is something I have been to a number of times, but I was very pleased to present my Leesa Vlahos Encouragement Award, which I have presented for a number of years to students in the local area. This year it went to Meggan Howell. Also, I presented the stage one and stage two Academic Excellence awards, awarding $25 vouchers to students, which helps them pursue their studies in the forthcoming year. There were many students to whom I presented those awards, but I would just like to read out some names of the exemplary students at Salisbury High School who received an award: biology, for example, went to Britany Hobbs. Child studies went to Louise Marshall; design studies, Nick Farantouris; digital publishing, Nick Couzner; outdoor education, Jae Bain; psychology, Daniel O'Brien; Power Cup, Wayne Milera; and special education—Salisbury High always has a fantastic contribution in this area, with Peter Phan receiving that award this year.

Daniel Clark-Mudge received the English, geography, history and photography prize. Chemistry and physics went to Kate Dalton, and food and hospitality and mathematics went to the magician I spoke of before, Miguel Santos. It was also wonderful to see the stage two students. Particular mention goes to another Kong brother, Albert, who won for chemistry, mathematical studies, physics and specialist mathematics. All praise to the whole team at Salisbury High School. I think you do a wonderful job and I am very proud to see the work that you do in our area.

PARLIAMENTARY INTERNSHIP PROGRAM

Mr SPEIRS (Bright) (15:29): I rise today to place on the record how impressed I am by the quality of the Parliamentary Internship Program, coordinated by Professor Clem Macintyre from the University of Adelaide and Associate Professor Haydon Manning from Flinders University. The South Australian Parliamentary Internship Program is a collaborative venture between the South Australian parliament and the three South Australian universities.

This program enables students, who are selected to undertake it, the opportunity to work with a member of the South Australian parliament or a parliamentary committee for a semester, and assessment is primarily based on a final research report produced by the student on a topic of interest to both the member of parliament and to the student. I know that many MPs are involved in this program and all who I have spoken to about it have praised the quality of reports they receive at the end of the process.

Judith Spencer was the intern allocated to my office, and I am pleased that Judith has been able to join us today in the Speaker's gallery. For her internship I asked Judith to investigate the role of government in supporting a healthy small business environment in South Australia. As we all know, this is a vexed issue with much debate as to how hands on government should be in its quest to create a thriving business environment in South Australia. There are those who advocate a fairly interventionist approach, with government seeking out and supporting the establishment of particular industries in South Australia, seeing government get actively involved in business development activities.

At the other end of the spectrum is the view that, apart from basic regulation, government should remove itself entirely from the business world, letting the market drive itself uninhibited by the barriers created by the bureaucracy of all tiers of government. In truth, a middle ground is likely the

best approach, with government seeking to create a business environment within which entrepreneurs and business people can have the freedom to establish, grow and prosper their business interests, creating jobs and paying an appropriate level of tax which can be used to build social, environmental and economic capital in our state.

One of the things that I most admired about the report that Judith Spencer has put together was her ability to narrow down what was potentially a large and unwieldy topic to some key points of analysis. Early in the report she identified the real challenges facing the state; namely, our slowed growth, high unemployment rates and a general lack of confidence, in part triggered by the impending closure of General Motors Holden. She outlines that the purpose of her report is to find a balance of recommendations between supportive measures to drive the economy and other support aimed at reducing constraints on small business.

In developing her report, Judith undertook a substantial literature review and met with representatives from business, academia and business representative bodies. She explored a range of relevant barriers to small business success, including taxes and costs facing small business, red tape, regulatory burdens and government inefficiencies, negativity and lack of confidence, size of population and our difficulties attracting skilled staff to the state. Her analysis of the tax regime facing South Australian businesses is particularly useful in that it succinctly analyses the great taxation barriers facing our state's business sector. The report, of course, discusses payroll tax, stamp duty, land tax, the emergency services levy, WorkCover and the price of electricity and water in the state, and it highlights how we lag so far behind other jurisdictions in Australia in terms of our business competitiveness.

All these barriers add up to make South Australia a particularly unattractive place to do business. Judith's report does not just concentrate on barriers to small business growth. She also explores government's role in setting up clusters to attract businesses, often of a similar ilk, to participate at a particular geographic location so they can share knowledge and resources. Judith's analysis of the benefits of clusters particularly focuses on the vastly an expensive Tonsley site, which, although with good intentions behind it, has yet to demonstrate a broad base of tenants beyond those which are largely government entities. Interestingly, Judith's extensive analysis of clusters both in Australia and overseas shows that there is no robust evidence that clusters lead to economic growth and that it is a concern that such a quantum of public funds is being spent on a project with potentially negligible outcomes.

I congratulate Judith Spencer on her involvement in this program, and I would urge as many members as possible to take up the offer of an intern through the parliamentary intern program, because there is a significant opportunity to obtain a high quality body of work which can inform policy development within our parties and government.

The DEPUTY SPEAKER: I would like to concur with your remarks, member for Bright, about the value of the intern program and perhaps just put on record that Deirdre Tedmanson is the coordinator from the University of South Australia. She is doing a great job as well. Thank you to the interns. Member for Giles.

ASBESTOS VICTIMS MEMORIAL SERVICE

Mr HUGHES (Giles) (15:34): I rise today to talk about the Asbestos Victims Memorial Service held in Whyalla last Friday. The service is held every year to remember all those local people who have died as a result of exposure to asbestos. Every year, the crosses at the memorial grow in number. It is estimated that 20,000 people will have died of mesothelioma in Australia by 2020, which does not count those who die of asbestos-related cancers and those affected by asbestosis.

I spoke at the memorial service and told the story of a former Whyalla resident, Mr James William Parker. I nominated Mr Parker, a pensioner, two years ago for the Whyalla Citizen of the Year award. I nominated him because of his protracted eight-year fight against the world's largest resource company, BHP Billiton, in order to obtain exemplary damages arising from his occupational exposure to asbestos.

Mr Parker was the first person in South Australia under the Dust Diseases Act 2005 to receive exemplary damages. Mr Parker moved to Whyalla in 1964 and eventually left to live in

Adelaide due to ill health. While in Whyalla, Mr Parker worked as a shipwright at the BHP shipyards and, before his retirement, worked at Parsons following the closure of the shipyard in 1979.

The decision to award exemplary damages in 2012 was seen as a landmark decision. By winning exemplary damages, Mr Parker set an important precedent for all other claimants. In addition, the awarding of exemplary damages meant that BHP Billiton were no longer able to hide behind the fiction that they were not aware of the risk to workers and their families through exposure to asbestos fibres.

The Supreme Court held that in the 1960s and the 1970s, BHP should have reasonably foreseen that its use of asbestos-containing products could give rise to the risk of a life-threatening or seriously debilitating disease. The Supreme Court upheld the decision made in the District Court that BHP knew the dangers of exposure to asbestos yet did nothing to protect Mr Parker from this danger. Judge Lovell stated:

> Mr Parker's asbestosis cannot be said to be the result of a casual act of negligence, or an isolated breach of duty. Instead it can be said to have resulted from the systematic failure by BHP to make its workplace safe.

While Mr Parker was pursuing his claim, BHP Billiton lobbied the South Australian government to set the presumption date for exemplary damages at 1979, thus excluding all former Whyalla shipyard workers. They did so, despite the fact that the link between asbestos and asbestosis was established in the 1920s. The link between lung cancer and asbestos was scientifically demonstrated in 1955, and the causative role of asbestos in inducing mesothelioma was put beyond reasonable doubt in 1960. Fortunately, the state Labor government rejected BHP Billiton's efforts on setting the date for exemplary damages.

When I asked Mr Parker how he felt when he won the case, he said it was a great relief. He said over the 8½ years he often felt like giving up but he battled on. He said it was not for the money but it was for all those others who would come after him, and you got the strong feeling that it was about the profound injustice that had been visited upon thousands who had been knowingly exposed to a life-destroying mineral fibre. Mr Parker acknowledged the work put in by his lawyer, Annie Hoffman.

I have had a lot of contact with BHP Billiton over the years and I have a high opinion of the individuals I have dealt with. Unfortunately, the company's approach in the area of asbestos compensation has not been one of their finer moments. I would like to finish by acknowledging the great work performed by the Whyalla Asbestos Victims Association and the support they have provided for those suffering from asbestos-related diseases and the support for family members. I especially mention the president John Arthur and his wife Marlene Arthur for the countless hours of work they have put in over the years.

Parliamentary Procedure

VISITORS

The DEPUTY SPEAKER: I would like to acknowledge the presence in the public gallery today of a group of Anangu, traditional owners of the lands in the Far North of this state.

Bills

STATUTES AMENDMENT (ENERGY CONSUMERS AUSTRALIA) BILL

Final Stages

The Legislative Council agreed to the bill without any amendment.

CRIMINAL LAW CONSOLIDATION (SEXUAL OFFENCES - COGNITIVE IMPAIRMENT) AMENDMENT BILL

Final Stages

The Legislative Council agreed to the bill with the amendment indicated by the following schedule, to which amendment the Legislative Council desires the concurrence of the House of Assembly:

No 1 Clause 4, page 3, line 29 [Clause 4, inserted section 51(5), definition of *cognitive impairment*, (e)]—

Delete paragraph (e) and substitute:

(e) mental impairment;

Consideration in committee.

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

That the Legislative Council's amendment be agreed to.

I want to indicate that the government will be accepting the bill as amended. Can I also thank members in the other place, particularly the Hon. Kelly Vincent, whose contribution in this matter has been very helpful and greatly appreciated.

Ms CHAPMAN: The opposition joins in indicating its appreciation of the government in accepting the amendment and looks forward to the final passage of the bill.

Motion carried.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Final Stages

The Legislative Council agreed to the bill with the amendment indicated by the following schedule, to which amendment the Legislative Council desires the concurrence of the House of Assembly:

No 1 [McLachlan–1]—Part 7, page 5, lines 1 to 23—Delete Part 7

Consideration in committee.

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

That the Legislative Council's amendment be agreed to.

I will again be very brief in relation to this matter. The situation is that the government, in the interests of getting the balance of the matter through, will not oppose the amendment. However, I would like it recorded that the effect of the amendment of the Legislative Council is to delete the provision which provided for a methodology for appointing an acting chief magistrate, particularly in circumstances where the deputy chief magistrate may be unwilling or unable for a prolonged term to take on that office.

As I indicated here when the matter was before us, that is not the sole purpose of this bill, and so I will be happy to have the balance of it go through. I might at some later time reagitate this matter, but for the sake of getting the balance of the bill through, I accept the amendment and do so on the basis that a problem has been identified which remains by reason of the amendment and it would be useful at some stage to fix that up.

Ms CHAPMAN: I indicate in respect of this bill that I am pleased to have just listened to the Attorney's moment of enlightenment and acceptance of the amendment so that we can pass this bill. In the spirit of his great illuminating period, I will not take that as a threat, just a promise.

Motion carried.

ROMAN CATHOLIC ARCHDIOCESE OF ADELAIDE CHARITABLE TRUST (MEMBERSHIP OF TRUST) AMENDMENT BILL

Final Stages

The Legislative Council agreed to the bill without any amendment.

ANANGU PITJANTJATJARA YANKUNYTJATJARA LAND RIGHTS (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading (resumed on motion).

Dr McFETRIDGE (Morphett) (15:44): Can I first start by saying to the Anangu Executive members in the gallery: Kulila. Nyaratja manta, APY manta, nyuntumpa manta, rawa. Members, what

I said then, hopefully in understandable Pitjantjatjara, is that land, the APY land, is the land of the Anangu and will be forever their land.

The DEPUTY SPEAKER: Are you the lead speaker, member for Morphett?

Dr McFETRIDGE: I am the lead speaker on this, ma'am. This bill is being rushed through this place as a matter of urgency and it gives me no pleasure to do this but, having been the shadow minister for Aboriginal affairs and a member of the Aboriginal Lands Parliamentary Standing Committee for many years, I have been privileged to know Anangu and to have been invited into their homes and into their communities to visit the APY lands on many occasions.

Let me say one thing about this bill. This bill is not about land rights. This bill is about human rights. This bill is about the ability for Anangu to go to their homes at night safely, to have good governance, to have good administration in place, to have a future. We have heard a lot about the stolen generation over many years, and there is legislation before this place to consider where we go with that, but what I am seeing on the APY lands is a serious risk of the future of the next generation of Anangu being stolen. Why is it being stolen? Why am I worried about it being stolen? I see dysfunction. I see a huge part of South Australia that is unique, not only its country and its culture but in the people, being put at risk because of dysfunctional government and dysfunctional communities.

This is not a shame job standing here talking about this, this is making sure we move forward. This is making sure that this parliament does the right thing, not just for a small group of people on the APY lands but that we do the right thing for all Anangu. This is about making sure that there is a future for the children on the APY lands, that they do not go to bed at night having been the victims of sexual violence, that the last thing they watched on television was not pornography, not that the last thing their parents did was take drugs or drink alcohol or that there was domestic violence. That has been going on far too long.

There have been some improvements, there have been some changes, but what we are seeing now with this bill is that we are hoping in some way to turn the corner, change the future and change the path for Anangu. We are hoping to make sure that the administration, the governance, on those lands is headed in the right direction. It is about time this happened. It is overdue. I, and other members in this place, particularly members of the Aboriginal Lands Parliamentary Standing Committee, who have been privy to information and have had access to pertinent and privileged information, know that this is the right thing to do.

I take no pleasure in rushing it through this place, none at all. We need to consult, we need to talk to people about what is going on in this place, but we have come to the point in the road where we just have to say enough is enough, we have to go in the right direction.

This bill is in this place because of the inability, in some cases, and the inaction of some ministers for Aboriginal affairs, particularly the current Minister for Aboriginal Affairs and Reconciliation. I have some particularly harsh criticism for him because I think he should have seen what was coming. I will read evidence. I will read information into *Hansard* that shows that this is not new information, that the circumstances up there are not new. The minister should have known about it, his department should have known about it. In fact, I think they did know about it but he has been kept in the dark.

There is nobody, not even me, who can stand here and say we are completely blameless in getting to this point, but we have got to this point where we recognise where we are and we have to move forward. It is not about protecting any individual, it is not about protecting any rights, it is not about protecting any privileges. It is about the human rights of Anangu, it is about moving forward on the APY lands.

Can I just go through the issues that have been raised, particularly the first issue that this is about land rights, that this is taking away the land rights of Anangu. This is not what is happening. I am not a lawyer, but I have spoken to a lot of lawyers in my time in Aboriginal affairs and I am reasonably familiar with the APY act. The particular section where we are talking about appointing an administrator is section 13O, and subsection (2)(a) states:

the Minister may, by notice in the Gazette, appoint an Administrator, on terms and conditions determined by the Minister…

That is what this bill is about: it is about giving the minister carte blanche. The minister has the ultimate responsibility—a huge responsibility here; not only does he have that responsibility but we all share in that responsibility. We will be part of the blame game if this does not work, if we cannot turn the direction here. The subsection states:

(a) the Minister may, by notice in the Gazette, appoint an Administrator, on terms and conditions determined by the Minister, to administer the affairs of Anangu Pitjantjatjara Yankunytjatjara in the name of, and on behalf of, Anangu Pitjantjatjara Yankunytjatjara during the period of the suspension.

How long is that suspension going to be? We have not come down to the detail on that yet, and it may not be that long if we are able to have good governance demonstrated to the administrator, to the minister and to this place. Section 13O(2)(f) continues:

(f) the Administrator has all the functions and powers of Anangu Pitjantjatjara Yankunytjatjara;

The next paragraph provides:

(g) in carrying out a function or exercising a power of Anangu Pitjantjatjara Yankunytjatjara, the Administrator is not bound by a resolution under section 9B(4) that is, in the opinion of the Administrator, inconsistent with the appointment of the Administrator (but, to avoid doubt, is otherwise bound by a resolution under that section);

The administrator still has to consult and still has to take notice of resolutions of general meetings of APY. At general meetings, the Anangu still have the power to tell the administrator what they think is right. This is not about removing their ability to reside on their lands, occupy their lands, enjoy their lands; it is about making sure that those lands are going to be governed in a long-term, sustainable way. The act continues on in paragraph (k):

(k) the Administrator must cause proper accounts to be kept of the financial affairs of Anangu Pitjantjatjara Yankunytjatjara and must cause the accounts of Anangu Pitjantjatjara Yankunytjatjara for each financial year to be audited by a registered company auditor;

We hear that there have been no problems with the audits of the accounts in the past, yet every audit I have seen has been a qualified audit. Where is the money in the trust accounts? It seems to vary from a few thousand to tens of thousands of dollars. The auditors have always qualified those accounts, and I will say a lot more about the account keeping and finances of the APY in my later contribution.

Division 2, section 7 talks about the requirement of consultation and it talks about Anangu Pitjantjatjara Yankunytjatjara. But, in the case of an administrator being in place, Anangu Pitjantjatjara Yankunytjatjara shall:

…before carrying out or authorising or permitting the carrying out of any proposal relating to the administration, development or use of any portion of the lands, have regard to the interests of, and consult with, traditional owners having a particular interest in that portion of the lands, or otherwise affected by the proposal, and shall not carry out the proposal, or authorise or permit it to be carried out, unless satisfied that those traditional owners—

(a) understand the nature and purpose of the proposal; and

(b) have had the opportunity to express their views to Anangu Pitjantjatjara Yankunytjatjara; and

(c) consent to the proposal.

This is not about land rights. This is not a land rights grab. This is about a move forward, this is about good governance. It is in the act, and anybody who tries to misinterpret the act is not telling the truth to APY. It is easy to put out press releases and scare people about land rights. It is easy to run the race card. But this is not what this is about. If I am a racist for doing this, then I am proud of being a racist because it is those particular people up there I am very, very concerned about.

Let's look at what the Aboriginal Legal Rights Movement said about this—a body I have had a lot to do with, particularly under the late Neil Gillespie, and a highly-respected body. In a letter dated yesterday, 2 December, Chairperson Ms Sandra Saunders is concerned about the effects of the proposed amendments, clause 4. 'Such amendments will take us back 30 years,' said

Ms Saunders. I am not a lawyer—and by that I am boasting, not apologising—but any competent adviser to the Anangu would tell them the following about the bill to be introduced today: the minister would have to have reasons for appointing an administrator based on correct facts and provide natural justice by letting the board be heard before he acts. The minister met with the board and he told them what was going on. I am told there are issues that he cannot reveal at this particular moment in time, but that is for him to answer.

An administrator has a statutory obligation to act in the best interests of Anangu and his exemption from personal liability under section 42C is limited to the acts of good faith in performance of office. He cannot just do anything he wants. As I read out from the act a moment ago, he has to consult and he has to get the approval, unless it is a complete divergence from his appointment. Just to reiterate, an administrator must comply with general meeting resolutions unless inconsistent with reasons for his appointment. That is putting it more precisely.

The general manager and director continue, unless removed by the administrator under section 13G, and so the day-to-day control is unaffected unless the administrator acts in accordance with the reasons for his appointment. I think any administrator that goes in there is going to be faced with a very difficult position. They are going to have to be very brave, and they are going to have to be so resolute and steely in their determination to put things right. I cannot see the current director of administration or the current interim general manager continuing in their place if the evidence I have been given is correct.

I am not here to defame people under parliamentary privilege. Later, I will read into *Hansard* evidence that has been given to me and explain some of the evidence that has been given in camera to the Aboriginal Lands Parliamentary Standing Committee. Contrary to what the ALRM says, the bill does not remove fundamental powers of the landholding body. They remain alive and well and in the safe hands of Anangu members and the APY generally. It requires no skill or preparation to go to a group of exhausted Anangu who remember with longing an earlier time and tell them to be afraid of it, who is to blame for it, and that so-and-so is no good and he is responsible for your lot in life.

These points are coming from one of the traditional owners who is known to most people in this place, Mr George Kenmore. I have known Mr Kenmore for a long time. He has significant issues with the way things are being conducted on the APY lands, and he has passed on to me some of the advice that has been given. I will also be reading into *Hansard* the CV of a particular person I think should be the administrator. I think this person has the background, knowledge, ability and courage to do what will be required. The need to make sure that this bill is not going to lead to a disaster is something all of us need to be acutely aware of.

A letter was sent to the minister from the Chair of the Law and Culture Committee, Mr Murray George. It is not dated, but I think it might have been sent yesterday or on 1 December. It says:

> The Law and Culture Committee fully supports the APY Executive Board. They have been doing a good job in difficult circumstances. The problem with APY have been with the general managers.

I know Murray George; he is a good man and an honest man, but I do not know who wrote this for him. There is a lot of red dust on this letter, and anyone who has been on the lands knows that there is a lot of red dust. When you sit in that dust with the Tjilpi and talk about things, it is a very moving experience.

I recognise a lot of the names in this letter. I am not concerned about the red dust but I am concerned about the red blood that is on the ground up there—the red blood on the floors of the houses and about the kids who are being abused, about the wives and husbands who are being abused and about the general abuse of the community. So, we are listening to people like Murray George and the Law and Culture Committee, but I am not sure who they are listening to or what they are being told because I do not think they are being told the truth.

Today, we saw a media release from APY. It was dated yesterday and the headline is, 'SA government rams through laws to allow intervention on APY land.' In the third paragraph, it says:

> Minister Hunter has failed to tell us or the parliament what the problems are. The minister has failed to provide any substantial evidence of the need for this racist intervention.

What a cheap shot that is—'racist intervention'. I do not know anybody in this place who is a racist. I certainly know that everybody I have had anything to do with in Aboriginal affairs through this place does not have a racist bone in their body. I think that is a very cheap shot.

I should remind the place that this is not the first time we have come to this crisis in the road, unfortunately. Back in 2008, there was a report into the APY that highlighted significant issues that were going on up there, and that was done by no other person than the late Ted Mullighan. The Mullighan report raised a number of issues. The first recommendation of the Mullighan report was to have good governance on the lands. The first recommendation was good governance.

Back then, the leader of the Liberal Party was Martin Hamilton-Smith. On Wednesday 7 May 2008, the member for Waite put out a press release titled 'Rann wasted four years—time for action is now'. We are nearly 14 years into this government and, back then, Martin Hamilton Smith was saying:

> An immediate State-run intervention on each APY Lands community by police, medical professionals and social and child protection workers is needed.

We had a lot of effort put in by a lot of people to try to improve the lot on the APY lands, but unless you have got a functioning executive body, one that is able to do its job as well as it would hope to do, then you will continue to have the crisis across the lands. Back in 2004, we had a similar crisis. I remember the Hon. Kevin Foley then talking about that, and I will talk a bit more about that later.

This is not duelling by media release here but, today, we had a media release put out by the APY Council of Elders. I know that there is a significant number of elders who are members of this group, and I have the highest respect for each and every one of them. The council of elders press release does not go down the racist line and does not try to scare people. What it does do in the bottom half of the first page is state:

> The bill doesn't change the fact that each executive has a three-year lifespan or that there must be another election within three months of February next year

So, elections will go on. There has been no devolution of rights there.

> Any appointment of an administrator or the newly-elected board would depend on the facts existing at the time.

So, that new board may be able to take over if there is sufficient comfort being given by the process and the people who are on that new board.

> The bill doesn't change the fact that the governance of APY stays in the safe hands of Anangu at the general meeting even if an administrator is appointed.

That is what I have said before.

> We also have concerns that the minister does not understand his act.

And I think this is a sad fact.

> His embarrassment last night is because the portfolio holds no interest for him and he has not bothered to acquaint himself with the facts. We are also concerned that the minister revealed that shortly after Mr Deans' removal he met with the executive proposing a particular person for general manager and threatened the executive if they did not comply.

> How is it that the minister has had a specific person in mind for Mr Deans' removal? Did the minister have a role in that removal?

I do not know. It would be nice to hear from the minister.

> Is the legislation being introduced because of a failing relationship between the minister and APY Executive of who should be the general manager following Mr Deans' removal.

This needs to be explained, and this is in the press release from the APY Council of Elders yesterday.

> That said, the APY Council of Elders lamentably supports the passage of this bill in the lower house today. The APY Council of Elders pleads that, if an administrator is appointed, that the minister consults properly about who that person should be.

As I said, I will be talking about a particular person I think would be a very fit and proper person to be the administrator. The press releases and pronouncements that have been put out by APY

recently have said there has been no evidence. 'Why is this happening? Everything is hunky-dory.' I have just spoken about every audit being qualified.

Let me give the house a little bit of a potted history—a relatively recent history, as in the last four or five years—of what has gone on on the APY lands. Over the past four years alone, about $3 million has been wiped off the public accounts as a loss of members' funds. APY was insolvent to the extent of $1.39 million as at 30 June 2012. There is no budget for the $1.2 million in local government funding and cattle agistment income of $80,000 per month, which is mixed with public funds. One cattle company is suing the APY for $3 million.

There is a string of court cases, including strange, myopic matters such as opposing workers' compensation claims, which have been admitted by the insurer manager as a vendetta against former senior staff whose corporate knowledge has been lost.

There is Mr Deans' Supreme Court action for the judicial review before the court on 5 December, which is really a battle between Ms John and Mr Deans, who is the general manager paid out of taxpayers' dollars.

A Brisbane law firm seems to be holding minutes from March 2011 to 2012. That particular law firm got themselves installed as trustees on the mining royalty trusts and were paid $500,000 in fees for the five months prior to 30 June 2012, at which time APY ran out of money. They ran the recruitment for general manager Mr Preece, whose first public act was to tell *The Australian* that the $500,000 in legal fees was justified, and in conjunction with the law firm tried to get rid of the chair, withdrawing his vehicle and phone.

So they are no friends of the chairman when he gets in their way.

There has been a failure to respond to FOI applications, and can I tell the house that I have put in dozens and dozens of FOI applications. I have sat in the Ombudsman's office with lawyers from APY arguing over what should and should not be released. That should not be happening under an open and accountable framework. That should not be happening with public funds. That should not be happening with Anangu funds. They should be proud of what they are doing and they should be able to show the progress. Why am I sitting in the Ombudsman's office with a team of APY lawyers arguing about what I can and cannot see? That should never have happened.

Then what happens? I cannot find the minutes, but I would like to see them. I did laugh initially, but then later on I thought, 'This really is a contempt of parliament.' In the minutes, I am mentioned as a 'troublemaker', because I am doing my job as a member of parliament asking questions about what is going on. There it is in the minutes. I am proud of what I am doing. I am very proud of the job I have done and am continuing to do and I will not give up. I will never, never, never give up. I am making sure that the Anangu get a fair go in South Australia.

The exclusion of Anangu from executive meetings is in breach of the act and the obstruction of the section 35 conciliation process, put in place to give Anangu a simple way to resolve governance disputes. You wait until I read from the conciliator's report, which was given to me by the appellant. You wait until I read that; it will make your hair curl. The conciliator, Dr Niemann, issued a damning draft judgement with a finding of maladministration by both AARD and APY. As a public officer, he had reporting obligations under the ICAC Act. We see in this bill that there is a change to allow ICAC investigators to go onto the lands any time they want, as they should, and that is something that nobody should be afraid of if they are operating openly and honestly.

As I said before, contrary to what some people say about the management and auditing of accounts, every set of published accounts is qualified by the fact that the auditor is unable to verify bank balances and trust account holdings from the bank accounts. Where are the annual reports of APY and accounts for the financial year ending 30 June 2013 and 2014? Have there even been required AGMs for those years? I do not know. I understand the Auditor-General is conducting an audit under section 32 of the Public Finance and Audit Act and I look forward to reading his report when it is tabled in this place.

Back in 2010, we had the withholding of the lawyers' reports from the then executive, the subsequent alteration of those reports without lawyers' knowledge and consent, and the obstruction of Anangu access to its first-class adviser panel, including a retired judge accepted by government as an eminent authority. Finlaysons, the former minister Mal Brough, Peter Sutton (well known in Aboriginal areas) and many more were there. More recently, former GM Mr Deans obtained pro bono

service from a leading national firm and introduced competitive quoting for legal services before his removal destroyed the groundwork he had put in place for competitive tendering.

What happened there is he had received a tender or quote of $7,000 to conduct legal representation on behalf of APY for their negotiations with the state government over the roads project, but no, that was not taken. What happened was a $28,000 contract; not $7,000 but a $28,000 contract was given to Johnston Withers. I do not know what the people at Johnston Withers are thinking, but I do know that, if I was a member of the executive, I would be getting independent legal advice, not from Johnson Withers, because this could come back to bite them in a very big way.

Finally, why is there a queue of witnesses wanting to appear before the Aboriginal Lands Parliamentary Standing Committee? We have had several general managers give evidence and we have another general manager and other people who have intimate knowledge of the workings on the APY coming to give us evidence. This is a very concerning piece of legislation—the haste, the extent of it—but it is necessary. I will go on to read from the conciliator's draft report, which was given to me by Mr George Kenmore.

Mr Kenmore was concerned about the way general meetings were being conducted, his access to minutes, and there were some other issues there. I will try not to read all of it, but some of it needs to be read for the information of the house. Mr Niemann, who was the conciliator, said in his first introduction—this is before February 2014—that he was aware of issues on the APY lands and he wanted to meet with the chair and the board, but that was not able to be done. He wrote to Mr Singer, as I understand it, and the board, yet there was no response. Mr Niemann said:

> I am confident that the Chairman was aware of this correspondence because at one stage he wrote to the appellant essentially dismissing any allegations that the conciliator had put forward.

The main concerns the appellant had were the loss of $3 million in APY funds, the legal costs of $477,000 incurred over a six-month period in 2011, and concerns about the proposed amendments to the act, which they contended could be better dealt with by way of changing to the APY constitution and by-laws. The conciliator continues in this report:

> The appellant impressed upon me that the process of appointing and dismissing general managers over the period of the last seven years demonstrated irregularities in the conduct of the executive board and, more importantly, that in most cases these appointments and dismissals occurred at the instigation of officers of DPC-AARD. This, he complained, undermined the independence of the board, thus preventing them from independently representing Anangu. He stressed that the reason why Mr McCarthy was suspended lay at the heart of his dispute with the board because he, Mr McCarthy, 'got too close' to matters that the board and DPC-AARD did not want revealed, such as the board's financial mismanagement and the proposed changes to the act.

This was like a red rag to a bull. Mr Niemann said, 'I resolved to investigate these matters further.' Mr Niemann was on the lands at the time and tried to meet with various people and, as we know, up there it does not always happen. He said in his report:

> Upon my return to Adelaide I proceeded to 'inform myself' about the suspension of the general manager, Mr McCarthy. I first asked the appellant to advise me in writing why he was aggrieved by the board's decision and action on Mr McCarthy. The appellant advised that McCarthy was suspended because he had tried to investigate the loss of APY funds and to take steps to have these losses audited. He also began to investigate why large amounts of APY funds had been wasted on lawyers.

The conciliator had a telephone conversation with Mr McCarthy:

> Mr McCarthy advised me of the history of his dealings with Johnston Withers who had apparently been instructed to act for the board in relation to his suspension. He advised that one reason why he was suspended was because it was alleged that he had employed a systems and compliance manager, Mr O'Shea, contrary to section 13L(2) of the act. McCarthy denied these allegations and, as far as I am aware, they have never been proved. However, two important issues arise from this matter. First, Mr McCarthy knows that O'Shea discovered significant compliance irregularities in the way APY had conducted its affairs. I have never had access to this report so I am unable to comment on it further.

Well, I can comment on it because I have that report. I have that report here. In the report, the scope of audit, the audit focuses on documented systems compliance in the APY Land Rights Act. This was how the APY Executive was complying with the act: 110 line items of compliance were identified in the act and, of those 110 lines, 52 line items (47 per cent) were in compliance. Forty-six per cent were noncompliant and 12 had opportunities for improvement identified. So, over half (58 per cent)

of the obligations of the APY to meet the requirements of the act were not being met. No wonder the alarm bells were starting to ring back then. Mr Niemann continues his report:

What is intriguing, however, is that the reference to section 13L enlivens ministerial oversight of the matter and, had DPC-AARD wanted to interfere in the legitimate governance of APY, then this could have provided a basis for them to do so.

So we really do not need to be here today. We could have done this back on 7 July. This should have been raised then. If the department was not aware of that, well, then, I would be very, very surprised. In Mr Niemann's report, he goes on to say:

McCarthy then goes on to recite a very disturbing account of what he discovered after he commenced as general manager of APY on 7 October 2013. It would seem that he investigated the matters that the appellant and the APY elders and committee members had been complaining about to the minister and the board over the course of 2013.

So, it was not new to the minister, it was not new to the board, so what was the minister doing? What has he been doing all this time as the minister? Mr Niemann continues:

What is perhaps more troubling is that in many respects it confirms most of the allegations that the appellant and APY elders and committee members have been complaining about to the minister concerning financial mismanagement, unprofessional legal practitioner conduct and administrative maladministration.

The minister knew about this, according to the conciliator, the ministerial-appointed conciliator. Why hasn't the minister acted before? Why hasn't the minister hauled the APY Executive over the coals before? Why hasn't he told them to lift their game before, rather than coming in here with this legislation today? It is a sad, sad point we are at today.

The question left begging is that, if McCarthy could discover these matters in the short term that he was general manager, why had these matters not been more rigorously and effectively dealt with by now? As I have said, why had they not been brought to the minister's attention? Who was blocking it? Was it the board? Was it the department? Who was it? Mr Niemann's report continues:

McCarthy then goes to allege that it is 'apparent that there is substantial evidence that AARD is complicit in breaches of the act, has systematically maladministered the act and has deliberately interfered with and overstepped this authority in respect to APY'.

It is the minister's department as well. Unfortunately, the more you read of this report this minister's credibility is really at risk. Mr Niemann continues:

On 6 March 2014 I received a letter from Johnston Withers informing me that they acted for APY and inter-alia—

What does that mean?

Ms Chapman: Amongst other things.

Dr McFETRIDGE: Amongst other things; I am not a lawyer—

requesting me to supply copies of all correspondence I had received from the minister. I could not understand why they were requesting copies of the documents from the minister appointing me as conciliator when their clients, pursuant to section 35(2) of the act, had passed a resolution approving my appointment as conciliator on 9 October 2013.

The lawyers have a lot to answer for. McCullough Robinson, Phillip Toyne out of Brisbane, have a lot to answer for. Johnston Withers have a lot to answer for. Mr Niemann continues in his conciliator's report:

On 11 March 2014 Johnston Withers wrote informing me that they were 'surprised and disappointed' that I had refused to provide them with documents that they had requested from the minister appointing me as conciliator.

Curiously, they had cc'd this letter to the minister and DPC-AARD. If Johnson and Withers were acting for the APY Executive, a separate and independent statutory authority, why were they sending copies of their correspondence to the minister and DPC-AARD? The minister was obviously aware of this, AARD was aware of it, the board was aware of it, but what was done? Nothing, and that is why we are here today. Mr Niemann's report continues:

On 4 April 2014 I received a letter from the executive director of DPC-AARD, Miss Saunders, wherein she informed me that she had been contacted by Johnston Withers and supplied with copies of correspondence between

me, the board and Johnson Withers. She said that 'the content and tone of the correspondence is concerning in terms of its suggestion that the executive board has lost confidence in your ability to conduct conciliation with the required level of independence and impartiality'.

She then says:

> The executive board has now made a request to the minister that you be replaced as conciliator.

Mr Niemann then goes on to defend himself, and this is where it gets even more interesting. Mr Niemann says:

> I was a ministerial-appointed conciliator—

remember this—a ministerial-appointed conciliator, approved by the executive board—

> There are a number of things that can be said about this letter. One, I have never met with the executive board nor have they communicated to me their dissatisfaction with me continuing to act as a conciliator.

There are a couple of other issues but I quote No. 4:

> Arguably, removing me as conciliator could be convenient to Johnston Withers, DPC-AARD, the minister and the executive—

because he knew too much. No. 6 says it all:

> The approach taken in the letter dismissing me as conciliator follows a familiar pattern whereby if anybody upsets the executive board, or members of it, the board with the assistance of DPC-AARD 'removes the problem by removing the person'. This is evidently the fate that had befallen McCarthy and possibly other APY general managers as well.

That says it all. Everybody is complicit in this, but some are more complicit than others. The conciliator's report has a list of 23 findings. The first one is:

> I find that I was validly appointed as an Anangu Pitjantjatjara Yankunytjatjara conciliator pursuant to section 36 of the APY Land Rights Act 1981 by the Minister for Aboriginal Affairs and Reconciliation, Hon. Ian Hunter MLC, and that there are no other impediments to me acting as conciliator in this case.

He continues on in No. 10:

> I find that the approach taken by the law firm Johnston Withers to this conciliation did not comply with the spirit and intent of this statutory requirement.

No. 16 says:

> I find that the executive board members are persons who are members of a governing body of a statutory authority.

It is in the act. It is all there. No. 17 says:

> I find that the executive board has a primary responsibility to advance the interests of Anangu at all times.

It is there in the act. Finding No. 20:

> I find that the executive board has a duty to independently and objectively defend those interests as advocates for and on behalf of Anangu. The board—

not the white advisers, not the general manager, not the director of administration, not the director of finance, but the board—

has the responsibility to defend and protect Anangu.

But that has not been happening, and that is not just my opinion. That is the opinion of many people who are far more experienced in Aboriginal affairs in South Australia than I. The last finding, No. 23, says:

> I find that there is enough evidence to form the belief or suspicion that the executive board may have engaged in conduct involving substantial mismanagement in relation to their official functions.

My understanding is that the minister knew and the department knew. The board certainly knew what was going on because they were trying to fend off this conciliator. So why are we here? Because of the inaction of the minister.

The last little bit of the conciliator's report is saved for DPC-AARD. I am not going to name the public servants who are named in this report. I have met them all but I will just say what the conciliator thought of their actions:

> While DPC-AARD and some of the public servants employed by the department are not parties to this dispute, they have nevertheless been involved in it in a significant and at times unhelpful way. It is not for me to make findings about the relevant public servants but, in my opinion, the employees of DPC-AARD are Public Service employees who in their dealings with the executive board have a duty to act in a manner consistent with the APY Land Rights Act and not only in the interests of the minister but Anangu as well.
>
> In my view, should they fail to do so, they may, if it involves a finding of substantial mismanagement in relation to their official functions, amount to maladministration in public administration. On the basis of information that has been provided to me, I consider that there is enough evidence to form the belief or suspicion that conduct involving substantial mismanagement in relation to their official functions has occurred within DPC-AARD.

So the minister, the department and the executive are all in the frame, and it is a very sad position to be in.

As I said before, as a member of the Aboriginal Lands Parliamentary Standing Committee, I have heard evidence from a number of former general managers and a financial controller. We are hearing from the conciliator on Friday and from another former general manager. I am not sure what the protocols are for in-camera evidence, but I would have thought that members of parliament and not just the committee should be able to be privy to that evidence. I will investigate that, if members of parliament want to come and listen, because I am sure that evidence will be given in camera.

I remember the first time we had a former general manager come to give evidence, and who was sitting in the front row? A lawyer from Johnston Withers, monstering this guy. So we cleared the room because we wanted to hear the evidence without any intimidation. I have 28 pages here of in-camera evidence, and it is damning. It is absolutely damning of the way the APY Executive have allowed themselves to be manipulated and the advancement of Aboriginal affairs on those lands carried out.

The history of interventions on the lands, though, is something that none of us in this place can forget. I thought it a very sad day when there were headlines in *The Advertiser* and *The Australian* saying that the government was taking over. I forget what the actual words were, but it was basically that it was going to take over, it was going to 'rule the blacks'. I think it was a very unfortunate way of putting things.

We have had a history of revisiting this particular issue, or going through this issue, in the past, and we are revisiting it again today, but I hope this is the last time. It behoves all of us in this place—every one of us—to make sure that we do not betray the Anangu and that we do get an administrator in place who is able to do the job and we get the job done.

Back in March 2004 was one of the very few times I actually agreed with what Kevin Foley said. We are all in the chamber, I know that, or listening in our offices, but listen to this. The Hon. Kevin Foley, who was then deputy premier and minister for police, said in a ministerial statement on Monday 22 March 2004:

> In public office there arises from time to time an issue of such importance that it demands an extraordinary response—an issue of such significance that it calls for measures reserved for times of state emergency. That response may be unpopular with some people and may result in criticism. However, as political leaders, we are obliged to do what needs to be done in the interests of all of our citizens.

Pipalyatjara, it is like driving from Adelaide to Sydney. Watarru is one of the most remote communities in Australia, and I will not talk about the current state of that community. Kevin Foley actually summed it up quite well then.

We saw the government bring in former senior police officer Jim Litster. Poor old Jim succumbed to the pressures there, and that is why I say that if we are going to put an administrator in there this person better be of the highest integrity, have the highest levels of courage and be given the greatest level of support not only by this parliament but by the Anangu, because we all want progress. We all want a real way forward.

Back in June 2005, we have been through Jim Litster, we have been through the very ill-fated Bob Collins. I remember sitting with Bob Collins in one of the ministers' offices here and having

a very jovial, friendly chat about things in the APY lands. I am afraid I was not convinced that Bob was the man, and I do not think he turned out to be. I do not want to speak ill of the dead, but I do not think that he was a suitable choice in the first place.

Then we had that wonderful lady, Lowitja O'Donoghue, and Tim Costello, who did their reports, made their recommendations, but what happened? Very little. What did Lowitja O'Donoghue say? How angry was she? I know firsthand that Lowitja is supporting this legislation with a very heavy heart, but she knows it needs to be done. What did Lowitja say back in 2005? Lowitja said:

> The Government's responses are driven by the desire to neutralise potential criticism. So they put in 'quick fixes' rather than going to the heart of the problems.

At the first commonwealth state task force meeting, Lowitja was asked if she wanted to comment about what was going on with Aboriginal affairs in South Australia. I will quote Lowitja, and this is very out of character for her:

> I said it was all bullshit. I was so angry. Now I don't use that sort of language. It was the first time ever. I have never ever in my whole experience in Aboriginal affairs been treated the way I have been treated by the Rann government. The difficulty for the APY community members is that they are having money dangled before them and they are being manipulated.

That is what Lowitja said back in 2005 and, unfortunately, that is what is happening now.

The person we put in place has to be somebody we can trust. I forget the word for 'all of us' and I mean including Aboriginal people, Anangu as well as us. We have to be able to trust them. The person I would very strongly urge the Premier to talk to, to sit down with and hopefully put in place as an administrator is a man called Neil McLeod.

Neil McLeod is an Office Managing Partner with Deloitte Growth Solutions in Alice Springs. Neil has been a partner in Deloitte Touche Tohmatsu for 17 years. He is a member of the Institute of Chartered Accountants in Australia. He has a Bachelor of Arts in accounting. He is a registered tax agent and a fellow of the Taxation Institute of Australia. He has more than 40 years' experience in the accounting profession, having commenced his career in South Australia and then moving to the Northern Territory in 1986, initially to Alice Springs, relocating to Katherine in 1992 to run the Katherine office before he returned to Alice Springs in 2004.

Neil has significant experience in the following areas: Aboriginal communities and enterprise, tourism and hospitality, retail, manufacturing, service industries, statutory bodies, construction. His professional experience was initially in relation to small business and some national operators. Since moving to the Northern Territory, a wide range of experience has been gained, not only in small to medium businesses but also in providing accounting and bookkeeping advice and support to numerous Aboriginal corporations, including Waltja Tjutangku Palyapayi Aboriginal Corporation, Mangkunegara Aboriginal Corporation, PY Ku Aboriginal Corporation, PY Media, Institute for Aboriginal Development assisting the Statutory Manager for Deloitte, Mungoorbada Aboriginal Corporation, and Jawoyn Association Aboriginal Corporation in Katherine.

Mr McLeod is a very well-credentialled person to be appointed as an administrator. The checking that I have done on Mr McLeod reinforces in my mind and my heart that this is a man who is not only well intentioned but can achieve results.

I have been given the name of a person the minister is considering. I strongly advise the minister to reconsider where he is going. If we are going to share half the pain in this process as the opposition, surely we should have some say in who the administrator is going to be. When you have somebody who is independent—as far as I am aware, Neil McLeod has no political connections at all, he has very good experience though—he is the sort of person I would be very interested in seeing the Premier and the minister talk to.

This position we have come to today is all about the problems with governance on the APY lands. I remember reading a letter in this place during question time to premier Rann from Makinti Minutjukur about a meeting on the lands, and she was fuming because she had hoped to have some dialogue with the premier then, but he stood across the creek with the TV cameras and it was all about photo opportunities. Well, the photo opportunities have to end. This has to be about getting on with the job.

Back in 2005, the APY Task Force Progress on the Lands report was about governance on the lands and how the government was committed to improving governance on the lands, then in 2007 we saw almost word for word exactly the same report two years later. The governance has not progressed. In the report by the Minister for Education and Child Development, in response to Ted Mullighan's report on sexual abuse, we still see recommendation 1, that any changes to governance of communities on the lands be implemented promptly so as to reduce the extent of dysfunction and possible corruption in the communities. Not just the communities, but in the executive, who should be the leaders. Unfortunately, the dysfunction in the executive reflects what is going on in those lands.

There are about 3,000 people on the APY lands during the wintertime and fewer in summertime. There are a number of small communities and some larger communities. Those community councils are doing their very best, and they should be able to do better because I understand that the global budget is about $200 million a year. In my 12 years on the Aboriginal Lands Parliamentary Standing Committee that is well over $1 billion—it is about $1.4 billion, I think, at eight times 12. You are still talking about a lot of money going in: federal money, state money, and local government money through the federal government grants.

Where to from now? Let's pass this bill through this place; let's put our armour on; let's put up with the criticism; let's be called 'racist' if that is what people want to do; and let's make sure that we do what is right for Anangu—not what is right politically, not what is right for the media and not what is right for a sector of the Aboriginal industry in South Australia. Let's make sure we do what is right.

I conclude by referring to a piece of paper that was given to me by the APY Council of Elders about some of the things they would like to see. It is not a statement of demands, nor is it a complete plan, but it certainly is a way forward. They have called it 'Anangu Phoenix Dreaming', and there are a number of points here which I will read out:

1. Under section 64A of the Constitution of South Australia, we are entitled to local government—we don't have it. APY looks like a local council but it has none of the necessary powers. $1.2 million in local government funding is wasted on lawyers, consultants and trips to town. We need a local council to be the principal service provider, not a mishmash of warring agencies and NGOs. The Prime Minister was not joking about service delivery devolving to the lowest level of government. We have known about changes to the MUNS funding for many years. We won't need to worry about this for the local council.

2. We need a Western Desert Regional Authority driving developments for the whole Western Desert block, including those parts of Western Australia and the Northern Territory, like the Torres Strait Islander Regional Authority.

3. We need APY governance to be drawn from properly-elected community councils which should be funded sub-committees under the APY act and constitution. The communities are aware where people live and where we need things like gender balance and police checks. Councils can appoint a delegate to a committee to advise about governance of how our land is administered. Councils can do real work in things like welfare reform, school attendance, housing administration, and many other things. All this can be done under new APY constitution.

4. Once these things are done, Anangu can have a real conversation about things like:

   subdividing communities out of the APY freehold in exchange for implementation of outstanding reforms recommended by so many inquiries like Bringing Them Home, Mullighan, and Little Children are Sacred;

   subdividing housing lots out of communities for individual ownership;

   dedicate roads and service delivery assets in exchange for them being done up;

   mobile phone coverage etc.;

   reform permits in communities and on roads to let the real world in subject to having safeguards in place;

   leverage future income streams from royalties in exchange for real progress now in areas like early childhood and reception to year 3 education.

There is so much more. We don't need to hang around waiting to die watching Toyota convoys, listening to gossip about the latest bloodsucker debacle on APY. So let's pick ourselves up and dust ourselves off and start real conversations about positive things.

There is a way forward and the way forward will hopefully start today. I know the executive board and some of the appointed administrators up there are not very happy with us, but I can wear that. Somebody said to me I have put on a bit of weight. No, I just have a thicker skin because you need it in this place. You need to be able to stand up and do what is right. It is about making sure that we do exactly what is right for the people of South Australia and, in this particular case, what is right for Anangu.

The need to rush this legislation through is, as I have hopefully shown, something that should not have come to this point. There has been ample evidence that the minister should have stepped in a long time ago. I have been calling for an administrator for ages. I remember asking the former minister (member for Colton) in 2012 about the administrator.

As I said, I have put in FOI requests to try to track down what is going on up there and have had continual battles. I have been called a troublemaker, but I wear that badge with honour because the trouble I am causing is for the bad people, not for the good people. Good people have nothing to fear. They do not worry about qualified audits, they do not worry about scrutiny, and they certainly will not worry about any investigations with the Auditor-General or any other investigators that may be inquiring about their activities on the lands.

So, in many ways it is with a heavy heart that I actually come to this point and say that we do support this legislation. We strongly object to the fact that it has come to this method of getting an administrator appointed, and that one needs to be appointed in the first place, but we do not resile from the fact that it has to be done. We do not want lawyers fighting over the legislation and that is why it is pretty brutal. I do not shy away from that. Giving a minister unfettered powers is not something with which I lie comfortably, but the minister should know that with power comes responsibility. We will be watching. Anangu will be watching.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (16:41): I rise to speak on the Anangu Pitjantjatjara Yankunytjatjara Land Rights (Miscellaneous) Amendment Bill 2014. This is a bill that was introduced in the Legislative Council yesterday. It passed after significant debate with, I think it is fair to say, a considerable number of concerns being raised and a very long list of questions unanswered. However, approaches by the current minister (Hon. Ian Hunter) to the opposition have resulted in meetings with the Leader of the Opposition and with the member for Morphett and the Hon. Terry Stephens, both of whom represent our side of the parliament in the Aboriginal Lands Parliamentary Standing Committee.

It is disappointing—that is probably an understatement—to me that there has not been any formal reference of this legislation or its proposal to the committee, but I note the minister has at least consulted our representatives on it and has presented to them concerns that he says justify this legislation. We are being asked to change the rules and structure of governance on the APY lands, and we are also being asked to change matters of access, permissions and exemptions to the permit scheme that currently operate under the APY Land Rights Act 1981.

That act was established and pioneered legislation to recognise a decade of discussion and conversation with representatives from the Indigenous community and state government to develop a scheme or a system with statutory protection for the independence, self-governance and autonomy of Indigenous peoples in South Australia. It made provisions for a number of things, but since its passage it has operated in that manner. It has had some significant amendment. I am only familiar with what occurred after I came into this parliament.

There had been some amendment as a result of there being a long period of time when an election had not been held, notwithstanding that being contrary to the rules of the legislation at that time. It is important to remember this legislation was set up to provide that autonomy. It established a number of safeguards in setting up a structure elected by the local people.

Sometimes, I suppose that has been difficult to identify, but the Electoral Commission has taken on that responsibility and tries to ensure that a fair and democratic process operates, making provision for the proper accountability and administration of funds, which are very significant moneys,

as has been pointed out by the member for Morphett. We are talking hundreds of millions of dollars a year that are paid in, largely by federal and state governments, with the federal government's funding incorporating moneys under local government regional entitlements.

There is a very significant amount of money going in and a moving population. Around about 3,000 people reside on the APY lands at any one time. They are not all permanent residents. In fact, it is a fairly mobile population. Some live there part time, some are infrequent visitors and some are permanent.

Remember, the whole purpose was to have an act which provided for the vesting of title for certain lands for people known as the Anangu Pitjantjatjara Yankunytjatjara peoples, and a number of things were set up. Number one was, of course, the governance structure, as I say. There were access rights—who could go on with a permit—and special provisions for the township of Mintabie, which was a precious stones field and mine which operated and ended up within the boundary.

We had some special rules that were set up leaving the right to the Crown to continue to occupy certain parts of the lands. We had provisions for dispute resolution. We had a special provision that says they do not have to pay any land tax. I am thinking about setting up a house up there myself, at this point. These are all the special rules that were set up and have been added on to.

When I came into this place, one of the things that became very quickly apparent was that there had not been an election under the proper set of rules that operated under this legislation for some time. As has been pointed out by the member for Morphett, various reports were then undertaken to deal with this question of governance and the whole election. Mr Jim Litster was appointed; that was fairly ill fated and short term. Then, the Hon. Bob Collins, a former parliamentary representative for the Northern Territory who has since passed away, was brought in. I can recall having a meeting with him with the then shadow attorney, Mr Lawson.

He had a fairly full and frank discussion with him. His report came out with a number of recommendations but, in short, he said, 'Send the police in straightaway. The situation is that dangerous for those who are living there. They need protection. An election must be called immediately, and action must be taken by the government to deal with that.' There were other comments that he made about shooting all the dogs, giving people hot meals each day and all these sorts of statements that were typical Bob Collins, to be frank, but that was the reality and the significance of what he collated at that stage.

I was quite shocked by the fact that human rights had reached a dangerous level, as the member for Morphett has pointed out, and there was an urgent need for the protection of many of the people who were living on the lands. The government made certain commitments that that would occur. Lowitja O'Donoghue's report, not long after that, again indicated that, notwithstanding the urgency that was identified and the importance of having police there, there had been little action by the government, and she expressed very explicitly her concern about the lack of that.

Then, the late Ted Mullighan, former Supreme Court judge, undertook his review in respect of sexual abuse towards children in institutional care; that is, under the guardianship of the minister. He attended at the lands. His final description in relation to what he identified was absolutely horrific to read. It was bad enough that, in his first report, reports had gone missing and even a child's death had not been recorded properly, but when we read the report in relation to the APY lands area, it sent shivers up your spine.

After that, I asked the then minister for Aboriginal affairs and families and communities, now Premier Weatherill, questions like: what has happened in respect of the reporting of child sexual abuse and the action taken to protect this apparent plague of problems that are there and are being reported mainly by the women in the community? His response was: 'We do not keep a record of that at Coober Pedy. We do not identify whether there is a problem here.'

When you go to the Nganampa Health Council annual reports and try to identify what used to be recorded in respect of sexually transmitted diseases within children, and what used to be reported in relation to drug and alcohol abuse, particularly in children, these things have just

evaporated from the financial records. What do you do about that? You then try to seek that information.

It is not forthcoming from the government. It is not forthcoming from the Nganampa Health Council. They are an exempt agency under freedom of information, so it is little wonder that concern has been raised as to what is actually happening and what accountability there is to remedy the protection of what is obviously an assault predominantly on women and children in this area. It is of great concern to me that nothing appears to have been done. My colleagues (the member for Morphett, the Hon. Terry Stephens in another place, our leader, and other members) have repeatedly asked the government questions about what is happening in relation to matters on the lands. The answers are dismissed; in fact, they are treated with disdain. It is of great concern.

Yesterday when the government came to the parliament with this bill, it was to raise really two things. It was suggesting that it was necessary to appoint an administrator, which of course there is already power under the act to do, in a circumstance that was entirely within the discretion of the minister. There needed to be no accountability on his or her part to identify how that is to occur and under what circumstances. He wanted to have the power to do this.

It seems, from his very brief second reading, that this is because, one, there have been multiple general managers. Well, if one were to look at the multiple Aboriginal affairs ministers in this state in the last four years—I think there have been four of them—or the number of people who have been minister for families and communities—there would have to have been six, seven, eight in this government since I have been here—the number and turnover of general managers in itself does not tell me that there is a level of dysfunction requiring an administrator.

I would want to know why those administrators have been and gone and what has happened in relation to either their dismissal or resignation. It seems to be a little vague as to what has occurred when one reads through the debate yesterday in the parliament. In the member for Morphett's contribution, he said apparently a number of them want to come forward to his committee to give evidence. I will be very interested to see what they have to say.

The second aspect is that there appear to be deficiencies in the financial management of all this money that comes in and out. I, for one, would agree that, if it is necessary to deal with the financial management and that it may need some support, that can either be done in one of two ways. Sure, you could bring in an administrator, but that might be like a sledgehammer to an ant, or you could provide the resource of people who are competent to be able to provide that or with ministerial direction to ensure that there are conditions set for the operation of that.

It appears that all the minister has done, apart from not answering a lot of questions in another place yesterday (and I will be asking the minister in this place to give us an update on a number of issues in relation to that), is suggest that the only way to deal with this is for him to appoint an administrator. The next question is: who should be appointed and how are they going to work with the Anangu people and those on the APY lands? That is a good question, because we have no clue about what the government are proposing in this space or whether they intend to consult with anybody, whether they will be brought in on Monday or when the suspension is going to occur. We have no clue about how much they will be paid.

All these questions are unanswered: what qualifications they will have, and whether Mr Neil McLeod, as suggested by the member for Morphett, is a fit, proper and appropriate person. I do not know. He may well be, and it may well be one for the government to consider, but it may be that his financial credentials are only dealing with one of the issues that is a problem there. It does appear at this stage that it is the financial mismanagement under question, but I certainly would like to have some more detail of that.

Secondary to that in this bill is the question of access to ICAC (Independent Commissioner Against Corruption) representatives. He currently employs a number of serving police officers as support staff to his commission. As the government is often proud to tell us, there are serving police officers on the lands, and I know that because last time I went up there I got lost and had to ask one of them in the middle of the night to help me find a place to stay. They were very helpful, I might say. In fact, I think I wrote to the then police commissioner to thank them for that assistance, so we know that they are up there.

What on earth has been happening? If there is a form of corruption occurring, first of all we have no clue about the detail of it. If corruption is occurring, I think the government needs to tell us: what has been reported to the police, what action have the police taken, has it been referred to the DPP, and what investigation has been occurring by our serving police officers and/or other that can be sent there for the purposes of undertaking action?

The serving police officers currently working in ICAC can go there tomorrow. They already have power under the permit system to go there. Quite frankly, if they were interested in going up there to get documentary records, they should have been up there yesterday, before this legislation was even filed. It is a bit like getting the report from the government who say to us, 'It is very important, the ICAC Commissioner tells us, for the government to understand that they cannot use private emails, either ministers or their staff, and we are telling them that, if they do, they are part of the State Records Act so they should be sent a reminder that they are not allowed to do that.' Well, two months later, we do not even have confirmation from the government that it has sent an email of instruction to their staff not to use private emails.

So, hello? What do you think the people who are involved in some kind of corruption on the APY lands would have done in the last few weeks, having had notice of what is happening here? They would have shredded whatever documents they had up in the APY lands quicker than you can think. Heavens above! What sort of Mickey Mouse operation is this government running. I for one do want answers as to why the police have not been up there already and what action has been taken to protect any records or documents or persons who might be called to support any allegations of corruption or misconduct that apparently ICAC needs to look at.

At the moment the minister is asking us to blindly provide for permits. The commissioner himself, as I understand it, has said, 'If you want to get in this space, I want to go up there to look at this and I will need to have access as a separate provision.' That is the explanation that is being given to us as to why we need to amend the act. Before we do that I certainly want some answers from the minister as to why the police have not been up there already. And those who are there, why have they not acted? What action has been taken in relation to those investigations and at least the very nature of the alleged corruption? All I keep hearing is rumours at this point.

The best it has been explained to me so far is that the board, or at least some of the members on that board, have instructed their general manager to do certain things. The general manager has taken the view that that is not appropriate and, when that has occurred, they have either been dismissed or they have just resigned, given up and left. There has obviously been some sort of bullying or intimidatory behaviour and, as a consequence of this circulation of general managers, somehow or other in the meantime, the board or some members have got access to moneys that they should not have, including board fees, which were referred to last night in the Legislative Council, and meeting fees, which they have either had in advance or should not have had access to, which has raised some question about the financial accountability of the operations on the APY lands. That is about as high as anyone can put it.

If there has been misconduct, if someone has broken the law, if there has been intimidation or any action of that sort, again, I want to know what has happened. If the Minister for Police and the Minister for Aboriginal Affairs can throw some light on that, I would appreciate it. I appreciate that the Minister for Manufacturing, Innovation and Trade in our house now has the conduct of this matter, and I am hoping that she will have some of her advisers come in with all the answers to the questions that were asked in the other place yesterday. Frankly, I think we need to have some answers to those questions today, and I will repeat the questions in the committee stage of the bill if we do not get any answers. However, I certainly hope that the minister who has conduct of this matter will come back to us today with some of those answers and, if not today, tomorrow. Quite frankly, this parliament deserves answers. Secondly and more importantly, the people of the APY lands deserve some answers.

Mr MARSHALL (Dunstan—Leader of the Opposition) (16:59): I rise to speak on this amendment bill which is currently before the house. Can I just say that I have very much enjoyed visiting the APY lands. I think it is an extraordinarily precious part of our state; in fact, since becoming a member of parliament I think I have been up there every year. When I was first elected to the South Australian parliament I had the very great honour of representing my party and this house on

the Aboriginal Lands Parliamentary Standing Committee. That was a real eye-opener for me into both the beauty of our Aboriginal lands in South Australia and also the deprivation which exists in terms of services, job opportunities, and a whole pile of other outcomes for the people living on our Aboriginal lands right throughout South Australia.

As I said, I have made an annual trip up to the APY lands, and this year in August I had a great pleasure of visiting that far north-west corner of our state. I had never visited Pipalyatjara before, and on this trip I travelled to Pipalyatjara, I travelled to Kulka and Watarru, and I went over the border into Western Australia to Wingellina. It is an extraordinarily attractive part of this state. I must say that the people I met with there were extraordinarily generous and hospitable. I love the football oval; in fact, I took a photograph of the football oval in Pipalyatjara. There is not a blade of grass on this football oval, but I am told that they have an excellent football team there.

I visited the school, I met with Mrs Paddy, I met with Sally Scales, and I met with some of the community leaders and the people who know that there are many challenges that face people, the Anangu, living on the APY lands. My thoughts are with them at this very difficult time, when the parliament is considering this extraordinary bill.

I would also like to put in *Hansard* that I think that this is an extraordinarily difficult portfolio to have. Aboriginal Affairs and Reconciliation is extraordinarily difficult because there are enormous challenges which confront the government and any minister who has this portfolio. I believe that we on this side of the house try to be as reasonable and as bipartisan as humanly possible, given the fact that we are in a political environment. I think at every opportunity that I have anything to do with this portfolio we have extended that hand of bipartisanship to this government.

I remember very distinctly when the latest minister for this portfolio was appointed (I think that was in January 2013). I met with him within a month of his appointment. I had become the leader of the parliamentary Liberal Party at that time, and I said, 'If there's anything that we can do from opposition to improve the lives of the people living on the APY lands, then let us know what that is.' In fact, I put forward a range of suggestions, almost like a menu of things, that we thought needed to be done, and we settled on a range of issues, including updating the Aboriginal lands act in South Australia and introducing and passing the Mutaka legislation in South Australia.

The minister said he wanted to do something with regard to governance on the lands, and at every single opportunity I said yes. Sometimes I did not agree with what the minister was putting forward; in fact, several times I did not agree with it, but I said, 'I appreciate this is a difficult portfolio and I will work with the government on this legislation.' Unfortunately, I do not think this is a portfolio that the government is really taking seriously. We have had four ministers in five years. We have had a succession of cuts to the budget in this important portfolio area. Every year for the last three or four years, we have had a cut.

This important agency does not even exist within the Department of the Premier and Cabinet any more; it has been moved to State Development. There has been no explanation whatsoever as to why that has occurred. As I said, this is a tough area, and it is an area which requires dedication and bipartisanship, and it is a portfolio that requires some 'stickability' because it is not that easy.

I must say I have learnt a lot by not only being on the Aboriginal Lands Parliamentary Standing Committee but I am now serving in my fifth year on the board of Reconciliation SA, and I want to thank the other members of Reconciliation SA for helping me in my journey to understanding the complexities that face our first peoples in South Australia.

You can imagine my surprise when, last week, I was requested to attend a meeting with the minister. It was an emergency meeting. I was supported in that meeting by our shadow minister, Dr Duncan McFetridge, himself a longstanding advocate for people living on the APY lands, and also the Hon. Terry Stephens, who also has been a longstanding member of the Aboriginal Lands Parliamentary Standing Committee and has a great empathy for the people living on the lands. We were summoned to this meeting where the government presented us with the most extraordinary of bills—I think that is the only way I could explain it—in which the government was asking us to, essentially, hand over these extraordinary powers to the government without explanation.

The bill only has two parts to it; one is to allow the ICAC to enter the lands without seeking a permit. I think, generally speaking, most people agree with that. In fact, the representative of the

APY indicated to me when I met with him on the weekend that that was something about which there was not going to be an argument. I think on that clause everybody is in agreement and we can move on.

I suppose the clause that causes the most stress is the clause which provides the minister with the power to, essentially, dismiss the APY Executive or, as the minister said in his lengthy contribution in the other place last night, suspend the APY Executive. The minister, according to this piece of legislation, can do this without showing any cause.

We asked the minister in our meeting, 'What is the reason?' He said, 'We cannot tell you.' As I said, it was an extraordinary meeting. He could not tell us. He suggested that we visit the ICAC commissioner, which I did the very next day. I met with Commissioner Lander and he spoke to his clause which, as I said, we will be supporting.

We are left in this very difficult situation. We have tried to adopt a bipartisan approach to this portfolio over an extended period of time. We do not know the reasons why the government has asked for this, we do not know why the commissioner has asked for his increase in powers, but we are being asked to trust the government.

I have to say that it has been a very difficult decision for the parliamentary Liberal Party to take the government at their word on this position because we have been let down by the government in this portfolio over an extended period of time. Nevertheless, we have committed to the government that we will be passing this extraordinary piece of legislation.

I want to place on the record today why I am so disappointed with the government. It seems to me that the existing piece of legislation which governs the APY has plenty of opportunities for a responsible, hardworking minister and a responsible, hardworking government to put processes in place to appoint an administrator without these extraordinary powers. We have one day of parliament left, tomorrow.

It breaks all precedent, virtually—nearly every precedent of this parliament—to consider a piece of legislation, through both houses, in the one sitting week. Certainly, there has been no other piece of legislation while I have been in this parliament, and I cannot think of any other piece of legislation, which has required this. The only explanation that I can see for this is that this is a government which, in this portfolio, is in crisis.

I sat through the entire debate—the entire sorry debate—in the Legislative Council last night, and I believe it was one of the most shameful times that our parliament has ever seen. Reasonable questions that need to be answered in a reasonable, considered way were dealt with flippantly by a minister who has shown no respect for this portfolio whatsoever. The answers that came were anything but satisfactory. It is quite clear to me that this minister and this government have not thought through the ramifications of this piece of legislation whatsoever.

Any reasonable person sitting through the debate in the other place last night would come away thinking, 'What is this parliament doing?' I think it was one of our most shameful days in this parliament, and I think that this minister has performed extraordinarily poorly. If he does not have an interest in this portfolio, he should hand it over to somebody who does.

The minister has made it clear to us that there are things which need to be done on the APY lands. We are very sceptical. We need to see some accountability. We have inserted a clause which the government has agreed to and which the crossbenches in the other place have also agreed to, which will require any appointed administrator to report to the parliament. We thought this was extraordinarily important, because any administrator should not be simply reporting to the government. They should be reporting to the parliament, because if the minister does exercise these extraordinary powers which he has demanded of the opposition, then there has to be some accountability.

We have also agreed to a sunset clause. We do not think that these powers should continue indefinitely, and so we have insisted upon a sunset clause. The government says that if that sunset clause is too short it will not allow the appointment of an administrator; it would severely limit the administrator who could be appointed. Again, we are in this difficult situation with a gun held to the head of the opposition to take the government at its word.

You, Deputy Speaker, are a person whom I know also shares a great love for our APY lands. You are one of the few people in this chamber who can actually pronounce it correctly; everybody else has a go at it, but I think that you probably do best of anybody. It is incumbent upon us, if this passes, that we have a government which starts to place some importance on our APY lands. It is an asset to our state. It is something that we should be rightly proud of. At the moment, sure there are challenges up there, but we have to get to a different methodology.

If I had to define the minister's and the government's approach to the APY lands since I have been in this place, it would be summarised in the expression, 'out of sight, out of mind'. It is shameful and it needs to be changed, and I will just commit that every single day that I am elected in this place I will do every single thing that I can, and I know the opposition will do everything that they can, to advance the cause of the Anangu.

Parliamentary Procedure

VISITORS

The DEPUTY SPEAKER: Before I call the next speaker, I would like to acknowledge the presence of commissioner Khatija Thomas in the gallery. The member for Goyder.

Bills

ANANGU PITJANTJATJARA YANKUNYTJATJARA LAND RIGHTS (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Debate resumed.

Mr GRIFFITHS (Goyder) (17:13): I also rise to make a contribution to this bill. I hold a very strong principle and I have great reluctance to force actions upon an elected group. For me, it comes from working in local government for 27 years and seeing committed people who provide options to the community and who make decisions, hopefully after being provided with the best information to make the often hard decisions.

I am concerned, and have a great moral worry, when legislation is put before the parliament in such a way, where such little notice is provided and little opportunity is given for an informed level of debate to occur. It concerns me when the Leader of the Opposition puts on the record that in his emergency meetings last week no reason was given to him for the legislation. That is disgraceful, I believe. A level of confidence has to exist for an explanation to be provided and there has to be the ability then for that information to be provided to others so that we can make an informed decision.

From the opposition's perspective there was a lengthy debate in the party room about this, about what to do with it. Some members held some grave concerns about the fact that we would consider it in both houses on consecutive days without the opportunity to consult widely or for the serious debate to be held or for the opportunity to ensure that what is put in place is appropriate for the community. I put those concerns on the record and I think others have done so.

I have taken the opportunity to read the Legislative Council debate on this matter, not word for word but I have looked through it. I note it was before the chamber for nearly six hours, deducting the mealtime that was taken as part of that. There were a lot of different opinions put. There were questions raised. The questioning at clause 1 was quite detailed and information was provided. Concerns were raised about financial transactions and the need for this to occur. I have also taken note of the minister's second reading contribution where he stated:

> A strong administration is necessary if the APY is to operate as an institution that is effective and accountable to the communities they represent. The APY Act has served as a beacon in Australia for Aboriginal people and their hard-fought struggle to regain land rights and cultural independence.
>
> The APY governing body, the APY Executive Board, is elected to make decisions for and on behalf of the APY. It must represent APY community interests at all times. However, the APY has been through a period of significant instability in the past few years. Since 2010, there have been seven different general managers.

As a person who has previously acted in an administrative role and understands sometimes the quite spirited debate that occurs between an elected body and those who manage it, that concerns me when there has been such a turnover:

This period has shown that difficulties can arise in APY governance that are of a more systemic nature and may not fit clearly within the limited grounds for a ministerial intervention currently provided for in the APY Act.

The Leader of the Opposition in his contribution spoke quite extensively about the fact that he has a very strong belief that within the current act there is the opportunity for action to be taken. I am disappointed in what I read in the upper house contribution that, while an action was decided last week for legislation to be introduced and debated and passed at the government's direction, it was only some short period of 10 days before that where an understanding was given that an action was not going to be taken by the minister. So something has changed, but the minister has not been in a position to provide the opposition with the details of why that occurred.

I was further disappointed to read that as part of a response given by the minister in question time yesterday when he was asked about when he has visited the lands most recently. It was 14 months ago. While he provided details on a series of meetings that had occurred since that, they were not on the lands. Minister Hunter certainly has some questions to answer about what he has been doing.

Parliament is called upon to make hard decisions and that is where the debate should occur in this place. We are here to govern on behalf of 1.6 million people and control a budget of $16 billion and there are often hard decisions that have to be made. It relies upon a level of integrity that has to be there at all times.

I deliberately came into the chamber to listen to the contribution of the member for Morphett. I trust his advice that he provides to me on Indigenous issues. I do so on the basis of the long-term commitment the member for Morphett has had and the number of people who he talks to and, on this occasion, the amount of evidence that he was able to put on the *Hansard* about concerns that have been raised with him. Do I support any accusation being made of misappropriation of funds? Never. Am I worried about that? Do I want to ensure that there is a process put in place that protects that from occurring? Absolutely, and that is the only reason why, without giving any level of comment about the accuracy of these accusations that have been made and the comments that have been made (if they are true or not), I believe an investigation has to occur.

The questions asked at clause 1 last night were quite detailed and the minister provided some explanations from letters and the like. There were questions raised about dollars and actions, but it just brought back to me the seriousness of this. It might be a bill short in words, but the significance of its intention is important.

I am a person who believes very strongly in a strong administration, so I immediately picked up on the fact that there have been seven general managers. There might be reasons for that, and I have not asked questions or sought a reason from those who might be informed about it, but the time available to us to do that is too tight anyway. That is why I have to trust in the words of others. However, I can give some comparisons with the Point Pearce community, which is in the Goyder electorate. It is not a comparison, or an accusation of poor financial management, but some of my experiences lead to a desire to ensure we make the right decisions.

Point Pearce is a great little town, and I have been there many years. I have only lived back on Yorke Peninsula for 15 years having grown up there, but in that 15 years (or thereabouts) I am aware of the Point Pearce community going through liquidation twice. When I talk about that, it is more than dollars to me because I have seen the impact that financial management issues and financial struggles have had upon that community. There has been a reduction in available services as a result of that and the dilemma attached to try to put in place good management principles that comes with liquidation is the only reason I have decided to be supportive of this bill.

That occurred in the past, and the community has tried very hard to work through that. I do not know the background of one of those issues, but I know that once when it happened I was working in the locality, trying to be supportive, and because of the commitments I made to that community from the local government perspective, I was invited to be part of a selection panel when it came to appoint the next executive officer of the community to help assist with the management of Point Pearce. I felt privileged by doing that, but it is because of that and because of my concerns for what poor management will do that I support the fact that an investigation has to occur.

The member for Morphett will probably be criticised for some of the comments he has made today. He has done so on the basis of information provided to him from contacts he has had for many years. This is not a short-term commitment he has had to the Indigenous people of South Australia but a long-term one, and I commend him for what he has put on the record. I understand this will be a complicated issue for many people to debate and there will be a lot of criticism levelled at the minister for his performance. It is very unfortunate that we are put in the situation of having to consider legislation so quickly, but with hand on my heart, when I am told by many others who are much better informed than I that there is a need for this legislation to be supported to ensure that the right actions take place, the right decisions are made, and the right future is provided for the community, I feel we have to support it.

I recognise that there have been amendments to the original bill as a result of debate in the other house, and I hope that this bill is supported soon and that the necessary action takes place. While it is difficult in the short term, the benefit to the people of the APY lands is in the long term, and that is what we are here to support.

Mr WILLIAMS (MacKillop) (17:23): I would like to take this opportunity to put on the record a few thoughts I have about this particular matter. On the face of it, this is a very small bill but it has significant ramifications, and as other members have pointed out, it has been brought before the house and before the parliament in some significant haste. That concerns me in the first instance, and I have not heard a lot of the contributions by my colleagues, but I have just been listening to the comments by the member for Goyder and he also raised this issue.

Legislation which is brought before the parliament in such haste usually indicates that some glaring fault has been ongoing for some time, and I think the timing of it—at the end of the parliamentary session—also points out that there is a glaring fault which points to a lack of proper administration by the minister. Obviously, the minister is encountering significant problems with regard to administration on the lands. I accept that, but I think the minister and the government have to accept a significant portion of the blame.

There have been many things pointed out that I am aware of. The member for Goyder just pointed out the number of executive officers that have held that position in the short space of the past four years. That should have sent alarm bells ringing a long time ago. What on earth has been going on? I suspect that the number of people who have held that office in that relatively short space of time should have indicated to everybody who had an interest in the matter that there were problems afoot.

I am aware that there is a strong necessity to make change. I am not too sure that the parliament is doing the right thing, but we have had the debate on this side of the house and have indicated that we will support this matter. I am not too sure that is what we should be doing at this stage, given the haste that it has been put to us, because I think there are other forces which maybe should be allowed to be played out.

I had the privilege of being the shadow minister for Aboriginal affairs for a relatively short period a few years ago and I gained an understanding of some of the issues in the portfolio, but one of the things that has disturbed me time and time again is that members of this government—and the Premier is probably foremost amongst these members—have come into this place and have tried to claim the high moral ground with regard to the management of Aboriginal affairs in this state.

One of the things the Premier is always very keen to talk about—and he said it again within the last month or two—is what this government and the Labor Party have done for the people on the lands. One of the things he points to is police officers residing on the lands, and he makes the claim in a way that indicates that, prior to this government being in power in South Australia, there was no police presence in that part or the state. The reality is that the only change that has been made is that the police officers are actually now resident on the lands, whereas they used to reside next door to the lands at Marla. That is the sort of political nonsense that we have grown to expect from this government.

The real issues are what is happening to the people on the lands, and more importantly, what is not happening for the people on the lands. There has been an abject failure of this government to make any real difference to the lifestyles, expectations and outcomes for the people

who are living on the lands. The government has failed miserably. We have had ministers go up there and take a team of news cameras with them, get some footage of some new initiative like growing a vegetable garden, and come back. After being filmed, the minister did not have time to sit down and talk with the local people.

Ms Redmond: No, had to get back to the kids.

Mr WILLIAMS: She had to get back to her kids here in Adelaide—that was one of the previous ministers. It has been an abject failure. It has been some years since I have been on the lands, but I can tell the house that I was horrified the last time I was up there. From talking to some of my colleagues and other people who have been there more recently, I do not think things have improved very much in recent years.

I know that there are problems, and I am not suggesting that there are easy solutions. I fully acknowledge that the solutions are incredibly difficult, but they are not made any easier by people like the Premier coming into this place and playing base politics with these issues.

For that reason alone, I have some reservations about supporting this measure because I think it plays into the hands of those base politics being played by the Premier and this government. It is not just this Premier: it is this government. The Premier was a minister for this portfolio area for a considerable length of time, and he has to accept a fair bit of the blame for the failure of what has occurred on the lands during the whole tenure of this government.

I do not think anybody from the government would be in a position to stand up and claim credit for anything because they have overseen a pretty amazing failure. Just on the bill itself, one of the concerns I have is in clause 4 of the bill, which provides:

> (1) The Minister may, for any reason he or she thinks fit, by notice in the Gazette, suspend the Executive Board for a period specified in the notice or until further notice in the Gazette.

I question why we will be using the word 'suspend'. My personal feeling is that it would be a lot better if the word 'dismiss' were utilised there. If there are grounds to suspend the board, I would argue that there are grounds to dismiss the board and go back to the drawing board and start again. That is just one of what I consider to be the flaws in the bill itself, and that is why I lament the haste with which it is going through. I do not know that the parliament is going to give significant attention to the minutiae of this bill, and I would much prefer, if we are going to go down this path, that the word 'dismiss' were utilised instead of the word 'suspend'.

I fully concur with the other significant part of the bill. It is unfortunate that it has not been something that has been available to the ICAC ever since its existence. I concur with that and let the house know, in concluding, that I will be reluctantly supporting this measure.

Mr TRELOAR (Flinders) (17:32): I rise today to make a contribution to this debate. I have been listening with great interest over the last couple of days—yesterday afternoon and evening in the Legislative Council and again here today in the House of Assembly—and they have all been extraordinary contributions, in fact, on this issue which is so important. It is so important that we get the management of these lands right so that we ensure the ongoing capacity and capability long term for these lands to survive and also offer opportunity and hope for the generations still to come.

I mentioned way back in May 2010 my interest in Aboriginal affairs in my maiden speech as the representative of the electorate of Flinders. We are home to a number of Indigenous communities which have indeed contributed to the rich history and culture of our region and right across the state, particularly those communities in traditional Aboriginal lands but also in the regional centres of Port Lincoln and Ceduna.

Aboriginal affairs policy directly affects many people in Flinders. I am actually quoting from my maiden speech here, and it still remains pertinent and of great interest to me. I said back then:

> Aboriginal affairs policy directly affects many people in Flinders, so I do commend the work of the many members in this place who have had a positive impact on developing policies that improves the lives of Indigenous people [across my electorate and indeed] across the state.

Of course, in this bill we are talking about the APY lands in the far north-west of our state—not in my electorate but in the electorate of Giles. I said in 2010:

…there is still much to be done. Access to health services, education and increased life expectancy are all areas that can be improved. It is my hope that the spirit of bipartisanship on Aboriginal affairs policy will continue over the life of this government—

and for the time that I am in this place—

for the betterment of Aboriginal communities in Flinders and indeed [right] across South Australia.

Those were words I put onto *Hansard* back in May 2010 in my maiden speech.

Mr Williams interjecting:

Mr TRELOAR: It may be repetitive, but there is a reason for that, member for MacKillop—because in fact nothing has changed. After years and years of this government's neglect, nothing has changed in the way of management in the APY lands or in fact right across many of the Aboriginal communities in South Australia.

We do rise to support this bill. We have had reservations, and you have heard many of them today from the members on this side. A big part of those reservations come from the haste with which the bill was introduced; in fact, we have had just this week to deal with it. We first saw it in our party room on Monday just gone. We had to discuss it. It was a long debate in our party room, and I do not mind putting that on the record. It was a difficult debate, but ultimately we decided to support it because the reality is that something has to change.

Something has to change in the APY lands. There have been stories for years coming out of the APY lands about the conditions and, more recently, about the administration up there. I understand that the government finally recognised that something needed to be done. I think it is probably a sledgehammer approach, but there you go. When you neglect something for long enough, you actually have to come in with a knee-jerk reaction.

I have not had the opportunity to visit the APY lands, and I am disappointed to have to say that, but I do look forward to having the opportunity to visit sometime in the near future, hopefully still as an MP. It is one part of the state I have not been able to visit. I have friends and colleagues who have had the opportunity to visit, and in fact some of them have mentioned those visits today. I have friends in the workforce who have done some contract work in the APY lands, and I have to say that for the most part it has been a pretty good opportunity for them as contractors to take work in the APY lands. It is always well rewarded, and it tends to be a continuous work environment for them, but some of the stories they come back with about the conditions and also the administration of the place are quite extraordinary. These are the reasons this bill is before us.

I think accountability is a big issue, particularly when government money is involved. The member for Morphett can correct me on this, but I think he mentioned before that up to $200 million of government funding goes into the APY lands each and every year. It is an extraordinary amount of money—$200 million for some 3,000 people. They are probably the most well-supported (financially at least) people in the state—maybe the nation, I do not know. But, of course, where you have government funding you need accountability, transparency, and checks and balances in place. Taxpayers expect that and the parliament expects that.

I spoke earlier about the rushed nature of this bill. It is so rushed, in fact, that the legislation does not appear even today on the government's own legislative website. The consideration of this has been rather hasty, and often when legislation has to be considered quickly there are unintended and unforeseen consequences resulting from legislation that has not been thought through or properly debated. I know there was a long debate in the Legislative Council last night, and an amendment was put introducing a sunset clause. We would be supportive of that, as it is a fair and reasonable amendment to the bill.

I would like to congratulate the Leader of the Opposition on his contribution today. He has been passionate about these issues for a long time—and he indicated that he has been involved with Reconciliation SA for some years now—as is the member for Morphett, who was our lead speaker on the bill. They are both passionate about these issues and really want to see the best outcome for the people in the APY lands and right across the state.

I acknowledge the contributions of all involved in this bill. Obviously, we are going to have to complete it either today or tomorrow and pass it so that we can move on from this. I think the real

opportunity now is to make the APY lands a better place. That should be the primary goal. It has to be a better place than it is. It has to give opportunities for future generations and it has to give the opportunity for people to have a worthwhile lifestyle. We have to give people the opportunity to contribute to their own communities, and I do not know that we have always seen that in Aboriginal communities. There tends to be a certain amount of dysfunction.

Just in the past few weeks, and months even, the government has been active in the Far West Coast of South Australia, and that has been looking to address the delivery of government services. I acknowledge the effort that the government is making there. I mentioned earlier that this needs to always be a bipartisan effort. I think it is the only way to achieve results. For a long time right across Australia many governments have thrown much money at the Aboriginal communities, often with very little to show for it, very little change. There is no silver bullet. There is no silver bullet for some of these social issues. If there was, we would have found it already. We have not been able to do that, but try we must. As I said, we need to turn what is quite an extraordinary situation, quite an extraordinary place, into a functioning community with opportunity and promise for those who live there.

Ms REDMOND (Heysen) (17:41): I am in some ways pleased to be rising to speak on this bill today. The house would be aware that I have had a long-standing interest in Aboriginal affairs, as has the leader. Indeed, the member for Morphett even went to university to learn Pitjantjatjara language. We have a number of people on this side of the house who have a profound interest in these matters.

I visited the electorate of Stuart with the member for Stuart, and I know that when he goes about his electorate he always makes a point of going to Aboriginal communities so that he can engage with them as their representative, just as much as he engages with the rest. That is not to say that I think there is any less genuine interest on the other side of the house. I believe that you yourself, Madam Deputy Speaker, have had a longstanding interest, as have the member for Ashford and a number of other members. Indeed, I think generally both sides of this house and the other place, and indeed most of the parliaments throughout Australia, are genuinely intended, as is the general community, to closing the gap, to fixing a lot of the problems that we have seen over many years. What is bewildering is that, try as we might, things have simply not got any better over a long period of time.

I do not know how many members of this house have actually been to the APY lands. I have not been up for a couple of years. Members would be aware—well, some of the newer members might not be aware, but some of the more longer serving members would be—that before I came into this place I actually acted for an Aboriginal tribe, the Mirning people, and they were out on the Far West Coast. So, I have travelled up into areas to the north of the dog fence and gone into the APY lands sort of via the back door, as well as up in through the front door. Indeed, there have been many occasions where I have been camped out on various parts of the Far West Coast as the only white person with my Aboriginal tribe. I have certainly had some adventures and a lot of fun with them, but I have also become very aware through that of the level of deprivation in their lives when it comes to so many things that we take for granted.

As I said, I think the general public actually want to see an improvement. They want to see things better. Most of them have not, of course, been to the APY lands, and I think it is quite shocking to go there. When people go there and see the utter squalor in which people are living, it is bewildering to the point of just being unable to comprehend that this is Australia, and South Australia, in the 21st century. To see people living like that is just incomprehensible, and more so when you know that millions and millions of dollars are spent in those lands year upon year by various levels of government, yet there is no noticeable improvement.

I have heard figures of everything from $20 million to $200 million a year that is put in from various levels of government. We have some 3,000 to 3,500 thousand people up there. They should be living in McMansions and having a better lifestyle than anyone else in the state, given that amount of money; and therein, I think, lies the very heart of the question that is before us with this bill.

The bill seeks to do a couple of things, and I will deal with the easiest one first, and that is the right of the Independent Commissioner Against Corruption and his officers, his investigators and

so on, to go into the lands without having to get a permit. It seems to me that that is essential. At the heart of the reasoning behind this bill is potentially an issue of vast corruption. Where are all those millions of dollars going year upon year if they are not being siphoned off in some way? Clearly, the entitlements of the people on the lands are just not being met, yet all that money is going in. It is going somewhere, it is going into someone's pocket, so I think there is a real question of corruption.

If we kept in place the requirement for the commissioner against corruption to have to get a permit to go on and signal the intention to arrive, that then destroys the ability of that commissioner to actually get at the heart of the matter. As I said, I have been up there, although I have not been up there for a couple of years, and must go up again, and I have spoken to people there from all walks of life; I have spoken to teachers. Indeed, on the last trip there the member for Morphett was with me and we stayed at the Mimili schoolteacher's house on the first night. The next morning we went out on the trek to collect the children from the homelands to bring them into school. So, we all piled onto the bus and we went for a 1½ hour journey up through the various homelands to collect the children, and we got back to school with not one child on board that bus, not one kid at school coming in from the homelands.

I also spoke to a wonderful young man who was doing year 12 at another one of the schools (I think Umuwa), and he was a lovely young guy. He had been at a private school down here on the scholarship provided by the school (I think it might have been Rostrevor, but I cannot be absolutely sure), and he had gone home to do year 12. He was very grateful for the scholarship, and that was a great thing. The problem was, like any child, he missed home, he missed his family, so he went home to do year 12.

The principal of the school told me that she was giving this young lad $50 out of her own pocket every week, and the $50 was to provide him with $5 a day to feed himself during the day and $25 to get him over the weekend. She had been to his home, and inside the fridge at home there was nothing—a lump of camel meat was it, nothing else. You cannot blame him or his family for his situation, but how does anyone get through year 12 when that is your circumstance? But he missed home and he wanted to be at home.

There are huge difficulties up there. I spoke to people in the art communities and, again, there are some fabulous things happening, but the communities themselves are struggling. A couple of years ago a friend of mine called Peter Sutton came into the parliament one evening to talk to any members of parliament who were interested. He has written a book called the *Politics of Suffering*, and the essential thesis of his book is that, in fact, albeit a more paternalistic way of managing things, our Indigenous communities were physically better off under the old system with more maternal and paternal management of their affairs than they have been under their self-management, which I think has gone so bitterly wrong.

As I was saying, the first part of this bill (it is not worded as the first part, but the first part I will deal with) is the fact that the Independent Commissioner Against Corruption and his investigators and people working on his behalf need to be able to go into those lands and they need to be authorised to get there without having to go through a process that would alert those who may have something to hide, and that is entirely proper and as it should be.

The more problematic part of the bill, the key part of the bill, seeks to give the minister an unfettered discretion to simply dismiss the board. It says:

> The Minister may, for any reason he or she thinks fit—

I point out that it should simply be 'he' because, in grammar, the male form embraces the female form, but never mind:

> The Minister may, for any reason he or she thinks fit, by notice in the Gazette, suspend the Executive Board for a period specified in the notice or until further notice…

That is what I would have to say is an unfettered discretion. It does not even say that it has to be reasonably based. There is no test to be applied. It is a completely unfettered discretion by the minister.

This is being presented to us—and you, Madam Deputy Speaker, pointed out to me as I went scrounging for a copy of the bill—on the second-last day of the sitting of this parliament, which

is about to be prorogued, and we are told that we need to put this through before parliament finishes. I think if we looked at the act in detail as it exists, that is, the Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981, there are various provisions in that act which the minister could have used over a period of time to take action if he felt things were not being managed in an appropriate way. Instead of that, the minister has consistently failed to do so and the consequence is that here, at the eleventh hour, we are being presented with a bill which has had scant time for consideration and we are being told it must be passed before the end of this sitting.

The minister can then dismiss the board. Anyone who reads *The Australian*, or keeps up with these things at all, would be aware that there have been significant issues—and I will not detail them—raised about the way in which the APY act has been managed and where the money has gone, and so on, and there have been advances given. Mr Bernard Singer, of course, has been named in a number of issues and members of his family have been getting advances on money and money has been applied to things that it is not necessarily meant for. Indeed, I think there have been something like seven managers of the APY lands over the last few years in circumstances where I am sure each and every one of them came in fully intending and expecting to be able to bring some common sense and appropriate management to this issue.

Instead of that, they have found that there is increasing pressure and, I suspect, a lack of backbone on the part of the minister to back in a manager and allow proper processes to take place rather than being usurped by the private interests of those who have benefited from the mismanagement that has occurred. We are now being asked to give the minister this unfettered discretion to go in and say, 'Right, the board is suspended.' The member for MacKillop mentioned that he thinks it should be referred to as being dismissed. The board should be suspended for either a period set out in the notice or indefinitely until a new notice is published saying the suspension is now finished.

I am inclined to agree with the member for MacKillop that dismissal might be a better option, but the question for me is: should any minister at any time be given that level of unfettered discretion? Can there be any level of judicial review? I suspect not. I suspect that there is no administrative tribunal and no judicial review available where the wording is so broad as to give a minister the power to dismiss for any reason he or she thinks fit, simply by publishing a notice in the *Gazette*, and with no reference to this parliament.

I believe that the appropriate thing happened last night. There was a long debate in the chamber upstairs last night over this matter. Ultimately, I think it was the Hon. Tammy Franks who moved that there be a sunset clause. It is entirely appropriate, in my view, that there be such a clause inserted into this bill because, in its absence, this unfettered power of the minister remains in place forever—until such time, at least, as we bring in another act to this parliament. I actually think that it is really a bridge too far for this parliament to be asked to give an unfettered discretion like this on the second last day, late in the day of the second last day, of the final sitting of the parliament. It is a nonsense, but that is what we have been presented with by this minister and so to my mind we need to then say, 'Okay, let's bring this back.'

I think the ultimate decision was that it be three years, if you will just bear with me, Madam Deputy Speaker. I am pretty sure it came back to three years. Indeed, it was the Hon. I.K. Hunter who thanked the honourable member—Tammy Franks, that is—for her indication of her amendment and moving it. He had an amendment to her amendment and he moved 'Delete 12 months and substitute three years.'

I think there may even have been discussion about whether what they should do in the first instance was put some sort of limit on the appointment that is made, but that does not make sense. If you put a limit on the appointment of the person who is going to be the administrator, then there is a difficulty, because what person in their right mind, if they are competent and in a well-paid job at the moment, is going to down tools on that to apply for a job as administrator of the lands if they do not have some security of tenure? I think that making it that it is not that which is subject to a sunset clause, but rather the capacity of the minister to keep this unfettered discretion which is to be reviewed by the parliament, is probably the best way to go.

Personally, I think three years is probably too long. I think we could have agreed that the original Franks amendment of one year would have been sufficient, that the minister gets the right under this bill to move the current administration out of the way and will be thereafter able to appoint someone to be the administrator. That appointment can be for a number of years, and that is not being fettered by any proposal, as I understand what happened in the upper house last night. Once that occurs, why does the minister then need any further power to remove the board? The board has basically been removed immediately upon the minister acting, and there should not be any reason for the board to be put back in place while the administrator's contract is afoot.

Mr Gardner interjecting:

The DEPUTY SPEAKER: She has another minute.

Ms REDMOND: I will finish before time, Madam Deputy Speaker.

The DEPUTY SPEAKER: I was not putting you under pressure, member for Heysen.

Ms REDMOND: No, I could see people wandering around thinking about whether I was going to run out of time again, anticipating that as this morning I might run out of time, but trust me, Madam Deputy Speaker, I do have my eye on the clock this time. Indeed, I will conclude my remarks. The point that I wanted to make is that it is unacceptable in the extreme that the minister has failed to act under the existing legislation, to the point where things have now reached a crisis point and it has to be resolved in this way with a bill which reaches us this afternoon, has to be debated this afternoon and tomorrow and finalised tomorrow, before this session of this parliament finishes.

That is all down to the minister's inaction over a long period of time. He has been the minister for some considerable time now. The fact is that reluctantly, therefore, I say that I am happy to support this, but it is a bridge too far in giving an unfettered discretion, and to give an unfettered discretion even for the period of three years I think is too long. It is better than not coming back at all, so as long as there is a sunset clause in the bill, then I am prepared to accept that the minister will take the appropriate action and we will see some improvement. As I began my remarks, I am convinced that not only everyone in this parliament but the broader community at large does want to see Aboriginal conditions improved in this state.

Debate adjourned on motion of Mr Gardner.

At 18:00 the house adjourned until Thursday 4 December 2014 at 10:30.

Answers to Questions

DISABILITY SERVICES GRANTS

95 Dr McFETRIDGE (Morphett) (12 August 2014). What grants and subsidies are budgeted to be provided in 2014-15 through Disabilities SA to disability groups?

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety): I have been advised:

The total value of grants and subsidies budgeted to be provided in 2014-15 is $207.9 million. This funding will be provided through grant funding agreements with disability service providers in the non-government sector, other government departments, and local councils.

Payments of greater than $1million to these organisations are published in the Department for Communities and Social Inclusion annual report.

Estimates Replies

CHILDREN WITH DISABILITIES

In reply to **Dr McFETRIDGE (Morphett)** (21 July 2014) (Estimates Committee A).

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety): I have been advised:

The National Disability Insurance Agency (NDIA) is the responsible agency for this information.